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# federal register

Monday
July 14, 1980

## Highlights



CONTINUED INSIDE

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# Rules and Regulations

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

## OFFICE OF THE FEDERAL REGISTER

### 1 CFR Part 51

### Incorporation by Reference

**AGENCY:** Office of the Federal Register.

**ACTION:** Approval of incorporations by reference and corrections.

**SUMMARY:** This document announces the final approval for the incorporation by reference of certain publications that were given tentative approval by the Director of the Federal Register on June 30, 1980. (45 FR 44090). Material approved for incorporation by reference has the same legal status as if it were published in full in the **Federal Register.** This document also makes correction to the June 30th publication.

**EFFECTIVE DATE:** The Director approves the following incorporations by reference for one year effective July 1, 1980.

**FOR FURTHER INFORMATION CONTACT:** Rose Anne Lawson at (202) 523–4534.

**SUPPLEMENTARY INFORMATION:**

### Final Approval for Certain Material

The Director of the Federal Register published a document listing materials approved for incorporation by reference in Titles 28–41. (June 30, 1980; 45 FR 44090). Some publications were granted tentative approval for the period July 1, 1980 to August 1, 1980 pending completion of review under 1 CFR 51.13. These publications were indicated by a footnote or notes in text.

The Director has completed the review of these publications, and approves the incorporation by reference of each publication until July 1, 1981.

Martha B. Girard,
*Acting Director of the Federal Register.*

The materials granted final approval are:

*29 CFR Chapter XVII*

API 650 (1966)
API 1104 (1968)
ASME Boiler & Pressure Vessel Code, Section VIII, 1949, 1950, 1952, 1956, 1959, and 1962 Editions
ASME Boiler & Pressure Vessel Code, Section VIII, 1968
ASTM D56–70

*30 CFR Chapter I*

ANSI F432—1978
ANSI M11.1—1960
ASTM Part 28—1968
NFPA 11A—1970
NFPA 13—1968–1969
NFPA 15—1969
NFPA 17—1969
NFPA 72A—1967
NFPA 198—1969

*Corrections*

The footnote and textual notes indicating tentative approval are removed.

*28 CFR Part 42*

On page 44090 in the entry of the Department of Justice, the citations are corrected to read: Part 42 and § 42.522.

*29 CFR Chapter XVII*

On page 44091—under GENERAL INDUSTRY—
(1) General Services Administration GG–B–00675 is corrected to read: GG–B–00675b.
(2) For American Conference of Industrial Hygienist Manual "Industrial Ventilation" (1970), the reference to § 1910.27 is corrected to read: § 1910.94.
(3) For Agricultural Ammonia Institute (AAI) Joint Agriculture Institute—Rubber Manufacturers Association Specifications for Anhydrous Ammonia Hose, the reference to § 1919.111 is corrected to read: § 1910.111.
On page 44091 under AMERICAN NATIONAL STANDARDS INSTITUTE—ANSI H3.1 (1970) Seamless Copper Water Tube Specifications is corrected to read: ANSI H23.1.
On page 44092—
(1) For ANSI B31.5 (1966) "Addenda B31.1a (1969) is corrected to read: "Addenda B31.5a (1968)" and a reference to 1910.111 is added.
(2) ANSI Z50.1 Safety Code for Bakery Equipment is corrected by adding "(1947)" after "Equipment."
(3) ANSI Z87.1 is corrected by deleting the words "Latest Version Current."
On page 44093 under AMERICAN SOCIETY OF MECHANICAL ENGINEERS (ASME):
(1) In the second entry a reference to § 1910.111 is added.
(2) In the fourth entry a reference to § 1910.107 and 1910.110 is added.
On page 44093 under AMERICAN WELDING SOCIETY (AWS): "AWS: D10.0" is corrected to read: AWS D1.0.
On page 44093 under COMPRESSED GAS ASSOCIATION, CGA S1.1 a reference to § 1910.101 is added.
On page 44094 under NATIONAL FIRE PROTECTION ASSOCIATION—
(1) "NFPA 336" is corrected to read "NFPA 36".
(2) In NFPA 54 the reference to 1910.100 is deleted.
(3) In NFPA 70–1971 references to §§ 1910.308 and .309 are added.
(4) Between NFPA 91–1961 and NFPA 96–1970 the following entry is added: "NFPA 91–1969 Standards for Blower and Exhaust Systems . . . 1910.108".
On page 44094 under SOCIETY OF AUTOMOTIVE ENGINEERS (SAE), SAE 765 is corrected to read: "Crane Loading Stability Test Code".
On page 44095 the following entry is added after the AMERICAN SOCIETY OF MECHANICAL ENGINEERS (ASME):

AMERICAN CONFERENCE OF GOVERNMENTAL INDUSTRIAL HYGIENISTS (ACGIH)

ACGIH Threshold Limit Values (1970) ..... 1926.55

On page 44095 under the second list for AMERICAN NATIONAL STANDARDS INSTITUTE (ANSI) the following corrections are made:
(1) "ANSI A10.4—1953" is corrected to read: "ANSI A10.4—1963".
(2) "ANSI A10.5—1950" is corrected to read: "ANSI A10.5—1969".
(3) "ANSI A14.1—1958" is corrected to read: "ANSI A14.1—1968".
(4) "ANSI A14.2—1956 Safety Code for Portable Wood Ladders" is corrected to read "Safety Code for Portable Metal Ladders".
(5) For "ANSI A17.1d the last reference to "A17.1c—1959" is corrected to read: "A17.1c—1969".
(6) For ANSI A17.2—1960 the reference to "1926.562" is corrected to read "1926.552".
(7) "ANSI A92.2—1959" is corrected to read: "ANSI A92.2—1969".
(8) "ANSI B15.1—1953" is corrected to read: "ANSI B15.1—1953 (R1953)".

(9) For ANSI J6.6 1971 the reference to "1926.95" is corrected to read: "1926.951".

On page 44096 under POWER CRANE AND SHOVEL ASSOCIATION (PCSA) "PCSA Standard No. 3—1968" is corrected to read: "PCSA Standard No. 3—1969".

On page 44096 under SOCIETY OF AUTOMOTIVE ENGINEERS (SAE) the following corrections are made:

(1) SAE J167—1971 "Protective Frame Wire Overhead Protection" is corrected to read: "Protective Frame with Overhead Protection".

(2) In SAE J33a—1970 Operation Protection in Wheel-Type Agricultural and Industry Tractors, "in" is corrected to read: "for".

(3) SAE J334a—1970 "Protective Frame Procedures and Performance Requirement" is corrected by inserting "Test" after "Frame".

On page 44096 under U.S. AND STATE STANDARDS the first entry is corrected by inserting "Part II" after "Construction," and in the third entry "American Plywood Association (1959)" is corrected to read: "American Plywood Association (1966)".

*30 CFR Chapter I*

On page 44097 under American National Standards Institute, "ANSI F432—1977" is corrected to read "ANSI F 432—1978".

On page 44098 for the National Electrical Code (NFPA) 1968 edition, the address code "(a, b, c, n)" is corrected to read: "(a, b, c, m)".

On page 44099 SAE J1040—1974 edition is corrected to read: Performance Criteria for Roll-Over Protective Structures (ROPS) for Earth Moving, Construction, Logging, and Industrial Vehicles.

On page 44099 for U.S. Bureau of Reclamation Standards, Section 9, Part 11, 1971 edition, the address code "(c, i)" is corrected to read: "(c, j)".

*33 CFR Chapter I*

On page 44101 for MILSPEC P-21929B Plastic Material, Cellular Polyurethane, Form-in-Place, Rigid, 1970, the citation is corrected to read: 183.505, 183.516.

*40 CFR Chapter I*

On page 44102 the following entry is added:

40 CFR Parts 0-51—Environmental Protection Agency

Environmental Protection Agency, Office of Air Quality Planning and Standards Research, Research Triangle Park, N.C. 27711

OAQPS Guideline Series, "Guidelines on Air Quality . . . . . 51.24(m) Models" (OAQPS 1.2-080) 1978.

Address code: a

[FR Doc. 80-21016 Filed 7-11-80; 8:45 am]

BILLING CODE 6820-26-M

## EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF ADMINISTRATION

## 5 CFR PART 2502

### Availability of Records—Freedom of Information Act: Final Regulations

**AGENCY:** Office of Administration, Executive Office of the President.

**ACTION:** Final rule.

**SUMMARY:** The following regulations were published in the **Federal Register**, for public review and comment, on April 21, 1980. No comments have been received. These regulations establish the procedures by which records may be obtained from all organizational units within the Office of Administration; however, they apply only to the Office of Administration and not to other agencies within the Executive Office of the President.

**EFFECTIVE DATE:** August 13, 1980.

**FOR FURTHER INFORMATION CONTACT:** Donald Street, Assistant to the Deputy Director, (202) 456-2970.

The following Part 2502 is added to Title 5 of CFR.

Sarah T. Kadec,

*Deputy Director.*

## CHAPTER XV—OFFICE OF ADMINISTRATION; FREEDOM OF INFORMATION ACT REGULATIONS

## PART 2502—AVAILABILITY OF RECORDS

### Subpart A—Production or Disclosure of Records Under the Freedom of Information Act, U.S.C. 552

Sec.



### Subpart B—Production in Response to Subpoenas or Demands of Courts or Other Authorities



Authority: 15 U.S.C. 552, as amended by Pub. L. 93-502.

### Subpart A—Production or Disclosure of Records Under the Freedom of Information Act, 5 U.S.C. 552

Authority: 5 U.S.C. 552, as amended by Pub. L. 93-502.

#### § 2502.1 Definitions.

(a) "Office" means the Office of Administration, Executive Office of the President;

(b) "Agency" means agency as defined in 5 U.S.C. 552(e);

(c) "Workday" means those days when the Office is open for the conduct of government business, and does not include Saturdays, Sundays and legal public holidays;

(d) "FOIA" means Freedom of Information Act, 5 U.S.C. 552, as amended.

#### § 2502.2 Statutory requirements.

5 U.S.C. 552(a)(3) requires each Agency, when it receives a request which reasonable describes the records sought and which is in accordance with the implementing regulations published by the Agency, to make the records promptly available. 5 U.S.C. 552(b) exempts specified classes of records from the public access requirements of 5 U.S.C. 552(a) and permits them to be withheld.

#### § 2502.3 Purpose and scope.

This subpart contains the regulations of the Office of Administration, Executive Office of the President, implementing 5 U.S.C. 552. The regulations of this subpart describe the procedures by which records may be obtained from all organizational units within the Office of Administration. Official records of the Office made available pursuant to the requirements of 5 U.S.C. 552 shall be furnished to members of the public only as prescribed by this subpart. To the extent that it is not prohibited by other laws the Office also will make available records which it is authorized to withhold under 5 U.S.C. 552 whenever it

determines that such disclosure is in the public interest.

**§ 2502.4 Organization and functions.**

The Office of Administration was created by Reorganization Plan No. 1 of 1977 and Executive Order 12028. Its primary function is to provide common administrative and support services for the various Agencies of the Executive Office of the President. It consists of:

(a) The Office of the Director, which includes the Director and the Deputy Director and their principal assistants, including the Assistant for Audit and Assessment;

(b) Six Assistant Directors and their staffs, who are responsible for the following Divisions:

(1) Administrative Services

(2) Computer Facilities Management

(3) Financial Management

(4) Information Management and Services

(5) Information Systems Development

(6) Personnel Management

The Office has no field organization. Offices of the Office of Administration are presently located in the Executive Office Building, 17th & Pennsylvania Ave, NW., and in the New Executive Office Building, 726 Jackson Place NW., Washington, D.C. 20503. Regular office hours are from 9 a.m. to 5:30 p.m., Monday through Friday. Both buildings are under security control. Persons desiring access are encouraged to make advance arrangements for an appointment.

**§ 2502.5 Public Reference Facilities and Current Index.**

(a) The Office of Administration will maintain in a public reading area located in the Executive Office of the President Information Center, Room G-102, New Executive Office Building, 726 Jackson Place NW., Washington, D.C., and make available for public inspection and copying a current index providing identifying information for the public as to any matter which is issued, adopted, or promulgated after January 1, 1978, and which is required to be indexed by 5 U.S.C. 552(a)(2). The office will also maintain on file in this public reading area all material published by the Office of Administration in the Federal Register and currently in effect.

**§ 2502.6 Records of other Agencies.**

Requests for records that originated in another Agency and are in the custody of the Office of Administration, will be referred to that Agency for processing, and the person submitting the request shall be so notified. The decision made by that Agency with respect to such records will be honored by the Office of Administration.

**§ 2502.7 How to request records—form and content.**

(a) A request made under the Freedom of Information Act must be submitted in writing, addressed to: Deputy Director, Office of Administration, 726 Jackson Place, NW, Washington, D.C. 20503. The words "FOIA REQUEST" should be clearly marked on both the letter and the envelope. Due to security measures in force at the Old and New Executive Office Buildings, requests made in person can only be accepted from current employees of the Executive Office of the President, who have the appropriate security clearances.

(b) Any Office employee or official who receives a FOIA Request shall promptly forward it to the Deputy Director. Any Office employee or official who receives an oral request made under the FOIA, shall inform the person making the request to the provisions of this subpart.

(c) Each request must reasonably describe the record(s) sought, including, when known: Agency/individual orginating the record, date, subject matter, type of document, location, and any other pertinent information which would assist in promptly locating the record(s).

(d) When a request is not considered reasonably descriptive, or requires the production of voluminous records, or places an extraordinary burden on the Office of Administration, seriously interfering with its normal functioning to the detriment of the business of the government, the Office may require the person making the request, or such person's agent, to confer with an Office representative in order to attempt to verify, and, if possible, narrow the scope of the request.

**§ 2502.8 Initial determination.**

The Deputy Director shall have the authority to approve or deny requests received pursuant to these regulations. The decision of the Deputy Director shall be final, subject only to administrative review as provided in § 2502.11.

**§ 2502.9 Prompt response.**

(a) The Deputy Director shall either approve or deny a request for records within 10 working days after receipt of the request unless additional time is required for one of the following reasons:

(1) It is necessary to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(2) It is necessary to consult with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein.

(b) When additional time is required for one of the reasons stated in paragraph (a) of this section, the Deputy Director or his designee shall acknowledge receipt of the request within the 10 workday period and include a brief explanation of the reason for the delay, indicating the date by which a determination will be forthcoming. An extended deadline adopted for one of the reasons set forth above may not exceed 10 additional workdays.

**§ 2502.10 Responses—form and content.**

(a) When a requested record has been identified and is available, the Deputy Director shall notify the person making the request as to where and when the record is available for inspection or the copies will be available. The notification shall also advise the person making the request of any fees assessed under § 2502.13 hereof.

(b) A denial or partial denial of a request for a record shall be in writing signed by the Deputy Director and shall include:

(1) The name and title of the person making the determination;

(2) A reference to the specific exemption under the Freedom of Information Act authorizing the withholding of the record, and a brief explanation of how the exemption applies to the record withheld; or

(3) A statement that, after diligent effort, the requested records have not been found or have not been adequately examined during the time allowed by § 2502.9, and that the denial will be reconsidered as soon as the search or examination is complete;

(4) A statement that the denial may be appealed to the Director within 30 days of receipt of the denial or partial denial.

If a requested record cannot be located from the information supplied, or is known to have been destroyed or otherwise disposed of, the person making the request shall be so notified and the legal authority for disposition shall be cited.

**§ 2501.11 Appeals to the Director from initial denials.**

(a) When the Deputy Director had denied a request for records in whole or in part, the person making the request may, within 30 days of its receipt,

appeal the denial to the Director. The appeal must be in writing, addressed to the Director, Office of Administration, 726 Jackson Place, NW., Washington, D.C. 20503 and clearly labeled as a "Freedom of Information Act Appeal".

(b) The Director will act upon the appeal within 20 workdays of its receipt. The Director may extend the 20 day period of time by any number of workdays which could have been claimed and consumed by the Deputy Director under § 2502.9 but which were not claimed and consumed in making the initial determination. The Office of Administration's action on an appeal shall be in writing, signed by the Director of the Office.

(c) If the decision is in favor of the person making the request, the Director shall order records promptly made available to the person making the request.

(d) A denial in whole or in part of a request on appeal shall set forth the exemption relied on and a brief explanation of how the exemption applied to the records withheld and the reasons for asserting it, if different from that described by the Deputy Director under § 2502.10. The denial shall state that the person making the request may, if dissatisfied with the decision on appeal, file a civil action in the district in which the person resides or has his principal place of business, in the district where the records are located, or in the District of Columbia.

(e) No personal appearance, oral argument or hearing will ordinarily be permitted in connection with an appeal to the Office of Administration.

(f) On appeal, the Office may reduce any fees previously assessed.

**§ 2502.12 Maintenance of files.**

(a) The Deputy Director shall maintain files, containing all materials required to be retained by or furnished to him under this subpart. The material shall be filed by individual request, indexed according to the exemptions assorted, and, to the extent feasible indexed according to the type of records requested.

(b) The Deputy Director shall also maintain a file open to the public, which shall contain copies of all grants or denials of appeals by the office of Administration. The materials shall be indexed as stated in paragraph (a) of this section.

**§ 2502.13 Schedule of fees.**

(a) Except as otherwise provided, the following specific fees shall be applicable with respect to services rendered to members of the public under this subpart:

(1) *Search for Records.* Five dollars per hour when the search is conducted by a clerical employee. Ten dollars per hour when the search is conducted by a professional employee. There will be no charges for searches of less than one hour.

(2) *Duplication of Records.* Records will be duplicated at a rate of $0.10 per page for copying 4 pages or more. There will be no charges for duplicating 3 pages or less.

(3) *Other.* When no specific fee has been established for a service, the Deputy Director is authorized to establish an apporpriate fee based on "direct costs" as provided in the Freedom of Information Act. Examples of services covered by this provision include searches involving computer time or special travel, transportation, or communication costs.

(b) If the Office anticipates that the fees chargeable under this section will amount to more than $30, or the maximum amount specified in the request, the requester shall be promptly notified of the estimated amount of the fee, before costs have been incurred. In such instances the requester will be advised of the option to consult with Office personnel in order to reformulate the request in a manner which will reduce the fees, yet still meet your needs. A reformulated request shall be considered a new request, thus beginning a new 10 workday period for processing.

**§ 2502.14 Waiver of fees.**

The Deputy Director shall assess fees for the search and, if necessary, duplication of records requested. The Deputy Director shall also have authority to furnish records without charge, or at a reduced charge, where he determines that waiver or reduction of the fee is in the public interest.

**§ 2502.15 Payment of fees.**

(a) Fees must be paid in full prior to issuance of the requested copies. In the event the requestor owes money for a previous request, copies of records will not be provided for any subsequent request until the debt has been paid in full. Fees for search time must be paid before records are made available.

(b) Search costs are due and payable even if the record which was requested cannot be located after all reasonable efforts have been made.

(c) Payment of fees shall be in the form either of a personal check or bank draft drawn on a bank in the United States, or a postal money order. Remittances shall be made payable to the order of the Treasury of the United States and mailed or delivered to the Deputy Director, Office of Administration, 726 Jackson Place, NW., Washington, D.C. 20503.

**§ 2502.16 Information to be disclosed.**

In general, all records by the Office of Administration are available to the public, as required by the Freedom of Information Act. However, the Office claims the right, where it is applicable, to withhold material under the provisions specified in the Freedom of Information Act as amended (5 U.S.C. 552(b)).

**§ 2502.17 Exemptions.**

(a) 5 U.S.C. 552 exempts from all of its publication and disclosure requirements nine categories of records which are described in 552(b). These categories include such matters as national defense and foreign policy information, investigatory files, internal procedures and communications, materials exempted from disclosure by other statutes, information given in confidence and matters involving personal privacy.

(b) Executive Order 12028 (December 4, 1977) provides that the Office of Administration shall upon request, assist the White House office in performing its role of providing those administrative services which are primarily in direct support of the President. Due to this role of providing direct support of the President, members of the public should presume that communications between the Director of the Office of Administration and the President (and their staffs) are confidential or ordinarily will not be released; they will usually fall, at a minimum, within Exemption 5 of the Act.

(c) The records of the Office of Administration which are part of systems of records subject to the Privacy Act of 1974 are exempt from disclosure to the public except as provided by 5 CFR Part 2504.

**§ 1502.18 Deletion of exempted information.**

Where requested records contain matters which are exempted under 5 U.S.C. 552(b) but which matters are reasonably segregable from the remainder of the records, they shall be disclosed by the Office with deletions. To each such record, the Office shall attach a written justification for making deletions. A single such justification shall suffice for deletions made in a group of similar or related records.

**§ 2502.19 Annual Report.**

The Deputy Director shall annually on or before March 1, submit a Freedom of Information report covering the

preceding calendar year to the Speaker of the House of Representatives and President of the Senate. The report shall include those matters required by 5 U.S.C. 552(d).

**Subpart B—Production in Response to Subpoenas or Demands of Courts or other Authorities**

**§ 2502.30 Purpose and scope.**

This subpart contains the regulations of the Office concerning procedures to be followed when a subpoena, order or other demand (hereinafter in this subpart referred to as a "demand") of a court or other authority is issued for the production or disclosure of: (a) Any material contained in the files of the Office of Administration; (b) any information relating to materials contained in the files of the Office; or (c) any information or material acquired by any person while such person as an employee of the Office of Administration as a part of the performance of his official duties or because of his official status.

**§ 2502.31 Production prohibited unless approved by the Director.**

No employee or former employee of the Office of Administration shall, in response to a demand of a court or other authority, produce any material contained in the files of the Office of Administration or disclose any information or produce any material acquired as part of the performance of his official status without the prior approval of the Director.

**§ 2502.32 Procedure in the event of a demand for disclosure.**

(a) Whenever a demand is made upon an employee or former employee of the Office of Administration for the production of material or the disclosure of information described in § 2502.31, he shall immediately notify the Director. If possible, the Director shall be notified before the employee or former employee concerned replies to or appears before the court or other authority.

(b) If response to the demand is required before instructions from the Director are received, an attorney designated for that purpose by the Office of Administration shall appear with the employee or former employee upon whom the demand has been made, and shall furnish the court or other authority with a copy of the regulations contained in this part and inform the court or other authority that the demand has been or is being, as the case may be, referred for prompt consideration by the Director. The court or other authority shall be requested respectfully to stay the demand pending receipt of the requested instructions from the Director.

**§ 2502.33 Procedure in the event of an adverse ruling.**

If the court or other authority declines to stay the effect of the demand in response to a request made in accordance with § 2502.32(b) pending receipt of instructions from the Director, or if the court or other authority rules that the demand must be complied with irrespective of the instructions from the Director not to produce the material or disclose the information sought, the employee or former employee upon whom the demand has been made shall respectfully decline to comply with the demand. (United States ex rel. Touhy v. Ragen, 340 U.S. 462 (1951)).

[FR Doc. 80-20856 Filed 7-11-80; 8:45 am]

BILLING CODE 3115-01-M

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

### 7 CFR Part 29

### Virginia Fire-Cured Tobacco, U.S. Type 21; Official Standard Grades

*Correction*

In FR Doc. 80-19775, appearing at page 44292 in the issue of Tuesday, July 1, 1980, the following material was inadvertently omitted and should be inserted between the first paragraph and the Subpart C heading in the first column of page 44293:

**Definitions**

**§ 29.2259 Color Symbols.**

As applied to this type, color symbols are: L—light brown, F—medium brown, D—dark brown, M—mixed or variegated, G—green, GL—light green, and GD—dark green.

**Rules**

**§ 29.2409 Rule 18.**

Any lot of tobacco containing 20 percent or more of green leaves or any lot which is not crude but contains 20 percent or more of green and crude combined shall be designated by the color symbols "G", "GL", or "GD".

**§ 29.2410 Rule 19.**

Crude leaves shall not be included in any grade of any color except green, light green, or dark green. Any lot containing 20 percent or more of crude leaves shall be designated nondescript.

**Grades**

**§ 29.2440 (N Group).**

Extremely common tobacco which does not meet the minimum specifications or which exceeds the tolerance of the lowest grade of any other group except scrap.

BILLING CODE 1505-01-M

### 7 CFR Part 917

**[Plum Regs. 16 and 17, Amdt. 1]**

### Fresh Pears, Plums, and Peaches Grown in California; Grade, Size, Container, and Pack

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This amendment continues the minimum grade, size, container, and pack requirements currently in effect for fresh shipments of California plums. These requirements are needed to provide for orderly marketing in the interest of producers and consumers.

**EFFECTIVE DATE:** July 15, 1980.

**FOR FURTHER INFORMATION CONTACT:** Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202-447-5975. The Final Impact Statement relative to this final rule is available on request from the above named individual.

**SUPPLEMENTARY INFORMATION:** *Findings.* This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant." Plum Regulations 16 and 17 were published in the **Federal Register** on May 20, 1980 (45 FR 33596). On June 9, 1980, a notice was published (45 FR 38387) to extend the grade and size requirements through May 31, 1981, and an indefinite period for the container and pack requirements. The notice allowed interested persons until June 30, 1980, to submit written comments pertaining to the proposals. None were received.

This amendment is issued under the marketing agreement, as amended, and Order No. 917, as amended (7 CFR Part 917), regulating the handling of fresh pears, plums, and peaches grown in California. 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 Plum Commodity Committee and upon other information.

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

The grade and size regulation specifies a minimum grade of U.S. No. 1 for all varieties of plums except that provision is made for a higher maturity standard. An additional 10 percent tolerance is provided for defects not considered serious for two varieties (Tragedy and Kelsey). It exempts from consideration as damaged, healed stem end cracks for 14 named varieties. The regulation sets minimum size requirements for 49 specified varieties of plums in terms of the maximum permissible number of plums contained in an eight-pound sample. The grade and size requirements are necessary to prevent the shipment of California plums of a lower grade and smaller size than specified and are necessary to provide ample supplies of good quality plums in the interest of producers and consumers pursuant to the declared policy of the act.

The container and pack regulation would, among other things, require that (1) closed containers, except master containers of consumer packages of plums and individual consumer packages of plums shipped therein, conform to the requirements of standard pack; (2) the variation in diameter between the smallest and largest plums in any container be not more than one-fourth of an inch; (3) all containers be marked with the name "plums", the varietal name, and the size of the plums; (4) bulk bin containers of plums contain at least 400 pounds, net weight; and (5) each package or container of loose-filled or tight-filled plums, other than bulk bin containers, master containers of consumer packages, and individual consumer packages in master containers, shall bear on one outside end the words "28 lbs. net weight." This action is necessary to provide standardized packing practices and more informative labeling that will facilitate more orderly marketing of fresh California plums and contribute to more effective operation under said marketing agreement and order.

It is further found that good cause exists for not postponing the effective date of this amendment until 30 days after publication in the **Federal Register** (5 U.S.C. 553) in that (1) shipments of plums are currently in progress and this amendment should be applicable to all shipments during the season in order to effectuate the declared policy of the act; (2) the amendment is the same as that specified in the notice to which no exceptions were filed; (3) the regulatory provisions are the same as those currently in effect; and (4) compliance with this amendment will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof.

The provisions of § 917.453 Plum Regulation 16 and § 917.454 Plum Regulation 17 (45 FR 33596) are hereby amended to read as follows: (§ 917.453 expires May 31, 1981, and will not be published in the annual Code of Federal Regulations).

## Grade and Size Regulation

### § 917.453 Plum regulation 16.

*Order.* (a) During the period July 15, 1980, through May 31, 1981, no handler shall ship any lot of packages or containers of any plums, other than the varieties named in paragraph (b) hereof, unless such plums grade at leats U.S. No. 1: *Provided,* That maturity shall be determined by the application of color standards by variety or such other tests as determined to be proper by the Federal or Federal-State Inspection Service.

(b) During the period July 15, 1980, through May 31, 1981, no handler shall ship:

(1) Any lot of packages or containers of Tragedy or Kelsey plums unless such plums grade U.S. No. 1, with a total tolerance of 10 percent for defects not considered serious damage in addition to the tolerances permitted by such grade; or

(2) Any lot of packages or containers of Autumn Queen, Casselman, Empress, Grand Rosa, Improved Late Santa Rosa, King David, Late Santa Rosa, Linda Rosa, Red Rosa, Rosa Grande, Roysum, SW–1, Swall Rosa, and 42–26 (Freedom) plums unless such plums grade U.S. No. 1, except that healed cracks emanating from the stem end which do not cause serious damage shall not be considered as a grade defect with respect to such grade.

(c) During the period July 15, 1980, through May 31, 1981, no handler shall ship any package or other container of any variety of plums listed in Column A of the following Table I unless such plums are of a size that an eight-pound sample, representative of the sizes of the plums in the package or container, contains not more than the number of plums listed for the variety in Column B of said table.

**Table 1**

| Column A—variety: | Column B plums per sample |
|---|---|
| Ace | 55 |
| Amazon | 64 |
| Andys Pride | 69 |
| Angeleno | 67 |
| Beauty | 91 |
| Bee Gee | 65 |
| Black Beaut | 74 |
| Burmosa | 60 |
| Casselman | 63 |
| Durado | 74 |
| Ebony | 66 |
| El Dorado | 68 |
| Elephant Heart | 53 |
| Empress | 57 |
| Fresno Rosa | 62 |
| Friar | 56 |
| Frontier | 61 |
| Gar-Rosa | 71 |
| Grand Rosa | 54 |
| July Santa Rosa | 69 |
| Kelsey | 47 |
| King David | 50 |
| Laroda | 58 |
| Late Santa Rosa (including improved Late Santa Rosa and Swall Rosa) | 64 |
| Linda Rosa | 63 |
| Mariposa | 61 |
| Midsummer | 63 |
| Nubiana | 56 |
| President | 57 |
| Queen Ann | 50 |
| Queen Rosa | 53 |
| Red Beaut | 74 |
| Red Glow-Golden Glow | 60 |
| Red Rosa | 64 |
| Redroy | 58 |
| Rosa Ann | 69 |
| Rosa Grande | 63 |
| Rose Ann | 60 |
| Roysum | 74 |
| Santa Rosa | 69 |
| Simka, Arrosa, New Yorker | 50 |
| Standard | 83 |
| Tragedy | 114 |
| Wickson | 51 |
| 42-26 (Freedom) | 56 |

(d) When used herein, "U.S. No. 1" and "serious damage" shall have the same meaning as set forth in the United States Standards for Fresh Plums and Prunes (7 CFR 2851.1520–1538); and all other terms shall have the same meaning as when used in the amended marketing agreement and order.

## Container and Pack Regulation

### § 917.454 Plum Regulation 17.

*Order.* On and after July 15, 1980, no handler shall ship any package or container of any variety of plums except in accordance with the following terms and conditions:

(1) Such plums, when shipped in closed packages or containers, except master containers of consumer packages and individual consumer packages therein, shall conform to the requirements of standard pack.

(2) The diameters of the smallest and largest plums in any individual package or container shall not vary more than one-fourth (¼ inch): *Provided,* That a total of not more than five (5) percent, by count, of the plums in any package or container may fail to meet this requirement.

(3) Each package or container of plums shall bear on one outside end, in

plain sight and in plain letters, the name "plums" and the name of the variety if known or, when the variety is not known, the words "unknown variety".

(4) Each package or container of plums shall bear on one outside end, in plain sight and in plain letters, the size description of the contents which description shall conform to the following as applicable:

(i) The size of plums in four-basket crates shall be indicated in accordance with the arrangement of the plums in the top layer of the baskets, such as "4x4 size," "4x5 size," etc.

(ii) The size of plums loose-filled or tight-filled in standard lug boxes, cartons, or other packages or containers, shall be indicated in accordance with the equivalent size designation for such plums when packed in four basket crates, such as 4x4 size, etc.

(iii) The size of plums packed in molded forms in cartons or lugs ("tray pack") and of wrapped plums packed in No. 12B fruit (peach) boxes (as designated and defined by § 1387.11 of the "Regulations of the California Department of Food and Agriculture") shall be indicated in accordance with the number of plums in the container, such as "88 count," "108 count," etc.

(5) Each package or container of loose-filled, or tight-filled plums other than bulk bin containers, master containers of consumer packages, and individual consumer packages in master containers shall bear on one outside end, in plain sight and in plain letters, the words "28 pounds net weight."

(6) Each bulk bin container of loose-filled plums shall contain not less than 400 pounds, net weight, and bear on one outside panel, in plain sight and in plain letters, the following information:

(i) The name and address (including zip code) of the shipper.

(ii) The net weight.

(7) Each master container of consumer packages of plums and each individual consumer package of plums shall bear, in plain sight and plain letters, the net weight of the contents.

(b) Subject to the provisions hereinafter set forth in paragraph (c), any package or container of any variety of plums may be marked with the words "tight—fill" only if such package or container and the contents thereof meet the following requirements:

(1) The depth of each container shall be equal to at least three times the average diameter of the plums therein as determined by measuring representative fruits.

(2) All container faces shall be composed of at least two complete layers of wax- or resin-treated corrugated paperboard which treatment shall consist of coating both surfaces of each layer with wax or resin, or impregnating at least the corrugating medium in each layer with wax or resin. The material comprising each bottom layer and one layer of both sides and both ends of each container shall have been marked or certified as having a Mullen or Cady test strength of at least 275 pounds, and the material in all other components of each container shall have been marked or certified as having a Mullen or Cady test strength of at least 250 pounds.

(3) Each container shall be well filled and the plums therein shall have been well settled by vibration, according to approved and recognized methods.

(4) Each container shall have a top pad containing wood excelsior or redwood bark. Such pads that contain wood excelsior shall weigh at least 160 pounds per 1,000 square feet of pad and such pads that contain redwood bark shall weigh at least 200 pounds per 1,000 square feet of pad.

(5) The cover shall be firmly seated against the lower half of each container and firmly fastened to it.

(c) Ten percent of the packages or containers in any lot may fail to meet the requirements of paragraph (b) of this regulation.

(d) When used herein, "standard pack" and "diameter" shall have the respective meanings set forth in the U.S. Standards for Grades of Fresh Plums and Prunes (7 CFR 2851.1520–1538), and all other terms shall have the same meaning as when used in the amended marketing agreement and order.

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

Dated: July 10, 1980, to become effective July 15, 1980.

**D. S. Kuryloski,**

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

[FR Doc. 80-21101 Filed 7-11-80; 8:45 am]

BILLING CODE 3410-02-M

## FEDERAL HOME LOAN BANK BOARD

### 12 CFR Part 522

[No. 80-428]

### Increase in Number of Federal Home Loan Bank Directorships

July 9, 1980.

**AGENCY:** Federal Home Loan Bank Board

**ACTION:** Final rule.

**SUMMARY:** This amendment sets out the conditions under which the Board may increase the number of elective and appointive directorships on the board of a Federal Home Loan Bank.

**EFFECTIVE DATE:** July 14, 1980.

**FOR FURTHER INFORMATION, PLEASE CONTACT:** Kenneth F. Hall, (Telephone: 202–377–6466), Office of the General Counsel, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552.

**SUPPLEMENTARY INFORMATION:** As provided in section 7(a) of the Federal Home Loan Bank Act (12 U.S.C. 1427(a)), the board of directors of each Bank consists of eight directors elected by Bank members and six directors appointed by the Board. At present, the eight elective directorships are allocated among the states within a Bank district in proportion to the Bank stockholdings of the Bank members in each state, except that pursuant to section 7(c) of the Bank Act (12 U.S.C. 1427(c)), members in each state are represented by at least one directorship regardless of their proportionate stockholdings. As a result of the section 7(c) requirement, states with growing member stockholdings might become under-represented on the board of a Bank, particularly in the Bank districts including relatively large numbers of states.

In those Districts with five or more states, section 7(a) of the Bank Act permits the Board by regulation to increase the number of elective directors to a number not exceeding 13 and the number of appointive directors to not more than three-fourths the number of elective directors. Since the Act requires that any increase in the number of elective directorships be authorized by regulation, the Board has determined to amend § 522.25 (12 CFR 522.25) to set out the conditions under which the Board may add to the existing elective directorships.

Because the change pertains to Federal Home Loan Bank management and personnel and rules of Bank organization, and because it is in the public interest to provide proportional representation to members of Bank districts, the Board finds that it is in the public interest to implement the amendment without delay, and has therefore determined that notice and public procedure with respect to the amendment are unnecessary under the provisions of 12 CFR 508.11 and 12 U.S.C. 553(b).

Accordingly, the Board hereby amends § 522.25 of the Rules and Regulations for the Federal Home Loan Bank System (12 CFR 522.25) by adding a new paragraph (e) to read as set forth below.

## PART 522—ORGANIZATION OF THE BANKS

**§ 522.25 Designation and nomination of elective directorship.**

* * * * *

(e) In any Federal Home Loan Bank district that comprises five or more States, the Board may increase the elective directorships to a number not exceeding thirteen. The designation and nomination of all elective directorships shall be undertaken in the manner set forth in this section.

(Sec. 17, 47 Stat. 736, as amended, 12 U.S.C. § 1437, Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR 1943–48 Comp. 1071)

By the Federal Home Loan Bank Board.

**J. J. Finn,**

*Secretary.*

[FR Doc. 80–20988 Filed 7–11–80; 8:45 am]

BILLING CODE 6720–01–M

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**12 CFR Parts 526, 545, and 563**

**[No 80–429]**

## Amendments Regarding Maximum Interest Rates and Penalty for Early Withdrawal

July 3, 1980.

**AGENCY:** Federal Home Loan Bank Board.

**ACTION:** Final rule.

**SUMMARY:** These amendments revise the Board's regulations regarding maximum interest rates on savings accounts and minimum penalties for early withdrawal of saving accounts. The changes conform the Board's regulations to rules adopted by the Depository Institutions Deregulation Committee ("the Committee"). The Board's regulations must conform to the regulations of the Committee because statutory authority to regulate rates of interest paid by members of the Federal Home Loan Bank System has been transferred from the Board to the Committee.

**EFFECTIVE DATE:** July 9, 1980.

**FOR FURTHER INFORMATION:** Please contact John R. Hall, Attorney, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552 (202–377–6466).

**SUPPLEMENTARY INFORMATION:** Title II of the Depository Institutions Deregulation and Monetary Control Act of 1980 (Pub. L. 96–221) transferred to the Committee the authority conferred on the Federal Home Loan Bank Board under section 5B(a) of the Federal Home Loan Bank Act (12 U.S.C. 1425b(a)) to prescribe rules governing the payment of interest and dividends and the establishment of classes of deposits or accounts, including limitations on the maximum rates of interest and dividends which may be paid on deposits and accounts.

Under that authority the Committee adopted regulations revising (1) the interest rate that may be paid on 6-month money market certificates; (2) the interest rate that may be paid on 2½ year small saver accounts; and (3) the minimum penalty for early withdrawals from savings accounts. The Committee also adopted an exception to the required early-withdrawal penalty.

In order to bring its regulations into conformity with the regulations of the Committee, the Board is amending its rules regarding payment of earnings and the minimum penalty for early withdrawal.

Because these amendments merely conform the Board's regulations to regulations of the Committee that are already in effect the Board finds that notice and public procedure with respect to the amendments is contrary to the public interest and unnecessary under the provisions of 12 CFR 508.11 and 5 U.S.C. 553(b); and since publication of the amendments for the period specified in 12 CFR 508.14 and 5 U.S.C. 553(d) prior to the effective date of the amendments would, in the Board's opinion, likewise be unnecessary for the same reason, the Board hereby provides that the amendment shall become effective as stated herein.

Accordingly, the Board hereby amends Part 526 of the Regulations for the Federal Home Loan Bank System (12 CFR Part 526) by amending §§ 526.3 and 526.7 thereof, Part 545 of the Rules and Regulations for the Federal Savings and Loan System (12 CFR Part 545) by amending §§ 545.1–1(b)(4), 545.1–3(c)(1), and 545.4(a) thereof, and Part 563 of the Rules and Regulations for Insurance of Accounts (12 CFR Part 563) by amending §§ 563.3–1(b)(1) and (d) and §§ 563.3–2(b)(2) and (d) as set forth below.

**Federal Home Loan Bank System**

## PART 526—LIMITATIONS ON RATE OF RETURN

1. Delete from § 526.3 paragraphs (a)(5)(ii) and (a)(8) and add a new paragraph (a)(10) thereto, to read as follows:

**§ 526.3 Maximum rates of return payable by member on savings accounts.**

(a) Except as provided in § 526.3–1 for certificate accounts of $100,000 or more, no member may pay an annual rate of return on a savings account exceeding the applicable maximum percentage as follows:

* * * * *

(5) 7.50%—certificate accounts with a term or qualifying period of 4 years or more.

(ii) [Deleted]

* * * * *

(8) [Deleted effective ]

* * * * *

(10) A member may also pay a return on savings accounts as prescribed in Part 1204 of this title.

* * * * *

2. Amend paragraphs (a) and (c)(2) of § 526.7 to read as follows:

**§ 526.7 Penalty for early withdrawal.**

(a) For any certificate account issued, extended, or renewed after June 1, 1980, a member shall impose (except as paragraph (c) of this section provides) the conditions prescribed in § 1204.103 of this title on any withdrawal before the end of the term or qualifying period. For any certificate account issued, extended, or renewed after June 30, 1979 and before June 2, 1980, a member shall impose (except as paragraph (c) of this section provides) the following conditions on any withdrawal before the end of the term or qualifying period:

* * * * *

(c)(1) * * *

(2) Section 1204.107 of this title shall apply with respect to early withdrawals under this section.

* * * * *

**Federal Savings and Loan System**

## PART 545—OPERATIONS

3. Amend § 545.1–1(b)(4) to read as follows:

**§ 545.1–1 Rates of return on savings accounts.**

* * * * *

(b) *Fixed balance bonus account.*

* * *

(4) If any part of a fixed-balance bonus account is withdrawn before expiration of the term, a penalty shall be applied in accordance with § 526.7(a) of this chapter. If earnings were distributed on the account before the withdrawal, deduction shall be made from the amount withdrawn to adjust for the penalty applicable thereto. Section 526.7(b) shall apply with respect to accounts issued before July 1, 1979. However, in the circumstances prescribed in § 526.7(c), the exceptions provided therein shall be applicable.

* * * * *

**§ 545.1–3 [Amended]**

4. Delete paragraph (c)(1) of § 545.1–3 and renumber paragraphs (c)(2) and (c)(3) thereof as paragraphs (c)(1) and (c)(2), respectively.

5. Amend § 545.4(a)(1) to read as follows:

**§ 545.4 Withdrawals.**

(a) *Withdrawal prior to expiration of term.* (1) If any part of a savings account authorized under § 545.1–1(f), or any part of a fixed-term savings deposit, is withdrawn before expiration of the term, a penalty shall be applied in accordance with § 526.7(a) of this chapter. If any earnings were distributed on the account before the withdrawal, deduction shall be made from the amount withdrawn to adjust for the penalty applicable thereto. Section 526.7(b) shall apply with respect to accounts issued before July 1, 1979. However, in circumstances prescribed in § 526.7(c) the exceptions provided therein shall be applicable.

* * * * *

**Federal Savings and Loan Insurance Corporation**

**PART 563—OPERATIONS**

6. Delete paragraph (b)(2) of § 563.3–1 and renumber paragraphs (b)(3) through (7) as paragraphs (b)(2) through (6), respectively, and amend paragraph (d) as follows:

**§ 563.3–1 Fixed-rate, fixed term accounts.**

* * * * *

(d) *Withdrawals prior to expiration of term.* (1) Each certificate issued by an insured institution, other than an insured institution whose principal office is located on Guam, shall provide that for any withdrawal of any part of a fixed rate, fixed-term account before expiration of the term, a penalty shall be applied in accordance with § 526.7(a) of this chapter. If any earnings were distributed on the account before withdrawal, deduction shall be made from the amount withdrawn to adjust for the penalty applicable thereto. Section 526.7(b) shall apply with respect to accounts issued before July 1, 1979. However, in the circumstances prescribed in § 526.7(c) the exceptions provided therein shall be applicable.

* * * * *

7. Delete paragraph (b)(2) of § 563.3–2 and renumber paragraphs (b)(3)–(b)(5) as paragraphs (b)(2)–(b)(4), respectively.

8. Amend § 563.3–2(d)(1) to read as follows:

**§ 563.3–2 Certificates evidencing other accounts.**

* * * * *

(d) *Provisions relating to early withdrawal.* (1) Each certificate issued by an insured institution, other than an insured institution whose principal office is located on Guam, shall provide that, for any withdrawal of any part of a certificate account before expiration of the term, a penalty shall be applied in accordance with § 526.7(a) of this chapter. If any earnings were distributed on the account before the withdrawal, deductions shall be made from the amount withdrawn to adjust for the penalty applicable thereto. Section 526.7(b) shall apply with respect to accounts issued before July 1, 1979. However, in the circumstances prescribed in § 526.7(c) the exceptions provided therein shall be applicable.

(Sec. 4, 80 Stat. 824 (12 U.S.C. § 1425b); sec. 5, 48 Stat. 132, as amended (12 U.S.C. § 1464); secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended (12 U.S.C. § 1725, 1728, 1730). 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. 80–20987 Filed 7–11–80; 8:45 am]

BILLING CODE 6720–01–M

**NATIONAL CREDIT UNION ADMINISTRATION**

**12 CFR Ch. VII**

**Interpretative Ruling, Return of Capital Upon Withdrawal From Membership in CLF**

**AGENCY:** National Credit Union Administration.

**ACTION:** Interpretative ruling and policy statement.

**SUMMARY:** This statement sets forth the NCUA Board's policy with respect to the return of CLF capital contributions upon a credit union's withdrawal from membership in the CLF or one or its Agent members.

**EFFECTIVE DATE:** August 11, 1980.

**ADDRESS:** National Credit Union Administration, 1776 G Street, N.W., Washington, D.C. 20456.

**FOR FURTHER INFORMATION CONTACT:** Mark S. Medvin, Assistant to the President, Central Liquidity Facility, or Todd A. Okun, Senior Attorney, Office of General Counsel, National Credit Union Administration, at the above address. Telephone: (202) 357–1130 (Mr. Medvin), (202) 357–1030 (Mr. Okun).

**Interpretation (IRPS No. 80–8)**

Section 304(e) of the Federal Credit Union Act (12 U.S.C. 1795c(e)) provides that a credit union may withdraw from membership in the National Credit Union Administration Central Liquidity Facility (CLF) six months after notifying the Board of its intention to do so if it owns less than 5 per centum of outstanding CLF stock, and 24 months after notifying the Board if it owns 5 per centum or more of outstanding CLF stock. NCUA regulations apply these same time frames to the adjustment of an Agent member's stock subscription when a credit union accessing the Facility through the Agent withdraws from membership in the Agent (12 CFR 725.6(d)(2)).

It is the opinion of NCUA's General Counsel that application of the 6- and 24-month waiting periods for return of capital is up to the discretion of the NCUA Board. These waiting periods are to protect CLF from the consequences of sudden, unexpected withdrawals of capital, and can be waived or shortened if the Board is satisfied that doing so will not impair the functioning of the CLF.

It will be the policy of the NCUA Board to return the capital of withdrawing CLF members as soon as feasible after receipt of notice of withdrawal. Certain conditions will have to be met in all cases before a waiver or shortening of the waiting period will be granted. These conditions include, but are not limited to, that the withdrawing member repay any CLF Loans it has outstanding, that the CLF be in a position to fund the redemption of stock, and that the withdrawal of capital does not place the CLF in violation of the statutory requirement that its borrowings from all sources not exceed twelve times its subscribed capital and surplus (section 307(4) of the Federal Credit Union Act, 12 U.S.C. 1795f(4)). These and other factors bearing on CLF operations will be considered in all cases, and if the Board is satisfied that the return of capital to the withdrawing member will not impair CLF operations, the 6- or 24-month waiting period for return of capital will be waived or shortened.

This policy of returning capital as soon as feasible will be followed not only when a Regular or Agent member withdraws from CLF, but also when a natural person credit union withdraws from membership in an Agent (or from any member of an Agent group) and when a central credit union member of an Agent group withdraws from the Agent group. That is, when a natural person credit union withdraws from an Agent of the CLF (or from a central credit union which is a member of an Agent group), the CLF will adjust the Agent's stock subscription and return to the Agent as soon as feasible that portion of the Agent's required capital contribution attributable to the withdrawing credit union's paid-in and unimpaired capital and surplus.

Similarly, when a central credit union member of an Agent group withdraws from the Agent group, the CLF will adjust the Agent group's stock subscription and return to the Agent group as soon as feasible that portion of the Agent group's required capital contribution attributable to the paid-in and unimpaired capital and surplus of the withdrawing central credit union's member natural person credit unions.

July 9, 1980.

**Rosemary Brady,**

*Secretary, National Credit Union Administration Board.*

[FR Doc. 80-20958 Filed 7-11-80; 8:45 am]

BILLING CODE 7535-01-M

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**12 CFR Parts 700, 701, 725, and 742**

## Special Share Accounts: Definition of Gross Income, Risk Assets, and Liquid Assets

**AGENCY:** National Credit Union Administration.

**ACTION:** Final rules.

**SUMMARY:** These rules will (1) permit federally chartered central credit unions which are Agent members of the National Credit Union Administration Central Liquidity Facility to require their member natural person credit unions to establish special share accounts to "reimburse" the Agent member for amounts which it must pay for CLF stock or hold in "liquid assets" on behalf of each of its member credit unions as a condition of Agent membership on the Facility; (2) define the term "gross income" to include, (a) dividends received directly or indirectly from the Facility and (b) interest received on loans that must be passed through to the Facility from amounts subject to reserve requirements imposed by NCUA; (3) amend the definition of the term "risk assets" to exclude amounts invested in capital stock of the Facility or in special share accounts; and (4) conform the permissible investments for the "on-call" portion of the CLF stock subscription to those qualifying as "liquid assets" under 12 CFR Part 742.

**DATE:** Effective August 11, 1980.

**ADDRESS:** National Credit Union Administration, 1776 G Street, N.W., Washington, D.C. 20456.

**FOR FURTHER INFORMATION CONTACT:** David L. Moore, Attorney, Office of General Counsel, or Michael Fischer, Chief Accountant, Office of Examination and Insurance, National Credit Union Administration, 1776 G Street, N.W., Washington, DC 20456. Telephone (202) 357-1030 (Mr. Moore) or (202) 357-1065 (Mr. Fischer).

**SUPPLEMENTARY INFORMATION:**

### 1. Background

The National Credit Union Administration Central Liquidity Facility ("the Facility") is a corporation within the National Credit Union Administration established to improve financial stability by making loans to meet the liquidity needs of credit unions. The Facility, which began operations October 1, 1979, was established by the National Credit Union Central Liquidity Facility Act ("the Act"), Title XVIII of Pub. L. 95-630. Final regulations on Facility membership and lending were published on August 23, 1979 (44 FR 49431).

The Act provides for two types of membership in the Facility (12 U.S.C. 1795c). Regular membership, which gives direct access to Facility loans, is available only to credit unions which primarily serve natural persons (12 U.S.C. 1795c; 12 CFR 725.2(1), 725.3). Agent membership is available only to "central credit unions" (12 U.S.C. 1795c; 12 CFR 725.2(d), 725.4), and all natural person credit unions which are members of an Agent have access to Facility loans through the Agent.

Analysis of Comments and Changes: On January 30, 1980, the Administration published and requested comment upon proposed rules (see 45 FR 6795) to permit federally chartered central credit unions acting as Agents of the CLF to establish special share accounts and to define or amend the terms "gross income," "risk assets," and "liquid assets."

Five written comments were received. One of the comments was in complete support of the regulations. While comments addressed to the definitions of "gross income," "risk assets," and "liquid assets" were generally favorable one comment directed at the definition of "gross income" suggested that the entire amount of interest received by the Agent on CLF loans should be excluded from the determination of gross income rather than merely excluding that portion of interest paid to the CLF. Ordinarily, all interest on loans is considered part of gross income. However, in this particular case, exclusion of certain interest received is done for the limited purpose of minimizing the costs to the Agent of providing CLF access to its members. This objective is accomplished by permitting the Agent to exclude from gross income only that portion of interest it receives which must be passed through to the CLF. Thus, any interest received beyond that which the Agent must remit to the CLF is part of gross income.

The most significant of the remaining comments were directed at various aspects of the special share account regulation. The discussion that follows is addressed to those comments as well as certain changes that are made in the proposed regulation.

### 1. Special Share Accounts

Several comments expressed the general view that the requirement that central credit unions subscribe to CLF stock based upon the paid-in and unimpaired capital and surplus of *all* their member natural person credit unions was unreasonable in that the stock subscription of the central credit union should be based only on the assets of members who will use the CLF. Consequently, the special share account regulation, as the commentators indicate, is not a solution to the underlying "problem."

While there has been considerable discussion of the issues raised in these comments, the requirement that central credit unions subscribe to stock based on the capital and surplus of all its members is a requirement imposed by statute. Section 12 U.S.C. 1795c(b) establishes that the stock subscription for CLF Agents shall be:

> "One-half of 1 per centum of the paid-in and unimpaired capital and surplus of *all* those credit unions which primarily serve natural persons, which are members of such credit union or of any credit union comprising such credit union group, and which are not regular members" (emphasis added).

Throughout the discussions surrounding this provision, NCUA has consistently maintained that the statute is clear and unambiguous as to this requirement and that the mandate of the statute must be adhered to. Although NCUA recognizes that the special share account regulation may not solve the "problem," the regulation will make the stock subscription requirement somewhat less burdensome for federally chartered Agent members and thus facilitate membership in the CLF in furtherance of the objectives of Title III (see 12 U.S.C. 1795 et seq.).

In another area related to the special share account regulation, several comments expressed objection to the requirement that an Agent return to a member all amounts in the member's special share account upon the member's withdrawal of its membership in the Agent. This objection is raised because an Agent must wait six or twenty-four months before adjustment is made to its stock subscription account upon the withdrawal of a member from

the Agent. One commentator suggests that the regulation permit the Agent to return the amount in a member's special share account at the same time the CLF makes the funds available to the Agent.

It is NCUA's opinion that Federal credit unions are not permitted to retain the funds of a withdrawing member for a waiting period after the member withdraws from the FCU. Consequently, the regulation does not permit Agents to hold a withdrawing member's funds in the special share account until CLF makes the adjustment in the Agent's account. The NCUA Board recognizes the burden that this provision imposes on Agents of the CLF. The Board feels that the 6 and 24 month waiting periods for adjustment of the Agent's stock subscription are intended to protect the financial stability of the CLF and are not mandatory, and it will be the policy of the Board to waive the waiting period and adjust the Agent's stock subscription as soon as practicable after a natural person credit union withdraws from membership in the Agent (see the Interpretative Ruling that accompanies this regulation). In making any determination to waive the waiting periods consideration shall be given to such factors as the ability of the CLF to fund repayment, the effect of such repayment upon the statutory requirement that CLF borrowings not exceed twelve times subscribed capital, and the ability of the Agent to repay any CLF loans it may have outstanding. Barring special circumstances, the waiting period will be waived and a return of capital to the Agent will be made as soon as practicable. Where the credit union withdrawing from the Agent is merely switching to Regular membership in the CLF, the Agent's stock subscription will be adjusted immediately.

**2. Changes**

The regulation to permit the establishment of special share accounts is applicable only to federally chartered central credit unions or Agent groups. Thus, to prevent confusion as to the scope of the regulation, the new § 725.7 will be titled: "Special Share Accounts in Federally Chartered Agent Members." Additionally, in paragraph (a) of § 725.7, the first two words of the sentence ("An Agent") will be deleted and the words "A federally chartered Agent" inserted in their place. The remaining language of this paragraph is left unchanged.

The second sentence of paragraph (b) of § 725.7 of the proposed rule permits an Agent to allow its members to maintain excess amounts in the special share accounts. This sentence is deleted in the final regulation.

The special share accounts have a limited purpose. These accounts permit reimbursement to the Agent for the costs of its membership in the Central Liquidity Facility that are attributable to the natural person credit unions that are members of the Agent. To permit credit unions to maintain amounts in the special share accounts in excess of that required to reimburse the Agent is inconsistent with the limited purpose of these accounts. Thus, the amount to be maintained in the accounts shall be limited to the amount of the Agent's stock subscription which is attributable to the capital and surplus of each member credit union of the Agent.

The last change modifies § 700.1(j) of the proposed regulation. In its proposed form, subparagraph (3) of the new paragraph being added to § 700.1(j) permits an Agent member of the CLF to pass through to the CLF interest received by the Agent on CLF loans. The proposed rule is ineffective if the Agent member is a group of central credit unions. Consequently, the proposed rule is modified in order to permit the pass through of interest to apply to both Agents whose members are natural person credit unions as well as Agents whose members are a group of central credit unions.

Accordingly, the National Credit Union Administration amends Chapter 7 of Title 12 of the Code of Federal Regulations as set forth below.

**Rosemary Brady,**

*Secretary of the Board.*

July 9, 1980.

(12 U.S.C. 1795c(b)(3); 12 U.S.C. 1795f(2); 12 U.S.C. 1762(b); 12 U.S.C. 1766(a); 12 U.S.C. 1781(b)(6); 12 U.S.C. 1789(a)(11))

## PART 700—DEFINITIONS

**§ 700.1 [Amended].**

1. Section 700.1 is amended by:

a. Adding new paragraph (16) at the end of paragraph (j) as follows:

* * * * *

(j) * * *

(16) Investments in shares of the National Credit Union Administration Cental Liquidity Facility.

* * * * *

b. And by adding a new paragraph (l) at the end thereof as follows:

* * * * *

(l) For purposes of determining the amount required to be transferred to regular reserves under Sections 116 and 201(b)(6) of the Federal Credit Union Act, "gross income" means the total of the operating income accounts reduced by the following.

(1) Dividends received on shares in the National Credit Union Administration Central Liquidity Facility;

(2) Dividends received by credit unions on special share accounts held in Agent members of the Central Liquidity Facility authorized by § 725.7 of this Chapter; and

(3) Interest received by an Agent member of the Central Liquidity Facility to the extent of interest paid to the Facility by the Agent member. In the case of an Agent member of the Central Liquidity Facility that is a group of central credit unions—

(i) Interest received by the Agent group representative, as defined in § 725.1(b) of this chapter, to the extent of interest paid to the Facility by the Agent group representative; and

(ii) Interest received by each central credit union in the Agent group (other than the Agent group representative) to the extent of interest paid by each such central credit union to the Agent group representative on Agent group representative loans, as defined in § 725.1(b) of this Chapter. Non-operating gains and losses are not included in gross income.

## PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

**§ 701.35 [Amended]**

2. Section 701.35(g) is amended by:

a. Striking "or" at the end of subparagraph (4);

b. Striking the period (".") at the end of subparagraph (5)(iii), and inserting "; or" in its place; and

c. Adding new subparagraph (6), as follows, at the end thereof:

* * * * *

(9) * * *

(6) In the case of special share accounts of credit unions held in Agent members of the Central Liquidity Facility, authorized by § 725.7 of this Chapter, a rate not to exceed the rate paid by the Facility on required capital stock unless a higher rate is permitted by other paragraphs of this section.

## PART 725—NATIONAL CREDIT UNION ADMINISTRATION CENTRAL LIQUIDITY FACILITY

**§ 725.1 [Amended]**

3. Section 725.1(b) would be amended by adding the following sentence at the end thereof: "An 'Agent group representative loan' is a loan from the Agent group representative to a central credit union in its Agent group to meet liquidity needs which have been the basis for a Facility advance."

**§ 725.5 [Amended]**

4. Section 725.5(c) is amended by striking the colon (":") and subparagraphs (1) through (5), and inserting "liquid assets as defined in § 742.2(a) of this Chapter." in lieu thereof.

5. New § 725.7, as follows, is added to Part 725:

**§ 725.7 Special share accounts in federally chartered agent members.**

(a) A federally chartered Agent member of the Facility may require its member natural person credit unions to establish and maintain special share accounts in the Agent member to reimburse it for the portion of the Agent's Facility stock subscription which is attributable to the paid-in and unimpaired capital and surplus of each such natural person credit union.

(b) The amount which the Agent member requires each member natural person credit union to maintain in such special share accounts shall be based on a uniform percentage of the paid-in and unimpaired capital and surplus of such credit unions, and shall not exceed the amount of the Agent's stock subscription which is attributable to the capital and surplus of each such credit union. An Agent shall not permit a member to maintain in a special share account any amounts in excess of the required amount.

(c) A natural person credit union that withdraws from membership in an Agent member or that becomes a Regular member of the Facility, shall be entitled to the return of all amounts in its special share account upon withdrawal from membership in the Agent or upon becoming a Regular member, as applicable.

## PART 742—LIQUIDITY RESERVES

**§ 742.2 [Amended]**

6. Section 742.2(a) is amended by striking the semi-colon (";") at the end of subparagraph (5), and inserting "or in special share accounts authorized by § 725.7 of this Chapter; and " in lieu thereof.

[FR Doc. 80-20957 Filed 7-11-80; 8:45 am]

BILLING CODE 7535-01-M

## SMALL BUSINESS ADMINISTRATION

## 13 CFR Part 101

**[Rev. 2, Amdt. 10]**

## Delegations of Authority To Conduct Program Activities in Field Offices

**AGENCY:** Small Business Administration.

**ACTION:** Final rule.

**SUMMARY:** SBA is delegating certain authority to the positions of Deputy District Director in field offices. It is expected that this action will ensure the most effective, prompt delivery of program service to small businesses.

**EFFECTIVE DATE:** July 14, 1980.

**FOR FURTHER INFORMATION CONTACT:** Lee Waugh, Paperwork Management Branch, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416, (202) 653-6703.

**SUPPLEMENTARY INFORMATION:** Because Part 101 consists of rules relating to the Agency's organization and procedures, notice of proposed rulemaking and public participation thereon as prescribed in 5 U.S.C. 553 is not required and this amendment to Part 101 is adopted without resort to those procedures. Accordingly, pursuant to authority contained in Section 5(b)(6) of the Small Business Act, 15 U.S.C. 634, Part 101, Chapter I, Title 13 of the Code of Federal Regulations is amended as follows:

Section 101.3-2 is amended to delegate authority to the positions of Deputy District Director equal to that delegated to District Directors as set forth below:

**§ 101.3-2 Delegations of authority to conduct program activities in field offices.**

* * * * *

**Part I—Financing Program**

*Section A—Loan Approval Authority*

1. *Business and Handicapped Assistance Loans (Small Business Act) (SBAct).*

a. To approve or decline direct and immediate participation section 7(a) business loans, section 7(l) energy loans, and 7(h) handicapped assistance loans, and guaranty handicapped assistance loans, not exceeding the following amounts (SBA share):

| | Approve | Decline |
|---|---|---|
| (1) Regional Administrator | $350,000 | $350,000 |
| (2) District Director | 350,000 | 350,000 |
| (3) Deputy District Director | 350,000 | 350,000 |
| (4) Assistant District Director for F&I | 350,000 | 350,000 |
| (5) Chief, Financing Division, D/O | 350,000 | 350,000 |
| (6) Supervisory Loan Specialist, Financing Division, D/O | 250,000 | 350,000 |
| (7) Branch Manager, Buffalo and Elmira | 350,000 | 350,000 |
| (8) Branch Manager, Except Fairbanks, Buffalo and Elmira B/O | 250,000 | 350,000 |
| (9) Assistant Branch Manager for F&I, Biloxi, Milwaukee and Springfield B/O's only | 250,000 | 350,000 |
| (10) Branch Manager, Fairbanks B/O only | 150,000 | 150,000 |

b. *Guaranty Loans. 7(a) business loans and 7(l) energy loans only:*

| | Approve | Decline |
|---|---|---|
| (1) Regional Administrator | $500,000 | $500,000 |
| (2) District Director | 500,000 | 500,000 |
| (3) Deputy District Director | 500,000 | 500,000 |
| (4) Assistant District Director for F&I | 500,000 | 500,000 |
| (5) Chief, Financing Division, D/O | 500,000 | 500,000 |
| (6) Supervisory Loan Specialist, Financing Division, D/O | 250,000 | 500,000 |
| (7) Branch Manager, Buffalo and Elmira | 350,000 | 500,000 |
| (8) Branch Manager, Except Fairbanks, Buffalo and Elmira B/O | 250,000 | 500,000 |
| (9) Assistant Branch Manager for F&I, Biloxi, Milwaukee and Springfield B/O's only | 250,000 | 500,000 |
| (10) Branch Manager, Fairbanks B/O only | 150,000 | 150,000 |

2. *Economic Opportunity Loans (EOL) (SBAct).* To approve or decline Section 7(i) economic opportunity direct, immediate participation, and guaranty loans not to exceed $100,000 (SBA Share):

a. Regional Administrator
b. District Director
c. Deputy District Director
d. Assistant District Director for F&I
e. Chief, Financing Division, D/O
f. Supervisory Loan Specialist, Financing Division, D/O
g. Branch Manager
h. Assistant Branch Manager for F&I Biloxi, Milwaukee and Springfield B/O's only

3. *Product Disaster and Economic Injury Disaster Loans (SBAct).* To decline section 7(b)(4) product disaster and section 7(b)(2) economic injury disaster loans in connection with "natural disaster" declarations made by the Secretary of Agriculture in any amount and to approve such loans up to the following amounts (SBA Share):

a. *Direct and Immediate Participation Loans:*

| | |
|---|---|
| (1) Regional Administrator | Unlimited |
| (2) District Director | $500,000 |
| (3) Deputy District Director | 500,000 |
| (4) Assistant District Director for F&I | 500,000 |
| (5) Chief, Financing Division, D/O | 500,000 |
| (6) Supervisory Loan Specialist, Financing Division, D/O | 300,000 |
| (7) Branch Manager, except Fairbanks B/O | 300,000 |
| (8) Assistant Branch Manager for F&I Biloxi, Milwaukee and Springfield B/O's only | 300,000 |
| (9) Branch Manager, Fairbanks B/O only | 150,000 |

b. *Guaranty Loans.* (In addition to direct and immediate participation authority):

| | |
|---|---|
| (1) Regional Administrator | Unlimited |
| (2) District Director | $1,000,000 |
| (3) Deputy District Director | 1,000,000 |
| (4) Assistant District Director for F&I | 1,000,000 |
| (5) Chief, Financing Division, D/O | 1,000,000 |
| (6) Supervisory Loan Specialist, Financing Division, D/O | 500,000 |
| (7) Branch Manager, except Fairbanks B/O | 500,000 |
| (8) Assistant Branch Manager for F&I Biloxi, Milwaukee and Springfield B/O's only | 500,000 |
| (9) Branch Manager, Fairbanks B/O only | 150,000 |

4. *Sections 7(b)(3), 7(b)(5), 7(b)(6), 7(b)(7), 7(b)(8) and 7(g) Loans (SBAct).* To decline section 7(b)(3) displaced business loans, 7(b)(5) regulatory

disaster loans (including coal mine health and safety, consumer protection—meat, eggs, poultry—, and occupational safety and health, etc.) 7(b)(6) strategic arms limitation economic injury loans, 7(b)(7) base closing economic injury loans, 7(b)(8) emergency energy shortage economic injury loans, and 7(g) water pollution loans in any amount and to approve such loans up to the following amounts (SBA share):

a. *Direct and Immediate Participation Loans:*

| | Approve |
|---|---|
| (1) Regional Administrator | Unlimited |
| (2) District Director | $500,000 |
| (3) Deputy District Director | 500,000 |
| (4) Assistant District Director, for F&I | 500,000 |
| (5) Chief, Financing Division D/O | 500,000 |
| (6) Supervisory Loan Specialist, Financing Division, D/O | 300,000 |
| (7) Branch Manager, except Fairbanks Branch Office | 300,000 |
| (8) Assistant Branch Manager for F&I Biloxi, Milwaukee and Springfield B/O's only | 300,000 |
| (9) Branch Manager, Fairbanks B/O only | 150,000 |

b. *Guaranty Loans:* (In addition to direct and immediate participation authority):

| | Approve |
|---|---|
| (1) Regional Administrator | Unlimited |
| (2) District Director | $1,000,000 |
| (3) Deputy District Director | 1,000,000 |
| (4) Assistant District Director for F&I | 1,000,000 |
| (5) Chief, Financing Division, D/O | 1,000,000 |
| (6) Supervisory Loan Specialist, Financing Division, D/O | 500,000 |
| (7) Branch Manager, except Fairbanks Branch Office | 500,000 |
| (8) Assistant Branch Manager for F&I Biloxi, Milwaukee only and Springfield B/O's only | 500,000 |
| (9) Branch Manager, Fairbanks B/O only | 150,000 |

5. *Economic Dislocation Loans (SBAct).* To decline economic dislocation direct, immediate participation or guaranty loans in connection with such designations in any amount and to approve such direct, immediate participation or guaranty loans up to the following amounts (total loan, SBA and participant's share combined):

| | |
|---|---|
| (a) Regional Administrator | $100,000 |
| (b) District Director | 100,000 |
| (c) Deputy District Director | 100,000 |
| (d) Assistant District Director for Finance and Investment | 100,000 |
| (e) Chief, Financing Division D/O | 100,000 |
| (f) Supervisory Loan Specialist, Financing Division D/O | 100,000 |
| (g) Branch Manager | 100,000 |
| (h) Assistant Branch Manager for Finance and Investment, Biloxi, Milwaukee and Springfield B/O's only | 100,000 |

*Section B—Other Financing Authority*

For all types of loans contained in Section A above:

1. *Loan Participation Agreements.* To enter into individual and blanket loan participation agreements with lenders:

a. Regional Administrator
b. District Director
c. Deputy District Director
d. Assistant District Director for F&I
e. Chief, Financing Division, D/O
f. Branch Manager
g. Assistant Branch Manager for F&I Biloxi, Milwaukee and Springfield B/O's only

2. *Loan Authorizations:*

a. To execute written authorizations:
(1) Regional Administrator
(2) District Director
(3) Deputy District Director
(4) Assistant District Director for F&I
(5) Chief, Financing Division, D/O
(6) Supervisory Loan Specialist, Financing Division, D/O
(7) Branch Manager
(8) Assistant Branch Manager for F&I Biloxi, Milwaukee and Springfield B/O's only

b. To cancel, reinstate, modify, and amend authorizations:
(1) Regional Administrator
(2) District Director
(3) Deputy District Director
(4) Assistant District Director for F&I
(5) Chief, Financing Division, D/O (on fully undisbursed loans)
(6) Supervisory Loan Specialist, Financing Division, D/O (on fully undisbursed loans)
(7) Branch Manager
(8) Assistant Branch Manager for F&I Biloxi, Milwaukee and Springfield B/O's only

3. *Disbursement Period Extension.* To extend disbursement periods:

a. Without limitation:
(1) Regional Administrator
(2) District Director
(3) Deputy District Director
(4) Assistant District Director for F&I
(5) Chief, Financing Division, D/O (on fully undisbursed loans)
(6) Branch Manager
(7) Assistant Branch Manager for F&I Biloxi, Milwaukee and Springfield B/O's only

b. For a cumulative total not to exceed six (6) months:
(1) Supervisory Loan Specialist, Financing Division, D/O (on fully undisbursed loans)

4. *Service Charges.* To approve service charges by participating lenders not to exceed two (2) percent per annum on the outstanding principal balance of construction loans and loans involving accounts receivable and inventory financing:

(a) Regional Administrator
(b) District Director
(c) Deputy District Director
(d) Assistant District Director for F&I
(e) Chief, Financing Division, D/O (on fully undisbursed loans)
(f) Supervisory Loan Specialist, D/O (on fully undisbursed loans)
(g) Branch Manager
(h) Assistant Branch Manager for F&I Biloxi, Milwaukee and Springfield B/O's only

**Part II—Disaster Program**

**Note.**—The loan approval authority in Part II refers to the total indebtedness of an applicant for a disaster loan (regardless of the number of structures damaged) for each separate disaster.

*Section A—Disaster Loan Authority*

1. *Direct and Immediate Participation 7(b)(1) Physical Disaster Loans (SBAct):*

a. To decline direct and immediate participation 7(b)(1) physical disaster loans in any amount and to approve such loans not exceeding the following amounts (SBA share):

(1) *Home Loans:* $50,000 for repair, restoration, or replacement of a home; $10,000 for repair, restoration, or replacement of household contents or personal property; or $55,000 for a single disaster home loan, plus $50,000 for refinancing prior liens:

(a) Regional Administrator
(b) District Director
(c) Deputy District Director
(d) Assistant District Director for F&I
(e) Disaster Branch Manager
(f) Supervisory Loan Specialist, Financing Division, D/O
(g) Supervisory Loan Specialist, Disaster Office
(h) Branch Manager
(i) Assistant Branch Manager for F&I Biloxi, Milwaukee and Springfield B/O's only

(2) *Business Loans:* Including repair, restoration, or replacement of all real or personal property and refinancing as follows:

| | |
|---|---|
| (a) Regional Administrator | Unlimited |
| (b) District Director | $500,000 |
| (c) Deputy District Director | 500,000 |
| (d) Assistant District Director for F&I | 500,000 |
| (e) Disaster Branch Manager | 500,000 |
| (f) Supervisory Loan Specialist, Financing Division, D/O | 300,000 |
| (g) Supervisory Loan Specialist, Disaster Office | 300,000 |
| (h) Branch Manager, except Fairbanks Branch Office | 500,000 |
| (i) Assistant Branch Manager for F&I Biloxi, Milwaukee and Springfield B/O's only | 500,000 |
| (j) Branch Manager, Fairbanks B/O only | 150,000 |

2. *Guaranteed Physical Disaster Loans 7(b)(1) (SBAct).* To decline section 7(b)(1) physical disaster guaranteed loans in any amount and to approve such loans in addition to direct and immediate participation authority not exceeding the following amounts (SBA share):

| | Home loans | Business loans |
|---|---|---|
| a. Regional Administrator | Unlimited | Unlimited |
| b. District Director | $200,000 | $1,000,000 |
| c. Deputy District Director | 200,000 | 1,000,000 |
| d. Assistant District Director for F&I | 200,000 | 1,000,000 |
| e. Disaster Branch Manager | 100,000 | 500,000 |
| f. Supervisory Loan Specialist, Financing Division, D/O | 100,000 | 500,000 |
| g. Supervisory Loan Specialist, Disaster Office | 100,000 | 500,000 |
| h. Branch Manager, except Fairbanks Branch Office | 100,000 | 500,000 |

| | Home loans | Business loans |
|---|---|---|
| i. Assistant Branch Manager for F&I Biloxi, Milwaukee and Springfield B/O's only | 100,000 | 500,000 |
| j. Branch Manager, Fairbanks B/O only | 100,000 | 150,000 |

3. *Direct and Immediate Participation Economic Injury Disaster Loans (SBAct).* To decline direct and immediate participation section 7(b)(2) economic injury disaster loans (in connection with a physical disaster declaration by the Administrator, or a "major disaster" declaration by the President) in any amount and to approve such loans, not exceeding the following amounts (SBA share):

| | *Business loans* |
|---|---|
| a. Regional Administrator | Unlimited |
| b. District Director | $500,000 |
| c. Deputy District Director | 500,000 |
| d. Assistant District Director for F&I | 500,000 |
| e. Disaster Branch Manager | 300,000 |
| f. Supervisory Loan Specialist, Financing Division, D/O | 200,000 |
| g. Supervisory Loan Specialist, Disaster Office | 200,000 |
| h. Branch Manager, except Fairbanks Branch Office | 300,000 |
| i. Assistant Branch Manager for F&I Biloxi, Milwaukee and Springfield B/O's only | 300,000 |
| j. Branch Manager, Fairbanks B/O only | 150,000 |

4. *Guaranteed Economic Injury Disaster Loans (SBAct).* To decline Section 7(b)(2) Economic Injury guaranteed disaster loans (in connection with a physical disaster declaration by the Administrator, or a "major disaster" declared by the President) in any amount and to approve such loans, in addition to the direct and immediate participation authority, not exceeding the following amounts (SBA share).

| | |
|---|---|
| a. Regional Administrator | Unlimited |
| b. District Director | $1,000,000 |
| c. Deputy District Director | 1,000,000 |
| d. Assistant District Director for F&I | 1,000,000 |
| e. Disaster Branch Manager | 500,000 |
| f. Supervisory Loan Specialist, Financing Division, D/O | 500,000 |
| g. Supervisory Loan Specialist, Disaster Office | 500,000 |
| h. Branch Manager, except Fairbanks Branch Office | 500,000 |
| i. Assistant Branch Manager for F&I Biloxi, Milwaukee and Springfield B/O's only | 500,000 |
| j. Branch Manager, Fairbanks B/O only | 150,000 |

5. *Processing Representative.* To appoint as a processing representative any bank in the disaster area:
a. Regional Administrator
b. District Director
c. Deputy District Director
d. Disaster Branch Manager
e. Branch Manager
f. Assistant Branch Manager for F&I Biloxi, Milwaukee and Springfield B/O's only

6. *Late Filing.* To approve or reject the request of an applicant to file for a disaster loan after the period for acceptance under the original disaster declaration, or extension thereof, has expired:
a. Regional Administrator
b. District Director
c. Deputy District Director

7. *Disaster Loan Authorizations*
a. To execute written authorizations:
(1) Regional Administrator
(2) District Director
(3) Deputy District Director
(4) Assistant District Director for F&I
(5) Chief, Financing Division, D/O
(6) Branch Manager
(7) Assistant Branch Manager for F&I Biloxi, Milwaukee and Springfield B/O's only
(8) Disaster Branch Manager
b. To cancel, reinstate, modify, and amend authorizations:
(1) Regional Administrator
(2) District Director
(3) Deputy District Director
(4) Assistant District Director for F&I
(5) Chief, Financing Division, D/O (on fully undisbursed loans)
(6) Supervisory Loan Specialist, Financing Division, D/O (on fully undisbursed loans)
(7) Branch Manager
(8) Assistant Branch Manager for F&I Biloxi, Milwaukee and Springfield B/O's only
(9) Disaster Branch Manager
(10) Supervisory Loan Specialist, Disaster Office

8. *Disbursement Period Extension on Disaster Loans.* To extend disbursement periods:
a. Without limitation:
(1) Regional Administrator
(2) District Director
(3) Deputy District Director
(4) Assistant Distric Director for F&I
(5) Chief, Financing Division, D/O (on fully undisbursed loans)
(6) Branch Manager
(7) Disaster Branch Manager
(8) Assistant Branch Manager for F&I Biloxi, Milwaukee and Springfield B/O's only
b. For a cumlative total not to exceed six (6) months:
(1) Supervisory Loan Specialist, Financing Division, D/O (on fully undisbursed loans)

*Section B—Administrative Authority*

1. *Establishment of Disaster Field Offices.*
a. To establish field offices upon receipt of advice of the designation of a disaster area and to close disaster field offices when justified; and
b. To obligate the Small Business Administration to reimburse the General Services Administration for the rental of temporary office space:
(1) Regional Administrator
(2) Assistant Regional Administrator for Management, Regions II, III, VII, VIII, and X only
(3) Assistant Regional Administrator for Administration, Region I only
(4) Assistant Regional Administrator for Management (Internal), Region VI only
(5) Assistant Regional Administrator for Management (Resources, Administration and Planning), Region VI only
(6) Assistant Regional Administrator for Resources, Planning and Analysis, Region IX only
(7) Regional Personnel Officer, Region V only
(8) District Director
(9) Deputy District Director
(10) Assistant District Director for F&I
(11) Disaster Branch Manager

2. *Purchase and Contract Authority.*
a. *Rental of Motor Vehicles and Garage Space.* To rent motor vehicles necessary for the use of disaster branch office personnel and garage space for the storage of such vehicles when not furnished by this Administration:
(1) Regional Administrator
(2) Assistant Regional Administrator for Management, Regions II, III, VII, VIII, and X only
(3) Assistant Regional Administrator for Administration, Region I only
(4) Assistant Regional Administrator for Management (Internal), Region IV only
(5) Assistant Regional Administrator for Management (Resources, Administration and Planning), Region VI only
(6) Assistant Regional Administrator for Resources, Planning and Analysis, Region IX only
(7) Regional Personnel Officer, Region V only
(8) District Director
(9) Deputy District Director
(10) Assistant District Director for F&I
(11) Disaster Branch Manager
b. *Office Supplies and Equipment.* To purchase office supplies and equipment, including office machines, and rent regular office equipment and furnishings; contract for repair and maintainence of equipment and furnishings; contract for printing (Government sources only); contract for services required in setting up and dismantling and moving SBA exhibits; and issue Government bills of lading pursuant to Chapter 4 of Title 41, United States Code, as amended, subject to the limitations contained in sections 257(a) and (b) of that Chapter:
(1) Regional Administrator
(2) Assistant Regional Administrator for Management, Regions II, III, VII, VIII, and X only
(3) Assistant Regional Administrator for Administration, Region I only
(4) Assistant Regional Administrator for Management (Internal), Region IV only

(5) Assistant Regional Administrator for Management (Resources, Administration and Planning), Region VI only
(6) Assistant Regional Administrator for Resources, Planning and Analysis, Region IX only
(7) Regional Personnel Officer, Region V only
(8) District Director
(9) Deputy District Director
(10) Assistant District Director for F&I
(11) Disaster Branch Manager

c. *Credit Bureau Services.* To contract for local credit bureau services pursuant to Chapter 4 of Title 41, United States Code, as amended, subject to the limitations contained in section 257(a) and (b) of that Chapter:
(1) Regional Administrator
(2) Assistant Regional Administrator for Management, Regions II, III, VII, VIII, and X only
(3) Assistant Regional Administrator for Administration, Region I only
(4) Assistant Regional Administrator for Management (Internal), Region IV only
(5) Assistant Regional Administrator for Management (Resources, Administration and Planning), Region VI only
(6) Assistant Regional Administrator for Resources, Planning and Analysis, Region IX only
(7) Regional Personnel Officer, Region V only
(8) District Director
(9) Deputy District Director
(10) Assistant District Director for F&I
(11) Disaster Branch Manager

**Part III—Other Financial and Guarantee Programs**

*Section A—Section 501 and 502 Loan Approval Authority (SBAct)*

1. *Section 501 State Development Company Loans.* To approve or decline section 501 State development company loans not exceeding the following amounts (SBA share):

| | |
|---|---|
| a. Regional Administrator | Unlimited |

With concurrence in at least one prior recommendation:

| | |
|---|---|
| b. District Director | $75,000 |
| c. Deputy District Director | 750,000 |
| d. Assistant District Director for F&I | 750,000 |
| e. Chief, CED Division, D/O | 750,000 |
| f. Chief, Financing Division, D/O | 750,000 |

2. *Section 502 Local Development Company Loans (SBI Act).* To approve or decline section 502 local development company loans not exceeding the following amounts (SBA share) for each small business concern being assisted, within the project cost limitations shown below:

**Note.**—Project cost applies to the cumulative CED assistance to a small business concern and its affiliates and not to the additional assistance on which the action is being taken.

a. Unlimited project cost:

| | |
|---|---|
| (1) Regional Administrator | $500,000 |

b. Overall project cost not exceeding $1,000,000:

| | |
|---|---|
| (1) District Director | $500,000 |
| (2) Deputy District Director | 500,000 |
| (3) Assistant District Director for F&I | 500,000 |

c. Overall project cost not exceeding $700,000:

| | |
|---|---|
| (1) Chief, CED Division, D/O | $500,000 |
| (2) Chief, Financing Division, D/O | 500,000 |

*Section B—Other 501 and 502 Authority.*

1. *Participation Agreements.* To enter into participation agreements with lenders:
a. Regional Administrator
b. District Director
c. Deputy District Director
d. Assistant District Director for F&I
e. Chief, CED Division, D/O
f. Chief, Financing Division, D/O

2. *Loan Authorizations.*
a. To execute written loan authorizations:
(1) Regional Administrator
(2) District Director
(3) Deputy District Director
(4) Assistant District Director for F&I
(5) Chief, CED Division, D/O
(6) Chief, Financing Division, D/O

b. To cancel, reinstate, modify, and amend authorizations:
(1) Regional Administrator
(2) District Director
(3) Deputy District Director
(4) Assistant District Director for F&I
(5) Chief, CED Division, D/O (before initial disbursement)
(6) Chief, Financing Division, D/O (before initial disbursement)

3. *Disbursement Period Extension.* To extend disbursement periods:
a. Regional Administrator
b. District Director
c. Deputy District Director
d. Assistant District Director for F&I
e. Chief, CED Division, D/O (on wholly undisbursed loans)
f. Chief, Financing Division, D/O (on wholly undisbursed loans)

*Section C—Surety Guarantee*

1. To guarantee sureties against portion of losses resulting from the breach of bid, payment, or performance bonds on contracts, not to exceed the following amounts:
a. Regional Administrator, $500,000
b. Assistant Regional Administrator for Regional Programs, Regions I, II, V, VI, VIII, IX, and X, $500,000
c. Assistant Regional Administrator for Management (District Programs), Region IV, $500,000
d. Assistant Regional Administrator for Management, Regions III and VII, $500,000
e. District Director and Deputy District Director, Philadelphia, San Francisco, Baltimore and all Region IV District Offices only, $500,000
f. Assistant District Director for F&I, Philadelphia, San Francisco, Baltimore and all Region IV District Offices only, $500,000
g. Surety Bond Coordinator, $250,000
h. Senior Surety Bond Guarantee Specialist, $250,000
i. Surety Bond Officer, $250,000
j. Chief, Financing Division, Philadelphia D/O only $250,000
k. Chief, CED Division, Philadelphia District Office only, $250,000

*Section D—EDA Loan Authority*

1. *EDA Loan Disbursement Authority.* To disburse EDA loans, as directed by EDA:
a. Regional Administrator
b. Regional Counsel
c. District Director
d. Deputy District Director
e. Assistant District Director for F&I
f. Chief, CED Division, D/O
g. District Counsel

**Part IV—Portfolio Management (PM) Program**

*Section A—Portfolio Management, Servicing, Collection, and Liquidation Authority*

1. To take all necessary action in connection with the administration, servicing, collection, and liquidation of all SBA loans (and EDA loans in liquidation when and as authorized by EDA) and lease guarantees, *exclusive of matters in litigation,* and to do and perform, and to assent to the doing and performance of, all and every act and thing requisite and proper to effectuate these granted powers.

EXCEPT: a. *To compromise or sell* any primary obligation or other evidence of indebtedness owed to the Agency for a sum less than the total amount due thereof;

b. *To deny liability* of the Small Business Administration under the terms of a participation or guaranty agreement or a lease guarantee;

c. *To authorize suit* for recovery from a participating institution under any alleged violation of a participation or guaranty agreement; or

d. *To accept a lump sum settlement or to purchase property* under the lease guarantee:
(1) Regional Administrator
(2) District Director
(3) Deputy District Director
(4) Assistant District Director for F&I

(5) Branch Manager (full service branches only)
(6) Chief, Portfolio Management Division, D/O
(7) Supervisory Loan Specialist, Portfolio Management Division, D/O
(8) Supervisory Loan Specialist, Liquidation Section, D/O
(9) Assistant Branch Manager for F&I, Biloxi, Milwaukee, and Springfield B/O's only
(10) Chief, PM Division, Biloxi Branch Office

2. To take all necessary actions in connections with the administration, servicing, collection, and liquidation of all SBA loans (and EDA loans in liquidation when and as authorized by EDA) and lease guarantees, *exclusive of matters in litigation;* and to do and perform, and to assent to the doing and performance of, all and every act and thing requisite and proper to effectuate these granted powers.

EXCEPT: a. *To compromise or sell* any primary obligation or other evidence of indebtedness owed to the Agency for a sum less than the total amount due thereon;

b. *To deny liability* of the Small Business Administration under the terms of a participation or guaranty agreement or a lease guarantee;

c. *To initiate suit* for recovery from a participating institution under any alleged violation of a participation or guaranty;

d. *To authorize the liquidation of a loan* (except Disaster Home Loans) or to cancel authority to liquidate; or

e. *To accept a lump sum settlement or to purchase property* under the lease guaranty:

(1) Branch Manager (limited servicing branches)
(2) Chief, Portfolio Management Division, B/O (full servicing branches)
(3) Supervisory Loan Specialist, Portfolio Management Division, B/O, (full servicing branches)

3. *Other Portfolio Management Authority*

a. To take *only* the following actions on loans in a current status:

(1) Approve editorial modifications in loan authorizations;
(2) Extend disbursement periods on loans partially undisbursed;
(3) Release of cash surrender value or dividends to pay premiums due on assigned policy;
(4) Extend initial principal payment dates or adjust interest payment dates;
(5) Release of equipment (or hazard insurance checks) where the total value being released does not exceed $500.
(a) Loan Specialist, Portfolio Management Division, D/O or B/O
(b) Loan Specialist, Liquidation Section, D/O or B/O

**Part V—Claims Review Committee**

*Section A—Authority to Compromise Claims*

1. *District Claims Review Committee.* This committee shall consist of three incumbents (or those officially acting in their behalf) in the following order of position classification. The first member available in this order shall serve as chairperson.

Liquidation Chief (or liquidation Supervisor)
PM Chief (or PM supervisor)
District Counsel
FD Chief (or FD supervisor)

However, the District Director may, at his option, establish an alternative committee membership consisting of the Assistant District Director for Finance and Investment, acting as chairperson, District Counsel and the Assistant District Director for Management Assistance or those officially acting in their behalf. Authority is delegated to take final action on:

a. Claims not in excess of $50,000 (excluding interest) upon *majority* vote of the Committee.

b. Claims not in excess of $100,000 (excluding interest) upon *unanimous* vote of the Committee.

c. Claims in excess of $100,000 (excluding interest) when the amount offered represents the full principal balance due thereby forgiving only the interest upon *unanimous* vote of the Committee.

d. Settlement offers on claims of any size may be declined upon majority vote of the committee.

2. *Regional Claims Review Committee.* This committee shall consist of the Assistant Regional Administrator for Regional Programs, the Assistant Regional Administrator for Management, and the Regional Counsel or those officially acting in their behalf. The Regional Administrator shall designate a chairperson. Authority is delegated to take final action on:

a. Claims not in excess of $100,000 (excluding interest) upon *majority* vote of the Committee.

b. Claims not in excess of $100,000 but not exceeding $150,000 (excluding interest) upon *unanimous* vote of the Committee.

c. Settlement offers on claims of any size may be declined upon majority vote of the Committee.

**Part VI—Procurement Assistance Program (PA)**

*Section A—Certificate of Competency Approval Authority*

1. With the exception of re-referred cases, to approve applications for Certificates of Competency up to but not exceeding $500,000 bid value received from small business concerns located within the geographical jurisdiction:
a. Regional Administrator
b. Assistant Regional Administrator for Regional Programs

2. To deny an applicant for a Certificate of Competency when an adverse determination as to capacity or credit is concurred in:
a. Regional Administrator
b. Assistant Regional Administrator for Regional Programs

**Part VII—Minority Small Business and Capital Ownership Development Program (MSB–COD)**

*Section A—Call Contracts Authority*

1. *Administration and Management of Call Contracts.* To take all necessary actions in connection with the administration and management of contracts awarded under the authority granted in Section 7(j) of the Small Business Act, as amended, (formerly under Section 406 of the Economic Opportunity Act of 1964) except changes, amendements, or termination of the contract.
a. Regional Administrator
b. Assistant Regional Administrator for Minority Small Business and Capital Ownership Development (MSB/COD)
c. Chief, Office of Business Development, Regional Office, Reg VII
d. District Director
e. Deputy District Director
f. Assistant District Director for Minority Small Business and Capital Ownership Development

*Section B—Section 8(a)(1)(A) Contracting Authority (SBAct)*

1. To enter into contracts on behalf of the Small Business Administration with the United States Government and any department, agency, or officer thereof having procurement powers, obligating the Small Business Administration to furnish articles, equipment, supplies, services or materials to the Government or to perform construction work for the Government, subject to the following monetary limitations:

| | |
|---|---|
| a. Regional Administrator | Unlimited |
| b. Assistant Regional Administrator for MSB/COD | Unlimited |
| c. Deputy Assistant Regional Administrator for MSB/COD, Reg II only | Unlimited |
| d. Chief, Office of Business Development, Reg I only | $2,000,000 |
| e. Chief, Office of Business Development, Region III, R/O only | $250,000 |

| | |
|---|---|
| f. District Director and Deputy District Director, Washington, Denver, Richmond, Philadelphia, Baltimore, and all Region VI and Region VII D/O's only | Unlimited |
| g. District Directors and Deputy District Director, Detroit, Cleveland, Indianapolis, and Salt Lake City D/O's only | $350,000 |
| h. District Directors and Deputy District Director, all Region IX, all Region X, Columbia, Chicago, Columbus, Boston and Hartford D/O's only | $500,000 |
| i. Assistant District Director for MSB/COD, Columbia D/O only | $500,000 |
| j. Assistant District Director for MSB/COD, San Francisco, Los Angeles, Washington, Richmond, Philadelphia and Baltimore D/O's only | $100,000 |
| k. All Contract Specialists in Region X only | Unlimited |
| l. Branch Manager, El Paso Branch Office only | Unlimited |

2. Subcontracting. To arrange for the performance of such procurement contracts as stated in paragraph 1 above by negotiating or otherwise letting subcontracts to socially and economically disadvantaged small business concerns for the construction work, services or the manufacture, supply, or assembly of such articles, equipment, supplies, or materials, or parts thereof, or servicing or processing in connection therewith, or such management services as may be necessary to enable the Small Business Administration to perform such contracts subject to the following monetary amounts:

| | |
|---|---|
| a. Regional Administrator | Unlimited |
| b. Assistant Regional Administrator for MSB/COD | Unlimited |
| c. Deputy Regional Administrator for MSB/COD, Reg II | Unlimited |
| d. Chief, Office of Business Development, Reg I only | $2,000,000 |
| e. Chief, Office of Business Development, Region III R/O only | 250,000 |
| f. District Director and Deputy District Director, Washington, Denver, Richmond, Philadelphia, Baltimore and all Region VI and Region VII D/O's only | Unlimited |
| g. District Directors and Deputy District Director, Detroit, Cleveland, Indianapolis, and Salt Lake City, D/O's only | 350,000 |
| h. District Directors and Deputy District Director, all Region IX, all Region X, Columbia, Chicago, Columbus, Boston and Hartford D/O's only | 500,000 |
| i. Assistant District Director for MSB/COD, Columbia D/O only | 500,000 |
| j. Assistant District Director for MSB/COD, San Francisco, Los Angeles, Washington, Richmond, Philadelphia and Baltimore D/O's only | 100,000 |
| k. All Contract Specialists in Region X only | 250,000 |
| l. Chief of Contract Negotiation and Administration, Regional Office, Region VII only | 1,000,000 |
| m. Branch Manager, El Paso Branch Office only. | 350,000 |

3. To certify to any officer of the Government having procurement powers that the Small Business Administration is competent and responsible to perform any specific Government procurement contract to be let by any such officer. Such contracts not to exceed the following amount:

| | |
|---|---|
| a. Regional Administrator | Unlimited |
| b. Assistant Regional Administrator for MSB COD | Unlimited |
| c. Deputy Assistant Regional Administrator for MSB/COD, Reg II only | Unlimited |
| d. Chief, Office of Business Development, Reg I only | $2,000,000 |
| e. Chief, Office of Business Development Region III, R/O only | Unlimited |
| f. District Director and Deputy District Director, Washington, Denver, Philadelphia, Richmond, Baltimore, and all Region VI and Region VII D/O's only | Unlimited |
| g. District Directors and Deputy District director, New York, Newark, Syracuse, Detroit, Cleveland, Indianapolis, Salt Lake City and Puerto Rico D/O's only | 350,000 |
| h. District Director and Deputy District Director, all Region XI, all Region X, Columbia, Chicago, Columbus, Boston and Hartford D/O's only | 500,000 |
| i. Assistant District Director for MSB/COD, Columbia D/O only | 500,000 |
| j. Assistant District Director for PA, Region IX | 500,000 |
| k. Assistant District Directors for MSB/COD, Washington, Richmond, Philadelphia, and Baltimore | 100,000 |
| l. All Contract Specialists in Region X only | 250,000 |
| m. Branch Manager, El Paso Branch Office only. | Unlimited |

## Part VIII—Legal Services

*Section A—Authority to Conduct Litigation Activities*

1. To conduct all litigation activities, including SBIC and Economic Development Administration matters, as assigned, and to take all action necessary in connection with matters in litigation; and to do and perform and to assent to the doing and performance of, all and every act and thing requisite and proper to effectuate the granted powers.

Except: a. *To compromise or sell* any primary obligation or other evidence of indebtedness owned to the Agency for a sum less than the total amount due thereon;

b. *To deny liability* of the Small Business Administration under the terms of a participation or guaranty agreement (including lease guarantees); or

c. *To authorize suit* for recovery from a participating institution under any alleged violation of a participation or guaranty agreement; or

d. *To accept a lump sum settlement or to purchase property* under the lease guarantee:

(1) Regional Administrator
(2) Regional Counsel
(3) Attorney, Regional Office
(4) District Counsel
(5) Attorney, District Office
(6) Branch Counsel
(7) Attorney, Branch Office

*Section B—Loan Closing Authority*

1. To close and disburse approved SBA loans and to close EDA loans, as authorized:

a. Regional Administrator
b. Regional Counsel
c. Attorney, Regional Office
d. District Counsel
e. Attorney, District Office
f. Branch Counsel
g. Attorney, Branch Office

2. To approve, when requested, in advance of disbursements, conformed copies of notes and other closing documents; and certify to the participating bank that such documents are in compliance with the participation authorization:

a. Regional Administrator
b. Regional Counsel
c. Attorney, Regional Office
d. District Counsel
e. Attorney, District Office
f. Branch Counsel
g. Attorney, Branch Office

3. To approve or disapprove fees charged by borrowers' counsel:

a. Regional Administrator
b. Regional Counsel
c. Attorney, Regional Office
d. District Director
e. Deputy District Director
f. District Counsel
g. Attorney, District Office
h. Branch Manager
i. Branch Counsel
j. Attorney, Branch Office

*Section C—Authority to Contact IRS*

To request and receive address information from IRS records for purpose of collection and compromise of SBA Federal claims. This information will be used only by Agency employees directly engaged in and solely for their use in preparation for any administrative or judicial proceeding pertaining to the collection or compromise of a Federal claim in accordance with the provisions of Section 3 of the Federal Claims Collection Act of 1966.

a. Regional Administrators
b. Regional Counsel
c. District Director
d. Deputy District Director
e. District Counsel

## Part IX—Eligibility and Size Determinations

*Section A—Eligibility Determinations*

1. *Eligibility Determination Authority.* In accordance with Small Business Administration standards and policies, to determine eligibility of applicants for assistance under *any program of* the Agency: *EXCEPT the SBIC program.*

a. Regional Administrator

b. All officials having the authority and assigned responsibility to take final action on the assistance requested.

*Section B—Size Determinations*

1. *Size Determination Authority.* In accordance with Small Business Administration's Small Business Size Standards Regulations, to make initial size determinations of applicants for assistance under *any* program of the Agency:

a. Regional Administrator

b. All other officials having authority and assigned responsibility to take final action on the assistance requested,

*EXCEPT* the SBIC program and Government procurement and sales activities:

2. *Size Determinations for Government Procurement and Sales.* In accordance with Small Business Administration's Small Business Size Standards Regulations, to make size determinations for government procurement and sales activities.

a. Regional Administrator

b. Assistant Regional Administrator for Regional Programs

c. Chief, Procurement and Technical Assistance, Region II only

**Part X—Administrative**

*Section A—Authority to Purchase, Rent, or Contract for Equipment, Services, and Supplies.*

1. *Purchase Reproductions of Loan Documents.* To purchase reproductions of loan documents, chargeable to the revolving fund requested by U.S. Attorneys in foreclosure cases:

a. Regional Administrator

b. Assistant Regional Administrator for Management, Regions II, III, VII, VIII, and X only

c. Assistant Regional Administrator for Administration, Reg I only

d. Assistant Regional Administrator for Management (Internal), Reg IV only

e. Assistant Regional Administrator for Management (Resources, Administration and Planning), Reg VI only

f. Assistant Regional Administrator for Resources, Planning and Analysis, Reg IX only

g. Regional Personnel Officer, Reg V only

h. District Director

i. Deputy District Director

j. Branch Manager

2. *Office Supplies and Equipment.* To purchase office supplies and equipment and rent regular office equipment and furnishings; contract for repair and maintenance of equipment and furnishings; contract for printing (Government sources only); contract for services required in setting up and dismantling and moving SBA exhibits; and issue Government bills of lading pursuant to Chapter 4 of Title 41, United States Code, as amended, subject to the limitations contained in section 257 (a) and (b) of that Chapter:

a. Regional Administrator

b. Assistant Regional Administrator for Management, Regions II, III, VII, VIII and X only

c. Assistant Regional Administrator for Administration, Reg I only

d. Assistant Regional Administrator for Management (Internal), Reg IV only

e. Assistant Regional Administrator for Management (Resources, Administration and Planning), Reg VI only

f. Assistant Regional Administrator for Resources, Planning and Analysis, Reg IX

g. Regional Personnel Officer, Reg V only

h. District Director

i. Deputy District Director

j. Branch Manager

3. *Rental of Motor Vehicle.* To rent motor vehicles when not furnished by this Administration:

a. Regional Administrator

b. Assistant Regional Administrator for Management, Regions II, III, VII, VIII and X only

c. Assistant Regional Administrator for Administration, Reg I only

d. Assistant Regional Administrator for Management (Internal), Reg IV only

e. Assistant Regional Administrator for Management (Resources, Administration and Planning), Reg VI only

f. Assistant Regional Administrator for Resources, Planning and Analysis, Reg IX

g. Regional Personnel Officer, Reg V only

h. District Director

i. Deputy District Director

j. Branch Manager

4. *Rental of Conference Space.* To rent temporarily SBA conference space located within the respective geographical jurisdiction

a. Regional Administrator

5. *Use of Seal of the Small Business Administration.* To certify true copies of any books, records, papers, or other documents on file with the Small Business Administration; to certify extracts from such material; to certify the nonexistence of records on files; and to cause the Seal of the Small Business Administration to be affixed to all such certification.

a. Regional Administrator

b. Assistant Regional Administrator for Management, Regions II, III, VII, VIII, and X only

c. Assistant Regional Administrator for Administration, Reg I only

d. Assistant Regional Administrator for Management (Internal), Reg IV only

e. Assistant Regional Administrator for Management (Resources, Administration and Planning), Reg VI only

f. Assistant Regional Administrator for Resources, Planning and Analysis, Reg IX

g. Regional Personnel Officer, Reg V only

h. District Director

i. Deputy District Director

j. Branch Manager

6. *Contract for Services.* To contract for services for the agency not exceeding the monetary amount of $2,500 pursuant to Chapter 4 of Title 41, United States Code, subject to the limitations contained in section 257 (a) and (b) of that Chapter:

a. Regional Administrator

b. Assistant Regional Administrator for Management, Regions II, III, VII, VIII and X only

c. Assistant Regional Administrator for Administration, Reg I only

d. Assistant Regional Administrator for Management (Internal), Reg IV only

e. Assistant Regional Administrator for Management (Resources, Administration and Planning), Reg VI only

f. Assistant Regional Administrator for Resources, Planning and Analysis, Reg IX

g. Regional Personnel Officer, Reg V only

**Part XI—Redelegation Authority**

*Section A—Redelegation*

1. The authority delegated herein may not be redelegated.

2. The authority delegated herein may be exercised by any SBA employee designated as acting in a position designated herein.

3. Regional Administrators, District Directors, and Branch Managers may withhold or limit authorities delegated to those positions prescribed in this document for a period not to exceed six months. Information relating to these temporary exceptions will be maintained and available for examination in their respective field offices.

* * * * *

Date: July 8, 1980.

**William H. Mauk, Jr.,**

*Acting Administrator.*

[FR Doc. 80-20857 Filed 7-11-80; 8:45 am]

BILLING CODE 8025-01-M

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 39

**[Docket No. 76-WE-22-AD; Amdt. 39-3840]**

### Lockheed-California Co. Model L-1011-385 Series Airplanes

**AGENCY:** Federal Aviation Administration (FAA) DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new AD superseding a currently effective airworthiness directive (AD)

which requires repetitive inspection and replacement if necessary of certain hydraulic accumulators on Lockheed L-1011-385 Series Airplanes. This AD is needed because of accumulator corrosion problems which have occurred since accomplishment of the one-time inspection required by the original AD, (AD 76-25-01).

**DATES:** Effective July 17, 1980.

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

**ADDRESSES:** The applicable service information may be obtained from: Lockheed-California Company, P.O. Box 551, Burbank, California 91520, Attention: Commercial Support Contracts, Dept. 63-11 U33, B-1.

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:** Jerry Presba, 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:** Amendment 39-2783, 41 FR 53779, AD 76-25-01, requires inspection and replacement, as necessary, of the landing gear alternate brake/alternate landing gear down accumulator on Model L-1011-385 Series Airplanes. After issuing AD 76-25-01, the FAA received reports which indicate that stress corrosion problems on the landing gear alternate brake/alternate landing gear down accumulator continue to exist. Stress corrosion if left unchecked can lead to a burst type failure of the accumulator. Therefore, the AD is being superseded by a new AD that requires repetitive inspection of the landing gear alternate brake/alternate landing gear down accumulator until the accumulator is modified to prevent a burst type failure from stress corrosion.

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, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new airworthiness directive:

**Lockheed-California.** Applies to Lockheed Model L-1011-385 Series Airplanes certified in all categories.

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

To prevent a possible burst type failure of the landing gear alternate brake/alternate landing gear down accumulator, accomplish the following:

(a) Unless previously accomplished within 2200 hours' time in service prior to the effective date of this AD,

(1) Inspect all accumulators Lockheed P/N 672273-101 (Bendix P/N 3186608) and Lockheed P/N 672273-103 (Bendix P/N 3186608-2) in accordance with Lockheed Alert Service Bulletin 093-32-A121 dated November 11, 1976, or,

(2) Replace accumulators with accumulators reworked per Lockheed Service Bulletin 093-32-121 dated October 17, 1977.

(b) Accumulators which fail the inspection, prior to further flight operations, must be either:

(1) Removed and replaced with an accumulator which has passed the inspection or,

(2) Removed and replaced with an accumulator which has been reworked per (a)(2) above or,

(3) Remove the affected accumulator and accomplish the following actions in accordance with Lockheed Alert Service Bulletin 093-32-A121, dated November 11, 1976.

(i) Cap pneumatic and hydraulic lines.

(ii) Install landing gear alternate brake/alternate landing gear down accumulator inoperative placard in cockpit;

(iii) Incorporate FAA-approved Appendix 11 dated November 17, 1976, in the FAA-approved AFM, LR 25925. Appendix 11 provides special procedures for operation of the L-1011 with landing gear alternate brake/alternate landing gear down accumulator removed.

(c) Accumulators which passed inspection per (a)(1) or which were used as a replacement accumulator per (b)(1) must be reinspected per (a)(1) every 2200 hours' time in service until replaced with accumulators reworked per (a)(2).

(d) Equivalent inspections and/or modifications may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

This supersedes Amendment 39-2783 (41 FR 53779), AD 76-25-01.

This amendment becomes effective July 17, 1980.

(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)

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

Issued in Los Angeles, Calif., on June 30, 1980.

John D. Mattson,

*Director, FAA Western Region.*

[FR Doc. 80-20808 Filed 7-11-80; 8:45 am]

BILLING CODE 4910-13-M

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**14 CFR Part 39**

**[Docket No. 79-WE-30-AD; Amdt. 39-3841]**

## McDonnell Douglas DC-9 Series Airplanes

**AGENCY:** Federal Aviation Administration (FAA) DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment amends an existing Airworthiness Directive (AD) applicable to McDonnell Douglas DC-9 series airplanes by adding "April 14, 1980" after the words "Within the next 500 landings after . . ." to paragraph (e) of this AD. This amendment is needed to establish the date to begin accounting of aircraft landings.

**DATES:** Effective July 17, 1980.

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

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 SW., Washington, D.C. 20591, or Rules Docket in Room 6W14, FAA Western Region, 15000 Aviation Boulevard, Hawthorne, California 90261.

**FOR FURTHER INFORMATION CONTACT:** Robert T. Razzeto, 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:** This amendment further amends amendment 39-3741 [45 FR 25047] AD 79-24-01 which requires inspection of aft pressure bulkhead on McDonnell Douglas DC-9 series airplanes. After issuing amendment 39-3741 the FAA has determined that the date of accountability of landings was inadvertently omitted. Therefore, the FAA is further amending amendment 39-3741 [45 FR 25047] AD 79-24-01 by changing paragraph (e) to read in pertinent part as follows "(e) Within the next 500 landings after April 14, 1980 . . ."

Since this amendment provides clarification only, and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and good cause exists for making the amendment effective in less than 30 days.

### Adoption of the Amendment

§ 39.13 [Amended]

* * * * *

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by further amending amendment 39–3741 [45 FR 25047] AD 79–24–01 by changing paragraph (e) to read in pertinent part as follows:

(e) Within the next 500 landings after April 14, 1980. . . .

* * * * *

This amendment becomes effective July 17, 1980.

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

Amendment 39–3741 became effective April 14, 1980.

This Amendment becomes effective July 17, 1980.

Issued in Los Angeles, California on June 30, 1980.

**John D. Mattson,**

*Director, FAA Western Region.*

[FR Doc. 80–20809 Filed 7–11–80; 8:45 am]

BILLING CODE 4910–13–M

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## 14 CFR Part 39

**[Docket No. 78–NE–21; Amdt. 39–3838]**

## Sikorsky S–61 Series Helicopters Certificated in All Categories

**AGENCY:** Federal Aviation Administration (FAA), DOT

**ACTION:** Final rule.

**SUMMARY:** On March 9, 1979, a telegraphic airworthiness directive (TAD) was issued on the requirements for ultrasonic inspections of the main rotor blade spindles of S–61 type helicopters. This AD was published in the **Federal Register** on April 2, 1979.

This amendment revises the AD by increasing the ultrasonic inspection interval and the time of the initial inspection from 75 to 180 hours.

**DATES:** Effective date—This amendment becomes effective on July 14, 1980.

**ADDRESSES:** To obtain copies of the service bulletin referenced in the AD, contact Sikorsky Aircraft, Division of United Technologies Corporation, Stratford, Connecticut 06602.

**FOR FURTHER INFORMATION CONTACT:** William E. Garlock, Airframe Section, ANE–212, Engineering and Manufacturing Branch, Flight Standards Division, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone: (617) 273–7336.

**SUPPLEMENTARY INFORMATION:** This amendment further amends Amendment 39–03305 (43 FR 44476), AD 78–20–05, as amended by Amendment 39–3425 (44 FR 12021), and Amendment 39–3444 (44 FR 19184), which currently requires repetitive ultrasonic inspections of the main rotor blade spindles of Sikorsky S–61 series helicopters. After issuing Amendment 39–3444, the FAA has determined, based upon additional data on a spindle lug failure and a more extensive engineering analysis, that the ultrasonic inspection interval and the initial inspection time for the main rotor blade spindles can be increased from 75 to 180 hours time in service. This amendment also makes provision for equivalent methods of inspection.

Since this amendment relieves an inspection requirement and imposes no additional burden on any person, notice and public procedure hereon are unnecessary, 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 (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by further amending Amendment 39–3305 (43 FR 44476), AD 78–20–05, as amended by Amendment 39–3425 (44 FR 12021), and Amendment 39–3444 (44 FR 19184) as follows:

§ 39.13 [Amended]

1. In the first paragraph, delete the number 75 from all 3 places where it occurs and insert in its place: 180.

2. In the first paragraph, delete No. 61B10–33A and insert in its place: No. 61B10–33C or an equivalent method approved by the Chief, Engineering and Manufacturing Branch, FAA, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

This amendment becomes effective July 14, 1980.

(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)); 14 CFR 11.89)

Note.—The FAA has determined that this document involves a final regulation which is not considered to be significant under Executive Order 12044 as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). In addition, the expected impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Burlington, Mass., on June 30, 1980.

**Robert E. Whittington,**

*Director, New England Region.*

[FR Doc. 80–20803 Filed 7–11–80; 8:45 am]

BILLING CODE 4910–13–M

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## 14 CFR Part 39

**[Docket No. 80–NE–20; Amdt. 39–3837]**

## Sikorsky S–76A Helicopters Certificated in All Categories

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This action publishes in the **Federal Register** and makes effective as to all persons telegraphic airworthiness directive (TAD) T8ONE–21, which was previously made effective as to all known operators of the Sikorsky S–76A helicopters certificated in all categories, by individual telegrams. The telegraphic AD required a one-time fluorescent penetrant inspection of main rotor blade spindles with more than 200 hours time in service. The TAD also required removal of main rotor blade spindles from service prior to further flight, under specified conditions. The action was needed to prevent operation with a displaced shear bearing inner race and a possible cracked main rotor blade spindle.

**DATES:** Effective July 14, 1980, as to all persons except those persons to whom it was made immediately effective by the telegram dated April 24, 1980.

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

**ADDRESSES:** Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

**FOR FURTHER INFORMATION CONTACT:** Stephen J. Soltis, ANE–212, Engineering and Manufacturing Branch, Flight Standards Division, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone: (617) 273–7336.

**SUPPLEMENTARY INFORMATION:** There have been several service incidents of displaced main rotor blade spindle shear bearing inner races and one service incident of a cracked main rotor blade spindle. The FAA determined that

a one-time fluorescent penetrant inspection of main rotor blade spindles with more than 200 hours time in service and replacement of main rotor blade spindles from service prior to further flight, under specified conditions, were necessary to prevent operation with a displaced shear bearing inner race and a possible cracked spindle. Therefore, as an interim action, on April 24, 1980, a telegraphic airworthiness directive (TAD) T8ONE-21 was issued and made effective immediately to all known United States operators of the Sikorsky S-76 helicopter.

Since it was found that immediate corrective action was required, notice and public procedure thereon were impracticable and contrary to the public interest, and good cause existed for making the AD effective immediately to all known United States operators of Sikorsky model S-76A helicopters by individual telegrams dated April 24, 1980.

Since a situation still exists that requires immediate adoption of the 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

Pursuant to the authority delegated to me by the Administrator, an AD was adopted and made effective immediately by telegram to all known United States operators of Sikorsky Model S-76A helicopters. These conditions still exist, and the AD, with minor editorial changes, is hereby published in the **Federal Register** as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13).

**Sikorsky Aircraft.** Applies to S-76A series helicopters certificated in all categories.

To prevent operation with a displaced shear bearing inner race and a possible cracked main rotor blade spindle accomplish the following:

1. Compliance required as indicated, unless already accomplished under the requirements of telegraphic airworthiness directive (TAD) T8)NE-21, or accomplished prior to issuance of the original FAA airworthiness certificate.

a. Prior to further flight, inspect the P/N 76102-08000-041 main rotor blade spindle assemblies in accordance with Sikorsky Alert Service Bulletin 76-65-13A, Paragraph G(1) through G(3), dated April 24, 1980.

b. Prior to further flight, remove from service any P/N 76102-08001 main rotor blade spindles found to have a missing or displaced (beyond ½ inch) P/N SB 5206-102/-103 spindle shear bearing inner race. Spindle assemblies, where the spindle shear bearing has been previously found, prior to April 24, 1980, missing, displaced (any dimension), or reworked in any manner, must also be replaced prior to further flight in accordance with the applicable procedures described in this AD.

c. Within the next 25 hours time in service, after July 12, 1980, modify and repetitively inspect the P/N 76102-08000 main rotor blade spindle assemblies in accordance with Sikorsky Alert Service Bulletin 76-65-13A, Paragraphs G(4) and G(5), dated April 24, 1980.

2. Applies to main rotor blade spindles, P/N 76102-08001-041, with 200 or more hours time in service, compliance required within the next 5 hours time in service after July 12, 1980, unless already accomplished under the requirements of TAD T8ONE-21.

a. Remove and inspect the main rotor blade spindles for cracks in accordance with Sikorsky Alert Service Bulletin 76-65-13A, Paragraph G(6), dated April 24, 1980.

b. If a crack indication is found, replace the main rotor blade spindle with a new or serviceable main rotor blade spindle, prior to next flight, in accordance with Sikorsky S-76 Maintenance Manual, SA 4047-76-2, Section 65-12-02.

c. If no crack indication is found, reinstall the main rotor blade spindle in accordance with the procedures in Paragraph 2.b of this AD.

3. Report within 24 hours any discrepancies found and the main rotor blade spindle times in service, to the Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

Reporting approved by the Office of Management and Budget under OMB No. 04-R0174.

4. Aircraft may be ferried to a base for maintenance, except for aircraft found to have a missing spindle shear bearing inner race, in accordance with Section 21.197 of the Federal Aviation Regulations.

Note.—Sikorsky references noted herein pertain to this AD:

a. Sikorsky Alert Service Bulletin 76-65-13A, dated April 24, 1980.

b. Sikorsky S-76 Maintenance Manual, SA 4047-76-2, Section 65-12-02.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive, who have not already received these documents from the manufacturer, may obtain copies upon request to Sikorsky Aircraft, Division of United Technologies Corporation, Stratford, Connecticut 06602. These documents may also be examined at FAA, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, and at FAA Headquarters, Rules Docket, Room 916, 800 Independence Avenue, S.W., Washington, D.C. 20591.

A historical file on this AD is maintained by the FAA at its Headquarters in Washington, D.C., and at the FAA, New England Region Headquarters, Burlington, Massachusetts.

This amendment becomes effective July 14, 1980, as to all persons except those persons to whom it was made immediately effective by the telegram dated April 24, 1980.

(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)); 14 CFR 11.89)

Note.—The FAA has determined that this document involves a final regulation which is not considered to be significant under Executive Order 12044 as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). In addition, the expected impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Burlington, Massachusetts, on June 27, 1980.

**Robert E. Whittington,**

*Director, New England Region.*

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

[FR Doc. 80-20804 Filed 7-11-80; 8:45 am]

BILLING CODE 4910-13-M

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**14 CFR Part 39**

**[Docket No. 20507; Amdt. 39-3845]**

## Societe Nationale Industrielle Aerospatiale Model AS 350 and SA 365C Series Helicopters

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD) which supersedes telegraphic AD T79EU-9, which was previously made effective as to all known U.S. owners and operatiors of Societe Nationale Industrielle Aerospatiale Models AS 350 and SA 365C series helicopters. The AD requires removal from service of certain serial numbered spherical thrust bearing rear blocks which were manufactured from unapproved material. The AD is necessary because of possible failure of the spherical thrust bearing of the main rotor retention system, which could result in loss of the helicopter.

**DATES:** This amendment becomes effective July 14, 1980.

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

**ADDRESS:** The applicable service bulletins may be obtained from: Societe Nationale Industrielle Aerospatiale (SNIAS), 37, blvd. de Monemorency, 75781 Paris Cedrex 16, France.

A copy of each service bulletin is contained in the Rules Docket, Room 916, 800 Independence Avenue, S.W., Washington, D.C. 20591.

**FOR FURTHER INFORMATION CONTACT:**
A. Astorga, Acting Chief, Aircraft Certification Staff, AEU–100, Europe, Africa, and Middle East Office, Federal Aviation Administration, c/o American Embassy, Brussels, Belguim, Telephone: 513.38.30, or C. Chapman, Chief, Policy Standards Section, AWS–111, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591, Telephone: 202–426–8192.

**SUPPLEMENTARY INFORMATION:** On August 13, 1979, telegraphic AD T79EU–8 was issued and made effective immediately as to all known U.S. owners and operators of Societe Nationale Industrielle Aerospatiale Models AS 350 and SA 365C series helicopters. The AD required removal from service of certain serial numbered spherical thrust bearing rear blocks. AD action was necessary because certain spherical thrust bearing rear blocks were made from unapproved material, which could result in failure of the spherical thrust bearing rear blocks of the main rotor retention system. The AD was superseded on August 14, 1979, by telegraphic AD T79EU–9, which added a paragraph pertaining to blocks held as spare parts, corrected typographical errors, and made certain clarifying changes.

Since it was found that immediate corrective action was required, notice and public procedure thereon were impracticable and contrary to the public interest, and good cause existed to make the ADs effective immediately as to all known U.S. owners and operators of Societe Nationale Industrielle Aerospatiale Models AS 350 and SA 365C series helicopters by telegraphic means.

Telegraphic AD T79EU–9, issued August 14, 1980, provided for an inspection procedure to allow the affected block to remain in service until August 31, 1979, if replacement blocks were unavailable, provided no cracks were found during the inspection. The telegraphic AD required replacement of the blocks by August 31, 1979, and, since the time for replacements has passed, telegraphic AD T79EU–9 is being superseded by a new AD which deletes the inspection procedure to be followed if replacement blocks are unavailable. Provision has also been made for an FAA-approved equivalency to the manufacturer's service bulletins.

Since a situation exists that requires immediate adoption of this regulation, notice and public procedure thereon 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, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

**Societe Nationale Industrielle Aerospatiale.** Applies to Model AS 350 series and Model SA 365C series helicopters with spherical thrust bearing rear block P/N 704A–33–633–27 or P/N 704A–33–633–30 installed, certificated in all categories.

Compliance required as indicated, unless already accomplished.

To prevent the failure of the spherical thrust bearing rear block, accomplish the following:

(a) Within the next five hours time in service after the effective date of this AD, unless already accomplished, inspect the spherical thrust bearing rear block, P/N 704A–33–633–27 or P/N 704A–33–633–30 (hereinafter referred to as the block) to determine the serial number of the block and, if appropriate, comply with paragraph (b) of this AD.

(b) If as a result of the inspection required by paragraph (a) of this AD, the block is found to have a serial number other than one listed in paragraph 1A, "Effectivity", of Aerospatiale Service Bulletin AS 350 No. 01–03, dated July 4, 1979, or an FAA-approved equivalent, or Aerospatiale Service Bulletin SA 365 No. 01–04, dated July 4, 1979, or an FAA-approved equivalent, as appropriate (hereinafter referred to as the applicable service bulletin), return the block to service.

(c) If as a result of the inspection required by paragraph (a) the block is found to have a serial number listed in paragraph 1A, "Effectivity", of the applicable service bulletin, before further flight—

(1) Remove the block from service;

(2) Return the block to the factory in accordance with paragraph 1C(2) of the applicable service bulletin; and

(3) Replace the block with a serviceable block of the same part number which has a serial number not listed in paragraph 1A of the applicable service bulletin, or a serviceable block of the same part number which has a serial number listed in paragraph 1A, but which is also marked as noted in paragraph 1C(2) of the applicable service bulletin.

(d) Before installation of blocks held as spares, inspect them and—

(1) Return to the factory those blocks which have serial numbers listed in paragraph 1A of the applicable service bulletin in accordance with paragraph 1C(2) of the applicable service bulletin; and

(2) Retain as serviceable those blocks which have serial numbers listed in paragraph 1A of the applicable service bulletin but are also marked as noted in paragraph 1C(2) of the applicable service bulletin.

(e) For purposes of complying with this AD, an FAA-approved equivalent must be approved by the Chief, Aircraft Certification Staff, AEU–100, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, Brussels, Belgium.

This amendment becomes effective July 14, 1980.

This amendment supersedes telegraphic AD T79EU–9, issued August 14, 1979.

(Sec. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 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 the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Washington, D.C., on July 3, 1980.

**Jerold M. Chavkin,**

*Acting Director of Airworthiness.*

[FR Doc. 80–20812 Filed 7–11–80; 8:45 am]
BILLING CODE 4910–13–M

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## 14 CFR Part 71

**[Airspace Docket No. 80–SO–34]**

## Alteration of Asheville, North Carolina, Control Zone

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This rule alters the Asheville, North Carolina, control zone. The name of the Biltmore RBN has been changed to Keans LOM, and it is necessary to reflect this name change in the description of the control zone.

**EFFECTIVE DATE:** 0901 GMT, August 20, 1980.

**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 present description of the Asheville, North Carolina, control zone, airspace designation is predicated on the Biltmore RBN. The name of this navigational facility has been changed to Keans LOM. Therefore, it is necessary to alter the description of the Asheville, North Carolina, control zone to reflect the name change. Since this alteration is editorial in nature, notice and public procedures hereon are not necessary.

### Adoption of the Amendment

Accordingly, Subpart F, § 71.171 (45 FR 356) of Part 71 of the Federal Aviation Regulations (14 CFR 71) is amended, effective 0901 GMT, August 20, 1980, by amending the following:

**Asheville, North Carolina**

". . . Broad River and Biltmore RBN's . . ." is deleted and ". . . Broad River RBN and the Keans LOM . . ." is substituted therefore.

(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 June 30, 1980.

**George R. LaCaille,**

*Acting Director, Southern Region.*

[FR Doc. 80-20801 Filed 7-11-80; 8:45 am]

**BILLING CODE 4910-13-M**

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## 14 CFR Part 71

**[Airspace Docket No. 80-SO-35]**

## Alteration of Asheville, North Carolina, Transition Area

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This rule alters the Asheville, North Carolina, transition area. The name of the Biltmore RBN has been changed to Keans LOM, and it is necessary to reflect this name change in the description of the transition area.

**EFFECTIVE DATE:** 0901 GMT, August 20, 1980.

**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 present description of the Asheville, North Carolina, transition area, airspace designation is predicated on the Biltmore RBN. The name of this navigational facility has been changed to Keans LOM. Therefore, it is necessary to alter the description of the Asheville, North Carolina, transition area to reflect the name change. Since this alteration is editorial in nature, notice and public procedures hereon are not necessary.

**Adoption of the Amendment**

Accordingly, Subpart G, § 71.181 (45 FR 445) of Part 71 of the Federal Aviation Regulations (14 CFR 71) is amended, effective 0901 GMT, August 20, 1980, by amending the following:

**Asheville, North Carolina**

"* * * Biltmore RBN * * *" is deleted wherever it appears and "* * * Keans LOM * * *" is substituted therefor; and "* * * extending from the RBN to 8.5 miles north of the RBN * * *" is deleted and "* * * extending from the LOM to 8.5 miles north of the LOM * * *" 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 June 30, 1980.

**George R. LaCaille,**

*Acting Director, Southern Region.*

[FR Doc. 80-20800 Filed 7-11-80; 8:45 am]

**BILLING CODE 4910-13-M**

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## 14 CFR Part 71

**[Airspace Docket No. 80-NE-04]**

## Alteration of Concord, N.H. Control Zone and 700-ft Transition Area

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** The FAA is amending the descriptions of the Concord, New Hampshire, control zone and 700-foot transition area so as to provide additional protected airspace for aircraft executing a new proposed VOR and VOR/DME Standard Instrument Approach Procedure (SIAP) to the Concord Municipal Airport, Concord, New Hampshire.

**EFFECTIVE DATE:** July 14, 1980.

**FOR FURTHER INFORMATION CONTACT:** Charles M. Taylor, Operations Procedures and Airspace Branch, ANE-536, Federal Aviation Administration, Air Traffic Division, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273-7285.

**SUPPLEMENTARY INFORMATION:** On Tuesday, February 19, 1980, a Notice of Proposed Rulemaking was published in the **Federal Register**, Volume 45, Page 10804, stating that the FAA proposed to amend the Concord, New Hampshire, control zone and 700-foot transition area so as to provide protected airspace for aircraft executing a new proposed VOR and VOR/DME SIAP to the Concord Municipal Airport, Concord, New Hampshire.

Interested persons were invited to participate in the rulemaking process by submitting written comments on the proposal to the FAA. One comment concurring with the proposed rule was received from the New Hampshire Aeronautics Commission.

This amendment includes minor revisions to the transition area and control zone submitted during the comment period.

**Adoption of the Amendment**

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.171 and § 71.181 of the Federal Aviation Regulations [14 CFR Part 71] are amended as follows:

Delete the entire description of the Concord, New Hampshire, control zone and substitute:

Within a 5-mile radius of the Center, 43°12'16" N, 71°30'07" W, of Concord Municipal Airport, Concord, NH; within 1.5 miles each side of the 352° M/337° T bearing from the Espom, NH, NDB, 43°07'05" N, 71°27'13" W, extending from the 5 mile radius zone to the Epsom, NH, NDB, and within 3 miles each side of the Concord, NH, VORTAC 300° M/285° T radial, extending from the 5-mile radius zone to 8 miles northwest of the VORTAC, and within 3 miles each side of the Concord, NH, VORTAC 315° M/300° T radial extending from the 5-mile radius zone to 8 miles northwest of the VORTAC.

Delete the entire description of the Concord, New Hampshire transition area and substitute:

That airspace extending upward from 700 feet above the surface bounded by a line beginning at 43°23'00" N, 71°11'50" W, to 43°09'00" N, 71°11'50" W, to 42°58'50" N, 71°01'00" W, to 42°53'00" N, 71°11'30" W, to 42°47'00" N, 71°09'00" W, to 42°38'00" N, 71°20'00" W, to 42°40'00" N, 71°35'00" W, to 42°43'00" N, 71°36'00" W, to 42°45'00" N, 71°38'25" W, to 42°53'30" N, 71°57'15" W, to 43°05'20" N, 71°49'30" W, to 43°23'00" N, to 71°49'30" W, to point of beginning.

(Section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348(a)) and Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c) and 14 CFR 11.69))

**Note.**—The FAA has determined that this document involves a proposed regulation which is not considered to be significant

under the procedures and criteria prescribed by Executive Order 12044 and as implemented by Department of Transportation guidelines (44 FR 11034; February 26, 1979). The anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Burlington, Massachusetts, on June 30, 1980.

**Robert E. Whittington,**

*Director, New England Region.*

[FR Doc. 80-20805 Filed 7-11-80; 8:45 am]

BILLING CODE 4910-13-M

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## 14 CFR Part 71

**[Airspace Docket No. 80-ASW-23]**

## Alteration of Hammond, Louisiana Transition Area

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** The nature of the action being taken is to alter the transition area at Hammond, La. The intended effect of the action is to provide controlled airspace for aircraft executing a new instrument approach procedure to the Hammond Municipal Airport.

The circumstance which created the need for the action is the proposed installation of an instrument landing system (ILS) to Runway 18.

**EFFECTIVE DATE:** September 4, 1980.

**FOR FURTHER INFORMATION CONTACT:** Kenneth L. Stephenson, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101; telephone 817-624-4911, extension 302.

**SUPPLEMENTARY INFORMATION:**

### History

On May 19, 1980, a notice of proposed rule making was published in the **Federal Register** (45 FR 32703) stating that the Federal Aviation Administration proposed to alter the Hammond, La., transition area. Interested persons were invited to participate in this rule making proceeding by submitting written comments on the proposal to the Federal Aviation Administration. Comments were received without objections. Except for editorial changes this amendment is that proposed in the notice.

### The Rule

This amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR 71) alters the Hammond, La., transition area. This action provides controlled airspace from 700 feet above the ground for the protection of aircraft executing a new proposed instrument approach procedure to the Hammond Municipal Airport.

### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 445) is amended, effective 0901 GMT, September 4, 1980, as follows.

In Subpart G, § 71.181 (45 FR 445), the following transition area is amended to read:

**Hammond, Louisiana**

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Hammond Municipal Airport (latitude 30°31'19"N., longitude 90°24'57"W.).

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

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

Issued in Fort Worth, Tex., on June 30, 1980.

**F. E. Whitfield,**

*Acting Director, Southwest Region.*

[FR Doc. 80-20802 Filed 7-11-80; 8:45 am]

BILLING CODE 4910-13-M

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## 14 CFR Part 97

**[Docket No. 20501; Amdt. No. 1168]**

## Standard Instrument Approach Procedures; Miscellaneous Amendments

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment establishes, amends, suspends or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

**DATES:** An effective date for each SIAP is specified in the amendatory provisions.

**ADDRESSES:** Availability of matters incorporated by reference in the amendment is as follows:

*For Examination*

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Field Office which originated the SIAP.

*For Purchase*

Individual SIAP copies may be obtained from:

1. FAA Public Information Center (APA-430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

*By Subscription*

Copies of all SIAPs, mailed once every 2 weeks, may be ordered from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The annual subscription price is $135.00.

**FOR FURTHER INFORMATION CONTACT:** Lewis O. Ola, Flight Procedures and Airspace Branch (AFO-730), Aircraft Programs Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-8277.

**SUPPLEMENTARY INFORMATION:** This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a) 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4 and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further,

airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

**Adoption of the Amendment**

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.m.t. on the dates specified, as follows:

1. By amending § 97.23 VOR-VOR/DME SIAPs identified as follows:

** * * Effective September 4, 1980*

Carbondale-Murphysboro, IL—Southern Illinois, VOR-B, Amdt. 1
Hutchinson, KS—Hutchinson Muni, VOR Rwy 3, Amdt. 16
Hutchinson, KS—Hutchinson Muni, VOR/DME Rwy 21, Amdt. 3
Muskegon, MI—Muskegon County, VOR-A (TAC), Amdt. 16

** * * Effective August 21, 1980*

Bay Minett, AL—Bay Minette Muni, VOR Rwy 8, Amdt. 3
Campbellsville, KY—Taylor County, VOR/DME-A, Amdt. 2
Brookhaven, MS—Brookhaven-Lincoln County, VOR/DME-A, Amdt. 5
Kansas City MO—Kansas City Intl, VOR Rwy 27, Amdt. 10
Toledo, OH—Metcalf Field, VOR Rwy 4, Amdt. 7
Toledo, OH—Metcalf Field, VOR/DME Rwy 4, Original
Harrisburg, PA—Capital City, VOR Rwy 12, Amdt. 14
Baraboo, WI—Baraboo Wisconsin Dells, VOR-A, Amdt. 7
Mosinee, WI—Central Wisconsin, VOR/DME Rwy 35, Amdt. 3

** * * Effective August 7, 1980*

Oakland, CA—Metropolitan Oakland Intl, VOR Rwy 9R, Amdt. 5
Oakland, CA—Metropolitan Oakland Intl, VOR/DME Rwy 27, Amdt. 9
Fort Collings/Loveland/, CO—Fort Collins-Loveland Muni, VOR/DME-A, Amdt. 4
Racine, WI—Horlick-Racine, VOR Rwy 4, Amdt. 4
Racine, WI—Horlick-Racine, VOR Rwy 22, Amdt. 6

2. By amending § 97.25 SDF-LOC-LDA SIAPs identified as follows:

** * * Effective September 4, 1980*

Fairbanks, AK—Fairbanks Int'l, LOC BC Rwy 1L, Amdt. 14
Hutchinson, KS—Hutchinson Muni, LOC BC Rwy 31, Amdt. 10
Muskegon, MI—Muskegon County, LOC Rwy 23, Amdt. 3

** * * Effective August 21, 1980*

Kansas City, MO—Kansas City Intl, LOC BC Rwy 19, Amdt. 1
Kansas City, MO—Kansas City Intl, LOC BC Rwy 27, Amdt. 8
Oklahoma City, OK—Will Rogers World, LOC BC Rwy 35L, Amdt. 6

** * * Effective August 7, 1980*

Pine Bluff, AR—Grider Field, LOC Rwy 17, Amdt. 1, cancelled
Oakland, CA—Metropolitan Oakland Intl, LOC Rwy 11, Amdt. 1
Racine, WI—Horlick-Racine, LOC Rwy 4, Original

3. By amending § 97.27 NDB/ADF SIAPs identified as follows:

** * * Effective September 4, 1980*

Carbondale-Murphysboro, IL—Southern Illinois, NDB Rwy 18, Amdt. 7
Moline, IL—Quad-City, NDB Rwy 9, Amdt. 24
Iowa Falls, IA—Iowa Falls Muni, NDB Rwy 31, Amdt. 1
Hutchinson, KS—Hutchinson Muni, NDB Rwy 13, Amdt. 9
Muskegon, MI—Muskegon County, NDB Rwy 32, Amdt. 7
Oshkosh, NE—Oshkosh Muni, NDB Rwy 12, Amdt. 3

** * * Effective August 21, 1980*

Macon, GA—Lewis B. Wilson, NDB Rwy 5, Amdt. 18
Madison, IN—Madison Muni, NDB Rwy 3, Amdt. 4, cancelled
Campbellsville, KY—Taylor County, NDB Rwy 5, Original
Kansas City, MO—Kansas City Intl, NDB Rwy 1, Amdt. 12
Kansas City, MO—Kansas City Intl, NDB Rwy 9, Amdt. 6
Cozad, NE—Cozad Muni, NDB Rwy 13, Amdt. 2
Oklahoma City, OK—Will Rogers World, NDB Rwy 35L, Original
Oklahoma City, OK—Will Rogers World, NDB Rwy 35L, Amdt. 7, cancelled
Oklahoma City, OK—Will Rogers World, NDB Rwy 35R, Amdt. 1
Okmulgee, OK—Okmulgee Muni, NDB Rwy 17, Original
Castroville, TX—Castroville, Muni, NDB Rwy 15, Original
Castroville, TX—Castroville Muni, NDB Rwy 33, Original, cancelled
Charlottesville, VA—Charlottesville-Albemarle, NDB Rwy 3, Amdt. 10
Walla Walla, WA—Walla Walla City County, NDB Rwy 20, Amdt. 4
Wisconsin Rapids, WI—Alexander Field, South Wood County, NDB Rwy 2, Amdt. 5
Wisconsin Rapids, WI—Alexander Field, South Wood County, NDB Rwy 29, Amdt. 3

** * * Effective August 7, 1980*

Oakland, CA—Metropolitan Oakland Intl, NDB Rwy 27R, Original
Fort Collins/Loveland/, CO—Fort Collins-Loveland Muni, NDB Rwy 33, Original
Fort Collins/Loveland/, CO—Fort Collins-Loveland Muni, NDB Rwy 33, Amdt. 6, cancelled
Racine, WI—Horlick-Racine, NDB Rwy 22, Amdt. 1

4. By amending § 97.29 ILS-MLS SIAPs identified as follows:

** * * Effective September 4, 1980*

Carbondale-Murphysboro, IL—Southern Illinois, ILS Rwy 18, Amdt. 7
Moline, IL—Quad-City, ILS Rwy 9, Amdt. 24
Hutchinson, KS—Hutchinson Muni, ILS Rwy 13, Amdt. 10
Muskegon, MI—Muskegon County, ILS Rwy 32, Amdt. 12

** * * Effective August 21, 1980*

Macon, GA—Lewis B. Wilson, ILS Rwy 5, Amdt. 20
Kansas City, MO—Kansas City Intl, ILS Rwy 1, Amdt. 6
Kansas City, MO—Kansas City Intl, ILS Rwy 9, Amdt. 8
Kansas City, MO—Kansas City Intl, ILS Rwy 19, Amdt. 4
Jamestown, NY—Chautauqua County, ILS Rwy 25, Amdt. 3
Oklahoma City, OK—Will Rogers World, ILS Rwy 35R, Amdt. 2
Okmulgee, OK—Okmulgee Muni, ILS Rwy 17, Original

Harrisburg, PA—Capital City, ILS Rwy 8, Amdt. 5
Castroville, TX—Castroville Muni, ILS Rwy 15, Original
Charlottesville, VA—Charlottesville-Albemarle, ILS Rwy 3, Amdt. 6
Walla Walla, WA—Walla Walla City County, ILS Rwy 20, Amdt. 4

** * * Effective August 7, 1980*

Pine Bluff, AR—Grider Field, ILS Rwy 17, Original
Oakland, CA—Metropolitan Oakland Intl, ILS Rwy 27R, Amdt. 28
Oakland, CA—Metropolitan Oakland Intl, ILS Rwy 29, Amdt. 19
Fort Collins/Loveland/, CO—Fort Collins-Loveland Muni, ILS Rwy 33, Original
Minneapolis, MN—Flying Cloud, MLS/DME Rwy 9R, (Interim), Original

** * * Effective June 24, 1980*

Louisville, KY—Standiford Field, ILS Rwy 19, Amdt. 2

5. By amending § 97.31 RADAR SIAPs identified as follows:

** * * Effective September 4, 1980*

Muskegon, MI—Muskegon County, RADAR-1, Amdt. 7

** * * Effective August 21, 1980*

DeLand, FL—DeLand Muni/Sidney H. Taylor Fld, RADAR-1, Amdt. 2
Macon, GA—Lewis B. Wilson, RADAR-1, Amdt. 13
Cedar Rapids, IA—Cedar Rapids Muni, RADAR-1, Amdt. 5, cancelled

6. By amending § 97.33 RNAV SIAPs identified as follows:

** * * Effective September 4, 1980*

Moline, IL—Quad-City, RNAV Rwy 30, Amdt. 6

** * * Effective August 21, 1980*

Kansas City, MO—Kansas City Intl, RNAV Rwy 1, Amdt. 4
Harrisburg, PA—Capital City, RNAV Rwy 26, Amdt. 1
Charlottesville, VA—Charlottesville-Albemarle, RNAV Rwy 3, Amdt. 1
Mosinee, WI—Central Wisconsin, RNAV Rwy 17, Amdt. 3

** * * Effective August 7, 1980*

Fort Collins/Loveland/, CO—Fort Collins-Loveland Muni, RNAV Rwy 15, Amdt. 2
Fort Collins/Loveland/, CO—Fort Collins-Loveland Muni, RNAV Rwy 33, Amdt. 2

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421, and 1510); Sec. 6(c), Department of Transportation Act (49 U.S.C., 1655(c)); and 14 CFR 11.49(b)(3))

**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 routing 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 July 4, 1980.

**John S. Kern,**

*Acting Chief, Aircraft Programs Division.*

**Note.**—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on May 12, 1969.

[FR Doc. 80-20607 Filed 7-11-80; 8:45 am]

BILLING CODE 4910-13-M

## CIVIL AERONAUTICS BOARD

### 14 CFR Part 302

**[Procedural Regulations Docket 37293; Regulation PR-217A]**

### Rules of Practice in Board Proceedings Settlement of Enforcement Proceedings

July 7, 1980.

**AGENCY:** Civil Aeronautics Board.

**ACTION:** Confirmation of final rule.

**SUMMARY:** The CAB, on its own initiative, amended its rules of practice in enforcement proceedings (14 CFR 302.15) to simplify, expedite and provide greater flexibility in the settlement of enforcement proceedings and to conform them to Freedom of Information Act standards (PR-217, 44 FR 76771, December 28, 1979). The CAB simultaneously issued a request for comments on the rule to provide an opportunity for public comment (PDR-69, 44 FR 76772, December 28, 1979). No comments have been received and the Board has decided that the rules as previously amended shall remain in effect in their present form.

**FOR FURTHER INFORMATION CONTACT:** Stephen A. Metoyer, Bureau of Consumer Protection, Civil Aeronautics Board, 1825 Connecticut Avenue N.W., Washington, D.C. 20428, (202) 673-5940.

By the Civil Aeronautics Board:

**Phyllis T. Kaylor,**

*Secretary.*

[FR Doc. 80-20964 Filed 7-11-80; 8:45 am]

BILLING CODE 6320-01-M

## COMMODITY FUTURES TRADING COMMISSION

### 17 CFR Part 180

### Arbitration or Other Dispute Settlement Procedures; Amendment To Allow Appeals to an Entity Within a Contract Market in Member-to-Member Arbitration

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commodity Futures Trading Commission ("Commission") is amending section 180.6 of Title 17, Chapter 1, Part 180 of the Code of Federal Regulations to permit contract markets to adopt rules allowing appeals of member-to-member arbitration decisions to an entity within the contract market. Section 180.6 currently prohibits such appeals. The Commission has determined that contract markets should have the discretion to allow internal appeals in arbitration proceedings between members.

**EFFECTIVE DATE:** August 13, 1980.

**FOR FURTHER INFORMATION CONTACT:** Thomas L. Sweat, Jr., Esq., Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581, (202) 254-8955.

**SUPPLEMENTARY INFORMATION:** On February 7, 1980, the Commission published for public comment a proposed amendment to § 180.6 of its regulations, 17 CFR 180.6 (1979), which would delete the prohibition of appeals to an entity within a contract market in member-to-member arbitration.[1] Section 180.6 of the Commission's regulations currently provides that a contract market may adopt a procedure for the compulsory settlement of claims and grievances between members which "shall provide procedural safeguards which must include, at a minimum, fair and equitable procedures conforming to those in § 180.2 of this Part . . ." Section 180.2, which pertains to customer [2] claims against members and employees of a contract market,[3] provides in paragraph (f) that "[t]here shall be no right of appeal to any entity within the contract market which can overturn the settlement procedure

[1] *See* 45 FR 8312 (February 7, 1980).

[2] The term "customer" as used in Part 180 of the Commission's regulations does not include members of the contract market where the claim or grievance arose. 17 CFR 180.1 (1979).

[3] Section 180.2 of the Commission's regulations, 17 CFR 180.2 (1979), requires each contract market to provide arbitration or other dispute settlement procedures for the resolution of customer claims and grievances not in excess of $15,000 against members and employees of the contract market.

decision; the only right of appeal being as provided under applicable law."

The Commission recognizes that contract markets may have substantial reasons for permitting appeals to an entity within a contract market in member-to-member arbitration and that, as indicated in this notice, those reasons outweigh any regulatory justification which may exist for continuing the prohibition of such appeals. Although the prohibition of appeals within a contract market in customer-to-member arbitration is still a necessary procedural safeguard, the Commission has concluded that the reasons supporting this prohibition do not necessarily apply in member-to-member arbitration.[4] As stated in its February 7 notice, the Commission does not believe members in member-to-member arbitration proceedings need the same degree of protection from unfamiliar or complicated contract market procedures as customers in customer-to-member arbitration. Also, if contract markets want to encourage the settlement of disputes between members within the contract market by permitting appeals of member-to-member arbitration decisions, thus possibly avoiding resort to the courts, it should be within a contract market's discretion to do so. Finally, as stated in its previous notice, the Commission believes appeals in member-to-member arbitration would be useful in resolving errors in an initial arbitration proceeding [5] or in determining whether an initial decision was influenced by fraud or bias on the part of members of the arbitration panel.[6]

Although the Commission is amending section 180.6 to permit internal appeals of certain contract market arbitration decisions, the Commission intends that the scope of review on appeal will be narrow. The Commission stated in its February 7 notice that those questions "which would give rise to a right to judicial review of an arbitration proceeding under commonly accepted rules of arbitration would appear appropriate for internal contract market review." [7] The Commission intends to follow this standard very closely in reviewing any contract market rules submitted for Commission approval under section 5a(12) of the Commodity Exchange Act, as amended,[8] which would permit appeals of member-to-member arbitration decisions to an entity within the contract market.

The Commission believes a narrow scope of review is appropriate for several reasons. First, allowing a broad scope of review on appeal of all member-to-member arbitration decisions would unnecessarily prolong the resolution of many disputes, and it would tend to diminish the reliance on, and thus undermine the weight of, the arbitration panel's decision. Second, although the Commission does not believe members in member-to-member arbitration are in need of the same degree of protection from internal contract market procedures as customers in customer-to-member arbitration, the Commission does not want to authorize an appeal procedure which provides unnecessary potential for abuse. The Commission believes that allowing an arbitration decision to be reviewed on very broad grounds might create such potential for abuse. Finally, the parties are not overly restricted in their means of settling disputes by a narrow scope of review, for they still have ultimate access to the courts, and they have no fewer grounds for appeal than parties to other arbitration proceedings. In fact, the parties in member-to-member arbitration will have an additional opportunity for the resolution of their disputes, if a contract market so elects, which does not exist in other types of arbitration proceedings.

The Commission received three comments on the proposed amendment of § 180.6, all of which favored the amendment. However, one comment urged that the scope of review on appeal should be broadened. This party thought that the appellate review should include consideration of whether exchange rules and regulations were properly applied, whether the proper procedures were followed, whether there was sufficient evidence to support the initial decision, and whether additional pertinent evidence that became known subsequent to the initial arbitration decision should be considered. For the reasons stated above, the Commission believes the scope of review in appeals of member-to-member arbitration decisions within the contract market should remain narrow. The Commission does not anticipate that the questions mentioned by this party would be reviewed in the contract market appeal unless they fall within any applicable grounds for judicial review of an arbitration proceeding.[9]

In consideration of the foregoing, and based upon the authority in sections 5a(11) and 8a(5) of the Commodity Exchange Act, as amended, 7 U.S.C. 7a(11) and 12a(5) (1976), as amended by the Futures Trading Act of 1978, Pub. L. 95–405, § 11, 92 Stat. 870 (1978), the Commission hereby amends title 17, Chapter 1, Part 180 of the Code of Federal Regulations by revising § 180.6 to read as follows:

## PART 180—ARBITRATION OR OTHER DISPUTE SETTLEMENT PROCEDURES

### § 180.6 Member-to-member settlement procedures.

A contract market may establish a procedure for compulsory settlement of claims or grievances or disputes which do not involve customers. If adopted, the procedure shall be independent of, and shall not interfere with or delay the resolution of, customers' claims or grievances submitted for resolution under the procedure established pursuant to the Act. Such a procedure shall provide procedural safeguards which must include, at a minimum, fair and equitable procedures conforming to those set forth in § 180.2 of this Part, except that the election of the mixed panel and the prohibition of appeal to any entity within the contract market, contained in § 180.2 (a) and (f) of this Part, respectively, need not be required.

Issued in Washington, D.C., on July 8, 1980, by the Commission.

**Jane K. Stuckey,**

*Secretary of the Commission.*

[FR Doc. 80-20943 Filed 7-11-80; 8:45 am]

BILLING CODE 6351-01-M

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[4] *See* 45 FR 8312 (February 7, 1980).

[5] By "errors" the Commission means, for example, situations where there is an evident material miscalculation of figures or an evident material mistake in the description of any person, thing, or property referred to in the award; the arbitrators have awarded upon a matter not submitted to them, unless it is a matter not affecting the merits of the decision upon the matter submitted; or the award is imperfect in a matter of form not affecting the merits of the controversy. United States Arbitration Act, 9 U.S.C. 11 (1976).

[6] *See* 45 FR 8312 n. 4. (February 7, 1980).

[7] *See* 45 FR 8312 (February 7, 1980). For example, the United States Arbitration Act, 9 U.S.C. 10 (1976), provides that an arbitration award may be vacated upon the application of a party:

a. Where the award was procured by corruption, fraud, or undue means.

b. Where there was evident partiality or corruption in the arbitrators, or either of them.

c. Where the arbitrators were guilty of misconduct in refusing to postpone the hearing, upon sufficient cause shown, or in refusing to hear evidence pertinent and material to the controversy; or of any other misbehavior by which the rights of any party have been prejudiced.

d. Where the arbitrators exceeded their powers, or so imperfectly executed them that a mutual, final, and definite award upon the subject matter submitted was not made.

[8] 7 U.S.C. 7a(12) (1976), as amended by the Futures Trading Act of 1978, Pub. L. 95–405, § 12, 92 Stat. 871 (1978).

[9] *See* note 7 *supra.*

## SECURITIES AND EXCHANGE COMMISSION

### 17 CFR Parts 231 and 241

[Release Nos. 33-6221; 34-16961]

### Amendments to Guides for Statistical Disclosure by Bank Holding Companies

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Publication of amended guides.

**SUMMARY:** The Commission announces the completion of the review by the Division of Corporation Finance of the Guides for Statistical Disclosure by Bank Holding Companies and authorizes publication of various amendments to those guides designed to reduce the volume of disclosure, to lower compliance costs, and to make certain statistical disclosure adjustments requested by the staff, preparers and users of statistical information. This project is part of the Commission's ongoing program to have outstanding guides and rules reviewed to insure effectiveness and eliminate unnecessary or duplicative requirements.

**EFFECTIVE DATE:** August 13, 1980.

**FOR FURTHER INFORMATION CONTACT:** Prior to the effective date of the amendments contact William H. Carter at (202) 272-2604 or Charles A. Oglebay (202) 272-2557. Thereafter, contact only Charles A. Oglebay.

**SUPPLEMENTARY INFORMATION:** The Commission today authorized publication of amendments to Guides 61 and 3, "Statistical Disclosure by Bank Holding Companies," of the Guides for the Preparation and Filing of Registration Statements under the Securities Act of 1933 ("Securities Act") [15 U.S.C. 77a et seq.] and of the Guides for the Preparation and Filing of Reports and Proxy and Registration Statements Under the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. 78a et seq. (1976 and Supp. I. 1977)]. At the time Guides 61 and 3 (the "Guides") were originally published [1] the Commission stated that the experience of preparers and users of the information would be reviewed to see whether the new disclosures made under the Guides are necessary and appropriate. In order to implement that review function, the Commission issued a release on August 30, 1979,[2] requesting comments on the quality and desirability of the disclosure made under the existing Guides. Fifty-six letters of comment were received and analyzed. Most commentators supported the Guides and called the resulting disclosure valuable. Several amendments were suggested, however. The amendments authorized today are based on these suggestions and on over three years of staff experience. They are intended both to eliminate unnecessary elements of the Guides and to improve the quality of disclosure thereunder.

#### Background of Guides

Guides 61 and 3 are intended to provide registrants with a convenient reference to the statistical disclosures sought by the staff of the Division of Corporation Finance in registration statements and other disclosure documents filed by bank holding companies. They are not Commission rules nor do they bear the Commission's official approval.

In both the preparation of the original Guides and these amendments the staff was mindful of the user's need to assess uncertainties and the user's need for substantial and specific disclosure about changes in risk characteristics of loan portfolios. See Accounting Series Release No. 166 (December 24, 1974) (40 FR 2678, January 15, 1975). Accordingly, the Guides call for extensive disclosure about loan portfolios and related items in filings by bank holding companies. In addition, many of the suggested disclosures are intended to provide information to facilitate analysis and comparison of sources of income and exposure to risks. Such information assists users in evaluating the potential impact of future economic events upon a registrant's business and earnings and in assessing the ability of a bank holding company to move into or out of situations with favorable or unfavorable risk/return characteristics.

The Guides are intended to apply only to the description of business portion of a bank holding company registration statement, proxy statement or report. Although the Guides describe certain information that should be disclosed, they do not purport to be all inclusive and in no way limit the extent of the disclosures to be made. Appropriate disclosure must always depend on the individual facts and circumstances concerning each registrant.

#### Discussion of Amendments

The following is a brief discussion of the amendments.

#### General Instructions

The instructions have been amended in several respects. First, the "reported period" generally has been reduced from the last five fiscal years of the registrant to the last three fiscal years. One exception, however, is for Items III and IV, "Loan Portfolio" and "Summary of Loan Loss Experience," for which the "reported period" remains five years. The other exception applies in the case of a holding company or a bank either with less than $200,000,000 of assets or net worth of $10,000,000 or less. In such a case the "reported period" for all items shall be the latest two fiscal years. One other aspect of the "reported period" definition has been changed. The previous definition required registrants to furnish statistical and other information for any interim period subsequent to the latest full fiscal year for which an income statement was furnished. This requirement often resulted in an unnecessary burden on registrants. Accordingly, the amended definition only requires information for a subsequent interim period when a material change in the information presented or the trend evidenced thereby has taken place.

The general reduction in the "reported period" from five to three years is being implemented because of the view of many commentators, in which the staff concurs, that the benefits of providing five years of information to various users do not outweigh the related costs. The five year presentation for the loan portfolio and the summary of loan loss experience, however, has been retained to provide a better basis for statistical trend analysis and to better identify unusual or non-recurring events which may have affected the loan protfolio and its related provisions for possible losses. Such information is important since a loan portfolio may equal sixty percent or more of the total assets of a bank holding company and may be the source of its greatest risk and uncertainty. Accordingly, in the case of this information the benefits of presentation appear to outweigh the related costs. Finally, the further reduction in the "reported period" for small banks to two years not only is based upon cost-benefit concepts but is also based upon the disproportionate burden upon small banks and upon the fact that typically the information is being presented in the context of an acquisition of the smaller bank by a larger bank holding company. When an acquisition occurs the compilation of statistical and other information often constitutes a significant burden with only a short-lived benefit to investors and other users.

Second, General Instruction 5 has been amended to require that the basis for presenting averages need only be

[1] Securities Act of 1933 Release No. 5735 (August 31, 1976) [41 FR 39007].

[2] Securities Act of 1933 Release No. 6115 (August 30, 1979) [44 FR 52820].

stated when something other than a daily average basis is used. Banking practice generally involves daily averages and to reiterate constantly this known industry practice appears unnecessary.

Third, a new instruction (General Instruction 6) has been added to make it clear that the disclosure requirements of the Guides are also applicable to foreign registrants to the extent the requested information is available or could be made available without undue cost or expense. This instruction was added to codify the staff's long standing position that such disclosures should be made by all foreign banking registrants making filings.

*Item I. Distribution of Assets, Liabilities and Stockholders Equity; Interest Rates and Interest Differential*

Two significant changes have been made in this Item, the most extensive of which is the combination of this Item with the previous Item VII, Interest Rates and Interest Differential. The majority of the commentators favored such a combination, basically to eliminate duplication and to simplify the presentation. The other change is the deletion of the previous Item I B which required percentage figures for the disclosures required in Item I A. The virtually unanimous opinion of the commentators was that such percentage figures are unnecessary and that any investor could easily calculate them on the basis of information otherwise presented. In addition, the requirement for details in this Item concerning foreign activities has been coordinated with comparable requirements in Article 9 of Regulation S–X (17 CFR Part 210) for the purpose of analytical consistency.

*Item II. Investment Portfolio*

In response to the suggestions of a number of commentators and in order to promote uniformity and consistency between the Guides and Article 9 of Regulation S–X, with the resultant decrease in reporting burdens on registrants, the investment categories listed under Item II have been revised to conform to the investment categories contained in Article 9. In addition, the previous requirement that the amount of any tax equivalent adjustment be disclosed has been deleted. It is believed that a statement containing the tax rate is sufficient disclosure in this regard.

*Item III. Loan Portfolio*

For the reasons stated in Item II above with respect to the investment categories, the categories of loans hereunder have been changed, along with the appropriate instructions, to coincide with the loan categories in Article 9. The request for the total of all loans now appearing, in this Item was moved, for purposes of clarity of presentation, from the previous Item IV.

Under Part B, Maturities and Sensitivity to Changes in Interest Rates, a new instruction has been added to require disclosure of "rollover policy," which it is believed will give users a better insight into loan maturity policies.

With respect to Part C, Nonperforming Loans, a number of changes have been made. First, in order to expand the definition of nonperforming loans, a new category, non-accrual loans, has been added. Second, in response to the requests of a number of commentators and the bank regulatory agencies, the time period for loans contractually past due has been increased from 60 to 90 days. Third, paragraphs 2 and 3 of Part C of the original Guides, which required interest disclosures for nonperforming loans, have been deleted since they were confusing and appeared to be of marginal value.

*Item IV. Summary of Loan Loss Experience*

Part A of the original Item has been moved to Item III; the other parts have been rearranged; and Part H has been revised to reflect the new "reported period" and to indicate that disclosure as to management's policy for loan losses should cover the entire "reported period," not just the latest fiscal year and any interim period. Finally, Part J constitutes a codification of long existing staff policy concerning the substitution of a narrative discussion of risk elements for a breakdown of the allowance for loan losses by category of loan. In preparing, such a discussion registrants should consider the following factors, among others: (1) the anticipated amount of chargeoffs by loan category during the next full year of operations; (2) specific risks associated with certain loan types, as well as a discussion of current and future economic trends that may affect the loan portfolio; (3) the significance of previous net loss experience, the overall significance of net losses with respect to the total loan portfolio, the anticipated effect, it any, of the current economic outlook on collectibility, and management's credit and loan review controls; (4) the risks by significant categories of loans, indicating whether any major concentrations exist in particular industries, and a description of any material deteriorating accounts; and (5) an analysis of the relevant nonperforming loans where one particular loan category or separate types of loans within the category are unusually significant as to possible losses when compared to the entire loan portfolio.

*Item V. Deposits*

The only change in this Item was to conform the deposit categories and the related instructions to those contained in Article 9 of Regulation S–X which, among other things, will aid users in analyzing two sets of data (the Guides and the financial statements).

*Item VI. Return on Equity and Assets*

Instruction (1) of the previous Guides requiring disclosure of trends in the ratios has been deleted inasmuch as this information generally is either apparent or appears elsewhere in filings, such as in Management's Discussion and Analysis or in financial statement footnotes. A new instruction (2) has been added to require dual data where mandatory redeemable preferred stock is outstanding. See Accounting Series Release No. 268 (July 27, 1979) (44 FR 45610). Finally, in response to a number of comments, an instruction (3) has been added to allow registrants to supply any other ratios they deem necessary to explain their operations.

*Item VII of the Original Guides, Interest Rates and Interest Differential*

The contents of this Item have now been combined into amended Item 1.

*Item VIII of the Original Guides, Foreign Operations*

This Item has been deleted since the disclosure formerly required hereunder is currently required in Article 9 of Regulation S–X.

*Item IX of the Original Guides, Commitments and Lines of Credit*

This Item has been deleted because the disclosure formerly required should be included in notes to the financial statements, Item III of the Guides, or elsewhere.

*Text of the Guides*

17 CFR Chapter II is amended as follows:

1. Part 231 is amended by amending Guide 61, "Statistical Disclosure by Bank Holding Companies," of the Guides for Preparation and Filing of Registration Statements under the Securities Act of 1933 to read as follows:

**Guide 61—Guides for the Preparation and Filing of Registration Statements under the Securities Act of 1933**

*Statistical Disclosure by Bank Holding Companies*

General Instructions

1. This Guide applies to the description of business portion of those bank holding company registration statements for which financial statements are required.

2. Information furnished in accordance with this Guide should generally be presented in tabular form in the order appearing below. However, an alternative presentation, such as inclusion of the information in Management's Discussion and Analysis, may be used if in management's opinion such presentation would be more meaningful to investors.

3. When the term "reported period" is used in the Guide, it refers to each of the periods described below:

(a) Each of the last three fiscal years of the registrant, except as is provided in paragraphs (b) and (c) of this Instruction;

(b) Each of the last five fiscal years of the registrant with respect to Items III and IV, except as is provided in paragraph (c) of this Instruction;

(c) Each of the last two fiscal years with respect to all items, if the bank holding company or the bank with respect to which the presentation is made as of the end of its latest full fiscal year had assets of less than $200,000,000 or net worth or $10,000,000 or less; and

(d) Any additional interim period necessary to keep the information from being misleading.

The "reported period" shall not include an additional interim period under paragraph (d) of this Instruction merely because an income statement is presented for such additional interim period, but the "reported period" shall include such an additional period if a material change in the information presented or the trend evidenced thereby has occurred.

4. Some of the information called for by the Guide which is prospective in nature may not be available on a historical basis. The staff should be advised of such situations prior to filing and if the requested information is unavailable and cannot be compiled without unwarranted or undue burden or expense, the requirement that such information be furnished may be waived. If possible, reasonably comparable data should be furnished instead. If, for some special reason, certain requested information will not be available with respect to periods to be covered in future filings subject to the Guide, this should also be brought to the staff's attention.

5. Unless otherwise indicated, averages called for by the Guide are daily averages. Where the collection of data on a daily average basis would involve unwarranted or undue burden or expense, weekly or month-end averages may be used, provided such averages are representative of the operations of the registrant. The basis used for presenting averages need be stated only if not presented on a daily average basis.

6. The disclosure requirements of the Guide are also applicable to foreign registrants to the extent the requested information is available. If the information is unavailable and cannot be compiled without unwarranted or undue burden or expense, this should be brought to the staff's attention.

**Note.**—In evaluating the reasonableness of assertions by registrants that the compilation of requested information, such as historical data or daily averages, would involve an unwarranted or undue burden or expense, the staff takes into consideration, among other factors, the size of the registrant, the estimated costs of compiling the data, the electronic data processing capacity of the registrant, and efforts in process to obtain the information in future periods.

I. Distribution of Assets, Liabilities and Stockholders' Equity; Interest Rates and Interest Differential

A. For each "reported period," present average balance sheets. The format of the average balance sheets may be condensed from the detail required by the financial statements provided that the condensed average balance sheets indicate the significant sources and uses of funds. However, the average statements should show separately the major categories of interest-earning assets and interest-bearing liabilities for which further disclosure is required in paragraph B below. Major categories of interest-earning assets should include loans, taxable investment securities, non-taxable investment securities, federal funds sold and securities purchased with agreements to resell, and other (specify if significant). Major categories of interest-bearing liabilities should include savings deposits, other time deposits, deposits in foreign offices, short-term debt, long-term debt and other (specify if significant).

B. For each "reported period," present an analysis of net interest earnings as follows:

1. For each major category of interest-earning asset and each major category of interest-bearing liability, the average amount outstanding during the period and the interest earned or paid on such amount.

2. The average yield for each major category of interest-earning asset.

3. The average rate paid for each major category of interest-bearing liability.

4. The average yield on all interest-earning assets and the average effective rate paid on all interest-bearing liabilities.

5. The net yield on interest-earning assets (net interest earnings divided by total interest-earning assets, with net interest earnings equalling the difference between total interest earned and total interest paid).

6. This analysis may, at the option of the registrant, be presented in connection with the average balance sheet in paragraph A.

C. For the latest two fiscal years, present (1) the dollar amount of change in interest income and (2) the dollar amount of change in interest expense. The changes should be segregated for each major category of interest-earning asset and interest-bearing liability into amounts attributable to (a) changes in volume (change in volume times old rate), (b) changes in rates (change in rate times old volume), and (c) changes in rate/volume (change in rate times the change in volume). The rate/volume variances should be allocated on a consistent basis between rate and volume variances and the basis of allocation disclosed in a note to the table.

(*Instructions.* (1) Explain how non-accruing loans have been treated for purposes of the analysis in paragraph B;

(2) In the calculation of the changes in the interest income and interest expense, any out-of-period items and adjustments should be excluded and the types and amounts of items excluded disclosed in a note to the table;

(3) If loan fees are included in the interest income computation, the amount of such fees should be disclosed, if material;

(4) The interest income on tax exempt securities may be calculated on a tax equivalent basis. A brief note should describe the extent of recognition of exemption from Federal, state and local taxation and the combined marginal or incremental rate used.

(5) If disclosure regarding foreign activities is required pursuant to the Instruction under paragraph I–D of this Guide, the information required by Item I–A, B, and C should be further segregated between domestic and foreign activities.

D. For each "reported period," present separately, on the basis of averages, the percentage of total assets and total

liabilities attributable to foreign activities.

*Instruction.* Separate disclosure concerning foreign activities (banking, bank related and nonbanking) is required only if (1) assets, or (2) revenues, or (3) income (loss) before income tax expense, or (4) net income (loss), each as associated with foreign activities, exceeded ten percent of the corresponding amount in the related financial statements. In order to arrive at the foreign component of revenue or income, the registrant may be required to make internal allocations between foreign and domestic activities. The registrant should generally indicate the nature of significant estimates and assumptions used in such allocations. Any significant changes in assumptions or methods of allocations during the reported periods should also be indicated along with the effect of such changes on reported results.

II. Investment Portfolio

A. As of the end of each "reported period," present the book value of investments in obligations of (1) the U.S. Treasury and other U.S. Government agencies and corporations;

(2) States of the U.S. and political subdivisions; and (3) other securities including bonds, notes, debentures and stock of business corporations, foreign governments and political subdivisions, intergovernmental agencies and a Federal Reserve bank.

B. As of the end of the latest "reported period," present the amount of each investment category listed above which is due (1) in one year or less, (2) after one year through five years, (3) after five years through ten years, and (4) after ten years. In addition, state the weighted average yield for each range of maturities.

*Instruction.* State whether yields on tax exempt obligations have been computed on a tax equivalent basis. (See Instruction (4) to Item I–C.) Any major changes in the tax-free portfolio should be discussed hereunder.

III. Loan Portfolio

A. Types of Loans.—As of the end of each "reported period," present separately the amount of loans in each category listed below. Categories 1 through 4 are for loans attributable to domestic operations only. Also show the total amount of all loans for each "reported period," which amounts should be the same as those shown on the balance sheets.

1. Commercial, financial and agricultural;
2. Real estate—construction;
3. Real estate—mortgage;
4. Installment;
5. Foreign.

*Instructions.* (1) Additional detail of loans by category may be appropriate in some circumstances, such as when a substantial portion of total commercial loans is concentrated in one or a few industries or to show country risks associated with foreign loans.

(2) Separate disclosure of category 5 is required only if disclosure regarding foreign activities is required pursuant to the Instruction under paragraph I–D of this Guide.

(3) Include, under the real estate—construction category, loans secured by real estate which are made for the purpose of financing construction of real estate and land development projects.

(4) Include, under the real estate—mortgage category, loans payable in monthly, quarterly or other periodic installments and secured by developed income property and personal residences.

(5) Include, under the installment category, loans to individuals generally repayable in monthly installments. This category shall include but not be limited to credit card and related activities, individual automobile loans, other installment loans, mobile home loans and residential repair and modernization loans.

(6) Include, under the commercial, financial and agricultural category, all loans not included in another category. This category shall include but not be limited to loans to real estate investment trusts, mortgage companies, banks and other financial institutions, loans for carrying securities, and loans for agricultural purposes. Do not include loans secured primarily by real estate.

(7) State separately any other loan category regardless of relative size if necessary to reflect a concentration of any unusual risk or uncertainty.

(8) A series of categories other than those specified above may be used to present details of loans if considered a more appropriate presentation.

B. Maturities and Sensitivity to Changes in Interest Rates.—As of the end of the latest fiscal year reported on, present separately the amount of loans in each category listed in paragraph A (except categories 3 and 4) (1) due in one year or less, (2) due after one year through five years and (3) due after five years. In addition, present separately the total amount of all such loans due after one year which (a) have predetermined interest rates and (b) have floating or adjustable interest rates.

*Instructions.* (1) Scheduled repayments should be reported in the maturity category in which the payment is due.

(2) Demand loans, loans having no stated schedule of repayments and no stated maturity, and overdrafts should be reported as due in one year or less.

(3) Determinations of maturities should be based upon contract terms. However, such terms may vary due to the registrant's "rollover policy," in which case the maturity should be revised as appropriate and the "rollover policy" should be briefly discussed.

C. Nonperforming Loans.—As of the end of each "reported period," state the aggregate amount of loans in each of the following categories for: (a) loans accounted for on a non-accrual basis; (b) loans which are contractually past due 90 days or more as to interest or principal payments (but not included in the non-accrual loans in (a) above); (c) loans, the terms of which have been renegotiated to provide a reduction or deferral of interest or principal because of a deterioration in the financial position of the borrower (exclusive of loans in (a) or (b) above); and (d) loans now current where there are serious doubts as to the ability of the borrower to comply with present loan repayment terms. In connection with (d), a separate discussion of the risk elements associated with such loans, including the relative magnitude of such risks, shall be given.

*Instruction.* (1) Loans in category 4 under paragraph A need not be considered for disclosure pursuant to paragraph C unless the total amount of installment loans exceeds 10 percent of total loans.

(2) A renewal on current market terms of a loan at maturity will not be considered a renegotiation for purposes of clause (c) of paragraph C.

(3) A loan remains in the category described in clause (c) until such time as the terms are substantially equivalent to terms on which loans with comparable risks are being made.

(4) If a substantial portion of the loans stated pursuant to paragraph C are concentrated in one or a few industries, separate disclosure of the information required by this paragraph should be provided for such loans.

(5) The registrant may use different criteria and may present quantitative information in a different manner than described above if such presentation more effectively identifies and communicates the present risk elements in the loan portfolio.

IV. Summary of Loan Loss Experience

An analysis of loan loss experience shall be furnished in the following format for each "reported period:"

A. Average amount of loans outstanding.

B. Amount of allowance for loan losses at beginning of period.

C. Amount of losses charged off during period broken down by the five major categories of loans specified in paragraph III–A.

D. Amount of recoveries during period of losses previously charged off broken down by the five major categories of loans specified in paragraph III–A.

E. Net loans charged off during period.

F. Amount of allowance for loan losses at end of period.

G. Ratio of net charge-offs during period to average loans outstanding for the period.

H. Additions to allowance for loan losses charged to operating expense during period. For each period reported on, also describe briefly the factors which influenced management's judgment in determining the amount charged to operating expense. A statement that the amount is based on management's judgment will not be sufficient.

I. A breakdown of the allowance for loan losses by the five major categories of loans specified in paragraph III–A, including as a separate category any unallocated portions of the allowance. State (a) the dollar amount of the allowance applicable to each category and (b) the percentage of loans in each category to total loans.

J. In lieu of the disclosure required by paragraph I above, the registrant may furnish a narrative discussion of the risk elements in the loan portfolio and the factors considered in determining the amount of the allowance for loan losses. The discussion may be extended to risk elements associated with particular loan categories or subcategories. Information should also be furnished as to the approximate anticipated amount of charge-offs by loan category during the next full year of operation.

*Instruction.* If, in accordance with Instruction 8 of paragraph III–A, information concerning loans has been presented in categories other than those specified in that paragraph, those other categories should be used to present the disclosures called for under this paragraph.

V. Deposits

A. For each "reported period," present separately the average amount of:

(1) Demand deposits in domestic bank offices.

(2) Savings deposits in domestic bank offices.

(3) Time deposits in domestic bank offices.

(4) Deposits in foreign banking offices.

*Instructions.* (1) Include, under the demand deposits—domestic category, all domestic deposits other than savings and time deposits.

(2) Include, under the savings deposits—domestic category, interest bearing deposits without specified maturity or contractual provisions requiring advance notice of intention to withdraw funds. Include deposits for which a bank, optionally, may require written notice of intended withdrawal not less than 30 days in advance.

(3) Include, under the time deposits—domestic category, deposits subject to provisions specifying maturity or other withdrawal conditions such as time certificates of deposits, open account time deposits and deposits accumulated for the payment of personal loans.

(4) Categories (A)(2) and (A)(3) above may be combined if either one is less than ten percent of total deposits.

(5) If material, the registrant should disclose separately the aggregate amount of deposits by foreign depositors in domestic offices. Identification of the nationality of depositors is not requested.

B. As of the end of the latest fiscal year reported on, present separately the amount outstanding of time certificates of deposit issued by domestic offices in amounts of $100,000 or more by time remaining until maturity 3 months or less; over 3 through 6 months; over 6 through 12 months; and over 12 months.

VI. Return on Equity and Assets

For each "reported period," present the following: (1) Return on assets (net income divided by average total assets).

(2) Return on equity (net income divided by average equity).

(3) Dividend payout ratio (dividends declared per share divided by net income per share).

(4) Equity to assets ratio (average equity divided by average total assets).

*Instructions.* (1) The ratios required under (1), (2), and (3) above may also be calculated using income before securities gains (losses).

(2) If mandatory redeemable preferred stock is outstanding, furnish the ratios required under (2) and (4) above in a dual presentation including and excluding such stock in the calculations.

(3) Registrants should supply any other ratios which they deem necessary to explain their operations.

2. Part 241 is amended by amending Guide 3, "Statistical Disclosure by Bank Holding Companies," of the Guides for the Preparation and Filing of Reports and Proxy and Registration Statements Under the Securities Exchange Act of 1934 to read as follows:

**Guide 3—Guides for the Preparation and Filing of Reports and Proxy and Registration Statements Under the Securities Exchange Act of 1934**

*Statistical Disclosure by Bank Holding Companies*

This Guide applies to the description of business portion of bank holding company registration statements filed on Form 10 (Item 1) [17 CFR 249.210], in proxy and information statements relating to mergers, consolidations, acquisitions and similar matters (Item 14 of Schedule 14A and Item 1 of Schedule 14C) [17 CFR 240.14a–101 and 240.14c–101], and in reports filed on Form 10–K (Item 7) [17 CFR 249.310].

The rest of Guide 3 is identical to Guide 61 set forth above.

(Secs. 7, 10, 19(a), 48 Stat. 78, 81, 85; secs. 205, 209, 48 Stat. 906, 908; sec. 8, 68 Stat. 685; sec. 308(a)(2), 90 Stat. 57; secs. 12, 13, 15(d), 23(a), 48 Stat. 892, 894, 895, 901; sec. 203(a), 49 Stat. 704; secs. 1, 3, 8, 49 Stat. 1375, 1377, 1379; sec. 202, 68 Stat. 686; secs. 3, 4, 6, 78 Stat. 565–568, 569, 570–574; secs. 1, 2, 82 Stat. 454; secs. 1, 2, 28(c), 84 Stat. 1435, 1497; sec. 105(b), 88 Stat. 1503; secs. 8, 9, 10, 18, 89 Stat. 117, 118, 119, 155; sec. 308(b), 90 Stat. 57; secs. 202, 203, 204, 91 Stat. 1494, 1498, 1499, 1500; 15 U.S.C. 77g, 77j, 77s(a), 78*l*, 78m, 78o(d), 78w(a))

**STATUTORY AUTHORITY:** The Commission hereby adopts amended Guides 61 and 3, "Statistical Disclosure by Bank Holding Companies" pursuant to the Securities Act of 1933, particularly sections 7, 10 and 19(a) thereof, and the Securities Exchange Act of 1934, particularly sections 12, 13, 15(d) and 23(a).

By the Commission.

**George A. Fitzsimmons,**

*Secretary.*

July 8, 1980.

[FR Doc. 80-20976 Filed 7-11-80; 8:45 am]

BILLING CODE 8010-01-M

## ENVIRONMENTAL PROTECTION AGENCY

### 21 CFR Part 193

**[FRL 1537-3; FAP OH5252/R57]**

### Food Additives Permitted in Food For Human Consumption; Dimethylamine Salt of 2,4-D and Butoxyethanol Ester of 2,4-D

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This rule establishes a food additive regulation related to the experimental use of the dimethylamine salt of 2,4–D and the butoxyethanol ester of 2,4–D on areas infested with

Eurasian watermilfoil in the certain reservoirs and lakes under the jurisdiction of the Water and Power Resources Service (formerly Bureau of Reclamation), U.S. Department of the Interior, and the Corps of Engineers, U.S. Army.

**EFFECTIVE DATE:** Effective on July 14, 1980.

**FOR FURTHER INFORMATION CONTACT:** James M. Stone, Acting Product Manager (PM) 23, Registration Division (TS–767), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, (202) 755–1397.

**SUPPLEMENTARY INFORMATION:** On March 27, 1980, the EPA announced (45 FR 20159) that Water and Power Resources Service, U.S. Department of Interior, Washington, DC 20240 and the U.S. Army Corps of Engineers, Washington, DC 20314, had filed a food additive petition that proposed 21 CFR 193.100 be amended by the establishment of a regulation permitting residues of the herbicide 2,4–dichlorophenoxyacetic acid in potable water in a proposed experimental program with a tolerance limitation of 0.1 part per million (ppm). This was in accordance with experimental use permits (11683–EUP–2 and 11683–EUP–3) that have been submitted under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended in 1972, 1975 and 1978 (92 Stat. 819; 7 U.S.C. 136). No comments were received by the Agency in response to this notice of filing. The reservoirs and lakes include: (1) Lake Seminole, Florida-Georgia; (2) Robert S. Kerr Reservoir, Oklahoma; (3) Fort Cobb Reservoir, Oklahoma; (4) Banks Lake, Washington. The regulation was requested by the Water and Power Resources Service, U.S. Department of the Interior, and the Corps of Engineers, U.S. Army. This rule will permit experimental treatments to be made at the above four (4) locations. Data collected from the experimental program will be used in support of petitions to amend the existing tolerances and registrations to permit this use nationwide by a broader range of Federal, State, and local government agencies, and certified applicators under contract to these agencies.

The scientific data reported and other relevant material have been evaluated, and it has been determined that the herbicide may be safely used in accordance with the provisions of the experimental use permits which have been issued under FIFRA. It has further been determined that since residues of the pesticide may result in potable water from the uses provided for in the experimental use permits, the food additive regulation should be established and should include a tolerance limitation.

The data considered in support of the proposed tolerance included residue data, acute oral toxicity studies on 2,4–D acid medial lethal dose ($LD_{50}$) values ranging from 375 to 1000 milligrams (mg)/kilogram (kg) in different species; a 2-year chronic rat feeding study on 2,4–D with a no-observed-effect-level (NOEL) of 1250 ppm for systemic effects, a 2-year chronic dog feeding study with a NOEL of 500 ppm; a rat teratology study on 2,4–D acid with a NOEL of 50 mg/kg, and a hamster teratology study on 2,4–D acid with a NOEL of 40 mg/kg.

A permanent food additive tolerance of 0.1 ppm in potable water has been established for the dimethylamine salt and butoxyethanol ester of 2,4–d for Eurasian watermilfoil control programs conducted by the Tennessee Valley Authority (TVA) in dams and reserviors of the TVA system.

The application rate proposed is the same as the presently registered rate for control of Eurasian watermilfoil in the TVA system, i.e. 20–40 lbs. 2,4–D acid per surface acre.

The two formulations that will be used under this experimental use permits are registered products. The inerts in both formulation are cleared under § 180.1001. Residues in potable water are not likely to exceed the established food additive tolerance of 0.1 ppm.

The metabolism of 2,4–dichlorophenoxyacetic acid is adequately understood, and an adequate analytical method (gas-liquid chromatography using electron capture detection) is available for enforcement purposes.

A related document establishing temporary tolerances for residues of 2,4-dichlorophenoxyacetic acid in fish (edible flesh) and in or on crops or crop groupings at 1 part per million (ppm) appears elsewhere in today's **Federal Register.** The tolerances in eggs; milk; and the meat, fat, and meat byproducts of cattle, etc. (other than kidney of cattle, goats, hogs, horses, and sheep) are adequate to cover residues in these tissues resulting from the proposed use.

The pesticide is considered useful for the purpose for which a tolerance is sought. Therefore the regulation establishing a tolerance of 0.1 part ppm in potable water by amending 21 CFR 193.100(c) is being promulgated as proposed. Accordingly, a food additive regulation is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication in the **Federal Register,** file written objection with the Hearing Clerk, EPA Rm. M–3708 (A–110), 401 M St., SW, Washington, DC 20460. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by the grounds legally sufficient to justify the relief sought.

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.

(Sec. 409(c)(1), 72 Stat. 1786, (21 U.S.C. 348(c)(1)).

Dated: July 3, 1980.

**Edwin L. Johnson,**

*Deputy Assistant Administrator for Pesticide Programs.*

## PART 193—TOLERANCES FOR PESTICIDES IN FOOD ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

Therefore, 21 CFR Part 193 is amended by revising § 193.100 paragraph (c) to read as follows:

**§ 193.100 2,4-D.**

* * * * *

(c) As a result of application of the dimethylamine salt of 2,4-D and the butoxyethamol ester of 2,4-D to Lake Seminole in Florida and Georgia, Robert S. Kerr Reservoir in Oklahoma, Fort Cobb Reservoir in Oklahoma, and Banks Lake in Washington under an experimental use program which expires on February 28, 1982. This program is to be conducted by the Water and Power Resources Service, U.S. Department of Interior and the Corps of Engineers, U.S. Army. Residues remaining in potable water after February 28, 1982 will not be considered actionable if the pesticide is legally applied during the term and in accordance with provisions of the experimental permit and food additive tolerance.

* * * * *

[FR Doc. 80–20945 Filed 7–11–80; 8:45 am]

BILLING CODE 6560–01–M

**DEPARTMENT OF TRANSPORTATION**

**National Highway Traffic Safety Administration and Federal Highway Administration**

**23 CFR Part 1252**

**[NHTSA Docket No. 79-12, Notice 2]**

## State Matching of Planning and Administration Costs

**AGENCIES:** National Highway Traffic Safety Administration (NHTSA), Federal Highway Administration (FHWA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This rule establishes NHTSA and FHWA policy on State matching requirements for planning and administration costs associated with the implementation of a State highway safety program under the Highway Safety Act of 1966 (Pub. L. 89–564, as amended; 23 U.S.C. 401–407). It defines planning and administration costs, describes the expenditures that may be used to satisfy the State matching requirement, and prescribes the procedure for meeting the requirement.

**EFFECTIVE DATE:** July 14, 1980.

**FOR FURTHER INFORMATION CONTACT:** NHTSA: William Holden, Office of State Program Assistance, 202–426–1770, or Steven E. Brummel, Office of the Chief Counsel, 202–426–9511. FHWA: James L. Rummel, Office of Highway Safety, 202–426–2131, or Thomas P. Holian, Office of the Chief Counsel, 202–426–0761. Office hours for NHTSA and FHWA are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday. All offices are located at 400 Seventh Street, S.W., Washington, D.C. 20590.

**SUPPLEMENTARY INFORMATION:** Although the Highway Safety Act of 1966 requires a State to match Federal contributions to its highway safety program with its own funds, a 1970 amendment to the Act permitted the States to aggregate their overall highway safety expenditures as their share of this program (Pub. L. 91–605, 84 Stat. 1739). It was possible for the Federal share in some program areas to be 100 percent as long as State participation in other highway safety program areas brought total non-Federal expenditures up to the required level. It was also possible for a State highway safety agency to use portions of the State police, driver licensing, or motor vehicle registration budgets as all or part of the State matching share of its highway safety program.

The Surface Transportation Assistance Act of 1978 (Pub. L. 95–599, 92 Stat. 2689) limited this practice by prohibiting a State from using expenditures for State funded highway safety activities to satisfy the matching requirement for planning and administration costs (See section 207(d), Pub. L. 95–599 amending 23 U.S.C. 402(d).) The previous matching policy continues to apply to all other costs in the program. The effect of the 1978 amendment is to require a State to supply at least 25 percent of planning and administration costs as a specific match, either by direct cash or in-kind contributions or by indirect contributions if the State has negotiated an indirect cost rate approved in accordance with Federal Management Circular 74–4.

### Notice of Proposed Rulemaking

To implement the specific requirement of the 1978 Act with respect to planning and administration costs, NHTSA and FHWA issued a notice of proposed rulemaking (44 FR 41244; July 16, 1979). The proposed rule stated the policy of the 1979 amendment to the Act, and set forth procedures for determining the State share, for allocating costs between planning and administration functions and other functions, and for controlling payment of Federal funds on a voucher-by-voucher basis. Six comments were submitted by State governments on the proposed rule. Three commenters supported the proposal; three others had objections and suggested revisions.

### FHWA Funding of Federal Share

One commenter addressed the procedural requirement in subsection (b) of proposed 23 CFR 1252.5 for computing the portion of the Federal share that is to come from FHWA and NHTSA. The intent behind the subsection was to *allow* a State to use FHWA funds for planning and administration costs in an amount proportional to the FHWA share of the total highway safety authorization under 23 U.S.C. 402, but the procedure was drafted in a manner that appeared to *require* a State to use a fixed proportion of FHWA funds for planning and administration costs even when those costs are not attributable to FHWA programs. A number of States administer the highway-related portions of their highway safety programs through their State highway agencies and do so without using FHWA funds to cover planning and administration costs. In response to this comment, the proposed rule was amended before the close of the comment period (44 FR 50063; August 27, 1979) so that States preparing fiscal year 1980 Highway Safety Plans could do so on the basis of the procedures contained in the proposed rule. The amendment, as issued in August 1979, allows a State to decide whether to use FHWA funds to pay planning and administration costs up to the FHWA proportional share of the total annual NHTSA and FHWA authorization under 23 U.S.C. 402. If a State does not use FHWA funds, it may use a mix of NHTSA funds and State funds provided that it supply at least 25 percent of the planning and administration costs from State funds in the form of a specific match.

The final rule alters the August amendment in one respect. While it does not compel a State to use FHWA funds in an amount equal to the FHWA proportional share of the total annual NHTSA and FHWA authorization, it does prohibit a State from using NHTSA funds to pay the planning and administration costs attributable to FHWA programs. The use of NHTSA and FHWA funds is to be based, in essence, on the planning and administration costs attributable to the respective NHTSA and FHWA programs rather than the ratio of the respective NHTSA and FHWA authorizations. Therefore, a State may not use NHTSA funds to pay more than 75 percent of the planning and administration costs attributable to NHTSA programs nor may it use FHWA funds to pay more than 75 percent of the planning and administration costs attributable to FHWA programs.

### Prorating Planning and Administration Costs

Two commenters objected to the prohibition against prorating planning and administration costs or program management costs contained in subsection (c) of 23 CFR 1252.5. FHWA and NHTSA intended by this prohibition to eliminate the need for the record systems that prorating would require. Some States with lower authorizations may not need one full time employee to handle planning and administration and another to handle program management. To accommodate those States that record their employees' time on an hourly basis and can accurately divide costs between planning and administration and program management, the proposed subsection (c) of 23 CFR 1252.5 has been revised to allow a State to prorate planning and administration costs and program management costs so long as accurate records are maintained subject to review by the appropriate NHTSA and FHWA officials. In addition, a sentence has been inserted in 23 CFR 1252.6 making a corresponding change.

**100 Percent Federal Share in Insular Areas**

In order to clarify the specific match requirement for American Samoa, Guam, the Commonwealth of the Northern Mariana Islands and the Virgin Islands, the final rule contains an additional sentence in § 1252.4. The Federal share for the territories, established in accordance with 23 U.S.C. 120(i), is 100 percent.

**Program Management Costs**

Planning and administration costs are defined at 23 CFR 1252.2(d) as those "attributable to the overall development and management of the Highway Safety Plan." However, some States include program costs with planning and administration activity that are not planning and administration costs under this rule, e.g., material and production costs for public information programs. To emphasize the different treatment of these program costs normally included with planning and administration, NHTSA and FHWA have added a new subsection (d) to 23 CFR 1252.5.

In consideration of the foregoing, Part 1252 is added to Title 23, Code of Federal Regulations, as set forth below.

**Note.**—The National Highway Traffic Safety Administration and the Federal Highway Administration have 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.

Further, this change has been expressly required by the amendment to 23 U.S.C. 402(d) made by section 207(d) of Pub. L. 95–599 and does not allow for the exercise of any discretion. Therefore, a full regulatory evaluation is not required.

Issued on: June 30, 1980.

**Joan Claybrook,**

*Administrator, National Highway Traffic Safety Administration.*

**John S. Hassell, Jr.,**

*Deputy Administrator.*

## PART 1252—STATE MATCHING OF PLANNING AND ADMINISTRATION COSTS

Sec.



**Authority:** 23 U.S.C. 402 and 315; 49 CFR 1.48(b) and 1.50.

**§ 1252.1 Purpose.**

This Part establishes the National Highway Traffic Safety Administration (NHTSA) and the Federal Highway Administration (FHWA) policy on planning and administration (P&A) costs for State highway safety agencies. It defines planning and administration costs, describes the expenditures that may be used to satisfy the State matching requirement, prescribes how the requirement will be met, and when States will have to comply with the requirement.

**§ 1252.2 Definitions.**

(a) *Fiscal year* means the twelve months beginning each October 1, and ending the following September 30.

(b) *Direct costs* are those costs which can be identified specifically with a particular planning and administration or program activity. The salary of a data analyst on the State highway safety agency staff is an example of a direct cost attributable to P&A. The salary of an emergency medical technician course instructor is an example of direct cost attributable to a program activity.

(c) *Indirect costs* are those costs (1) incurred for a common or joint purpose benefiting more than one program activity and (2) not readily assignable to the program activity specifically benefited. For example, centralized support services such as personnel, procurement, and budgeting would be indirect costs.

(d) *Planning and administration (P&A) costs* are those direct and indirect costs that are attributable to the overall development and management of the Highway Safety Plan. Such costs could include salaries, related personnel benefits, travel expenses, and rental costs.

(e) *Program management costs* are those costs attributable to a program area (e.g., salary of an emergency medical services coordinator, the impact evaluation of an activity, or the travel expenses of a local traffic engineer).

(f) *State highway safety agency* is the agency directly responsible for coordinating the State's highway safety program authorized by 23 U.S.C. 402.

**§ 1252.3 Applicability.**

The provisions of this Part apply to obligations incurred after November 6, 1978, for planning and administration costs under 23 U.S.C. 402.

**§ 1252.4 Policy.**

Federal participation in P&A activities shall not exceed 75 percent of the total cost of such activities, or the applicable sliding scale rate in accordance with 23 U.S.C. 120. In accordance with 23 U.S.C. 120(i), the Federal share payable for projects in the Virgin Islands, Guam, American Samoa and the Commonwealth of the Northern Mariana Islands shall be 100 percent. The Indian State, as defined by 23 U.S.C. 402(d) and (i), is exempt from the provisions of this part. NHTSA funds shall be used only to finance P&A activities attributable to NHTSA programs and FHWA funds shall be used only to finance P&A costs attributable to FHWA programs.

**§ 1252.5 Procedures.**

(a) P&A tasks and related costs shall be described in the P&A module of the State's Highway Safety Plan. The State's matching share shall be determined on the basis of the total P&A costs in the module. Federal participation shall not exceed 75 percent (or the applicable sliding scale) of the total P&A costs. In addition, a State shall not use NHTSA funds to pay more than 75 percent of the P&A costs attributable to NHTSA programs nor use FHWA funds to pay more than 75 percent of the P&A costs attributable to FHWA programs.

(b) FHWA and NHTSA funds may be used to pay for the Federal share of P&A costs, up to the amounts determined by multiplying the Federal share by the ratio between the P&A costs attributable to FHWA programs and the P&A costs attributable to NHTSA programs. For example:

A State's total P&A costs are $40,000. The State's share is 25 percent, or $10,000. To pay the remaining $30,000, the State first ascertains the amount spent out of the total costs for each agency's programs, then applies the ratio between these two amounts to the $30,000. If $36,000 of the total costs are spent for NHTSA programs and $4,000 for FHWA programs, the ratio would be 9/1 and the corresponding allocation of the Federal share would be $27,000 to NHTSA and $3,000 to FHWA.

(c) A State at its option may allocate salary and related costs of State highway safety agency employees to one of the following:

(1) The administration and planning functions in the P&A module;

(2) The program management functions in one or more Program modules; or

(3) A combination of administration and planning functions in the P&A module and the program management functions in one or more program modules.

(d) If an employee is principally performing administration and planning functions under a P&A module, the total salary and related costs may be allocated to the P&A module. If the employee is principally performing program management functions under one or more program modules, the total salary and related costs may be charged

directly to the appropriate module(s). If an employee is spending time on a combination of administration and planning functions and program management functions, the total salary and related costs may be charged to the appropriate module(s) based on the actual time worked under each module. If the State highway safety agency elects to allocate costs based on acutal time spent on an activity, the State highway safety agency must keep accurate time records showing the work activities for each employee. The State's record keeping system must be approved by the appropriate FHWA and NHTSA officials.

(e) Those tasks and related costs contained in the P&A module, not defined as P&A costs under § 1252.2(d) of this Part, are not subject to the planning and administration cost matching requirement.

**§ 1252.6 Responsibilities.**

During the Highway Safety Plan approval process, the responsible FHWA and NHTSA officials shall approve a P&A module only if the projected State expenditure is at least 25 percent (or the appropriate sliding scale rate) of the total P&A costs identified in the module. If a State elects to prorate P&A and program management costs, the appropriate NHTSA and FHWA officials must approve the method that the State highway safety agency will use to record the time spent on these activities. During the process of reimbursement, the responsible FHWA and NHTSA officials shall assure that Federal reimbursement for P&A costs at no time exceeds 75 percent (of the applicable sliding scale rate) of the costs accumulated at the time of reimbursement.

[FR Doc. 80-20965 Filed 7-11-80; 8:45 am]

BILLING CODE 4910-59-M

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 60

**[FRL 1537-1]**

### Standards of Performance of New Stationary Sources: Adjustment of Opacity Standard for Fossil Fuel-Fired Steam Generator

**AGENCY:** Environmental Protection Agency.

**ACTION:** Correction of final rulemaking.

**SUMMARY:** On May 29, 1980, at 45 FR 36077 a Final Rule was published setting forth an adjustment of the opacity standard for Interstate Power Company's Lansing Unit No. 4, in Lansing, Iowa. The promulgation contained two typographical errors. In the Summary, the action was described as an adjustment of the capacity rather than the opacity standard. Although in the Summary the unit was correctly described as Unit No. 4, the promulgation below contained a reference to Unit No. 1. This notice is to correct those errors.

**EFFECTIVE DATE:** July 14, 1980.

**FOR FURTHER INFORMATION CONTACT:** Henry F. Rompage, Enforcement Division, EPA, Region VII, 324 East 11th Street, Kansas City, Missouri 64106, telephone 816/374-3171 or FTS 758-3171.

Dated: June 27, 1980.

**Kathleen Q. Camin,**

*Regional Administrator.*

In consideration of the foregoing, Part 60 of 40 CFR Chapter I is amended as follows:

### Subpart D—Standards of Performance for Fossil Fuel-Fired Generators

1. Section 60.42 is amended by adding paragraph (b)(2):

**§ 60.42 [Amended]**

* * * * *

(b) * * *

(2) Interstate Power Company shall not cause to be discharged into the atmosphere from its Lansing Station Unit No. 4 in Lansing, Iowa, any gases which exhibit greater than 32% opacity, except that a maximum of 39% opacity shall be permitted for not more than six minutes in any hour.

(Sec. 111,301(a), Clean Air Act as amended (42 U.S.C. 7411, 7601))

2. Section 60.45 is amended by adding paragraph (ii) as follows:

**§ 60.45 Emission and fuel monitoring.**

* * * * *

(g) * * *

(1) * * *

(ii) For sources subject to the opacity standard of § 60.42(b)(2), excess emissions are defined as any six-minute period during which the average opacity of emissions exceeds 32 percent opacity, except that one six-minute average per hour of up to 39 percent opacity need not be reported.

[FR Doc. 80-20947 Filed 7-11-80; 8:45 am]

BILLING CODE 6560-01-M

### 40 CFR Part 180

**[PP 8F2090/R257; FRL 1537-2]**

### Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; 1-Methylethyl 2-[[Ethoxy-[(1-Methylethyl)-Amino]Phosphinothioyl]oxy] Benzoate

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final Rule.

**SUMMARY:** This rule establishes a tolerance for residues of the insecticide 1-methylethyl 2-[[ethoxy-[(1-methylethyl)-amino]phosphinothioyl]oxy] benzoate and its cholinesterase-inhibiting metabolites in or on corn (forage and fodder) at 1.0 parts per million (ppm); corn, fresh (including sweet) (K+CWHR) at 0.1 ppm; corn grain at 0.1 ppm; meat, fat, and meat byproducts of cattle, goats, hogs, horses, sheep, and poultry at 0.1 ppm; and milk and eggs at 0.02 ppm. This regulation was requested by Mobay Chemical Corp. This rule establishes a maximum permissible level for residues of 1-methylethyl 2-[[ethoxy-[(1-methylethyl)-amino]phosphinothioyl]oxy] benzoate and its cholinesterase-inhibiting metabolites in or on the above raw agricultural commodities.

**EFFECTIVE DATE:** Effective on July 14, 1980.

**FOR FURTHER INFORMATION CONTACT:** William H. Miller, Product Manager (PM) 16, Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460, 202/426-4026.

**SUPPLEMENTARY INFORMATION:** Notice was published in the Federal Register of August 18, 1978 (43 FR 36688) that Mobay Chemical Corporation, Chemagro Division, P.O. Box 4913, Kansas City, MO 64120, had filed a petition (PP 8F2090) with the EPA. This petition proposed that 40 CFR be amended by establishing tolerances for the combined residues of the insecticide 1-methylethyl 2-[[ethoxy-[(1-methylethyl)-amino]phosphinothioyl] oxy] benzoate and its cholinesterase-inhibiting metabolites, in or on the following commodities: corn (forage and fodder) at 1.0 ppm; corn, fresh (including sweet) (K+CWHR) at 0.1 ppm; corn, grain (including field and popcorn) at 0.1 ppm; meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep at 0.02 ppm, and milk at 0.004 ppm.

Notice was published in the Federal Register of June 27, 1979 (44 FR 37554)

that the applicant had submitted an amendment to this petition to include the commodities poultry at 0.1 ppm and eggs at 0.02 ppm; and to increase the proposed tolerance levels of milk from 0.004 to 0.02 ppm and the meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep from 0.02 to 0.1 ppm.

Subsequently, the petition was further amended to revise the proposed tolerances on corn grain (including field and popcorn) for purposes of consistency to read: corn, grain; and to revise the tolerance proposal by specifying the metabolites of concern as follows: Tolerance are proposed for combined residues of insecticide 1-methylethyl 2 ((ethoxy((1-methylethyl) amino) phosphinothioyl)oxy) benzoate and its cholinesterase-inhibiting metabolites 1-methylethyl 2-((ethoxy((1-methylethyl)amino) phosphinoyl)oxy)benzoate, 1-methylethyl 2-((ethoxy(1-amino) phosphinoyl)oxy)benzoate and 1-methylethyl 2-((ethoxy(1-amino) phosphinothioyl)oxy)benzoate.

The data submitted in the petition and other relevant material have been evaluated, and it is concluded that the pesticide may be safely used in the prescribed manner.

The toxicological data considered in support of the proposed tolerance included two-year rat and dog feeding studies with no-observed-effect levels (NOEL) of 1.0 ppm and 2 ppm respectively; a three-generation rat reproduction study with a NOEL of 1.0 ppm; rat and mouse oncogenic studies which were both negative; rat and rabbit teratology studies which were negative at 3 mg/kg/day and 5 mg/kg/day respectively; a hen acute neurotoxicity study which was negative and an Ames mutagenicity test which was negative.

Based on the two-year rat feeding study with an NOEL of 1.0 ppm and using a safety factor of 10, the acceptable daily intake (ADI) for humans is 0.0050 milligrams (mg)/kilogram (kg) of body weight (bw)/day, and the maximum permissible intake (MPI) is 0.3000 mg/day for a 60 kg human. The theoretical maximum residue contribution (TMRC) in the human diet from the proposed tolerances will utilize 11.32 percent of the ADI. The proposed tolerances result in a TMRC of 0.0340 mg/day/1.5 kg.

The proposed tolerances of 0.1 ppm in meat, fat, and meat byproducts and of 0.02 ppm in milk and eggs are adequate to cover secondary residues resulting from the proposed use. An adequate analytical method is available for enforcement purposes and the nature of the residues are adequately understood.

Temporary tolerances have previously been established for combined residues of the insecticide and its cholinesterase-inhibiting metabolites in or on corn grain (except popcorn) at 0.1 ppm; milk and eggs at 0.02 ppm; and the meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep at 0.1 ppm (April 19, 1979; 44 FR 23307) and have been extended until August 1, 1980. No actions are pending against the registration of the insecticide, and no other considerations are involved in establishing the proposed tolerances.

Whether or not the product will be conditionally registered under Section 3(c)(7)(c) of the Federal Insecticide Fungicide and Rodenticide Act as amended will depend on a finding that the registration will be in the public interest. This issue will be addressed in association with the registration review.

The pesticide is considered useful for the purpose for which the tolerances are sought. Establishment of the tolerances will protect the public health. Therefore, the regulation amending 40 CFR 180 by establishing § 180.387 is set forth below.

Any person adversely affected by this regulation may, on or before August 13, 1980, file written objections with the Hearing Clerk, EPA, Room M–3708 (A–110), 401 M Street, SW, Washington, D.C. 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 be 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" procedures. 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 date: July 14, 1980.

(Sec. 408(d)(2), 68 Stat. 514, (21 U.S.C. 346a(e)).

Dated: July 7, 1980.

**Edwin L. Johnson,**

*Deputy Assistant Administrator for Pesticide Programs.*

Subpart E, of 40 CFR is amended by establishing a § 180.387 to read as follows:

**§ 180.387 1-methyl 2-[[ethoxy-[(1-methylethyl) amino] phosphinothioyl)oxy)benezoate.**

Tolerances are established for combined residues of the insecticide 1-methylethyl 2((ethoxy((1-methylethyl)amino) phosphinothioyl)oxy) and its cholinesterase inhibiting benzoate metabolites 1-methylethyl 2-((ethoxy ((1-methylethyl)amino)phosphinoyl)oxy) benzoate, 1-methylethy 2-((ethoxy(1-amino)phospinoyl)oxy)benzoate and 1-methylethyl 2-((ethoxy(1-amino)phosphinothioyl)oxy)benzoate in or on the following raw agricultural commodities:

| Commodities: | Part per million |
|---|---|
| Corn, forage and fodder | 1.0 |
| Corn, fresh including sweet, (K + CWHR) | 0.1 |
| Corn, grain | 0.1 |
| Eggs | 0.02 |
| Meat, fat, and meat byproducts of cattle, goats, hogs, horses, sheep and poultry | 0.1 |
| Milk | 0.02 |

[FR Doc. 80–20946 Filed 7–11–80; 8:45 am]

BILLING CODE 6560–01–M

## 40 CFR Part 180

**[PP 9E2262/R252; FRL 1537–4]**

## Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Ethephon

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This rule establishes a tolerance for residues of the plant growth regulator ethephon on guava at 0.1 part per million (ppm). The regulation was requested by the Interregional Research Project No. 4. This rule establishes a maximum permissible level for residues of ethephon on guava.

**EFFECTIVE DATE:** Effective on July 14, 1980.

**FOR FURTHER INFORMATION CONTACT:** Patricia Critchlow, Room E–107, Registration Division (TS–767), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20406, 202–426–0223.

**SUPPLEMENTARY INFORMATION:** In the **Federal Register** of April 28, 1980, (45 FR 28172), the EPA published a notice of proposed rulemaking in response to a pesticide petition (PP 9E2262) 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 Station of Hawaii, under the provisions of the Federal Food, Drug, and Cosmetic Act. This petition proposed that 40 CFR 180.300 be amended by the establishment of a tolerance for residues of the plant growth regulator ethephon ((2-chloroethyl)phosphonic acid) in or on

the raw agricultural commodity guava at 0.1 ppm.

No comments or requests for referral to an advisory committee were received in response to this proposed rulemaking.

The data submitted in the petition and other relevant material have been evaluated. The toxicology data considered in support of the tolerance included a chronic two-year rat feeding study with no-observed-effect-levels (NOEL) of 30 ppm (based on anti-cholinesterase activity) and 3,000 ppm (based on systemic effects); two 2-year dog feeding studies, one with a NOEL of 50 ppm and another with NOELs of 30 ppm (based on anticholinesterase activity) and 300 ppm (based on systemic effects); a rabbit teratology study with a NOEL of 1,000 ppm, a three-generation rat reproduction study with a NOEL of 1,500 ppm; and a hen neurotoxicity study with a NOEL of 1,000 ppm. A minimal amount of data regarding oncogenesis is available from the two year oral rat study. A second oncogenesis study in mice has been requested.

The acceptable daily intake (ADI) for this chemical is calculated to be 0.0125 milligrams (mg)/kilogram (kg) of body weight (bw)/day based on the 50 ppm NOEL of the two-year dog feeding studies using a 100-fold safety factor. Tolerances have been previously established for residues of ethephon in or on a variety of raw agricultural commodities, ranging from 0.1 ppm to 30 ppm. Existing tolerances result in a theoretical maximum residue contribution (TMRC) of 0.4 mg/day/1.5-kg daily diet. The maximum permissible intake (MPI) of ethephon is calculated to be 0.75 mg/day/60-kg human. The tolerance level will result in an insignificant increase in the TMRC.

The metabolism of ethephon is adequately understood, and an adequate analytical method (gas chromatography) is available for enforcement purposes. There is no reasonable expectation of residues in meat, milk, poultry, and eggs as delineated in 40 CFR 180.6(a)(3). There are presently no actions pending againt the continued registration of ethephon, nor are any other considerations involved in establishing the tolerance.

The pesticide is considered useful for the purpose for which a tolerance is being sought, and it is concluded that the tolerance of 0.1 ppm on guava established by amending 40 CFR 180.300 will protect the public health. It is concluded, therefore, that the tolerance be established as set forth below.

Any person adversely affected by this regulation may, on or before August 13, 1980, file written objections with the Hearing Clerk, EPA, Rm. M-3708 (A-100), 401 M Street, 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 rule has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Dated: July 3, 1980.

**Edwin L. Johnson,**

*Deputy Assistant Administrator for Pesticide Programs.*

Part 180, Subpart C, 180.300 is amended by editorially reformatting the section into an alphabetized columnar listing and by alphabetically inserting guava at 0.1 ppm; as follows:

**§ 180.300 Ethephon; tolerances for residues.**

Tolerances are established for residues of the plant growth regulator ethephon ((2-chloroethyl) phosphonic acid) in or on the following raw agricutural commodities:

| Commodity: | *Parts per million* |
|---|---|
| Apples | 5 |
| Blackberries | 30 |
| Blueberries | 20 |
| Cantaloupes | 2 |
| Cherries | 10 |
| Coffee Bean | 0.1(N) |
| Cranberries | 5 |
| Figs | 5 |
| Filberts | 0.5 |
| Guava | 0.1 |
| Lemons | 2 |
| Peppers | 30 |
| Pineapples | 2 |
| Pineapples, fodder | 3 |
| Pineapples, forage | 3 |
| Tangerines | 0.5 |
| Tangerines, hybrids | 0.5 |
| Tomatoes | 2 |
| Walnuts | 0.5 |

[FR Doc. 80-20944 Filed 7-11-80; 8:45 am]

BILLING CODE 6560-01-M

## GENERAL SERVICES ADMINISTRATION

### 41 CFR Part 5B-2

**[APD 2800.4 CHGE 3]**

### Procurement; Charges and Deposits for Bidding Documents

**AGENCY:** General Services Administration.

**ACTION:** Final rule.

**SUMMARY:** The General Services Administration Procurement Regulations (GSPR 5B) are amended to revise the policy on charges and deposits for bid documents. This amendment reflects a change in the current policy of the Public Buildings Services by requiring approval before using nonrefundable charges and by encouraging a reduction in the use of deposits. The intended effect of this amendment is to encourage bidder participation and enhance competition.

**EFFECTIVE DATE:** August 5, 1980.

**FOR FURTHER INFORMATION CONTACT:** Mr. Philip G. Read, Director, Federal Procurement Regulations Directorate, Office of Acquisition Policy (703-557-8947).

Section 5B-2.202-76 is revised as follows:

**§ 5B-2.202-76 Charges and deposits for bidding documents.**

This subsection is applicable to construction procurements, including repairs and alterations.

(a) Generally, bid documents will be provided free and without a requirement for either a refundable deposit or a nonrefundable charge, except as provided in paragraph (c) of this § 5B-2.202-76. Bid documents will be provided free for review purposes to plan rooms, contractor service facilities, and other similar places having a legitimate interest in the bidding process.

(b) To encourage the return of specifications and drawings to GSA for use by the Government and successful contractors, a note similar to the following, shall be prominently placed in each solicitation:

**Note.**—We request your cooperation in returning the bid documents to GSA within 20 calendar days after bid opening date.

(c) If the contracting officer determines before issuance of the solicitation that an insufficient number of sets of bid documents were being returned on previous projects, a refundable bid document deposit may be required. Under extraordinary circumstances, a nonrefundable charge

may be required for bid documents if approved by the Assistant Regional Administrator, PBS. No charges or deposits shall be made in negotiated procurements.

(1) The amount of deposit for bid documents should be determined on the basis of the actual printing costs of the documents. The following table is for guidance purposes only, and the contracting officer may require amounts higher or lower than those shown. Deposits should not be so high as to discourage bidder participation. Refundable bid document charges are intended to ensure the return of bid documents to the Government for use by the successful contractor and Government personnel, and thus minimize the need for duplication of additional sets. When the administrative cost of processing bid document deposits and returning bid documents is greater than the value of returned documents, the contracting officer should not require a deposit.

| Estimated project cost range | Guide for refundable bid document deposit |
|---|---|
| Up to $1,000,000 | None |
| $1,000,000 to $5,000,000 | $30 |
| $5,000,000 to $10,000,000 | 40 |
| $10,000,000 and over | 50 |

(2) When a bid document deposit is required, the pre-invitation notice shall require that the deposit in a procurement, be made by certified check, cashier's check, or money order in the applicable amount, payable to the General Services Administration. If a deposit is not submitted as specified, a reasonable attempt shall be made to obtain the deposit in the proper form without delay.

A record of this contact shall be placed in the contract file. Refund of the bid document deposit will be made for bid documents returned in good condition, without marks, notes, or mutilations, within 20 calendar days after bid opening date. Refunds shall not be made for bid documents returned more than 20 days after bid opening.

(3) The contracting officer shall cite the amount of the refundable deposit on GSA Form 2056, Pre-Invitation Notice (Construction Contract).

(Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c)))

Dated: June 20, 1980.

**Gerald McBride,**

[FR Doc. 80-20912 Filed 7-11-80; 8:45 am]

**BILLING CODE 6820-61-M**

## 41 CFR Chapter 101

**[FPMR Temp. Reg. E-71]**

### Procurement of Burner Fuel Oil

**AGENCY:** General Services Administration.

**ACTION:** Temporary regulation.

**SUMMARY:** This regulation increases the minimum amount of burner fuel oil above which agencies must procure from the Defense Fuel Supply Center as stated in the FPMR from 2,000 gallons to 10,000 gallons. This change will permit agencies to procure more burner fuel oil from local sources through small purchase procedures, thereby making fuel more readily available at the point of need in a timely manner.

**DATES:** Effective date: July 14, 1980. Expiration date: April 30, 1981.

**FOR FURTHER INFORMATION CONTACT:** Mr. John K. Carney, Director of Supply Policy (703-557-7970).

**SUPPLEMENTARY INFORMATION:** The General Services Administration has determined that this regulation will not impose unnecessary burdens on the economy or on individuals and, therefore, is not significant for the purposes of Executive Order 12044.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

In 41 CFR Chapter 101, the following temporary regulation is added to the appendix at the end of Subchapter E to read as follows:

July 2, 1980.

**Federal Property Management Regulations Temporary Regulation E-71**

To: Heads of Federal agencies.

Subject: Procurement of burner fuel oil.

1. *Purpose.* This regulation increases the minimum annual requirement for burner fuel oil as stated in § 101-26.602-3(a)(1) from 2,000 gallons to 10,000 gallons.

2. *Effective date.* This regulation is effective upon publication in the **Federal Register.**

3. *Expiration date.* This regulation expires on April 30, 1981, unless sooner revised or superseded. Before that date, this regulation will be codified in the permanent regulations of GSA appearing in Title 41 CFR, Public Contracts and Property Management.

4. *Background.* Section 101-26.602-3(a)(1) now provides that estimated minimum annual requirements of less than 2,000 gallons for burner fuel oil shall not be submitted to the Defense Fuel Supply Center of the Defense Logistics Agency (DLA) unless the requiring activity does not have authority or capability to procure locally. By increasing the minimum annual requirement for burner fuel oil from 2,000 gallons to 10,000 gallons, GSA and other agencies can take advantage of local sources for burner fuel oil through small purchase procedures. This action should make fuel more readily available at the point of need and allow DLA to devote its time and effort to larger quantity and dollar volume procurements.

5. *Effect on other directives.* This temporary regulation amends § 101-26.602-3(a)(1) by increasing the minimum annual requirement for burner fuel oil from 2,000 gallons to 10,000 gallons.

**R. G. Freeman III,**

*Administrator of General Services.*

[FR Doc. 80-20911 Filed 7-11-80; 8:45 am]

**BILLING CODE 6820-24-M**

## FEDERAL COMMUNICATIONS COMMISSION

## 47 CFR Part 73

**[Docket No. 20642; RM-434; RM-441; RM-478; RM-530; RM-2474]**

### Clear Channel Broadcasting in the AM Broadcast Band; Correction

**AGENCY:** Federal Communications Commission.

**ACTION:** Correction.

**SUMMARY:** Corrects the Report and Order in Docket No. 20642, Clear Channel Broadcasting in the AM Broadcasting Band, (45 FR 43172, June 26, 1980) to include a line which was omitted from the amended rules, and explains that the new power limitation applies only to nighttime operations of Class II-B stations.

**EFFECTIVE DATE:** August 1, 1980.

**ADDRESSES:** Federal Communications Commission, Washington, D.C. 20554.

**FOR FURTHER INFORMATION CONTACT:** Molly Pauker, Broadcast Bureau, (202) 632-6302.

**SUPPLEMENTARY INFORMATION:**

In the matter of Clear Channel Broadcasting in the AM Broadcast Band; Docket No. 20642, RM-434, RM-441, RM-478, RM-530, RM-2474.

Released: July 7, 1980.

The *Report and Order*, Docket No. 20642, 45 FR 43172 (June 26, 1980), 4a item 1. and footnote 8 are corrected to read as follows:

Attachment III, Rules Revisions, pages 4 and 5 (45 FR 43187):

4a. Amend the table in § 73.182(v) as follows:

1. Insert the following line in the table between the line starting with "II-B and II-D" and the line starting with "III-A:"

| | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| Class II-B and II-D* | do | 0.25 kW to 1 kW* | Do | 10,000 uV/m*. | Do | 500 uV/m* |

* Applies only to nighttime operations of Class II-B stations coming within § 73.21(a)(2)(ii)(C), and to the operation of limited-time Class II-D stations during nighttime hours other than those during which they were authorized to operate as of June 1, 1980

Federal Communications Commission.

**William J. Tricarico,**

*Secretary.*

[FR Doc. 80-20995 Filed 7-11-80; 8:45 am]

**BILLING CODE 6712-01-M**

## DEPARTMENT OF TRANSPORTATION

### 49 CFR Part 571

**[Docket No. 71-1; Notice No. 08]**

### Federal Motor Vehicle Safety Standards; Glazing Materials

**AGENCY:** National Highway Traffic Safety Administration (NHTSA) DOT.

**ACTION:** Final rule (interpretive amendment).

**SUMMARY:** In response to a petition for rulemaking, this notice amends Safety Standard No. 205, *Glazing Materials*, to clarify that Item 5 rigid plastics can be used in all the vehicle locations that are specified in the standard for Item 12 rigid plastics, and that Item 7 flexible plastics can be used in all the vehicle locations that are specified in the standard for Item 13 flexible plastics. Glazing materials that comply with the Item 5 and Item 7 test requirements, by definition, also comply with the less stringent Item 12 and 13 test requirements, respectively. Currently, however, the standard inadvertently prohibits the use of Items 5 and 7 glazing materials in some of the locations in which the Items 12 and 13 materials may be used. The purpose of this amendment is to modify the standard to remove that inconsistency.

**DATES:** Effective date July 14, 1980.

**ADDRESSES:** Any petition for reconsideration should refer to the docket number and notice number specified in this notice and be submitted to Docket Section, Room 5108, National Highway Traffic Safety Administration, Washington, D.C. 20590.

**FOR FURTHER INFORMATION CONTACT:** Mr. Edward Jettner, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-426-2264).

**SUPPLEMENTARY INFORMATION:** Safety Standard No. 205, *Glazing Materials* (49 CFR 571.205), specifies performance requirements for vehicle glazing as well as the locations in which particular types of glazing may be used. The standard incorporates by reference the American National Standard "Safety Code for Glazing Materials for Glazing Motor Vehicles Operating on Land Highways," Z26.1—1966 (hereinafter ANS Z26). The ANS Z26 standard defines the various types of glazing in terms of performance tests with which a particular "Item" must comply. There are currently thirteen Items or types of glazing specified in the standard.

Safety Standard No. 205 was amended in 1972 to allow two additional types of glazing for use in specified vehicle locations not required for driving visibility (37 FR 12237, June 21, 1972). The first new glazing type was a rigid plastic described as "Item 12", and the second was a flexible plastic described as "Item 13". The test requirements specified for Item 12 are identical to the test requirements for Item 5 rigid plastics, and the test requirements for Item 13 are identical to the test requirements for Item 7 flexible plastics, except that neither Item 12 nor 13 is required to meet the test for resistance to undiluted denatured alcohol (Formula SD No. 30). Therefore, the performance requirements of the standard are more stringent for Items 5 and 7 than for Items 12 and 13, respectively, because of the one additional test with which the former must comply.

When Items 12 and 13 were added to the standard, several locations in which the types could be used were specified which were not included for Items 5 and 7. Thus, the standard specifies that Item 12 plastics may be used as motorcycle windscreens, but there is no such specification for Item 5 plastics. Similarly, the standard allows Item 13 plastics to be used in standee windows in buses, interior partitions, and in openings in the roof, but does not specify those locations for Item 7 plastics.

Since Items 5 and 7 glazing materials must meet more stringent requirements, they should be allowed in all vehicle locations in which Items 12 and 13 may be used. Last year, the Rohm and Haas Company petitioned the agency to amend Safety Standard No. 205 to remove this inconsistency. This notice responds to that petition.

The agency agrees that the standard is currently inconsistent with regard to the locations in which the various types of rigid and flexible plastics may be used. When Items 12 and 13 were added to the standard, the agency inadvertently failed to expand the list of permitted locations for Items 5 and 7 so that the list would include all of the locations specified for Items 12 and 13. (The agency wishes to point out that there are several locations specified for Items 5 and 7 in which Items 12 and 13 may not be used. This is appropriate since the performance requirements for Items 5 and 7 are more stringent.)

The agency has determined that the change requested by the petitioner can be accomplished by interpretive amendment and that opportunity for public comment is not required. Items 5 and 7 glazing also qualify as Items 12 and 13, respectively, because an Item of glazing is only defined in the standard in terms of the test requirements it can meet. Since Items 5 and 7 glazing comply with all the test requirements specified for Items 12 and 13, manufacturers would be permitted to mark a particular piece of glazing as Item 12 or 13 and to use the glazing in the locations specified for those Items, even though that piece of glazing could also pass the additional test requirement for the higher-grade plastics, Item 5 or 7. There is nothing in the standard which requires a specific piece of glazing to be labeled with the highest performance Item number with which it can qualify, although for practical purposes this is generally done. In other words, Items 12 and 13 glazing are lower performance forms of Items 5 and 7 glazing. Therefore, Items 5 and 7 can be used wherever Items 12 and 13 may be used in the vehicle. This notice amends Standard No. 205 to clarify this point by making the necessary additions to the list of locations currently specified for Items 5 and 7.

Since this amendment removes a current inconsistency in the standard, the agency has determined that an immediate effective date is in the public interest.

The agency has determined that this amendment does not qualify as a significant regulation under Executive Order 12044 and the Departmental directives implementing that Order. Since the amendment only clarifies existing requirements, there should be negligible cost or environmental impacts resulting from this modification. Therefore, no regulatory evaluation has been prepared.

The engineer and lawyer primarily responsible for the development of this amendment are Edward Jettner and Hugh Oates, respectively.

In consideration of the foregoing, Safety Standard No. 205, 49 CFR 571.205, is amended by adding a new subparagraph (m) to paragraph S 5.1.1.2

and a new subparagraph (l) to paragraph S 5.1.1.3 to read:

**§ 571.205 Standard No. 205, glazing materials.**

* * * * *

S 5.1.1.2 * * *

(m) for Item 5 safety glazing only: Motorcycle windscreens below the intersection of a horizontal plane 15 inches vertically above the lowest seating position.

* * * * *

S 5.1.1.3 * * *

(l) "For Item 7 safety glazing only:

(1) Standee windows in buses.

(2) Interior partitions.

(3) Openings in the roof.

(Secs. 103, 119, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1407), delegation of authority at 49 CFR 1.50)

Issued on July 7, 1980.

**Joan Claybrook,**

*Administrator.*

[FR Doc. 80–20697 Filed 7–8–80; 2:49 pm]

BILLING CODE 4910–59–M

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**49 CFR Part 571**

**[Docket Nos. 1–18 and 74–14; Notices 16 and 18]**

## Federal Motor Vehicle Safety Standards Controls and Displays; Occupant Crash Protection

**AGENCY:** National Highway Traffic Safety Administration (NHTSA).

**ACTION:** Final rule (correction).

**SUMMARY:** The purpose of this notice is to correct an amendment to Safety Standard No. 208, *Occupant Crash Protection,* that was issued September 27, 1979 (44 FR 55579). That notice amended the seat belt warning system requirements of the standard to specify the use of the seat belt telltale symbol that is specified in Safety Standard No. 101–80, *Controls and Displays.* In that amendment, certain warning system requirements, which had previously been deleted from Standard No. 208, were incorrectly re-inserted in the standard. This notice corrects those errors. Further, this amendment makes clear that the telltale symbol of Standard No. 101–80 will supersede certain existing requirements in Standard No. 208 after Standard No. 101–80 becomes effective September 1, 1980.

**DATES:** These amendments are effective on July 14, 1980.

**FOR FURTHER INFORMATION CONTACT:** Hugh Oates, Office of Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590 (202–426–2992).

**SUPPLEMENTARY INFORMATION:** The seat belt warning system requirements of Safety Standard No. 208, *Occupant Crash Protection* (49 CFR 571.208), currently specify that under certain conditions, when seat belts are not fastened, the words "Fasten Belts" or "Fasten Seat Belts" shall be displayed on the vehicle dashboard. On June 26, 1978, the NHTSA published Safety Standard No. 101–80 (49 CFR 571.101–80) to establish new uniform requirements for the location, identification, and illumination of controls and displays in motor vehicles. That standard specifies a telltale symbol that is to be illuminated when a vehicle's front seat belts have not been fastened. The standard is to become effective September 1, 1980.

On September 27, 1979, the agency amended Safety Standard No. 208 to permit the optional use of the seat belt telltale symbol specified in Safety Standard No. 101–80 prior to the effective date of that standard (44 FR 55579). However, that amendment failed to clarify that, after the effective date of Standard No. 101–80 (September 1, 1980), the telltale symbol will be required to be used in a vehicle's belt warning system. This notice clarifies that point.

When the seat belt telltale symbol was added to Safety Standard No. 208, the amendment inaccurately stated the pertinent sections of the standard that were to be modified. Further, paragraph S4.5.3.3(b)(1) inadvertently omitted language concerning the audible warning. This notice adds the omitted language for that paragraph and, additionally, deletes the parenthetical "(1)" in the paragraph heading. Since there is no longer a subparagraph "(2)", the heading should be specified as "S4.5.3.3(b)".

The 1979 amendment also incorrectly added two sections to the warning system requirements that had previously been deleted from the standard, S7.3.1 and S7.3a. This mistake occurred because the warning system requirements are incorrectly codified in Title 49 of the Code of Federal Regulations. On July 5, 1977 (42 FR 34299), Safety Standard No. 208 was amended to delete section S7.3 and to redesignate section S7.3a as S7.3 (as the sections were numbered at that time). When this amendment was codified in the Code of Federal Regulations, however, only paragraph S7.3 was deleted, not the entire section (S7.3 through S7.3.5.4). Instead, S7.3a was transposed as S7.3 and S7.3.1 through S7.3.5.4 remained. Unfortunately, these deleted sections were used as a reference when the seat belt telltale symbol amendment was added to Standard No. 208. This notice also corrects that error.

In consideration of the foregoing, Part 571.208, *Occupant Crash Protection,* Title 49 of the Code of Federal Regulations is amended as follows:

**§ 571.208 [Amended]**

1. Section 4.5.3.3(b) is revised to read as follows:

Section 4.5.3.3(b) In place of a warning system that conforms to § 7.3 of this standard, be equipped with the following warning system:

At the left front designated seating position (driver's position), be equipped with a warning system that activates a continuous or intermittent audible signal for a period of not less than 4 seconds and not more than 8 seconds (beginning when the vehicle ignition switch is moved to the "on" or the "start" position) when condition (a) exists simultaneously with condition (b), and that activates a continuous or flashing warning light, visible to the driver, displaying the identifying symbol for the seat belt telltale shown in Table 2 of FMVSS 101–80 or, at the option of the manufacturer for vehicles manufactured before September 1, 1980, displaying the words "Fasten Seat Belts" or "'Fasten Belts" for as long as condition (a) exists simultaneously with condition (b).

(a) The vehicle's ignition switch is moved to the "on" position or to the "start" position.

(b) The driver's automatic belt is not in use, as determined by the belt latch mechanism not being fastened or, if the automatic belt is nonseparable, by the emergency release mechanism being in the released position.

2. Section 7.3 is revised to read as follows:

Section 7.3 A seat belt assembly provided at the driver's seating position shall be equipped with a warning system that activates, for a period of not less than 4 seconds and not more than 8 seconds (beginning when the vehicle ignition switch is moved to the "on" or the "start" position), a continuous or flashing warning light, visible to the driver, displaying the identifying symbol for the seat belt telltale shown in Table 2 of Federal Motor Vehicle Safety Standard No. 101–80 or, at the option of the manufacturer for vehicles manufactured before September 1, 1980, displaying the words "Fasten Seat Belts" or "Fasten Belts" when condition (a) exists, and a continuous or intermittent audible signal when condition (a) exists simultaneously with condition (b).

(a) The vehicle's ignition switch is moved to the "on" position or to the "start" position.

(b) The driver's lap belt is not in use, as determined, at the option of the manufacturers, either by the belt latch mechanism not being fastened, or by the belt not being extended at least 4 inches from its stowed position.

3. Sections 7.3.1, 7.3.2, 7.3.3, 7.3.4, 7.3.5, 7.3.5.1, 7.3.5.2, 7.3.5.3, 7.3.5.4 and 7.3a are deleted.

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegations of authority at 49 CFR 1.50 and 501.8.)

Issued on July 7, 1980.

**Michael M. Finkelstein,**

*Associate Administrator for Rulemaking.*

[FR Doc. 80-20744 Filed 7-8-80; 4:02 pm]

BILLING CODE 4910-59-M

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**49 CFR Part 575**

**[Docket No. 79-02, Notice 2]**

## Consumer Information Regulations

**AGENCY:** National Highway Traffic Safety Administration.

**ACTION:** Final rule.

**SUMMARY:** This notice amends the Consumer Information Regulations by deletion of the requirement that manufacturers supply information on acceleration and passing ability to vehicle first purchasers and prospective purchasers. The notice also revises the timing of manufacturers' submissions of performance data to the National Highway Traffic Safety Administration (NHTSA). These modifications, which were proposed in response to a General Motors Corporation petition for rulemaking, are intended to lessen regulatory burdens on industry, while providing performance data in a manner more useful to consumers.

**EFFECTIVE DATES:** The amendment of § 575.6(d) is effective June 1, 1981. The deletion of § 575.106 is effective immediately, July 7, 1980.

**FOR FURTHER INFORMATION CONTACT:** Ivy Baer, Office of Automotive Ratings, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590, 202-426-1740.

**SUPPLEMENTARY INFORMATION:** The Consumer Information Regulations (49 CFR Part 575) provide first purchasers and prospective purchasers with performance information relating to the safety of motor vehicles and tires. This information is intended to aid consumers in making comparative purchasing decisions and in the safe operation of vehicles. General Motors Corporation petitioned NHTSA to delete requirements for consumer information on passenger car and motorcycle stopping distance (49 CFR 575.101), passenger car tire reserve load (49 CFR 575.102), and passenger car and motorcycle acceleration and passing ability (49 CFR 575.106), on the basis that this information is of limited value to consumers. In response to this petition, NHTSA proposed (44 FR 15748; March 15, 1979) to delete the requirement for acceleration and passing ability information and to limit the application of the tire reserve load provisions to vehicles with significant cargo capacity, thus dropping the requirement for most passenger cars. NHTSA also proposed that vehicle manufacturers submit performance data to the agency at least 90 days before model introduction, compared to the 30-day advance submission which had been required (49 CFR 575.6).

### Timing of Data Submission

The primary purpose of the advance submission to NHTSA is to permit the agency to compile and disseminate performance data in a comparative format for use by prospective vehicle purchasers. A major criticism of the consumer information program in the past has been that comparative information reached the consumer too late in the model year to be of real value in choosing between competing vehicles. A 90-day advance submission would permit the agency to assemble and distribute comparative information early in the model year, when it would be of greatest value to consumers.

Some industry commenters questioned the need for earlier submission of data on the basis that agency delays in publishing the data will result in comparative information being available late in the model year, in spite of the earlier submission. Other manufactueres argued that consumer interest in the information is limited in any case. General Motors suggested that vehicle design changes during the model year rapidly outdate the information, further limiting its value.

However, the Center for Auto Safety (CFAS) commented that it receives numerous requests from consumers for comparative information on motor vehicles. CFAS also pointed out the popularity of comparative motor vehicle information on the rare occasions when such information is made available by independent publishers. NHTSA has concluded that consumer interest in comparative performance information would be substantial if the information were made available in a timely manner. Further, NHTSA has determined that few running design changes during the model year are so major as to significantly affect the performance characteristics covered by the consumer information regulations.

The success of the Environmental Protection Agency in publishing its popular fuel economy guides in a timely manner indicates that publication of vehicle information by NHTSA early in the model year is practical. However, based on past experience, it appears that a 90-day advance submission is the minimum lead time necessary for NHTSA to publish and distribute the information.

Some manufacturers indicated they may have difficulty providing accurate performance information 90 days in advance of model introduction due to the possibility of last minute design changes. However, American Motors Corporation commented that a 90-day advance submission requirement would pose no problem at new model introduction, although it would inhibit running changes during the model year. In view of the importance of supplying comparative information early in the model year, NHTSA has adopted the proposed 90-day advance submission requirement for model introduction. However, to avoid delaying the introduction of product improvements, the 30-day notice period has been retained for changes occurring during the model year.

### Tire Reserve Load

In response to General Motors' petition, NHTSA proposed modifying the tire reserve load information requirement to limit its application to trucks and multipurpose passenger vehicles with a gross vehicle weight rating of 10,000 pounds or less, and to passenger cars with a maximum cargo capacity of 25 cubic feet or more. The regulation had applied to all passenger cars, but not to trucks or multipurpose passenger vehicles.

Comments from many industry and consumer sources recommended deleting the tire reserve load information requirement completely. CFAS commented that consumer interest in tire reserve load information has been limited. Many comments from car, truck and recreational vehicle manufacturers expressed concern that presenting information on tire reserve load may encourage vehicle overloading by misleading consumers into thinking that vehicles have additional load carrying capacity. Several commenters suggested that Federal Motor Vehicle Safety Standards 110 and 120 provide the appropriate means of ensuring that

vehicles are equipped with tires of adequate size and load rating.

A recent study conducted for NHTSA (Docket 79–02, Notice 1–016) indicates that tire reserve load is an important factor in preventing passenger car tire failure. Additional information is being gathered on this subject and the agency is planning to propose amendment of Federal Motor Vehicle Safety Standard 110 to require a minimum tire reserve load on passenger cars. Preliminary analysis suggests that a tire reserve load percentage of 10% or greater is necessary to provide an adequate safety margin.

NHTSA has found that presently available information is not sufficient to justify extension of the tire reserve load requirements to light trucks and multipurpose passenger vehicles at this time. However, in view of the safety implications of tire reserve load for passenger cars and in the absence of a requirement for minimum tire reserve load, NHTSA believes that information on this subject should be available to passenger car purchasers and owners. The agency has concluded that provision of tire reserve load information in its present form does not encourage vehicle overloading, since a warning against loading vehicles beyond their stated capacity must accompany the information.

For these reasons, NHTSA has determined that the existing requirement for tire reserve load information must remain in effect at least until the completion of rulemaking on the possible amendment of Federal Motor Vehicle Safety Standard 110. If the provision of tire reserve load information no longer appears necessary then, the agency will reconsider the status of tire reserve load as a consumer information item. At this time, however, NHTSA withdraws the proposal to modify the tire reserve load consumer information requirements.

**Acceleration and Passing Ability**

The final aspect of NHTSA's proposal was deletion of acceleration and passing ability (49 CFR 575.106) from the consumer information requirements. The acceleration and passing ability provision required information on the distance and time needed to pass a truck traveling at 20 mph and at 50 mph. The passing vehicle was permitted to attain speeds of up to 35 mph and 80 mph in the respective maneuvers.

In proposing deletion of this requirement, NHTSA felt that the national interest in energy conservation had substantially diminished consumer demand for rapid acceleration capability. Further, the high speed driving permitted by the test procedures appeared to contradict the safety and energy saving policies behind the national 55-mph speed limit. Commenters on the proposal, including American Motors, CFAS, General Motors and Volkswagen of America, unanimously agreed that the acceleration and passing ability provision was no longer of interest to consumers and had become inconsistent with national goals. Section 575.106 has, therefore, been deleted from the consumer information regulations.

NHTSA's regulatory evaluation, conducted pursuant to E.O. 12044, "Improving Government Regulations" and departmental guidelines, indicates that the amendments are not significant. They decrease the regulatory burden on industry, while having no appreciable negative impact on safety. A copy of the regulatory evaluation can be obtained from the Docket Section, Room 5108, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590. Also, the amendments will have no measurable effect on the environment.

Because the amendments as they pertain to acceleration and passing ability relieve a restriction, and to avoid any unnecessary costs in complying with this requirement, the deletion of § 575.106 is effective immediately. So that useful performance information can be provided to consumers for model year 1982 vehicles, the amendment to § 575.6 is effective June 1, 1981.

In consideration of the foregoing, 49 CFR Part 575, *Consumer Information Regulations*, is amended as follows:

1. Section 575.6(d) is amended to read:

**§ 575.6 Requirements.**

* * * * *

(d) In the case of all sections of Subpart B, other than § 575.104, as they apply to information submitted prior to new model introduction, each manufacturer of motor vehicles shall submit to the Administrator 10 copies of the information specified in Subpart B of this part that is applicable to the vehicles offered for sale, at least 90 days before it is first provided for examination by prospective purchasers pursuant to paragraph (c) of this section. In the case of § 575.104, and all other sections of Subpart B as they apply to post-introduction changes in information submitted for the current model year, each manufacturer of motor vehicles, each brand name owner of tires, and each manufacturer of tires for which there is no brand name owner shall submit to the Administrator 10 copies of the information specified in Subpart B of this part that is applicable to the vehicles or tires offered for sale, at least 30 days before it is first provided for examination by prospective purchasers pursuant to paragraph (c) of this section.

**§ 575.106 [Deleted]**

2. Section 575.106 is deleted.

The principal authors of this proposal are Ivy Baer of the Office of Automotive Ratings and Richard J. Hipolit of the Office of the Chief Counsel.

(Sec. 103, 112, 119; Pub. L. 80–563, 80 Stat. 718 (15 U.S.C. 1392, 1401, 1407); delegation of authority at 49 CFR 1.50)

Issued on July 7, 1980.

**Joan Claybrook,**

*Administrator.*

[FR Doc. 80–20696 Filed 7–8–80; 2:49 pm]

BILLING CODE 4910–59–M

# Proposed Rules

Federal Register
Vol. 45, No. 136
Monday, July 14, 1980

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 917

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

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** This notice proposes minimum grade, size, and container requirements for shipments of fresh California Bartlett, Max-Red Bartlett, and Red Bartlett varieties of pears. The requirements are designed to provide orderly marketing in the interest of producers and consumers.

**DATES:** Comments must be received not later than July 28, 1980. Effective date: August 1, 1980.

**ADDRESS:** Send two copies of comments to the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, where they will be made available for public inspection during regular business hours (7 CFR 1.27(b)).

**FOR FURTHER INFORMATION CONTACT:** Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975. The Draft Impact Analysis relative to this proposed rule is available on request from the above named individual.

**SUPPLEMENTARY INFORMATION:** This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044 and classified "not significant." The proposal is being published with less than a 60-day comment period because there is insufficient time between the date when the information upon which it is based became available and the effective date necessary to effectuate the declared policy of the act. The proposed regulation would be issued under the marketing agreement, as amended, and Order No. 917, as amended (7 CFR Part 917), regulating the handling of fresh pears, plums, and peaches grown in California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The proposed regulation was recommended by the Pear Commodity Committee, and other available information.

This proposed regulation is based upon an appraisal of the current and prospective market conditions for California pears. The committee estimates that 3,705 cars of pears will be available for fresh shipment during the 1980 season compared to actual shipment of 2,968 cars last season. The proposed regulation would become effective August 1, 1980, and the requirements are the same as currently in effect through July 31, 1980, under California Pear Regulation 9 (44 FR 44468).

Under the proposal, shipments of Bartlett, Max-Red Bartlett, and Red Bartlett varieties of pears must grade at least U.S. Combination with not less than 80 percent, by count, of the pears grading U.S. No. 1 and be of a size not smaller than the size known commercially as size 165. Containers must be marked with the name of the variety. Pears when packed in closed containers must conform to the requirements of standard pack, except such pears may be fairly tightly packed. Pears when packed in other than closed containers must not vary more than ⅜ inch in their transverse diameter for counts 120 or less, and ¼ inch for counts 135 to 165, inclusive. Volume fill cartons (pears not packed in rows and not wrap packed) must be well filled with pears uniform in size, packed fairly tight, include a top pad in each carton, and the top of the carton must be securely fastened to the bottom.

The proposed grade and size requirements are designed to ensure the shipment of ample supplies of pears of the better grades and more desirable sizes in the interest of producers and consumers. Orderly marketing conditions would be maintained by preventing the demoralizing effect on the market caused by the shipment of lower quality and smaller sized pears when more than ample supplies of the more desirable grades and sizes are available to serve consumers' needs. The proposed container requirements are designed to prevent deceptive packaging practices and to promote buyer confidence.

Such proposal reads as follows:

**§ 917.455 Pear Regulation 10.**

(a) During the period August 1, 1980, through July 31, 1981, no handler shall ship:

(1) Bartlett or Max-Red (Max-Red Bartlett, Red Bartlett) varieties of pears which do not grade at least U.S. Combination with not less than 80 percent, by count, of the pears grading at least U.S. No. 1;

(2) Any box or container of Bartlett or Max-Red (Max-Red Bartlett, Red Bartlett) varieties of pears unless such pears are of a size not smaller than the size known commercially as size 165;

(3) Any box or container of Bartlett or Max-Red (Max-Red Bartlett, Red Bartlett) varieties of pears unless such box or container is stamped or otherwise marked, in plain sight and in plain letters, on one outside end with the name of the variety;

(4) Bartlett or Max-Red (Max-Red Bartlett, Red Bartlett) varieties of pears, when packed in closed containers, unless such box or container conforms to the requirements of standard pack; except, that such pears may be fairly tightly packed;

(5) Bartlett or Max-Red (Max-Red Bartlett, Red Bartlett) varieties of pears, when packed in other than a closed container, unless such pears do not vary more than ⅜ inch in their transverse diameter for counts 120 or less, and ¼ inch for counts 135 to 165, inclusive: *Provided,* That 10 percent of the containers in any lot may fail to meet the requirements of this paragraph; and

(6) Any box or container of Bartlett or Max-Red (Max-Red Bartlett, Red Bartlett) varieties of pears in volume fill cartons (not packed in rows and not wrap packed) unless (i) such cartons are well filled with pears fairly uniform in size; (ii) such pears are packed fairly tight; (iii) there is an approved top pad in each carton that will cover the fruit with no more than ¼ inch between the pad and any side or end of the carton; and (iv) the top of the carton shall be securely fastened to the bottom: *Provided,* That 10 percent of the cartons in any lot may fail to meet the requirements of this paragraph.

(b) *Definitions.* (1) Terms used in the amended marketing agreement and order shall, when used herein, have the

same meaning as is given to the respective term in said amended marketing agreement and order.

(2) "Size known commercially as size 165" means a size of pear that will pack a standard pear box, packed in accordance with the specifications of standard pack, with 165 pears and that one-half of the count size designated, representative of the size of the pears in the box or container, shall weigh at least 22 pounds.

(3) "Standard pear box" means the container so designated in § 1380.19 of the regulations of the California Department of Food and Agriculture.

(4) "U.S. No. 1", "U.S. Combination", and "standard pack" shall have the same meaning as when used in the U.S. Standards for Pears (summer and fall) 7 CFR 2851.1260–2851.1280.

(5) "Approved top pad" shall mean a pad of wood-type excelsior construction, fairly uniform in thickness, weighing at least 160 pounds per 1,000 square feet (e.g. an 11 inch by 17 inch pad will weigh at least 21 pounds per 100 pads) or an equivalent made of material other than wood excelsior approved by the committee.

Dated: July 9, 1980.

D. S. Kuryloski,

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

[FR Doc. 80-20983 Filed 7-11-80; 8:45 am]

BILLING CODE 3410-02-M

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## 7 CFR Part 965

**[Docket No. F&V, AO 307 A-1]**

## Tomatoes Grown in South Texas; Hearing on Proposed Amendment of Marketing Order

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Proposed rule and notice of hearing.

**SUMMARY:** Notice is hereby given of a public hearing to be held to consider a proposed amendment of the marketing order for tomatoes grown in the lower Rio Grande Valley in Texas. The proposal was submitted by the Texas Valley Tomato Committee, the industry group responsible for local administration of the program. The principal changes proposed are to authorize production research and add a public member to the committee. A prenotice release announcing the proposal, inviting public comment, and offering copies of the proposal to interested persons was released on May 22, 1980.

**DATE:** The hearing will begin on July 30, 1980, at 9:00 a.m.

**ADDRESS:** Room A–106, Federal Bldg., 320 N. Main St., McAllen, Texas 78501.

**FOR FURTHER INFORMATION CONTACT:** Charles W. Porter, Chief, Vegetable Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250, (202) 447–2615. The Draft Impact Analysis describing the options considered in developing this notice of hearing and the impact of implementing each option is available on request from the above named individual.

**SUPPLEMENTARY INFORMATION:** This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant".

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900). The proposed amendment has not received the approval of the Secretary of Agriculture.

The public hearing is for the purpose of:

(a) Receiving evidence about the economic and marketing conditions which relate to the proposed amendment and the program it would be effective under;

(b) Determining whether there is a need for an amendment to the Texas Valley tomato marketing order;

(c) Determining whether the proposed amendment or an appropriate modification of it will tend to effectuate the declared policy of the act.

The proposals are as follows:

**Proposal No. 1**

Amend paragraphs (a) and (b) of § 965.22 to read:

**§ 965.22 Establishment and membership.**

(a) The Texas Valley Tomato Committee, consisting of six producer members, three handlers, and one public member, is hereby established. Each shall have an alternate who shall have the same qualifications as the member.

(b) Each committee member and alternate shall be a resident of the production area. Industry members shall be producers or handlers, or officrs or employees of a producer or handler or of a producers' cooperative marketing organization, in the district for which selected. Those representing a producers' marketing cooperative shall be eligible to serve as a handler member or alternate. The public member shall be a person who has no financial interest in the commercial production or marketing of tomatoes except as a consumer, and shall not be a director, officer or employee of any firm so engaged.

**Proposal No. 2**

Amend § 965.24 to read:

**§ 965.24 Districts.**

For the purpose of determining the basis for selecting committee members the following disticts of the production area are established:

District No. 1. The Counties of Cameron and Willacy in the State of Texas; and

District No. 2. The Counties of Hidalgo and Starr in the State of Texas; and

**Proposal No. 3**

Amend § 965.26 to read:

**§ 965.26 Selection.**

The Secretary shall select four members and their respective alternates from District 1; and five members and their respective alternates from District 2. No more than 2 handlers shall be selected from any one district. The public member and respective alternate shall be selected from the production area.

**Proposal No. 4**

Amend paragraphs (a), (c), and (d) of § 965.27 to read:

**§ 965.27 Nomination.**

(a) A meeting or meetings of producers and handlers shall be held in each district to nominate members and alternates on the committee. The committee shall hold such meetings or cause them to be held prior to June 15 of each year, or by such other date as may be specified by the Secretary.

* * * * *

(c) Nominations for committee members and alternates shall be supplied to the Secretary in such manner and form as he may prescribe, not later than July 15 of each year, or by such other date as may be specified by the Secretary.

(d) Only producers may participate in designating producer nominees, and only handlers may participate in naming handler nominees. In the event a person is engaged in producing tomatoes in more than one district, such person shall elect the district within which to participate in designating nominees; and

* * * * *

Add a new paragraph (f) to § 965.27 to read:

(f) The public member and alternate shall be nominated by the committee. The committee shall prescribe additional qualifications and procedure for selection and voting for each candidate.

**Proposal No. 5**

Amend § 965.31 to read:

**§ 965.31 Alternate members.**

An alternate member of the committee shall act in the place and stead of the member during such member's absence or when designated to do so. In the event both a member of the committee and respective alternate are unable to attend a committee meeting, the member, alternate, or the committee, in that order, may designate another alternate from the same group (producer or handler) to serve in such member's stead. In the event of the death, removal, resignation, or disqualification of a member, the alternate shall act for the member until a successor for such member is selected and has qualified. The committee may request the attendance of alternates at any or all meetings, notwithstanding the expected or actual presence of the respective members.

**Proposal No. 6**

Amend § 965.32 to read:

**§ 965.32 Procedure.**

(a) At assembled meetings six members of the committee shall constitute a quorum and six concurring votes shall be required to approve any committee action. Such votes shall be cast in person.

(b) The committee may meet by telephone, telegraph, or other means of communication. Such meetings shall be limited to non-regulatory provisions and any vote cast shall be promptly confirmed in writing. On such occasions seven concurring votes shall be required to approve any action.

**Proposal No. 7**

Amend § 965.35(a) to read:

**§ 965.35 Duties.**

* * * * *

(a) As soon as practicable after the beginning of each term of office, to meet and organize, to select a chairman and such other officers as may be necessary, to select subcommittees of committee members or alternates, to adopt such rules and regulations for the conduct of its business as it may deem advisable, and to recommend nominees for the public member and alternate:

**Proposal No. 8**

**§ 965.42 [Amended]**

Amend § 965.42(a) by adding the following sentence to it:

If a handler does not pay the assessment within the time prescribed by the committee, the assessment may be increased by a late payment charge and/or an interest charge.

Amend the first sentence of § 965.42(b) to read: Assessments and late payment fees shall be levied upon handlers at rates established by the Secretary.

**Proposal No. 9**

**§ 965.43 [Amended]**

Amend Section 965.43 (a)(2) by revising the proviso in the first sentence to read as follows:

(a) * * * (2) * * * Provided, that funds already in the reserve do not exceed approximately two fiscal periods' budgeted expenses.* * *

**Proposal No. 10**

Add a new § 965.44 to read:

**§ 965.44 Contributions.**

The committee may accept voluntary contributions but these shall only be used to pay expenses incurred pursuant to § 965.48. Furthermore, such contributions shall be free from any encumbrances by the donor and the committee shall retain complete control of their use.

**Proposal No. 11**

Amend the first sentence of § 965.48 to read:

**§ 965.48 Research and development.**

The committee, with the approval of the Secretary, may establish or provide for the establishment of production research, marketing research and development projects, including paid advertising, designed to assist, improve, or promote the marketing, distribution, and consumption or efficient production of tomatoes. * * *

**Proposal No. 12**

Amend § 965.60(e) to read:

**§ 965.60 Marketing policy.**

* * * * *

(e) The committee may recommend and the Secretary may require that no handler shall transport or cause the transportation of tomatoes by motor vehicle or by other means unless shipment is accompanied by a copy of the inspection certificate issued thereon, or such other documents as may be required by the committee. Such certificates or documents shall be surrendered to proper authorities at such time and in such manner as may be designated by the committee, with the approval of the Secretary.

**Proposal No. 13**

Make such changes as may be necessary to make the entire marketing order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be obtained from the Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, or from David B. Fitz, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, 320 N. Main St., Rm. A–103, McAllen, Texas 78501, phone (512) 682–2833.

Signed at Washington, D.C., on July 8, 1980.

**William T. Manley,**

*Deputy Administrator, Marketing Program Operations.*

[FR Doc. 80–20999 Filed 7–11–80; 8:45 am]

BILLING CODE 3410–02–M

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 25

**[Docket No. 20503]**

## Transport Category Airplanes—Seat and Seat Restraint Strength; Meeting

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Change in location of public meeting.

**SUMMARY:** On July 2, the FAA announced a public meeting to discuss the adequacy of the strength requirements for seats and seat restraints (45 FR 45595; July 7, 1980). This notice announces a change in the meeting location.

**DATES:** Public meeting: July 30–31, 1980. Comment period closes: October 17, 1980.

**ADDRESSES:** Meeting place: The public meeting will be held at: Department of Energy, Auditorium, Room GE–086, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C.

**FOR FURTHER INFORMATION CONTACT:** Mr. Harold E. Smith, Regulatory Projects Branch (AVS–24), Safety Regulations Staff, Associate Administrator for Aviation Standards, 800 Inpendence Avenue, SW., Washington, D.C. 20591, (202) 755–8716.

Issued in Washington, D.C., on July 9, 1980.

**M. C. Beard,**

*Director of Airworthiness.*

[FR Doc. 80–20954 Filed 7–11–80; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 80-NW-32-AD]

## Boeing Model 727/737 Series Airplanes; Airworthiness Directives

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This Notice of Proposed Rulemaking (NPRM) propose to amend Airworthiness Directive (AD) 76-22-08 to provide an optional terminating action consisting of installation of improved hydraulic system "B" motor driven pumps; and adds a requirement that one of the optional terminating actions be performed within one year or 3,600 hours time-in-service, whichever occurs first.

**DATES:** Comments must be received on or before September 2, 1980.

**ADDRESSES:** Send comments on the proposal in duplicate to: Federal Aviation Administration, Northwest Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket, Docket No. 80-NW-32, 9010 East Marginal Way South, Seattle, Washington 98108.

**FOR FURTHER INFORMATION CONTACT:** Mr. Charles H. Mackal, Systems and Equipment Section, ANW-213, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108, telephone (206) 767-2500.

**SUPPLEMENTARY INFORMATION:** Airworthiness Directive AD 76-22-08 requires visual inspection for fuel leaks of the compartment where the hydraulic pump is located, and, as an interim fix, installation of an insulating liner inside the pump motors.

Installation of a ground fault protection system in the hydraulic pump motor electrical power circuits constituted terminating action for the AD.

The principal feature of the new pump is improved tolerance of electrical faults and resultant heat damage. In addition, a temperature sensor on the pump will activate a warning light on the flight deck to warn the crew of a high temperature condition.

### 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.

Any persons 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. 80-NW-32-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 amending Airworthiness Directive 76-22-08 (Amdt. 39-2762, 41FR49090) as follows:

A. Amend Paragraph (5) to read: (5) Installation of improved hydraulic system "B" motor driven pumps in accordance with either Boeing Service Bulletin 727-29-55 dated April 30, 1980, or Service Bulletin 737-29-1036 dated April 30, 1980, or later FAA approved revisions also constitutes terminating action for this AD.

B. Adding a new Paragraph (6) to read: (6) Unless already accomplished, either terminating actions (4) or (5) above must be accomplished within one year from the effective date of this revision or 3,600 hours time-in-service, whichever occurs first.

(Secs. 313(a), 601, and 602, 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 proposed 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 FR 11034; February 26, 1979).

Issued in Seattle, Washington, on July 2, 1980.

Charles R. Foster,

*Director, Northwest Region.*

[FR Doc. 80-20811 Filed 7-11-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 80-NE-31]

## Hamilton Standard 24PF Propellers; Airworthiness Directives

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rule making.

**SUMMARY:** This notice proposes to adopt an airworthiness directive (AD) that would require an inspection of the Hamilton Standard 24PF propeller for spalling in the bearing raceways. The proposed AD is prompted by service experience and inspections which have shown that 24PF propeller barrels and blade split races on DeHavilland DHC-7 aircraft are spalling during service use.

**DATES:** Comments must be received on or before August 25, 1980.

**ADDRESSES:** Send comments on the proposal in duplicate to: Federal Aviation Administration, Office of the Regional Counsel, New England Region, Attention: Rules Docket, 12 New England Executive Park, Burlington, Massachusetts 01803.

The applicable service bulletin is contained in the Rules Docket, Office of the Regional Counsel, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

**FOR FURTHER INFORMATION CONTACT:** Ralph S. Hawkins, Engine Projects Section, ANE-214E, Engineering and Manufacturing Branch, Flight Standards Division, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone: (617) 273-7347.

**SUPPLEMENTARY INFORMATION:** 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 number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA public contact concerned with the substance of the proposed AD will be filed in the Rules Docket.

Examination of 14 24PF propeller barrels at Hamilton Standard has

revealed fatigue damage in the form of spall marks in the bearing raceways of 5 barrels, which have operating times since new in the range of 1,500 to 3,000 hours. Since this condition is likely to exist on other propellers the proposed AD would require inspection of the bearing raceways in the 24PF propeller in accordance with Hamilton Standard Service Bulletin HS Code 24PF No. 17. A visual inspection of barrel bearing raceways and blade split races would be made for evidence of spall markings at an initial maximum interval of 3,000 hours total propeller operating time since new and at intervals not to exceed 1,500 hours thereafter. Propeller components with spalling damage will be removed from service.

**The Proposed Amendment**

Accordingly, the Federal Aviation Administration proposes to amend Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new AD:

**Hamilton Standard.** Applies to all Hamilton Standard 24PF propellers.

Compliance required as indicated. To determine the presence of spalling in the bearing raceway surfaces of the barrel and blade split races, visually inspect in accordance with the procedure contained in the accomplishment instruction section of Hamilton Standard Service Bulletin HS Code 24PF No. 17, dated January 2, 1980 or later FAA approved revision, or equivalent means approved by the Chief, Engineering and Manufacturing Branch, New England Region.

Inspect in accordance with the following schedule:

1. For propellers with 2,900 hours or more time in service since new, compliance is required within the next 100 hours time in service after the effective date of this AD, unless already accomplished within the last 1,400 hours time in service, and thereafter at intervals not to exceed 1,500 hours time in service from the last inspection.

2. For propellers with less than 2,900 hours time in service since new, compliance is required prior to the accumulation of 3,000 hours time in service, unless already accomplished within the last 1,400 hours time in service, and thereafter at intervals not to exceed 1,500 hours time in service from the last inspection.

3. Propellers with spalled barrels and/or spalled blade split races must be removed from service prior to further flight and replaced with propellers containing serviceable barrels and blade split races.

Subject to approval of the Chief, Engineering and Manufacturing Branch, New England Region, the inspection interval specified in this AD may be adjusted to permit compliance at an established inspection period if the operator submits a request containing substantiating data to justify the increase.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Hamilton Standard, Division of United Technologies Corporation, Windsor Locks, Connecticut 06096. These documents may also be examined at Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, and at FAA Headquarters, 800 Independence Avenue, S.W., Washington, D.C.

A historical file on this AD, which includes the incorporated material in full, is maintained by the FAA at its Headquarters in Washington, D.C., and at FAA, New England Region Headquarters, Burlington, Massachusetts.

(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)); 14 CFR 11.85)

The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the draft evaluation prepared for this document is contained in the docket.

Issued in Burlington, Massachusetts, on July 1, 1980.

**Robert E. Whittington,**

*Director, New England Region.*

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

[FR Doc. 80-20610 Filed 7-11-80; 8:45 am]

BILLING CODE 4910-13-M

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**14 CFR Part 71**

**[Airspace Docket No. 80-NE-30]**

## Designation of Federal Airways, Area Low Routes, Controlled Airspace and Reporting Points

## Alteration of Newburyport, Massachusetts, 700-foot Transition Area

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This notice (NPRM) proposes to amend the Newburyport, Massachusetts, 700-foot transition area so as to provide additional airspace for aircraft executing the VOR Runway 10, Standard Instrument Approach Procedure (SIAP), Plum Island Airport, Newburyport, Massachusetts.

**DATES:** Comments must be received on or before August 8, 1980.

**ADDRESS:** Send comments to the Federal Aviation Administration, Office of the Regional Counsel, ANE-7, Attention: Rules Docket Clerk, Docket No. 80-NE-30

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts.

**FOR FURTHER INFORMATION CONTACT:** Richard G. Carlson, Operations Procedures and Airspace Branch, ANE-536, Federal Aviation Administration, Air Traffic Division, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273-7385.

**Comments Invited**

Interested persons may participate in the proposed rulemaking process by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted to the Office of the Regional Counsel, ANE-7, Attention: Rules Docket Clerk, Docket No. 80-NE-30, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803. All communications received on or before July 30, 1980, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

**Availability of NPRM**

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, S.W., Washington, D.C. 20591, or by calling (202) 426-8085. Communications must identify the number of this NPRM.

Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

**The Proposal**

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations to amend the Newburyport, Massachusetts, 700-foot transition area so as to provide additional airspace for

aircraft executing the VOR Runway 10, SIAP, Plum Island Airport, Newburyport, Massachusetts.

**The Proposed Amendment**

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Section 71.181 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Delete the entire description of the Newburyport, Massachusetts, 700-foot transition area and substitute:

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center of the Plum Island Airport (latitude 42°47'45"N., longitude 70°50'30"W.) extending 2 miles either side of the center line of the Lawrence VOR, 073T radial (089 MAG) extending from the 5-mile radius area to the Lawrence VOR, excluding that portion which coincides with the Boston and Haverhill, MA, 700-foot transition areas.

[Sections 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 USC 1348(a) and Section 6(c) of the Department of Transportation Act (49 USC 1655(c) and 14 CFR 11.69))].

**Note.**—The FAA has determined that this document involves a regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by Department of Transportation guidelines (44 FR 11034; February 26, 1979). The anticipated impact is so minimal that this action does not warrant preparation of a regulatory evalutation.

Issued in Burlington, Massachusetts, on June 30, 1980.

**Robert E. Whittington,**

*Director, New England Region.*

[FR Doc. 80-20806 Filed 7-11-80; 8:45 am]

BILLING CODE 4910-13-M

## SECURITIES AND EXCHANGE COMMISSION

### 17 CFR Part 240

**[Release No. 34-16964; File No. S7-842]**

### Modification of Rule 10a-1 Relating to Short Selling by Market Makers

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Proposed rule amendments.

**SUMMARY:** The Commission is proposing for comment amendments to its rule governing short sales. The amendments would (1) modify the Rule to permit a market maker, under certain specified circumstances, to effect short sales of a security at a price equal to that market maker's most recently communicated offer for that security, and (2) modify the rule to provide a new definition of the term "third market maker."

**DATE:** Comments must be received on or before August 31, 1980.

**ADDRESSES:** Comments should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Room 892, 500 North Capitol Street, Washington, D.C. 20549. All submissions should refer to File No. S7-842 and will be available for public inspection at the Commission's Public Reference Room, Room 6101, 1100 L Street, N.W., Washington, D.C. 20549.

**FOR FURTHER INFORMATION CONTACT:** Bruce Beatt (202-272-2888), Room 390, Division of Market Regulation, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

**SUPPLEMENTARY INFORMATION:** Rule 10a-1 [1] ("Rule") under the Securities Exchange Act of 1934 ("Act"), the Commission's anti-manipulative rule regulating short sales,[2] generally provides that short sales in reported securities (*i.e.*, securities as to which transaction information is reported in the consolidated transaction reporting system ("consolidated system"))[3] may be effected only on a plus-tick or a zero-plus tick, established by reference to the last sale from any market reported in the consolidated system.[4]

Paragraph (e)(5) of the Rule, however, commonly referred to as the "equalizing exemption," provides an exception to this general provision which allows a market maker (exchange specialist, registered exchange market maker or third market maker) to effect short sales for his own account at a price equal to the last sale price reported in the consolidated system (*i.e.*, on a zero-plus tick *or* a zero-minus tick).[5]

Notwithstanding the special treatment afforded market makers under paragraph (e)(5) of the Rule, there appears to be a conflict between that provision and the "firmness requirement" contained in paragraph (c)(2) of Rule 11Ac1-1 under the Act ("Quote Rule").[6] The following hypothetical example illustrates this conflict. Assume that a market maker who is short XYZ stock makes an offer which, if executed against at the time it was initially made, would be in compliance with Rule 10a-1, *e.g.*, at a price of 20⅛ when the last sale reported in the consolidated system is also 20⅛. Further, assume that there is a "trade-through"[7] of the market maker's offer on another market center which causes an up-tick to be reported in the consolidated system at 20¼. Finally, assume that a buy order is sent to a market maker after the trade-through at 20¼ has been reported. Under these circumstances, in order to assure compliance with Rule 10a-1, the market maker must refuse to execute the order on a down-tick of 20⅛. In doing so, however, he would violate the "firmness requirement" of the Quote Rule. In addition, when a market maker "backs away" from an order, he may be revealing his short position in the security, thus making it more difficult to liquidate that position at a favorable price.

In order to resolve the conflict between the requirements of Rules 10a-1 and 11Ac1-1,[8] the Commission is publishing for comment an amendment to paragraph (e) of Rule 10a-1 which would permit a market maker to effect short sales of a security at a price equal to that market maker's most recent offer for that security communicated pursuant to the Quote Rule if such offer, when communicated, was equal to or greater than the last sale for such security reported in the consolidated system.[9] As

[1] 17 CFR 240.10a-1.

[2] Rule 10a-1 was designed to accomplish three objectives: (1) To allow relatively unrestricted short selling in an advancing market; (2) to prevent short selling at successively lower prices, thus eliminating short selling as a tool for driving the market down; and (3) to prevent short sellers from accelerating a declining market by exhausting all remaining bids at one price level, causing successively lower prices to be established by long sellers. *See* Securities Exchange Act Release No. 11468 (June 12, 1975), 40 FR 25443.

[3] *See* Rule 11Aa3-1 under the Act, 17 CFR 240.11Aa3-1.

[4] Rule 10a-1(a)(1). The Rule permits an exchange to elect to have the permissibility of short sales in reported securities determined solely by reference to the last sale on that exchange rather than by reference to the last sale reported in the consolidated system. Rule 10a-1(a)(2). To date, only the New York Stock Exchange ("NYSE") and the American Stock Exchange ("Amex") have elected to use the last sale on their repective markets. *See* Securities Exchange Act Release Nos. 12201 (March 12, 1976), 41 FR 11907, and 12357 (April 21, 1976), 41 FR 17633.

[5] Rule 10a-1(e)(5).

[6] 17 CFR 240.11Ac1-1. The "firmness requirement" provides, in effect, that a market maker must honor his displayed quotations.

[7] The term "trade-through" generally refers to the execution of an order on one market center at a price inferior to that being displayed by another market center. It should be noted that, with respect to trade-throughs effected on market centers linked through the Intermarket Trading System ("ITS"), the Commission has taken the position that such trade-throughs constitute "unacceptable behavior." Moreover, the Commission has directed ITS market centers to take prompt action to resolve the trade-through problem. See Securities Exchange Act Release No. 15671 (March 22, 1979), 44 FR 20360.

[8] This conflict does not currently exist with respect to short sales effected on the NYSE and Amex because, as noted above, both primary exchanges use last sale reports from their own markets to gauge compliance with Rule 10a-1 and therefore would not be affected by trade-throughs effected in other markets.

[9] It is the Commission's understanding that such an amendment would also ensure that the National Association of Securities Dealers' ("NASD")

Footnotes continued on next page

a general matter, such short sales would not appear to present the potential for manipulative abuse which Rule 10a–1 was designed to prohibit.[10] At the same time, however, in view of the historical concerns which have been raised in connection with short selling, the Commission is concerned that any modification of the "tick test" provisions of Rule 10a–1 may have unanticipated negative consequences.[11] Accordingly, the Commission requests commentators to provide their views as to whether the proposed amendment of paragraph (e)(5) of the Rule would increase the possibility of market manipulation through short sales.

The Commission also is publishing for comment technical amendments to paragraphs (e)(3), (e)(4) and (e)(5) of the Rule which would modify the definition of "third market maker." At present, the term "third market maker" is limited to those over-the-counter dealers who have filed notice of their exempt credit status on Form X–17A–16(1) under the Act.[12] Because this definition restricts the availability of exceptions to Rule 10a–1 in circumstances which do not appear to raise any manipulative concerns, the Commission is publishing for comment a new definition of the term "third market maker" based, in large part, on the definition provided in the Quote Rule.[13]

**Text of Proposals**

Part 240 of Title 17 of the Code of Federal Regulations is proposed to be amended by revising paragraphs (e)(3), (e)(4), (e)(5) and the undesignated paragraph which follows subparagraph (e)(10) of § 240.10a–1 to read as follows:

**§ 240.10a–1 Short sales.**

* * * * *

(e) The provisions of paragraphs (a) and (b) of this section (and of any exchange rule adopted in accordance with paragraph (a) of this section) shall not apply to—

* * * * *

(3) Any sale by an odd-lot dealer on an exchange with which it is registered for such security, or any over-the-counter sale by a third market maker, to offset odd-lot orders of customers;

(4) Any sale by an odd-lot dealer on an exchange with which it is registered for such security, or any over-the-counter sale by a third market maker to liquidate a long position which is less than a round lot, provided such sale does not change the position of such odd-lot dealer or such market maker by more than the unit of trading;

(5) Any sale of a security covered by paragraph (a) of this section (except a sale to a stabilizing bid complying with § 240.10b–7) by a registered specialist or registered exchange market maker for its own account on any exchange with which it is registered for such security, or by a third market maker for its own account over-the-counter,

(i) Effected at a price equal to or above the last sale reported for such security pursuant to an effective transaction reporting plan; or

(ii) Effected at a price equal to the most recent offer communicated for that security by such registered specialist, registered exchange market maker or third market maker to an exchange or a national securities association pursuant to § 240.11Ac1–1, if such offer, when communicated, was equal to or above the last sale reported for such security pursuant to an effective transaction reporting plan;

*Provided, however,* That any exchange, by rule, may prohibit its registered specialists and registered exchange market makers from availing themselves of the exemptions afforded by this paragraph (e)(5) if that exchange determines that such action is necessary or appropriate in its market in the public interest or for the protection of investors;

* * * * *

For the purposes, of paragraph (e)(8) of this section a depository receipt of a security shall be deemed to be the same security as the security represented by such receipt. For the purposes of paragraphs (3), (4) and (5) of this section, the term "third market maker" shall mean any dealer who, with respect to a particular security, holds itself out as being willing to buy and sell such security for its own account on a regular and continuous basis otherwise than on an exchange in amounts of less than block size and who has filed a report for such security on Form X–17A–9(1) [§ 249.917(1) of this chapter].

* * * * *

(Secs. 10 and 23, Pub. L. 78–291, 48 Stat. 891 and 901, as amended by sec. 18, Pub. L. 94–29, 89 Stat. 155 (15 U.S.C. 78j and 78w); sec. 11A, as added by sec. 7, Pub. L. 94–29, 89 Stat. 111 (15 U.S.C.78k–1))

By the Commission.

George A. Fitzsimmons,

*Secretary.*

July 8, 1980.

[FR Doc. 80–20974 Filed 7–11–80; 8:45 am]

BILLING CODE 8010–01–M

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**17 CFR Part 240**

**[Release No. 34–16966; File No. S7–843]**

## Record Production Obligations and Record Destruction and Disposition Rights of Registered Clearing Agencies, the Municipal Securities Rulemaking Board, National Securities Exchanges and Registered Securities Associations

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Proposed rulemaking.

**SUMMARY:** The Commission proposes to amend its rules governing record retention, production and destruction by self-regulatory organizations in order to extend the requirements embodied therein to registered clearing agencies and the Municipal Securities Rulemaking Board. In accordance with section 17A(d)(3)(A)(i) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78q–1(d)(3)(A)(i), the Commission has consulted and requested the views of the Board of Governors of the Federal Reserve System at least fifteen days prior to this announcement.

**DATES:** Comments should be submitted on or before August 8, 1980.

**ADDRESSES:** Persons wishing to submit written views should file 6 copies thereof with George A. Fitzsimmons, Secretary, Securities and Exchange

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Footnotes continued from last page

NASDAQ system, upgraded and enhanced as an automated execution facility, could be operated in compliance with Rule 10a–1. The enhanced NASDAQ system is expected to begin operation on a pilot basis by October 1980.

[10] It should be noted, however, that the proposed amendment to paragraph (e)(5) of the Rule would permit substantial short selling on what is technically a prohibited down-tick. For example, if a market maker offers 100 shares of XYZ stock at a price of 20⅛ (good when entered) which is traded through at a price of 20¼, the market maker, pursuant to the proposed amendment, would be able to effect a short sale of 100 shares of XYZ stock on a down-tick of 20⅛. In addition, since the new last sale price would be 20⅛, the market maker (as well as other market makers) would be able to effect additional short sales at a price of 20⅛ pursuant to the equalizing exemption. Although such sales would be effected on what is technically a down-tick, they do not appear to be inconsistent with the spirit of Rule 10a–1 inasmuch as they are caused solely through the occurrence of a trade-through.

[11] The Commission is also concerned that the proposed amendment to paragraph (e)(5) would provide relief from Rule 10a–1 to third market makers who fail to update their quotations on a timely basis. It should be noted, however, that such behavior raises serious questions under the Quote Rule, which requires responsible brokers and dealers to "promptly communicate" their bids, offers and quotation sizes. As a result, the Commission's staff has requested the NASD to take action to assure that its members are promptly updating their quotations.

[12] 17 CFR 249.631.

[13] In this regard, it should be noted that, under the Commission's proposed definition of the term "third market maker," the exceptions contained in paragraphs (e)(3), (e)(4) and (e)(5) of the Rule would be available, with respect to short sales of a reported security, only if an over-the-counter dealer communicates quotations for such reported security to a national securities association pursuant to the Quote Rule.

Commission, Room 892, 500 North Capitol Street, Washington, D.C. 20549. All submissions should refer to File No. S7-843 and will be available for public inspection at the Commission's Public Reference Room, Room 6101, 1100 L Street, N.W., Washington, D.C. 20549.

**FOR FURTHER INFORMATION CONTACT:** Judith Axe, Division of Market Regulation, Securities and Exchange Commission, Room 351A, 500 North Capitol Street, Washington, D.C. 20549, (202) 272-2415.

**SUPPLEMENTARY INFORMATION:** Rule 17a-1 [17 CFR 240.17a-1] under Section 17(a) of the Securities Exchange Act of 1934 ("Act"), requires national securities exchanges and registered securities associations to keep, and to permit the copying by members of the Commission's staff of, all documents made or received by such organizations in the course of their business and in the conduct of their self-regulatory activities.[1] Rule 17a-1 also requires that such records be kept for a period of not less than five years subject to the destruction and disposition provisions of Commission Rule 17a-6 [17 CFR 240.17a-6].

Shortly after the adoption of Rule 17a-1 in 1974, Congress amended Section 17 of the Act as part of the Securities Acts Amendments of 1975 ("1975 Amendments"),[2] and expanded the coverage of paragraph (a) to include registered clearing agencies and the Municipal Securities Rulemaking Board ("MSRB"), as well as registered municipal securities dealers, registered securities information processors and registered transfer agents. While the coverage of Section 17(a)(1) of the Act has now been expanded to require these entities to keep and provide the Commission with copies of such records as the Commission prescribes by rule, the Commission has not to date adopted general recordkeeping rules applicable to these entities. The Commission believes that it would be appropriate at this time to amend Rule 17a-1 to require registered clearing agencies and the MSRB to be subject to its recordkeeping requirements.

At the same time, the Commission proposes to amend Rule 17a-6, which currently applies only to exchanges and associations, to encompass clearing agencies and the MSRB.[3] Rule 17a-6 is designed to reduce the burden of the five-year record retention requirements of Rule 17a-1 by permitting the early destruction or conversion to microfilm or other recording media of records maintained under Rule 17a-1, pursuant to a record destruction plan filed with and approved by the Commission.

The proposed amendment to Rules 17a-1 and 17a-6 are intended to extend the application of the rules consistent with the authority Congress granted to the Commission through Section 17(a) of the Act and are not based on any lack of cooperation from the MSRB or the clearing agencies in furnishing documents requested by the Commission staff.[4]

Accordingly, the Commission proposes to revise §§ 240.17a-1 and 240.17a-6 of Part 240 of Chapter II of Title 17 of the Code of Federal Regulations as follows:[5]

## PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

**§ 240.17a-1 Recordkeeping rule for National Securities Exchanges, [and] National Securities Associations, registered clearing agencies and the Municipal Securities Rulemaking Board.**

(a) Every national securities exchange, [and] national securities association, *registered clearing agency and the Municipal Securities Rulemaking Board* shall keep and preserve at least one copy of all documents, including all correspondence, memoranda, papers, books, notices, accounts, and other such records as shall be made or received by it in the course of its business as such and in the conduct of its self-regulatory activity.

(b) Every national securities exchange, [and] national securities association, *registered clearing agency and the Municpal Securities Rulemaking Board* shall keep all such documents for a period of not less than five years, the first two years in an easily assessible place, subject to the destruction and disposition provisions of Rule 17a-6.

(c) Every national securities exchange, [and] registered securities association, *registered clearing agency and the Municipal Securities Rulemaking Board* shall, upon request of any representative of the Commission, promptly furnish to the possession of such representative copies of any documents required to be kept and preserved by it pursuant to paragraphs (a) and (b) of this section.

**§ 240.17a-6 Right of National Securities Exchange [or], National Securities Association, registered clearing agency or the Municipal Securities Rulemaking Board to destroy or dispose of documents.**

(a) Any document kept by or on file with a national securities exchange, *national securities association, registered clearing agency or the Municipal Securities Rulemaking Board* pursuant to the Act or any rule or regulation thereunder may be destroyed or otherwise disposed of by such exchange, [or] association, *clearing agency or the Municipal Securities Rulemaking Board* at the end of five years or at such earlier date as is specified in a plan for the destruction or disposition of any such documents if such plan has been filed with the Commission by such exchange, [or] association, *clearing agency or the Municipal Securities Rulemaking Board* and has been declared effective by the Commission.[6]

(b) Such plan may provide that any such document may be transferred to microfilm or other recording medium after such time as specified in the plan and thereafter be maintained and preserved in that form. *If* [Any] *a* national securities exchange, [or] association, *clearing agency or the Municipal Securities Rulemaking Board* [which] uses microfilm or other recording medium *it* shall (1) be ready at all times to provide, and immediately provide, easily readable projection of the microfilm or other recording medium and easily readable hard copy thereof, (2) provide indexes permitting the immediate location of any such document on the microfilm or other recording medium, and (3) in the case of microfilm, store a duplicate copy of the microfilm separately from the original microfilm for the time required.

(c) For the purposes of this rule a plan filed with the Commission by a national

[1] *See* Securities Exchange Act Release No. 10809 (May 17, 1974), 39 FR 18765 (May 30, 1974).

[2] Pub. L. No. 94-29 (June 4, 1975).

[3] At this time the Commission also is correcting a textual error made in drafting the original rule which inadvertently omitted national securities associations from subparagraph (a) of Rule 17a-6.

[4] Of course, under section 17(b) of the Act, as amended by the 1975 Amendments, representatives of the Commission have direct statutory authority to obtain copies of any records maintained by persons described in section 17(a) in the course of periodic, special or other examinations.

[5] In the text of the proposed amendments, "[]" indicate material to be deleted and italics indicate new material.

[6] It should be noted that with respect to a clearing agency for which the Commission is not the appropriate regulatory agency, as defined in Section 3(a)(34)(B) of the Act, Section 17(c)(1) of the Act requires such clearing agency to file with the appropriate regulatory agency a signed copy of any application, document or report filed with the Commission.

securities exchange, [or] association, *clearing agency or the Municipal Securities Rulemaking Board* shall not become effective unless the Commission, having due regard for the public interest and for the protection of investors, declares the plan to be effective. The Commission in its declaration may limit the applications, reports, and documents as to which it shall apply, and may impose any other terms and conditions to the plan and to the period of its effectiveness which it deems necessary or appropriate in the public interest or for the protection of investors.

By the Commission.

**George A. Fitzsimmons,**

*Secretary.*

July 8, 1980.

[FR Doc. 80-20975 Filed 7-11-80; 8:45 am]

BILLING CODE 8010-01-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Social Security Administration

### 20 CFR Parts 404 and 416

### Federal Old-Age, Survivors, and Disability Insurance and Supplemental Security Income for the Aged, Blind, and Disabled; Experiments To Improve the Hearing Process by Having SSA Represented at the Hearing

**AGENCY:** Social Security Administration, HHS.

**ACTION:** Withdrawal of notice of proposed rulemaking.

**SUMMARY:** We are withdrawing the proposed amendment to the regulations entitled "Experiments to Improve the Hearing Process by Having SSA Represented at the Hearing," which was published in the **Federal Register** of January 11, 1980 (45 FR 2345).

**EFFECTIVE DATE:** The withdrawal is effective July 14, 1980.

**FOR FURTHER INFORMATION CONTACT:** Beatrice Squire, Chief, Program Development Branch, Office of Hearings and Appeals, Room 106, Webb Building, 4040 North Fairfax Drive, Arlington, Virginia 22203; (703) 235-8524.

**SUPPLEMENTARY INFORMATION:** Notice of Proposed Rule Making (NPRM) published in the **Federal Register** on January 11, 1980 (45 FR 2345) proposed the issuance of regulations authorizing an experiment which would allow Social Security Administration (SSA) representatives to present and defend SSA's cases at hearings before the Administrative Law Judges in title II and title XVI disability cases where claimants are represented by attorneys. The experiment was proposed as a part of SSA's efforts to improve the overall disability decision making process, to sharpen the issues presented to the Administrative Law Judges and to streamline the process. Recognizing the significance of these issues SSA conducted public hearings on the proposal in four locations during the 60-day comment period.

We have thoroughly reviewed the testimony presented at the public hearings and the comments in response to the NPRM. Generally the comments were negative to the proposed hearing experiment and suggested instead that efforts be made to improve the adjudicatory process which precedes the hearing stage. As a result of the public comments and SSA's recognition that improvements should be made in the initial and reconsideration process, we have decided not to proceed with the proposed hearing experiment at this time.

We are now developing ways to improve the overall adjudicatory process within current budgetary constraints. Our examination of alternatives includes consideration of initiatives directed towards providing an opportunity for claimants to have a personal conference before the hearing stage, as well as more complete documentation of claims and more accurate and well-reasoned decisions earlier in the process.

In view of the above SSA has determined that rulemaking action on the proposed Government Representative Experiment is not now appropriate and that the NPRM should be withdrawn.

The withdrawal of this proposal however, does not preclude SSA from considering similar notices in the future or commit SSA to any specific future course of action.

Accordingly, the NPRM published in the **Federal Register** at 45 FR 2345 on Juanuary 11, 1980, entitled "Experiments to Improve the Hearings Process by Having SSA Represented at the Hearing," is hereby withdrawn.

Dated: May 20, 1980.

**William J. Driver,**

*Commissioner of Social Security.*

Approved: July 1, 1980.

**Patricia Roberts Harris,**

*Secretary of Health and Human Services.*

[FR Doc. 80-20973 Filed 7-11-80; 8:45 am]

BILLING CODE 4110-07-M

## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

### 30 CFR Part 732

### Proposed Amendment to Procedures for Review of State Program Amendments

**AGENCY:** Office of Surface Mining Reclamaton and Enforcement (OSM), U.S. Department of the Interior.

**ACTION:** Proposed rulemaking.

**SUMMARY:** The Office of Surface Mining Reclamation and Enforcement has granted a petition to initiate rulemaking to amend the procedures of § 732.17 for review and approval of State program amendments. Amended regulations are proposed and OSM seeks public comment on the proposed amendment.

**DATES:** A public hearing on the proposed amendments will be held on August 14, 1980, at 9:00 a.m. Comments must be received by August 15, 1980 not later than 5:00 p.m.

**ADDRESSES:** The public hearing will be held in the Department of the Interior Auditorium, 18th and C Streets N.W., Washington, D.C. 20240.

Written comments may be mailed to: Office of Surface Mining, U.S. Department of the Interior, P.O. Box 7267, Benjamin Franklin Station, Washington, D.C. 20004, or be hand delivered to: Office of Surface Mining, Room 153, U.S. Department of the Interior, South Building, 1951 Constitution Avenue, N.W., Washington, D.C. 20240.

**FOR FURTHER INFORMATION CONTACT:** Carl C. Close, Assistant Director for State and Federal Programs, Office of Surface Mining, U.S. Department of the Interior, Washington, D.C. 20240, (202) 343-4225.

**SUPPLEMENTARY INFORMATION:**

#### I. Background

On March 13, 1979, the Secretary of the Interior promulgated the final rules for the permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201 *et seq.* (SMCRA). The rules include the requirements of section 503(a) of the Act that for a State to assume primary jurisdiction under the Act for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders it must submit its proposed permanent program to OSM for approval.

Sections 732.12, 732.13 and 732.15 of the permenent program regulations prescribe the procedures, time schedules and criteria for approval and disapproval of a proposed State

program. Section 732.17 requires that amendments to the approved State program follow the same procedures as those required by §§ 732.12, 732.13 and 732.15.

On September 24, 1979, Ed Herschler personally and as Governor on behalf of the State of Wyoming petitioned OSM to modify § 732.17 to streamline the process for amendment of approved State programs following changes in Federal requirements based on court decisions or amendments of the Act. The petition proposed that (1) the Regional Director be authorized to approve any proposed State program amendment containing analogous changes and the decision by the Regional Director be the final decision by the Department of the Interior; (2) the decision be made after notice of the proposed amendment is published in the **Federal Register** and the public has an opportunity to comment; and (3) the Regional Director publish his decision within 60 days from the day the proposed amendment is received and the amendment to the State program be effective the day it is approved.

On December 20, 1979, the Director, OSM granted the petitio submitted by Governor Herschler. In granting the petition, the Director agreed in principle with the need to clarify 30 CFR 732.17, but indicated that he had not made a determination on how this objective could best be accomplished or what time limits should be set on actions to amend State programs.

**II. Public Comments on the Petition**

Governor Herschler's petition was published in the **Federal Register** on October 18, 1979. Eight written comments were received during the comment period which closed on November 19, 1979. Seven statements supported the petitoin and recommended that it be granted by OSM. One statement supported denial of the petition.

Those commenters suggesting that OSM grant the petition provided the following arguments:

*The procedural requirements set forth in § 732.17 impose upon the States a rigid formula which must be followed regardless of the content or effect of any particular alteration or amendment to the State program.* The commenters would not require the application of § 732.17 procedures where the State merely seeks to change its program to comply with new changes in the Federal law. Commenters believe that any changes in the Federal Act or regulations which make requirements less stringent should be available to the various parties without delay. In many areas of the Federal regulations there is need for more in-depth analysis of the requirements and the long term effects of those requirements. State programs are based on, and in some cases mirror, the Federal requirements. Therefore, the commenters argue that there must be an equitable and expedient method of changing State programs when Federal requirements are altered.

Commenters believe that the petition to amend 30 CFR 732.17 would result in a more efficient and effective administrative procedure for dealing with the dynamics of a federally-approved State program and promote a more reasonable approach to regulating surface coal mining operations.

*The existing regulation provides a cumbersome and time-consuming procedure for Federal review and approval of State proposed amendments to their permanent programs.* Commenters state the current procedure is cumbersome because it requires that the final decision must be made at the highest level within the OSM, the Director, and it it time-consuming because it can, and due to the heavy OSM workload probably will, take at least ten months for amended State programs to be approved by OSM and to become effective. They note by comparison that under the proposal outlined in the petition, review and approval of amendments to approved State permanent programs would likely take one-half of the time required under the existing 30 CFR Part 732 precedure. The proposal would allow the Regional Director to make the final decision on proposed State amendments where such amendments followed legislative or judicial changes in OSM's regulations. Commenters claim that where changes are so limited, it is logical and efficient to place approval authority in the Regional Director's hands.

*Modification of 30 CFR Part 732 will encourage States to formulate and submit their regulatory programs on a timely basis to OSM for review as long as they have confidence that program amendments necessitated by current litigation or OSM rulemaking can be accomplished without undue delay, expense and administrative burden.* Commenters point out that because of the procedural requirements of § 732.17; States are uncertain whether they should take a chance and submit their program for approval and hope the Federal law does not change and thus require a new approval procedure under § 732.17, or to hesitate on filing their program pending final publication of proposed OSM regulations which can then be incorporated into the State program. Commenters claim the recommended change would alleviate this confusion and enhance the approval process in that any subsequent changes in the Act or OSM regulations could also be incorporated into the State program with a minimum of detail and confusion.

*The procedures suggested in the petition will return a small portion of State sovereignty extended in sections 101(f) and 505(a) of the Act, but precluded in the permanent program regulations of OSM.* Commenters maintain that States have been consistently supportive of their having primacy in developing, authorizing, issuing, and enforcing regulations under the Federal Act. They believe that lengthy and involved amendment procedures in cases of changes in the Act or regulations is a denial of State primacy contemplated by the Act. Commenters stated that granting the petition will assist in achieving the goal of State primacy in the implementation of the Act by improving administration of the Surface Mining Act based on reasonable regulations through a cooperative effort between the State and the Federal government. Other commenters requested that the petition be denied. They noted that the current regulations at 30 CFR 732.17 explicitly cover those situations where a State may wish to amend its program, but is not required to do so, such as following a change in the requirements of the Act or regulations resulting in less stringent Federal requirements. The commenters believed that the proposed amendment is generally unsound as well as overbroad for achieving the purposes set forth in the petition itself and offered the following reasons:

*In those instances where a new statutory requirement is imposed or an OSM regulation has been invalidated, OSM must have the opportunity to conduct a rulemaking with regard to the subject-matter involved.* Commenters noted that not only does the Act require an OSM rulemaking by which to judge State submissions, but also that a new statutory provision or invalidation of an OSM regulation presents a national issue and this renders rulemaking necessary. The commenters asserted that an expedited procedure would not allow sufficient time to conduct such a rulemaking, for a decision would be required within 60 days of a State's submission of an amendment, that decision would be final for the Department, and the State amendment would be effective immediately.

*The proposed amendment to § 732.17 would not permit in most instances adequate opportunity for public*

*comment and adequate consideration whether the State amendments meet the requirements of the Act and Federal regulations.* Commenters stated that any change in a State program provision must be measured by the same standard as the original State program provision. The fact that the change is one which makes the State program provision less stringent makes it very important that the change be subjected to sufficient scrutiny to see that it does not fall below the new Federal standard. They contend that an expedited approval process would be justified only where the State amendment would result in a statutory or regulatory provision essentially identical to the new Federal standard.

*The Regional Director is not the appropriate individual to make a final determination for the Department, as proposed by petitioner.* Commenters state that changes in the Federal statute or regulations present national issues to be decided at a national level. The five OSM Regions should not operate autonomously in setting OSM policy and requirements in the wake of such changes. Commenters believe that Regional Directors often have too close a working relationship with the States to be entrusted with the Secretary's final decisionmaking authority on State program provisions.

It should be noted that while these commenters supported denial of the petition, they provided the following guidance for use in drafting a proposed rule should the petition be granted.

(1) The proposed rule should insure that no State program amendment may be considered in the absence of a Federal rule on the subject.

(2) An expedited review procedure should be available only where the State amendment will result in a statutory or regulatory provision essentially identical to the Federal standard.

(3) The final decision should rest with the Director or the Secretary.

The commenters raised concerns about the amendment process that OSM believes should be addressed through rulemaking. The proposed rule sets forth a procedure for amendment processing that will speed action on amendment requests and at the same time assures public participation in the decision making process. Commenters' concerns about the imposition of a rigid procedure for amendment processing have been cured by providing for a case-by-case determination on review processes and time schedules to be followed for each amendment request. The revised amendment procedures apply to both State and OSM initiated amendment requests. OSM has chosen not to seek a change in the delegation of authority for approval/disapproval actions on amendment requests. OSM does not believe that this issue will materially impact the review process and time schedule set forth in the proposed rule.

All amendment requests would be considered using the proposed procedures. The establishment of different review procedures for certain types of amendments would needlessly complicate the amendment review process. The flexibility found in the proposed review process will allow consideration of all amendments. Adjustments in the review process and timing can be made on a case-by-case basis giving consideration to both scope and complexity of the proposed modifications to approved State programs.

### III. Proposed Changes

The rule being proposed today clarifies and streamlines the amendment process for approved State programs. While the existing regulations in 30 CFR 732.17 provide opportunity for State initiated changes, the procedures make no allowance for the scope of complexity of amendment requests. All amendment requests are treated in the same manner. The references to procedures, time, schedules and criterion for approval or disapproval set forth in §§ 732.12, 732.13, and 732.15 are confusing because application to the amendment process requires selecting only those aspects of the cited regulations applicable to the amendment being considered.

In drafting the proposed regulation change OSM has attempted to balance the need for prompt action on State program amendments with the need for and desirability of public involvement in the review process. The minimum 30 day public comment period set forth in 43 CFR Part 14 has been incorporated in the proposed rule. A shorter period may be used only in certain specified situations when the additional requirements of 43 CFR Part 14 are met. Amendment requests will vary in both scope and complexity and may range from minor wording changes in State regulations to complete revisions of all or parts of complete systems that form an approved State program. For this reason OSM believes that the amendment process must be flexible and provide an amendment review procedure that can be tailored to the specific amendment being considered.

The proposed regulation provides for:

(1) Publication of notice of receipt of an amendment by OSM within ten days;

(2) Public comment period of 30 days for the majority of all amendment requests and a minimum 15 day public comment period under certain specified conditions as required by 43 CFR Part 14;

(3) Holding public hearings on proposed amendments as necessary;

(4) Decision on amendment requests within 30 days after the close of the public comment period;

(5) A resubmission period of 30 days following the disapproval of an amendment request; and

(6) Final decision on resubmitted amendment requests within 30 days.

Under this process amendments that contain changes analogous to the Federal Act and/or regulations could be processed in two months or less. For complex amendments where public hearings are determined to be desirable the process could be expanded to the full six month maximum time. Six months has been established as the maximum period for action on State program amendments to conform with section 503(b) of SMCRA which provides that the Secretary approve or disapprove a State program within six calendar months after submission. OSM believes that the proposed rule meets the requirements of 43 CFR Part 14.

In addition to providing a revised scheduling of the amendment review and approval process, the proposed regulation incorporates either in whole or by reference requirements of 30 CFR 732.12, 732.13 and 732.15 that are directly applicable to the amendment review process. Included in this category are provisions concerning hearing format and procedures, review by the Regional Director, review and concurrence by appropriate Federal agencies, effective dates of amendments, and criteria for amendment approval.

### IV. Additional Information Requested

OSM seeks public comment on the proposed rule.

Interested persons may submit written comments on the proposed rulemaking on or before August 15, 1980 at the address listed under "Addresses" not later than 5:00 p.m. A public hearing will be held on August 14, 1980 in the Department of the Interior Auditorium, 18th and C Streets, N.W., Washington, D.C. The hearing will begin at 9:00 a.m. Individual testimony at the hearing will be limited to 15 minutes. The hearing will be transcribed. Filing of a written statement at the time of giving oral testimony would be helpful and would assist the court reporter.

Persons in the audience who have not been scheduled to speak and wish to do so will be heard after the scheduled

speakers. Persons not scheduled to testify, but wishing to do so, assume the risk of having the public hearing adjourned if they are not present when all scheduled speakers conclude. The administrative record will remain open for receipt of additional written comments until August 15, 1980 at 5:00 p.m.

**V. Determination of Significance**

The proposed rule does not fall within any of the categories listed in 43 CFR 14.3(c). Consequently, the Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Furthermore, the Department has determined that a notice of intent to propose rules will not be beneficial to the drafting process. OSM received sufficient information during the public comment period, which was initiated when the petition was published in the **Federal Register**, to prepare a draft rule and proceed directly to proposed rulemaking. A notice of intent to propose rules would only duplicate OSM's efforts in the first public comment period.

**VI. Statement of Environmental Impact**

The Department of the Interior has determined that this action will not have a significant effect on the human environment and an environmental impact statement will therefore not be prepared.

**VII. Statement of Authorship**

The primary author of this document is Arthur Abbs, State Programs Division, Office of Surface Mining.

Dated: July 3, 1980.

**Joan M. Davenport,**

*Assistant Secretary for Energy and Minerals.*

**Text of the Proposed Amendment**

30 CFR 732.17(f)(2) would be deleted. A new section 30 CFR 732.17(h) would be added to read as follows:

**§ 732.17 State program amendments.**

* * * * *

(f) * * *

(2) [Deleted]

* * * * *

(h) The following procedures, time schedules and criteria for approval and disapproval shall apply to State program amendments.

(1) Within ten days after receipt of a State program amendment from a State regulatory authority, the Regional Director will publish a notice of receipt of the amendment in the **Federal Register.**

(2) The **Federal Register** notice announcing the receipt of the amendment will indicate that the amendment(s) is being reviewed by the Regional Director and will include the following:

(i) The text or a summary of the amendment(s) proposed by the regulatory authority;

(ii) Addresses where copies of the proposed amendment(s) may be obtained if the text is not included in the **Federal Register** notice and the cost for copies of the proposed amendment(s) if applicable.

(iii) Date(s) of public comment period(s) and addresses where public comments should be directed;

(iv) Dates and locations of public hearing(s) and/or meeting(s) if public hearing(s) and/or meeting(s) are to be held; and

(v) A schedule for review and action on the amendment(s).

(3) A minimum public comment period of 30 days will be provided for each proposed State program amendment, except a 15 day public comment period may be provided where an amendment concerns changes in State law, regulations or the procedures contained in the approved program that are analogous to changes in SMCRA and/or implementing regulations, provided that the notice of receipt published in the **Federal Register** includes the full text of the proposed amendment and provided that all applicable provisions of 43 CFR Part 14 are complied with.

(4) Public hearings will be provided at the discretion of the Regional Director. Public hearing plans will be announced in the notice of receipt of the amendment published in the **Federal Register.** In determining whether to hold a public hearing, the Regional Director will consider the subject of the amendment, the complexity of the amendment, and public hearing and meetings conducted by the State regulatory authority prior to submission of the amendment for OSM approval.

Hearings shall be informal and follow legislative procedures. The format and the rules of procedure for each hearing shall be determined by the Regional Director and published in the notice required by § 732.17(h)(1).

(5) Upon the close of the public comment period, the transcript, written presentations, exhibits, and copies of all comments shall be transmitted by the Regional Director to the Director with a recommended decision from the Regional Director.

(6) Upon receipt of the Regional Director's recommendation, the Director shall consider all relevant information, including any information obtained from public hearings and comments, and shall approve or disapprove the amendment request within 30 days after the close of the public comment period established in accordance with § 732.17(h)(3).

(7) If the Director disapproves the amendment request, the State regulatory authority will have 30 days after publication of the Director's decision to resubmit a revised amendment request for consideration by the Director.

(8) The Director will approve or disapprove amendment resubmissions within 30 days after receipt. No public comment will be sought prior to the Director's final decision unless the scope of the amendment has been expanded beyond that of the initial amendment request. In such cases the Director may approve/disapprove portions of the amendment request and subject the remainder to review and approval procedures outlined in this subsection or treat the entire amendment request as a new request and initate the review procedures of this section.

(9) The applicable criteria for approval or disapproval of State programs set forth in § 732.15 shall be utilized by the Director in approving or disapproving State program amendments.

(10) State program amendments shall not be approved until the Director has—

(i) Solicited and publicly disclosed the views of the Admininstrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other Federal agencies concerned with or having special expertise relevant to the program amendmen(s) as proposed; and

(ii) Obtained written concurrence of the Administrator of the Environmental Protection Agency with respect to those aspects of a State program amendment(s) which relate to air or water quality standards promulgated under the authority of the Federal Clean Water Act, as amended (33 U.S.C. section 1251 *et seq.*), and the Clean Air Act, as amended (42 U.S.C. section 7401 *et seq.*).

(11) All decisions approving or disapproving program amendments shall be published in the **Federal Register** and shall be effective upon publication unless the notice specifies a different effective date.

(12) The Director shall complete actions on amendment requests in accordance with the schedule developed under § 732.17(h)(2)(v); however final action on all amendment requests must be completed within six months after

receipt of the proposed amendments from the State.

[FR Doc. 80-20979 Filed 7-11-80; 8:45 am]

BILLING CODE 4310-05-M

30 CFR Parts 884 and 926

## Abandoned Mine Lands Reclamation Program; Cancelled Hearing

**AGENCY:** Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior.

**ACTION:** Cancellation of scheduled public hearing on the State of Montana abandoned mine lands reclamation plan.

**SUMMARY:** On June 16, 1980, the State of Montana submitted to OSM its proposed Abandoned Mine Lands Reclamation Plan under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). On June 20, 1980, 45 FR 41659, Notice of Receipt of the Plan and notice of a public hearing were published in the **Federal Register.** Review of the Plan has established that the State of Montana provided adequate notice and opportunity for public participation in the development of the Montana Abandoned Mine Lands Reclamation Plan and that no unresolved controversies exist, and that there is insufficient interest as evidenced by no requests to hold the scheduled hearing.

Therefore the public hearing scheduled for July 21, 1980, beginning at 10:00 a.m. to 12:00 noon and 7:00 p.m. to 9:00 p.m. at the Federal Building, Court House, Room 289, 301 South Park, Helena, Montana 59601, is cancelled.

**FOR FURTHER INFORMATION CONTACT:** Hugh Montgomery, Assistant Regional Director, AML, Office of Surface Mining, Brooks Tower, 1020-15th Street, Denver, Colorado 80202, Telephone: 303/837-5918.

Dated: July 9, 1980.

Richard M. Hall,

*Acting Director.*

[FR Doc. 80-20956 Filed 7-11-80; 8:45 am]

BILLING CODE 4310-05-M

## VETERANS ADMINISTRATION

38 CFR Part 3

## Veterans Benefits; Incompetents; Estate Over $1,500 and Hospitalized

**AGENCY:** Veterans Administration.

**ACTION:** Proposed regulation change.

**SUMMARY:** The Veterans Administration is proposing to amend its regulation concerning reduction of benefits payable to incompetent veterans who are hospitalized, institutionalized, or domiciled at Government expense. We are proposing this chage because it was brought to our attention that the regulation was not fully in accord with the statute that it implements. The effect of this action will be to bring the regulation into agreement with the statute.

**DATES:** Comments must be received on or before August 13, 1980. We propose to make this change effective the date of final approval.

**ADDRESSES:** Send written comments to: Administrator of Veterans Affairs, Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420.

**FOR FURTHER INFORMATION CONTACT:** T. H. Spindle Jr. 202-389-3005.

**SUPPLEMENTARY INFORMATION:** Under 38 U.S.C. 3203(b)(1) benefits to an incompetent veteran without dependents with an estate in excess of $1,500 will be discontinued when the veteran is hospitalized, institutionalized or domiciled without charge by the United States or a political subdivision thereof. The implementing regulation, however, 38 CFR 3.557(b)(3), omits any mention of institutional or domiciliary care. Thus, as presently written the regulation does not provide for the subject reduction in the case of institutional or domiciliary care furnished by the United States or a political subdivision thereof. Consequently we are proposing to amend § 3.557(b)(3) to correct this omission.

The Veterans Administration does not consider this to be a significant proposal since only a small segment of the veteran population is affected and no compliance burdens or costs are imposed.

### 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 August 25, 1980. Any person visiting the Veterans Administration Central Office, 810 Vermont Avenue, NW., Washington, DC for the purpose of inspecting any such comments will be received by the Veterans Administration Central Office Veterans Assistance Unit in room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in the Veterans Administration Central Office and furnished the address and the above room number.

Approved: July 3, 1980.

By direction of the Administrator.

Rufus H. Wilson,

*Deputy Administrator.*

Section 3.557 is amended as follows:

(a) By deleting the words "wife, husband," and inserting the world "spouse" in paragraph (a);

(b) By revising paragraph (b) as set forth below:

**§ 3.557 Incompetents; estate over $1,500 and hospitalized.**

* * * * *

(b) Effective December 1, 1959, where a veteran: (1) Is rated incompetent by the Veterans Administration by reason of mental illness; and (2) has neither spouse nor child, and (3) is hospitalized, institutionalized or domiciled by the United States or any political subdivision, with or without charge, and (4) has an estate, derived from any source, which equals or exceeds $1,500, further payments of pension, compensation or emergency officers' retirement pay will not be made, except as provided in paragraph (d) of this section, until the estate is reduced to $500. If the veteran is hospitalized for observation and examination, the date treatment began is considered the date of admission.

* * * * *

[FR Doc. 80-20942 Filed 7-11-80; 8:45 am]

BILLING CODE 6320-01-M

## ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRC 1536-8]

## Approval and Promulgation of Implementation Plans—Massachusetts; Procter and Gamble Sulfur in Fuel Limitation

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Commissioner of the Department of Environmental Quality Engineering (DEQE) has submitted a revision to the Massachusetts State Implementation Plan (SIP) which is not part of an attainment plan under Part D of the Clean Air Act. The proposed SIP revision to Regulation 310 CMR 7.05(1) "Sulfur Content of Fuels and Control Thereof" would allow a Procter and Gamble plant in Quincy to increase its sulfur in fuel content from 1% to 2.2%.

EPA is proposing to approve this revision.

**DATES:** Comments must be received on or before August 13, 1980.

**ADDRESSES:** Copies of the Massachusetts submittal are available for public inspection during normal business hours at the Environmental Protection Agency, Region I, Room 1903, JFK Federal Building, Boston, Massachusetts 02203; Public Information Reference Unit, Environmental Protection Agency, 401 M St., S.W., Washington, D.C. 20460; and Massachusetts Department of Environmental Quality Engineering, Air and Hazardous Materials Division, Room 320, 600 Washington Street, Boston, MA 02111.

Comments should be submitted to the Regional Administrator, Region I, Environmental Protection Agency, Room 2203, JFK Federal Building, Boston, Massachusetts 02203.

**FOR FURTHER INFORMATION CONTACT:** Margaret McDonough, Air Branch, EPA Region I, Room 1903, JFK Federal Building, Boston, Massachusetts 02203, (617) 223–5609.

**SUPPLEMENTARY INFORMATION:** The request to allow the Procter and Gamble plant in Quincy to burn 2.2% sulfur fuel in accordance with Regulation 7.05(1) was submitted to EPA on November 27, 1979. The facility is rated at 124 million Btu's/hr, maximum design capacity, and is located in the Metropolitan Boston Air Pollution Control District (MBAPCD). Regulation 310 CMR 7.05(1) for the MBAPCD allows approved sources outside the Boston core area rated at 100 million Btu's/hr or greater to burn fuel with a maximum sulfur content of 1.21 pounds per million Btu heat release potential approximately 2.2% sulfur content residual oil by weight. All other sources are limited to 1% sulfur fuel oil. Within the Boston core area, all sources are limited to 0.5% sulfur oil, except those rated at 2.5 billion Btu/hr or greater, which may burn 1% sulfur oil.)

The original Massachusetts SIP limited all sources in the Metropolitan Boston Air Pollution Control District to 1% sulfur fuel. Pursuant to the enactment of Chapter 494 of the Massachusetts Legislative Acts of 1974, the Massachusetts DEQE was required to periodically review the control strategies and relax any regulation which was more stringent than necessary to attain National Ambient Air Quality Standards (NAAQS). During 1975, the DEQE reviewed the sulfur-in-fuel regulations for MBAPCD and as a result submitted revisions to its SIP to allow certain sources to burn higher sulfur content fuel on a temporary basis. With exceptions, these revisions were approved on December 5, 1975, August 22, 1977 and November 30, 1978.

On May 21, 1979 (44 FR 29453) EPA approved a revision to the Massachusetts SIP allowing sources in the MBAPCD outside the Boston core area which were currently burning higher sulfur fuel oil to burn 2.2% sulfur fuel oil permanently. On October 2, 1979 (44 FR 56694), EPA approved the remainder of the sources in the MBAPCD eligible to burn 2.2% oil which were included on the list submitted by the DEQE. Procter and Gamble was not submitted for approval and, therefore, was not included in the October 2, 1979 revision.

Technical support for the proposed revision includes an evaluation of compliance with the NAAQS and Prevention of Significant Deterioration (PSD) increments for sulfur dioxide.

The NAAQS for $SO_2$ is 80 $\mu g/m^3$ based on an annual averaging time; 365 $\mu g/m^3$ based on a 24 hour averaging time and 1300 $\mu g/m^3$ based on a 3 hour averaging time. Procter and Gamble is located in a Class II PSD area in which no PSD permits have been issued and no previous SIP revisions have consumed increment and therefore EPA considers the amount of $SO_2$ which may be added to the ambient air to be limited to increments of 20 $\mu g/m^3$ based on an annual averaging time; 91 $\mu g/m^3$ based on a 24 hour averaging time and 512 $\mu g/m^3$ based on a 3 hour averaging time. Except for the peak impacts of nearly $SO_2$ point sources, available monitoring data is suitable for estimating short term ambient levels in the vicinity of Procter and Gamble. Recorded $SO_2$ levels appropriate for this are 141 $\mu g/m^3$ (second highest 24 hour average), 242 $\mu g/m^3$ (second highest 3 hour average), and 29 $\mu g/m^3$ (annual average).

EPA's PTMAX model was used as a screening model to determine whether the source poses a potential threat to air quality. PTMAX predicts the maximum ground level concentration of $SO_2$ as a function of wind speed and stability for a single stack. The model showed that emissions from the Procter and Gamble plant would not violate NAAQS and would be well within the allowable PSD increment.

The CRSTER model, a follow-up to the PTMAX screening model, was also applied and showed violations of neither NAAQS nor PSD increments. The maximum ambient air concentration of $SO_2$ predicted by either model on an annual, 24 hour and 3 hour averaging time is 32 $\mu g/m^3$, 199 $\mu g/m^3$ and 372 $\mu g/m^3$, respectively. These concentrations are calculated by adding the predicted contribution from Procter and Gamble to the existing background concentrations. The maximum PSD increment consumption predicted by either model on an annual, 24 hour and 3 hour averaging time is 2 $\mu g/m^3$, 17 $\mu g/m^3$ and 51 $\mu g/m^3$, respectively.

DEQE applied the PTMTP model to evaluate the concentration of $SO_2$ present when the plume of Procter and Gamble interacts with that of General Dynamics which is the only source within 10 km of the Procter and Gamble plant. The PTMTP model is designed to calculate the pollutant concentration from two or more sources. The modeling predicted no violations of NAAQS when background concentrations were added to the contributions from the two sources and no violations of PSD increments. However, the interaction of the two plumes was considered only for the case in which the wind blew the Procter and Gamble plume toward the General Dynamics stack. The complementary case in which the General Dynamics plume is carried toward the Procter and Gamble stack was not modeled by DEQE. EPA performed further modeling using a modified version of PTMTP to predict $SO_2$ concentration when this situation occurs. The maximum predicted levels of $SO_2$ on a 24 hour and 3 hour averaging time are 231 $\mu g/m^3$ and 444 $\mu g/m^3$ respectively.

Although 2.2 percent sulfur fuel oil burning will cause an increase in particulate emissions, the current Massachusetts' SIP particulate emission limitation (0.12 pounds per million Btu) will not be violated.

Therefore, EPA is proposing to approve DEQE's request to burn 2.2% sulfur fuel oil at the Procter and Gamble facility.

Under Executive Order 12044 EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

This notice of proposed rulemaking is issued under the authority of Section 110 of the Clean Air Act, as amended.

The Administrator's decision to approve or disapprove the plan revision will be based on whether it meets the requirements of Sections 110(a)(2) (A)–(K) and 110(a)(3) of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51. This revision is being proposed pursuant to Sections 110(a) and 301 of the Clean Air Act, as

amended (42 U.S.C. 7401 et seq. and 7601).

Dated: May 15, 1980.

**William R. Adams, Jr.,**

*Regional Administrator, Region I.*

[FR Doc. 80-20948 Filed 7-11-80; 8:45 am]

BILLING CODE 6560-01-M

## 40 CFR Part 180

**[PP OE2284/OE2286/OE2287/P140; FRL 1537-7]**

## Carbon Dioxide, Nitrogen, and Combustion Product Gas; Proposed Exemption From the Requirement of a Tolerance

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** This notice proposes that exemptions from the requirement of a tolerance be established for the pesticides carbon dioxide ($CO_2$), nitrogen, and combustion product gas. These proposals were submitted by the Interregional Project No. 4 (IR-4). These amendments will establish exemptions for the subject pesticides on all raw agricultural commodities from post-harvest application.

**DATE:** Written comments must be received on or before August 13, 1980.

**ADDRESS COMMENTS TO:** Patricia Critchlow, Office of Pesticide Programs, Room 107, East Tower, Registration Division (TS-767), Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460,

**FOR FURTHER INFORMATION CONTACT:** Patricia Critchlow at the above address (202/426-0223).

**SUPPLEMENTARY INFORMATION:** The Interregional Research project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, NEW Brunswick, NJ 08903, has submitted Pesticide Petitions Nos. OE2284, OE2286, and OE2287 to EPA on behalf of the IR-4 Technical Committee and the U.S. Department of Agriculture. These petitions requests that the Administrator, pursuant to section 408(e) of the Federal Food and Cosmetic Act, establish an exemption from the requirement of a tolerance for residues of the pesticides carbon dioxide, nitrogen, and combustion product gas on all raw agricultural commodities resulting from post harvest application.

The data submitted in the petition and all other relevant material have been evaluated. The pesticides are considered useful for the purpose for which the tolerances are sought. The modified atmospheres will contain the same elements which constitute air except they are in different proportions. The usual data requirements (toxicological studies, metabolism studies, analytical methods, residue data) for pesticide petitions are not applicable to carbon dioxide, nitrogen, and combustion product gas and are thus waived.

Thus, based on the above information considered by the Agency, it is concluded that the exemptions from the requirement of a tolerance will protect the public health. Therefore, it is concluded that the proposed amendment to 40 CFR Part 180 be established as set forth below.

Any person who has registered or submitted an application for the registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act, which contains any of the ingredients listed herein, may request on or before August 13, 1980, that this rulemaking proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. The comments must bear a notation indicating both the subject and the petition/document control number, "PP OE2284/OE2286/P140." All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the office of Patricia Critchlow, Room 107, East Tower, from 8:00 a.m. to 4:00 p.m., Monday through Friday.

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 proposed rule has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive order 12044.

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

Dated: July 7, 1980.

**Douglas D. Campt,**

*Director, Registration Division Office of Pesticide Programs.*

It is proposed that Part 180, Subpart C be amended by adding the exemptions from tolerances under Part 180 as follows:

**§ 180.1049 Carbon Dioxide; exemption from the requirement of a tolerance.**

The insecticide carbon dioxide is exempted from the requirement of a tolerance when used after harvest in modified atmospheres for stored insect control on raw agricultural commodities.

**§ 180.1050 Nitrogen; exemption from the requirement of a tolerance.**

The insecticide nitrogen is exempted from the requirements of a tolerance when used after harvest in modified atmospheres for stored product insect control on all raw agricultural commodities.

**§ 180.1051 Combusion Product Gas; exemption from the requirements of a tolerance:**

The insecticide combustion product gas is exempted from the requirements of a tolerance when used after harvest in modified atmospheres for stored product insect control on all raw agricultural commodities (except fresh meat) with the following prescribed conditions.

(a) The insecticide is produced by the controlled combustion in air of butane, propane, or natural gas. The combustion equipment shall be provided with an absorption type filter capable of removing possible toxic impurities, through which all gas used in the treatment of food shall pass; and with suitable controls to insure that any combustion products failing to meet the specifications provided will be prevented from reaching the food being treated.

(b) The insecticide meets the following specifications:

(1) Carbon monoxide content not to exceed 4.5 percent by volume.

(2) It is used or intended for use to displace or remove oxygen in the storage of food, except fresh meat.

[FR Doc. 80-20949 Filed 7-11-80; 8:45 am]

BILLING CODE 6560-01-M

## 40 CFR Part 761

**[FRL 1537-8; OPTS-62003A]**

## Polychlorinated Biphenyls (PCB's) Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions; Proposed Restrictions on Use of PCB's at Agricultural Pesticide and Fertilizer Facilities; Extension of Comment Period

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule; extension of comment period.

**SUMMARY:** In the Federal Register of May 9, 1980 (45 FR 30989), EPA proposed to amend its Final PCB Regulation (40 CFR Part 761) to prohibit the use of PCB Items (including PCB Large High and Low Voltage Capacitors, PCB

Transformers, PCB-Contaminated Transformers, PCB Heat Transfer Systems, and PCB Hydraulic Systems) as defined in § 761.2(x), in facilities manufacturing, processing, or storing fertilizers or agricultural pesticides. The comment period on the proposed rule amendment was to expire on July 8, 1980, and an informal public hearing was to be held July 29, 1980. EPA is extending the comment period, therefore the date of the informal public hearing will also be changed.

**DATES:** Written comments on the proposed rule amendment should be received by the Agency no later than November 5, 1980. EPA will hold an informal hearing 30 days after the close of the comment period. Requests to participate in the hearing will be accepted until the close of the comment period.

**ADDRESSES:** All comments should be sent to: Joni T. Repasch, Technical Information Specialist, Rm. 447 (TS–793), Office of Pesticides and Toxic Substances, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, Attn.: Docket Number OPTS–62003A (PCB/RR–3).

The exact location and time of the hearing may be obtained at a later date by calling the toll free number (800) 424–9065, or in Washington, 554–1404. Address requests to participate to: Gordon McCurdy, Toxic Substances Control Act (TSCA) Hearing Clerk, Office of Toxic Substances (TS–794), EPA, 401 M Street, S.W., Washington, D.C. 20460, Attn: Docket Number OPTS–62003A (PCB/RR–3), Telephone: (202) 755–6660.

**FOR FURTHER INFORMATION CONTACT:** John B. Ritch, Jr., Director, Industry Assistance Office (TS–799), Office of Toxic Substances, EPA, 401 M Street, S.W., Washington, D.C. 20460, Telephone (toll free): (800) 424–9065, (in Washington, D.C. 554–1404).

**SUPPLEMENTARY INFORMATION:** On May 9, 1980 (45 FR 30989), EPA proposed to amend its Final PCB Regulation (40 CFR Part 761) to prohibit the use of PCB Items (including PCB Large High and Low Voltage Capacitors, PCB Transformers, PCB-Contaminated Transformers, PCB Heat Transfer Systems, and PCB Hydraulic Systems) as defined in 40 CFR § 761.2(x), in facilities manufacturing, processing, or storing fertilizers or agricultural pesticides. EPA invited comment on any aspect of the proposal, in particular, (1) the likelihood of human exposure to PCBs via the mechanisms hypothesized in the proposal or any other mechanism involving agricultural chemicals, (2) whether excluding facilities manufacturing anhydrous liquid ammonia and facilities storing packaged products is proper, (3) whether any other exclusions should be made, and (4) whether additional steps beyond those proposed should be taken to prevent human health risks that would result from food contamination incidents that might occur in the future.

Since the Notice of Proposed Rulemaking was published, EPA has received a number of requests for an extension of the July 8, 1980 deadline for comments. Those persons requesting an extension stated that more time would be necessary to (1) gather relevant data from the large number of sources involved, (2) analyze the data, (3) provide the best cost/use information possible, (4) assist in identifying and solving probable compliance problems in the proposals, and (5) compare the economic information gathered with the Agency's economic analysis. EPA is therefore extending the comment period one hundred and twenty days to allow interested parties time to complete their investigations. EPA believes that extending both the comment period and the time to request to participate in the hearing will result in more meaningful comments on the proposal.

The Agency continues to urge operators of agricultural chemical facilities to alert managers and employees to the problem of PCB contamination and to institute a program for preventive action.

The booklet, "Polychlorinated Biphenyls: An Alert for Food and Feed Facilities" will assist such firms. Copies are available from EPA's Office of Industry Assistance. Call the toll-free number (800) 424–9065 or in Washington, D.C. call 554–1404.

Dated: July 8, 1980.

**Steven D. Jellinek,**

*Assistant Administrator for Pesticides and Toxic Substances.*

[FR Doc. 80–20972 Filed 7–11–80; 8:45 am]

BILLING CODE 6560–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Office of the Secretary

### 41 CFR Part 3–1

### Freedom of Information Act, Treatment of Data in Contract Proposals

**AGENCY:** Department of Health and Human Services.

**ACTION:** Proposed rule.

**SUMMARY:** The Office of the Secretary, Department of Health and Human Services is proposing to amend its procurement regulations by adding a new section on the Freedom of Information Act and revising an existing section on the treatment of technical data in contract proposals.

**DATE:** Comments must be received by August 25, 1980.

**ADDRESS:** Any person or organization wishing to submit data, views, or comments pertaining to the proposed regulations may do so by filing them with Ed Lanham, Office of Procurement Policy, OGP–OASMB, OS, Room 538 H—Hubert H. Humphrey Building, Department of Health and Human Services, 200 Independence Avenue, SW., Washington, D.C. 20201.

**FOR FURTHER INFORMATION CONTACT:** Ed Lanham, telephone 202–245–0481.

**SUPPLEMENTARY INFORMATION:** The proposed section implementing the Freedom of Information Act (FOIA), 5 U.S.C. 552, as amended, provides guidance and procedures to procurement personnel regarding applicability of the Act to procurement records. The section does not elaborate on the entire FOIA process, but addresses that portion concerning the disclosure and withholding of procurement records.

The section concerning the treatement of technical data in contract proposals is being revised to reflect the impact of the FOIA, to extend the coverage to all data in contract proposals, not just technical data, and to update the section based upon the Federal Procurement Regulations coverage on unsolicited proposals (41 CFR Subpart 1–4.9).

It is proposed to amend 41 CFR Chapter 3 in the manner set forth below.

Dated: July 7, 1980.

**Murray N. Weinstein,**

*Acting Deputy Assistant Secretary for Grants and Procurement.*

Under Subpart 3–1.3, General Policies, of Part 3–1, General, § 3–1.352, Freedom of Information Act, is proposed to be added to 41 CFR Chapter 3, and § 3–1.353, Treatment of data in contract proposals, is proposed to be substituted for existing § 3–1.353, Treatment of technical data in contract proposals. 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.

Sec.



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**§ 3–1.352 Freedom of Information Act.**

**§ 3–1.352–1 General.**

The Department's regulation implementing the Freedom of Information Act (FOIA), 5 U.S.C. 552, as amended, is set forth in 45 CFR Part 5. This section implements those aspects of the FOIA and 45 CFR Part 5 that apply to procurement and contract records.

**§ 3–1.352–2 Applicability.**

(a) The FOIA and 45 CFR Part 5 provide that Government records (see 45 CFR 5.5 for the definition of "records") are generally to be made available to the public after receipt of a request. However, the Department may withhold records if they fall within one or more of the specific categories exempted from disclosure by the FOIA, provided there is a significant and legitimate governmental purpose served by withholding the records, e.g., there is a demonstrable harm to the Government or any party through disclosure.

(b) In regard to procurement:

(1) The reason for denial of disclosure usually falls within exemption (b)(4) of the FOIA, i.e., "trade secrets and commercial or financial information obtained from a person and privileged or confidential." To be covered by this exemption, the record must contain either a trade secret within the meaning of 18 U.S.C. 1905, or must be commercial or financial information received in confidence and not generally made available by the source furnishing it to the Government.

(2) A significant and legitimate governmental purpose is served by withholding the record when disclosure would likely have the following effect:

(i) It would impair the Government's ability to obtain necessary information through purely voluntary cooperation in the future;

(ii) It would cause substantial harm to the competitive position of the source from whom the information was obtained; or

(iii) It would destroy the integrity of the competitive procurement process.

(c) A restrictive legend on a document does not by itself place the document under the exemption or create a significant and legitimate governmental purpose for withholding the document. (See § 3–1.353 for the treatment of data in proposals and § 3–1.352–4 for procedures to be followed by the contracting officer.)

**§ 3–1.352–3 Availability and nonavailability of specific records.**

Subpart F of 45 CFR Part 5 identifies specific types of records that may or may not be disclosed under the FOIA. Refer to § 5.71(c) and (d) for general guidance and § 5.72(c), (d), and (e) for details on specific procurement records. In addition, the Appendix to 45 CFR Part 5 provides a list of examples of specific records or information concerning contracts which are generally available and those which are not generally available under the FOIA. Note that these are general guidelines and application may vary based upon the circumstances of each individual case.

**§ 3–1.352–4 Procedures.**

(a) The contracting officer, upon receiving an FOI request, shall follow Department and POC procedures. As necessary, actions should be coordinated with the cognizant FOI official and the Office of General Counsel.

(b) When evaluating an FOI request for a contract or procurement record which was obtained wholly or in part from a source outside the Department, the contracting officer must consider the origin of the record, its subject matter, and whether it was sumbitted under a restrictive legend.

(1) If there is reason to believe the source may object to release of the record or part of the record, the contracting officer shall notify the source in writing that a request has been received, and the Department is considering release of the requested material. The written notification must advise the source of the specific requested material and require that the source provide a justification for withholding the information under an exemption of the FOIA if the source objects to the release of the material. The notification must inform the source that the justification should explain in detail how disclosure of the requested material would result in significant harm to the competitive position of the source or benefit its competitors. The notification must also advise the source that the justification must be provided to the contracting officer within seven (7) working days from the date of the written notification.

(2) Based on the justification submitted by the source in response to the notification described above, and any other pertinent information, the contracting officer and the cognizant FOI official, in consultation with the Office of General Counsel if necessary, shall consider whether to withhold the record or portions of the record from disclosure. Only the FOI official may make the determination to withhold the record or portions of the record from disclosure.

(3) If the source objects to the release of the information but the FOI official disagrees with the justification for withholding, that official will notify the source in writing of the determination. This notification must include a copy of the material marked as the Department proposes to release it and must state that release will be made seven (7) working days from the date of the letter.

**§ 3–1.353 Treatment of data in contract proposals.**

(a) *General.* The term "data," as used in this section, refers to trade secrets, business data, and technical data. Business data includes, for example, commercial information, financial information, and cost and pricing data. Technical data includes, for example, plans, designs, suggestions, improvements, and concepts.

(2) Data acquired by the Department may have been obtained under conditions which restrict the Department's right to use the data. Therefore, care must be taken when considering the use of data to assure that the Department has sufficient rights to use it in the manner desired.

(3) One of the principal ways in which the Department receives data is by means of proposals. However, some proposals are offered and received under conditions which may prevent the Department from using the data for other than evaluation purposes.

(b) *Types of proposals.* Proposals received by the Department are of two types—unsolicited and solicited.

(1) *Unsolicited proposal.* Essentially, an unsolicited proposal is a written offer to perform work which does not result from a formal written request for proposals or quotations. Unsolicited proposals are discussed in detail in Subparts 1–4.9 and 3–4.9.

(2) *Solicited proposal.* A solicited proposal is a written offer to perform work which results from a formal written request for proposals or quotations.

(c) *Policy for unsolicited proposals.* The policy for treatment of data in unsolicited proposals is located in §§ 1–4.913 and 3–4.913.

(d) *Policy for solicited proposals.* (1) The Department recognizes that requests for proposals may require the offeror, including its prospective subcontractor(s), if any, to submit data which the offeror does not want used or disclosed for any purpose other than for

evaluation of the proposal. Each proposal containing data which the offeror desires to restrict must be marked on the cover sheet by the offeror with the legend set forth within subparagraph (2) of this paragraph. Proposals, or portions of proposals, so marked shall be handled in accordance with the provisions of the legend.

(2) The following provision shall be included in the RFP:

The proposal submitted in response to this request may contain data (trade secrets; business data, e.g., commercial information, financial information, and cost and pricing data; and technical data) which the offeror, including its prospective subcontractor(s), does not want used or disclosed for any purpose other than for evaluation of the proposal. The use and disclosure of any data may be so restricted: *Provided,* That the Government determines that the data is not required to be disclosed under the Freedom of Information Act, 5 U.S.C. 552, as amended, and the offeror marks the cover sheet of the proposal with the following legend, specifying the particular portions of the proposal which are to be restricted in accordance with the conditions of the legend. The Government's determination to withhold or disclose a record will be based upon the particular circumstances involving the record in question and whether the record may be exempted from disclosure under the Freedom of Information Act:

Data contained in the portions of this proposal which have been specifically identified by the offeror as containing restricted information shall not be used or disclosed except for evaluation purposes: *Provided,* That the restriction does not limit the Government's right to use or disclose data if it is obtained from another source without restriction.

However, the offeror acknowledges that: (1) The Government may not be able to withhold a record (data, document, etc.) nor deny access to a record requested by an individual (the public) when an obligation is imposed on the Government under the Freedom of Information Act, 5 U.S.C. 552, as amended, and (2) The Government is not liable for disclosure of a record released under the Act.

The Government shall make the determination whether a record is required to be released under the Freedom of Information Act.

The offeror agrees that the Government is not liable for disclosure or use of unmarked data and may use or disclose the date for any purpose, including the release of the information pursuant to requests under the Freedom of Information Act.

Offerors are cautioned that proposals submitted with restrictive legends or statements differing in substance from the above legend may not be considered for award. The Government reserves the right to reject any proposal submitted with a nonconforming legend.

(e) *Procedures for handling and disclosing proposals.* (1) The procedures and notice specified in § 1–4.913(c), (d), and (e) shall be used in handling both solicited and unsolicited proposals and for disclosing proposals outside the Government.

(2) Decisions to disclose proposals outside the Government for evaluation purposes shall be made by the chief official having programmatic responsibility for the procurement, after consultation with the contracting officer, and in accordance with principal operating component (POC) procedures. The decision to disclose either a solicited or unsolicited proposal outside the Government for the purpose of obtaining an evaluation shall take into consideration the avoidance of organizational conflicts of interest and any competitive relationship between the submitter of the proposal and the prospective evaluator(s).

(3) When it is determined to disclose a proposal outside the Government for evaluation purposes, the following conditions or similar appropriate conditions, shall be included in the written agreement with the evaluator(s) (see § 1–4.913(d) and (e)) prior to disclosure. Also, a review should be made to ensure that the notice required by § 1–4.913(c) is affixed to the proposal before it is disclosed to the evaluator(s).

**Conditions for Evaluating Proposals**

The evaluator agrees to use the data (trade secrets, business data, and technical data) contained in the proposal only for evaluation purposes.

This requirement does not apply to data obtained from another source without restriction.

Any notice or legend placed on the proposal by either the Department or the submitter of the proposal shall be applied to any reproduction or abstract thereof. Upon completion of the evaluation, the evaluator shall return all copies of the proposal and abstracts, if any, to the Departmental office which initially furnished the proposal for evaluation.

Unless authorized by the Department's initiating office, the evaluator shall not contact the submitter of the proposal concerning any aspects of its contents.

The evaluator will be obligated to obtain commitments from its employees in order to effect the purposes of these conditions.

[FR Doc. 80–20994 Filed 7–11–80; 8:45 am]

BILLING CODE 4110–12–M

## FEDERAL EMERGENCY MANAGEMENT AGENCY

### 44 CFR Part 67

[Docket No. FEMA 5843]

### National Flood Insurance Program; Proposed Flood Elevation Determinations

*Correction*

In FR Doc. 80–18981 appearing on page 42692 in the issue of Wednesday, June 25, 1980, make the following corrections:

(1) On page 42694, Indiana, Gary Lake County, change "Little Calument River" to read "Little Calumet River", and change "2,600 feet upstream of 180 and 94" to read "2,600 feet upstream of I80 and 94".

(2) On page 42695, Indiana, Brown Ditch, change "Just downstream of Grand Boulevard" to read "Just upstream of Grand Boulevard".

(3) On the same page, Bruce Ditch, change "Just downstream of State Route 219th Avenue" to read "Just downstream of 219th Avenue". Change "Just downstream of Conrail" to read "Just upstream of Conrail", and in the last line for Bruce Ditch, last column, the elevation (695) for 6,850 feet upstream of 181st Avenue was type set one line too high.

(4) On page 42696, Griesel Ditch, "Just upstream of Route 2" should have read "Just upstream of State Route 2".

(5) On page 42698, West Creek Tributary WT, the elevation for "Just upstream of 185th Avenue" now reading "665' should have read "668".

BILLING CODE: 1505–01–M

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 2 and 22

[CC Docket No. 79–318; RM–3200]

### Amending Rules Relative to Cellular Communications System; Order Extending Time for Filing Reply Comments

**AGENCY:** Federal Communications Commission.

**ACTION:** Order.

**SUMMARY:** FCC extends period for filing reply comments in rulemaking for cellular mobile communications systems (45 FR 2859).

**DATE:** Reply comments due: August 4, 1980.

**ADDRESSES:** Federal Communications Commission, Washington, D.C. 20554.

**FOR FURTHER INFORMATION CONTACT:** Michael D. Sullivan, Common Carrier Bureau, (202) 632-6450.

**ADDRESS:** Federal Communications Commission, Washington, DC 20554.

In the matter of an inquiry into the use of the bands 825-845 MHz and 870-890 MHz for cellular communications systems; and amendment of Parts 2 and 22 of the Commission's rules relative to cellular communications system; Order; (*See also* 45 FR 37237, June 2, 1980).

Adopted June 27, 1980.

Released: July 3, 1980.

By the Common Carrier Bureau: 1. The National Aeronautics and Space Administration (NASA) has requested that the Commission extend the time for filing reply comments in this proceeding by 60 days. Replies are currently due on July 3, 1980. NASA asks for an extension "because of the volume of the comments, the complexity of the subject, and its importance to a proposed NASA program." The General Electric Company and Motorola, Inc., filed statements in support of NASA's request. The American Telephone and Telegraph Company has opposed the extension request.

2. We find that there is some justification for a longer reply period. GE, for example, was unable to obtain copies of all the comments filed with the Commission for some time after they were filed. In addition, the comments raised a number of issues not discussed in the *Notice of Proposed Rulemaking*. We have not been shown, however, why an extension of two months is necessary. As the Commission has previously expressed its intention to expedite this rulemaking, we believe an extension of one month would be appropriate. *See* 45 Fed. Reg. 2859, 2861.

3. Accordingly, it is ordered, That comments in this proceeding shall be filed on or before August 4, 1980.

4. The Secretary shall cause this Order to be published in the **Federal Register.**

**Sheldon M. Guttmann,**

*Chief, Mobile Services Division, Common Carrier Bureau.*

[FR Doc. 80-20955 Filed 7-11-80; 8:45 am]

**BILLING CODE 6712-01-M**

## INTERSTATE COMMERCE COMMISSION

### 49 CFR Part 1033

**[Ex Parte No. 334 (Sub-No. 4)]**

### Order To Show Cause for Granting Railroads Flexibility in Setting Per Deim Levels

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Postponement of filing dates for comments on show cause order.

**SUMMARY:** In a decision served June 9, 1980 (45 FR 41469), we asked the nation's railroads and other interested parties to show cause why an order instituting flexible car hire charges should not be entered. Comments were due July 9, 1980. On July 7, the Chessie System filed a request for a two week extension of time in order to permit development of either an acceptable industry position or the filing of separate expressions by carriers. To date, the carriers have been unable to complete this task. As the presentation of industry views in this important proceeding is imperative, the extension to July 23 will be granted. However, these July 23 filings may not be used to reply to comments filed previously.

**DATES:** The comment period is postponed to July 23, 1980.

**FOR FURTHER INFORMATION CONTACT:** Richard B. Felder—(202) 275-7693.

This decision will not significantly affect either the quality of the human environment or conservation of energy resources.

Decided: July 8, 1980.

By the Commission, Darius W. Gaskins, Jr., Chairman.

**Agatha L. Mergenovich,**

*Secretary.*

[FR Doc. 80-20981 Filed 7-11-80; 8:45 am]

**BILLING CODE 7035-01-M**

### 49 CFR Part 1039

**[Ex Parte No. 358, Sub-No. 1]**

### Change of Policy—Railroad Contract Rates; Standards and Procedures

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Postponement of Due Date for Filing Comments in Proposed Rulemaking

**SUMMARY:** This proceeding concerns proposed standards for railroad contract rates. On April 29, 1980, (45 FR 28381) we requested comments by June 13, 1980. Edison Electric Institute has requested an extension of the present July 28, 1980 comment date to September 30, 1980. It notes that our prior postponement notice (45 FR 39, 317, June 10, 1980) was based on the pendency of relevant legislation and that this same reason continues to warrant postponement of the due date. A 30-day extension (to August 27, 1980) will be granted. Prior to August 27, we will determine whether further postponement is appropriate. In view of pending legislative proposals concerning railroad contract rates, it would not be productive to require the filing of comments at this time. In addition, the railroads have requested a 45-day extension in order to develop a coordinated response.

**DATES:** Comments are now due August 27, 1980.

**FOR FURTHER INFORMATION CONTACT:** Richard B. Felder (202) 275-7693.

Decided: July 7, 1980.

By the Commission, Darius W. Gaskins, Jr., Chairman.

**Agatha L. Mergenovich,**

*Secretary.*

[FR Doc. 80-20980 Filed 7-11-80; 8:45 am]

**BILLING CODE 7035-01-M**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

### 50 CFR Part 14

### Conferring Designated Port Status on Dallas/Fort Worth, Texas

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule; Notice of Public Hearing.

**SUMMARY:** The Service proposes to confer designated port status on Dallas/Fort Worth, Texas pursuant to section 9(f) of the Endangered Species Act of 1973. Designated port status would allow the direct importation and exportation of fish and wildlife, and parts and products thereof, through Dallas/Fort Worth, a growing international port. A public hearing will be held on this proposal July 30, 1980, at 9 a.m. in the North Penthouse Studio, Interior Building, Washington, D.C.

**DATE:** Comments on this proposed rulemaking are due on or before August 13, 1980.

**ADDRESS:** Comments may be mailed to Director (LE), U.S. Fish and Wildlife Service, Washington, D.C. 20240, or delivered weekdays to the Division of Law Enforcement, U.S. Fish and Wildlife Service, suite 300, 1375 K Street, N.W. Washington, D.C. between 7:45 a.m. and 4:15 p.m. Comments should bear the

identifying notation REG 14–02–4. All materials received may also be inspected at the Service's office in Suite 300, 1375 K Street, N.W.

**FOR FURTHER INFORMATION CONTACT:**
Keith C. Frederick, Senior Special Agent, Division of Law Enforcement, U.S. Fish and Wildlife Service, Suite 300, 1375 K Street N.W., Washington, D.C. 20005.

**SUPPLEMENTAL INFORMATION:**

**Background**

On March 27, 1978, the Service published a proposed rulemaking (43 FR 12830–12837), to amend its regulations pertaining to the importation, exportation, and transportation of wildlife found in 50 CFR Part 14. In response, many comments requested that Dallas/Fort Worth, Texas, be designated as a Customs port of entry for the importation and exportation of fish and wildlife under 50 CFR 14.12 (hereinafter designated port). The Service found these comments persuasive, particularly after reviewing the volume of wildlife traffic through that port.

The designated port is the keystone of the importation and exportation process for fish and wildlife regulated by the Service. Authority for the designation of such ports, and the requirement, with limited exceptions, that all fish or wildlife be imported and exported through such a port are found in section 9(f) of the Endangered Species Act of 1973, 16 U.S.C. 1538(f). By regulation, these ports are designated by the Secretary of the Interior with approval of the Secretary of the Treasury after notice and opportunity for public hearing.

**Need for the Proposed Rulemaking**

Dallas/Fort Worth, Texas (hereinafter DFW), is a metropolitan area which in recent years has undergone a rapid transformation from a secondary international market to one of primary importance in world commerce. The extent of this growth as a foreign trading center is evidenced by the fact that there are thirty (30) foreign Consular Offices and seventeen (17) foreign Trade and Tourism offices located in the DFW area.

DFW is serviced by the seventh largest airport in the world, with direct air service to and from Europe, Canada, Mexico, Central and South America, and the South Pacific. Additional direct air service to the Middle-East, the Orient, and other European points is becoming operational at a rapid pace. This expanding direct air service into and out of DFW, serving an increasing international market, is a major contributing factor to the Service's proposing this rulemaking.

Over recent years, air cargo has become the paramount means by which wildlife and products therefrom are transported into and out of the United States. Time is a key element when transporting live wildlife, and perishable wildlife products. Additionally, the fashion industry, which is a major user of wildlife products, is very time conscious.

DFW is currently one of the four major fashion centers in the United States. The other three, New York, Los Angeles, and Chicago, are all designated ports and enjoy the advantage of moving wildlife and wildlife products directly into or out of their respective areas. Without designated port status, DFW cannot be used to import and export wildlife products directly, and consequently is not able economically to compete with these other international trading centers. The ever increasing use of containerized cargo by the airline industry further compounds the problems encountered by wildlife importers and exporters in the DFW area. In many instances, foreign suppliers will containerize entire shipments and route them directly into the DFW International airport. If, upon arrival in DFW, the shipment contains any wildlife products, those products must be shipped under bond to a designated port for clearance. This reshipment is both time consuming and expensive. To alleviate this problem, DFW area importers and exporters have attempted to direct entire shipments, even though they contain only a small percentage of wildlife items, to a Service designated port prior to arrival at DFW. This method of shipment meets with current regulatory requirements of the Service; however, it is again time consuming and entails additional expense. It is also counter to the increasing trend of direct air shipment to inland ports such as DFW.

Given the facts discussed above and the expectation that airborne imports and exports into and out of DFW are going to continue to increase dramatically as the DFW International airport is developed and utilized to its potential, the Service has concluded that designated port status is needed.

Further, designated port status for DFW would serve not only the interests of the DFW area, but the entire south central and southwest portions of the United States.

While the Service recognizes the need for this proposal it can only be implemented as a final rule after the public has had an opportunity for a public hearing. In addition, implementation also requires adequate funds and manpower ceilings for the Service to staff the port, which are not available under current commitments and funding obligations.

**Notice of Public Hearing**

Section 9(f) of the Endangered Species Act of 1973, 16 U.S.C. 1538(f), requires that the public be given an opportunity to comment at a public hearing prior to the Secretary of the Interior's conferring designated port status on any port.

Accordingly, the Service has scheduled a public hearing for July 30, 1980, from 9:00 a.m. to 4:00 p.m. The hearing will be held in the North Penthouse Studio, Eighth Floor, Interior Building, 18th & C Streets NW, Washington, D.C.

All interested persons wishing to present oral or written testimony at this hearing must advise the Service of this desire prior to July 28, 1980. All such requests must be submitted in writing to: Keith C. Frederick, Senior Special Agent, United States Fish and Wildlife Service, Division of Law Enforcement, 1375 K St., N.W., Washington, D.C. Requests that are mailed in should be sent to Box 28006, Washington, D.C. 20005. It is requested that two (2) copies of the testimony be submitted with the request.

**National Environmental Policy Act**

A draft environmental assessment has been prepared in conjunction with this proposal. It is on file in the Service's Division of Law Enforcement, 1375 K St., N.W., Washington, D.C. and may be examined, by appointment, during regular business hours. A determination will be made at the time of final rulemaking as to whether this is a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969.

**Regulations Promulgation**

Accordingly, it is hereby proposed to amend Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations as set forth below:

## PART 14—IMPORTATION, EXPORTATION, AND TRANSPORTATION OF WILDLIFE

**§ 14.12 [Amended]**

1. Amend § 14.12(g) by deleting the word "and".

2. Amend § 14.12(h) by deleting the period and adding the word "and" preceded by a semicolon.

3. Amend § 14.12 by adding the following new paragraph (i): (i) Dallas/Fort Worth, Texas.

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

Dated: July 9, 1980.

**Robert S. Cook,**

*Deputy Director, Fish & Wildlife Service.*

[FR Doc. 80-20690 Filed 7-11-80; 8:45 am]

BILLING CODE 4310-55-M

## 50 CFR Part 32

## Hunting; Proposed Revocation of Anahuac Migratory Bird Closed Area, Texas

**AGENCY:** U.S. Fish and Wildlife Service, Department of the Interior.

**ACTION:** Proposed rule.

**SUMMARY:** It is proposed to revoke the Anahuac Migratory Bird Closed Area in Galveston Bay adjacent to the Anahuac National Wildlife Refuge, Texas. It has been determined that the reasons for closing the area did not materialize and are no longer valid reasons for keeping the area closed to the hunting of migratory birds. The closed area has proven to be ineffective. The effect of this proposed rulemaking would be to reopen the 1,180 acre area to hunting.

**DATE:** Comments must be received on or before August 13, 1980.

**ADDRESS:** Comments may be addressed to the Director (FWS–RF), U.S. Fish and Wildlife Service, Department of the Interior, 18th and C Streets, NW, Washington, D.C. 20240.

**FOR FURTHER INFORMATION CONTACT:** Ronald L. Fowler, Division of Refuge Management, U.S. Fish and Wildlife Service, 18th and C Streets, NW, Washington, D.C. 20240. Telephone: 202–343–4305.

**SUPPLEMENTARY INFORMATION:** Ronald L. Fowler is also the primary author of this proposal. The Anahuac Migratory Waterfowl Closed Area in the East Bay portion of Galveston Bay, Texas, was established to aid in the administration of the Anahuac National Wildlife Refuge and to increase the effectiveness of the refuge. On October 13, 1964, approximately 1,180 acres in the East Bay portion of Galveston Bay was designated as a closed area in or on which pursuing, hunting, taking, capturing, or killing of migratory birds, or attempting to take, capture, or kill migratory birds is not permitted (29 FR 14075). The closure did not accomplish the desired objectives of aiding the administration and increasing the effectiveness of the refuge.

Prior to issuance of the Closing Order, East Bay had long since ceased to produce aquatic vegetation due to siltation from Cultivated lands. Historically, the bay supported widespread beds of wigeon grass. Siltation probably accelerated after channelization of Oyster Bayou in 1955, but the rate has not been measured. the frequency and duration of turbidity prevented growth of submerged aquatics. Fish, shrimp, and razor and mud clams remain as the important waterfowl foods in East Bay. These support small numbers of wintering canvasback, lesser scaup, red-breasted mergansers, and a few bufflehead and goldeneye. Combined use of all waterfowl rarely exceeds one bird per acre. Surface-feeding ducks make intermittent use of the shallows and exposed tidal edges near the shore. Numbers rarely exceed a few hundred birds along a 6½ mile stretch of shoreline. Prior to establishment of the Anahuac National Wildlife Refuge, it was a common occurrence for waterfowl to seek open water as a place to rest during periods of heavy gun presure. This pattern of waterfowl behavior was apparently altered by available sanctuary within the refuge which is not open to hunting. The moderate use by waterfowl gradually declined as birds became re-established in protected habitat inland on the refuge. This shift included mostly mottled ducks, pintail, shoveler, and wigeon. Use by diving ducks except red-breasted mergansers also declined. An increase in commercial and sport fishing boat traffic paralleled the declined in waterfowl use. Since the closing order did not regulate boat traffic, it was not effective in preventing waterfowl disturbance.

Rescinding the Closing Order will have no effect upon the local economy or on the effectiveness of the refuge. The reasons for closing East Bay did not materialize and are no longer valid for keeping the area closed to the hunting of migratory birds. Changing conditions do not provide new reasons to continue the closure. The weight of evidence supports the conclusion that the Closing Order has not affected the use of East Bay by migratory birds.

Pursuant to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C), an environmental assessment has been prepared on this proposal and is available for public inspection and copying at Room 2341, Department of the Interior, 18th and C Streets, NW, Washington, D.C. 20240, or by mail, addressing the Director at the address above.

The policy of the Department of the Interior is, whenever practical, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding the proposed revocation. All relevant comments will be considered by the Director prior to the issuance of the final rulemaking.

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

Accordingly, it is proposed to amend 50 CFR 32.4 by the deletion of Anahuac Migratory Bird Closed Area, Texas, from the list of areas closed to hunting.

Dated: July 3, 1980.

**Lynn A. Greenwalt,**

*Director, Fish and Wildlife Service.*

[FR Doc. 80-20799 Filed 7-11-80; 8:45 am]

BILLING CODE 4310-55-M

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 651

## New England Fishery Management Council; Correction of Notice of Public Meetings

**AGENCY:** National Oceanic and Atmospheric Administration/ Commerce.

**ACTION:** Correction of notice of public meetings.

**SUMMARY:** On July 3, 1980, a Notice in the **Federal Register** (45 FR 45336) announced a public meeting on the development of an interim plan for the management of Atlantic groundfish (cod, haddock, and yellowtail flounder). The notice has been changed as set forth below:

**ADDRESS:** Meeting location: The meeting that was to be held on July 16, 1980, at the Holiday Inn, Routes 1 and 128, Peabody, Massachusetts, will now be held instead at the City Hall, Gloucester, Massachusetts, on the same date. An additional meeting will be held on July 17, 1980, at the Cape Cod Community College, Lecture Hall C, Science Building, West Barnstable, Massachusetts. Both of these meetings will begin promptly at 7:00 p.m. and adjourn at approximately 10:00 p.m.

**FOR FURTHER INFORMATION CONTACT:** Douglas G. Marshall, Executive Director, New England Fishery Management Council, Suntaug Office Park, 5 Broadway (Route 1), Saugus,

Massachusetts 01906. Telephone: 617–231–0422.

Dated: July 9, 1980.

**Winfred H. Meibohm,**

*Executive Director National Marine Fisheries Service.*

[FR Doc. 80-20993 Filed 7-11-80; 8:45 am]

BILLING CODE 3510-22-M

# Notices

Federal Register
Vol. 45, No. 136
Monday, July 14, 1980

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.

## CIVIL AERONAUTICS BOARD

### Baltimore-Cleveland Subpart Q Proceeding

**AGENCY:** Civil Aeronautics Board.

**ACTION:** Notice of order to show cause (80–7–50).

**SUMMARY:** The Board is instituting the *Baltimore-Cleveland Subpart Q Proceeding* and is proposing to grant scheduled nonstop authority to Evergreen International Airlines in the Baltimore-Cleveland market under expedited procedures of Subpart Q of its Procedural Regulations. The tentative findings and conclusions will become final if no objections are filed.

The complete text of this order is available as noted below.

**DATES:** Objections: All interested persons having objections to the Board issuing the proposed authority shall file, and serve upon all persons listed below, no later than August 13, 1980, a statement of objections, together with a summary of the testimony, statistical data, and other material expected to be relied upon to support the stated objections.

**ADDRESSES:** Objections to the issuance of a final order should be filed in Docket 38200, which we have entitled the *Baltimore-Cleveland Subpart Q Proceeding*. They should be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

In addition, copies of such filings should be served upon Evergreen International Airlines; Maryland Department of Transportation, State Aviation Administration; Ohio Department of Transportation, Division of Aviation; Mayors of Baltimore and Cleveland; Director, Baltimore/Washington International Airport; and the Director, Cleveland Hopkins International Airport.

**FOR FURTHER INFORMATION CONTACT:** Lucille J. Mellema, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, (202) 673–5105.

**SUPPLEMENTARY INFORMATION:** The complete text of Order 80–7–50 is available from our Distribution Section, Room 516, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 80–7–50 to that address.

By the Bureau of Domestic Aviation, July 8, 1980.

**Phyllis T. Kaylor,**

*Secretary.*

[FR Doc. 80–20909 Filed 7–11–80; 8:45 am]

BILLING CODE 6320–01–M

### Lone Star Airways, Houston-Miami Subpart Q Proceeding

**AGENCY:** Civil Aeronautics Board.

**ACTION:** Notice of Order to Show Cause (Order 80–7–33), Docket 38187.

**SUMMARY:** The Board is instituting the *Lone Star Airways Houston-Miami Subpart Q Proceeding* and is proposing to grant authority in the Houston-intermediate points-Miami markets to Lone Star Airways, Inc., under the expedited procedures of Subpart Q of its Procedural Regulations. The tentative findings and conclusions will become final if no objections are filed, provided that the Board finds, in Docket 38185, that Lone Star is fit, willing and able to engage in scheduled domestic air transportation. The complete text of this order is available as noted below.

**DATES:** All interested parties having objections to the Board issuing the proposed authority shall file, by August 18, 1980, with the Board and serve upon Lone Star Airways a statement of objections together with a summary of testimony, statistical data and other material expected to be relied upon to support the stated objections.

**ADDRESSES:** Objections to the issuance of a final order should be filed in Docket 38187, which we have entitled the *Lone Star Airways Houston-Miami Subpart Q Proceeding*. This should be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

**FOR FURTHER INFORMATION CONTACT:** Peter Bonanno, Jr., Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

**SUPPLEMENTARY INFORMATION:** The complete text of Order 80–7–33 is available from our Distribution Section, Room 516, Civil Aeronautics Board, 1825 Connecticut Ave., N.W., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 80–7–33 to that address.

By the Civil Aeronautics Board: July 8, 1980.

**Phyllis T. Kaylor,**

*Secretary.*

[FR Doc. 80–20907 Filed 7–11–80; 8:45 am]

BILLING CODE 6320–01–M

**[Docket No. 37392; Order No. 80–7–10]**

### Transatlantic, Transpacific and Latin American Service Mail Rates Investigation; Order To Show Cause

By Order 78–12–159, the Board adopted a review procedure and updating formula for establishing final international service mail rates for future periods on a semi-annual basis. The update procedure has been modified subsequently.[1] The present order to show cause reflects all revisions adopted by the Board and proposes tentative final rates for the third quarter of calendar year 1980.

In addition, as indicated in Order 80–5–125, we also have added one further modification to the formula. We have restated the 1975 base period cost data to reflect capitalization of leases for comparative purposes. In the past we have been adjusting the latest cost data to insure comparability with cost data for periods prior to the change in accounting for lease expense. The carriers have provided sufficient data to enable us to restate cost data for the 1975 base period. It will no longer be necessary to adjust the reported data.

Also, the proposed final rates for the third quarter of 1980, set forth in the attached Appendix A,[1a] shall serve as temporary rates for that quarter until the final rate order is issued. Since these rates are subject to retroactive adjustment, we waive the procedural requirements of Rule 310 with respect to the establishment of these temporary

[1] See Orders 79–7–17, 79–7–96, 80–1–25 and 80–5–125.

[1a] Appendices A through D filed as part of the original.

rates. This is the same procedure adopted in Order 80–6–173 for domestic service mail rates. Considerations of basic consistency argue that we adopt the same approach here.

It was necessary to estimate the amount of regulatory depreciation for Braniff and TWA for the last quarter of 1979 and the first quarter of 1980 and for Pan American for the first quarter of 1980. Reporting directive No. 4, effective December 31, 1979, waived the requirement for unsubsidized carriers to file Schedule P–5(a), "Components of Flight Equipment Depreciation" which provided regulatory depreciation data. We were able to obtain data from the other carriers. At this time we do not intend to reinstate the requirement to file Schedule P–5(a). However, we expect in the near future to issue a notice of proposed rule-making signaling our intent to change our policy in regard to the use of regulatory depreciation.[2]

The tentative service mail rates set forth in the attached Appendix A reflect the application of the following cost escalation factors:

1. Fuel cost: The cost per gallon as at August 15, 1980, is estimated by (a) computing the average monthly increase in price over the latest four months; (b) projecting the average monthly increase for a period of three months; and (c) adding the three-month increase to the May 1980 cost per gallon. (See Appendix D)

2. Other costs: Cost escalation from October 1, 1979, to October 1, 1980, is based on a comparison of unit costs for the year ended March 31, 1979, with unit costs for the year ended March 31, 1980.

These rates represent decreases in Atlantic and Pacific linehaul charges of about 0.5 and 5.4 percent, respectively, and an increase of 0.2 percent in Latin American linehaul charges from the final service mail rates established for the second quarter of 1980. Atlantic and Latin American terminal charges increased by 2.0 and 15.6 percent, respectively, while Pacific terminal charges decreased by 23.9 percent.

These fluctuations were caused by several factors. Fuel cost increases have moderated somewhat recently. Second quarter rates were based on per gallon fuel cost projections which were overestimated by 6.89 cents in the Atlantic, 8.86 cents in the Pacific and 3.97 cents in Latin America. Noncapacity costs per ton enplaned were likewise overestimated by $28.42 and $36.91, respectively, in the Atlantic and Pacific and were underestimated by $24.61 in Latin America. Most of the decline in Pacific terminal charges was brought about by a change in Northwest's allocation procedures among their operating entities which results in less costs being allocated to international and more costs to domestic entities.

The Board tentatively finds and concludes that:

(1) The fair and reasonable rates compensation to be paid in their entirety by the Postmaster General pursuant to the provisions of Section 406 of the Federal Aviation Act of 1958, as amended, to the carriers for the transportation by aircraft of space-available mail, military ordinary mail and all other mail over their respective routes in the Atlantic, Pacific, and Latin American rate areas, the facilities used and useful therefor, and the services connected therewith, for the period from July 1 through September 30, 1980, or until further Board order, are those set forth in the attached Appendix A.

(2) The fair and reasonable temporary rates of compensation for the transportation of mail by aircraft in international services for the period October 1, 1980, until further Board order shall be the final rates established for the period July 1 through September 30, 1980.

(3) The terms and conditions applicable to the transportation of each class of mail at the rates established here are those set forth in Order 79–7–16.

Accordingly, pursuant to the Federal Aviation Act of 1958, as amended, particularly sections 204(a) and 406, and the Board's Procedural Regulations promulgated in 14 CFR, Part 302,

1. We direct all interested persons to show cause why the Board should not adopt the foregoing tentative findings and conclusions, and fix, determine and publish the final rates specified above to be effective July 1 through September 30, 1980, or until further Board order.

2. We direct all interested persons having objections to the rates or to the tentative findings and conclusions proposed here to file with the Board a notice of objection within ten (10) days after the date of service of this order, and, if notice is filed, to file a written answer and any supporting documents within 30 days after service of this order.

3. If no notice is filed, or, if after notice, no answer is filed within the designated time, or if an answer timely filed raises no material issue of fact, we will deem all further procedural steps waived and we may enter an order incorporating the tentative findings and conclusions set forth here and fixing the final rates set forth in the attached Appendix A.

4. The fair and reasonable temporary rates of compensation for the transportation of mail by aircraft in international service for the period July 1, 1980, until further Board order are the rates set forth in the attached Appendix A.

5. We shall serve this order upon all parties to the proceeding in Docket 37392.

We shall publish this order in the **Federal Register.**

By the Civil Aeronautics Board.

**Phyllis T. Kaylor,**

*Secretary.*

All Members concurred except Member Dalley who did not participate.

[FR Doc. 80–20908 Filed 7–11–80; 8:45 am]

BILLING CODE 6320–01–M

[2] See 14 CFR 399.42.

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**[Dockets 35373, 38385; Order 80–7–17]**

## Western Air Lines, Inc.; Order Granting Exemption

Application of Western Air Lines, Inc. for an exemption to Section 416(b) of the Federal Aviation Act of 1958, as amended. Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 3rd day of July, 1980.

By applications filed June 25 and 27, 1980, Western Air Lines, Inc. (Western) requests an exemption from Section 403 of the Federal Aviation Act (Act) and from Part 221 of the Board's Economic Regulations to permit it to offer free air transportation to 39 persons between the cities of Seattle/Portland and cities on Western's route system.

In support of its applications, Western states that the cause for this action is the volcanic eruption of Mt. St. Helens and the publicity it has generated with respect to the Portland/Seattle areas. Specifically, the carrier states that the general public, sales meeting managers, convention planners, tour operators and others connected with generating and producing business and leisure travel to the Portland/Seattle areas have been given the impression that Portland and Seattle have been adversely affected by this volcanic eruption.

To counter this erroneous information and to prevent any additional cancellations of business trips, vacations, conventions and meetings in the Portland/Seattle areas, Western requests authority to provide free transportation to individuals who are responsible for the promotion of Portland and Seattle so that they personally can respond to misapprehensions concerning the effect of Mt. St. Helens on their individual cities. Included in the list of personnel to

be granted free transportation are the governors of Oregon and Washington, the mayors of Portland and Seattle, and several other personnel employed by each state to help promote tourism.

Western further requests that this exemption be granted promptly so that these individuals can make their travel plans immediately so as to forestall any lessening of business this summer. The carrier also requests that this exemption authority expire on its own terms within 90 days of Board approval.

No other comments in support or in opposition to the application have been filed with the Board.

The Board concludes that grant of the exemptions requested, limited to 90 days duration, would be in the public interest and we will therefore approve them to that extent. The Board does have some reservations concerning the granting of free transportation to government officials, and expects to institute shortly a proceeding to determine whether additional regulations are necessary to insure that government officials do not use their influence to obtain free and reduced transportation rates for personal transportation. However, these concerns seem remote under the circumstances of the present applications. Granting this exemption will benefit both the carrier and the communities involved if the promotional aspects of the trip prove successful. Needless to say, the exemptions cover only transportation which is intended to be promotional.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly Sections 403 and 416(b).

1. We grant the exemptions requested by Western Air Lines, Inc., in Docket 38373 and 38385 for a period of 90 days from the date of adoption of this order;

2. A copy of this order will be served on Western Air Lines, Inc., and;

3. This order will be published in the **Federal Register.**

By the Civil Aeronautics Board: (All members concurred).

**Phyllis T. Kaylor,**

*Secretary.*

[FR Doc. 80-20910 Filed 7-11-80; 8:45 am]

BILLING CODE 6320-01-M

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**[Docket 37730]**

## Standard Foreign Fare Level Investigation; Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in this proceeding is assigned to be held before the Board on July 18, 1980, at 10:30 a.m. (local time), in Room 1027, Universal Building, 1825 Connecticut Avenue, N.W., Washington, D.C.

Each party which wishes to participate in the oral argument shall so advise the Secretary, in writing, on or before July 15, 1980 together with the name of the person who will represent it at the argument.

Dated at Washington, D.C. July 9, 1980.

**Phyllis T. Kaylor,**

*Secretary.*

[FR Doc. 80-20997 Filed 7-11-80; 8:45 am]

BILLING CODE 6320-01-M

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**[Docket 38324; Order 8-7-38]**

## Adopted by the Civil Aeronautics Board at its Office in Washington, D.C. on the 8th Day of July 1980

Application of Air Oregon, Inc. for compensation for losses for compulsory service to Albany/Corvallis, Oregon.

On April 14, 1980, Air Oregon, Inc. (Air Oregon) filed notice of its intent to suspend all service at Albany/Corvallis, Oregon, beginning May 10, 1980. By Order 80-5-90, May 13, 1980, we prohibited Air Oregon's suspension through June 13, 1980.[1]

On June 5, 1980, Air Oregon filed an application for compensation for its monthly losses in serving Albany/Corvallis, beginning May 15, 1980. The carrier provided a detailed explanation of its estimated traffic, revenue, and cost, and sought a monthly compensation of $7,852.02.

In our review of Air Oregon's request, we have reallocated certain flight related costs on the basis of weighted departures rather than block hours. This revision reduces the monthly compensation requirement from $7,852.02 to $7,310.02 per month.

Accordingly, pursuant to the Federal Aviation Act of 1958, as amended, particularly sections 102, 204, 419, and 1002(d) thereof, and the regulations promulgated in 14 CFR 302 and 324:

1. We set the interim level of compensation for losses sustained by Air Oregon, Inc. by virtue of its provision of essential air service to Albany/Corvallis, Oregon at $140.58 for each scheduled flight completed beginning May 15, 1980, subject to a maximum compensation of $281.16 for each weekday or weekend period essential service is provided, and a maximum compensation of $7,310.02 per 30-day period;

2. This proceeding shall remain open pending entry of an order fixing the final rate of compensation, and the amount of such rate of compensation may be the same as, lower than, or higher than the interim rate of compensation set here; and

3. We shall serve this order upon all parties to this proceeding.

We shall publish this order in the **Federal Register.**

By the Civil Aeronautics Board.

**Phyllis T. Kaylor,**

*Secretary.*

[FR Doc. 80-20906 Filed 7-11-80; 8:45 am]

BILLING CODE 6320-01-M

[1] We have since extended Air Oregon's obligation.

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## COMMISSION ON CIVIL RIGHTS

## Connecticut 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 Connecticut Advisory Committee (SAC) of the Commission originally scheduled for July 24, 1980, at 900 East Main Street, Meriden, Connecticut, (FR Doc. 80-18856 on page 41994) has been changed.

The meeting now will be held on August 6, 1980, beginning at 7:00 pm and will end at 9:00 pm, at the Howard Johnson's Motor Lodge Wharf, 400 Sargent Drive, New Haven, Connecticut 06511.

Dated at Washington, D.C., July 9, 1980.

**Thomas L. Neumann,**

*Advisory Committee Management Officer.*

[FR Doc. 80-20899 Filed 7-11-80; 8:45 am]

BILLING CODE 6335-01-M

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## District of Columbia 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 District of Columbia Advisory Committee (SAC) of the Commission will convene at 2:00 p.m. and will end at 5:00 p.m., on August 5, 1980, at the Water Resources Council Conference Room, 2120 "L" Street NW.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, 2120 L Street NW., Rm. 510, Washington, D.C. 20037.

The purpose of this meeting is to review a draft report of the Forum on Police-Community Relations. In addition, ways to continue monitoring the issue in the District of Columbia will be discussed.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., July 3, 1980.

**Thomas L. Neumann,**

*Advisory Committee Management Officer.*

[FR Doc. 80-20895 Filed 7-11-80; 8:45 am]

BILLING CODE 6335-01-M

### North Dakota 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 North Dakota Advisory Committee (SAC) of the Commission will convene at 9:30 a.m. and will end at 12:00 p.m., on July 23, 1980, at the Dakota Association of Native Americans, 1900 E. Broadway, Bismarck, North Dakota.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Rocky Mountain Regional Office, Executive Tower Inn, Suite 1700, 1405 Curtis Street, Denver, Colorado 80202.

The purpose of this meeting is to discuss progress of housing study and consider the possibility of doing an education handbook.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., July 8, 1980.

**Thomas L. Neumann,**

*Advisory Committee Management Officer.*

[FR Doc. 80-20898 Filed 7-11-80; 8:45 am]

BILLING CODE 6335-01-M

### Utah 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 Utah Advisory Committee (SAC) of the Commission will convene at 7:00 pm and will end at 10:00 pm, on July 30, 1980, at the Faculty Lounge, Social Work Building, University of Utah.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Rocky Mountain Regional Office, Executive Tower Inn, Suite 1700, 1405 Curtis Street, Denver, Colorado 80202.

The purpose of this meeting is to plan for next SAC project. Report on Sylvan Lake Conference.

This meeting will be conducted pursuant to the provisons of the Rules and Regulations of the Commission.

Dated at Washington, D.C., July 7, 1980.

**Thomas L. Neumann,**

*Advisory Committee Management Officer.*

[FR Doc. 80-20896 Filed 7-11-80; 8:45 am]

BILLING CODE 6335-01-M

### Vermont 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 Vermont Advisory Committee (SAC) of the Commission will convene at 7:00 p.m. and will end at 9:00 p.m., on August 4, 1980, at the Vermont Holiday Inn, Blush Hill Road, Waterbury, Vermont.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the New England Regional Office, 55 Summer Street, 8th Floor, Boston, Massachusetts 02110.

The purpose of this meeting is to discuss the progress of the Teacher Training project, also, to set definite dates for completion of first draft of report and what should be included in it.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., July 8, 1980.

**Thomas L. Neumann,**

*Advisory Committee Management Officer.*

[FR Doc. 80-20897 Filed 7-11-80; 8:45 am]

BILLING CODE 6335-01-M

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### Caribbean Fishery Management Council, Its Scientific and Statistical Committee, and Advisory Panel; Public Meetings

**AGENCY:** National Marine Fisheries Service, NOAA.

**SUMMARY:** The Caribbean Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Public Law 94-265), has established a Scientific and Statistical Committee (SSC) and Advisory Panel (AP). The Council will hold its 30th regular meeting to consider (1) comments and recommendations received during the public hearing process, held on the draft environmental impact statement (DEIS)/fishery management plan (FMP), regulatory analysis and proposed regulations for the spiny lobster fishery; (2) draft framework FMP for shallow-water reef fishes; (3) draft operation plan for the spiny lobster fishery; (4) status report regarding FMP's under development; (5) draft work plan for the bait fishes FMP; (6) the Council's education and information program; and (7) administrative matters as well as other Council business. The SSC and AP will meet concurrently and/or jointly, if deemed convenient, to examine and provide recommendations to the Council on (1) comments received during the public hearing process for the spiny lobster DEIS/FMP; (2) draft framework FMP for shallow-water reef fishes; (3) draft work plan for the bait fishes FMP, and other related business.

**DATES:** The Council meetings will convene on Tuesday, August 12, 1980, at 1:30 p.m., and will adjourn at approximately 12 noon on Thursday, August 14, 1980. The SSC and AP meetings will convene on Monday, August 11, 1980, at 9:30 a.m., and will adjourn at approximately 4:30 p.m. The meetings are open to the public.

**ADDRESS:** The meetings will take place at the Hotel Pierre, 105 de Diego Avenue, Santurce, Puerto Rico.

**FOR FURTHER INFORMATION CONTACT:** Caribbean Fishery Management Council, Suite 1108, Banco de Ponce Building, Hato Rey, Puerto Rico 00918. Telephone: (809) 753-4926.

Dated: July 8, 1980.

**Winfred H. Meibohm,**

*Executive Director, National Marine Fisheries Service.*

[FR Doc. 80-20991 Filed 7-11-80; 8:45 am]

BILLING CODE 3510-22-M

### Mid-Atlantic Fishery Management Council; Public Meetings

**AGENCY:** National Marine Fisheries Service, NOAA.

**SUMMARY:** The Mid-Atlantic Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Public Law 94-265), will meet to discuss amendments to the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plans (FMP's); status of FMP's; election of officers; foreign fishing applications; and other fishery management and administrative matters.

**DATE:** The meetings, which are open to the public, will convene on Wednesday, August 13, 1980, at approximately 1 p.m., and will adjourn on Friday, August 15, 1980, at approximately 1 p.m. The meetings may be lengthened or shortened, or agenda items rearranged, depending upon progress on the agenda.

**ADDRESS:** The meetings will take place at the Ramada Inn, 76 Industrial Highway, Essington, Pennsylvania.

**FOR FURTHER INFORMATION CONTACT:** Mid-Atlantic Fishery Management Council, Room 2115—Federal Building, North and New Streets, Dover, Delaware 19901, Telephone: (302) 674–2331.

Dated: July 9, 1980.

**Winfred H. Meibohm,**

*Executive Director, National Marine Fisheries Service.*

[FR Doc. 80–20989 Filed 7–11–80; 8:45 am]

BILLING CODE 3510–22–M

## New England Fishery Management Council; Public Meetings

**AGENCY:** National Marine Fisheries Service, NOAA.

**SUMMARY:** The New England Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Public Law 94–265), will meet to discuss (1) status of the stocks and oversight committee report for groundfish; (2) oversight committee reports for scallops and lobster; and (3) foreign fishing regulations, as well as other business.

**DATE:** The meetings, which are open to the public, will convene on Wednesday, July 30, 1980, at approximately 10 a.m., and will adjourn on Thursday, July 31, 1980, at approximately 5 p.m.

**ADDRESS:** The meetings will take place at the Holiday Inn, Woodbury Avenue, Portsmouth, New Hampshire.

**FOR FURTHER INFORMATION CONTACT:** New England Fishery Management Council Suntaug Office, Park Five Broadway, Route One, Saugus, Massachusetts 01906 Telephone: (617) 231–0422.

Dated: July 9, 1980.

**Winfred H. Meibohm,**

*Executive Director, National Marine Fisheries Service.*

[FR Doc. 80–20990 Filed 7–11–80; 8:45 am]

BILLING CODE 3510–22–M

## South Atlantic Fishery Management Council's Advisory Subpanel; Public Meetings

**AGENCY:** National Marine Fisheries Service, NOAA.

**SUMMARY:** The South Atlantic Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Public Law 94–265), has established an advisory subpanel which will meet to review proposed management measures, objectives, and full fishery management plan for snapper-grouper complex.

**DATES:** The meetings, which are open to the public, will convene on Wednesday, August 13, 1980, at approximately 1 p.m., and will adjourn on Thursday, August 14, 1980, at approximately 12 noon.

**ADDRESS:** The meetings will take place at the Council Headquarters, One Southpark Circle, Charleston, S.C.

**FOR FURTHER INFORMATION CONTACT:** South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, South Carolina, Telephone: (803) 571–4366.

Dated: July 7, 1980.

**Winfred H. Melbohm,**

*Executive Director, National Marine Fisheries Service.*

[FR Doc. 80–20992 Filed 7–11–80; 8:45 am]

BILLING CODE 3510–22–M

## COMMODITY FUTURES TRADING COMMISSION

## Proposed Disapproval of Contract Market Rules; Public Comment

**AGENCY:** Commodity Futures Trading Commission.

**SUMMARY:** The Commodity Futures Trading Commission is announcing its intent to consider, pursuant to section 5a(12) of the Commodity Exchange Act (the "Act"), 7 U.S.C. 7a(12) (1976), as amended by the Futures Trading Act of 1978, Pub. L. No. 95–405, Sec. 12, 92 Stat. 871 (1978), whether to disapprove bylaw 905 and the proposed amendments to bylaw 905 of the Commodity Exchange, Inc., ("Comex"); rule 109 and the proposed amendments to rule 109 of the Chicago Board of Trade Clearing Corporation, ("CBOT Clearing Corporation" or "Corporation"); rule 41.12 and the proposed amendments to rule 41.12 of the New York Mercantile Exchange ("NYME"); and proposed rules 282 and 813 (second paragraph) of the Chicago Mercantile Exchange ("CME"). The text of each of these rules and proposals ("rules") is set forth in the Appendix which is attached to this Notice. These rules currently govern or, if approved, would govern the establishment of settlement prices for all commodities on the CBOT and NYME and for metals on Comex and the CME. The Commission believes that consideration of whether to disapprove these rules is appropriate at this time in view of the substantial legal and policy issues raised by these rules and summarized below.

**DATE:** Comments must be received on or before September 12, 1980.

**ADDRESS:** Interested persons should submit comments to: Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581.

**ATTENTION:** Office of the Secretariat. Telephone: (202) 254–6314.

**FOR FURTHER INFORMATION CONTACT:** Harold L. Hardman, Esq. Division of Trading and Markets, 2033 K Street, N.W., Washington, D.C. 20581. Telephone: (202) 254–8955.

**SUPPLEMENTARY INFORMATION:** Comex bylaw 905 and the proposed amendments to bylaw 905, CBOT Clearing Corporation rule 109 and proposed amendments to rule 109, NYME rule 41.12 and the proposed amendments to rule 41.12, and proposed CME rules 282 and 813 (second paragraph) provide for the establishment of settlement prices for all commodities on the CBOT and NYME and for metals on Comex and the CME.[1] The Comex, Corporation, and NYME rules initially were submitted for Commission approval, pursuant to section 5a(12) of the Act,[2] as amended during the process by which the Commission designated Comex, the CBOT and the NYME as contract

[1] The Commission's review of the settlement price rules of these exchanges is focused at this time on the effects of those rules on trading in the metals contracts for which those exchanges are designated as contract markets. The exchanges assert that price relationships between different months in metals futures contracts generally reflect only the cost of storing the metal between the two contract delivery dates and thus, in these contracts, aberrations from prices which reflect storage costs may readily be detected. *See, e.g.,* Letter dated March 8, 1979, from the CME to the Commission's Office of the Secretariat. The Commission is aware that the issues discussed in this Notice with respect to the procedures for establishing settlement prices may not be limited solely to the metals contracts, but for purposes of this proceeding is seeking public comment only on the settlement price practices of the subject exchanges as they apply to those contracts. The Commission may expand its review of settlement price practices to other commodities if appropriate at a future date.

[2] 7 U.S.C. 7a(12) (1976), as amended by the Futures Trading Act of 1978, Pub. L. No. 95–405, Sec. 12, 92 Stat. 871 (1978). Section 5a(12) of the Act provides in pertinent part that:

A contract market shall . . . submit to the Commission for its approval all bylaws, rules, regulations, and resolutions made or issued by such contract market, or by the governing board thereof or any committee thereof which relate to terms and conditions in contracts of sale to be executed on or subject to the rules of such contract market or relate to other trading requirements except those relating to the setting of levels of margin. . . . The Commission shall approve, within thirty days of their receipt (or within sixty days of their receipt if the Commission determines them to be of major economic significance) unless the Commission notifies the contract market of its inability to make such determination within such period of time, such bylaws, rules, regulations, and resolutions upon a determination that such bylaws, rules, regulations, and resolutions are not in violation of the provisions of this Act or the regulations of the Commission and thereafter the Commission shall disapprove, after appropriate notice and opportunity for hearing, any bylaw, rule, regulation, or resolution which the Commission finds at any time is in violation of the provisions of this Act or the regulations of the Commission. . . .

markets for the various commodities.[3] The amendments to the Comex, Corporation and NYME rules were submitted on April 26, 1979, October 17, 1979 and April 15, 1977, respectively. The CME submitted its proposed rules to the Commission for consideration under section 5a(12) of the Act on March 8, 1979.[4]

The Commission has reviewed these rules and believes that there may be other, less anticompetitive means of calculating settlement prices which do not violate the objectives, policies, and purposes of the Commodity Exchange Act. Accordingly, consistent with its responsibilities under section 5a(12) of the Act, the Commission is considering whether to disapprove these rules.[5]

Pursuant to section 5a(12), the Commission may disapprove a contract market rule "after appropriate notice and opportunity for hearing." [6] Through publication of this Notice, the Commission hopes to receive comments from as wide a spectrum of the public as possible.[7] The Commission is particularly requesting comment concerning:

1. The possible use of settlement prices for price-basing and whether the extent of that use is dependent upon the type of procedures used for establishing the settlement prices;

2. Alternative methods for computing settlement prices;

3. The relative reliability or accuracy of such alternatives and whether, if implemented, particular methods would further the objectives of the Act of dissemination of fair and accurate price basing information while lessening the perceived anticompetitive aspects of the exchange procedures discussed herein.

*Function of Settlement Prices*

At the conclusion of each trading session, a settlement price is computed or otherwise established for each trading month of each designated contract. Settlement prices are intended to serve as indications of market value and may be used by commercial interests in the pricing of cash commodities in the spot and forward markets. In addition, settlement prices are utilized by the clearing house to determine both variation margin and invoice prices for delivery, and are the reference points for determining permissible daily price ranges for the following day's trading.

The settlement price serves a dual purpose for exchange clearing houses. It is recognized as the daily price at which the clearing house will clear all trades and determine the amount of variation margin that is either due or owing from clearing members. This is accomplished by using the settlement price to "mark to the market" net positions at the end of each day. Secondly, the clearing house invoices delivery notices based on the previous day's settlement price of the expiring contract market.

Finally, the daily permissible price range for each contract is determined by application of an exchange's rules governing price limit moves to the previous day's settlement price. The permissible price range is the maximum price advance above the previous day's settlement price or decline below the previous day's settlement price which is permitted for a commodity in one trading session.

*Determination of Settlement Prices by Comex, CBOT Clearing Corporation, NYME and as Proposed by the CME*

Comex represents[8] that following the close of trading, a committee of members, the Committee on Quotations for Metals ("Committee"),[9] meets and reviews the prices of contracts traded during the closing minutes and throughout the day for a particular commodity. The Committee examines the range of closing prices in one or two contract months that have traded actively immediately prior to the close, and sets a discrete settlement price for each of them. This settlement price is intended to represent the range of prices near the close and to reflect price trends at the close. Once the closing price for the active "maturity," i.e., contract month, is established, the Committee will then fix settlement prices for the less active contract months so that the price differences between each is consistent with "normal" price relationships. Generally, in metals futures trading "normal" price relationships between months are based on "carrying charges"; *i.e.*, prevailing interest, storage, and insurance rates.

The amendments to Comex bylaw 905 would delegate the authority to determine settlement prices to a specific subcommittee for each commodity.[10] Each subcommittee would establish the settlement prices for the less active trading months after setting the settlement price for the most active month. The proposed amendments also prescribe general criteria which the subcommittee may deem relevant in fixing settlement prices. *See* proposed Comex bylaw 905(e).

Under CBOT Clearing Corporation rule 109, the Clearing Corporation President determines the settlement price for each contract month. The CBOT has represented that, at least with respect to trading in silver, the President is authorized to consult knowledgeable traders in the silver

[3] The Comex was designated as a contract market to trade gold, silver and copper on July 18, 1975 and zinc on October 4, 1977. The Chicago Board of Trade was designated as a contract market to trade gold and silver on July 18, 1975 and gold (100 oz.) on February 6, 1979. The NYME was designated as a contract market to trade gold, palladium, and platinum on July 18, 1975 and gold (400 oz.) on October 18, 1977. As a part of the July 18, 1975 designation process, each exchange was required to submit the contents of its rulebook for section 5a(12) approval.

The rules which are the subject of this proceeding have not yet been approved under section 5a(12) of the Act, but are currently being enforced under Commission regulation 1.53 and, as such, may be enforced only as they were written as of July 18, 1975. The proceeding initiated here is designed to complete the Commission's review of these rules under section 5a(12) of the Act.

[4] The CME was designated as a contract market to trade copper and gold on July 18, 1975 and platinum on July 19, 1977. Existing rule 813 (first paragraph) of the CME dates from its 1975 designation and has been enforced under Commission regulation 1.53.

[5] The Commission staff is currently in the process of studying the procedures used by all exchanges in setting settlement prices. This study was undertaken in conjunction with a rulemaking proceeding to amend Commission regulation § 16.00 *et seq.*, 17 CFR 16.00 *et seq.* (1979). *See*, 45 FR 39280, 39281 (June 10, 1980). During the course of this proceeding, the staff will consider public comments from this proceeding and the rulemaking proceeding and conduct further studies to evaluate the procedures used to establish settlement prices. In this connection, the Commission may consider various means by which acceptable rules for the setting of settlement prices may be adopted by the exchanges. For example, should the Commission determine to disapprove the rules which are the subject of this proceeding, it may delay the effective date of such disapproval for a limited period of time in order to allow the exchanges to adopt and submit for Commission spproval new rules governing the establishment of settlement prices. Alternatively, the exchanges, consistent with regulation § 1.41, may take emergency action to assure the maintenance of a settlement price procedure. Further, the Commission may consider requesting, under section 8a(7) of the Act, that some or all of the exchanges alter or supplement their existing rules governing the establishment of settlement prices.

[6] The Commission has taken the view that actions under section 5a(12) of the Act may be conducted generally in accordance with the procedural requirements for informal notice and comment rulemaking. *See* 5 U.S.C. 553.

[7] The Commission will consider the exchanges' submissions to date, staff investigations, and the comments of the exchanges and of the public submitted in response to this notice and opportunity for hearing, in determining whether to approve or disapprove these rules.

[8] Letter to the Commission from Jacob Schein, Vice President of Comex, dated November 18, 1977.

[9] The Committee is composed of five members of the Comex appointed by the Board of Trade Group, giving "due regard to proper representation for the commodity." There are no other Comex rules or bylaws specifying the composition of the Committee on Quotations for Metals.

[10] As proposed, the Committee on Quotations would consist of three members from each ring for each commodity as appointed by the President. The three members from each ring would constitute the subcommittee for that ring.

pits[11] in making settlement price determinations. As proposed, the President would be required to base the settlement price on the day's closing price or price range in each contract, unless in his judgment special circumstances require other considerations. Neither the CBOT nor the CBOT Clearing Corporation has a rule, policy or guideline describing the special circumstances under which the President may exercise his judgment or defining the scope of his discretion.

Under the existing rule at the NYME, the President is given the authority to establish settlement prices at the close of trading. There are no provisions, however, specifying the criteria upon which his determination should be made. As proposed, settlement prices would be determined by a committee of members.[12] The proposed rules, however, go no further in specifying any criteria upon which the price determination should be made.

At the CME, settlement prices currently are computed according to an arithmetic formula whose initial component is the mean of the highest and lowest actual prices in the closing range. In addition, bids, offers and the previous day's settlement prices may be factored in by a fixed formula if certain conditions prevail.[13] As proposed, however, a committee of members, the Metals Quotation Committee, could determine settlement prices for metals. In the event few or no transactions occur for any month or in the event transactions at the close would result in a distortion of the price relationship between any months, the Committee would have the authority to establish settlement prices for the month in question to provide for "normal and appropriate price relationships." The Committee is directed, however, to take into consideration certain enumerated factors in determining settlement prices in such situations. *See* proposed rule 813 (second paragraph). This proposed discretionary procedure is similar to the Comex method for determining settlement prices.

In their applications for Commission review of the proposed rule amendments, two exchanges suggested arguments in favor of discretionary setting of settlement prices.[14] The Comex argues that a discretionary system of determining settlement prices is necessary because it believes that no mathematical formula can be devised to take into account the many subtle factors that often must be considered in establishing a fair settlement price. In addition, Comex argues that even if such a formula could be devised, there is a possibility that persons could effect trades at distorted prices for the sole purpose of altering the settlement price.[15]

The CME emphasizes that a committee system allowing for the discretionary determination of settlement prices will facilitate the correction of aberrant closing ranges and the establishment of settlement prices more nearly reflecting the actual economic spread relationships between different contract months. In addition, the CME claims that unless it is allowed to adopt a procedure for establishing settlement prices which provides as much discretion as do the procedures of the other exchanges, it suffers a competitive disadvantage.[16]

For the reasons discussed below, however, the Commission is not satisfied at this time that these assertions justify approval of these rules under section 5a(12) of the Act.

*Possible Grounds for Commission Disapproval of These Settlement Price Rules*

*Section 15 of the Act*

Section 15 of the Act, 7 U.S.C. § 19 (1976), provides that

(t)he Commission shall take into consideration the public interest to be protected by the antitrust laws and endeavor to take the least anticompetitive means of achieving the objectives of this Act, as well as the policies and purposes of the Act, in issuing any order or adopting any Commission rule or regulation, or in requiring or approving any bylaw, rule or regulation of a contract market or registered futures association established pursuant to section 17 of this Act.

The rules at issue here appear to have substantial anticompetitive characteristics which do not necessarily further the objectives of the Act. Those rules apparently would operate in a manner permitting certain market participants to exercise virtually unfettered discretion in establishing settlement prices, without reference to any objective procedures or criteria. For example, the NYME rules as amended provide no indication of criteria that should guide settlement price decisions. Such determinations are left entirely to the discretion of the President or of a committee.

As proposed on the CME and on the Comex, committees are directed to consider certain enumerated factors[17] but are not required to incorporate those factors as a part of their determinations. At the Corporation, the President is given complete discretion to use any method and consider any factors in determining settlement prices but, as proposed, the President would have to consider that day's closing prices or price range for each contract month, unless in his judgment special circumstances require otherwise. The rules provide no indication as to what special circumstances are contemplated or may be considered by the President. Thus, these rules and proposals do no specify any particular method for establishing daily settlement prices and seemingly allow committees to exercise relatively unrestrained discretion in the determination of those prices.

In addition, the discretion permitted by these rules and the involvement on exchange committees of members who themselves may have a significant financial stake in the fixing of settlement prices creates, at the least, an appearance of impropriety and may discourage reliance on settlement prices as an accurate reflection of *bona fide* forces of supply and demand in a particular contract market by producers, merchants and consumers. To the extent that committee members' potential or actual conflicts of interest and

[11] Although the rule does not so state, the Division of Trading and Markets has been advised that the Corporation interprets rule 109 to provide for such consultations. *See*, Letter of Robert K. Wilmouth, President of the CBOT, to William Tueting, then Associate Director of the Division of Trading and Markets, November 27, 1978.

[12] The Division of Trading and Markets has been advised by the NYME that the proposed amendment would be interpreted by the Exchange to allow the settlement price to be determined by a committee of members. *See*, Letter from Richard B. Levine, President of the Exchange, to the Secretariat of the Commission, dated April 15, 1977.

[13] Rule 546 of the CME, which contains the existing procedure of setting the closing range which is considered in setting the settlement price, provides:

The opening and closing ranges shall be established by a designated Exchange official. In the event of a disputed range or trade conspicuously 'out of line' with the market, the final determination of the range shall be made by the Pit Committee. A change in the opening range will be allowed only if determined within 15 minutes of the opening. A change in the closing range will be allowed only if determined within 5 minutes of the close.

[14] The amendments submitted by the CBOT Clearing Corporation and NYME do not particularly alter their existing settlement price procedures and, thus, these exchanges have not specifically sought to justify the merits of the discretionary elements already present in their procedures for the determination of settlement prices.

[15] *See*, Letter of Jacob Schein, Vice President of Comex, to Patricia N. Gillman dated November 18, 1977.

[16] *See*, Letter of Gerald D. Beyer, In-House Counsel to the CME, to the Secretariat of the Commission dated March 8, 1979.

[17] Some of these factors are the price of the last transactions during the closing period, the estimated weighted average price and number of transactions in the particular trading month during and at the end of the closing period; the price differences normally prevailing during that day between the trading months of the particular futures contracts; and bids and offers that are not accepted and that occur at the end of the closing period.

unfettered discretion may influence settlement price determinations, collusive procedures to settlement prices may be prejudicial to other members or to customers.[18] Commenters should address the extent to which the subject exchange rules permit such anticompetitive effects and whether other means of establishing settlement prices might be better designed to prevent such anticompetitive activity.

For the reasons discussed above, approval of these rules by the Commission may be inconsistent with the Commission's responsibilities under section 15 of the Act. Of course, the Commission need not approve the least anticompetitive alternative if another alternative would, in the Commission's judgment, better achieve the objectives, polices, and purposes of the Act.[19] The Commission believes that the procedures set forth in these rules for establishing settlement prices may not be the least anticompetitive means of effectuating the objectives of the Act. Accordingly, the anticompetitive aspects of these particular rules may outweigh their regulatory benefits if less anticompetitive alternatives can achieve the same regulatory objectives.[20]

The Commission believes that a less anticompetitive means of establishing settlement prices would minimize or eliminate subjective judgment and collective discretion to the greatest degree possible in settlement price determinations. Accordingly, the Commission is specifically interested in hearing whether an exchange can provide a procedure for the arithmetical determination of settlement prices and whether such an objective pricing procedure can serve the same purposes as the committee system. It appears that an objective formula would alleviate the anticompetitive aspects of the committee system by eliminating, to a significant degree, the problem of collective discretion and by maximizing objective factors. The Commission is also interested in hearing whether an objective formula could be structured to eliminate extreme or aberrant prices. Any procedure which allows limited discretion in the setting of settlement prices should provide for the maintenance of a written record which discloses the factors which were considered in arriving at the determination of the day's settlement prices. (*See* discussion below of section 5a(2) of the Act.)

*Sections 5 and 6 of the Act*

Section 5 of the Act[21] sets forth in broad terms the test for designation as a contract market, including a requirement in section 5(g) that the board of trade seeking designation demonstrate that transactions for future delivery in the commodity for which designation is being sought will not be contrary to the public interest.[22] Section 6 of the Act[23] requires any board of trade seeking designation to provide the Commission with "a sufficient assurance" that it will continue to comply with the requirements of section 5 and 5a, among other provisions of the Act. Moreover, the Act mandates continuing compliance with these requirements as well as with applicable Commission regulations.[24] Commission Guideline I[25] sets forth the particular showings an exchange must make to justify its initial and continued designation, consistent with section 5 of the Act.[26] For example, it is necessary for a contract market to meet the test of "economic purpose." Thus, a board of trade must provide evidence that:[27]

> The prices involved in transactions for future delivery in the commodity for which such designation is sought are, or reasonably can be expected to be, generally quoted and disseminated as a basis for determining prices to producers, merchants, or consumers of such commodity or the products or byproducts thereof, * * *

The Commission invites comment on whether the settlement price

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[18] In addition to these concerns under section 15 of the Act, the Commission is seeking comments on how the procedure for establishing settlement prices under these rules differs from the method for determining raw sugar spot prices that was the subject of *United States* v. *New York Coffee and Sugar Exchange, Inc.* Civil Action No. 77–Civ–50381 (October 17, 1977). Under the procedure which was the subject of the suit, the New York Coffee and Sugar Exchange ("C&S") (now the Coffee, Sugar & Cocoa Exchange, Inc.) maintained two separate committees to determine raw sugar spot prices.

The United States Department of Justice charged that C&S, in violation of the antitrust laws, fixed, tampered with and artificially influenced the price for raw and refined cane sugar. Further, the Department alleged that C&S permitted spot quotations to be determined by the committees on a subjective, discretionary and judgmental basis and permitted officers of domestic refiners and raw sugar merchants to serve upon the domestic and world committees and participate in the determination of the spot quotations published by C&S. Insofar as it appears that settlement prices may be a factor in the pricing of cash market transactions, there appear to be a number of similarities between the settlement price procedures permitted by the rules cited herein and the raw sugar spot pricing procedure which was the subject of the Department's suit, which was ultimately settled by the parties.

In requesting these comments the Commission does not wish to suggest that the views of the Department of Justice would be controlling in the Commission's analysis of these settlement price rules. While these views could be helpful to the Commission, in discharging its independent responsibilities under section 15 to approve or disapprove contract market rules, the Commission's analysis is guided in large measure by the regulatory objectives of the Commodity Exchange Act served by the rules involved. These objectives were not necessarily a factor in the Department's determination to initiate the lawsuit against C&S.

[19] For example, the Commission has indicated that the objectives of the Act furthered by establishment of a closing range price may outweigh the anticompetitive implications of allowing certain discretion to be employed in establishing that price where that price is reasonably determined to approximate real market conditions. *See* 45 FR 39282 n. 3 (June 10, 1980) and proposed rules § 16.02(b)(1)(i) and (ii). In this proceeding the Commission is conducting an inquiry whether there are less anticompetitive means than the rules here under consideration of setting settlement prices. Although any method which is used to set a nominal settlement price will be anticompetitive to some extent, the Commission wishes to ensure that the method used by the exchanges is the least anticompetitive, practicable alternative available.

[20] Specific public interest objectives which Congress cited as early as 1922 as necessitating federal regulation of the commodity futures markets are set forth in section 3 of the Act, 7 U.S.C. 5 (1976). Section 3 provides as follows:

"Transactions in commodities involving the sale thereof for future delivery as commonly conducted on boards of trade and known as "futures" are affected with a national public interest; that such transactions are carried on in large volume by the public generally and by persons engaged in the business of buying and selling commodities and the products and byproducts thereof in interstate commerce; that the prices involved in such transactions are generally quoted and disseminated throughout the United States and in foreign countries as a basis for determining the prices to the producer and the consumer of commodities and the products and byproducts thereof and to facilitate the movements thereof in interstate commerce; that such transactions are utilized by shippers, dealers, millers, and others engaged in handling commodities and the products and byproducts thereof in interstate commerce as a means of hedging themselves against possible loss through fluctuations in price; that the transactions and prices of commodities on such boards of trade are susceptible to speculation, manipulation, and control, and sudden or unreasonable fluctuations in the prices thereof frequently occur as a result of such speculation, manipulation, or control, which are detrimental to the producer or the consumer and the persons handling commodities and the products and byproducts thereof in interstate commerce, and that such fluctuations in prices are an obstruction to and a burden upon interstate commerce in commodities and the products and byproducts thereof and render regulation imperative for the protection of such commerce and the national public interest therein."

[21] 7 U.S.C. 7 (1976).

[22] Section 5(g) of the Act, 7 U.S.C. 7(g) (1976).

[23] 7 U.S.C. 8 (1976).

[24] *See e.g.*, section 6b of the Act, 7 U.S.C. 13a (1976). For this purpose, Commission regulation 1.50 (17 CFR 1.50 (1979)) requires a board of trade, after designation, to respond to a Commission request that it demonstrate continued compliance with the requirements, *inter alia*, of sections 5 and 5a of the Act.

[25] *See* 40 FR 25849 (June 19, 1975). *See also* CCH Comm. Fut. L. Rep. ¶ 6145.

[26] When Congress added section 5 to the Act in 1974, the House and Senate Conferees stated that the language in section 5(g) included the concept of an "economic purpose" test as provided in H.R. 13113, subject to the final test of the public interest. S. Rep. No. 1194, 93d Cong., 2d Sess. 36 (1974). Guideline I is derived from the "economic purpose" test provided in H.R. 13113. *See* H.R. 13113, 93d Cong., 2d Sess. Section 207 (April 22, 1974).

[27] *See* Guideline I appearing at 40 FR 25849 (June 19, 1975) and CCH Comm. Fut. L. ¶6145.

procuedures of the noted exchanges meet this test.[28]

*Section 5a(2) of the Act*

Section 5a(2)[29] of the Act requires each contract market to

*keep all books, records, minutes and journals of proceedings of* such contract market, and its governing board, committees, subsidiaries, and affiliates *in a manner that will clearly describe all matters discussed by such contract market, governing board, committees, subsidiaries and affiliates and reveal any action taken in such matters,* and allow inspection at all times by any authorized representative of the Commission or United States Department of Justice of all such books, rrecords, minutes and journals of proceeding. Such books, records, minutes and journals of proceedings shall be kept for a period of three years from the date thereof, or for a longer period if the Commission shall so direct. [Emphasis added].

None of the exchange rules which are the subject of this proceeding provide for the keeping of reports or records of the settlement price committee's or the exchange staff's deliberations which would reveal the factual or subjective basis of settlement price determinations. This lack of reporting and record keeping procedures is seemingly at variance with section 5a(2) and impedes review of a settlement price determination by the Commission, a member, or an individual who may question, for example, whether a particular settlement price is an accurate reflection of the closing price range. The lack of such records denies to interested traders and the public the information needed to determine whether settlement prices are an appropriate index on which to base or judge cash market prices and may exacerbate the anticompetitive effects of these exchange procedures. Because any method to determine settlement prices according to the discretion of a committee or an exchange staff member has no objective measure for verification, the Commission is particularly concerned that the exchanges do not appear to maintain any record upon which to verify or review the proposed settlement price determinations. In view of the foregoing, the Commission hereby gives notice of its intention to consider disapproval, pursuant to section 5a(12) of the Act, of bylaw 905 and the proposed amendment to bylaw 905 of the Commodity Exchange Inc., rule 109 and the proposed amendments to rule 109 of the Chicago Board of Trade Clearing Corporation, rule 41.12 and the proposed amendments to rule 41.12 of the New York Mercantile Exchange and proposed rules 282 and 813 (second paragraph) of the Chicago Mercantile Exchange. The Commission also is soliciting comments on proposed settlement price rules which would provide for the determination of settlement prices under an arithmetical or other formula and which would provide for a written record of all deliberations leading to the determination of the settlement prices. Any person interested in submitting written data, views or arguments on this matter should submit such comments by September 12, 1980 to Ms. Jane K. Stuckey, Secretariat, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581.

Issued in Washington, D.C., on July 8, 1980, by the Commission.

**Jane K. Stuckey,**

*Secretary of the Commission.*

## Appendix

The following rules and proposals submitted by the Commodity Exchange, Inc. ("Comex"), the Chicago Board of Trade Clearing Corporation ("CBOT Clearing Corporation"), the New York Mercantile Exchange ("NYME") and the Chicago Mercantile Exchange ("CME") govern the establishment of settlement prices on each exchange:

Comex bylaw 905 provides as follows:

Section 905. Committee on Quotations for Metals. The requirements of bylaw section 123–A(b) shall not apply to the Committee on Quotations for Metals which shall consist of five members who shall be appointed by the Board Trade Group with due regard to proper representation for the commodity. One member of the Committee may be retired at the end of each month and his successor appointed; the Board Trade Group may empower the Vice Chairman of the Group to act for this purpose. It shall report to the Secretary the tone and price of the contract market. It shall meet each day, at the close of the Exchange, and by a majority vote determine the closing quotations for contracts for future delivery metals and report them to the Secretary.

In the event that few or no transactions shall occur for any month or months during the Exchange hours for trading or in the event that transactions at the close shall result in a distortion of the price relationship between any months, the Committee on Quotations for Metals shall have authority to establish settlement prices for the month or months in question so as to provide for normal and appropriate price relationships and in doing so shall take into consideration the fluctuation in price in other months during the day, the volume of trading at the close, and the differentials in price normally prevailing between the several months. Prices so established by the Committee on Quotations shall be published as the settlement prices.

Comex bylaw 905, as proposed, provides as follows:

(a) *Composition:* The Committee on Quotations shall consist of three members from each ring for each commodity who shall be appointed by the President. The President shall also designate a Chairman of the Committee.

(b) *Subcommittees:* The three members of the Committee from each ring shall constitute the Subcommittee of the Committee on Quotations for that ring. The President shall appoint a Vice Chairman of each Subcommittee and shall appoint a first and second alternate member of each Subcommittee. In the absence of a member or members of a Subcommittee, the first and second alternate shall serve in sequence in the place and stead of the absent member or members.

(c) *Powers of Committee:* The Committee may consider and make recommendations to the Board with respect to all matters relating to the dissemination of price and other information concerning futures contracts.

(d) *Powers of Subcommittee:* Each Subcommittee shall have the duty to determine settlement prices for the futures contracts traded at such Subcommittee's ring. Each Subcommittee shall meet as promptly as possible after the close of trading in such Subcommittee's ring and, by majority vote, shall determine the daily settlement prices applicable to the futures contracts traded at such ring.

(e) *Settlement Prices:* Each Subcommittee shall establish a settlement price for each month in which futures contracts are traded at such Subcommittee's ring. The settlement prices must be within the permissible trading limits for each trading day. Each Subcommittee shall first consider the most active trading month and, based upon the settlement prices established for that month, shall establish settlement prices for all other trading months. In establishing settlement prices, each Subcommittee shall consider the following factors and such additional factors as the Subcommittee may deem relevant:

(1) The price of the last transactions during the closing period;

(2) The estimated weighted average price and number of transactions in the particular trading month during and at the end of the closing period;

(3) The differentials in price normally prevailing during that day between the trading months of the particular futures contracts;

(4) Bids and offers that are not accepted and that occur at the end of the closing period.

CBOT Clearing Corporation rule 109 provides as follows:

Rule 109. Settlement Price. The settlement price for a particular day as established by the Board of Trade Clearing Corporation.

[28] The Commission also is seeking comment on whether the exchange's method of computing settlement prices and the dissemination of those prices is consistent with section 5(c) of the Act, 7 U.S.C. 7(c) (1976). Section 5(c) requires a contract market to prevent the dissemination of false or misleading or knowingly inaccurate reports concerning crop or market information or conditions that tend to affect the price of any commodity. Since the settlement prices are determined on a consensual basis by members, it is possible that the prices may not accurately represent market information and indeed could be false, misleading or inaccurate.

[29] 7 U.S.C. 7a(2) (1976).

No other rules of the CBOT or the CBOT Clearing Corporation address the manner in which the settlement price is to be determined.

As proposed, Corporation rule 109 provides as follows:

Rule 109. Settlement Price. The price established for each contract by the President of the Board of Trade Clearing Corporation at the close of each day's trading for the purpose of settlement of gains and losses, which price is to be based, unless in the judgment of the President special circumstances require otherwise, on that day's closing prices or price ranges for the contract.

NYME rule 41.12 provides as follows:

Rule 41.12. Settlement Price. The settlement price, as soon as determined by the President, at the close of a day's session, shall be posted on the blackboard of the Exchange.

NYME rule 41.12, as proposed, provides as follows:

The settlement price shall be posted as soon as determined at the close of a day's session.

CME proposed rule 282 provides as follows:

Rule 282. Metals Quotation—The Metals Quotation Committee shall consist of five members who shall be appointed by the Executive Committee with the approval of the Board and with due regard to proper representation for the commodity. One member of the Committee may be retired at the end of each month and his successor appointed; the Governors may empower the Vice Chairman of the Board to act for this purpose. The Committee shall report to the Clearing House Manager the tone and price of the contract market. It shall meet each day, at the close of trading and by a majority vote determine the closing quotations, as prescribed by the second paragraph of Rule 813, for contracts for future delivery of metals and report them to the Clearing House Manager.

CME rule 813 (second paragraph), as proposed, provides as follows:

Rule 813. Settlement Price (Second Paragraph). With regard to the Metal contracts, in the event that few or no transactions shall occur for any month or months during the Exchange hours for trading or in the event that transactions at the close shall result in a distortion of the price relationship between any months, the Metals Quotation Committee shall have authority to establish settlement prices for the the month or months in question so as to provide for normal and appropriate price relationships and in doing so shall take into consideration the fluctuation in price in other months during the day, the volume of trading at the close, and the differentials in price normally prevailing between the several months. Prices so established by the Committee shall be published as the settlement prices.

[FR Doc. 80-20892 Filed 7-11-80; 8:45 am]

BILLING CODE 6351-01-M

## DEPARTMENT OF DEFENSE

### Department of the Army

### Performance Review Boards

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given of the names of the members of the Performance Review Boards for the Department of the Army.

**EFFECTIVE DATE:** July 16, 1980.

**FOR FURTHER INFORMATION CONTACT:** Carol D. Smith, Senior Executive Service Office, Directorate of Civilian Personnel, Headquarters, Department of Army, the Pentagon, Washington, DC 20310 (202) 697-2169.

**SUPPLEMENTARY INFORMATION:** Section 4314 (c)(1) through (5) of Title 5 U.S.C., requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more performance review boards. The boards shall review and evaluate the initial appraisal of senior executive's performance by the supervisor and make recommendations to the appointing authority or rating official relative to the performance of the senior executives. Each board's review and recommendation will include only those senior executive's appraisals from their respective commands or activities. A consolidated board has been established for those commands who do not have enough senior executives to warrant the establishment of separate boards. Publication of this notice rescinds the notices published in 45 CFR, page 25112, dated 14 April 1980 and page 44179, dated 18 June 1980, to account for changes in membership of those boards previously published.

The Members of the Performance Review Board for the Office, Secretary of the Army (OSA) are:

1. Dr. Robert H. Spiro, Jr., Under Secretary of the Army, Office of the Secretary of the Army—Chairperson.
2. Mr. Milton G. Hamilton, Administrative Assistant, Office of the Secretary of the Army—Alternate Chairperson.
3. Mr. Leon Kniaz, Deputy for Civilian Personnel Policy, Office of the Assistant Secretary of the Army (Manpower and Reserve Affairs).
4. Dr. Joseph H. Yang, Deputy, Assistant Secretary of the Army (Research and Development), Office of the Assistant Secretary of the Army (Research, Development, and Acquisition).
5. Mr. Edward L. Rogers, Principal Deputy, Office of the Assistant Secretary of the Army (Civil Works).
6. Mr. John F. Wallace, Deputy for Management Systems, Office of the Assistant Secretary of the Army (Installations, Logistics and Financial Management).
7. Mr. Isaac C. Hunt, Jr., Principal Deputy General Counsel, Office of the General Counsel.
8. Brigadier General Charles D. Franklin, Deputy Chief of Legislative Liaison, Office of the Chief of Legislative Liaison.
9. Mr. David C. Hardison, Deputy Under Secretary of the Army for Operations Research, Office of the Under Secretary of the Army.

The Members of the Performance Review Board for the Office of the Chief of Staff, Army are:

1. Mr. Jack H. Kalish, Director, Ballistic Missile Defense Program Office.
2. Mr. James D. Carlson, Director, Ballistic Missile Defense Advance Technology Center.
3. Mr. Martin B. Zimmerman, Deputy Assistant Chief of Staff for Automation and Communication.
4. Major General W. K. Hunzeker, Director of Resources and Management, Office of the Deputy Chief of Staff for Logistics.
5. Mr. Leonard F. Keenan, Deputy Director of the Army Budget, Office of the Comptroller of the Army.
6. Mr. Wayne M. Allen, Director of Cost Analysis, Office of the Comptroller of the Army.
7. Mr. Fredric Newman, Director of Civilian Personnel, Office of the Deputy Chief of Staff for Personnel.
8. Major General Mary E. Clarke, Director, Human Resources Development, Office of the Deputy Chief of Staff for Personnel.
9. Mr. Edgar P. Vandiver III, Technical Director, Deputy Chief of Staff for Operations and Plans.
10. Mr. Joseph P. Cribbins, Special Assistant to the Deputy Chief of Staff for Logistics and Chief, Aviation Logistics Office.
11. Dr. Robert J. Heaston, Scientific Advisor to Director of Weapons Systems, Office of the Deputy Chief of Staff for Research, Development, and Acquisition.
12. Mr. Charles H. Church, Assistant Director of Technology, Office of the Deputy Chief of Staff for Research, Development, and Acquisition.
13. Brigadier General James E. Armstrong, Assistant Chief of Staff for Intelligence.
14. Mr. Walter W. Hollis, Scientific Advisor, U.S. Army Operational Test and Evaluation Agency.
15. Brigadier General Richard J. Bednar, Assistant Judge Advocate General for Civil Law.

16. Major General Edward B. Atkeson, Commander, U.S. Army Concepts Analysis Agency.
17. Mr. Harold L. Stugart, The Auditor General.
18. Mr. Michael A. Janoski, Deputy Auditor General.

The Members of the Performance Review Board for the Office of the Chief of Engineers (OCE) are:
1. Major General James A. Johnson, Deputy Chief of Engineers.
2. Major General William E. Read, Assistant Chief of Engineers.
3. Major General E. R. Heilberg, Director of Civil Works, Chief of Engineers.
4. Brigadier General James N. Ellis, Division Engineer, Middle East Division.
5. Brigadier General Henry J. Hatch, Division Engineer, Pacific Ocean Division.
6. Ms. Betty J. Farwell, Director of Real Estate, Office, Chief of Engineers.
7. Dr. L. R. Shaffer, Technical Director, Construction Engineering Research Lab.
8. Mr. Lee Garrett, Chief, Engineer Division, Director of Military Programs, Office, Chief of Engineers.
9. Mr. Zane Goodwin, Chief, Engineer Division, North Central Division.
10. Mr. Herbert Howard, Chief, Engineer Division, North Atlantic Division.
11. Mr. Rodney Resta, Chief, Engineer Division, Lower Mississippi Valley Division.
12. Mr. William N. McCormick, Chief, Engineer Division, South Atlantic Division.
13. Dr. James Choromokos, Chief, Research and Development, Office, Chief of Engineers.
14. Mr. George Brazier, Chief, Construction-Operations Division, Director of Civil Works, Office, Chief of Engineers.
15. Mr. Delbert E. Olson, Chief Planning Division, North Pacific Division.

The Members of the Performance Review Board for U.S. Army Materiel Development and Readiness Command (DARCOM) are:
1. Major General Robert L. Moore, Chief of Staff, HQ DARCOM—Chairman.
2. Major General Jere W. Sharp, Director, Procurement and Production, HQ DARCOM.
3. Brigadier General (P) Benjamin F. Register, Jr., Director, Materiel Management, HQ DARCOM.
4. Major General Elton J. Delaune, Jr., Comptroller, HQ DARCOM.
5. Major General Stan R. Sheridan, Director, Development and Engineering, HQ DARCOM.
6. Mr. Francis X. McKenna, Command Counsel, HQ DARCOM.
7. Mr. William S. Charin, Deputy Director, Personnel, Training and Force Development, HQ DARCOM.
8. Mr. Seymour J. Lorber, Director, Quality Assurance, HQ DARCOM.
9. Dr. Robert E. Weigle, Technical Director, Armament Research and Development Command.
10. Mr. Richard B. Lewis, Technical Director, Aviation Research and Development Command.
11. Dr. Robert S. Wiseman, Assistant to Deputy Commanding General for Science and Technology, HQ DARCOM.
12. Dr. Hermann R. Robl, Technical Director, Army Research Office.
13. Mr. Barton J. Toohey, Comptroller, Tank-Automotive Readiness Command.
14. Mr. Thomas J. Keenan, Director, Procurement and Production, Troop Support Readiness Command.

The Members of the Performance Review Board for the Office of the Surgeon General are:
1. Major General Enrique Mendez, Jr., M.D., Deputy Surgeon General—Chairman.
2. Brigadier General Quinn H. Becker, M.D., Director of Health Care Operations.
3. Brigadier General Bernhard T. Mittemyer, M.D., Director of Professional Services.
4. Brigadier General Garrison Rapmund, M.D., Commander, U.S. Army Medical Research and Development Command.
5. Dr. F. K. Mostofi, M.D., Chairman, Center for Advanced Pathology, Armed Forces Institute of Pathology.
6. Dr. L. C. Johnson, M.D., Chairman, Department of Orthopedic Pathology, Armed Forces Institute of Pathology.
7. Dr. G. F. Bahr, M.D., Chairman, Department of Cellular Pathology, Armed Forces Institute of Pathology.
8. Dr. W. R. Beisel, M.D., Deputy for Science, Walter Reed Army Institute of Research.
9. Dr. T. R. Sweeney, M.D., Ph.D, Scientific Advisor (Biochemistry), Walter Reed Army Institute of Research.

The Members of the Performance Review Board for the Consolidated Commands are:
1. Major General William H. Fitts, Deputy Chief of Staff for Personnel, U.S. Army Forces Command.
2. Major General John B. Blount, Chief of Staff, U.S. Army Training and Doctrine Command.
3. Mr. Fred W. Wolcott, Scientific Advisor, Combined Arms Combat Development Activity, U.S. Army Training and Doctrine Command.
4. Brigadier General Richard T. Drury, USAF, Vice Commander, Headquarters Military Traffic Management Command.
5. Mr. Leonard J. Mabius, Technical Director/Chief Engineer, U.S. Army Communications Command.
6. Major General Thomas R. Healy, Deputy Chief of Staff for Personnel, U.S. Army, Europe and Seventh Army.
7. Mr. Arthur C. Christman, Scientific Advisor, Office, Deputy Chief of Staff for Combat Development, U.S. Army Training and Doctrine Command.
8. Dr. Marion R. Bryson, Scientific Advisor, Combined Arms Combat Development Activity, U.S. Army Training and Doctrine Command.

**William S. Fraim,**

*Chief, Civil Service Reform Act, Special Project Office.*

[FR Doc. 80-20872 Filed 7-11-80; 8:45 am]

BILLING CODE 3710-08-M

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## Office of the Secretary

### Defense Science Board Task Force on the M-X Environmental Impact Statement, Advisory Committee Meeting

The Defense Science Board Task Force on the Environmental Impact Statement for the M-X Program will meet in closed session on 30-31 July 1980 in the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on Scientific and Technical matters as they affect the perceived needs of the Department of Defense.

At its meeting on 30-31 July 1980 the Defense Science Board Task Force on the EIS for the M-X Program will review the basic design and operation of the entire M-X system, the threat to which the system is designed to respond, how the system fits into our overall defense posture, and other relevant introductory material necessary for the Task Force review of the EIS. A substantial part of this information to be presented on design, operation, threat, and defense posture is classified.

In accordance with 5 U.S.C. App. 1 § 10(d) (1976), it has been determined that this Defense Science Board Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly, this meeting will be closed to the public.

July 9, 1980.

M. S. Healy,

*OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.*

[FR Doc. 80-20971 Filed 7-11-80; 8:45 am]

BILLING CODE 3810-70-M

## DEPARTMENT OF EDUCATION

### Capacity Building for Statistical Activities in State Educational Agencies Responsible for Elementary and Secondary Education

**AGENCY:** Department of Education.

**ACTION:** Notice of closing date for transmittal of applications for new projects for fiscal year 1980.

Applications are invited for new awards under the National Center for Education Statistics' Capacity-Building Program for Statistical Activities in State Educational Agencies.

Authority for this program is contained in section 406(b)(3) of the General Education Provisions Act as amended (20 U.S.C. 1221-1(b)(3) and (e)).

Eligible applicants are State educational agencies as defined in § 164.03(a) of the regulations:

"(a) The State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or if there is no such agency, an officer or agency designated by the Governor or by State law."

This is referred to as Category (A) and applicants are requested to designate this on their application.

The purpose of these grants is to develop or enhance the long-term capability of the State educational agency to collect, process, analyze, or report statistical data about elementary/secondary education.

*Closing date for transmittal of applications:* Applications must be mailed or hand delivered by August 15, 1980.

*Applications delivered by mail:* An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 13.922(A), Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Administrator of the National Center for Education Statistics.

If an application is sent through the U.S. Postal Service, the Administrator of the National Center for Education Statistics does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

*Applications delivered by hand:* An application that is hand delivered must be taken to the Department of Education Application control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept hand delivered applications between 8 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays. Applications that are hand delivered will not be accepted after 4 p.m. on the closing date.

*Program information:* Grants under the program are intended to develop or enhance the long-term capability of the State educational agency to collect, process, analyze or report statistical data about elementary and secondary education. Grants may focus on a reduction of data burden; improvement in the timeliness of data reporting; improvement in the quality, comparability, or utility of data; increase in analytical capability; improvement in the flow of information to local educational agencies or other agencies of the States; or similar statistical objectives.

*Available funds:* Approximately $300,000 is available for six (6) new projects in Fiscal Year 1980 with an expected average award of $50,000.

These figures are only estimates and do not bind the National Center for Education Statistics.

*Application forms:* Application forms and instructions are mailed to all eligible agencies when the Notice of Closing Date is published in the **Federal Register.**

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program application package.

*Applicable regulations:* The regulations applicable to this program are the Department of Education General Provisions Regulations (45 CFR Part 100a) and the regulations for Capacity Building for Statistical Activities in State Educational Agencies published in the **Federal Register.** on July 11, 1979, (44 FR 40612).

*Further information:* For further information contact Curtis O. Baker, Federal/State Coordination Branch, National Center for Education Statistics, 1001 Presidential Building, 400 Maryland Avenue, S.W., Washington, D.C. 20202, Telephone: (301) 436-7926.

(Catalog of Federal Domestic Assistance Number 13.922; Capacity Building for Statistical Activities in State Educational Agencies. Part I of OMB Circular A-95 does not apply to this program.)

Dated: July 8, 1980.

Steven A. Minter,

*Acting Secretary of Education.*

[FR Doc. 80-20879 Filed 7-11-80; 8:45 am]

BILLING CODE 4000-01-M

### Capacity Building for Statistical Activities in State Educational Agencies Responsible for Postsecondary Education

**AGENCY:** Department of Education.

**ACTION:** Notice of closing date for transmittal of applications for new projects for fiscal year 1980.

Applications are invited for new awards under the National Center for Education Statistics' Capacity-Building Program for Statistical Activities in State Educational Agencies.

Authority for this program is contained in section 406(b)(3) of the General Education Provisions Act as amended (20 U.S.C. 1221-1(b)(3) and (e)).

Eligible applicants are State educational agencies as defined in § 164.03(b) of the regulations:

"(b) A State agency listed in the Appendix to these regulations with statewide responsibility for postsecondary education or, if there is no such agency, an officer or agency designated by the Governor or by State law."

This is referred to as Category (B) and applicants are requested to designate this on their application.

The purpose of these grants is to develop or enhance the long-term capability of the State educational agency to collect, process, analyze, or report statistical data about postsecondary education.

*Closing date for transmittal of applications:* Applications must be mailed or hand delivered by August 15, 1980.

*Applications delivered by mail:* An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 13.922(B), Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Administrator of the National Center for Education Statistics.

If an application is sent through the U.S. Postal Service, the Administrator of the National Center for Education Statistics does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

*Applications delivered by hand:* An application that is hand delivered must be taken to the Department of Education Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept hand delivered applications between 8 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays. Applications that are hand delivered will not be accepted after 4 p.m. on the closing date.

*Program information:* Grants under the program are intended to develop or enhance the long-term capability of the State educational agency to collect, process, analyze or report statistical data about postsecondary education. Grants may focus on a reduction of data burden; improvement in the timeliness of data reporting; improvement in the quality, comparability, or utility of data; increase in analytical capability; improvement in the flow of information to colleges and universities or other agencies of the States; or similar statistical objectives.

*Available funds:* Approximately $300,000 is available for six (6) new projects in Fiscal Year 1980 with an expected average award of $50,000.

These figures are only estimates and do not bind the National Center for Education Statistics.

*Application forms:* Application forms and instructions are mailed to all eligible agencies when the Notice of Closing Date is published in the **Federal Register.**

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program application package.

*Applicable regulations:* The regulations applicable to this program are the Department of Education General Provisions Regulations (45 CFR Part 100a) and the regulations for Capacity Building for Statistical Activities in State Educational Agencies published in the **Federal Register** on July 11, 1979, (44 FR 40612).

*Further information:* For further information contact Curtis O. Baker, Federal/State Coordination Branch, National Center for Education Statistics, 1001 Presidential Building, 400 Maryland Avenue, S.W., Washington, D.C. 20202, Telephone: (301) 436–7926

(Catalog of Federal Domestic Assistance Number 13.922; Capacity Building for Statistical Activities in State Educational Agencies. Part I of OMB Circular A–95 does not apply to this program.)

Dated: July 8, 1980.

**Steven A. Minter,**

*Acting Secretary of Education.*

[FR Doc. 80–20880 Filed 7–11–80; 8:45 am]

BILLING CODE 4000–01–M

## Capacity Building for Statistical Activities in State Educational Agencies Responsible for Vocational Education

**AGENCY:** Department of Education.

**ACTION:** Notice of closing date for transmittal of applications for new projects for fiscal year 1980.

Applications are invited for new awards under the National Center for Education Statistics' Capacity-Building Program for Statistical Activities in State Educational Agencies.

Authority for this program is contained in section 406(b)(3) of the General Education Provisions Act as amended (20 U.S.C. 1221–1(b)(3) and (e)).

Eligible applicants are State educational agencies as defined in § 164.03(c) of the regulations:

"(c) The State Board or agency designated or established as the sole State agency responsible for the administration, or for the supervision of the administration, of programs authorized by Part A, Title I of the Vocational Education Act of 1963, as amended by Pub. L. 94–482."

This is referred to as Category (C) and applicants are requested to designate this on their application.

The purpose of these grants is to develop or enhance the long-term capability of the State educational agency to collect, process, analyze, or report statistical data through the vocational education data system.

*Closing date for transmittal of applications:* Applications must be mailed or hand delivered by August 15, 1980.

*Applications delivered by mail:* An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 13.992(C), Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Administrator of the National Center for Education Statistics.

If an application is sent through the U.S. Postal Service, the Administrator of the National Center for Education Statistics does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

*Applications delivered by hand:* An application that is hand delivered must be taken to the Department of Education Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets SW., Washington, D.C.

The Application Control center will accept hand delivered applications between 8 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays. Applications that are hand delivered will not be accepted after 4 p.m. on the closing date.

*Program information:* Grants under the program are intended to develop or enhance the long-term capability of the

State educational agency to collect, process, analyze or report statistical data about vocational education. Grants may focus on a reduction of data burden; improvement in the timeliness of data reporting; improvement in the quality, comparability, or utility of data; increase in analytical capability; improvement in the flow of information to local educational agencies, institutions of higher education, or other agencies of the States; or similar statistical objectives.

*Available funds:* Approximately $600,000 is available for twelve (12) new projects in Fiscal Year 1980 with an expected average award of $50,000.

These figures are only estimates and do not bind the National Center for Education Statistics.

*Application forms:* Application forms and instructions are mailed to all eligible agencies when the Notice of Closing Date is published in the **Federal Register.**

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program application package.

*Applicable regulations:* The regulations applicable to this program are the Department of Education General Provisions Regulations (45 CFR Part 100a) and the regulations for Capacity Building for Statistical Activities in State Educational Agencies published in the **Federal Register** on July 11, 1979, (44 FR 40612).

*Further information:* For further information contact Curtis O. Baker, Federal/State Coordination Branch, National Center for Education Statistics, 1001 Presidential Building, 400 Maryland Avenue SW., Washington, D.C. 20202, Telephone: (301) 436–7926.

(Catalog of Federal Domestic Assistance Number 13.922; Capacity Building for Statistical Activities in State Educational Agencies. Part I of OMB Circular A–95 does not apply to this program.)

Dated: July 8, 1980.

**Steve A. Minter,**

*Acting Secretary for Education.*

[FR Doc. 80–20878 Filed 7–11–80; 8:45 am]

BILLING CODE 4110–02–M

## Office of Special Education and Rehabilitative Services; Field Initiated Research Continuations

**AGENCY:** Department of Education.

**ACTION:** Notice of closing date for transmittal of applications for continuation projects.

Applications are invited for continuation of multi-year projects currently being supported under the handicapped Field Initiated Research program.

Authority for this program is contained in sections 641 and 642 of part E of Education of the Handicapped Act (20 U.S.C. 1441, 1442).

**CLOSING DATE FOR TRANSMITTAL OF APPLICATIONS:** To be assured of consideration for funding, an application for a noncompeting continuation award should be mailed or hand delivered at least 120 days prior to the end of the current budget period.

If the application is late, the Department of Education may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

**APPLICATIONS DELIVERED BY MAIL:** An application sent by mail must be addressed to the Department of Education, Application Control Center, Attention: 13.443C, 400 Maryland Avenue, SW., Washington, D.C. 20202.

An applicant should show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping lable, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) a private metered postmark or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with the local post office.

An applicant is encouraged to use registered or at least first class mail.

**APPLICATIONS DELIVERED BY HAND:** An application that is hand-delivered must be taken to the Department of Education, Application Control Center, Room 5673, Regional Office Building 3, Seventh and D Streets SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between the hours of 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, or Federal holidays.

An application that is hand-delivered will not be accepted after 4:30 p.m. on the closing date.

**AVAILABLE FUNDS:** Approximately $5.5 million is available for support of continuation projects under the Field Initiated Research program. This amount is sufficient to fund all eligible projects at the level of support projected for the appropriate budget period in the approved application.

**APPLICATION FORMS:** Further information and application forms are available and may be obtained by writing to the Research Projects Branch, Office of Special Education, Department of Education, 400 Maryland Avenue SW. (Donohoe, 3165), Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Secretary strongly urges that the narrative portion of the application not exceed twenty (20) pages in length. The Secretary further urges that only the information required by the application form instructions should be submitted.

**APPLICABLE REGULATIONS:** The following regulations are applicable to this program:

(a) Regulations governing the handicapped education program (45 CFR Part 121h). Final regulations for part 121h were published in the **Federal Register** on August 18, 1978, pages 36634–36638, and amended in the **Federal Register** of April 3, 1980, page 22533.

(b) The Education Department General Administrative Regulations (EDGAR) (45 CFR Parts 100a and 100c), which were published in the **Federal Register** on April 3, 1980 (45 FR 22493–22631). EDGAR will govern applications and grants under this program.

**FOR FURTHER INFORMATION CONTACT:** Max Mueller, Research Projects Branch, Office of Special Education, Department of Education, 400 Maryland Avenue, SW. (Room 3165, Donohoe Building), Washington, DC 20202, phone (202) 245–2275.

(20 U.S.C. 1441, 1442)

(Catalog of Federal Domestic Assistance, No. 84.023, Handicapped Research and Demonstration. Part I of OMB Circular A–95 does not apply to this Program)

Dated: July 8, 1980.

**Steve A. Minter,**

*Acting Secretary of Education.*

[FR Doc. 80–20881 Filed 7–11–80; 8:45 am]

BILLING CODE 4000–01–M

## DEPARTMENT OF ENERGY

### Economic Regulatory Administration

### Giant Industries, Inc.; 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 Giant Industries, Inc., 5107 N. 7th Street, Phoenix, Arizona 84014. This Proposed remedial Order charges Giant Industries with violations of the Mandatory Petroleum Allocation Regulations in the amount of $1,004,877. The violations are connected with Giant Industries' participation in the Entitlements Program during the period November 1974 through December 1977.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Program Manager for Entitlements, Office of Enforcement, 2000 M Street, N.W., Washington, D.C. 20461, telephone (202) 653–3548. On or before July 29, 1980, any aggrieved person must file a Notice of Objection, in duplicate, with the Office of Hearings and Appeals, Room 8002, 2000 M Street N.W., Washington, D.C. 20461, in accordance with 10 CFR § 205.193.

Issued in Washington, D.C., on the 25th day of June, 1980.

**Robert D. Gerring,**

*Director, Program Operations Division, Office of Enforcement, Economic Regulatory Administration.*

[FR Doc. 80–20960 Filed 7–11–80; 8:45 am]

BILLING CODE 6450–01–M

### Issuance of Presidential Permits for International Interconnections: PP–24 to Long Sault, Inc., and PP–25 to the Power Authority of the State of New York

**AGENCY:** Department of Energy, Economic Regulatory Administration.

**ACTION:** Notice of Issuance of Presidential Permits for International Interconnections, Superseding Prior Authorizations, PP–24 to Long Sault, Inc., and PP–25 to the Power Authority of the State of New York.

**SUMMARY:** The Department of Energy has issued two Presidential Permits, PP–24 to Long Sault, Inc., and PP–25 to the Power Authority of the State of New York for International Interconnections at the U.S.-Canadian Border, thereby superseding prior authorizations.

**FOR FURTHER INFORMATION CONTACT:**

James M. Brown, Jr., System Reliability & Emergency Response Branch, Department of Energy, Room 4110, 2000 M Street NW., Washington, D.C. 20461, (202) 653–3825.

Lise Courtney M. Howe, Office of the General Counsel, Department of Energy, Forrestal Building, Room 5E–064, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252–2900.

**SUPPLEMENTARY INFORMATION:**

On August 22, 1978 the Power Authority of the State of New York (PASNY) and Long Sault, Inc. (Long Sault) filed for modification of Presidential Permits issued by the Federal Power Commission pursuant to Executive Order 10485 in FPC Docket Nos. E–6631 and E–6632, respectively.

The modifications requested were: (1) that ownership of an existing 115-kilovolt circuit, which was constructed and maintained by PASNY on PASNY's double circuit tower pursuant to FPC Docket No. E–6631, but owned and operated by Long Sault in accordance with FPC Docket No. E–6632, be transferred to PASNY pursuant to a prior agreement between the two companies and operated pursuant to ERA Presidential Permit PP–25 (thereby superseding FPC Dockets Nos. E–6631 and E–6632); (2) that the above-mentioned 115-kV circuit be operated at 230-kV; and (3) that an existing interconnection, authorized pursuant to FPC Docket No. E–6632, at the international border with facilities of Cedar Rapids Transmission Company, Ltd., a Canadian corporation, be abandoned and the line be made part of the above-mentioned 230-kV interconnection between the PASNY and Ontario Hydro.

The Department of Energy made a negative determination of environmental impacts resulting from these proposals. Accordingly, no environmental impact statements have been issued.

The Secretary of Defense by letter dated March 11, 1980 and the Secretary of State by letter dated March 21, 1980 concurred that the Permits be granted as hereinafter provided.

Upon consideration of this matter, ERA found that the issuance of the Permits was appropriate and consistent with the public interest. Accordingly, the Administrator of ERA issued the Presidential Permit PP–24, on June 6, 1980, authorizing Long Sault to operate and maintain two three-phase, 60 hertz, 115-kV overhead transmission lines. The Administrator also issued PP–25 on the same date, authorizing PASNY to operate and maintain two three-phase, 60 hertz, 230-kV overhead transmission lines, one of which previously was owned and operated by Long Sault. The previous authorizations granted in FPC Dockets Nos. E–6631 and E–6632 were superseded completely by issuance of the new Presidential Permits.

Copies of the Orders are on file with the Economic Regulatory Administration and will, upon request, be made available for public inspection and copying at the ERA Docket Room, Room B–110, 2000 M Street NW., Washington, D.C. and at the System Reliability and Emergency Response Branch, Room 4110, 2000 M Street NW., Washington, D.C.

Issued in Washington, D.C., July 7, 1980.

**Jerry L. Pfeffer,**

*Assistant Administrator for Utility Systems, Economic Regulatory Administration.*

[FR Doc. 80–20959 Filed 7–11–80; 8:45 am]

BILLING CODE 6450–01–M

### Mallard Resources, Inc.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Ecomonic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Mallard Resources, Inc., 2800 North Loop West, #314, Houston, Texas 77092. This Proposed Remedial Order charges Mallard Resources with violations of the Mandatory Petroleum Allocation Regulations in the amount of $1,482,637. The violations are connected with Mallard Resources' participation in the Entitlements Program during the period July and August 1979.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Program, Manager for Entitlements, Office of Enforcement, 2000 M Street, N.W., Washington, D.C. 20461, telephone (202) 653–3548. On or before July 29, 1980, any aggrieved person must file a Notice of Objection, in duplicate, with the Office of Hearings and Appeals room 8002, 2000 M Street, N.W., Washington, D.C. 20461 in accordance with 10 CFR § 205.193.

Issued in Washington, D.C., on the 27th day of June 1980.

**Robert D. Gerring,**

*Director, Program Operations Division, Office of Enforcement, Economic Regulatory Administration.*

[FR Doc. 80–20961 Filed 7–11–80; 8:45 am]

BILLING CODE 6450–01–M

### Powerine Oil Co.'s Application for Permission To Use Multiple Allocation Fractions.

**AGENCY:** Economic Regulatory Administration, Department of Energy.

**ACTION:** Notice of issuance of order.

**SUMMARY:** The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice that on June 23, 1980, a Decision and Order was issued pursuant to the provisions of 10 CFR Section 205.90 *et seq.* and Section 211.10(b) denying Powerine Oil Company's February 8, 1980, request for permission to use multiple allocation fractions pending an ERA determination regarding the firm's May 18, 1979, Application for Market Withdrawal from Petroleum Administration for Defense District (PADD) III. The multiple allocation fraction request, if granted, would have permitted Powerine to use separate allocation fractions for the distribution of motor gasoline in its PADD III and PADD V marketing subsystems during the months of March, April and May 1980.

A copy of the Decision and Order, with proprietary information deleted, is attached.

**FOR FURTHER INFORMATION REGARDING THIS ORDER, PLEASE CONTACT:**

John A. Carlyle, Economic Regulatory Administration, Office of Petroleum Operations, Room 6222 C, 2000 M Street, NW, Washington, D.C. 20461, Telephone: (202) 653–3431.

Joel M. Yudson, Office of General Counsel, Room 6A–127, 1000 Independence Avenue, SW, Washington, D.C. 20585, Telephone: (202) 252–6744.

Issued in Washington, D.C., on the 8th day of July 1980.

**Doris J. Dewton,**

*Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.*

June 23, 1980.

**Economic Regulatory Administration Decision and Order**

To: Powerine Oil Company, 12354 Lakeland Road, Santa Fe Springs, California 90670.

Subject: Powerine Oil Company's application for permission to use temporary multiple allocation fractions in its petroleum administration for defense districts III and V marketing subsystems—case number 80–006.

*I. Introduction*

On February 8, 1980, Powerine Oil Company (Powerine) filed an application with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) for permission to use temporary multiple allocation fractions pursuant to 10 CFR § 211.10(b), pending an ERA determination regarding Powerine's May 18, 1979, Application for Market Withdrawal from Petroleum Administration for Defense District (PADD) III. The multiple allocation fraction request, if granted, would permit Powerine to use separate allocation fractions for the distribution of motor gasoline in its PADD III and PADD V marketing subsystems during the months of March, April and May 1980.

*Legal Authority*

Powerine's application is being processed in accordance with § 205.90 *et seq.* and § 211.109(b).

*III. Background*

Powerine is a small and independent refiner located at Santa Fe Springs, California, where, for the past twenty years, it has refined and marketed petroleum products. Powerine's refinery has a Department of Energy certified capacity of 44,100 barrels per day.

Powerine operates two marketing subsystems. The first is located in PADD V, predominantly in the States of Arizona and California. There it distributes and sells the majority of its motor gasoline production to more than 100 independent marketers and resellers, primarily for direct distribution to retail sales outlets, with the balance marketed through Powerine's own retail outlets. The primary source of motor gasoline supply in PADD V is Powerine's Santa Fe Springs refinery.

The second marketing subsystem is located in PADD III, predominantly in the State of Texas. There Powerine distributes and markets its mnotor gasoline to refiners and wholesale purchaser-resellers. A list of Powerine's PADD III base period customers in March, April and May is set forth in the attached appendix. The PADD III marketing operation was established on a trial basis in the fall of 1977. In order to provide a primary source of motor gasoline to support the PADD III marketing operation, Powerine established a crude oil processing arrangement with Champlin Petroleum Company (Champlin) of Fort Worth, Texas.[1] Under the arrangement, Powerine began receiving motor gasoline volumes at Champlin's Corpus Christi, Texas, refinery in October 1977. Powerine also purchased crude oil, primarily of a foreign origin, from Champlin for use as feedstock. Product derived from the processing arrangement amounted to about XXXXX percent of Powerine's total base period motor gasoline supply in PADD III. Tha balance of motor gasoline was purchased from the Gulf Coast spot market. Approximately one year later during November 1978, Powerine discontinued its PADD III marketing operation. It closed its Houston, Texas, office and cancelled the Champlin processing arrangement. On February 22, 1979, with the updating of the motor gasoline base period by Activation Order No. 1, (hereinafter referred to as the Activation Order),[2] Powering was required to reestablish its PADD III marketing operations. Thus, Powerine resumed the sale of motor gasoline to its former PADD III customers even though it no longer had employees in Texas nor access to the gasoline from the Champlin reginery to fulfill its supply obligations.

[1] Footnotes are at end of article.

*IV. Relief Requested*

Powerine requests the temporary use of multiple allocation fractions in March, April and May 1980 pending a DOE decision on its application to withdraw from marketing operations in PADD III, because of the serious distortions in those three months between its available motor gasoline supplies in PADD III and its motor gasoline supply obligations in PADD III. In its application, Powerine claims that the termination of its gasoline processing agreement with Champlin has seriously disrupted the supply distribution system which it maintained in 1978 and that it has been unable to continue supplying its base period purchasers in the PADD III marketing area with historical levels of gasoline. In the months of March through May 1978, Powerine supplied its customers in its PADD III marketing area with XXXXX barrels of gasoline. Of that quantity, approximately XXXXX percent was obtained by means of its processing agreement with Champlin. Powerine purchased the remainder (XXXXX percent) from other firms. Powerine contends that in order to meet fully its PADD III obligations, it must either purchase the total amounts previously received under the processing agreement from the spot market or exchange sufficient volumes of its PADD V refined motor gasoline into PADD III. Both alternatives are alleged to involve heavy financial losses to Powerine. Moreover, Powerine asserts that the volumes allocable to it from its PADD III base period suppliers in March, April and May are so low compared to its suppy obligations that it is prevented from supplying motor gasoline at a higher allocation fraction in PADD V, which is otherwise possible.

*V. Powerine's Arguments*

Powerine's principal reason for requesting permission to withdraw from its marketing operations in PADD III is based on the argument that it is impracticable and uneconomical for the firm to fulfill its supply obligations. Powerine contends that if it continues its PADD III marketing operations, it will cause the firm severe financial difficulties and result in the transfer of its high PADD III motor gasoline costs and supply shortages to the firm's PADD V base period customers.

Powerine contends that, on the basis of the critieria set forth in *Shell Oil Company*, 3 FEA Para. 80,557 (January 22, 1976), it should be allowed to use separate allocation fractions for the months of March, April and May 1980. Powerine specifically contends that:

(1) The PADD III and PADD V marketing areas are physically separated by hundreds of miles with no convenient product transportation system uniting the two areas.

(2) The sources of supply for each area are separate. The products sold in PADD III are derived from purchases in PADD III. As mentioned previously, the Champlin processing agreement also provided a source of gasoline supplies for PADD III until November 1978. Powerine's refinery located in Santa Fe Springs, California, is the primary source of its supply in PADD V.

(3) There are no existing product pipelines with which Powerine can transfer product

from its PADD V refinery to its PADD III purchasers. Powerine must utilize either oceangoing vessels, rail tank cars, or truck transports to move product from PADD V to PADD III. All of these methods are economically infeasible.

(4) The distribution of product in PADD III is entirely to refiners and large wholesale purchaser-resellers while in PADD V, Powerine's customers primarily consist of over 100 small and independent retailers, reseller-retailers and small resellers which supply independent retailers in Arizona and California.

(5) Powerine has never used exchange agreements to transfer product between PADDs III and V. While it may be logistically possible to arrange exchanges, Powerine alleges that the exchange differential would range from approximately XXXXX to XXXXX cents per gallon. Exchanges at such differentials, taking into consideration the DOE regional pricing regulations, are asserted to be economically impractical.

Additionally, in its application, Powerine contends that the use of a single allocation fraction in the months of March, April and May 1980, would adversely affect the amount of available supply to its PADD V customers. According to the firm's operating projections at the time it submitted its application, Powerine's nationwide allocation fraction for motor gasoline in March, April and May 1980, would have been .46, .41, and .37, respectively. However, Powerine alleged that if ERA permitted the use of multiple allocation fractions, it could have allocated its available supply at levels of 58, 61, and 47 percent in PADD V while its base period purchasers in PADD III would be supplied with 13, 34, and 32 percent of their base period allocation in those months.

*VI. Comments on Powerine's Application*

On February 28, 1980, ERA notified Powerine's PADD III customers with motor gasoline entitlements in March, April and May of the pendency of Powerine's request for multiple allocation fractions. The ERA received comments from three firms, Gasoline Marketers of America, Inc. (GMA), Sigmor Corporation (Sigmor), and Thomas P. Reidy, Inc. Although Thomas P. Reidy is not a base period customer for the months of March, April and May, the firm is one of Powerine's customers in other months. Each commenter was generally opposed to Powerine's request, citing the firm's failure to provide sufficient evidence to demonstrate that it is impractical for Powerine to maintain a single allocation fraction. Sigmor and GMA further indicated that they are substantially dependent on Powerine's supply of motor gasoline for the months in which they have an entitlement. Powerine represents approximately XXXXX percent of Sigmor's total gasoline supply in March. Powerine furnishes approximately XXXXX percent of GMA's April supply and XXXXX percent of GMA's May supply.

*VII. Analysis and Findings*

Powerine's request has been analyzed according to, but not limited by, the standards specified in § 211.10 and *Shell Oil Company, supra:*

Section 211.10(b) states in relevant part: "Suppliers with two or more distribution subsystems or regions independent of one another may apply to the [DOE] National Office, in accordance with Subpart G of this chapter, for permission to use multiple allocation fractions whenever use of a single allocation fraction would be impracticable or inconsistent with the objectives of the program."

In the *Shell Oil Company* case, the Federal Energy Administration [3] (FEA) stated: "(S)uppliers of an allocated product are generally required to maintain a single allocation fraction for purchasers of that product. That policy is designed to ensure to the maximum extent practicable, the equitable distribution of the allocated products throughout all areas of the United States. The policy of maintaining a single allocation fraction will be outweighed only to the extent that it is truly impracticable and burdensome to do so in particular situations."

In the decision issued to Shell Oil Company, the FEA listed some of the factors used in determining whether to approve requests for the use of multiple allocation fractions. These factors are:

(1) The relative location of the marketing area to be included in computng each separate allocation fraction;

(2) The source of supply for each such area;

(3) The method used in transporting the product to each area;

(4) The availability of transporting facilities and the cost of transporting product, either (a) between such areas, or (b) from the source of supply to one area as opposed to another;

(5) The destination of product within such an area; and

(6) The degree to which transfers or exchanges of like product with other producers have been in the past or could reasonably be arranged.

The DOE's Office of Hearings and Appeals overturned a similar multiple allocation fraction order issued to Powerine by ERA which granted the use of separate allocation fractions for the months of July, August and September 1979. In reviewing the case, *Thomas P. Reidy, Inc.*, 4 DOE Paragraph 80,188 (November 8, 1979), OHA relied, in part, on the requirement set forth in *Shell Oil Company, supra,* ". . . that the policy of maintaining a single allocation fraction will be outweighed only to the extent that it is truly impractical and burdensome to do so in particular situations." In the Thomas P. Reidy case, OHA determined that it would not have been truly impractical and burdensome for Powerine to maintain a uniform allocation fraction for the period of July through September 1979. We have reached the same conclusion with regard to the current request.

We agree that Powerine's proposed marketing subsystems are isolated geographically, are not contiguous to each other, and that there are no common pipelines which serve both marketing regions. However, in the present case, Powerine has failed to set forth any information which would indicate that it is not able to locate additional motor gasoline on the open market which it can sell in PADD III, the purchase of which would be burdensome to the firm.

There is little doubt that situations may arise as a result of the expiration or termination of a processing agreement in which a base period supplier is unable to furnish its base period purchasers with an adequate quantity of a petroleum product. It should be noted that Powerine has produced no evidence that it has attempted to reestablish its cancelled processing arrangement with Champlin or that it has attempted to negotiate a similar arrangement with any other refiner. However, if Powerine is unable to reestablish its cancelled processing arrangement with Champlin or negotiate a contract with another refiner, this does not, in and of itself, constitute sufficient grounds for a finding that a supply burden exists. In evaluating the impracticality of a firm's maintaining a single allocation fraction, it is relevant whether a supplier is able to purchase the allocated product.

Under the provisions of § 211.10(g) of the Mandatory Petroleum Allocation Regulations, Powerine may purchase motor gasoline from any supplier which has surplus product available (after the supplier has offered such product to its base period customers) and which is willing and able to sell that product to Powerine. Under the surplus product regulations, any supplier that has an allocation fraction in excess of 1.0 and is, therefore, meeting its supply obligations to its base period purchasers, may sell any surplus product which remains provided that it also meets the requirements specified in § 211.10(g). Under certain circumstances, suppliers with allocation fractions equal to or less than 1.0 may also sell underlifted surplus product to Powerine (§ 211.10(f)(2)). In March, April and May 1980, a number of large firms capable of supplying gasoline to Powerine in the Gulf Coast area notified ERA of available quantities of surplus gasoline which ERA has determined would be sufficient to satisfy all of Powerine's PADD III base period requirements in those months. Powerine has furnished no evidence that it has attempted to obtain supplies of surplus gasoline from any Gulf Coast firm.

While Powerine asserted that it would be unprofitable for the firm to purchase substantial volumes of motor gasoline on the open market, it did not provide the supporting documentation to establish its contention. Powerine should have been aware of the need to submit such documentation in view of the *Thomas P. Reidy, Inc.* decision. In the *Thomas P. Reidy, Inc.* case, *supra,* DOE highlighted the inadequacy of Powerine's showing at that time by stating:

"Furthermore, the fact that it might be expensive for Powerine to obtain product to supply its PADD III customers does not necessarily show that it is impracticable for Powerine to supply those customers. We note in this regard that the record does not indicate that Powerine would be unable to recover the costs of purchasing product for distribution to its PADD III customers. Moreover, although the June 19 order refers to a 'financial drain on Powerine' if the firm is required to maintain a single allocation fraction, it is not clear that Powerine would experience financial difficulties if it were to supply PADD III purchasers during the period covered by the August 2 order."

In the current instance as well, there has been no showing by Powerine that it would

be unable to recover the costs of purchasing additional gasoline, either by raising its current gasoline prices or by "banking" the unrecovered costs pursuant to § 212.83(e) for likely recovery at a future date. Thus, ERA concludes that Powerine has failed to demonstrate that providing additional gasoline to its PADD III customers would be unprofitable and, on that basis, would be impracticable.

Because Powerine has failed to show that the costs associated with purchasing available gasoline on the open market in PADD III could not be recovered, it is not necessary to determine whether delivering significant volumes of gasoline by truck, rail or tanker from PADD V would be feasible or whether the transportation costs are recoverable.[4] For the same reason, it would not be necessary to determine the validity of Powerine's assertion that it is unable to arrange for an economical exchange of gasoline from PADD V to PADD III at the present time.

With regard to the claim advanced by Powerine that requiring the firm to employ a single allocation fraction would produce a severe reduction of gasoline supplies which would otherwise be available for sale to its PADD V customers, it should be noted that subsequent to submitting its application, Powerine declared nationwide allocation fractions of .80, .70, and 1.0, for March, April, and May 1980, respectively. Powerine was able to increase its fractions above the firm's earlier projections because its PADD III customers declined to purchase the gasoline offered to them by Powerine. There is no evidence in Powerine's submission to support a conclusion that the firm's PADD V customers are bearing a significantly disproportionate share of the burdens and inconveniences under DOE's allocation program nor has Powerine provided any financial material that would demonstrate that either Powerine or its PADD V customers would be unable to operate on a profitable basis at a reduced allocation fraction. If Powerine chooses to purchase surplus gasoline to sell to its PADD III customers, it can increase its allocation fraction for all of its customers, including those in PADD V.

The purpose of a nationwide allocation fraction is to ensure to the maximum extent practicable the equitable distribution of allocated products throughout all areas of the US. If the DOE were to grant requests for multiple allocation fractions where the applicant has not established that it has pursued all alternative means available by which it could reasonably supply its customers, the policy of ensuring equitable distribution of motor gasoline throughout the country could be frustrated. Therefore, the DOE requires a firm to demonstrate that it would be truly impracticable and burdensome to distribute available product equitably among *all* the firm's customers.

Based on the considerations set forth above, the ERA has concluded that Powerine has failed to make a compelling showing that it is truly impracticable and burdensome to maintain a single, uniform allocation fraction and that to do so is inconsistent with the objectives of the Mandatory Petroleum Allocation Program.

*VIII. Order*

This order is issued pursuant to the provisions of 10 CFR § 205.90 *et seq.* and § 211.10(b).

It is, therefore, ordered that:

(1) The application filed by Powerine Oil Company for permission to use multiple allocation fractions for the months of March, April and May 1980, be and hereby is denied.

(2) In accordance with the provisions of 10 CFR, Part 205, any aggrieved party may file an appeal from this decision and order with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. The provisions of 10 CFR, Part 205, Subpart H, set forth the procedures and criteria which govern the filing and determination of any such appeal.

(3) Communications, other than appeals, regarding this directive, should be referred to Alan T. Lockard, Chief, General Fuels Branch, Office of Petroleum Operations, Economic Regulatory Administration, 2000 M Street, N.W., Washington, D.C. 20461, telephone (202) 653-3443.

Paul T. Burke,

*Deputy Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration*

[Footnotes]

*1.* In *Champlin Petroleum Company*, Interpretation 1976-23, issued on December 6, 1976, the Federal Energy Administration (FEA), a predecessor of DOE, determined that a refiner which processes crude oil pursuant to a processing agreement as defined in § 211.62 of the Mandatory Pertoleum Allocation Regulations is not a supplier as defined in § 211.51 with respect to the refined products so produced and, therefore, incurs no base period supply obligations as to those products.

*2.* On February 22, 1979, Activation Order No. 1, Standby Petroleum Product Allocation Regulations, was adopted, 44 Fed. Reg. 11202 (February 28, 1979). In that order, ERA activated certain portions of the Standby Petroleum Product Allocation Regulations in order to update the base period for motor gasoline allocation from the 1972 base period to the corresponding month of the period July 1, 1977, to June 30, 1978, and implemented the updated base period for an initial period of March, April and May 1979. Subsequently, on May 1, 1979, ERA issued an Interim Final Rule, 44 Fed. Reg. 26712 (May 4, 1979), which superseded the Activation Order. Under the Interim Rule, the updated base period for motor gasoline allocation was designated as the corresponding month of the period November 1977 through October 1978. The updated base period was permanently established by the Final Rule, 44 Fed. Reg. 42549 (July 19, 1979).

*3.* On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (P.L. 95-91) and E.O. 12009 (42 Fed. Reg. 46267, September 15, 1977), the administration of the Emergency Petroluem Allocation Act of 1973, P.L. 93-159, was transferred to the Secretary of Energy.

*4.* We note in this regard that Powerine's assertions are not entirely unrebutted. For instance, at a hearing convened on April 6, 1979, by OHA pursuant to a request by Powerine for a stay of the provisions of § 212.83(h)(2)(i), a representative of Powerine admitted that "* * * one month we brought a cargo around (sic) of gasoline out of the Gulf through the canal [to PADD V]." Transcript page 12, lines 1 and 2.

**Appendix**

Powerine's PADD III base period customers for March, April and May and their entitlements for motor gasoline.

| Month | Customer | Volume (barrels) |
|---|---|---|
| March | Enterprise Products | XXXXX |
| | E-Z Serve | XXXXX |
| | Sigmor Corporation | XXXXX |
| | Tauber Oil Company | XXXXX |
| April | Hydrocarbon Trading & Transport | XXXXX |
| | Gasoline Marketers of America, Inc. | XXXXX |
| | Buckeye Gas Products Company | XXXXX |
| | Shell Oil Company | XXXXX |
| May | Gasoline Marketers of America, Inc. | XXXXX |

[FR Doc. 80-20962 Filed 7-11-80; 8:45 am]

BILLING CODE 6450-01-M

## Office of Energy Research

### Energy Research R. & D. Subpanel of the Energy Research Advisory Board; Open Meeting

Notice is hereby given of the following meeting:

Name: Energy Research R. & D. Subpanel of the Energy Research Advisory Board (ERAB). ERAB is a Committee constituted under the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770).

Date and Time: July 22, 1980—9:00 a.m. to 4:00 p.m.

Place: Department of Energy, Forrestal Building, Room BE-069, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

Contact: Eudora M. Taylor, Staff Assistant, Energy Research Advisory Board, Department of Energy, Forrestal Building—MS 3F-032, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Telephone: 202/252-8933.

Purpose of the Parent Board: To advise the Department of Energy on the overall research and development conducted in DOE and to provide long-range guidance in these areas to the Department.

Tentative Agenda: Review tech base research support by the Office of Energy Research. Initial discussion and preparation of Energy Research R. & D. Subpanel input into ERAB Technology Base Report.

Public Participation: The meeting is open to the public. Written statements may be filed with the Subpanel either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact the Energy Research Advisory Board at the address or telephone number listed above. Requests must be received prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Subpanel is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: Available for public review and copying at the Freedom of Information Public Reading Room, 5B–180, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between 8:00 a.m. and 4:00 p.m. Monday through Friday, except Federal Holidays.

Issued at Washington, D.C. on July 3, 1980.

**Edward Frieman,**

*Director of Energy Research.*

[FR Doc. 80–20870 Filed 7–11–80; 8:45 am]

BILLING CODE 6450–01–M

## Research and Development Panel of the Energy Research Advisory Board; Open Meeting

Notice is hereby given of the following meeting:

Name: Research and Development Panel of the Energy Research Advisory Board (ERAB). ERAB is a Committee constituted under the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770).

Date and time: July 30–31, 1980—9:00 a.m. to 4:00 p.m.

Place: Department of Energy, Forrestal Building, Room BE–069, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

Contact: Eudora M. Taylor, Staff Assistant, Energy Research Advisory Board, Department of Energy, Forrestal Building—MS 3F–032, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Telephone: 202/252–8933.

Purpose of the Parent Board: To advise the Department of Energy on the overall research and development conducted in DOE and to provide long-range guidance in these areas to the Department.

*Tentative Agenda:*—Receive input from 7 subpanels—Conservation R&D Subpanel—Energy Research R&D Subpanel—Environmental R&D Subpanel—Fossil Energy R&D Subpanel—Nuclear Energy R&D Subpanel—Resource Applications R&D Subpanel—Solar Energy R&D Subpanel—Identify and review salient issues—Discussion and preparation of initial draft report—Discussion on preparation for ERAB Summer Study.

*Public Participation:* The meeting is open to the public. Written statements may be filed with the Panel either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact the Energy Research Advisory Board at the address or telephone number listed above. Requests must be received at least 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Panel is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

*Transcripts:* Available for public review and copying at the Freedom of Information Public Reading Room, 5B–180, Forrestal Building, 1000 Independence Avenue, S.E., Washington, D.C., between 8:00 a.m. and 4:00 p.m. Monday through Friday, except Federal Holidays.

Issued at Washington, D.C. on July 3, 1980.

**Edward Frieman,**

*Director of Energy Research.*

[FR Doc. 80–20869 Filed 7–11–80; 8:45 am]

BILLING CODE 6450–01–M

## Federal Energy Regulation Commission

**[Docket No. ER80–497]**

### Appalachian Power Co.; Filing

July 8, 1980.

The filing Company submits the following:

Take notice that American Electric Power Service Corporation on behalf of its affiliate, Appalachian Power Company (APCo) tendered for filing on June 30, 1980, a new rate schedule, Amendment No. 11 between APCo and the Virginia Electric and Power Company (VEPCO). This Amendment provides for the sale of System Unit Power by APCo and the purchase by VEPCO of electric power and electric energy associated therewith for the contract period and in the demand quantities as follows:

July 1, 1980—December 31, 1980 . . . 600,000 Kw.

Applicant has requested the Commission to accept the Amendment for filing on or before July 1, 1980 as it intends to commence the sale of System Unit Power to VEPCO as of that date.

The proposed demand rate for System Unit Power of $5.35 per Kw-month would yield anticipated revenues on 600,000 Kw of sales of $56,472,480 over the six-month contract period. There have been no previous sales of System Unit Power.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 N. Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§1.8 and 1.10 of the Commission's rules of practice and procedure on or before July 28, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 80–20914 Filed 7–11–80; 8:45 am]

BILLING CODE 6450–85–M

**[Docket No. ER80–503]**

### Arizona Public Service Co.; Filing

July 8, 1980.

The filing Company submits the following:

Take notice that on July 1, 1980, Arizona Public Service Company (APS) tendered for filing revised Exhibit "B" dated May 27, 1980 to the wholesale power agreement between Arizona Power Authority and APS, previously designated FPC Rate Schedule No. 59. This revision of Exhibit "B" of the Agreement adds the contract demand for the operating year 1985.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 28, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 80–20915 Filed 7–11–80; 8:45 am]

BILLING CODE 6450–85–M

**[Docket No. ER–80–504]**

### Arizona Public Service Co.; Filing

July 8, 1980.

The filing Company submits the following:

Take notice that on July 1, 1980, Arizona Public Service Company (APS) tendered for filing revised Exhibit "B" dated May 14, 1980 to the wholesale power agreement between Citizens Utilities Company (CUC) and Arizona Public Service Company (APS) respectively, previously designated APS–FPC Rate Schedule No. 50. This revision of Exhibit "B" of the Agreement revised the expected contract demands through 1990.

Any person desiring to be heard or to protest said filing should file a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests

should be filed on or before July 28, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 80-20916 Filed 7-11-80; 8:45 am]

BILLING CODE 6450-85-M

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**[Docket No. ER80-508]**

## Boston Edison Co.; Filing

July 8, 1980.

The filing Company submits the following:

Take notice that Boston Edison Company ("Edison") on July 2, 1980 tendered for filing revised Exhibit B's, designated as Rate S-6, to its rate schedules for its three total requirements wholesale for resale customers. Those customers and their FERC rate schedules are as follows:

| | FERC Rate Schedule No. |
|---|---|
| Town of Concord | 47 |
| Town of Norwood | 48 |
| Town of Wellesley | 51 |

Edison also tendered for filing a revised Exhibit B to its Contract Demand tariff under which partial requirements service is furnished to the Town of Reading.

Edison requests that the S-6 and the Contract Demand rates be granted an effective date of September 1, 1980, sixty days after the filing date, but that the use of the rates be suspended until October 1, 1980.

According to Edison, the proposed All-Requirements Rate S-6 schedule will increase revenues from the three affected total requirements wholesale customers by $2,093,093 or 8%, for the test year, calendar year 1980. Edison also states the proposed Contract Demand rate schedule will increase revenues by $745,584 or 6%, on the same test year basis. In addition to the rate level changes, a provision for billing for All-Requirements service at the 14/4 kV voltage level in the present All-Requirements rate has been discontinued in the Rate S-6 since each of the Rate S-6 customers is now eligible for billing on a 115 kV basis.

Edison states that it has filed the rate increases in order to recover its increased costs of providing electric service and to earn a fair return on its investment dedicated to the public service. Edison further states that a copy of the filing has been posted as required by the Commission's regulations, and a copy has been mailed to each of the customers affected by the proposed changes and to the Massachusetts Department of Public Utilities. All of the affected customers are located in the Commonwealth of Massachusetts.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 1, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of Boston Edison Company's application are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 80-20917 Filed 7-11-80; 8:45 am]

BILLING CODE 6450-85-M

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**[Docket No. ER80-496]**

## Central Hudson Gas & Electric Corp.; Filing

July 8, 1980.

The filing Company submits the following:

Take notice that the Central Hudson Gas & Electric Corporation (Central Hudson), on June 30, 1980, tendered for filing as a rate schedule an executed agreement dated June 16, 1980 between Central Hudson and Philadelphia Electric Company (Philadelphia). The proposed rate schedule provides for the sale of generating capacity and associated energy by Central Hudson as available and as scheduled from day to day.

The rate schedule provides for a capacity charge of $3 per megawatt per hour scheduled and an energy charge equal to Central Hudson's incremental fuel and maintenance costs, incremental out-of-pocket costs, incremental costs of transmission losses and applicable taxes.

Central Hudson requests waiver of the notice requirements of § 35.3 of the Commission's regulations so that the proposed rate schedule can be made effective July 1, 1980 in accordance with the anticipated utilization by the parties.

Cental Hudson states that a copy of its filing was served on Philadelphia.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 28, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 80-20918 Filed 7-11-80; 8:45 am]

BILLING CODE 6450-85-M

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**[Docket No. ES80-62]**

## Community Public Service Co.; Application

July 8, 1980.

Take note that on July 1, 1980, Community Public Service Company (Applicant) filed an application with the Federal Energy Regulatory Commission seeking authority pursuant to Section 204 of the Federal Power Act to issue up to 450,000 shares of Common Stock pursuant to its Employee Stock Ownership Plan and Trust and its Thrift Plan for Employees.

Community states that it proposes to use the proceeds from the sale of the Common Stock for improvements and additions to its facilities and/or for the repayment of outstanding short-term bank loans obtained for such purposes.

Any person desiring to be heard or to make any protest with reference to said Application should on or before August 1, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). The Application is on file and available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 80-20919 Filed 7-11-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-2]

## Consolidated Edison Co.; Order Accepting for Filing and Suspending Proposed Rate Increase, Granting Interventions, Granting Waivers and Establishing Procedures

June 27, 1980.

On October 1, 1979 Consolidated Edison Company (Con Ed) submitted for filing a rate schedule dated March 19, 1979 [1] providing for firm transmission service to the Power Authority of New York (PASNY) by Con Ed. The power and energy to be transmitted were to be received by three Long Island municipal customer of PASNY, the Villages of Freeport, Greenport and Rockville Centre. A notice of this filing was issued on October 10, 1979, with responses due October 26, 1979.

In a deficiency letter dated October 22, 1979 the Commission Staff requested Con Ed to provide additional cost support for the rate schedule and, in addition, to file any previous agreement with PANSY concerning transmission to the three customers, along with required cost support.[2] In response to this letter, Con Ed filed on December 5, 1979: (1) An agreement, not previously filed with the Commission, for interruptible transmission service to PASNY's three Long Island municipal customers, under which Con Ed had provided service since June 20, 1976.[3]

On April 30, 1980 Con Ed filed additional cost data and completed its filing, after additional deficiency letters were sent by Staff on February 1, 1980 and March 25, 1980. Con Ed had requested in its original tender a waiver of the Commission's notice requirements and a March 23, 1979 effective date for the firm transmission service rates.

On October 24, 1979 PASNY filed a petition to intervene. PASNY states that it has an interest in the rates, charges, terms and conditions of the transmission service at issue in this docket, and that its interest was not adequately represented by any other party in the proceeding.

On October 26, 1979 the Municipal Electric Utilities Association of New York State (MEUA) [4] filed a protest, petition to intervene and request for denial of waiver of notice. MEUA objects to the characterization by Con Ed of its filing as an initial rate schedule. MEUA also opposes Con Ed's request for waiver, suggesting that the Commission instead waive its notice requirements to the extent necessary to allow a one day suspension of the rate so that all monies collected under the rate schedule would be subject to refund upon a final determination by the Commission of the just and reasonable rate.

MEUA objects to a curtailment provision that provides curtailment priority to Con Ed's retail customers over its firm transmission service customers and to the provision in the contract making it subject to cancellation upon one year's notice. Finally, MEUA objects to the 42.64 MW limits on transmission capacity. MEUA contends that this limit prevents the three Long Island Municipal customer from becoming full requirements customers of PASNY.

MEUA raises a separate objection to paying three seprate wheeling rates to Niagara Mohawk Power Corporation (Niagara), Con Ed and LILCO in order for the power and energy to be transmitted from PASNY to the three Long Island municipal customers.[5] MEUA contends that rate proceedings involving transmission service by all three of these systems should be consolidated or that the rate approved for Con Ed should take into account the rates to be charged by Niagara and LILCO.

Con Ed filed an answer to MEUA's petition on November 13, 1979. Con Ed contends that the curtailment provision is reasonable since Con Ed's retail customers are committed to pay for the capacity in the long run, while the MEUA customers can cease to take service on a year's notice. Con Ed also alleges that the one year cancellation provision is reasonable and typical in transmission contracts. Con Ed defends the limit on the quantity of power to be transmitted, contending that it is not a common carrier with an unlimited obligation. Con Ed also states tht the actual figure was requested by PASNY.

Con Ed also denies that any justification exists for MEUA's objection to paying three separate wheeling rates, contending that MEUA ignores the fact the three systems are separate entities with separate costs. Finally, Con Ed requests that MEUA's petition to intervene be denied.

### Discussion

Our review of Con Ed's filing shows that the rate for firm transmission service is cost-justified. However the rate schedule contains a curtailment provision that subordinates wholesale firm transmission loads to Con Ed's retail transmission requirements. This provision on curtailment priority may be unduly discriminatory. The hearing that we shall order will be limited in scope to this issue.

After a decision on the possible undue discrimination imposed by the curtailment priority, a further inquiry may be required on the question of whether the firm service rate is excessive or unduly discriminary in light of the curtailment determination. We will, accordingly, entertain a motion by MEUA in this docket to initiate this further inquiry in the event that a meaningful difference in curtailment priorities remains after Commission decision on the initial question. To preserve the customers' rights to any necessary refunds in the event, as a result of the hearing, we determine that the filed rate is not just and reasonable, we shall suspend the rate for one day.

Con Ed's characterization of its filing as an initial rate schedule must be rejected. Con Ed has previously provided transmission service to PASNY for the three Long Island municipal customers. It follows that its proposed rate is a changed rate from that previously applicable See § 35.1(c) of the Commission's regulations, 18 CFR 35.1(c), and *Florida Power & Light Company* v. *FERC*, No. 78-1884, slip op. at 9-10 (D.C. Cir. Jan. 24, 1980).

MEUA's contention that it should not be required to pay the full transmission rates of the three systems involved in the transmission of power and energy from PASNY to the three Long Island municipal systems will be rejected for the same reasons stated in *Long Island Lighting Co.*, Docket No. ER 79-512, order issued June 3, 1980.

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[1] Designated as: *Consolidated Edison Company of New York, Inc.*—Rate Schedule FERC No. 51.

[2] In a similar filing, Docket No. ER 79-230, Long Island Lighting Company (LILCO) submitted for filing both an initial and superseding agreement with PASNY power and energy to the three Long Island municipal customers. The original agreement was in effect from June 18, 1976. Because Con Ed's transmission system in PASNY's only tie to LILCO, it was apparent that Con Ed transmitted PASNY power and energy prior to March 23, 1979, the date service commenced under the agreement in this docket.

[3] In Con Ed's letter, received December 5, 1979, submitting the interruptible transmission service agreement for filing, Con Ed stated that PASNY had not requested interruptible service since March 23, 1979, the date when the firm transmission service began. By letter of February 19, 1980 in Docket No. ER80-122 the Commission Staff accepted the interruptible transmission service rate for filing, effective June 20, 1976.

[4] MEUA is an organization of 4 rural electric cooperatives and 46 municipally-owned electric systems, including the Villages of Freeport, Greenport and Rockville Centre.

[5] Increases in transmission rates by Niagara and LILCO have recently been filed in Docket Nos. ER79-559 and ER79-560, and Docket No. ER79-512, respectively. By order issued April 2, 1980, Niagara's filing was found to be deficient due to lack of proof of PASNY's execution of the agreement. Niagara has stated that it is presently renegotiating its transmission contract with PASNY. By orders issued March 4 and June 3, 1980, LILCO's transmission rates were accepted for filing and suspended for one day from the date on which the filing requirements in the docket were completed, to become effective January 8, 1980, subject to refund.

Since it appears that the limitation on transmission capacity of 42.64 MW was previously requested by PASNY[6] and since the requirements of a year's notice to allow cancellation of the contract by either party is a reasonable one, we reject MEUA's objections to these parts of the contract. The contract provides that PASNY is to notify Con Ed of the amounts of capacity that will be needed for a succeeding contract year. The amount of capacity to be provided will be subject to Con Ed's available transmission capacity. The controversy surrounding the municipalities' ability to become full requirements customers is a matter to be resolved between supplier (PASNY) and purchasers (MEUA customers) and affects Con Ed only to the extent that PASNY may request more transmission capacity than Con Ed can supply.

Con Ed has provided no reason for the substantial delay in its filing from the date it received PASNY's concurrence. Thus, in the absence of agreement from its customers, we would not find good cause to grant the waiver. MEUA has indicated that it would not object to the waiver "to the extent that the service may continue" as long as the rate is made subject to refund. We cannot determine from MEUA's pleading whether it intended to agree to a waiver back to the proposed effective date of March 23, 1979. However, its pleading can be read to agree to such a waiver in light of the fact that the customers have received service from Con Ed for this period and therefore agree to pay a reasonable rate for such service on equitable grounds. In light of MEUA's apparent agreement to accept the alternative protection provided by a refund provision, we shall grant the requested waiver and suspend the rate for one day to become effective subject to refund on March 24, 1979. [7]

*The Commission orders:*

(A) The rates contained in the agreement between Con Ed and PASNY are hereby accepted for filing and suspended to become effective March 24, 1979, subject to refund pending the outcome of a hearing and decision thereon.

(b) Petitioners PASNY and MEUA are hereby permitted to intervene in this proceeding subject to the Commission's rules and regulations. Participation by the intervenors shall be limited to the issue of whether the curtailment provision contained in the transmission agreement is unduly discriminatory. The admission of the intervenors shall not be construed as recognition by the Commission that they might be aggrieved by any order entered in this proceeding. MEUA's petition for consolidation is denied.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Commission by Subsection 402(a) of the Department of Energy Act and by the Federal Power Act, and pursuant to the Commission's rules of practice and procedure and Regulations under the Federal Power Act (18 CFR Ch. I (1978)), a public hearing shall be held concerning the limited issue set forth in this order.

(D) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge for that purpose, shall convene a prehearing conference in this proceeding, to be held within 30 days of the issuance of this order, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426. The presiding administrative law judge is authorized to establish procedural dates and to rule on all motions (except motions to consolidate or sever and motions to dismiss) as provided for in the Commission's rules of practice and procedure.

(E) The Commission Staff shall serve its statement of position in this proceeding on or before September 18, 1980.

(F) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 80-20920 Filed 7-11-80; 8:45 am]

BILLING CODE 6450-85-M

[6] Con Ed states in its response to MEUA's protest that an additional 4 MW (or a total of 46.64 MW) of transmission capacity has been provided for PASNY customers for the 1979-80 Winter Capability period at PASNY's request.

[7] In *Long Island Lighting Company*, Docket No. ER79-512, orders issued March 4 and June 3, 1980, we noted that MEUA, as representative of the same three municipal customers that are involved in this docket, did object to waiver. Under that circumstance we declined to grant a waiver of our notice requirements except to make the rate effective on the day after the company completed its filing.

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**[Docket No. ER80-363]**

## Delmarva Power & Light Co.; Order Accepting for Filing and Suspending Revised Tariff and Proposed Increased Rates, Granting Waiver of Notice Requirements, Denying Motions To Reject, Granting Interventions, and Establishing Procedures

June 30, 1980.

On April 30, 1980, Delmarva Power & Light Company (Delmarva) tendered for filing its revised tariff, which is designated as FERC Electric Tariff Volume No. 10 to supersede the following tariffs: Delmarva Power & Light Company, Volume No. 9; Delmarva Power & Light Company of Maryland, Volume No. 9; and Delmarva Power & Light Company of Virginia, Volume No. 5.[1] By order issued December 4, 1978, the Commission approved the merger of Delmarva and its wholly-owned subsidiaries in Maryland and Virginia.[2] The revised tariff would consolidate three separate tariffs into one offered by the surviving corporation.

In addition to the superseding tariff, Delmarva proposes to increase the rates for wholesale electric service to all its wholesale customers in two phases.[3] The Phase I rates would result in an increase of $12.4 million (20.8%) in wholesale revenues based on a twelve-month period ending December 31, 1980. The Phase II rates would increase the wholesale revenues by an additional $2.4 million over the same period.

Delmarva requests an effective date of July 1, 1980, for the tendered tariff volume. With respect to the Phase I rates, Delmarva states that it will not oppose suspension of those rates until September 1, 1980,[4] or the date of commercial operation of Indian River Unit #4, whichever is later. Delmarva requests an effective date for the Phase II rates to coincide with the date of commercial operation of Salem Unit #2. In addition, Delmarva requests waiver of the notice requirements of § 35.3(a) of the Commission's regulations with respect to the Phase I rates (if the date of commercial operation of Indian River Unit #4 falls more than 120 days following the date of filing) and the Phase II rates.

In support of its proposed increased rates, Delmarva asserts that its present rates are too low to permit it to earn a fair return on its investment and that the proposed increased revenues are necessary to provide it with a fair return. Delmarva states that the present rates indicate an adjusted test period return for the wholesale customer class of 5.6%.

Notice of the filing was issued on May 6, 1980, with protests or petitions to

[1] The tariff and rate designations are shown in Appendix A below.

[2] Docket No. EL78-10.

[3] The Phase I rates are reflected in Original Sheet Nos. 13, 14, 25, 26, and 27. Phase II rates are contained in First Revised Sheet Nos. 25 and 26.

[4] The September 1, 1980, date as the date for the rates to be effective would conform with a settlement agreement entered into between Delmarva and certain of its wholesale customers in Docket No. ER78-414.

intervene due on or before May 27, 1980. Timely protests and petitions to intervene were filed by Senator Joseph R. Biden, Jr., of Delaware, and jointly by the Cities of Newark, Milford, and Seaford, Delaware; the Towns of Smyrna and Clayton, and Middletown, Delaware; the Board of Public Works of the City of Lewes, Delaware; and the Mayor and Council of the Town of Middletown, Delaware (Cities). The Public Service Commission of Maryland filed a timely notice of intervention. On May 28, 1980, protests and petitions to intervene were jointly filed by Old Dominion Electric Cooperative, A&N Electric Cooperative, Choptank Electric Cooperative, Inc., and Delaware Electric Cooperative, Inc. (Cooperatives). An answer was filed by Delmarva on June 9, 1980 to the protests and petitions to intervene filed by the Cities and Cooperatives, wherein Delmarva stated, *inter alia*, that it did not oppose the intervention of those petitioners in this proceeding. We find that those intervenors and Senator Biden have shown an interest in this proceeding that is sufficient to warrant intervention. Accordingly, we find that all requests for intervention in this proceeding should be granted as hereinafter ordered.

Motions to reject Delmarva's filing or, in the alternative, for a maximum suspension of the proposed increased rates were filed by the Cooperatives, Cities, and Senator Biden. In support of their motion for rejection, Cooperatives cite Delmarva's use of a year-end rate base as a violation of Commission policy, which they assert warrants rejection of the filing. Senator Biden cites numerous "improper" ratemaking procedures used by Delmarva in its tender as the basis of his motion for rejection and alternative requests for hearing and suspension. Cities request for rejection or, alternatively, for suspension. Cities is similarly based. We find that the propriety of Delmarva's ratemaking procedures is an issue to be decided after hearing on the basis of an evidentiary record and is not an appropriate basis for rejection of a filing, such as Delmarva's, that substantially meets the filing requirements of our regulations.[5]

As an additional argument, the Cities and the Cooperatives allege that the use of generating unit in-service dates as proposed effective dates for phased rate increases is contrary to Commission Regulations and unprecedented and, consequently, that Delmarva's tender should be rejected. However, phased rate increase filings based upon in-service dates of generating units under construction as of the filing date have been accepted for filing.[6] We believe that such action is a reasonable technique to permit proper determination of rates that will reflect the appropriate synchronization of significant increases in demand costs with significant decreases in fuel expenses that will flow through the fuel adjustment clause. However, where phased increases are supported by annualization of the new generating units which come on line during (or after) the test period, the hearing record should also reflect the allocations of the annualized costs with the annualized adjustments of the wholesale billing demands for recovery of the future annualized costs. In other words, the record should reflect the appropriate recognition of the load growth that will occur through the twelve-month period commencing with the commercial operation of the annualized generating facility.

Our review of the filing indicates that the proposed tariff, the proposed Phase I rates, and the proposed Phase II rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful under the Federal Power Act. We will suspend the tendered tariff for one-day; the Phase I rates for a period of three-months from the inservice date of the Indian River Unit #4 facility; and the Phase II rates for a period of five-months from the in-service date of the Salem Unit #2 facility. The suspension periods for the Phase I and Phase II rates will commence from the date of the requested effective dates for those proposed rates.[7] During the suspension period of the Phase I rates after July 2, 1980, the tendered tariff will be in effect subject to refund and the presently existing rates for wholesale services will remain in effect until the Phase I rates become effective in accordance with this order.

Our review also indicates that the request for waiver of our notice requirements should be granted to permit the tender to be accepted for filing in order to avoid any duplicative filings and hearings that might result if the Phase I and Phase II proposed rates were rejected. It appears that the two new generating units will be placed in commercial operation within a very short time-span. Indian River Unit #4 is anticipated to commence commercial operations in September, 1980 and Salem Unit #2 is expected to begin operations in late 1980. Thus, it can be anticipated that the hearing record developed here will encompass the actual in-service operations of both facilities and, therefore, the rate determinations for future service to Delmarva's wholesale customers can be expeditiously and economically made in this proceeding. Accordingly, we will accept all components of the tender for filing, suspend them as ordered below, after which they shall become effective subject to refund pending a hearing and decision in this proceeding.

In their pleadings, the Cities and the Cooperatives allege that the proposed increased rates may create an unlawful price squeeze.[8] In accordance with Commission policy established in *Arkansas Power and Light Company*, Docket No. ER79-339, order issued August 6, 1979, we will phase the price squeeze issue. This will allow a decision to be reached first on the cost of service, capitalization, and rate of return issues. If, in the view of the intervenors or Staff, a price squeeze persists, a second phase of the proceeding may follow.

*The Commission orders:*

(A) The motions to reject are hereby denied.

(B) The notice provisions of § 35.3(a) of our regulations are hereby waived to permit Delmarva to file its proposed tariff and increased rate proposals.

(C) The tariff tendered by Delmarva on April 30, 1980, designated as the Cover Sheet and Original Sheet Nos. 1 through 12 and 15 through 24 to Delmarva's FERC Electric Tariff,

[5] *See, Municipal Light Boards of Reading and Wakefield, Massachusetts* v. *FPC*, 450 F2d 1341 (D.C. Cir. 1971).

[6] *See, Pacific Gas & Electric Company*, Docket Nos. ER80-214 and ER80-215, order issued March 28, 1980.

[7] With respect to Phase I, Delmarva stated that it did not oppose an effective date of September 1, 1980, or the date of commercial operation of Indian River #4, whichever is later (see, Transmittal Letter, pp. 2 and 4 and Answer, p. 2). Delmarva proposed an effective date of the Phase II rates to coincide with the date of commercial operation of Salem Unit #4 (see, Transmittal Letter, pp. 2 and 4, and Answer, p. 2).

[8] On June 18, 1980, Cities filed a motion for leave to file a reply to Delmarva's answer together with its reply. The reply challenges Delmarva's statement that Cities failed to allege a price squeeze in its petition. As stated above, we have found that Cities did allege a price squeeze in its pleading and, therefore, Cities reply is not necessary to the resolution of this issue.

Original Volume No. 10 is hereby accepted for filing and suspended for one-day from the proposed effective date, to become effective July 2, 1980, subject to refund pending hearing and decision thereon.

(D) The Phase I rates proposed by Delmarva in this proceeding and designated as Original Sheet Nos. 13, 14, 25, 26, and 27 to Delmarva's FERC Electric Tariff, Original Volume No. 10, are hereby accepted for filing and suspended for three months from the date of commercial operations of the Indian River Unit #4 to become effective at the conclusion of that suspension period subject to refund pending hearing and decision thereon. Delmarva shall notify the Commission and all parties to this proceeding of the date of the commencement of commercial operation of Indian River Unit #4 within 10 days from the date of such operation.

(E) Delmarva's proposed Phase II rate increase, designated as First Revised Sheet Nos. 25 and 26 to Delmarva's FERC Electric Tariff, Original Volume No. 10, is hereby accepted for filing and suspended for a period of five months to become effective five months after the date of commercial operation of Salem Unit #4, subject to refund, pending hearing and decision thereon. Delmarva shall notify the Commission and all parties to this proceeding of the date of the commencement of commercial operation of Salem Unit #4 within 10 days from the date of such operation.

(F) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 402(a) of the DOE Act and of the Federal Power Act, particularly Sections 205 and 206, and by the Commission's rules of practice and procedure and the Regulations under the Federal Power Act (18 CFR Ch. I), a public hearing shall be held concerning the justness and reasonableness of the tariff and the rates proposed by Delmarva in this proceeding.

(G) The Cities, Cooperatives, and Senator Biden are hereby permitted to intervene in this proceeding subject to the rules and regulations of the Commission: *Provided, however,* That participation of such intervenors shall be limited to the matters affecting asserted rights and interests specifically set forth in their petitions to intervene; And, provided, further, That the admission of such intervenors shall not be construed as recognition by the Commission that they or any one of them might be aggrieved by any order entered in this proceeding.

(H) The Commission Staff shall serve top sheets in this proceeding on or before September 18, 1980.

(I) A presiding administrative law judge to be designated by the Chief Administrative Law Judge, shall convene a prehearing discovery conference in this proceeding to be held within 30 days of issuance of this order in a hearing room at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. This conference will be for the purpose of expediting discovery and resolving any initial controversies relating to data requests and discovery. In addition, the presiding judge shall convene a formal settlement conference to be held within ten days of the service of top sheets. The presiding judge is authorized to establish procedural dates and to rule upon all motions (except motions to consolidate or sever and motions to dismiss), as provided for in the Commission's rules of practice and procedure.

(J) The Commission hereby orders initiation of price squeeze procedures and further orders that this proceeding be phased so that the price squeeze procedures begin after issuance of a Commission opinion establishing the rate which, but for consideration of price squeeze, would be just and reasonable. The price squeeze portion of this case shall be governed by the procedures set forth in § 2.17 of the Commission's Regulations as they may be modified prior to the initiation of the price squeeze phase of this proceeding.

(K) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

**Kenneth F. Plumb,**

*Secretary.*

**Appendix A**

**[Docket No. ER80-363]**

*Designation*

Tariff: *Delmarva Power and Light Company*—FERC Electric Tariff, Original Volume No. 10, Cover Sheet, Original Sheet Nos. 1 through 12, Original Sheet Nos. 15 through 24.

Supersedes:

(a) *Delmarva Power and Light Company*—FERC Electric Tariff, Original Volume No. 9, Cover Sheet, Original Sheet Nos. 1 through 12, Original Sheet Nos. 15 through 24.

(b) *Delmarva Power and Light Company of Virginia*—FERC Electric Tariff, Original Volume No. 5, Cover Sheet, Original Sheet Nos. 1 through 12, Original Sheet Nos. 15 through 24.

(c) *Delmarva Power and Light Company of Maryland*—FERC Electric Tariff, Original Volume No. 9, Cover Sheet, Original Sheet Nos. 1 through 12, Original Sheet Nos. 15 through 24.

Phase I: *Delmarva Power and Light Company*—FERC Electric Tariff, Original Volume No. 10, Original Sheet Nos. 13, 14, 25, 26, and 27.

Supersedes:

(a) *Delmarva Power and Light Company*—FERC Electric Tariff, Original Volume No. 9, Original Sheet Nos. 13, 14, 25, 25–A, 26, 27, 28, 28–A, 29 and 30.

(b) *Delmarva Power and Light Company of Virginia*—FERC Electric Tariff, Original Volume No. 5, Original Sheet Nos. 13, 14, 25, 26 and 27.

(c) *Delmarva Power and Light Company*—FERC Electric Tariff, Original Volume No. 9, Original Sheet Nos. 13, 14, 25, 26, 27, 28, 29, and 30.

Phase II: *Delmarva Power and Light Company*—FERC Electric Tariff, Original Volume No. 10, First Revised Sheet Nos. 25 and 26 (Supersede Original Sheet Nos. 25 and 26).

[FR Doc. 80-20921 Filed 7-11-80; 8:45 am]

BILLING CODE 6450-85-M

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**[Vol. 226]**

## Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

June 25, 1980.

The Federal Energy Regulatory Commission received notices of determination from the jurisdictional agencies listed herein, for the indicated wells, pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a (D) in the DEN column. Estimated annual production is in million cubic feet (MMcf).

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street NE., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before July 29, 1980.

Please reference the FERC Control Number in all correspondence related to these determinations.

**Kenneth F. Plumb,**

*Secretary.*

BILLING CODE 6450-85-M

| FERC NO | JA DKT NO | API NO | SECT | DEN | WELL NAME | PROD | PURCHASER |
|---|---|---|---|---|---|---|---|
| MONTANA BOARD OF OIL & GAS CONSERVATION | | | | | | | |
| SHELL OIL CO | | | | | RECEIVED: 06/06/80 JA: MT | | |
| 8039185 | 4-80-97 | 2508321302 | 102 | | BN 43-31 | 238,0 | MONTANA DAKOTA UTILITIES CO |
| 8039184 | 4-80-100 | 2508321327 | 102 | | IVERSON 43-15 | 31,4 | MONTANA DAKOTA UTILITIES CO |
| 8039187 | 4-80-96 | 2508321335 | 102 | | KELLY 21-14 | 3,0 | MONTANA DAKOTA UTILITIES CO |
| 8039186 | 4-80-101 | 2508321319 | 102 | | STRASHEIM 14-26 | 35,8 | MONTANA DAKOTA UTILITIES CO |
| TENNECO OIL COMPANY | | | | | RECEIVED: 06/06/80 JA: MT | | |
| 8039188 | 4-80-96 | 2508321341 | 103 | | OBERGFELL 1-32 | 50,0 | CRYSTAL OIL CO |
| NEW MEXICO DEPARTMENT OF ENERGY & MINERALS | | | | | | | |
| AA ENERGY CORP | | | | | RECEIVED: 06/06/80 JA: NM | | |
| 8039232 | | 3002500000 | 108 | | TOBY 2K 7 24S 37E | 2,6 | EL PASO NATURAL GAS CO |
| AMOCO PRODUCTION CO | | | | | RECEIVED: 06/05/80 JA: NM | | |
| 8039087 | | 3004520953 | 108 | | CANEPLE GAS COM B NO 1 | 21,0 | EL PASO NATURAL GAS CO |
| ANADARKO PRODUCTION COMPANY | | | | | RECEIVED: 06/05/80 JA: NM | | |
| 8039086 | | 3001522698 | 102 | | NEW MEXICO AA STATE NO 1 | 72,0 | LLANO INC |
| 8039085 | | 3001522986 | 102 | | NEW MEXICO STATE AB COM NO 1 | 540,0 | LLANO INC |
| C & E OPERATORS INC | | | | | RECEIVED: 06/09/80 JA: NM | | |
| 8039189 | | 3004500000 | 103 | | FEE 5 | 0,0 | EL PASO NATURAL GAS CO |
| 8039190 | | 3004500000 | 103 | | FEE 7 | 0,0 | EL PASO NATURAL GAS CO |
| CONSOLIDATED OIL & GAS INC | | | | | RECEIVED: 06/09/80 JA: NM | | |
| 8039198 | | 3004501104 | 108 | | JACQUEZ NO 1 | 18,0 | EL PASO NATURAL GAS CO |
| EL PASO NATURAL GAS COMPANY | | | | | RECEIVED: 06/10/80 JA: NM | | |
| 8039228 | | 3004523572 | 103 | | ALLEN COM #1A | 250,0 | EL PASO NATURAL GAS CO |
| 8039219 | | 3004506150 | 108 | | BROOKHAVEN COM D #5 | 21,0 | EL PASO NATURAL GAS COMPANY |
| *8039233 | | 3004521586 | 108 | | DON MARKS COM #1 | 14,0 | EL PASO NATURAL GAS CO |
| 8039234 | | 3004506187 | 108 | | HUERFANO UNIT #15 | 15,0 | EL PASO NATURAL GAS CO |
| 8039218 | | 3003920890 | 108 | | SAN JUAN 28-6 UNIT #188 | 24,0 | EL PASO NATURAL GAS CO |
| *8039220 | | 3004506388 | 108 | | SCHULTZ COM D #8 | 20,0 | EL PASO NATURAL GAS CO |
| EL RAN INC | | | | | RECEIVED: 06/06/80 JA: NM | | |
| 8039182 | | 3004100000 | 103 | | BARTON #1 | 36,0 | TRANSWESTERN PIPELINE CO |
| EXXON CORPORATION | | | | | RECEIVED: 06/06/80 JA: NM | | |
| 8039181 | | 3002526329 | 103 | | NEW MEXICO G STATE #20 | 113,0 | EL PASO NATURAL GAS CO |
| EXXON CORPORATION | | | | | RECEIVED: 06/10/80 JA: NM | | |
| 8039222 | | 3001522189 | 103 | | NEW MEXICO CU STATE #1 | 7,0 | EL PASO NATURAL GAS CO |
| GETTY OIL COMPANY | | | | | RECEIVED: 06/09/80 JA: NM | | |
| 8039192 | | 3004506889 | 108 | | HOBBS C NO 1 | 20,0 | EL PASO NATURAL GAS CO |

* ADDITIONAL PURCHASERS(SEE END OF LIST)

| FERC NO | JA DKT NO | API NO | SECT | DEN | WELL NAME | PROD | PURCHASER |
|---|---|---|---|---|---|---|---|
| 8039193 | | 3004100000 | 108 | | HOBBS T NO 1 | 1,0 | CITIES SERVICE CO |
| 8039191 | | 3004100000 | 108 | | HOBBS T NO 7 | 0,1 | CITIES SERVICE CO |
| GETTY OIL COMPANY | | | | | RECEIVED: 06/10/80 JA: NM | | |
| 8039214 | | 3003900000 | 108 | | PAUL WILLIAMS NO 2 | 19,0 | EL PASO NATURAL GAS CO |
| GULF OIL CORPORATION | | | | | RECEIVED: 06/10/80 JA: NM | | |
| 8039207 | | 3002505559 | 108 | | J R MULT (NCT-C) COM NO 1 | 5,6 | NORTHERN NATURAL GAS CO |
| HARVEY E YATES COMPANY | | | | | RECEIVED: 06/05/80 JA: NM | | |
| 8039088 | | 3002500000 | 102 | | AUSTIN MUNTEITH #1 | 500,0 | |
| JAKE L HAMON | | | | | RECFIVED: 06/10/80 JA: NM | | |
| 8039226 | | 3002500000 | 103 | | AMERADA FEDERAL NO 2 | 18,2 | PHILLIPS PETROLEUM CO |
| JAMES N EVANS | | | | | RECEIVED: 06/10/80 JA: NM | | |
| 8039225 | | 3002500000 | 108 | | AZTEC STATE #1 | 0,0 | PHILLIPS PETROLEUM CO |
| MANANA GAS INC | | | | | RECEIVED: 06/10/80 JA: NM | | |
| 8039202 | | 3004523426 | 103 | | MARY ACKROYD #1 | 100,0 | EL PASO NATURAL GAS CO |
| 8039213 | | 3004524092 | 103 | | MARY WHEELER #1E | 100,0 | EL PASO NATURAL GAS CO |
| MARALO INC | | | | | RECEIVED: 06/10/80 JA: NM | | |
| 8039225 | | 3001523003 | 103 | | N M INDIAN BASIN #1 COMM | 90,0 | EL PASO NATURAL GAS CO |
| NUCORP ENERGY COMPANY | | | | | RECEIVED: 06/10/80 JA: NM | | |
| 8039227 | | 3002526566 | 103 | | STATE 25 NO 1 | 332,1 | EL PASO NATURAL GAS CO |
| PHILLIPS PETROLEUM COMPANY | | | | | RECEIVED: 06/09/80 JA: NM | | |
| 8039196 | | 3002502883 | 108 | | E VACUUM GB/SA UNIT TR 2642 NO 142 | 0,3 | EL PASO NATURAL GAS CO |
| 8039194 | | 3002523343 | 108 | | PHILMEX NO 10 | 1,0 | EL PASO NATURAL GAS CO |
| PHILLIPS PETROLEUM COMPANY | | | | | RECEIVED: 06/10/80 JA: NM | | |
| 8039221 | | 3002520791 | 108 | | SANTA FE NO 97 | 3,0 | EL PASO NATURAL GAS CO |
| READ & STEVENS INC | | | | | RECEIVED: 06/09/80 JA: NM | | |
| 8039195 | | 3002500000 | 108 | | CROWN NO 1 | 2,0 | EL PASO NATURAL GAS CO |
| SOUTHLAND ROYALTY CO | | | | | RECEIVED: 06/09/80 JA: NM | | |
| 8039197 | | 3004520367 | 108 | | STATE 575 #1 | 18,6 | EL PASO NATURAL GAS COMPANY |
| SUN OIL COMPANY (DELAWARE) | | | | | RECEIVED: 06/10/80 JA: NM | | |
| 8039179 | | 3001500000 | 108 | | D EAST MILLMAN UNIT NO 4-4 | 1,0 | PHILLIPS PETROLEUM CO |
| 8039240 | | 3004100000 | 108 | | NEW MEXICO -AZ- STATE NO 11 | 1,0 | CITIES SERVICE CO |
| 8039241 | | 3004100000 | 108 | | NEW MEXICO -AZ- STATE NO 12 | 3,0 | CITIES SERVICE CO |
| | | | | | | * | ADDITIONAL PURCHASERS(SEE END OF LIST) |

| FERC NO | JA DKT NO | API NO | SECT | DEN | WELL NAME | PROD | PURCHASER |
|---|---|---|---|---|---|---|---|
| 8039244 | | 3004100000 | 108 | | NEW MEXICO -AZ- STATE NO 9 | 0,4 | CITIES SERVICE CO |
| 8039242 | | 3000500000 | 108 | | NEW MEXICO -H- STATE NO 12 | 3,0 | CITIES SERVICE CO |
| 8039241 | | 3000500000 | 108 | | NEW MEXICO -H- STATE NO 15 | 2,0 | CITIES SERVICE CO |
| 8039237 | | 3000500000 | 108 | | NEW MEXICO -H- STATE NO 5 | 4,0 | CITIES SERVICE CO |
| 8039238 | | 3000500000 | 108 | | NEW MEXICO -H- STATE NO 4 | 3,0 | CITIES SERVICE CO |
| 8039239 | | 3000500000 | 108 | | NEW MEXICO -H- STATE NO 6 | 12,0 | CITIES SERVICE CO |
| 8039243 | | 3000500000 | 108 | | NEW MEXICO -H- STATE NO 8 | 1,0 | CITIES SERVICE CO |
| 8039209 | | 3004100000 | 108 | | NEW MEXICO-AY-STATE NO 4 | 11,0 | CITIES SERVICE COMPANY |
| 8039206 | | 3004100000 | 108 | | NEW MEXICO-AY-STATE NO 5 | 2,0 | CITIES SERVICE CO |
| 8039210 | | 3004100000 | 108 | | NEW MEXICO-AY-STATE NO 6 | 2,0 | CITIES SERVICE CO |
| 8039208 | | 3004100000 | 108 | | NEW MEXICO-AZ-STATE NO 3 | 1,0 | CITIES SERVICE CO |
| 8039205 | | 3004100000 | 108 | | NEW MEXICO-AZ-STATE NO 6 | 1,0 | CITIES SERVICE CO |
| 8039203 | | 3004100000 | 108 | | NEW MEXICO-AZ-STATE NO 8 | 3,0 | CITIES SERVICE CO |
| 8039204 | | 3000500000 | 108 | | NEW MEXICO-H-STATE NO 16 | 4,0 | CITIES SERVICE CO |
| 8039212 | | 3000500000 | 108 | | NEW MEXICO-H-STATE NO 2 | 4,0 | CITIES SERVICE CO |
| 8039216 | | 3004100000 | 108 | | STATE -CV- NO 2 | 2,0 | CITIES SERVICE COMPANY |
| 8039211 | | 3000500000 | 108 | | STATE TRACT-C- NO 3 | 1,0 | CITIES SERVICE CO |
| 8039217 | | 3002500000 | 108 | | W W WEATHERLY NO 2-U | 11,0 | GETTY OIL CO |
| TEXACO INC | | | | | RECEIVED: 06/10/80 JA: NM | | |
| 8039229 | | 3004523978 | 103 | | WAYNE MOORE COM 1A | 501,0 | EL PASO NATURAL GAS CO |
| TEXAS PACIFIC OIL COMPANY INC | | | | | RECEIVED: 06/10/80 JA: NM | | |
| 8039235 | | 3002500000 | 108 | | STATE A A/C 1 NO 51 | 7,7 | EL PASO NATURAL GAS CO |
| 8039230 | | 3002500000 | 108 | | STATE A A/C 1 NO 58 | 13,9 | PHILLIPS PETROLEUM CO |
| 8039236 | | 3002500000 | 108 | | STATE A A/C 1 NO 61 | 7,8 | PHILLIPS PETROLEUM CO |
| YATES PETROLEUM CORPORATION | | | | | RECEIVED: 06/06/80 JA: NM | | |
| 8039180 | | 3001522720 | 103 | | STATE JM COM NO 1 | 0,0 | TRANSWESTERN PIPELINE CO |
| YATES PETROLEUM CORPORATION | | | | | RECEIVED: 06/10/80 JA: NM | | |
| 8039224 | | 3001523132 | 103 | | LEWIS AM NC 1 | 0,0 | TRANSWESTERN PIPELINE CO |
| ZIA ENERGY INC | | | | | RECEIVED: 06/10/80 JA: NM | | |
| 8039215 | | 3002500000 | 108 | | CHRISTMAS NO 1 | 9,6 | GETTY OIL CO |
| OHIO DEPARTMENT OF NATURAL RESOURCES | | | | | | | |
| ANNABELLE MARSH | | | | | RECFIVED: 06/05/80 JA: OH | | |
| 8039154 | | 3411924638 | 103 | | ANNABELLE MARSH #1 | 12,0 | |
| APPALACHIAN ENERGY INC | | | | | RECEIVED: 06/05/80 JA: OH | | |
| 8039126 | | 3401320313 | 103 | | J GIFFIN #1 | 30,0 | COLUMBIA GAS TRANSMISSION CORP |
| 8039127 | | 3401320316 | 103 | | P DEMARCO #1 | 30,0 | COLUMBIA GAS TRANSMISSION CORP |
| 8039125 | | 3401320311 | 103 | | P GREENLEE #2 | 30,0 | COLUMBIA GAS TRANSMISSION CORP |
| BAY STATE EXPLORATION CO | | | | | RECEIVED: 06/05/80 JA: OH | | |
| 8039144 | | 3407322230 | 103 | | EDITH AMERINE NO 2 | 35,0 | COLUMBIA GAS PIPELINE CO |

* ADDITIONAL PURCHASERS(SEE END OF LIST)

| FERC NO | JA DKT NO | API NO | SECT | DEN | WELL NAME | PROD | PURCHASER |
|---|---|---|---|---|---|---|---|
| BERMAN SHAFER & FRANK HOOVER | | | | | RECEIVED: 06/05/80 JA: OH | | |
| 8039149 | | 3408322701 | 103 | | LYLE LYONS #3 | 48.0 | EAST OHIO GAS CO |
| 8039150 | | 3408322702 | 103 | | LYLE LYONS #4 | 21.0 | EAST OHIO GAS CO |
| BIG DRILLING INC | | | | | RECEIVED: 06/05/80 JA: OH | | |
| 8039130 | | 3403123683 | 103 | | C O GIFFEN #1 | 12.0 | |
| BUCKEYE OIL PRODUCING CO | | | | | RECEIVED: 06/05/80 JA: OH | | |
| 8039153 | | 3409920471 | 108 | | MARTIG ET AL #1 | 13.0 | EAST OHIO GAS CO |
| 8039152 | | 3409920470 | 108 | | W HEADLAND #1 | 7.0 | COLUMBIA GAS TRANSMISSION CORP |
| CARL HEINRICH | | | | | RECEIVED: 06/05/80 JA: OH | | |
| 8039175 | | 3416700418 | 108 | | GITCHELL #1 | 3.0 | RIVER GAS CO |
| CHANSE PETROLEUM CORPORATION | | | | | RECEIVED: 06/05/80 JA: OH | | |
| 8039124 | | 3400721274 | 103 | | STEPHANIE M MAYLISH #2 | 5.0 | |
| CONSOLIDATED RESOURCES OF AMERICA | | | | | RECEIVED: 06/05/80 JA: OH | | |
| 8039143 | | 3405922677 | 103 | | EUGENE & VERA HURLESS #2 | 43.8 | COLUMBIA GAS TRANSMISSION CORP |
| DORSET DRILLING CO INC | | | | | RECEIVED: 06/05/80 JA: OH | | |
| 8039123 | | 3400721164 | 103 | | VANCOURT #2 | 20.0 | JONES & LAUGHLIN STEEL CORP |
| ENTERPRISE GAS & OIL INC | | | | | RECEIVED: 06/05/80 JA: OH | | |
| 8039141 | | 3405922669 | 103 | | DONAHUE #1 | 36.5 | OWENS-ILLINOIS GLASS CO |
| 8039161 | | 3412724599 | 103 | | LEWIS ETAL #5 | 27.4 | NATIONAL GAS & OIL CORP |
| 8039162 | | 3412724600 | 103 | | LEWIS ETAL #6 | 18.2 | NATIONAL GAS & OIL CORP |
| 8039140 | | 3405922411 | 103 | | MULISEE #1 | 18.5 | OWENS-ILLINOIS GLASS CO |
| 8039155 | | 3411925081 | 103 | | PATTON #1 | 36.5 | COLUMBIA GAS TRANSMISSION CORP |
| F E THOMPSON OIL CO INC | | | | | RECEIVED: 06/05/80 JA: OH | | |
| 8039160 | | 3412724468 | 103 | | DONALD KOEHLER #1 | 6.0 | NEWZANE GAS CO |
| G & S DRILLING CO | | | | | RECEIVED: 06/05/80 JA: OH | | |
| 8039128 | | 3403123098 | 103 | | ESTHER FABIAN #2 | 18.0 | |
| 8039129 | | 3403123596 | 103 | | GORDON GAMERTSFELDER #2 | 18.0 | |
| JAMES DRILLING CORP | | | | | RECEIVED: 06/05/80 JA: OH | | |
| 8039136 | | 3405921192 | 108 | | ELLIS R MCCRACKEN #1 | 2.0 | EAST OHIO GAS CO |
| 8039134 | | 3405920996 | 108 | | ELMER R KAISER #1 | 6.0 | EAST OHIO GAS CO |
| 8039133 | | 3405920995 | 108 | | ELMER R KAISER #2 | 6.0 | EAST OHIO GAS CO |
| 8039113 | | 3400720154 | 108 | | FLOYD ENGLISH #2 | 2.0 | EAST OHIO GAS CO |
| 8039135 | | 3405920997 | 108 | | HARVEY H HUNNEL #1 | 3.0 | EAST OHIO GAS CO |
| 8039137 | | 3405921262 | 108 | | HARVEY H HUNNEL #2 | 4.0 | EAST OHIO GAS CO |

* ADDITIONAL PURCHASERS(SEE END OF LIST)

| FERC NO | JA DKT NO | API NO | SECT | DEN | WELL NAME | PROD | PURCHASER |
|---|---|---|---|---|---|---|---|
| 8039139 | | 3405921273 | 108 | | JOSEPH C LATTEA #1 | 3,5 | EAST OHIO GAS CO |
| 8039114 | | 3400720178 | 108 | | MICHAEL YURTZ #1 | 1,0 | EAST OHIO GAS CO |
| 8039115 | | 3400720181 | 108 | | MICHAEL YURTZ #2 | 2,0 | EAST OHIO GAS CO |
| 8039112 | | 3400720117 | 108 | | S T DONOVAN #1 | 8,0 | EAST OHIO GAS CO |
| 8039138 | | 3405921271 | 108 | | WILLIAM H LOBB #1 | 5,0 | EAST OHIO GAS CO |
| JAMES I SHEARER | | | | | RECEIVED: 06/05/80 JA: OH | | |
| 8039118 | | 3400720315 | 108 | | CONRAD B MUELLER #1 | 1,5 | EAST OHIO GAS CO |
| 8039120 | | 3400720329 | 108 | | CONRAD B MUELLER #2 | 0,4 | EAST OHIO GAS CO |
| 8039119 | | 3400720323 | 108 | | FENTON R KEEP #1 | 2,0 | EAST OHIO GAS CO |
| 8039111 | | 3400720101 | 108 | | M DALE JEWELL #1 | 3,5 | EAST OHIO GAS CO |
| 8039117 | | 3400720311 | 108 | | JAMES E ELLIOTT #1 | 1,0 | EAST OHIO GAS CO |
| 8039116 | | 3400720194 | 108 | | MILAN KRMPOTIC #1 | 2,0 | EAST OHIO GAS CO |
| JENSU CORP | | | | | RECEIVED: 06/05/80 JA: OH | | |
| 8039151 | | 3408923757 | 103 | | THOMAS #1 | 4,0 | |
| L & M PETROLEUM | | | | | RECEIVED: 06/05/80 JA: OH | | |
| 8039176 | | 3416724729 | 103 | | ROSA HEPPLER #3 | 12,8 | COLUMBIA GAS TRANSMISSION CORP |
| LAKE REGION OIL INC | | | | | RECEIVED: 06/05/80 JA: OH | | |
| 8039148 | | 3407522405 | 103 | | BETH AMY #1 | 20,0 | COLUMBIA GAS TRANSMISSION CORP |
| LEADER EQUITIES INC | | | | | RECEIVED: 06/05/80 JA: OH | | |
| 8039156 | | 3411925166 | 103 | | IVAN JOHNSON ETAL #2 | 15,0 | COLUMBIA GAS TRANSMISSION CORP |
| LIBERTY OIL & GAS CORP | | | | | RECEIVED: 06/05/80 JA: OH | | |
| 8039099 | 00312 | 3410521607 | 107 | | ADDIE BAKER #1 | 6,0 | COLUMBIA GAS TRANSMISSION CORP |
| 8039100 | 00549 | 3410521515 | 107 | | TWIN CLARK #1 | 24,0 | COLUMBIA GAS TRANS CORP |
| MARTIN EXCAVATING INC | | | | | RECEIVED: 06/05/80 JA: OH | | |
| 8039145 | | 3407522373 | 103 | | ARTHUR MCGUIRE #1 | 12,0 | COLUMBIA GAS TRANSMISSION CORP |
| MERIDIAN OIL & GAS ENT INC | | | | | RECEIVED: 06/05/80 JA: OH | | |
| 8039121 | | 3400720651 | 103 | | ELSIE KAIPAINEN #1 | 5,0 | |
| NOBLE GAS CO | | | | | RECEIVED: 06/05/80 JA: OH | | |
| 8039158 | | 3412121503 | 108 | | HEDGE JOHN #1 | 10,0 | EAST OHIO GAS CO |
| OILTECH INC | | | | | RECEIVED: 06/05/80 JA: OH | | |
| 8039147 | | 3407522392 | 103 | | HORACE A DUTTON #6 | 0,0 | COLUMBIA GAS TRANSMISSION CORP |
| 8039146 | | 3407522383 | 103 | | HORACE A DUTTON #7 | 0,0 | COLUMBIA GAS TRANSMISSION CORP |

* ADDITIONAL PURCHASERS(SEE END OF LIST)

| FERC NO | JA DKT NO | API NO | SECT | DEN | WELL NAME | PROD | PURCHASER |
|---|---|---|---|---|---|---|---|
| POI ENERGY INC | | | | RECEIVED: 06/05/80 JA: OH | | | |
| 8039122 | | 3400721117 | 103 | | BRASS #2 | 15,0 | |
| 8039165 | | 3413322091 | 103 | | LEAR-KUTINSKY #1 | 5,0 | |
| 8039164 | | 3413322074 | 103 | | MILLER-KREIENHOFF-TIPTON #1 | 5,0 | |
| 8039172 | | 3415320718 | 103 | | MOSS-AESCHLIMAN-MASBROUCK #1 | 5,0 | |
| QUADRANT EXPLORATION | | | | RECEIVED: 06/05/80 JA: OH | | | |
| 8039177 | | 3416725227 | 103 | | FREDERICK WORSTELL KURTZ #1 | 50,0 | |
| QUAKER STATE OIL REFINING CORP | | | | RECEIVED: 06/05/80 JA: OH | | | |
| 8039101 | 00683 | 3410521420 | 107 | | WILLIAM MCKELVEY #1 69500 | 4,4 | COLUMBIA GAS TRANSMISSION CORP |
| R GENE BRASEL DBA BRASEL & BRASEL | | | | RECEIVED: 06/05/80 JA: OH | | | |
| 8039131 | | 3405320489 | 103 | | MOORE - MYERS #1 | 1,0 | COLUMBIA GAS TRANSMISSION CORP |
| 8039132 | | 3405320494 | 103 | | KENDELL BRADBURY #2 | 1,5 | COLUMBIA GAS TRANSMISSION CORP |
| THE OXFORD OIL CO | | | | RECEIVED: 06/05/80 JA: OH | | | |
| 8039159 | | 3412121925 | 107 | | HAGA-TRAVIS UNIT #1 | 15,0 | |
| 8039107 | | 3411121838 | 107 | | HARLEY BEARDMORE #1 | 15,0 | |
| 8039174 | | 3415723500 | 103 | | HARKLEY JAMES UNIT #1 | 8,0 | |
| 8039173 | | 3415723506 | 103 | | HARKLEY RUDOLPH #2 | 8,0 | |
| 8039163 | | 3412724655 | 103 | | RUSH CREEK CLAY #1 | 10,0 | |
| 8039157 | | 3411925199 | 103 | | TAYLOR MERRY UNIT #1 | 8,0 | |
| 8039171 | | 3411121962 | 107 | | WALTER CHRISTMAN #1 | 15,0 | |
| TIGER OIL INC | | | | RECEIVED: 06/05/80 JA: OH | | | |
| 8039142 | | 3405922674 | 103 | | SZUBER #1B | 20,0 | COLUMBIA GAS TRANSMISSION CORP |
| TREND EXPLORATION LTD | | | | RECEIVED: 06/05/80 JA: OH | | | |
| 8039108 | 07869 | 3400921956 | 107 | | BURKHAMMER #2 | 27,0 | COLUMBIA GAS TRANSMISSION CORP |
| 8039109 | 07870 | 3400921868 | 107 | | COF #1 | 50,0 | COLUMBIA GAS TRANSMISSION CORP |
| 8039110 | 07871 | 3416724661 | 107 | | EVA SHOWALTER #2 | 0,0 | COLUMBIA GAS TRANSMISSION CORP |
| 8039106 | 07867 | 3416724519 | 107 | | M C PARRISH #1 | 438,0 | COLUMBIA GAS TRANSMISSION CORP |
| 8039102 | 07865 | 3400921941 | 107 | | LAMP #1 | 129,5 | COLUMBIA GAS TRANSMISSION CORP |
| 8039104 | 07864 | 3400921944 | 107 | | MALONE UNIT #2 | 6,2 | COLUMBIA GAS TRANSMISSION CORP |
| 8039105 | 07866 | 3416724642 | 107 | | RALPH E CUNNINGHAM #1 | 9,1 | COLUMBIA GAS TRANSMISSION CORP |
| 8039178 | | 3416724540 | 107 | | WANDA ESTEP #1 | 18,0 | COLUMBIA GAS TRANSMISSION CORP |
| VIKING RESOURCES CORPORATION | | | | RECEIVED: 06/05/80 JA: OH | | | |
| 8039169 | | 3415123149 | 103 | | KINNEY-FERRELL UNIT #1 | 30,0 | |
| 8039168 | | 3415123148 | 103 | | KINNEY-FERRELL UNIT #2 | 30,0 | |
| 8039170 | | 3415123153 | 103 | | LAWVER #1 | 30,0 | |
| 8039166 | | 3413322197 | 103 | | WALLBRUNN UNIT #4 | 30,0 | |
| 8039167 | | 3415123138 | 103 | | WINBERRY UNIT #1 | 30,0 | |
| WYNN OIL CO | | | | RECEIVED: 06/05/80 JA: OH | | | |

* ADDITIONAL PURCHASERS(SEE END OF LIST)

| FERC NO | JA DKT NO | API NO | SECT | DEN | WELL NAME | PROD | PURCHASER |
|---|---|---|---|---|---|---|---|
| 8039105 | 04576 | 5416724086 | 108 | | G LAMP #1 | 3.0 | COLUMBIA GAS TRANSMISSION CORP |

VIRGINIA DEPARTMENT OF LABOR & INDUSTRY

ASHLAND EXPLORATION INC — RECEIVED: 06/09/80 JA: VA

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| 8039185 | | 4502720340 | 103 | | CLINCH FIELD COAL CORP #8 | 54.0 | CONSOLIDATED GAS SUPPLY CORP |

WEST VIRGINIA DEPARTMENT OF MINES

CONSOLIDATED GAS SUPPLY CORPORATION — RECEIVED: 06/06/80 JA: WV

| | | | | | | |
|---|---|---|---|---|---|---|
| 8039070 | | 4701302709 | 108 | | A G MATHENS 8745 | 3.0 GENERAL SYSTEM PURCHASERS |
| 8039021 | | 4703301269 | 108 | | A J REYNOLDS 901 | 3.0 GENERAL SYSTEM PURCHASERS |
| 8039080 | | 4706100402 | 108 | | A MORRIS HRS 9565 | 7.0 GENERAL SYSTEM PURCHASERS |
| 8039048 | | 4710300701 | 108 | | BLACKSHORE WELLS 4610 | 15.0 GENERAL SYSTEM PURCHASERS |
| 8039054 | | 4704500550 | 108 | | BOONE COUNTY COAL 9261 | 16.0 GENERAL SYSTEM PURCHASERS |
| 8039023 | | 4702103085 | 108 | | C A COLLINS 6343 | 2.0 GENERAL SYSTEM PURCHASERS |
| 8039063 | | 4703301302 | 108 | | C W MARTIN 3277 | 5.0 GENERAL SYSTEM PURCHASERS |
| 8039082 | | 4708503880 | 108 | | C W REGER 1728 | 5.0 GENERAL SYSTEM PURCHASERS |
| 8039056 | | 4703300690 | 108 | | C WOODFORD 11932 | 11.0 GENERAL SYSTEM PURCHASERS |
| 8039050 | | 4706100318 | 108 | | DELBERT F CRESS 11025 | 3.0 GENERAL SYSTEM PURCHASERS |
| 8039030 | | 4701701987 | 108 | | E DAVISSON 7060 | 4.0 GENERAL SYSTEM PURCHASERS |
| 8039052 | | 4704903900 | 108 | | E T MARTIN 6699 | 6.0 GENERAL SYSTEM PURCHASERS |
| 8039036 | | 4701701944 | 108 | | F CAIN 3611 | 7.0 GENERAL SYSTEM PURCHASERS |
| 8039055 | | 4704102711 | 108 | | F MCKINLEY 8260 | 13.0 GENERAL SYSTEM PURCHASERS |
| 8039037 | | 4701701922 | 108 | | FELIX DAVIS 1468 | 5.0 GENERAL SYSTEM PURCHASERS |
| 8039034 | | 4701302723 | 108 | | FLORA GREATHOUSE 7452 | 16.0 GENERAL SYSTEM PURCHASERS |
| 8039060 | | 4703301577 | 108 | | G L BARTLETT 8093 | 5.0 GENERAL SYSTEM PURCHASERS |
| 8039059 | | 4703301592 | 108 | | G L MCCUSKY 8144 | 5.0 GENERAL SYSTEM PURCHASERS |
| 8039066 | | 4701701931 | 108 | | G W PARR 2055 | 3.0 GENERAL SYSTEM PURCHASERS |
| 8039069 | | 4701302720 | 108 | | G W HARDMAN 7417 | 3.0 GENERAL SYSTEM PURCHASERS |
| 8039042 | | 4704102344 | 108 | | H A FLESHER 8320 | 16.0 GENERAL SYSTEM PURCHASERS |
| 8039029 | | 4700100075 | 108 | | H D STEWART 6966 | 4.0 GENERAL SYSTEM PURCHASERS |
| 8039025 | | 4702103100 | 108 | | H I ALLMAN 6872 | 0.7 GENERAL SYSTEM PURCHASERS |
| 8039046 | | 4710300710 | 108 | | H LOW 5127 | 6.0 GENERAL SYSTEM PURCHASERS |
| 8039049 | | 4706100379 | 108 | | HENRY FOX 176 | 2.0 GENERAL SYSTEM PURCHASERS |
| 8039027 | | 4701701994 | 108 | | I H ALLEN 7465 | 10.0 GENERAL SYSTEM PURCHASERS |
| 8039064 | | 4703301346 | 108 | | I W STUTLER 2711 | 3.0 GENERAL SYSTEM PURCHASERS |
| 8039084 | | 4708503890 | 108 | | INA CAIN 4439 | 4.0 GENERAL SYSTEM PURCHASERS |
| 8039075 | | 4709100150 | 108 | | J C JOHNSON 7560 | 2.0 GENERAL SYSTEM PURCHASERS |
| 8039074 | | 4703301606 | 108 | | J H SUMMERVILLE 8177 | 3.0 GENERAL SYSTEM PURCHASERS |
| 8039061 | | 4703301507 | 108 | | J I BROHARD 7791 | 1.5 GENERAL SYSTEM PURCHASERS |
| 8039065 | | 4703301275 | 108 | | JACOB MYERS 1053 | 5.0 GENERAL SYSTEM PURCHASERS |
| 8039041 | | 4704102357 | 108 | | JAMES JARVIS 8366 | 5.0 GENERAL SYSTEM PURCHASERS |
| 8039058 | | 4703301627 | 108 | | JOHN J WILLIAMS 11082 | 2.0 GENERAL SYSTEM PURCHASERS |
| 8039047 | | 4710300702 | 108 | | JOHN LAVELLE 4719 | 6.0 GENERAL SYSTEM PURCHASERS |
| 8039024 | | 4702103055 | 108 | | L H ELLYSON 5022 | 3.0 GENERAL SYSTEM PURCHASERS |
| 8039051 | | 4704900406 | 108 | | LAURA E HAWKENBERRY 9539 | 4.0 GENERAL SYSTEM PURCHASERS |
| 8039035 | | 4701302710 | 108 | | LOTTIE MCANDREE 6762 | 2.0 GENERAL SYSTEM PURCHASERS |
| 8039032 | | 4701302671 | 108 | | M J DUFFIELD 5365 | 2.0 GENERAL SYSTEM PURCHASERS |
| 8039077 | | 4704102703 | 108 | | M M PETERSON 8339 | 7.0 GENERAL SYSTEM PURCHASERS |
| 8039073 | | 4703301590 | 108 | | M W SMITH 8157 | 2.0 GENERAL SYSTEM PURCHASERS |
| 8039053 | | 4704903360 | 108 | | MARY MULVEHILLE 671 | 8.0 GENERAL SYSTEM PURCHASERS |
| 8039062 | | 4703301458 | 108 | | N R MORRISON 7324 | 4.0 GENERAL SYSTEM PURCHASERS |
| 8039031 | | 4700101002 | 108 | | NATHAN JENKINS 6833 | 9.0 GENERAL SYSTEM PURCHASERS |
| 8039067 | | 4701701913 | 108 | | NORMA MCGOWAN 1050 | 12.0 GENERAL SYSTEM PURCHASERS |
| 8039028 | | 4700100999 | 108 | | P F DOLAN 5048 | 17.0 GENERAL SYSTEM PURCHASERS |

* ADDITIONAL PURCHASERS(SEE END OF LIST)

| FERC NO | JA DKT NO | API NO | SECT | DEN | WELL NAME | PROD | PURCHASER |
|---|---|---|---|---|---|---|---|
| 8039033 | | 4701302660 | 108 | | PRICE JARVIS 3303 | 3.0 | GENERAL SYSTEM PURCHASERS |
| 8039068 | | 4701302726 | 108 | | ROSCOE LUCKNEY 7496 | 2.0 | GENERAL SYSTEM PURCHASERS |
| 8039043 | | 4704102323 | 108 | | S D CAMDEN 8233 | 3.0 | GENERAL SYSTEM PURCHASERS |
| 8039079 | | 4704900404 | 108 | | S E CROSS 9518 | 4.0 | GENERAL SYSTEM PURCHASERS |
| 8039078 | | 4704900335 | 108 | | S E LOUGH 537 | 3.0 | GENERAL SYSTEM PURCHASERS |
| 8039057 | | 4703302244 | 108 | | SARAH BATTON 3546 | 2.0 | GENERAL SYSTEM PURCHASERS |
| 8039045 | | 4704102207 | 108 | | THOMAS ALKIRE 2354 | 10.0 | GENERAL SYSTEM PURCHASERS |
| 8039039 | | 4701701983 | 108 | | W B MAXWELL 7041 | 13.0 | GENERAL SYSTEM PURCHASERS |
| 8039081 | | 4706100403 | 108 | | W C LEMLEY 9567 | 3.0 | GENERAL SYSTEM PURCHASERS |
| 8039026 | | 4702103093 | 108 | | W G BENNETT 6612 | 3.0 | GENERAL SYSTEM PURCHASERS |
| 8039083 | | 4708503886 | 108 | | W M SCHULTZ 3730 | 2.0 | GENERAL SYSTEM PURCHASERS |
| 8039038 | | 4701701979 | 108 | | W MINTER STOUT 7029 | 5.0 | GENERAL SYSTEM PURCHASERS |
| 8039040 | | 4704102376 | 108 | | W T GEORGE 8459 | 3.0 | GENERAL SYSTEM PURCHASERS |
| 8039076 | | 4703301583 | 108 | | W W POST 8114 | 7.0 | GENERAL SYSTEM PURCHASERS |
| 8039022 | | 4703300011 | 108 | | WARREN W REYNOLDS ET AL 11058 | 1.5 | GENERAL SYSTEM PURCHASERS |
| 8039044 | | 4704102311 | 108 | | WM G BAILEY 8191 | 3.0 | GENERAL SYSTEM PURCHASERS |
| MUMMA OIL PRODUCTION CO | | | | | RECEIVED: 06/06/80 JA: WV | | |
| 8039071 | | 4702102650 | 108 | | DWIGHT MCCANDLESS #1 | 2.8 | COLUMBIA GAS TRANSMISSION CORP |
| UNITED OPERATING COMPANY | | | | | RECEIVED: 06/06/80 JA: WV | | |
| 8039072 | | 4708504174 | 103 | | GUY WHITEHAIR #1 | 0.0 | CONSOLIDATED GAS SUPPLY CORP |
| J. S. GEOLOGICAL SURVEY - CASPER, WY | | | | | | | |
| MIDLANDS GAS CORPORATION | | | | | RECEIVED: 06/05/80 JA: MT S | | |
| 8039092 | M-1017-9 | 2507121332 | 108 | | FEDERAL #1 (0331) | 12.0 | KANSAS-NEBRASKA NATURAL GAS COMPAN |
| 8039091 | M1020-9 | 2507121356 | 108 | | FEDERAL #1 (1032) | 16.0 | KANSAS-NEBRASKA NATURAL GAS CO INC |
| 8039094 | M-1007-9 | 2507121043 | 108 | | FEDERAL #1 (1932) | 16.0 | KANSAS-NEBRASKA NATURAL GAS CO INC |
| 8039095 | M 1008-9 | 2507121502 | 108 | | FEDERAL #1 (1933) | 12.0 | KANSAS-NEBRASKA NATURAL GAS CO INC |
| 8039093 | M1009-9 | 2507121450 | 108 | | FEDERAL #1 (1970) | 9.0 | KANSAS-NEBRASKA NATURAL GAS CO INC |
| 8039090 | | 2507121168 | 108 | D | MIAMI FEDERAL 554-13 | 19.0 | KANSAS-NEBRASKA NATURAL GAS CO INC |
| TENNECO OIL COMPANY | | | | | RECEIVED: 06/05/80 JA: ND S | | |
| 8039098 | ND1220-9 | 3300700345 | 102 | | STUART USA #1-7 | 300.0 | WESTERN GAS PROCESSORS LTD |
| GAS PRODUCING ENTERPRISES INC | | | | | RECEIVED: 06/05/80 JA: UT S | | |
| 8039097 | UC463-9R | 4304730367 | 102 | | NBU 28-4B 30367 | 2.0 | COLORADO INTERSTATE GAS CO |
| BELCO PETROLEUM CORPORATION | | | | | RECEIVED: 06/09/80 JA: WY S | | |
| *8039200 | W 1252-9 | 4903520523 | 103 | | GRBU 65-35 20523 | 400.0 | NORTHWEST PIPELINE CORP |
| CONOCO INC | | | | | RECEIVED: 06/05/80 JA: WY S | | |
| 8039096 | W1145-9 | 4901320665 | 103 | | TRIBAL 12 NU 9 | 2500.0 | MONTANA DAKOTA UTILITIES CO |
| ENERGETICS INC | | | | | RECEIVED: 06/09/80 JA: WY S | | |
| 8039201 | W-1179-9 | 4903520502 | 103 | | FEDERAL 40-32 | 17.6 | NORTHWEST PIPELINE CORP |

* ADDITIONAL PURCHASERS(SEE END OF LIST)

| FERC NO | JA DKT NO | API NO | SECT | DEN | WELL NAME | PROD | PURCHASER |
|---|---|---|---|---|---|---|---|
| NORTHWEST EXPLORATION COMPANY | | | | RECEIVED: 06/05/80 | | JA: NY | 5 |
| 8039089 | W 901-9A | 4903721102 | 108 | | BLACK BUTTE #1 | 9.0 | NORTHWEST PIPELINE CORP |
| RAINBOW RESOURCES INC | | | | RECEIVED: 06/09/80 | | JA: NY | 5 |
| 8039199 | W-839-9 | 4900720019 | 102 | | MALTA A-1 | 365.0 | NORTHWEST PIPELINE CORP |

* OTHER PURCHASERS

| | |
|---|---|
| 8039200 | MOUNTAIN FUEL SUPPLY CO |
| 8039220 | NORTHWEST P L CORP |
| 8039233 | NORTHWEST PL CORP |

[FR Doc. 80-20930 Filed 7-11-80; 8:45 am]

BILLING CODE 6450-85-C

[Vol. 225]

## Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

June 25, 1980.

The Federal Energy Regulatory Commission received notices of determination from the jurisdictional agencies listed herein, for the indicated wells, pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a (D) in the DEN column. Estimated annual production is in million cubic feet (MMcf).

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before July 29, 1980.

Please reference the FERC Control Number in all correspondence related to these determinations.

**Kenneth F. Plumb,**

*Secretary.*

BILLING CODE 6450-85-M

| FERC NO | JA DKT NO | API NO | SECT | DEN | WELL NAME | PROD | PURCHASER |
|---|---|---|---|---|---|---|---|
| TEXAS RAILROAD COMMISSION | | | | | | | |
| ALFORD PETROLEUM CORP | | | | | RECEIVED: 06/09/80 JA: TX | | |
| 8038851 | 11445 | 4245130443 | 103 | | G S WINTERBOTHAM B-1 | 180.0 | NORTHERN NATURAL GAS CO |
| 8038850 | 11444 | 4245130442 | 103 | | G S WINTERBOTHAM C-1 | 360.0 | NORTHERN NATURAL GAS CO |
| 8038848 | 11442 | 4223531318 | 103 | | J M WINTERBOTHAM A-1 | 180.0 | NORTHERN NATURAL GAS CO |
| 8038849 | 11443 | 4223531319 | 103 | | J M WINTERBOTHAM A-2 | 180.0 | NORTHERN NATURAL GAS CO |
| AMARILLO OIL COMPANY | | | | | RECEIVED: 06/09/80 JA: TX | | |
| 8038741 | 07499 | 4237500000 | 108 | | BIVINS A #12-R | 2.9 | PIONEER NATURAL GAS CO |
| 8038740 | 07475 | 4217900000 | 108 | | DARSEY #1 | 6.0 | PIONEER NATURAL GAS CO |
| 8038784 | 09193 | 4248300000 | 102 | | EVANS #1-7 | 18.6 | PIONEER NATURAL GAS CO |
| AMERICAN PETROFINA COMPANY OF TEXAS | | | | | RECEIVED: 06/09/80 JA: TX | | |
| 8038745 | 07754 | 4235500000 | 108 | | G E SULLIVAN #2 | 14.0 | TENNESSEE GAS PIPELINE |
| 8038632 | 02995 | 4210531680 | 108 | | ROY MILLER #12 | 4.0 | NORTHERN NATURAL GAS CO |
| AMOCO PRODUCTION CO | | | | | RECEIVED: 06/09/80 JA: TX | | |
| 8038749 | 08034 | 4220330493 | 103 | | BRITTON GAS UNIT NO 2 | 31.4 | EAST TEXAS INDUSTRIAL GAS CO |
| 8038995 | 14782 | 4240130737 | 102 | | GEORGE B STRONG A WELL NO 1 | 43.6 | LONE STAR GAS CO |
| 8038996 | 14783 | 4240130753 | 102 | | GEORGE B STRONG B NO 1 | 43.6 | LONE STAR GAS CO |
| 8038999 | 14643 | 4240130781 | 102 | | GEORGE B STRONG C NO 1 | 43.6 | LONE STAR GAS CO |
| 8039007 | 15550 | 4234930871 | 102 | | INA K CARROLL #1 | 182.5 | LONE STAR GAS CO |
| 8038982 | 15030 | 4240130738 | 102 | | J EDGAR LULLERS #1 | 43.6 | LONE STAR GAS CO |
| 8038972 | 14403 | 4217900000 | 108 | | J M SAUNDERS #11 | 1.5 | PHILLIPS PETROLEUM CO |
| 8039002 | 15195 | 4220330555 | 102 | | KATHLEEN M RESCH NO 1 | 43.6 | UNITED GAS PIPE LINE CO |
| 8038880 | 12229 | 4234730433 | 102 | | MAX W HART JR #1 | 436.0 | NATURAL GAS PIPELINE CO OF AMERICA |
| 8038983 | 15029 | 4240130657 | 102 | | MICHAEL KANGERGA B #1 | 43.6 | LONE STAR GAS CO |
| 8038998 | 14646 | 4240130708 | 102 | | MICHAEL KANGERGA C NO 1 | 43.6 | LONE STAR GAS CO |
| 8039012 | 15765 | 4220330547 | 102 | | T W GEORGE A #1 | 43.6 | UNITED GAS PIPELINE CO |
| 8038997 | 14784 | 4240130703 | 102 | | T W SMILEY NO 1 | 43.6 | LONE STAR GAS CO |
| 8039000 | 15194 | 4220330545 | 102 | | THOMAS TAYLOR B NO 1 | 43.6 | UNITED GAS PIPE LINE CO |
| 8038748 | 08026 | 4213531922 | 103 | | W F CURDEN C DEEP W/A E NO 10-A | 13.1 | PHILLIPS PETROLEUM CO |
| 8038750 | 08067 | 4220130827 | 102 | | W S JACOBS A NO 5 | 26.6 | UNITED TEXAS TRANSMISSION CO |
| ARCO OIL AND GAS COMPANY | | | | | RECEIVED: 06/09/80 JA: TX | | |
| 8038721 | 06513 | 4221130724 | 103 | | MAMIE PEARL MISLEY #4 | 0.6 | CITIES SERVICE GAS CO |
| 8038953 | 14282 | 4217900000 | 108 | | MORSE A #1 | 1.9 | PHILLIPS PETROLEUM CO |
| 8038952 | 14286 | 4217900000 | 108 | | MORSE A #12 | 1.9 | PHILLIPS PETROLEUM CO |
| 8038807 | 10304 | 4200500000 | 108 | | UNIV 11 SEC 1 NO 0-A | 4.4 | EL PASO NATURAL GAS CO |
| [illegible] EXPLORATION COMPANY | | | | | RECEIVED: 06/09/80 JA: TX | | |
| [illegible] | 14548 | 4236530853 | 102 | | MATTIE RITTER HEIRS #1 | 15.0 | ARKANSAS LOUISIANA GAS CO |
| [illegible] OIL & GAS | | | | | RECEIVED: 06/09/80 JA: TX | | |
| [illegible] | 09562 | 4206530678 | 103 | | BURNETT 100 LEASE #3 | 17.5 | PANHANDLE EASTERN PIPE LINE |
| [illegible] | 09561 | 4206530676 | 103 | | MISTY LEASE #2 | 17.5 | PANHANDLE EASTERN PIPE LINE |
| [illegible] | 09560 | 4206530675 | 103 | | MISTY LEASE WELL #1 | 17.5 | PANHANDLE EASTERN PIPE LINE |

* ADDITIONAL PURCHASERS(SEE END OF LIST)

| FERC NO | JA DKT NO | API NO | SECT | DEN | WELL NAME | PROD | PURCHASER |
|---|---|---|---|---|---|---|---|
| BARTH ENERGY CORPORATION | | | | RECEIVED: 06/09/80 JA: TX | | | |
| 8038956 | 14118 | 4228531306 | 103 | | OSCAR GORDON NO 1 | 65.0 | TEXAS EASTERN TRANSMISSION CORP |
| BILL J GRAHAM | | | | RECEIVED: 06/09/80 JA: TX | | | |
| 8038941 | 13685 | 4237100000 | 108 | | STATE YOUNG #1 | 7.2 | EL PASO NATURAL GAS CO |
| BLAIR EXPLORATION INC | | | | RECEIVED: 06/09/80 JA: TX | | | |
| 8039010 | 15491 | 4247932092 | 102 | | KILLAM & HURD LTD NO 1 | 30.0 | TRANSCONTINENTAL GAS PL CORP |
| BRUCE OIL ENTERPRISES | | | | RECEIVED: 06/09/80 JA: TX | | | |
| 8038701 | 05637 | 4223500000 | 108 | | DEAL WELL #1 | 7.9 | PHILLIPS PET CO |
| C F LAWRENCE & ASSOC INC | | | | RECEIVED: 06/09/80 JA: TX | | | |
| 8038914 | 13287 | 4237100000 | 103 | | HOEX #1 | 20.0 | LARCO GAS CORP |
| 8038871 | 11847 | 4210500000 | 103 | | TODD B #1 | 240.0 | APACHE GAS CORP |
| CAL-TEX OIL CO | | | | RECEIVED: 06/09/80 JA: TX | | | |
| 8038735 | 07372 | 4223500000 | 108 | | CARVER AREA WATERFLOOD UNIT #2 NO 25 | 0.5 | DIAMOND SHAMROCK CORP |
| 8038734 | 07410 | 4223500000 | 108 | | LUGINBYHL-C NO 9 | 20.1 | PHILLIPS PETROLEUM CO |
| EARL T SMITH & ASSOC INC | | | | RECEIVED: 06/09/80 JA: TX | | | |
| 8038931 | 13640 | 4221131059 | 102 | | BOWERS NO 12 | 14.5 | PALO DURO PIPELINE CO |
| CHAPMAN EXPLORATION INC | | | | RECEIVED: 06/09/80 JA: TX | | | |
| 8038868 | 11769 | 4207700000 | 103 | | DELZON ELENBURG NO 1 | 60.0 | CITIES SERVICE CO |
| CHARLES L WALKER | | | | RECEIVED: 06/09/80 JA: TX | | | |
| *8038971 | 14469 | 4200331851 | 102 | | FISHER B #1 | 8.0 | PHILLIPS PETROLEUM CO |
| CITIES SERVICE COMPANY | | | | RECEIVED: 06/09/80 JA: TX | | | |
| 8038891 | 12488 | 4206500000 | 108 | | BURNETT RANCH E #3 | 6.0 | CITIES SERVICE GAS CO |
| 8038915 | 13289 | 4206530658 | 103 | | DEAHL B #14 | 25.5 | CITIES SERVICE GAS CO |
| CLAUD B HAMILL | | | | RECEIVED: 06/09/80 JA: TX | | | |
| 8038901 | 12868 | 4201530186 | 102 | | MIKESKA BLUM NO 1 | 300.0 | |
| CLOVER ENERGY CORP | | | | RECEIVED: 06/09/80 JA: TX | | | |
| 8038844 | 11381 | 4228531202 | 102 | | KITTIE CLARK | 67.0 | TEXAS EASTERN TRANS CORP |
| 8038897 | 12599 | 4223931356 | 102 | | MINTA DULESH ET AL | 6.0 | LONE STAR GAS CO |
| CONOCO INC | | | | RECEIVED: 06/09/80 JA: TX | | | |
| 8038805 | 10181 | 4216500000 | 108 | | A L MASSON 51 NO 13 | 0.4 | SHELL OIL CO |

* ADDITIONAL PURCHASERS(SEE END OF LIST)

| FERC NO | JA DKT NO | API NO | SECT | DFN | WELL NAME | PROD | PURCHASER |
|---|---|---|---|---|---|---|---|
| 8038710 | 05835 | 4215530782 | 103 | | ARTHUR BRINKLEY A #35 | 18.6 | CITIES SERVICE OIL CO |
| 8038713 | 05851 | 4211530619 | 103 | | EAST ACKERLY DEAN UNIT #65 | 27.0 | TEXACO INC |
| 8038797 | 10055 | 4238900000 | 108 | | FORD-GERALDINE UNIT NO 119 | 0.3 | EL PASO NATURAL GAS CO |
| 8038798 | 10056 | 4238900000 | 108 | | FORD-GERALDINE UNIT NO 120 | 0.3 | EL PASO NATURAL GAS CO |
| 8038716 | 05979 | 4222731165 | 103 | | G O CHALK B | 0.7 | PHILLIPS PETROLEUM CO |
| 8038707 | 05825 | 4222731570 | 103 | | H R CLAY E #54 | 0.7 | PHILLIPS PETROLEUM CO |
| 8038801 | 10144 | 4222700000 | 108 | | H R CLAY NO 21 | 0.4 | PHILLIPS PET CO |
| 8038717 | 06021 | 4219532178 | 103 | | H S FOSTER #13 | 4.0 | PHILLIPS PET CO |
| 8038800 | 10115 | 4200300000 | 108 | | MUNGER NIX #20 | 0.3 | PHILLIPS PETROLEUM CO |
| 8038951 | 14241 | 4232331569 | 103 | | N J CHITTIM NO 7029 | 7.3 | LOVACA GATHERING CO |
| 8038950 | 14282 | 4232331370 | 103 | | N J CHITTIM NO 7030 | 7.9 | LOVACA GATHERING CO |
| 8038806 | 10219 | 4210300000 | 108 | | UNIVERSITY 15-31 #1 | 11.5 | WARREN PETROLEUM CORP |
| 8038802 | 10163 | 4243300000 | 108 | | WEST FLOWERS UNIT #57 | 0.3 | CITIES SERVICE OIL CO |
| 8038804 | 10177 | 4243300000 | 108 | | WEST FLOWERS UNIT #57 | 0.3 | CITIES SERVICE OIL CO |
| 8038799 | 10110 | 4200300000 | 108 | | WEST FUHRMAN-MASCHO UNIT #34 | 0.6 | PHILLIPS PETROLEUM CO |
| 8038803 | 10171 | 4213500000 | 108 | | WIGHT UNIT NO 1 | 15.0 | AMOCO PROD CO |
| 8038708 | 05826 | 4213532788 | 103 | | WIGHT UNIT NO 104 | 12.0 | AMOCO PRODUCTION CO |
| 8038711 | 05840 | 4213532809 | 103 | | WIGHT UNIT NO 111 | 39.1 | AMOCO PRODUCTION CO |
| 8038718 | 06038 | 4213532947 | 103 | | WIGHT UNIT NO 121 | 58.8 | AMOCO PRODUCTION CO |
| 8038715 | 05877 | 4213532937 | 103 | | WIGHT UNIT NO 129 | 16.4 | AMOCO PRODUCTION CO |
| 8038714 | 05866 | 4213532936 | 103 | | WIGHT UNIT NO 130 | 28.5 | AMOCO PRODUCTION CO |
| 8038712 | 05848 | 4213532716 | 103 | | WIGHT UNIT NO 93 | 10.6 | AMOCO PRODUCTION CO |
| 8038709 | 05829 | 4213500000 | 103 | | WIGHT UNIT NO 97 | 0.0 | AMOCO PRODUCTION CO |
| 8038706 | 05824 | 4213532859 | 103 | | WIGHT UNIT 20661 NO 115 | 107.3 | AMOCO PRODUCTION CO |
| COURSON OIL & GAS INC | | | | | RECEIVED: 06/09/80 JA: TX | | |
| 8038898 | 12001 | 4221131001 | 103 | | ISAACS #1-80 | 50.0 | NORTHERN NATURAL GAS CO |
| CPC EXPLORATION INC | | | | | RECEIVED: 06/09/80 JA: TX | | |
| 8038984 | 15037 | 4205130387 | 102 | | FRANK CHMELAR #1 | 15.0 | MAYNARD OIL CO |
| 8039008 | 15054 | 4205130398 | 102 | | HUFFMAN UNIT #1 | 75.0 | MAYNARD OIL CO |
| CURRY RESOURCES | | | | | RECEIVED: 06/09/80 JA: TX | | |
| 8038725 | 06505 | 4223500000 | 103 | | J HUMBLE 3-35 | 18.3 | NORTHERN NATURAL GAS CO |
| DALLAS PRODUCTION INC | | | | | RECEIVED: 06/09/80 JA: TX | | |
| 8038872 | 11848 | 4220300000 | 108 | | EAST SCOTTSVILLE GAS UNIT #1 | 6.7 | DELHI GAS PIPELINE CORP |
| DAN J HARRISON JR | | | | | RECEIVED: 06/09/80 JA: TX | | |
| 8038818 | 10788 | 4210532101 | 102 | | UNIVERSITY LAND 29-30 NO 1 | 110.0 | |
| 8038817 | 10777 | 4210532114 | 102 | | UNIVERSITY LAND 31-30 #4 | 11.0 | |
| DAVID FASKEN | | | | | RECEIVED: 06/09/80 JA: TX | | |
| 8038746 | 07766 | 4216500000 | 102 | | FASKEN - TAYLOR 234 NO 1 | 14.0 | PHILLIPS PETROLEUM CO |
| DAVIS OIL COMPANY | | | | | RECEIVED: 06/09/80 JA: TX | | |
| *8038994 | 14701 | 4228531300 | 102 | | DOROTHY E STEVENS #3 | 55.0 | TEXAS EASTERN TRANSMISSION CORP |

* ADDITIONAL PURCHASERS(SEE END OF LIST)

| FERC NO | JA DKT NO | API NO | SECT | DEN | WELL NAME | PROD | PURCHASER |
|---|---|---|---|---|---|---|---|
| *8038881 | 12269 | 4228531361 | 102 | | HUGH R GOODRICH #1 | 0.0 | TEXAS EASTERN TRANSMISSION CORP |
| DAWSON EXPLORATION INC | | | | | RECEIVED: 06/09/80 JA: TX | | |
| 8038867 | 11729 | 4224531215 | 103 | | TRUST NATIONAL BANK NO 1 | 365.0 | MINNIE PIPELINE CO |
| DELTA DRILLING CO | | | | | RECEIVED: 06/09/80 JA: TX | | |
| 8038850 | 01527 | 4210531555 | 103 | | CHANDLER 2 | 289.0 | NORTHERN NATURAL GAS CO |
| 8038855 | 02794 | 4210500000 | 103 | | COUCH 2 = 2L | 128.0 | NORTHERN NATURAL GAS CO |
| 8038856 | 01760 | 4210500000 | 103 | | FRIEND A-4 | 169.0 | NORTHERN NATURAL GAS CO |
| 8038835 | 01854 | 4210500000 | 103 | | MCDONALD 14-2 | 252.0 | NORTHERN NATURAL GAS CO |
| DUNIGAN OPERATING CO INC | | | | | RECEIVED: 06/09/80 JA: TX | | |
| 8038811 | 10471 | 4217900000 | 108 | | JOHNSON FEDERAL #7 | 1.0 | PHILLIPS PETROLEUM CO |
| EDWIN L COX | | | | | RECEIVED: 06/09/80 JA: TX | | |
| 8038961 | 13984 | 4221131056 | 102 | | CAMPBELL A #2-41 | 10.0 | PIONEER NATURAL GAS CO |
| 8038838 | 11250 | 4235531348 | 103 | | N CALDWELL NO 2-C | 500.0 | |
| ENERGY DEVELOPMENT CORPORATION | | | | | RECEIVED: 06/09/80 JA: TX | | |
| 8038722 | 00407 | 4205730361 | 102 | | STATE OF TEXAS TRACT 102 NO 1 | 26.0 | UNITED TEXAS TRANSMISSION CO |
| ENERGY RESOURCES OIL & GAS CORP | | | | | RECEIVED: 06/09/80 JA: TX | | |
| 8038782 | 09175 | 4213500000 | 108 | | D PHILLIPS TXL E | 12.0 | SHELL OIL CO |
| ERGON INC | | | | | RECEIVED: 06/09/80 JA: TX | | |
| 8038948 | 14319 | 4235730887 | 103 | | JEWELL 1-22 | 183.0 | NORTHERN NATURAL GAS CO |
| ESTATE OF GEORGE M COATES | | | | | RECEIVED: 06/09/80 JA: TX | | |
| 8038893 | 12557 | 4204730729 | 102 | | MARSHALL BROS #5-D | 250.0 | SOUTH TEXAS NATURAL GAS GATHERING |
| 8038894 | 12558 | 4204730729 | 102 | | NO 5-F MARSHALL BROS NO 5-F | 25.0 | SOUTH TEXAS NATURAL GAS GATHERING |
| EXXON CORPORATION | | | | | RECEIVED: 06/09/80 JA: TX | | |
| 8038869 | 14579 | 4201100000 | 108 | | E J PRUITT B #2 | 12.7 | LOVACA |
| 8038895 | 12559 | 4200531815 | 103 | | FULLERTON (CLEARFORK) UNIT #1935 | 10.0 | PHILLIPS PETROLEUM CO |
| 8038896 | 12564 | 4200531792 | 103 | | FULLERTON CLEARFORK UNIT #5031 | 10.0 | PHILLIPS PETROLEUM CO |
| 8038968 | 14583 | 4204700000 | 108 | | MCGILL BROS 314-D | 18.9 | TRUNKLINE GAS CO |
| 8038967 | 14584 | 4204700000 | 108 | | MCGILL BROS 365-D | 15.7 | TRUNKLINE GAS CO |
| 8038966 | 14587 | 4226130056 | 108 | | SARITA FLD OIL & GAS UNIT NO 126 | 6.9 | NATURAL GAS PIPELINE CO |
| FERGUSON & BOSWORTH AND ASSOCIATES | | | | | RECEIVED: 06/09/80 JA: TX | | |
| 8038965 | 13756 | 4216531527 | 103 | | PRESLEY #1 | 9.3 | PHILLIPS PETROLEUM CO |
| FISHER-WEBB INC | | | | | RECEIVED: 06/09/80 JA: TX | | |

* ADDITIONAL PURCHASERS(SEE END OF LIST)

| FERC NO | JA DKT NO | API NO | SECT | DEN | WELL NAME | PROD | PURCHASER |
|---|---|---|---|---|---|---|---|
| 8038837 | 11277 | 4235350765 | 103 | | MCLAUGHLIN NO 1 | 150.0 | SUN GAS CO |
| FUKA CO | | | | | RECEIVED: 06/09/80 JA: TX | | |
| 8038475 | 14346 | 4217900000 | 108 | | J E WRIGHT NO 1 | 10.0 | COLTEXO CORP |
| 8038947 | 14337 | 4223300000 | 108 | | PITCHER NO A-4 | 2.2 | GETTY OIL CO |
| 8038946 | 14338 | 4223300000 | 108 | | PITCHER NO A-5 | 2.6 | GETTY OIL CO |
| 8038945 | 14339 | 4223300000 | 108 | | PITCHER NO A-6 | 2.6 | GETTY OIL CO |
| 8038944 | 14340 | 4223300000 | 108 | | PITCHER NO A-7 | 2.9 | GETTY OIL CO |
| 8038943 | 14341 | 4223300000 | 108 | | PITCHER NO A-8 | 3.7 | GETTY OIL CO |
| 8038942 | 14342 | 4223300000 | 108 | | PITCHER NO B-1 | 1.1 | GETTY OIL CO |
| 8038979 | 14343 | 4223300000 | 108 | | PITCHER NO B-2 | 0.7 | GETTY OIL CO |
| 8038978 | 14344 | 4223300000 | 108 | | PITCHER NO B-4 | 3.7 | GETTY OIL CO |
| 8038977 | 14345 | 4223300000 | 108 | | PITCHER NO B-5 | 5.1 | GETTY OIL CO |
| 8038976 | 14346 | 4223300000 | 108 | | PITCHER NO B-6 | 5.5 | GETTY OIL CO |
| FRANK CASS | | | | | RECEIVED: 06/09/80 JA: TX | | |
| 8038912 | 13211 | 4238331348 | 103 | | HUGHES 148 NO 1 | 68.0 | EL PASO NATURAL GAS CO |
| FRED MYER TRUST | | | | | RECEIVED: 06/09/80 JA: TX | | |
| 8038760 | 08544 | 4250100000 | 108 | | L B RUSSELL NO 3 | 1.9 | PHILLIPS PETROLEUM CO |
| 8038759 | 08543 | 4250100000 | 108 | | L B RUSSELL NO 4 | 1.9 | PHILLIPS PETROLEUM CO |
| FREMONT ENERGY CORP | | | | | RECEIVED: 06/09/80 JA: TX | | |
| 8038612 | 04743 | 4247900000 | 108 | | DELORES 1-2-2 | 4.9 | LONE STAR GAS CO |
| G C HERRMANN CO | | | | | RECEIVED: 06/09/80 JA: TX | | |
| 8038812 | 10528 | 4217900000 | 108 | | MCKINNEY #8 | 1.0 | GETTY OIL CO |
| 8038813 | 10551 | 4217900000 | 108 | | MCKINNEY NO 11 | 1.8 | GETTY OIL CO |
| G M LEHNERTZ | | | | | RECEIVED: 06/09/80 JA: TX | | |
| 8038921 | 13525 | 4220300000 | 102 | | DOYLE HARRIS #1 | 18.0 | ARK LA GAS CO |
| 8038920 | 13524 | 4220300000 | 102 | | HAZEL BYRNE #1 | 18.0 | ARK LA GAS CO |
| 8038923 | 13432 | 4220300000 | 102 | | SUSAN HARRIS #1 | 18.0 | ARKANSAS LOUISIANA GAS CO |
| GENE POWELL | | | | | RECEIVED: 06/09/80 JA: TX | | |
| 8038879 | 11930 | 4240100000 | 103 | | ANGUS JAMESON WELL #1 | 100.0 | HYDROCARBON TRANSFER INC |
| GETTY OIL COMPANY | | | | | RECEIVED: 06/09/80 JA: TX | | |
| 8038720 | 06178 | 4206500000 | 108 | | SCHAFER RANCH NO 214 | 3.0 | GETTY OIL COMPANY |
| 8038719 | 06171 | 4206500000 | 108 | | SCHAFER RANCH NO 231 | 3.0 | GETTY OIL COMPANY NATURAL GAS PLAN |
| GIFFORD MITCHELL & WISENBAKER | | | | | RECEIVED: 06/09/80 JA: TX | | |
| 8038916 | 13295 | 4249530926 | 103 | | FOX TAIL A #3 | 8.0 | EL PASO NATURAL GAS CO |

* ADDITIONAL PURCHASERS(SEE END OF LIST)

| FERC NO | JA DAT NO | API NO | SECT | DEN | WELL NAME | PROD | PURCHASER |
|---|---|---|---|---|---|---|---|
| GOLDKING PRODUCTION COMPANY | | | | | RECEIVED: 06/09/80 JA: TX | | |
| 8038845 | 11370 | 4203931501 | 103 | | I A MUNSON NO 1 | 383.0 | HOUSTON PIPE LINE CO |
| GREAT WESTERN DRILLING COMPANY | | | | | RECEIVED: 06/09/80 JA: TX | | |
| 8038922 | 13587 | 4210532258 | 103 | | SUTTON 3-1 | 38.5 | EL PASO NATURAL GAS CO |
| GULF OIL CORPORATION | | | | | RECEIVED: 06/09/80 JA: TX | | |
| 8038890 | 12415 | 4217900000 | 108 | | ARNOLD #6 | 5.0 | GETTY OIL CO |
| 8038900 | 12006 | 4247931760 | 102 | | BRUNI MINERAL TRUST A #1 | 730.0 | TENNESSEE GAS PIPELINE CO |
| 8038850 | 11115 | 4234330589 | 103 | | J M CHAMBERS #1-65 | 202.0 | MICHIGAN WISCONSIN PIPELINE CO |
| 8038819 | 10858 | 4249531033 | 103 | | KEYSTONE CATTLE CO NO 342 | 63.0 | CABOT CORP |
| 8038865 | 11715 | 4239330624 | 103 | | R A BYRUM #1-6 | 675.0 | MICHIGAN WISCONSIN PIPE LINE |
| 8038824 | 11111 | 4239330633 | 103 | | RALPH A BYRUM #1-7 | 192.0 | MICHIGAN WISCONSIN PIPE LINE |
| 8038940 | 13710 | 4200300000 | 108 | | STATE BU NO 3 | 1.8 | PHILLIPS PETROLEUM CO |
| GUS EDWARDS CO | | | | | RECEIVED: 06/09/80 JA: TX | | |
| 8039020 | 17511 | 4204130405 | 102 | | H G R S UNIT WELL NO 2 | 0.0 | PRODUCERS GAS CO |
| 8038981 | 14958 | 4204130412 | 102 | | H G R S UNIT WELL NO 3 | 0.0 | PRODUCERS GAS CO |
| H L HEFFNER LTD | | | | | RECEIVED: 06/09/80 JA: TX | | |
| 8038928 | 13613 | 4241330748 | 103 | | H L HENDERSON NO 1X | 0.0 | CRA INC |
| H V MISIEK | | | | | RECEIVED: 06/09/80 JA: TX | | |
| 8038753 | 07230 | 4220100000 | 108 | | ADA DECKER UNIT #1 | 3.0 | TRUNKLINE GAS CO |
| 8038751 | 06106 | 4220100000 | 108 | | C G HOOKS ET AL #3 | 6.0 | TRUNKLINE GAS CO |
| 8038721 | 07222 | 4220130828 | 108 | | C G HOOKS ET AL NO 10 | 4.0 | TRUNKLINE GAS CO |
| 8038739 | 07227 | 4220130830 | 108 | | C G HOOKS ET AL NO 12 | 5.0 | TRUNKLINE GAS CO |
| 8038738 | 07226 | 4220130831 | 108 | | C G HOOKS ET AL NO 14 | 5.0 | TRUCKLINE GAS CO |
| 8038737 | 07225 | 4220130800 | 108 | | C G HOOKS ET AL NO 15 | 2.5 | TRUNKLINE GAS CO |
| 8038729 | 07228 | 4220100000 | 108 | | C G HOOKS ET AL NO 4 | 0.0 | TRUNKLINE GAS CO |
| 8038730 | 07229 | 4220130825 | 108 | | C G HOOKS ET AL NO 6 | 5.0 | TRUNKLINE GAS CO |
| 8038732 | 07232 | 4220130824 | 108 | | C G HOOKS ET AL NO 7 | 4.5 | TRUNKLINE GAS CO |
| 8038731 | 07231 | 4220130826 | 108 | | C G HOOKS ET AL NO 8 | 2.5 | TRUNKLINE GAS CO |
| 8038720 | 07225 | 4220100000 | 108 | | MERCHANT UNIT #1 | 6.0 | TRUNKLINE GAS CO |
| H&W ENTERPRISES | | | | | RECEIVED: 06/09/80 JA: TX | | |
| 8038747 | 07959 | 4210531963 | 103 | | UNIVERSITY 8 #1 | 1.0 | BIG LAKE GAS CO |
| HARRISON INTERESTS LTD | | | | | RECEIVED: 06/09/80 JA: TX | | |
| 8038841 | 10910 | 4210532171 | 103 | | UNIVERSITY LAND 20-30 #11 | 110.0 | |
| HAWN BROTHERS | | | | | RECEIVED: 06/09/80 JA: TX | | |
| 8038917 | 13509 | 4242751288 | 102 | | CARMEN G GARZA ET AL #1 | 0.0 | SO TEXAS NATURAL GAS GATHERING CO |
| HILLIARD OIL & GAS INC | | | | | RECEIVED: 06/09/80 JA: TX | | |

* ADDITIONAL PURCHASERS(SEE END OF LIST)

| PERC NO | JA DKT NO | API NO | SECT | DEN | WELL NAME | PROD | PURCHASER |
|---|---|---|---|---|---|---|---|
| 8038614 | 10461 | 4225472[illegible]04 | 102 | | KARDANA LIPS A NO 1 | 75.0 | SOUTHERN NATURAL GAS CO |
| 8038985 | 13953 | 4221432625 | 103 | | MCINRUE NO 1 | 0.0 | AMOCO PRODUCTION CO |
| 8038982 | 13954 | 4221432467 | 103 | | WINSON NO 1 | 0.0 | AMOCO PRODUCTION CO |
| MULLY ENERGY INC | | | | | RECEIVED: 06/09/80 JA: TX | | |
| 8038927 | 13461 | 4225400000 | 102 | | MCDOWELL NO 1-C | 10.0 | UNITED GAS PIPE LINE CO |
| 8038926 | 13460 | 4225400000 | 102 | | MCDOWELL NO 2 | 14.0 | UNITED GAS PIPE LINE CO |
| MURPHY - POPE | | | | | RECEIVED: 06/09/80 JA: TX | | |
| *8038814 | 10714 | 4222100000 | 108 | | HOUSTON RANCH #10 | 12.7 | TEXAS UTILITIES FUEL CO |
| MUSO OILS | | | | | RECEIVED: 06/09/80 JA: TX | | |
| 8038657 | 01577 | 4206530628 | 103 | | BURNETT 25 NO 4 | 150.0 | PANHANDLE EASTERN PIPE LINE CO |
| 8038666 | 11716 | 4206530674 | 103 | | BURNETT 25 NO 5 | 63.6 | PANHANDLE EASTERN PIPE LINE CO |
| INDEPENDENT EXPLORATION CO | | | | | RECEIVED: 06/09/80 JA: TX | | |
| 8038660 | 11656 | 4256751459 | 102 | | CARTWRIGHT #1 | 219.0 | JAMES P DUNIGAN INC |
| INTEGRAL ENERGY CORP | | | | | RECEIVED: 06/09/80 JA: TX | | |
| 8038752 | 06371 | 4248450581 | 102 | | PETROLEUM CO NO 1 | 73.0 | TENNESSEE GAS PIPELINE |
| 8038851 | 11114 | 4205730803 | 102 | | STATE TRACT 17 #1 | 0.0 | |
| J & M WELL SERVICE INC | | | | | RECEIVED: 06/09/80 JA: TX | | |
| 8038939 | 13717 | 4242700000 | 108 | | DELKEN #5 | 57.0 | TENNESSEE GAS PIPELINE CO |
| *8038960 | 14918 | 4242700000 | 108 | | GREEN & MANNING #20 | 9.6 | TENNESSEE GAS PIPELINE CO |
| 8038938 | 13718 | 4242700000 | 108 | | GREEN & MANNING CO #2 | 5.6 | TENNESSEE GAS PIPELINE CO |
| J B RATLIFF | | | | | RECEIVED: 06/09/80 JA: TX | | |
| 8038833 | 10958 | 4206500000 | 108 | | DOUGLAS #5 | 21.7 | PHILLIPS PETROLEUM CO |
| 8038821 | 10949 | 4206500000 | 108 | | HUNTER #2 | 8.9 | PHILLIPS PETROLEUM CO |
| J M HUBER CORPORATION | | | | | RECEIVED: 06/09/80 JA: TX | | |
| 8038694 | 05405 | 4206500000 | 108 | | BURNETT R NO 38 | 10.4 | GETTY OIL CO |
| 8038695 | 05406 | 4206500000 | 108 | | BURNETT R NO 39 | 10.4 | GETTY OIL CO |
| 8038682 | 05296 | 4206500000 | 108 | | BURNETT RD NO 1 | 3.3 | PHILLIPS PETROLEUM CO |
| 8038676 | 05328 | 4223300000 | 108 | | BURNETT RD NO 2 | 3.3 | PHILLIPS PETROLEUM CO |
| 8038675 | 05327 | 4223300000 | 108 | | BURNETT RD NO 3 | 3.3 | PHILLIPS PETROLEUM CO |
| 8038672 | 05324 | 4223300000 | 108 | | BURNETT RF NO 10 | 6.7 | PHILLIPS PETROLEUM CO |
| 8038686 | 05349 | 4223300000 | 108 | | BURNETT RF NO 16 | 6.7 | GETTY OIL CO |
| 8038685 | 05347 | 4223300000 | 108 | | BURNETT RF NO 17 | 6.7 | GETTY OIL CO |
| 8038691 | 05378 | 4223300000 | 108 | | BURNETT RF NO 18 | 6.7 | GETTY OIL CO |
| 8038690 | 05377 | 4223300000 | 108 | | BURNETT RF NO 19 | 6.7 | GETTY OIL CO |
| 8038669 | 05318 | 4223300000 | 108 | | BURNETT RF NO 22 | 6.7 | GETTY OIL CO |
| 8038668 | 05316 | 4223300000 | 108 | | BURNETT RF NO 4 | 6.7 | PHILLIPS PETROLEUM CO |
| 8038667 | 05315 | 4223300000 | 108 | | BURNETT RF NO 5 | 6.7 | PHILLIPS PETROLEUM CO |
| 8038673 | 05325 | 4223300000 | 108 | | BURNETT RF NO 8 | 6.7 | PHILLIPS PETROLEUM CO |

* ADDITIONAL PURCHASERS(SEE END OF LIST)

| FERC NO | JA DKT NO | API NO | SECT | DEN | WELL NAME | PROD | PURCHASER |
|---|---|---|---|---|---|---|---|
| 8038671 | 05323 | 4223500000 | 108 | | BURNETT RF NO 9 | 6.7 | PHILLIPS PETROLEUM CO |
| 8038663 | 05297 | 4223500000 | 108 | | BURNETT U NO 3 | 32.3 | COLORADO INTERSTATE GAS CO |
| 8038648 | 05222 | 4223300000 | 108 | | HERRING-BURCH HERRING NO 102 | 1.2 | COLORADO INTERSTATE GAS CO |
| 8038647 | 05220 | 4223300000 | 108 | | HERRING-BURCH HERRING NO 103 | 1.2 | COLORADO INTERSTATE GAS CO |
| 8038684 | 05346 | 4223300000 | 108 | | HERRING-BURCH HERRING NO 104 | 1.2 | COLORADO INTERSTATE GAS CO |
| 8038683 | 05344 | 4223300000 | 108 | | HERRING-BURCH HERRING NO 105 | 1.2 | COLORADO INTERSTATE GAS CO |
| 8038660 | 05293 | 4223300000 | 108 | | HERRING-BURCH HERRING NO 107 | 1.2 | COLORADO INTERSTATE GAS CO |
| 8038656 | 05278 | 4223300000 | 108 | | HERRING-BURCH HERRING NO 108 | 1.2 | COLORADO INTERSTATE GAS CO |
| 8038659 | 05292 | 4223300000 | 108 | | HERRING-BURCH HERRING NO 112 | 1.2 | COLORADO INTERSTATE GAS CO |
| 8038664 | 05298 | 4223300000 | 108 | | HERRING-BURCH HERRING NO 113 | 1.2 | COLORADO INTERSTATE GAS CO |
| 8038681 | 05339 | 4223300000 | 108 | | HERRING-BURCH HERRING NO 116 | 1.2 | COLORADO INTERSTATE GAS CO |
| 8038666 | 05311 | 4223300000 | 108 | | HERRING-BURCH HERRING NO 118 | 1.2 | COLORADO INTERSTATE GAS CO |
| 8038688 | 05363 | 4223300000 | 108 | | HERRING-BURCH HERRING NO 78 | 1.2 | COLORADO INTERSTATE GAS CO |
| 8038689 | 05364 | 4223300000 | 108 | | HERRING-BURCH HERRING NO 82 | 1.2 | COLORADO INTERSTATE GAS CO |
| 8038680 | 05338 | 4223300000 | 108 | | HERRING-BURCH HERRING NO 83 | 1.2 | COLORADO INTERSTATE GAS CO |
| 8038665 | 05304 | 4223500000 | 108 | | HODGES NO 5 | 4.3 | PHILLIPS PETROLEUM CO |
| 8038682 | 05342 | 4223300000 | 108 | | RILEY AFGK NO A10 | 3.4 | COLORADO INTERSTATE GAS CO |
| 8038692 | 05379 | 4223300000 | 108 | | RILEY AFGK NO F12 | 3.4 | COLORADO INTERSTATE GAS CO |
| 8038693 | 05345 | 4223300000 | 108 | | RILEY AFGK NO F14 | 3.4 | COLORADO INTERSTATE GAS CO |
| 8038670 | 05319 | 4223300000 | 108 | | RILEY AFGK NO G11 | 3.5 | COLORADO INTERSTATE GAS CO |
| 8038609 | 04992 | 4223300000 | 108 | | RILEY AFGK NO G16 | 3.5 | COLORADO INTERSTATE GAS CO |
| 8038610 | 04991 | 4223300000 | 108 | | RILEY AFGK NO G24 | 3.5 | COLORADO INTERSTATE GAS CO |
| 8038687 | 05352 | 4223300000 | 108 | | RILEY AFGK NO G3 | 3.4 | COLORADO INTERSTATE GAS CO |
| 8038674 | 05326 | 4223300000 | 108 | | RILEY NO 12 | 5.2 | COLORADO INTERSTATE GAS CO |
| 8038696 | 05427 | 4223300000 | 108 | | RILEY NO 14 | 5.2 | COLORADO INTERSTATE GAS CO |
| 8038681 | 05295 | 4223300000 | 108 | | RILEY NO 16 | 5.2 | COLORADO INTERSTATE GAS CO |
| 8038650 | 05233 | 4223300000 | 108 | | STATE A NO 34 | 0.7 | PHILLIPS PETROLEUM CO |
| 8038657 | 05286 | 4223300000 | 108 | | STATE B NO 18 | 0.3 | GETTY OIL CO |
| 8038652 | 05257 | 4223300000 | 108 | | STATE B NO 36 | 0.3 | GETTY OIL CO |
| 8038653 | 05259 | 4223300000 | 108 | | STATE B NO 43 | 0.3 | GETTY OIL CO |
| 8038654 | 05260 | 4223300000 | 108 | | STATE B NO 50 | 0.3 | GETTY OIL CO |
| 8038649 | 05230 | 4223300000 | 108 | | STATE B NO 52 | 0.3 | GETTY OIL CO |
| 8038658 | 05288 | 4223300000 | 108 | | STATE B NO 57 | 0.3 | GETTY OIL CO |
| 8038651 | 05256 | 4223300000 | 108 | | STATE B NO 62 | 0.3 | GETTY OIL CO |
| 8038679 | 05352 | 4223300000 | 108 | | WINDHAM NO 10 | 1.3 | COLORADO INTERSTATE GAS CO |
| 8038677 | 05350 | 4223300000 | 108 | | WINDHAM NO 7 | 1.3 | COLORADO INTERSTATE GAS CO |
| 8038676 | 05351 | 4223300000 | 108 | | WINDHAM NO 9 | 1.3 | COLORADO INTERSTATE GAS CO |
| JAY-LEE PRODUCING CO | | | | | RECEIVED: 06/09/80 JA: 1X | | |
| 8038770 | 08759 | 4223300000 | 108 | | DIAL A #1 | 1.0 | PHILLIPS PETROLEUM CO |
| 8038769 | 08758 | 4223300000 | 108 | | DIAL A #2 | 1.0 | PHILLIPS PETROLEUM CO |
| 8038768 | 08757 | 4223300000 | 108 | | DIAL A #3 | 1.0 | PHILLIPS PETROLEUM CO |
| 8038767 | 08756 | 4223300000 | 108 | | DIAL A #4 | 1.0 | PHILLIPS PETROLEUM CO |
| 8038775 | 08762 | 4223300000 | 108 | | J A WHITTENBURG #5 | 1.0 | PHILLIPS PETROLEUM CO |
| 8038772 | 08761 | 4223300000 | 108 | | J A WHITTENBURG #6 | 1.0 | PHILLIPS PETROLEUM CO |
| 8038771 | 08760 | 4223300000 | 108 | | J A WHITTENBURG #7 | 1.0 | PHILLIPS PETROLEUM CO |
| 8038766 | 08753 | 4223300000 | 108 | | WHITTENBURG A #2 | 2.0 | PHILLIPS PETROLEUM CO |
| 8038765 | 08752 | 4223300000 | 108 | | WHITTENBURG A #3 | 2.0 | PHILLIPS PETROLEUM CO |
| 8038764 | 08751 | 4223300000 | 108 | | WHITTENBURG A #4 | 2.0 | PHILLIPS PETROLEUM CO |
| JOSEPH G GIBSON | | | | | | | |
| 8038639 | 00666 | 4235505904 | 108 | | JOHN LAPRELLE EST A #10-F | 20.4 | NATURAL GAS PIPELINE CO |
| KERR-MCGEE CORPORATION | | | | | RECEIVED: 06/04/80 JA: 1X | | |
| 8038989 | 14652 | 4224550650 | 102 | | CHESTER PITTS 19 NO 1 | 60.9 | NORTHERN NATURAL GAS CO |

* ADDITIONAL PURCHASERS(SEE END OF LIST)

| FERC NO | JA DAT NO | API NO | SECT | DEN | WELL NAME | PROD | PURCHASER |
|---|---|---|---|---|---|---|---|
| 8038980 | 14658 | 4229530596 | 102 | | MOUGH NO 1 | 0,0 | NORTHERN NATURAL GAS CO |
| 8038991 | 14659 | 4229530609 | 102 | | MOUGH NO 2 | 0,0 | NORTHERN NATURAL GAS CO |
| 8038990 | 14660 | 4229530595 | 102 | | KEFFER NO 1 | 0,0 | NORTHERN NATURAL GAS CO |
| 8038992 | 14661 | 4229530642 | 102 | | KEFFER NO 2 | 67,0 | NORTHERN NATURAL GAS CO |
| 8038634 | 01966 | 4248330564 | 107 | | PARKS 2 #1 | 2395,0 | EL PASO NATURAL GAS CO |
| KIRBY EXPLORATION CO | | | | | RECEIVED: 06/09/80 JA: TX | | |
| 8038839 | 11192 | 4226531167 | 102 | | H J HUBBS NO 1-L | 150,0 | SEAGULL PIPELINE CORP |
| 8038840 | 11189 | 4226531166 | 102 | | E A SAWYER HEISSIG #1 | 150,0 | SEAGULL PIPELINE CORP |
| KOMANCHE OIL & GAS | | | | | RECEIVED: 06/09/80 JA: TX | | |
| 8038720 | 07192. | 4217900000 | 108 | | WEST JACKSON #2 | 11,7 | PHILLIPS PETROLEUM CO |
| LECLAIR-WESTWOOD INC | | | | | RECEIVED: 06/09/80 JA: TX | | |
| 8038615 | 04715 | 4213531305 | 105 | | CLAYTON WILSON #1 | 21,9 | ODESSA NATURAL CORP |
| LIFESTYLE ENERGY CORPORATION | | | | | RECEIVED: 06/09/80 JA: TX | | |
| 8038753 | 08366 | 4224930915 | 105 | | SCHUNVOGEL #1 | 21,9 | |
| LOCH & TRACY ENGR CO | | | | | RECEIVED: 06/09/80 JA: TX | | |
| 8038955 | 14091 | 4249700000 | 103 | | JACKSON #1 | 220,0 | LONE STAR GAS CO |
| LOLING OIL AND GAS CO INC | | | | | RECEIVED: 06/09/80 JA: TX | | |
| 8038725 | 07187 | 4228500000 | 103 | | DREXLER NO 1 | 32,0 | SHINER GAS PIPELINE INC |
| MCCARRICK GOUGER & MITCHELL | | | | | RECEIVED: 06/09/80 JA: TX | | |
| 8038933 | 13663 | 4229700000 | 102 | | JAMES D SULLIVAN NO 7-L | 36,5 | NATURAL GAS PIPELINE CO OF AMERICA |
| 8038934 | 13664 | 4229700000 | 102 | | JAMES D SULLIVAN NO 7-U | 36,5 | NATURAL GAS PIPELINE CO OF AMERICA |
| MCCORMICK OIL & GAS CORP | | | | | RECEIVED: 06/09/80 JA: TX | | |
| 8039001 | 15267 | 4204700000 | 102 | | CARTER RANCH NO 3 | 0,0 | TRANSCONTINENTAL GAS PIPELINE CORP |
| 8039003 | 15355 | 4204730748 | 102 | | CARTER RANCH NO 4 | 0,0 | TRANSCONTINENTAL GAS PIPELINE CORP |
| MELLON ENERGY CO | | | | | RECEIVED: 06/09/80 JA: TX | | |
| 8039017 | 19360 | 4247931754 | 102 | | GRACE BARKER NO 1 | 11,6 | TEXAS GAS GATHERING INC |
| MENBOURNE OIL COMPANY | | | | | RECEIVED: 06/09/80 JA: TX | | |
| 8038887 | 12386 | 4235730863 | 103 | | JUDICE #1 | 96,0 | TRANSWESTERN PIPELINE CO |
| 8038888 | 12387 | 4235730879 | 102 | | V G SCHULTZ #1 | 72,0 | |
| MGU DEVELOPMENT CO | | | | | RECEIVED: 06/09/80 JA: TX | | |
| 8038792 | 09887 | 4232130803 | 102 | | ROSENTHAL-CROOKER NO A1-U | 36,5 | TENNESSEE GAS PIPELINE CO |
| 8038793 | 09888 | 4232130857 | 102 | | ROSENTHAL-SLOWE NO 1-U | 18,0 | TENNESSEE GAS PIPELINE CO |

* ADDITIONAL PURCHASERS(SEE END OF LIST)

| FERC NO | JA DKT NO | API NO | SECT | DEN | WELL NAME | PROD | PURCHASER |
|---|---|---|---|---|---|---|---|
| MILLS BENNETT ESTATE | | | | | RECEIVED: 06/09/80 JA: TX | | |
| 8058655 | 11494 | 4206700160 | 108 | | BENNETT MILLS ESTATE FEE #4 | 9.0 | TEXAS EASTERN TRANSMISSION CO |
| MITCHELL ENERGY CORPORATION | | | | | RECEIVED: 06/09/80 JA: TX | | |
| 8058644 | 05086 | 4249700000 | 108 | | A L BURING #1 | 12.5 | NATURAL GAS PIPELINE CO OF AMERICA |
| 8058641 | 05071 | 4249700000 | 108 | | ALVORD TOWNSITE #1 | 5.5 | NATURAL GAS PIPELINE CO OF AMERICA |
| 8058624 | 04101 | 4223700000 | 108 | | C C MCCLURG #1 | 10.0 | NATURAL GAS PIPELINE CO OF AMERICA |
| 8058642 | 05075 | 4249703000 | 108 | | C O SIPES #1 | 21.5 | NATURAL GAS PIPELINE CO OF AMERICA |
| 8058625 | 04094 | 4249700000 | 108 | | CARL C KAKER #1 | 1.4 | NATURAL GAS PIPELINE CO OF AMERICA |
| 8058627 | 04079 | 4249700000 | 108 | | COLLINS - DANIEL #1 | 16.7 | NATURAL GAS PIPELINE CO OF AMERICA |
| 8058619 | 04165 | 4223700000 | 108 | | DORA SHARVER #1 | 3.1 | NATURAL GAS PIPELINE CO OF AMERICA |
| 8058617 | 04243 | 4249700000 | 108 | | E MOORE GAS UNIT #1 | 17.3 | NATURAL GAS PIPELINE CO OF AMERICA |
| 8058620 | 04072 | 4249700000 | 108 | | EFFIE OWENS #1 | 14.8 | NATURAL GAS PIPELINE CO OF AMERICA |
| 8058614 | 04346 | 4249700000 | 108 | | FLOYD CLAYTON #1 | 17.4 | NATURAL GAS PIPELINE CO OF AMERICA |
| 8058645 | 05094 | 4250750258 | 108 | | FLOYD A ROE #1 | 9.3 | NATURAL GAS PIPELINE CO OF AMERICA |
| 8058652 | 11139 | 4249751398 | 103 | | G E ADAMS #2 | 300.0 | |
| 8058643 | 05082 | 4249700000 | 108 | | G KAKER #4 | 8.4 | NATURAL GAS PIPELINE CO OF AMERICA |
| 8058929 | 13616 | 4236731151 | 103 | | HATTIE B THOMAS #1 | 32.0 | |
| 8058628 | 04096 | 4249700000 | 108 | | J A RAY UNIT #1 | 2.8 | NATURAL GAS PIPELINE CO OF AMERICA |
| 8058622 | 04154 | 4249730560 | 108 | | L M HOWARD #1 | 6.3 | NATURAL GAS PIPELINE CO OF AMERICA |
| 8058610 | 04240 | 4249751050 | 108 | | ROY ROGERS #2 | 4.4 | NATURAL GAS PIPELINE CO OF AMERICA |
| 8058646 | 05100 | 4249700000 | 108 | | S L WILLIAMS #1 | 8.9 | NATURAL GAS PIPELINE CO OF AMERICA |
| 8058747 | 09462 | 4249700000 | 108 | | SAM F KAKER B #1 | 2.5 | NATURAL GAS PIPELINE CO OF AMERICA |
| 8058623 | 04115 | 4223700000 | 108 | | T M EMERYVILLES #3 | 2.8 | NATURAL GAS PIPELINE CO OF AMERICA |
| 8058621 | 04142 | 4249700000 | 108 | | T M HOFFMAN #1 | 19.4 | NATURAL GAS PIPELINE CO OF AMERICA |
| MULE OPERATING COMPANY INC | | | | | RECEIVED: 06/09/80 JA: TX | | |
| 8059005 | 15488 | 4250700000 | 102 | | MULE PRYOR-PICKENS NO 1 | 54.7 | LOVACA GATHERING CO |
| 8059013 | 16029 | 4250700000 | 102 | | PRYOR-BOX NO 4 | 22.0 | LOVACA GATHERING CO |
| MONSANTO COMPANY | | | | | RECEIVED: 06/09/80 JA: TX | | |
| 8058942 | 11444 | 4247551089 | 102 | | KELTON #1 | 274.0 | TRANSWESTERN PIPELINE CO |
| MOORE MCCORMACK OIL & GAS CORP | | | | | RECEIVED: 06/09/80 JA: TX | | |
| *8058985 | 15172 | 4247452180 | 102 | | HUMMERO J J | 32.9 | TENNESSEE GAS PIPELINE |
| MORMAC OIL & GAS CO | | | | | RECEIVED: 06/09/80 JA: TX | | |
| 8058858 | 11157 | 4245451509 | 102 | | J J WELDER NO 2 | 0.0 | TRANSCONTINENTAL GAS PIPELINE CORP |
| 8058860 | 12358 | 4245451510 | 102 | | J J WELDER NO 3 | 730.0 | TRANSCONTINENTAL GAS PIPELINE CORP |
| MUELLER ENGINEERING CORP | | | | | RECEIVED: 06/09/80 JA: TX | | |
| 8058689 | 12591 | 4256551060 | 103 | | JESUS VELA LUELLAR JR ET AL #1 | 76.6 | LOVACA GAS GATHERING CO |
| MURPHY M BAXTER | | | | | RECEIVED: 06/09/80 JA: TX | | |
| 8058724 | 07149 | 4212550750 | 102 | | TRIGGS G/U NO 1 WELL NO 1 | 58.4 | UNITED TEXAS TRANSMISSION CO |

* ADDITIONAL PURCHASERS(SEE END OF LIST)

| FERC NO | JA DKT NO | API NO | SECT | DEN | WELL NAME | PROD | PURCHASER |
|---|---|---|---|---|---|---|---|
| MAJ CORPORATION | | | | RECEIVED: 06/09/80 JA: TX | | | |
| 8038810 | 10767 | 4246131377 | 105 | | WILDE #1 | 52.8 | EL PASO NATURAL GAS CO |
| NATURAL GAS ANADARKO INC | | | | RECEIVED: 06/09/80 JA: TX | | | |
| 8038899 | 12042 | 4235730854 | 105 | | PARNELL BROS H #1-494 | 200.0 | PHILLIPS PETROLEUM CO |
| NEUMIN PRODUCTION CO | | | | RECEIVED: 06/09/80 JA: TX | | | |
| 8038826 | 11056 | 4205730870 | 102 | | INDIANOLA COMPANY #1 | 0.2 | ALUMINUM CO OF AMERICA |
| NORTH STAR PETROLEUM CORPORATION | | | | RECEIVED: 06/09/80 JA: TX | | | |
| 8038857 | 11559 | 4223500000 | 108 | | HERRING B-10 | 11.0 | PANHANDLE PRODUCING CO ET AL |
| 8038856 | 11558 | 4223500000 | 108 | | HERRING B-11 | 11.0 | PANHANDLE PRODUCING CO ET AL |
| 8038854 | 11555 | 4223500000 | 108 | | HERRING B-5 | 11.0 | PANHANDLE PRODUCING CO ET AL |
| 8038855 | 11557 | 4223500000 | 108 | | HERRING B-7 | 11.0 | PANHANDLE PRODUCING CO ET AL |
| 8038858 | 11560 | 4223500000 | 108 | | HERRING B-9 | 11.0 | PANHANDLE PRODUCING CO ET AL |
| 8038974 | 14357 | 4225500000 | 108 | | HUBER-HERRING NO 7 | 9.0 | PANHANDLE PRODUCING CO |
| ODESSA NATURAL CORPORATION | | | | RECEIVED: 06/09/80 JA: TX | | | |
| 8038930 | 15621 | 4210552146 | 105 | | ODESSA ET AL NO 4-1 | 0.0 | EL PASO NATURAL GAS CO |
| PAUL E CAMERON JR INC | | | | RECEIVED: 06/09/80 JA: TX | | | |
| 8038846 | 11430 | 4208900000 | 108 | | HUNN #2 | 8.0 | HYDROCARBON GATHERING INC |
| 8038845 | 11390 | 4246100000 | 105 | | SURREL NO 1-C NO 73971 | 25.0 | DELHI GAS PIPELINE CORP |
| PAUL F BARNHART | | | | RECEIVED: 06/09/80 JA: TX | | | |
| 8038935 | 15749 | 4240931257 | 102 | | SAUTTER #1 | 547.0 | TENNESSEE GAS PIPELINE CO |
| PENNZOIL PRODUCING COMPANY | | | | RECEIVED: 06/09/80 JA: TX | | | |
| 8038640 | 0000082 | 4236550673 | 103 | | HULL A-167 | 315.0 | UNITED GAS PIPE LINE CO |
| 8038987 | 15147 | 4236530899 | 102 | | OWENS UNIT NO 5 | 55.0 | UNITED GAS PIPE LINE CO |
| PETER G CRAIN | | | | RECEIVED: 06/09/80 JA: TX | | | |
| 8038779 | 09029 | 4238930964 | 105 | | ARCO 25 WELL 1 | 36.0 | |
| PETROLEUM TECHNICAL SERVICE CO | | | | RECEIVED: 06/09/80 JA: TX | | | |
| 8038824 | 10997 | 4215535106 | 103 | | E F CONDEN 52 NO 2 | 55.0 | PHILLIPS PETROLEUM CO |
| PHILLIPS PETROLEUM COMPANY | | | | RECEIVED: 06/09/80 JA: TX | | | |
| 8038630 | 03582 | 4223300000 | 108 | | BARNUM NO 2 | 0.1 | EL PASO NATURAL GAS CO |
| 8038781 | 09148 | 4219700231 | 108 | | CONLEY-A NO 6 | 6.0 | SHELL OIL CO |
| 8038875 | 11866 | 4206500000 | 108 | | COOPER C NO 5 | 0.8 | GETTY OIL CO |
| 8038878 | 11890 | 4219500000 | 108 | | ELIAS NO 1 | 15.0 | PANHANDLE EASTERN PIPELINE CO |
| | | | | | | * | ADDITIONAL PURCHASERS(SEE END OF LIST) |

| FERC NO | JA DKT NO | API NO | SECT | DEN | WELL NAME | PROD | PURCHASER |
|---|---|---|---|---|---|---|---|
| 8038937 | 13725 | 4213505698 | 108 | | GOLDSMITH ADOBE UNIT NO 23-02 | 0,3 | EL PASO NATURAL GAS CO |
| 8038936 | 13726 | 4213503182 | 108 | | GS ANDECTOR UNIT NO 08-04 | 19,2 | EL PASO NATURAL GAS CO |
| 8038902 | 13062 | 4223300000 | 108 | | HARVEY UNIT 08-19 | 5,2 | GETTY OIL CO |
| 8038903 | 13064 | 4223300000 | 108 | | HARVEY UNIT 08-21 | 9,6 | GETTY OIL CO |
| 8038904 | 13066 | 4223300000 | 108 | | HARVEY UNIT 08-23 | 9,5 | GETTY OIL CO |
| 8038905 | 13075 | 4206500000 | 108 | | JORDAN D NO 2 | 1,0 | GETTY OIL CO |
| 8038911 | 13130 | 4217900000 | 108 | | PHIL-PAMPA UNIT NO 1-3 | 11,0 | GETTY OIL CO |
| 8038908 | 13106 | 4217900000 | 108 | | SIN-HARRAH NO 5 | 6,0 | GETTY OIL CO |
| 8038909 | 13107 | 4217900000 | 108 | | SIN-HARRAH NO 6 | 4,0 | GETTY OIL CO |
| 8038910 | 13108 | 4217900000 | 108 | | SIN-POPE NO 3 | 0,7 | GETTY OIL CO |
| 8038906 | 13097 | 4223300000 | 108 | | TERR NO 2 | 1,2 | EL PASO NATURAL GAS CO |
| 8038907 | 13098 | 4223300000 | 108 | | TERR NO 3 | 0,4 | EL PASO NATURAL GAS CO |
| 8038873 | 11861 | 4223300000 | 108 | | TURNER-HARRIS NO 3 | 0,3 | EL PASO NATURAL GAS CO |
| 8038876 | 11879 | 4223300000 | 108 | | WHITTENBURG NO 105 | 0,4 | EL PASO NATURAL GAS CO |
| *8038958 | 14208 | 4223300000 | 108 | | WHITTENBURG NO 75 | 1,0 | EL PASO NATURAL GAS CO |
| 8038877 | 11887 | 4223300000 | 108 | | WHITTENBURG WELL NO 60 | 1,8 | GETTY OIL CO |
| 8038874 | 11864 | 4223300000 | 108 | | WHITTENBURG 62 #7 | 0,2 | EL PASO NATURAL GAS CO |
| POLK & PATTON INC | | | | | RECEIVED: 06/09/80 JA: TX | | |
| 8038986 | 15162 | 4236731453 | 102 | | GRIFFIN-CAMPBELL NO 1 | 60,0 | NATURAL GAS PIPELINE CO OF AMERICA |
| QUINTANA PETROLEUM CORP | | | | | RECEIVED: 06/09/80 JA: TX | | |
| 8038954 | 14096 | 4232100000 | 102 | | PIERCE-HEFFELFINGER UNIT NO 10 | 56,5 | TENNESSEE GAS PIPELINE CO |
| R K G ENGINEERING INC | | | | | RECEIVED: 06/09/80 JA: TX | | |
| 8038809 | 5SM | 4212700000 | 103 | | COTULLA 578-3 | 0,0 | LOVACA GATHERING CO |
| 8038808 | 10587 | 4212700000 | 103 | | COTULLA 579-4 | 0,0 | LOVACA GATHERING CO |
| R L TRIPPLEHORN | | | | | RECEIVED: 06/09/80 JA: TX | | |
| 8038870 | 11855 | 4206500000 | 108 | | MCCONNELL #4 | 5,1 | GETTY OIL CO |
| REMUDA OIL & GAS CO | | | | | RECEIVED: 06/09/80 JA: TX | | |
| 8038754 | 08430 | 4236551704 | 103 | | WOOLWORTH GAS UNIT WELL NO 1 | 0,0 | ARKANSAS LOUISIANA GAS CO |
| RESOURCES INVESTMENT CORPORATION | | | | | RECEIVED: 06/09/80 JA: TX | | |
| 8038736 | 07295 | 4225551325 | 103 | | COX NO 2-18 | 24,0 | NORTHERN NATURAL GAS CO |
| SABINE PRODUCTION COMPANY | | | | | RECEIVED: 06/09/80 JA: TX | | |
| 8038810 | 10594 | 4216500000 | 108 | | ROGERS ESTATE #1 | 15,0 | EL PASO NATIONAL GAS CO |
| SABIO OIL & GAS INC | | | | | RECEIVED: 06/09/80 JA: TX | | |
| 8038700 | 05636 | 4249700000 | 108 | | I C MORRIS NO 1 | 17,0 | NATURAL GAS PIPELINE CO OF AMERICA |
| SAM F HENDERSON | | | | | RECEIVED: 06/09/80 JA: TX | | |
| *8038636 | 11263 | 4207700000 | 103 | | L G EDWARDS ET AL NO 1 | 125,0 | CITIES SERVICE OIL CO |
| | | | | | * ADDITIONAL PURCHASERS(SEE END OF LIST) | | |

| FERC NO | JA DKT NO | API NO | SECT | DES | WELL NAME | PROD | PURCHASER |
|---|---|---|---|---|---|---|---|
| SAMEDAN OIL CORPORATION | | | | RECEIVED: 06/09/80 JA: TX | | | |
| 8039004 | 15528 | 4270230119 | 102 | | STATE TRACT 820-L #D-1 | 18.2 | EL PASO NATURAL GAS CO |
| SAXON OIL COMPANY | | | | RECEIVED: 06/09/80 JA: TX | | | |
| 8038959 | 14257 | 4239330849 | 103 | | HEATHERBY G #5 | 10.2 | PHILLIPS PETROLEUM CO |
| SHELL OIL CO | | | | RECEIVED: 06/09/80 JA: TX | | | |
| 8038993 | 14692 | 4242731306 | 102 | | BENTSEN BROS-STATE NO 8 | 36.0 | TENNESSEE GAS PIPELINE CO |
| *8038786 | 04329 | 4208950871 | 103 | | SHERIDAN GAS UNIT NO 75 | 65.0 | NATIONAL FUEL GAS SUPPLY CORP |
| SOUTHLAND MINERALS CO | | | | RECEIVED: 06/09/80 JA: TX | | | |
| 8038743 | 07697 | 4212550860 | 102 | | FRUEHLICH GAS UNIT #1-C | 36.4 | TEXAS EASTERN TRANSMISSION CORP |
| 8038744 | 07705 | 4212550860 | 102 | | FRUEHLICH GAS UNIT #1-T | 29.2 | TEXAS EASTERN TRANSMISSION CORP |
| 8038973 | 14358 | 4221500000 | 108 | | GUERRA #1 | 16.0 | TENNESSEE GAS PIPELINE CO |
| SOUTHWEST MINERALS INC | | | | RECEIVED: 06/09/80 JA: TX | | | |
| 8038852 | 11446 | 4248131675 | 103 | | OHARE ET AL NO 1-C | 150.0 | TRUNKLINE GAS CO |
| SPRADLING DRILLING CO | | | | RECEIVED: 06/09/80 JA: TX | | | |
| 8038703 | 05781 | 4223500000 | 108 | | GRAHAM NO 1 | 3.2 | PHILLIPS PETROLEUM CO |
| 8038704 | 05790 | 4223500000 | 108 | | GRAHAM NO 7 | 3.0 | PHILLIPS PETROLEUM CO |
| 8038705 | 05791 | 4223500000 | 108 | | GRAHAM NO 8 | 3.2 | PHILLIPS PETROLEUM CO |
| SUBURBAN PROPANE GAS CORP | | | | RECEIVED: 06/09/80 JA: TX | | | |
| 8038964 | 13705 | 4210500000 | 108 | | DAVIDSON 5-1 | 21.2 | NORTHERN NATURAL GAS CO |
| SUN OIL COMPANY (DELAWARE) | | | | RECEIVED: 06/09/80 JA: TX | | | |
| 8038835 | 11171 | 4225700000 | 108 | | DURHAM GAS UNIT B #1 | 12.0 | LONE STAR GAS CO |
| 8038699 | 05570 | 4242731175 | 102 | | REILLY HEIRS WELL #24 | 350.0 | |
| TARTAN PRODUCTION CO | | | | RECEIVED: 06/09/80 JA: TX | | | |
| 8038742 | 07604 | 4248151711 | 103 | | DAVIS HEIRS GU NO 2 | 73.0 | JONES CREEK GAS GATHERING CORP |
| 8038827 | 11042 | 4215750957 | 103 | | MELTON NCT NO 1 | 564.0 | HOUSTON PIPELINE CO |
| TEJAS PRODUCTION CO | | | | RECEIVED: 06/09/80 JA: TX | | | |
| 8039016 | 16180 | 4248100000 | 102 | | GEORGE ALLEN NO 1 | 21.9 | TEXAS EASTERN TRANSMISSION CORP |
| TEXACO INC | | | | RECEIVED: 06/09/80 JA: TX | | | |
| 8038794 | 09919 | 4213500000 | 108 | | A E THOMAS A NCT-1 NO 28 | 5.0 | EL PASO NATURAL GAS CO |
| 8038796 | 09958 | 4230100000 | 108 | | EL MAR (DELAWARE) UNIT #2752 | 5.9 | PHILLIPS PETROLEUM CO |
| 8038616 | 04294 | 4249700000 | 108 | | FLANERY-LEDERER GAS UNIT #1-L | 6.0 | LONE STAR GAS CO |
| 8038795 | 09925 | 4235700000 | 108 | | G M COOPER NCT-1 #1 | 7.0 | PHILLIPS PETROLEUM CO |

* ADDITIONAL PURCHASERS(SEE END OF LIST)

| FERC NO | JA DKT NO | API NO | SECT | DEN | WELL NAME | PROD | PURCHASER |
|---|---|---|---|---|---|---|---|
| 8038620 | 04158 | 4250100000 | 103 | | ROBERTS UNIT #3227 | 4,0 | SHELL OIL CO |
| 8038615 | 04512 | 4250100000 | 103 | | ROBERTS UNIT NO 2125 | 17,5 | SHELL OIL CO |
| 8039006 | 15366 | 4220130487 | 102 | | YTURRIA LBC NCT-1 #41 | 25,6 | TENNESSEE GAS PIPELINE CO |
| TEXAS OIL & GAS CORP | | | | RECEIVED: 06/09/80 JA: TX | | | |
| 8038470 | 14494 | 4207330344 | 102 | | ATKINSON C-1 | 30,0 | UNITED GAS PIPELINE CO |
| 8039019 | 18579 | 4216150503 | 102 | | DOW CHEMICAL B #1 | 11,0 | |
| 8038957 | 14132 | 4220130842 | 102 | | ERCK #15 | 39,0 | FLORIDA GAS TRANSMISSION CO |
| *8039011 | 15862 | 4207330510 | 102 | | PRIESTLY #1 | 30,0 | UNITED GAS PIPE LINE CO |
| 8039015 | 16387 | 4216150440 | 102 | | REED E #1 | 0,0 | UNITED GAS PIPE LINE CO |
| 8038913 | 13206 | 4229530658 | 102 | | REYNOLDS C #1 | 10,0 | NORTHERN NATURAL GAS CO |
| 8038755 | 08481 | 4223931334 | 102 | | SCHAEFER B WELL #1 | 37,0 | TEX EAST PIPELINE CO |
| 8038631 | 03074 | 4202530975 | 103 | | YOWARD WELL #1 | 420,0 | TRANSCONTINENTAL GAS PIPELINE |
| TEXAS PACIFIC OIL COMPANY INC | | | | RECEIVED: 06/09/80 JA: TX | | | |
| 8038419 | 13322 | 4221952642 | 103 | | CENTRAL LEVELLAND UNIT - WELL #223 | 10,5 | AMOCO PRODUCTION CO |
| 8038418 | 13321 | 4221952622 | 103 | | CENTRAL LEVELLAND UNIT - WELL NO 218 | 7,6 | AMOCO PRODUCTION CO |
| 8038828 | 11075 | 4216150455 | 103 | | MCADAMS UNIT #1 | 180,0 | UNITED TEXAS TRANSMISSION CO |
| TEXLAN OIL CO INC | | | | RECEIVED: 06/09/80 JA: TX | | | |
| 8038932 | 13653 | 4246931410 | 102 | | MARY E ATKINSON #3 | 182,5 | LONE STAR GAS CO |
| THE DOW CHEMICAL COMPANY | | | | RECEIVED: 06/09/80 JA: TX | | | |
| 8038682 | 12271 | 4207330540 | 103 | | POWELL N P ESTATE NO 1 | 365,0 | DELMI GAS PIPELINE CORP |
| THE LONG TRUSTS | | | | RECEIVED: 06/09/80 JA: TX | | | |
| 8038791 | 09888 | 4218350400 | 103 | | W W MACKEY ETAL #1 | 20,0 | ARKANSAS LOUISIANA GAS CO |
| THE SUPERIOR OIL COMPANY | | | | RECEIVED: 06/09/80 JA: TX | | | |
| 8038869 | 11611 | 4221550883 | 102 | | FLORA I JOHNSON NO 9 | 0,0 | |
| THE WISER OIL COMPANY | | | | RECEIVED: 06/09/80 JA: TX | | | |
| 8038924 | 13441 | 4216150475 | 102 | | HATTIE K CARTER TRUST NO 1 | 270,0 | LONE STAR GAS CO |
| TIGER OIL INC | | | | RECEIVED: 06/09/80 JA: TX | | | |
| 8038847 | 11441 | 4252100000 | 102 | | J A GRESHAM NO 1 | 912,0 | LOVACA GATHERING CO |
| TIGNER HALDEN | | | | RECEIVED: 06/09/80 JA: TX | | | |
| 8038925 | 13442 | 4216750652 | 102 | | KAMLA UNIT NO 1 | 11,0 | MINNIE PIPELINE CO |
| TIPPERARY OIL AND GAS CORP | | | | RECEIVED: 06/09/80 JA: TX | | | |
| 8038949 | 14309 | 4216551688 | 103 | | M K MAHLAN #2 | 40,0 | TEJAS GAS CORP |
| 8038960 | 14267 | 4216551689 | 103 | | M K MAHLAN #3 | 10,0 | TEJAS GAS CORP |

* ADDITIONAL PURCHASERS(SEE END OF LIST)

| FERC NO | JA DKT NO | API NO | SECT | DEN | WELL NAME | PROD | PURCHASER |
|---|---|---|---|---|---|---|---|
| TOM BROWN INC | | | RECEIVED: 06/09/80 JA: TX | | | | |
| 8038765 | 08606 | 4241530587 | 103 | | MARY CLOPE 3 NO 1 | 10.5 | NORTHERN NATURAL GAS CO |
| 8038762 | 08605 | 4241530586 | 103 | | PARKER FOODS INC NO 1 | 5.8 | PRODUCERS GAS CO |
| 8038761 | 08603 | 4241530584 | 103 | | * 1 PARKER ESTATE NO 1 | 45.6 | PRODUCERS GAS CO |
| U S RESOURCES INC | | | RECEIVED: 06/09/80 JA: TX | | | | |
| 8038775 | 06902 | 4228730369 | 103 | | MICHELE #1 | 25.0 | PGP GAS PRODUCTS INC |
| 8038774 | 06901 | 4228730084 | 103 | | MOLLIE C DAVIS #1 | 12.0 | PGP GAS PRODUCTS INC |
| 8038776 | 06907 | 4228730369 | 103 | | PAULINE TROXEL #1 | 19.0 | PGP GAS PRODUCTS INC |
| 8038777 | 06911 | 4228730376 | 103 | | SMITHFIELD UNIT #1 | 20.0 | PGP GAS PRODUCTS INC |
| 8038778 | 06915 | 4228730313 | 103 | | MINNIE MILLIARD #1 | 18.0 | PGP GAS PRODUCTS INC |
| UNION TEXAS PETROLEUM | | | RECEIVED: 06/09/80 JA: TX | | | | |
| 8038758 | 08486 | 4207930940 | 103 | | NW SLAUGHTER UNIT NO 76 | 1.0 | AMOCO PRODUCTION CO |
| 8038756 | 08484 | 4207930939 | 103 | | NW SLAUGHTER UNIT NO 77 | 1.0 | AMOCO PRODUCTION CO |
| 8038757 | 08485 | 4207930938 | 103 | | NW SLAUGHTER UNIT NO 79 | 1.0 | AMOCO PRODUCTION CO |
| UNITED CO | | | RECEIVED: 06/09/80 JA: TX | | | | |
| 8038826 | 10894 | 4207900000 | 103 | | WRIGHT ESTATE #4 | 0.0 | EL PASO NATURAL GAS CO |
| VARN PETROLEUM CO | | | RECEIVED: 06/09/80 JA: TX | | | | |
| 8059004 | 15515 | 4235531395 | 102 | | FLATU ESTATE NO 1 | 43.8 | TENNESSEE GAS PIPELINE CO |
| W E POPE | | | RECEIVED: 06/09/80 JA: TX | | | | |
| *8038815 | 10716 | 4222100000 | 108 | | ALLENHOVEN #2 | 20.3 | TEXAS UTILITIES FUEL CO |
| W L BRULE OPERATOR | | | RECEIVED: 06/09/80 JA: TX | | | | |
| 8038629 | 03495 | 4254100000 | 108 | | GOLEKE #4 | 10.9 | PHILLIPS PETROLEUM CO |
| 8038859 | 11626 | 4225500000 | 108 | | HUNTER #1 | 0.6 | PHILLIPS PETRO CO |
| 8038697 | 05526 | 4217900000 | 108 | | MEERS #5 | 3.4 | CITY SERVICE CO |
| 8038702 | 05638 | 4217900000 | 108 | | MEERS C #7 | 3.4 | CITIES SERVICE |
| 8038698 | 05552 | 4217900000 | 108 | | WALBERG #11 | 1.1 | PHILLIPS PET CO |
| WARREN PETR CO A DIV OF GULF OIL CO | | | RECEIVED: 06/09/80 JA: TX | | | | |
| 8038892 | 12538 | 4210500000 | 108 | | M F HENDERSON (NCT-H) TR D 106 | 1.0 | EL PASO NATURAL GAS CO |
| 8038785 | 09277 | 4210532014 | 103 | | P J LEA ET AL #101 | 12.0 | EL PASO NATURAL GAS CO |
| 8038611 | 04751 | 4210531954 | 103 | | P J LEA ET AL #77 | 21.0 | EL PASO NATURAL GAS CO |
| 8038780 | 09159 | 4210531978 | 103 | | P J LEA ET AL #80 | 28.0 | EL PASO NATURAL GAS CO |
| 8038785 | 09179 | 4210531974 | 103 | | P J LEA ET AL #88 | 12.0 | EL PASO NATURAL GAS CO |
| 8038822 | 10983 | 4210500000 | 108 | | W N WADDELL ET AL TR A NO 343 | 14.0 | EL PASO NATURAL GAS CO |
| 8038825 | 11032 | 4210500000 | 108 | | W N WADDELL ET AL TR A NO 961 | 3.0 | EL PASO NATURAL GAS CO |
| 8038823 | 10984 | 4210500000 | 108 | | W N WADDELL ET AL TR A WELL 893 | 6.0 | EL PASO NATURAL GAS CO |
| 8038883 | 12283 | 4210500000 | 108 | | W N WADDELL TR 1 #270 | 2.0 | EL PASO NATURAL GAS CO |
| 8038884 | 12284 | 4210500000 | 108 | | W N WADDELL TR 1 #291 | 1.0 | EL PASO NATURAL GAS CO |
| 8038885 | 12285 | 4210500000 | 108 | | W N WADDELL TR 1 #967 | 1.0 | EL PASO NATURAL GAS CO |

* ADDITIONAL PURCHASERS(SEE END OF LIST)

| FERC NO | JA DKT NO | API NO | SECT | DEN | WELL NAME | PROD | PURCHASER |
|---|---|---|---|---|---|---|---|
| WEFCO INC | | | | | RECEIVED: 06/09/80 JA: TX | | |
| 8038862 | 11680 | 4217900000 | 108 | | W C ARCHER #3 | 2,0 | KERR-MCGEE CORPORATION |
| 8038861 | 11679 | 4217900000 | 108 | | W C ARCHER #4 | 2,0 | KERR-MCGEE CORPORATION |
| 8038863 | 11681 | 4217900000 | 108 | | W C ARCHER #5 | 2,0 | KERR-MCGEE CORPORATION |
| 8038864 | 11682 | 4217900000 | 108 | | W C ARCHER #6 | 2,0 | KERR-MCGEE CORP |
| WL BRUCE OIL CO | | | | | RECEIVED: 06/09/80 JA: TX | | |
| 8038655 | 05203 | 4217900000 | 108 | | MEERS #10 | 3,4 | CITY SERVICE |

* OTHER PURCHASERS

| | |
|---|---|
| 8038786 | HOUSTON PL CO |
| 8038814 | NORTHERN GAS PRODUCTS |
| 8038815 | NORTHERN GAS PRODUCTS |
| 8038836 | TEXAS UTILITIES FUEL CO |
| 8038881 | ALUMINUM CO OF AMERICA |
| 8038958 | PANHANDLE EASTERN PL CO |
| 8038971 | EL PASO NATURAL GAS CO |
| 8038980 | TENNESSEE GAS P L CO |
| 8038985 | TENNESSEE GAS P L CO |
| 8038994 | ALUMIN CO OF AMERICA |
| 8039011 | TEXAS UTILITIES FUEL CO |

[FR Doc. 80-20936 Filed 7-11-80; 8:45 am]
BILLING CODE 6450-85-C

[Docket No. ER80-500]

## Florida Power & Light Co.; Filing

July 8, 1980.

The filing company submits the following:

Take notice that Florida Power & Light Company (FPL), on June 30, 1980 tendered for filing an amendment entitled "Amendment Number One To Agreement To Provide Specified Transmission Service Between Florida Power & Light Company And Florida Power Corporation."

FPL states that under the Amendment FPL will transmit power and energy for Florida Power Corporation (FPC) as is required by FPC in the implementation of its interchange agreement with the Jacksonville Electric Authority.

FPL requests that waiver of § 35.3 of the Commission's regulations be granted and that the proposed Amendment be made effective immediately. FPL states that a copy of this filing was served on the Assistant Vice President of FPC.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 28, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 80-20922 Filed 7-11-80; 8:45 am]

BILLING CODE 6450-85-M

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[Docket No. ER80-501]

## Florida Power & Light Co.; Filing

July 8, 1980.

The filing company submits the following:

Take notice that Florida Power & Light Company (FPL), on June 30, 1980, tendered for filing an amendment entitled "Amendment Number One To Agreement To Provide Specified Transmission Service Between Florida Power & Light Company And City of Vero Beach."

FPL states that under the Amendment FPL will transmit power and energy for the City of Vero Beach (Vero Beach) as is required by Vero Beach in the implementation of its interchange agreements with the Utilities Commission of the City of New Smyrna Beach, the Lake Worth Utilities Authority, the Jacksonville Electric Authority, the City of Lakeland, the City of Gainesville and the City of Homestead.

FPL requests that waiver of § 35.3 of the Commission's regulations be granted and that the proposed Amendment be made effective immediately. FPL states that a copy of this filing was served on the City Manager of Vero Beach.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 28, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 80-20923 Filed 7-11-80; 8:45 am]

BILLING CODE 6450-85-M

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[Docket No. ER80-498]

## Florida Power & Light Co.; Filing

July 8, 1980.

The filing company submits the following:

Take notice that Florida Power & Light Company (FPL), on June 30, 1980 tendered for filing an amendment entitled "Amendment Number Two To Agreement To Provide Specified Transmission Service Between Florida Power & Light Company And Jacksonville Electric Authority."

FPL states that under the Amendment FPL will transmit power and energy for Jacksonville Electric Authority (Jacksonville) as is required by Jacksonville in the implementation of its interchange agreements with the City of Vero Beach, Tampa Electric Company and Florida Power Corporation.

FPL requests that waiver of § 35.3 of the Commission's regulations be granted and that the proposed amendment be made effective immediately. FPL states that copies of the filing were served on the Director, Procedures and Analysis of Jacksonville.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 28, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 80-20924 Filed 7-11-80; 8:45 am]

BILLING CODE 6450-85-M

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[Docket No. ER80-499]

## Florida Power & Light Co.; Filing

July 8, 1980.

The filing company submits the following:

Take notice that Florida Power & Light Company (FPL), on June 30, 1980, tendered for filing an amendment entitled "Amendment Number Four To Agreement To Provide Specified Transmission Service Between Florida Power & Light Company And Fort Pierce Utilities Authority." Under the Amendment filed today, FPL will transmit power and energy for Fort Pierce Utilities Authority (Fort Pierce) as is required by Fort Pierce in the implementation of its interchange agreement with the City of Lakeland.

FPL requests that waiver of § 35.3 of the Commission's regulations be granted and that the proposed amendment be made effective immediately. FPL states that copies of the filing were served on the Director of Utilities of Fort Pierce.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protests with the Federal Energy Regulatory Commission, 825 North Capitol Street NW., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 28, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to

become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 80-20925 Filed 7-11-80; 8:45 am]

BILLING CODE 6450-85-M

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**[Docket No. ER80-502]**

### Idaho Power Co.; Filing

July 8, 1980.

The filing Company submits the following:

Take notice that on July 1, 1980, the Idaho Power Company tendered for filing in compliance with the Federal Energy Regulatory Commission's Order of October 7, 1978, a summary of sales made under the Company's 1st Revised FERC Electric Tariff, Volume No. 1 (Supersedes Original Volume No. 1) during May 1980, along with cost justification for the rate charged.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 28, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 80-20926 Filed 7-11-80; 8:45 am]

BILLING CODE 6450-85-M

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**[Docket No. ER80-495]**

### Iowa Public Service Co.; Proposed Tariff Changes

July 8, 1980.

The filing Company submits the following:

Take notice that Iowa Public Service Company, on June 30, 1980, tendered for filing proposed changes in its F.E.R.C. Electric Tariff, Volume No. 1. The proposed changes would increase revenues in jurisdictional sales and service by $648,702 based on the twelve-month period ending December 31, 1979.

The reasons for this increase in electric revenues are the current normal ones, namely the increased pressure of inflation and the cost of capital.

Copies of the filing were served upon the public utility jurisdictional customers and the Iowa State Commerce Commission.

Any person desiring to be heard or protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 25, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 80-20927 Filed 7-11-80; 8:45 am]

BILLING CODE 6450-85-M

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**[Docket No. ER80-490]**

### Lockhart Power Co.; Filing

July 8, 1980.

The filing Company submits the following

Take notice that Lockhart Power Company, on June 27, 1980, tendered for filing proposed changes in its FERC Electric Service Tariff Rate Schedule Resale. The proposed changes would increase revenues from jurisdictional sales and service by $297,235 based on the 12-month period ending December 31, 1979.

The reason for the proposed increase is primarily the Company's increased cost of purchased power pursuant to a Duke Power Company increase in wholesale rates filed on June 20, 1980, and to become effective on service rendered on or after September 1, 1980. With this increased cost of purchased power and certain other cost increases, the Company would not be able to earn a reasonable return on its investment without adjusting its own resale rates to reflect these increased costs.

Copies of the filing have been served upon the City of Union, South Carolina, Lockhart's sole jurisdictional customer. A copy of the filing has also been mailed to the South Carolina Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 28, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestant parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 80-20928 Filed 7-11-80; 8:45 am]

BILLING CODE 6450-85-M

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**[Docket No. GP80-15]**

### Michigan Wisconsin Pipe Line Co.; Protest

July 8, 1980.

Take notice that on April 29, 1980, the Michigan Wisconsin Pipe Line Company (Mich-Wisc) filed with the Commission a protest to the claim, by Alan L. Lamb, of contractual authority to charge and collect the applicable, maximum lawful prices of the Natural Gas Policy Act of 1978 (NGPA). Mich-Wisc's protests was filed under § 157.40(c)(1)(v)(B) of the Commission's regulations.

Mr. Lamb has filed, under the interim collection procedures of Part 273 of the Commission's regulations, to collect the maximum lawful price of section 108 of the NGPA. Mr. Lamb seeks to collect this price for gas delivered to Mich-Wisc under two gas purchase contracts, dated July 23, 1968, and October 13, 1976, respectively. It is alleged by Mich-Wisc that Mr. Lamb also is asserting, alternatively, the right to collect the maximum lawful price of section 104 of the NGPA.

Mich-Wisc contends that the pricing provisions of Mr. Lamb's contracts lack an "area rate" clause and do not constitute contractual authorization to collect the NGPA rates claimed by Mr. Lamb under his small producer certificates.

Any person, other than Mich-Wisc and Mr. Lamb, desiring to be heard or to make any response with respect to Mich-Wisc's protest, should file with the Commission on or before July 22, 1980, a petition to intervene in accordance with § 1.8 of the Commission's rules of practice and procedure (18 CFR 1.8). Mr. Lamb need not file for intervention because under § 154.94(j)(4)(ii) of the Commission's regulations, the seller in

the first sale is automatically joined as a party in a proceeding involving such a protest.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 80-20929 Filed 7-11-80; 8:45 am]

BILLING CODE 6450-85-M

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**[Docket No. RP80-107]**

## Natural Gas Pipeline Co. of America; Order Accepting Certain Tariff Sheets for Filing, Rejecting Certain Tariff Sheets, and Suspending Rate Increase Subject to Conditions and Refunds, Granting Waiver, Initiating Hearing, and Granting Intervention

June 30, 1980.

On May 30, 1980, Natural Gas Pipeline Company of America (Natural) filed a general rate increase under section 4(e) of the Natural Gas Act [1] which would increase annual revenues from jurisdictional sales and transportation services by $88.8 million, or approximately 4.03 percent. The increased rates are based on actual costs for the twelve month period ending February 29, 1980, as adjusted for known and measurable changes in costs which are expected to be incurred by the end of the test period, November 30, 1980. The proposed effective date is July 1, 1980.

Public notice of this filing was issued on June 6, 1980, providing for protests or petitions to intervene to be filed by June 25, 1980. A notice of intervention was filed by the Public Service Commission of Wisconsin and petitions to intervene were filed by those listed in Appendix B. All of these petitioners have sufficient interest in this proceeding to justify their intervention, subject to the conditions set forth in Ordering Paragraph (K).

Natural states that the principal reasons for the increased rates include increases to its costs for labor, supplies, costs incurred for transmission and compression of gas by others from offshore and onshore purchase locations, additions to facilities and an increase in the overall rate of return to 11.99 percent. The overall rate of return includes a return of 14.75 percent on the equity portion which represents 42.46 percent of Natural's total capitalization.

Natural has included in its rate base the cost of facilities that have not been certificated and placed into service in violation of § 154.63(d)(2)(ii) of the Commission's regulations. Natural requests a waiver of the Regulations and states that it will file substitute tariff sheets adjusting its rates to reflect only those facilities which are certificated and in service on the date the proposed rates take effect, subject to refund.

Natural has employed the *Seaboard* method of classifying and allocating costs. However, the *United* methodology was used in the rate design presentations. Natural states that the *United* method was used for rate design purposes to avoid the potential financial penalty of under collection that may result if the Commission subsequently orders the *United* method. Natural proposes to employ the *Seaboard* rate design, prospectively, should the Commission issue a final, nonappealable order approving such rate design. As justification for this proposal, Natural alleges that the *United* cost classification and rate design method is not appropriate to its operations because of lack of curtailment, customer usage of Natural's pipeline system, relationship with rates of competing pipeline companies and the impact on pipeline and customer storage operations.

In addition to the increase in rates, Natural proposes revision and additions to FERC Gas Tariff (Fifth Revised Sheet No. 118) which would revise Natural's PGA provision so that: (1) In addition to tracking variations in actual Btu's sole, the PGA will also track variations in gas used, lost and unaccounted for, as well as variations in Btu's delivered and received under gas exchange agreements, and (2) carrying charges will be recalculated as of January 1, 1979, to eliminate the effect of deferred Federal income taxes in the event that the Internal Revenue Service requires Natural to recognize additional income which has the effect of offsetting deferred taxes. Should the Commission reject this tariff sheet, Natural proposes an alternate First Revised Sheet No. 118-A be accepted for filing and that Fifth Revised Sheet No. 118 be made subject of hearing. Natural states that the purpose of the alternate First Revised Sheet No. 118-A is to reflect in the PGA provision revised Base Average Purchased Gas Cost used in this case.

Natural proposes Original Sheet Nos. 154 through 159 which provide for a proposed Net Transportation Cost Adjustment Clause to be part of the General Terms and Conditions of Natural's FERC Gas Tariff. The intent of this provision is to implement a permanent tariff procedure which would permit Natural to track all changes in transportation costs incurred and transportation revenues received subsequent to the date of preparation and filing of rate revisions to its base rates pursuant to a Section 4 rate change.

Natural further proposes Original Sheet Nos. 160 through 161 which provide for a proposed tracking procedure that would permit periodic rate adjustments each March 1 and September 1, dates coincident with Natural's PGA filings, to recover on a timely basis carrying costs associated with prepayments for gas recorded in Account 165.

Natural requests that the Commission's Rules and Regulations be waived to the extent necessary to permit three tariff sheets to become effective January 1, 1981, which falls one month beyond the statutory five-month suspension period of December 1, 1980. The three tariff sheets, Fourth Revised Sheets 653, 668 and 695 of FERC Gas Tariff, Second Revised Volume No. 2 revise the Transportation Agreements between Columbia Gas Transmission System (R/S X-62), Texas Eastern Transmission Corporation (R/S X-63) and Northern Natural Gas Compnay (R/S X-67), each of which provides for a revised transportation charge of 6.86¢ per Mcf to supersede the 6.1¢ per Mcf presently in effect. Natural states that the applicable costs allocated to these services are presented on the basis of cost factors developed in the instant filing.

Based upon a review of Natural's filing, the Commission finds that the proposed rates have not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory or otherwise unlawful. Accordingly, the Commission shall accept certain of Natural's tariff sheets for filing, subject to conditions, and suspend their effectiveness so that they shall become effective, subject to refund on December 1, 1980, at the end of the full five month statutory period, except as noted below. Those tariff sheets proposed to be effective January 1, 1981, are accepted and suspended, and waiver of the notice requirement is granted such that the sheets may become effective, subject to refund, on that date. Fifth Revised Sheet No. 118, Original Tariff Sheet Nos. 154 through 159, and Original Tariff Sheet Nos. 160 through 161 are rejected.

Natural previously sought to revise its PGA provision through its initial compliance filing to the Stipulation and Agreement in Docket No. RP 78-78 (Third Revised Sheet No. 118 isued November 7, 1979) which also provided for the recovery of Btu's delivered and received, gas lost and unaccounted for and variations in Btu's delivered and received under gas exchange agreements. It was concluded that the

[1] A list of filed revised tariff sheets is included in Appendix A to this order.

intent of Article XVII of the approved Stipulation and Agreement in Docket No. RP78–78 did not permit Natural to make Btu adjustments through its PGA clause other than to reflect Btu changes in sales. Accordingly, Third Revised Sheet No. 118 was rejected.

In light of the above discussion the Commission also rejects Fifth Revised Sheet No. 118 since the provision requested here also goes beyond the authority granted to Natural in the Settlement Agreement in Docket No. RP78–78. We will, however, set the issue of tracking Btu's for hearing in this proceeding.

Original Tariff Sheet Nos. 154 through 159 and Original Tariff Sheet Nos. 160 and 161 are rejected because they provide for tracking provisions which violate § 154.38(d)(3) of the Commission's regulations. The transportation tracking provisions and carrying cost tracking provisions contained in these tariff sheets will, however, be treated as a proposal under § 154.52 of our regulations and be considered as an issue in this proceeding.

The Commission finds that good cause exists to grant waiver of § 154.63(e)(2)(ii) of its regulations and accept for filing the tariff sheets which reflect costs of facilities not yet certificated and in service. This acceptance is conditioned upon Natural filing revised tariff sheets and supporting data at the end of the test period to reflect the elimination of costs associated with facilities not in service on or before that date. The acceptance of Natural's filed tariff sheets is further conditioned upon Natural filing revised tariff sheets and supporting data at the end of the test period to reflect the cost of purchased gas at the most recent PGA filing, and the actual balance of advance payments in Account 166 as of that date, provided, however, that this revision does not increase the level of the original, suspended rates.

*The Commission Orders: (A) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 8 and 15 thereof, and the Commission's rules and regulations, a public hearing shall be held concerning the lawfulness of the rate increases proposed by Natural.*

(B) Pending hearing and decision, and subject to the conditions of the ordering paragraphs below and those described in the body of this order, certain of Natural's tariff sheets listed in Appendix A are accepted for filing and suspended for five months until December 1, 1980, subject to refund, except as provided in ordering Paragraph (C), (D), and (E) of this order.

(C) Waiver of the Commission's regulations is granted, and Revised Tariff Sheet Nos. 753, 668 and 695 are accepted for filing and suspended such that they may become effective January 1, 1981, subject to refund.

(D) Original Sheet Nos. 154 through 159 and Original Sheet Nos. 160 and 161 are rejected: *Provided, however,* That the proposals contained therein are to be considered as issues in this proceeding.

(E) Fifth Revised Sheet No. 118 is rejected: *Provided, however,* That the issue contained therein is to be considered a part of this proceeding.

(F) Waiver of § 154.63(e)(2)(ii) of the Regulations, to permit the inclusion in its cost of service of facilities not in service, is granted subject to the condition that natural file on or before December 1, 1980, revised tariff sheets reflecting the elimination of all costs associated with facilities not in service by that date and the balance in Account 166 as of that date, provided that the inclusion of a higher advance payment balance will not be permitted to increase the level of the original, suspended rate, and provided that no off-setting adjustment to the suspended rates shall be permitted prior to hearing except for those adjustments (1) made pursuant to Commission approved tracking provision, (2) required by this order, or (3) required by other Commission orders.

(G) Natural shall further be required to revise its tariff sheets to reflect the actual balance of advance payments as of December 1, 1980, and to reflect the cost of purchased gas as of the most recent PGA filing.

(H) Staff shall serve top sheets on or before October 3, 1980.

(I) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (18 CFR 3.5(d)) shall convene a settlement conference in this proceeding to be held within 10 days after the service of Staff's top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. to establish such further and additional procedural dates as may be necessary and to rule on all motions (except motions to sever, consolidate or dismiss) as provided in the rules of practice and procedure.

(J) The petitions to intervene listed in Appendix B are granted subject to the provisions of the Commission's rules and regulations: *Provided, however,* That the participation of the intervenors shall be limited to matters affecting asserted rights and interests specifically set forth in the petitions to intervene: *and provided, further,* That the admission of such intervenors shall not be construed as recognition that they might be aggrieved by any order entered in this proceeding.

By the Commission.

**Kenneth F. Plumb,**

*Secretary.*

**Appendix A—List of Tariff Sheets**

*Third Revised Volume No. 1*

Forty-first Revised Sheet No. 5
Twelfth Revised Sheet No. 5A
Third Revised Sheet No. 5B
Fifth Revised Sheet No. 118 [1]
Revised Sheet No. 118–A
Sixth Revised Sheet No. 120
Original Sheet Nos. 154 through 159 [1]
Original Sheet Nos. 160 through 161 [1]

*Second Revised Volume No. 2*

Twelfth Revised Sheet No. 220 (R/S X–30)
Seventh Revised Sheet No. 270 (R/S X–35)
Fourth Revised Sheet No. 407 (R/S X–48)
Second Revised Sheet No. 432 (R/S X–49)
Fifth Revised Sheet No. 433 (R/S X–49)
Fourth Revised Sheet No. 744 (R/S X–72)
Fourth Revised Sheet No. 816 (R/S X–78)
Third Revised Sheet No. 1000 (R/S X–84)
First Revised Sheet No. 1076 (R/S X–91)
First Revised Sheet No. 1097 (R/S X–93)
First Revised Sheet No. 1170 (R/S X–98)
First Revised Sheet No. 1274 (R/S X–104)
First Revised Sheet No. 1280 (R/S X–105)
First Revised Sheet No. 1305 (R/S X–107)

*Tariff Sheets To Be Effective January 1, 1981*

Fourth Revised Sheet No. 653 (R/S X–62)
Fourth Revised Sheet No. 668 (R/S X–63)
Fourth Revised Sheet No. 695 (R/S X–67)

**Appendix B**

Northern Indiana Public Service Company
Central Illinois Public Service Company
Iowa-Illinois Gas and Electric Company
City of Chicago, Municipal Corporation
Illinois Power Company
United Cities Gas Company
Northern Illinois Gas Company
Iowa Southern Utilities Company
Columbia Gas Transmission Corporation
Peoples Natural Gas Company

[FR Doc. 80–20931 Filed 7–11–80; 8:45 am]
BILLING CODE 6450–85–M

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**[Docket No. GP80–102]**

## Ohio Department of Natural Resources Division of Oil and Gas Section 103 of the Natural Gas Policy Act of 1978 Determination O'Neal Production, Inc.; Request for Withdrawal

July 8, 1980.

Take notice that on April 18, 1980, the Ohio Department of Natural Resources, Division of Oil and Gas, filed with the Commission a request by O'Neal Production, Inc. (O'Neal) to withdraw O'Neals application for a section 103 well category determination under the Natural Gas Policy Act of 1978 for the

[1] Indicates rejection of these tariff sheets.

McKnown No. 1 well, State File No. 06852, JD No. 79-3043. The determination for such well became final by operation of § 275.202 of the Commission's regulations prior to the date upon which O'Neal made such requests. The application does not state a reason for the requested withdrawal.

Any person desiring to be heard or to make any protest to such request should, on or before July 24, 1980, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). 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 the proceeding must file a petition to intervene in accordance with the Commission's rules.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 80-20932 Filed 7-11-80; 8:45 am]

BILLING CODE 6450-85-M

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**[Docket No. ER80-505]**

## Pacific Power & Light Co.; Filing

July 8, 1980.

The filing Company submits the following:

Take Notice that Pacific Power & Light Company (Pacific) on July 1, 1980, tendered for filing, in accordance with § 35.13 of the Commission's regulations, Amendatory Agreement No. 1 to Contract No. 14-03-29245 with the Bonneville Power Administration (BPA). This amendatory agreement provides for changes in scheduling procedures and charges under Pacific's Rate Schedule FPC No. 114.

Pacific requests waiver of the Commission's notice requirements to permit this rate schedule to become effective December 20, 1974, which it claims is the date of commencement of service.

Copies of the filing were supplied to BPA and the Oregon Public Utility Commissioner, Salem, Oregon.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10 ). All such petitions or protests should be filed on or before July 28, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 80-20933 Filed 7-11-80; 8:45 am]

BILLING CODE 6450-85-M

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**[Docket No. GP80-19]**

## Panhandle Eastern Pipeline Co.; Third-Party Protests [1]

July 8, 1980.

Take notice that in accordance with procedures established by the Federal Energy Regulatory Commission (Commission) in Order No. 23-B,[2] and "Order on Rehearing of Order No. 23-B,"[3] the staff of the Commission protested on April 11, 1980, the assertion by the Panhandle Eastern Pipeline Company (Panhandle) and certain producers that the contracts listed below constitute contractural authority for the producer to charge and collect the applicable maximum lawful prices under the Natural Gas Policy Act of 1978 (NGPA).

| Producers | Contract date |
|---|---|
| Phoenix Resources Company | 5-1-67 |
| Phoenix Resources Company | 5-1-67 |

Any person, other than the pipeline and the seller, desiring to be heard or to make any response with respect to these protests should file with the Commission on or before July 22, 1980, a petition to intervene in accordance with 18 CFR 1.8. The seller need not file for intervention because under 18 CFR 154.94(j)(4)(ii), the seller in the first sale is automatically joined as a party.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 80-20934 Filed 7-11-80; 8:45 am]

BILLING CODE 6450-85-M

[1] The term "third-party protests" refers to a protest filed by a party who is not a party to the contract which is protested.

[2] "Order Adopting Final Regulations and Establishing Protest Procedure," Docket No. RM79-22, issued June 21, 1979.

[3] Docket No. RM79-22, issued August 6, 1979.

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**[Docket No. GP80-21]**

## Texas Eastern Transmission Corp.; Third-Party Protests [1]

July 8, 1980.

Take notice that in accordance with procedures established by the Federal Energy Regulatory Commission (Commission) in Order No. 23-B,[2] and "Order on Rehearing of Order No. 23-B," [3] Associated Gas Distributors (ADG) filed a supplemental protest on June 19, 1980, protesting the assertion by the Texas Eastern Transmission Corporation (Texas Eastern) and certain producers that the contracts listed below constitute contractural authority for the producer to charge and collect the applicable maximum lawful prices under the Natural Gas Policy Act of 1978 (NGPA).

| Seller | Rate schedule Number | Contract date |
|---|---|---|
| Amerada Hess | 185 | 12/12/79 |
| Forced Gas Co | SPC | 3/5/80 |
| Getty Oil Co | 444 | 12/27/79 |
| Eli Rebich | SPC | 6/3/63 |
| Getty Oil Co | 284 | 3/25/80 |
| Texaco Inc | 97 | 1/5/79 |

Any person, other than the pipeline and the seller, desiring to be heard or to make any response with respect to these protests should file with the Commission on or before July 22, 1980, a petition to intervene in accordance with 18 CFR 1.8. The seller need not file for intervention because under 18 CFR 154.94(j)(4)(ii), the seller in the first sale is automatically joined as a party.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 80-20935 Filed 7-11-80; 8:45 am]

BILLING CODE 6450-85-M

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**[Docket No. RP80-106]**

## Trunkline Gas Co.; Order Accepting for Filing and Suspending Tariff Sheets, Granting Intervention, and Establishing Hearing Procedures

June 27, 1980.

On May 30, 1980, Trunkline Gas Company (Trunkline) tendered for filing certain tariff sheets [1] reflecting a proposed general rate increase to Trunkline's jurisdictional sales of $33 million annually based on a test year ended February 29, 1980, adjusted for

[1] The term "third-party protests" refers to a protest filed by a party who is not a party to the contract which is protested.

[2] "Order Adopting Final Regulations and Establishing Protest Procedure," Docket No. RM79-22, issued June 21, 1979.

[3] Docket No. RM79-22, issued August 6, 1979.

[1] *See* Appendix A.

changes known and measurable to November 30, 1980. Trunkline proposed an effective date of July 1, 1980.

Trunkline states that the increased rates are necessitated by increased costs at all levels including operating costs, increased capital costs, and increased costs associated with new facilities. Included in its claimed cost of service is a proposed overall rate of return of 13.64 percent, which reflects a return of 15 percent on common equity based upon a debt ratio of 44.85 percent Trunkline's filing also reflects a reduction of approximately 16 million Mcf of sales from the base period sales level, a proposal to convert its rates from a volume to a dekatherm basis, a charge from the High Island Offshore System for the separation and handling of gas liquids, and $15.8 million representing facilities not yet placed into service.

Public notice of this filing was issued on June 6, 1980, providing for protests or petitions to intervene to be filed on or before June 20, 1980. Petitions to intervene were filed by the parties listed in Appendix B. The Commission finds that these petitioners have demonstrated an interest in this proceeding warranting their participation, and the petitions shall therefore be granted, subject to the conditions set forth in Ordering Paragraph (E).

Trunkline requests a waiver with respect to its transporation tracking to permit repayment of a credit balance currently existing in Trunkline's deferred Transportation Service Tracker account, which is maintained pursuant to the Stipulation and Agreement approved in Docket No. RP78–11. Although this tracking authority would ordinarily continue only as long as the rates provided in Docket No. RP78–11 are in effect, Trunkline requests a waiver to permit it to return the credit balance existing in this deferred account to its jurisdictional customers. Inasmuch as the credit balance represents an overcollection of costs under the cost tracker which should be returned to Trunkline's customers, waiver should be granted.

Based upon a review of Trunkline's filing, the Commission finds that the proposed changes have not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Accordingly, the Commission will accept the tariff sheets, suspend their effectiveness so that they may become effective, subject to refund, on December 1, 1980, the end of the full five-month statutory period, in the manner prescribed by the Natural Gas Act or as may be hereinafter conditioned.

The Commission notes that this filing includes certain costs related to uncertificated facilities. Inclusion of these costs is inconsistent with § 154.63(e)(2)(ii) of the Commission's regulations. Accordingly, acceptance for filing would require waiver for that rule. We find that good cause exists to accept Trunkline's filing so long as the acceptance is appropriately conditioned. The Commission will grant the waiver on condition that on or before November 30, 1980, Trunkline file revised tariff sheets to reflect elimination of those costs associated with facilities not in service on or before that date, and which also reflect the actual advance payments balance in Account 166 as of that date. We impose a further condition that Trunkline shall not be permitted to make offsetting adjustments to the suspended rates prior to hearing, except for those adjustments made pursuant to Commission-approved tracking provisions, those adjustments required by this order, and those adjustments required by other Commission orders. In addition, the revision of the balance in Account 166 shall be permitted on condition that it does not increase the level of the original, suspended rates.

*The Commission Orders:*

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 8 and 15 thereof, and the Commission's rules and regulations, a public hearing shall be held concerning the lawfulness of the changed rates proposed by Trunkline.

(B) Pending hearing and decision, Trunkline's proposed tariff sheets listed in Appendix A are accepted for filing and suspended for five months until December 1, 1980, when they may be permitted to become effective subject to refund, in the manner prescribed by the Natural Gas Act.

(C) Waiver of § 154.63(e)(2)(ii) is granted upon condition that Trunkline file substitute revised tariff sheets on or before November 30, 1980, reflecting the elimination of costs associated with facilities not in service and the balance in Account 166 as of that date. This waiver is granted on condition that the inclusion of a higher advance payment balance in Account 166 will not be permitted to increase the level of the original suspended rates, and upon further condition that Trunkline shall not be permitted to make offsetting adjustments to the suspended rates except for those adjustments made pursuant to Commission approved tracking provisions, those adjustments required by this order, and those adjustments required by other Commission orders.

(D) The Commission Staff shall prepare and serve top sheets on all parties on or before October 1, 1980.

(E) The petitioners noted in Appendix B are permitted to intervene in this proceeding subject to the rules and regulations of the Commission: *Provided, however,* That the participation of the intervenors shall be limited to matters affecting asserted rights and interests specifically set forth in their petitions to intervene: *And provided, further,* That the admission of such intervenors shall not be construed as recognition that they might be aggrieved by any order entered in this proceeding.

(F) Waiver is hereby granted so as to permit Trunkline to repay a credit balance currently existing in its deferred Transportation Service Tracker account to its jurisdictional customers.

(G) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (18 CFR 3.5(d)), shall convene a settlement conference in this proceeding to be held within 10 days after the service of top sheets by the Staff in a hearing or conference room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. The Presiding Administrative Law Judge is authorized to establish such further procedural dates as may be necessary, and to rule upon all motions (except motions to consolidate, sever, or dismiss), as provided for in the rules of practice and procedure.

By the Commission.

**Kenneth F. Plumb,**

*Secretary.*

**Appendix A—Trunkline Gas Co.**

*Proposed Tariff Sheets*

*FERC Gas Tariff, Original Volume No. 1*

Thirty-Second Revised Sheet No. 3–A
Fourteenth Revised Sheet No. 4
Sixth Revised Sheet No. 5
Tenth Revised Sheet No. 5–A
Thirteenth Revised Sheet No. 6–A
Twelfth Revised Sheet No. 6–B
Third Revised Sheet No. 6–D
Thirteenth Revised Sheet No. 7
Twelfth Revised Sheet No. 9
Eleventh Revised Sheet No. 9–D
First Revised Sheet No. 9–E
Eleventh Revised Sheet No. 9–F
Twelfth Revised Sheet No. 9–G
Tenth Revised Sheet No. 9–P
Eighth Revised Sheet No. 9–R
Eighth Revised Sheet No. 9–AE
First Revised Sheet No. 9–AG
Third Revised Sheet No. 10
First Revised Sheet No. 11
First Revised Sheet No. 12
Second Revised Sheet No. 13

Fourth Revised Sheet No. 21–D
Fourth Revised Sheet No. 21–E
Seventh Revised Sheet No. 21–F
Fourth Revised Sheet No. 21–H
Second Revised Sheet No. 214
Third Revised Sheet No. 468
Second Revised Sheet No. 469
Third Revised Sheet No. 499
Second Revised Sheet No. 500
Second Revised Sheet No. 527
Second Revised Sheet No. 528
Seventh Revised Sheet No. 555
Second Revised Sheet No. 583
Second Revised Sheet No. 584
Second Revised Sheet No. 759
Second Revised Sheet No. 766
Second Revised Sheet No. 767
Second Revised Sheet No. 796
Second Revised Sheet No. 797
Second Revised Sheet No. 829
Second Revised Sheet No. 859
Second Revised Sheet No. 860
Second Revised Sheet No. 886
Second Revised Sheet No. 887
Second Revised Sheet No. 904
Second Revised Sheet No. 912
Second Revised Sheet No. 913
Second Revised Sheet No. 937
Second Revised Sheet No. 938
Second Revised Sheet No. 976
Second Revised Sheet No. 977
Second Revised Sheet No. 1010
Second Revised Sheet No. 1011
Fourth Revised Sheet No. 1105.1
Fourth Revised Sheet No. 1106
Second Revised Sheet No. 1142
Second Revised Sheet No. 1143
Second Revised Sheet No. 1194
Second Revised Sheet No. 1262
Second Revised Sheet No. 1263
Second Revised Sheet No. 1301
Second Revised Sheet No. 1302
First Revised Sheet No. 1341
First Revised Sheet No. 1376
First Revised Sheet No. 1377
First Revised Sheet No. 1409
First Revised Sheet No. 1410
First Revised Sheet No. 1442
First Revised Sheet No. 1463
First Revised Sheet No. 1464
First Revised Sheet No. 1483
Second Revised Sheet No. 1536
Second Revised Sheet No. 1537
First Revised Sheet No. 1562
First Revised Sheet No. 1567
Second Revised Sheet No. 1608
First Revised Sheet No. 1649
Second Revised Sheet No. 1756
Second Revised Sheet No. 1757
First Revised Sheet No. 1800
First Revised Sheet No. 1841
First Revised Sheet No. 1905
First Revised Sheet No. 1906
First Revised Sheet No. 1936
First Revised Sheet No. 1937
First Revised Sheet No. 1969
First Revised Sheet No. 2001
First Revised Sheet No. 2040
First Revised Sheet No. 2041
First Revised Sheet No. 2074
First Revised Sheet No. 2103
First Revised Sheet No. 2104
First Revised Sheet No. 2140
First Revised Sheet No. 2141
First Revised Sheet No. 2170
First Revised Sheet No. 2171
First Revised Sheet No. 2205
First Revised Sheet No. 2206
First Revised Sheet No. 2244
First Revised Sheet No. 2271
First Revised Sheet No. 2272
First Revised Sheet No. 2301
First Revised Sheet No. 2327
First Revised Sheet No. 2328
First Revised Sheet No. 2370
First Revised Sheet No. 2371
First Revised Sheet No. 2415
First Revised Sheet No. 2416
First Revised Sheet No. 2417
First Revised Sheet No. 2458
First Revised Sheet No. 2459
First Revised Sheet No. 2496

**Appendix B—Trunkline Gas Co.**

Petitions to intervene were filed by:
Central Illinois Public Service Company
Illinois Power Company
United Cities Gas Company
Mississippi River Transmission Corporation.

[FR Doc. 80–20937 Filed 7–11–80; 8:45 am]
BILLING CODE 6450–85–M

## Office of Intergovernmental Affairs

### Local Government Energy Policy Advisory Committee and Subcommittees; Open Meetings

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting:

Name: Local Government Energy Policy Advisory Committee
Date and Time: Wednesday, July 30, 1980—9:00 a.m.–10:00 a.m.; Thursday, July 31, 1980—9:00 a.m.–12:00 noon; Friday, August 1, 1980—9:00 a.m.–12:00 noon.
Place: L'Enfant Plaza Hotel, 480 L'Enfant Plaza, S.W., Washington, D.C. 20024. Room locations will be posted in lobby of Hotel.
Contact: Georgia Hildreth, Director, Advisory Committee Management, Department of Energy—Room 8G087, 1000 Independence Avenue, S.W., Washington, D.C. 20585. Telephone: 202–252–5187.
Purpose of Committee: To advise and make recommendations to the Secretary of energy on matters relating to Federal energy policies, programs, and legislation so that the Secretary may reach a judgment as to whether national energy policies are reflective of and responsible to the needs of local governments, that components of the Department are coordinating their activities with local governments, where appropriate, and that intergovernmental communication exists with local governments.
Tentative Agenda: Wednesday, July 30, 1980—9:00 a.m.–10:00 a.m.—Energy Emergency Contingency Subcommittee
- Discussion of the local government role in the Energy Emergency Conservation Act.

Thursday, July 31, 1980—9:00 a.m.–10:00 a.m.—Opening Remarks by Chairman Maynard Jackson and Richard J. Stone, Director of Intergovernmental Affairs.
10:00 a.m.–12:00 noon—Presentations
- Technical Assistance Program
- Energy Emergency Conservation Act
- OMB Circular A–95: Cooperation with State and Local Governments
- Energy Management and Partnership Act Update.

Friday, August 1, 1980—9:00 a.m.–10:30 a.m.—Individual Subcommittee Meetings
- Procedural Mechanisms
- Legislation
- Local Energy Planning
- Local Energy Emergency Contingency Planning

10:30–12:00 noon—Reports from Subcommittee Chairpersons and Full Committee discussion.
12:00 noon—Public Comment (10 minute rule).
Public Participation: The meetings are open to the public. The Chairpersons of the Committee and Subcommittees are empowered to conduct the meetings in a fashion that will, in their judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee or Subcommittees will be permitted to do so, either before or after the meetings. Members of the public who wish to make oral statements pertaining to agenda items should contact the Advisory Committee Management Office at the address or telephone number listed above. Requests must be received at least 5 days prior to the meeting concerned and reasonable provision will be made to include the presentation on the agenda.
Transcripts: Available for public review and copying at the Public Reading Room, Room 5B180, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.
Executive Summary: Available approximately 30 days following the meeting from the Advisory Committee Management Office.

Issued at Washington, D.C., on July 8, 1980.

**Georgia Hildreth,**
*Director, Advisory Committee Management.*

[FR Doc. 80–20963 Filed 7–11–80; 8:45 am]
BILLING CODE 6450–01–M

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL 1536–7]**

### Approval of PSD Permits—Region VIII

Notice is hereby given that between February 5, 1980, and June 8, 1980, the U.S. Environmental Protection Agency Region VIII issued Prevention of Significant Deterioration of Air Quality (PSD) permits, Wasatch Front Intrastate Region permits and made non-applicability determinations for the following sources:

| Applicant | Source | Approximate location | Date of final action |
|---|---|---|---|
| **PSD Permits Issued** | | | |
| Colorado Interstate Gas Co | Flank Compressor Station | Baca County, Colo | Mar. 31, 1980. |
| Colorado Interstate Gas Co | Cheyenne Compressor Station | Weld County, Colo | May 7, 1980. |
| Platte River Power Authority | 250 megawatt "Rawhide" Power Plant | Fort Collins, Colo | May 22, 1980. |
| Utah Power and Light Co | Modification to "Hunter" Power Plant (860 MW) | Castle Dale, Utah | June 2, 1980. |
| Panhandle Eastern Pipeline | Fort Lupton Compressor Station | Fort Lupton, Colo | June 3, 1980. |
| Martin Marietta Cement | 500,000 ton/yr Cement Plant | Leamington, Utah | June 6, 1980. |
| Intermountain Power Project Co | 3,000 megawatt Power Plant | Lynndyl, Utah | June 8, 1980. |
| **Wasatch Front Intrastate Region Permits Issued** | | | |
| Interstate Brick & Ceramic Tile | Brick Plant | West Jordan, Utah | Mar. 11, 1980. |
| Construction Materials Corp | Concrete Mix Plant | Salt Lake City, Utah | Apr. 28, 1980. |
| Nitrate Services Corp | Explosive Manufacturing Plant | American Fork, Utah | May 2, 1980. |
| **PSD Nonapplicability Determinations** | | | |
| Capstan Mining Co | 0.48 MM tons/yr "Bacon" Coal Mine | Colorado Springs, Colo | Feb. 13, 1980. |
| Shell Oil Co | Coal Handling Modification | Gillette, Wyo | Feb. 13, 1980. |
| Peabody Coal Co | "Peabody" Coal Mine Expansion (1.9 MM tons/yr) | Colstrip, Mont | Feb. 21, 1980. |
| Cyprus Mines Corp | 1.3 MM tons/yr "Hansen" Uranium Mine | Canon City, Colo | Feb. 22, 1980. |
| Brannon Sand and Gravel Co | Rock Quarry | Golden, Colo | Feb. 22, 1980. |
| Mountain Maid, Inc | Perlite Processing, DPW Production | Fillmore, Utah | Feb. 22, 1980. |
| Utah International | 2 MM tons/yr Coal Mine | Craig, Colo | Feb. 22, 1980. |
| American Nuclear Corp | 260 M tons/yr "Cotter Ferguson" Uranium Mine | Fremont County, Wyo | Feb. 22, 1980. |
| Cotter Corp | 48 M tons/yr Uranium Mine | Nucla, Colo | Feb. 22, 1980. |
| CF&I Steel Corp | Limestone Quarry | Dotsero, Colo | Feb. 22, 1980. |
| Flintkote Co | Replacement Crusher at Gypsum Quarry | Coaldale, Colo | Feb. 22, 1980. |
| Shattuck Chemical Co | Mo & Rh Recovery Plant | Denver, Colo | Feb. 22, 1980. |
| Cyprus Mines Corp | 4,500 tons/day "Hansen" Uranium Mill | Canon City, Colo | Mar. 17, 1980. |
| Concrete Products | Ready Mix Cement Plant | Salt Lake City, Utah | Mar. 18, 1980. |
| Western Fuels Assoc., Inc | 1.8 MM tons/yr "Deserado" Coal Mine | Rangely, Colo | Mar. 18, 1980. |
| WESRECO | Refinery Modification | Salt Lake City, Utah | May 12, 1980. |
| IBM | Photo-Conductor Manufacturing | Boulder, Colo | May 21, 1980. |

This notice contains only a list of the permitted and reviewed sources, and interested parties are advised to review the full permit or non-applicability analysis. Under section 307(b)(1) of the Clean Air Act, judicial review of these actions are available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Copies of the permits and related materials are available for public inspection upon request at: Environmental Protection Agency, Region VIII, Air Programs Branch, Room 204, 1860 Lincoln Street, Denver, CO 80295, (303) 837-3763.

Dated June 30, 1980.

**Roger L. Williams,**

*Regional Administrator.*

[FR Doc. 80-20885 Filed 7-11-80; 8:45 am]

**BILLING CODE 6560-01-M**

**[OPP 50489; FRL 1537-6]**

## University of Wyoming; Receipt of an Application for an Experimental Use Permit

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** An experimental use permit application has been received from the Animal Science Division, University of Wyoming, Box 3354, Laramie, WY 82071 to use the insecticide mixture, parathion and methyl parathion to evaluate control of coyotes and dogs that prey upon sheep.

**COMMENTS:** Written comments in response to this application may be submitted to Product Manager.

**FOR FURTHER INFORMATION CONTACT:** William H. Miller, Product Manager (PM) 16, Office of Pesticide Programs, Rm. E-343, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, 202/426-9458.

**SUPPLEMENTARY INFORMATION:** The Animal Science Division, University of Wyoming, Box 3354, Laramie, WY 82071 has applied for an experimental use permit. This experimental use permit, File Symbol 43974-EUP-R, proposes the use of 16 pounds of the insecticide mixture, parathion and methyl parathion to evaluate control of coyotes and dogs that prey upon sheep. It is proposed that testing be conducted in isolated pens located at the University Experiment Station in Laramie, Wyoming.

(Sec. 5, 92 Stat. 189, as amended (7 U.S.C. 136))

Dated: July 7, 1980.

**Douglas D. Campt,**

*Director Registration Division, Office of Pesticide Programs.*

[FR Doc. 80-20884 Filed 7-11-80; 8:45 am]

**BILLING CODE 6560-01-M**

**[OPP-180455; FRL 1537-5]**

## Wisconsin Department of Agriculture, Trade, and Consumer Protection; Issuance of a Specific Exemption To Use Trifluralin and Oryzalin as a Tank Mixture To Control Common Root Rot in English Peas

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** EPA has issued a specific exemption to the Wisconsin Department of Agriculture, Trade, and Consumer Protection (hereafter referred to as the "Applicant") to use a tank mixture containing trifluralin and oryzalin to control common root rot on 15,000 acres of English peas in Wisconsin. The specific exemption is issued under the Federal Insecticide, Fungicide, and Rodenticide Act.

**DATE:** The specific exemption expires on June 15, 1980.

**FOR FURTHER INFORMATION CONTACT:**
Donald Stubbs, Registration Division (TS–767), Room: E–124, Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW, Washington, D.C. 20460, 202/426–0223.

**SUPPLEMENTARY INFORMATION:**
According to the Applicant, the disease root rot is usually caused by a fungi complex, but in Wisconsin, the fungus *Aphanomyces euteiches* is primarily implicated. Although low levels of this pathogenic organism are found in all Wisconsin soils, populations increase when peas are grown in a field; following several pea crops, pathogen populations reach levels in which an entire crop may be destroyed, the Applicant claimed. The Applicant stated that rotation to a different crop may temporarily reduce pathogen levels, but a return to pea production, particularly in a year with excessive soil moisture, can immediately cause the pathogen to reach a problem level. Since peas have been grown on most of the agricultural land in Wisconsin, the disease is ubiquitous in that State. Earlier in the season, cool soils limit disease development; root rot is most severe in plantings made after May 1.

The Applicant stated that this specific exemption was sought for the pea crop that is grown for the canning industry. Processors sample soil from fields and run bioassays to determine the disease potential prior to contracting fields for pea planting. The unavailability of clean fields near the canning plants has forced canners to grow peas farther from the plant site, thus increasing production costs and contributing to the poor financial state of the industry, the Applicant claimed.

According to the Applicant, the extremely wet soil conditions now existing in Wisconsin may bring economic losses of $4.5 million without the requested treatment of root rot.

EPA has sufficient data to indicate that the trifluralin and oryzalin tank mix of ½ pound active ingredient (a.i.) per acre of each herbicide was an effective treatment in suppressing *Aphanomyces* root rot of peas and that it provided better control than either used alone. There are no registered pesticides to control *Aphanomyces euteiches* on peas.

The Applicant proposes to use Surflan 75W (oryzalin) at an application rate of ⅔ pound or SURFLAN 4S (½ pound a.i. oryzalin) in combination with one (1) pint Treflan E.C. (½ pound a.i. trifluralin) in 20 gallons of water per acre on a maximum of 15,000 acres under the direct supervision of a State-certified applicator.

A permanent tolerance of 0.05 part per million (ppm) in or on green peas has been established for residues of trifluralin. Residue levels of oryzalin from this use should not exceed 0.05 ppm. EPA has judged these levels to be adequate to protect the public health. The use should not have an unreasonable effect on the environment.

After reviewing the application and other available information, EPA has determined that the criteria for an exemption have been met. Accordingly, the Applicant has been granted a specific exemption to use the pesticides noted above until June 15, 1980, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. A tank mixture containing Surflan 75W or Surflan 4S E.C. (oryzalin) and Triflan E.C. (trifluralin) is authorized;

2. Application shall be made at a rate of ⅔ pound Surflan 75W (½ pound oryzalin) or 2 pints Surflan 4S (½ pound a.i. oryzalin) in combination with one pint Treflan E.C. (½ pound trifluralin) in 20 gallons water/acre;

3. A maximum of 15,000 acres of pea crop may be treated;

4. A maximum of 7,500 pounds oryzalin and 7,500 pounds trifluralin may be applied;

5. The application period shall be from May 23, 1980 until June 15, 1980;

6. Applications may be made throughout Wisconsin but not on coarse soils with less than 1 to 1½ percent organic matter;

7. Only one application of the tank mix shall be made as a soil-incorporated treatment no less than 2 weeks prior to planting;

8. Applications shall be made by or under the supervision of a State-certified applicator;

9. Green peas treated according to the above provisions are not expected to have residue levels of either oryzalin or trifluralin exceeding 0.05 ppm. Green peas with residues not exceeding these levels may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

10. All applicable precautions on the EPA-registered labels must be followed;

11. The EPA shall be informed immediately of any adverse effects to man or the environment resulting from this program;

12. The Applicant will be responsible for insuring that all provisions of this specific exemption are followed; and

13. A final report summarizing the results of this program will be submitted to EPA by December 31, 1980.

(Sec. 18, as amended, (92 Stat. 819; 7 U.S.C. 136))

Dated: July 3, 1980.

**Edwin L. Johnson,**
*Deputy Assistant Administrator for Pesticide Programs.*

[FR Doc. 80-20883 Filed 7-11-80; 8:45 am]
**BILLING CODE 6560-01-M**

## FEDERAL COMMUNICATIONS COMMISSION

[Report No. 1239]

### Petitions for Reconsideration of Actions in Rulemaking Proceedings Filed

July 7, 1980.

| Subject | Docket or RM No. | Rule section | Date received |
|---|---|---|---|
| Amendment of Part 21, of the Rules to reflect the availability of land mobile channels in the 470–512 MHz band in thirteen urbanized areas of the United States. (Filed by Robert H. Pintell, Director of Engineering for Interelectronics Corp., Pagex Radio Phone Division). | 21039 | 21 | 6–3–80 |

**Application for Review of Actions in Rulemaking Proceedings Filed**

| | | | |
|---|---|---|---|
| Request amendment TV Table of Assignments to reassign commercial Ch. 8 from Selma, Alabama to Tuscaloosa, Alabama and reserve it for non-commercial educational use and delete Ch. 12 from Montgomery, Alabama and assign it in lieu of Ch. 38 at Columbus, Georgia. (Filed by Vincent A. Pepper & James J. McGillan, Attorneys for WCOV, Inc. (WCOV–TV)). | RM–3021 | 73.606(b) | 6–12–80 |

**Note.**—Oppositions to petitions for reconsideration and applications for review must be filed within 15 days after publication of this Public Notice in the **Federal Register**. Replies to an opposition must be filed within 10 days after time for filing oppositions has expired.

Federal Communications Commission.

**William J. Tricarico,**
*Secretary.*

[FR Doc. 80-20903 Filed 7-11-80; 8:45 am]
**BILLING CODE 6712-01-M**

## TV Broadcast Applications Accepted for Filing and Notification of Cutoff Date; Erratum

Correction to Report No. B–8.

Released: July 8, 1980.

On the Public Notice released April 4, 1980, captioned *TV broadcast applications accepted for filing and notification of cut-off date* (Mimeo #30193, Report No. B–5), published in the **Federal Register** on April 15, 1980 (45 FR 25454), the following application was listed as subject to the May 27, 1980 cut-off date for petitions to deny and amendments as of right:

BPCT–791026LB (new), Omaha, Nebraska, Pappas Telecasting, Inc., Channel 42, ERP: Vis. 78.8 kW; HAAT: 511.5 feet.

Through inadvertence, the same application was again listed in the Public Notice (Mimeo #33159, Report No. B–8) released July 3, 1980, announcing television applications as being subject to an August 11, 1980, cut-off date. The latter listing was in error.

Accordingly, notice is hereby given that the above entry is deleted from Report No. B–8, released July 3, 1980 (Mimeo #33159).

Federal Communications Commission.

**William J. Tricarico,**

*Secretary.*

[FR Doc. 80–20902 Filed 7–11–80; 8:45 am]

BILLING CODE 6712–01–M

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[Docket No. 19660; RM–690]

## International Record Carrier's Scope of Operations in the Continental United States, Including Possible Revisions to the Formula Prescribed Under Section 222 of the Communications Act

**AGENCY:** Federal Communications Commission.

**ACTION:** Order.

**SUMMARY:** Order prescribes solution to access problem for the international record carriers at the four INTELSAT earth stations in the continental United States pursuant to Docket No. 19660 (Gateways). Order directs Comsat and the international record carriers to execute and submit to the Commission within 30 days a Memorandum of Understanding presented by Comsat with two modifications. Modifications relate to charges and contingency of Comsat entering retail market.

**DATES:** Non-Applicable.

**ADDRESSES:** Federal Communications Commission, Washington, D.C. 20554.

**FOR FURTHER INFORMATION CONTACT:** William F. Adler or Stuart Chiron, Common Carrier Bureau, 202–632–7265.

In the Matter of International Record Carrier's Scope of Operations in the continental United States, including possible revisions to the formula prescribed under section 222 of the communications act.

Adopted: June 25, 1980.

Released: July 3, 1980.

By the Common Carrier Bureau:

1. On February 27, 1980, the Commission released its *Policy Statement and Order* in Docket No. 19660 *(Gateways)*, F.C.C. 2d 115 (1980). In *Gateways* the Commission found, *inter alia*, that the public would benefit from authorizing the international record carriers (IRCs) to establish new points of operation at the four INTELSAT earth stations located in the continental United States. However, the Commission indicated that the Section 215 applications seeking these new points of operation would be held in abeyance until the access problem at the INTELSAT facilities was resolved. The Commission directed Comsat and the five IRCs [1] to attempt to find an equitable solution through private meetings. The joint solution would then be submitted to the Commission for approval. If no solution could be found, each party would submit to the Commission a summary of its efforts to reach a solution along with its proposals. The Commission would then prescribe a solution. 76 F.C.C. 2d 146–48.

2. Comsat and the IRCs have not been able to reach a unanimous solution and have therefore submitted their summaries and proposed solutions.[2] The proposed solutions do, however, reflect near unanimity. In fact, the parties have submitted a Memorandum of Understanding (Memorandum) in which only one portion, paragraph 9(f), is in dispute.[3] The entire Memorandum appears as Appendix A. An alternate paragraph 9(f) submitted by WUI is contained in Appendix B. No other proposed paragraphs were submitted although RCAG, TRT and FTC have commented on both proposals. ITT is ready to accept the Memorandum. The issue raised by paragraph 9(f) will be discussed and resolved below.

3. Paragraph 9(f) deals with the contingency of Comsat being allowed to become a retailer as contemplated in *Authorized User*, CC Docket No. 800170, FCC 800219, released May 6, 1980. The parties are in agreement to allow Comsat to provide technical operating services on the IRCs' circuits at the INTELSAT earth stations as long as Comsat remains a wholesaler. The question that the parties could not resolve was whether Comsat or the individual IRCs would service the IRC equipment once Comsat became a retailer. WUI suggests in its paragraph 9(f) the IRCs be given the option of direct manned access at the ESOC earth stations if and when Comsat becomes a retail carrier. WUI states that only this option can assure an IRC of continuing to provide quality private line and specialized services. Comsat proposes that it continue to service the IRCs' circuits even after it becomes a retailer. Comsat would, however, permit an IRC to renegotiate or withdraw from the arrangement under the paragraph 9(f) that it has submitted in the Memorandum.

4. RCAG and FTC endorse WUI's position. RCAG states that the IRCs should be allowed to assume full responsibility for their own equipment in the event Comsat is authorized to become a retail carrier. FTC states that no carrier should be required to hire its direct competitor to provide vital services on its circuits. TRT states that the impact of allowing Comsat to provide retail services in competition with the IRCs must be resolved in the *Authorized User* proceeding before Comsat is permitted to provide such services.

5. Since the parties are in agreement as long as comsat is not a retailer, we believe that the best solution is an interim one which adopts the submitted Memorandum but deletes paragraph 9(f).

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[1] The five IRCs are Western Union International, Inc. (WUI), RCA Global Communications, Inc. (RCAG), ITT World Communications Inc. (ITT), TRT Telecommunications Corporation (TRT), and FTC Communications, Inc. (FTC).

[2] Submissions were made by WUI on May 30, 1980, RCAG on May 30, 1980, ITT on June 3 and June 11, 1980, Comsat on June 3, 1980, FTC on June 5, 1980 and TRT on June 4, 1980.

[3] The Memorandum was submitted by Comsat on June 3, 1980.

The question of IRC access to ESOC earth stations will be deferred to the Commission in connection with its consideration of Comsat's participation in the retail market and related issues.

6. Accordingly, It is Ordered that the Memorandum of Understanding submitted by Comsat on June 3, 1980, with paragraph 9(f) deleted, is hereby adopted as the interim solution to the access problem at the INTELSAT earth stations.

7. It Is Further Ordered that the parties will execute the Memorandum of Understanding and submit it to the Commission within 30 days of the release date of this order.

8. It Is Further Ordered, that the Commission shall retain jurisdiction over this matter during its one year term and any extensions thereof to make any modifications required by the public interest.

9. This order is issued under Section 0.291 of the Commission's Rules on Delegations of Authority and is subject to review under Section 1.115 of the Rules on Practice and Procedure.

Federal Communications Commission.

**Philip L. Verveer,**

*Chief, Common Carrier Bureau.*

**Appendix A**

**Memorandum of Understanding**

Pursuant to a request of the Federal Communications Commission (the Commission) contained in a *Policy Statement and Order* (FCC 79–841) released on February 27, 1980 in Docket No. 19660 (76 FCC 2d 115), *In the Matter of International Record Carriers' Scope of Operations*, representatives of the Communications Satellite Corporation (COMSAT) and the undersigned International Record Carriers (IRCs), met during the months of March, April and May 1980 for the purpose of reaching an agreement permitting the prompt and efficient establishment and operation of international "gateway" facilities at the Contiguous U.S. International Earth Stations, managed by COMSAT, for use in the provision by the IRCs of their authorized private line and specialized services. As a result of the discussions held at these meetings, these Parties have reached such an agreement and desire to set forth their agreement in this Memorandum of Understanding as a means of formalizing their obligations one to another and for the purpose of complying with the Commission request contained in the *Policy Statement and Order*.

Accordingly, the Parties agree as follows:

1. *COMSAT Undertakings.* Comsat, acting on behalf of itself and the other Joint Owners of the Contiguous United States International Earth Stations (see *In the Matter of Earth Station Ownership Arrangements*, 5 FCC 2d 812 (1966)), has agreed to provide and will provide, beginning on the Effective Date of this Agreement, the following space allocation and associated services to each IRC separately in accordance with the charges specified in Paragraph 9 below entitled *Charges:*

(a) Floor space sufficient to accommodate the installation at each Contiguous U.S. International Earth Station of two (2) standard 19 inch equipment racks, each with a depth not to exceed 38 inches;

(b) a maximum of three (3) kilowatts of power per rack; and

(c) Technical operating services whereby COMSAT will:

(i) Receive, record and analyze IRC trouble reports;

(ii) Perform fault isolation on IRC circuits;

(iii) Clear faults in the international space segment;

(iv) Refer faults at other locations to the IRC for clearing action;

(v) Provide return of service reports, status reports on outages, and periodic service reports to the IRC;

(vi) Perform routine circuit testing.

In the provision of such technical operating services, COMSAT will provide a priority of attention equal to that given to its own operations. The existing Contiguous U.S. International Earth Stations (hereinafter referred to as "Earth Stations") are located at Etam, West Virginia; Andover, Maine; Jamesburg, California; and Brewster, Washington.

2. *Segregation and Security of Equipment.* COMSAT will endeavor to segregate the rack equipment of each IRC from that of the other IRCs to the extent feasible, and will endeavor to comply with individual IRC requests for space capable of being secured.

3. *IRCs' Responsibilities and Undertakings.* Subject to the terms of this Agreement, each IRC shall be solely responsible for the ownership, installation and maintenance of equipment utilized by it at such U.S. International Earth Stations, as well as for all of its customer circuits terminated at such facilities. To assist COMSAT in the provision of the above services required by this Agreement, each IRC further agrees (i) to provide COMSAT with a complete set of drawings detailing the circuit layouts and pertinent physical aspects of the IRC equipment located in the Earth Station, (ii) to make available all necessary test equipment and (iii) to furnish COMSAT with the name of the designated IRC recipient for the information to be provided by COMSAT under Section 1(c) of this Agreement. Each IRC shall be responsible for the installation, initial engineering and reengineering, testing and maintenance of its equipment.

4. *IRC-Provided Equipment.* Title to and responsibility for all IRC-provided equipment shall remain with the IRC, and COMSAT assumes no responsibility for either installation or maintenance of IRC-provided equipment. Execution of this Agreement shall not confer any additional interest in the Earth Stations to the IRCs.

5. *Access.* Each IRC shall be prmitted access to its equipment as required under this Agreement, subject only to restrictions required by operational considerations, as determined by COMSAT, which restrictions will not be arbitrarily or unreasonably imposed. COMSAT shall make reasonable parking space available in its parking lot for cars of the IRCs. In addition, the IRC shall have the right to use the sanitary facilities and canteen. The IRCs shall not by commission or omission, interfere with the other activities of the station. The IRCs shall abide by all station rules and coordinate their activities with the Earth Station Manager or his designee.

6. *Term.* The Initial Service Term is one (1) year. The Effective Date of such term shall commence ninety (90) days from the date the IRCs are authorized by the Commission to provide services from the U.S. International Earth Station "gateways", or from the date when the provision of these facilities and technical operating services by COMSAT to the IRCs is approved by the Joint Owners of the Contiguous U.S. International Earth Stations, whichever occurs later. The Term shall be automatically extended in increments of one (1) year (the Additional Service Terms), unless terminated as provided for in paragraph 11.

7. *Charges.* (a) The following COMSAT charges shall apply to the provision of services under this Agreement:

(i) services provided under paragraph 1(a) and 1(b) above;—$400, per rack annually,

(ii) services provided under paragraph 1(c)

*Monthly Charge Per Circuit for each Earth Station*

| Type of circuit: | |
|---|---|
| AVD/SVD | $205 |
| 50/56 Kbps | 310 |

(b) These charges are subject to review and adjustment by COMSAT at the end of each one (1) year service

period in accordance with the provision of Paragraph 9(c) of this Agreement.

(c) In addition to the charges specified above individual IRCs shall be liable for any additional charges COMSAT may impose in meeting the requirements set forth in Paragraphs 2, 11 and 12.

8. *Payment.* (a) Payments of the charges specified in Paragraph 9 shall be made by the IRCs to COMSAT within thirty (30) days after the date of invoice. Invoices shall be issued by COMSAT at the end of each calendar month. An additional charge of 1.5 percent per month may be imposed on any amounts due which are not received by COMSAT within thirty (30) days from the date of invoice. Such additional charges will be computed from the end of the thirty (30) day period.

(b) If the required payment, and interest due thereon, has not been received within a period of thirty (30) days after the due date, COMSAT may, without any further obligation, terminate this Agreement with, or pursue other appropriate actions against, the defaulting IRC.

9. *Termination.* (a) Any IRC may terminate its obligations under this Agreement by providing all other Parties with written notice of its intent to terminate no less than thirty (30) days prior to the expiration date of the Initial Service Term of any Additional Service Term. Except as provided in Paragraphs d and e below, a terminating IRC shall have no further obligations under this agreement.

(b) COMSAT, subject to any necessary regulatory approvals, may terminate its obligations under this Agreement, without further liability to the IRCs, by providing all Parties with written notice of its intent to terminate no less than sixty (60) days prior to the expiration date of the Initial Service Term or any Additional Service Term.

(c) COMSAT may modify its obligations to provide services under this Agreement at any time after the Initial Service Term. In the event COMSAT elects to modify its obligations, including its charges imposed hereunder, COMSAT shall provide each IRC with written notice sixty (60) days prior to the effective date of the proposed changes. Such notice shall contain the modified terms and conditions for continued service. Each IRC shall have thirty (30) days from the date of such notice from COMSAT to agree to the revised terms and conditions, or to such other terms as may be mutually agreed upon, or to terminate this Agreement.

(d) In the event of termination, each IRC shall have thirty (30) days in which to remove its equipment from the Earth Stations. Failure to promptly remove the equipment may result in additional charges to the individual IRC.

(e) All terminating IRCs shall promptly pay any charges due for services rendered or costs incurred as provided in Paragraph 7 above.

(f) Upon the release of any FCC decision or enactment of any legislation permitting COMSAT to provide retail services, other than T.V., from earth stations covered by this Agreement in competition with the other parties to this Agreement, any IRC may terminate its obligations under this Agreement without penalty or request renegotiation of its terms and conditions by providing all other parties with thirty (30) days written notice.

10. *Indemnification.* Each IRC shall indemnify and hold COMSAT and the other Joint Owners of the Contiguous United States International Earth Stations and their officers, agents, servants, subsidiaries, affiliates, designees, employees or assignees and any subsequent owner or lessee of the Earth Stations, or any of such persons, harmless from any loss, damage, liability or expense, on account of damage to property public or private, including but not limited to the property of COMSAT, and injuries, also death, to all persons, including but not limited to employees of the IRC, or its subcontractors and of all other persons performing any work hereunder, arising from any occurrence caused by any act or omission of the IRC, or its contractors, or any of them, and at its expense shall defend any suits or other proceedings brought against said indemnities, or any of them, on account thereof, and shall pay all expenses and satisfy all judgments which may be incurred by or rendered against them, or any of them, in connection therewith.

11. *Optional Additional Space and Power Supply.* COMSAT, acting on behalf of the Joint Owners, will also endearvor to provide, on an equal basis for all IRCs, sufficient space and/or power to accommodate additional racks of equipment and/or additional power requirements as requested. The terms applicable to the additional space and power requirements shall be subject to separate agreement between the requesting IRC and COMSAT.

12. *Optional COMSAT Purchase or Lease of Equipment.* Subject to separate agreement, COMSAT will acquire and provide the necessary equipment (including racks, special line equipment, and special test equipment) for those IRCs who do not desire to provide their own equipment at the Earth Stations. COMSAT will also provide installation, testing, equipment maintenance and related services to requesting IRCs.

13. *Additional Carriers.* Additional carriers authorized by the Commission to establish and operate "gateways" at International Earth Stations shall be entitled to obtain the services set forth in this Agreement under equal terms and conditions and on a non-discriminatory basis.

14. *Notices.* Each party to this Agreement shall designate in writing an individual to receive any Notice required under this Agreement, and shall furnish the name of this individual to all other parties in a timely fashion.

In Witness Whereof the Parties have executed this Memorandum of Understanding this ——— day of ———, 1980.

Communications Satellite Corporation
By ———

ITT World Communications, Inc.
By ———

RCA Global Communications, Inc.
By ———

Western Union International, Inc.
By ———

FTC Communications, Inc.
By ———

TRT Telecommunications Corporation
By ———

[FR Doc. 80-20904 Filed 7-11-80; 8:45 am]
BILLING CODE 6712-01-M

## FEDERAL RESERVE SYSTEM

### Beutler, Inc.; Proposal To Continue To Engage in General Insurance Agency Activities

Beutler, Inc., Ness City, Kansas, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to continue to engage in the activity of acting as general insurance agent in a community with a population not exceeding 5,000. These activities would be performed from an office of Applicant, d.b.a. Krug Insurance Agency, Ness City, Kansas, and the geographic area to be served in Ness City, Kansas. This activity has been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater

convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than July 31, 1980.

Board of Governors of the Federal Reserve System, July 7, 1980.

**Cathy L. Petryshyn,**

*Assistant Secretary of the Board.*

[FR Doc. 80-20941 Filed 7-11-80; 8:45 am]

BILLING CODE 6210-01-M

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### Crawfordsville Insurance Agency, Inc.; Proposed Retention of General Insurance Business

Crawfordsville Insurance Agency, Inc., Crawfordsville, Iowa, has applied, pursuant to § 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to retain its general insurance business.

Applicant states that it engages in the activities of a general insurance agency selling all kinds of insurance, including fire, life, casualty, auto, minor bonding for notaries public, grain dealers, livestock dealers, and other incidental services. These activities would be performed from offices of Applicant in Crawfordsville, Iowa, and the geographic area to be served includes Crawfordsville and the immediately surrounding area. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reaonsably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than August 8, 1980.

Board of Governors of the Federal Reserve System, July 8, 1980.

**Cathy L. Petryshyn,**

*Assistant Secretary of the Board.*

[FR Doc. 80-20940 Filed 7-11-80; 8:45 am]

BILLING CODE 6210-01-M

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### Ellingson Corp.; Proposed Continuation of Insurance Agency Activities

Ellingson Corporation, Kenyon, Minnesota, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to continue general insurance agency activities through Security Insurance Agency, Kenyon, Minnesota.

Applicant states that the agency would engage in the activities of acting as a general insurance agency. These activities would be performed from offices of Applicant's subsidiary bank in Kenyon, Minnesota, and the geographic area to be served generally is the area within a ten mile radius of Kenyon, Minnesota. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than August 7, 1980.

Board of Governors of the Federal Reserve System, July 7, 1980.

**Cathy L. Petryshyn,**

*Assistant Secretary of the Board.*

[FR Doc. 80-20938 Filed 7-11-80; 8:45 am]

BILLING CODE 6210-01-M

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### Stephen Adams & Co., Inc.; Proposed Retention of General Insurance Agency Activities

Stephen Adams & Company, Inc., Wayzata, Minnesota, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to continue to engage in the activity of acting as agent for the sale of general insurance located in a town having a population not exceeding 5,000. These activities would be performed from offices of Applicant's subsidiary bank in Gibbon, Nebraska, and the geographic areas to be served include Buffalo, Kearney and a portion of Hall Counties, Nebraska. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of

the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than August 6, 1980.

Board of Governors of the Federal Reserve System, July 7, 1980.

**Cathy L. Petryshyn,**

*Assistant Secretary of the Board.*

[FR Doc. 80-20939 Filed 7-11-80; 8:45 am]

BILLING CODE 6210-01-M

## Continental Bank International; Corporation To Do Business Under Section 25(a) of the Federal Reserve Act, Establishment of U.S. Branch of a Corporation To Be Organized Under Section 25(a)

An application has been submitted for the Board's approval of the organization of a corporation to do business under section 25(a) of the Federal Reserve Act ("Edge Corporation"), to be known as Continental Bank International, Chicago, Illinois. Continental Bank International would operate as a subsidiary of Continental Illinois National Bank and Trust Company of Chicago, Chicago, Illinois. The proposed corporation has also applied for the Board's approval under § 211.4(c)(1) of Regulation K (12 CFR 211.4(c)(1)), to establish branches in Los Angeles, California; Miami, Florida; New York, New York; and Houston, Texas. The factors that are considered in acting on these applications are set forth in § 211.4(a) of the Board's Regulation K (12 CFR 211.4(a)).

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the applications should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than July 25, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identify specifically any questions of fact that are in dispute and summarize the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, July 9, 1980.

**Griffith L. Garwood,**

*Deputy Secretary of the Board.*

[FR Doc. 80-20968 Filed 7-11-80; 8:45 am]

BILLING CODE 6210-01-M

## GENERAL SERVICES ADMINISTRATION

### GSA Bulletin FPR 37, Federal Procurement Supplement 6; Companies Not in Compliance With Voluntary Wage and Price Standards

1. *Purpose.* This supplement provides a complete relisting of all companies that have been determined to be, and are now, in noncompliance with the Voluntary Wage and Price Standards formulated under Executive Order 12092.

2. *Expiration date.* This bulletin contains information of a continuing nature and will remain in effect until canceled.

3. *Substance.* Attachment A is the June 3, 1980, letter from the Administrator, Office of Federal Procurement Policy, to GSA and DOD. The letter includes the list of companies that are in noncompliance with the Voluntary Wage and Price Standards. The list supersedes lists previously published in GSA Bulletin FPR 37, and Supplements 1 through 5 to the bulletin.

4. *Cancellation.* This bulletin cancels paragraph 4 of GSA Bulletin FPR 37, dated August 17, 1979; Supplement 1, dated September 14, 1979; Supplement 2, dated November 16, 1979; Supplement 3, dated January 18, 1980; Supplement 4, dated February 13, 1980; and Supplement 5, dated May 12, 1980.

**Gerald McBride,**

*Assistant Administrator for Acquisition Policy.*

**[GSA Bulletin FPR 37; Supplement 6]**

Executive Office of the President,
Office of Management and Budget,
*Washington, D.C. June 3, 1980.*

Memorandum To: The Secretary of Defense,
The Administrator of General Services.
From: Karen Hastie Williams, Administrator,
Office of Federal Procurement Policy.
Subject: Companies not in compliance with the Voluntary Wage and Price Standards.

The Council on Wage and Price Stability has determined that the following companies are not in compliance with the Voluntary Wage and Price Standards formulated pursuant to Executive Order 12092 (43 Federal Register 51375). The list is current as of June 2, 1980.

| Company | Original date listed |
|---|---|
| Cement Division Compliance Unit of Ideal Basic Industries, Inc., P.O. Box 8789, Denver, Colorado 80201 | June 15, 1979. |
| Northwestern Steel and Wire Co., 121 Wallace Street, Sterling, Illinois 61081 | July 24, 1979. |
| Mason Contractors of DuPage County, P.O. Box 129, Mount Prospect, Illinois 60056 | July 24, 1979. |
| American Hoechst Corporation, Route 202-206, North Somerville, New Jersey 08876 | October 23, 1979. |
| SCOA Industries, Inc., 155 East Broad Street, Columbus, Ohio 43215 | October 23, 1979. |
| National Electrical Contractors Association (Oregon-Columbia Chapter), 201 S.W. Arthur Street, Portland, Oregon 97201 | October 23, 1979. |
| The Eureka Company, 1201 East Bell Street, Bloomington, Illinois 61701 | November 27, 1979. |
| Portland Association of Plumbing, Heating and Cooling Contractors (two noncomplying agreements), 0612 S.W. Idaho, Portland, Oregon 97201 | November 27, 1979. |
| Sheetmetal Association, Inc., c/o 3434 S.W. Water Avenue, Portland, Oregon 97201 | November 27, 1979. |
| San Diego Contracting Lathers Association, 7855 Ostrow Street, San Diego, CA 92111 | November 27, 1979. |
| "All other" compliance unit of Gifford-Hill & Comany, Inc. (which includes all products exclusive of transportation, irrigation and metal building products), 8435 Stimmons Freeway, P.O. Box 47127, Dallas, Texas 75247 | December 27, 1979. |
| Boston Distributors, a compliance unit of Cook United, Inc., 16501 Rockside Road, Cleveland, Ohio 44137 | January 21, 1980. |
| National Gypsum Company, 4100 First International Building, Dallas, Texas 75270 | January 21, 1980. |
| Crown Central Petroleum Corp., One North Charles, P.O. Box 1168, Baltimore, Maryland 21203 | March 25, 1980. |
| Gust K. Newberg Company & Assoc. (out of compliance only in Will County and vicinity, Illinois), 2049 North Ashland Avenue, Chicago, Illinois 60614 | March 25, 1980. |
| Mid-America Regional Bargaining Association, 228 North LaSalle Street, Chicago, Illinois 60601 | March 25, 1980. |
| Contractors Association of Will and Grundy Counties, 254 1/2 Rusy Street, Joliet, Illinois 60435 | March 25, 1980. |
| Residential Construction Employees Council, 1010 Jorie Boulevard, Suite 112, Oak Brook, Illinois 60521 | March 25, 1980 |
| Koch Fuels, Inc., a compliance unit of Koch Refining Company, P.O. Box 31, Gloucester City, N.J. 08030 | April 2, 1980. |
| Church's Fried Chicken, Inc., P.O. Box BH001, San Antonio, Texas 78284 | April 2, 1980. |
| Monolith Portland Cement Co., P.O. Box 3303 Terminal Annex, Suite 201, Gendale, California 91202 | April 18, 1980. |
| Dundee Cement Company and its subsidiary Santee Portland Cement Company, P.O. Box 122, Dundee, Michigan 48131 | May 2, 1980. |
| Hyatt Hotels compliance unit of Hyatt Corporation (which includes all hotels owned or managed by the Hyatt Corporation), 9701 W. Higgins Road, Rosemont, Illinois 60018 | May 20, 1980. |
| Air Conditioning and Refrigeration Contractors Association, 870 Market Street, San Francisco, California 94102 | May 30, 1980. |
| Industrial Contractors, (UMIC, Inc.), P.O. Box 1005, Tiburon, California 94920 | May 30, 1980. |

| Company | Original date listed |
|---|---|
| Plumbing Heating Piping Employers Council, 36 Tiburon Blvd., Mill Valley, California 94941 | May 30, 1980. |
| Residential Plumbing and Mechanical Contractors of North California, 1545 B Palos Verdes Mall, Walnut Creek, California 94596 | May 30, 1980. |
| Santa Clara Valley Contractors Association, 400 Reed Street, Santa Clara, California 95050 | May 30, 1980. |

This supersedes the previous list promulgated by OFPP memorandum of April 29, 1980. It should be noted that with respect to certain companies, the compliance unit or geographical area of noncompliance has been specified.

Pursuant to the terms of Office of Federal Procurement Policy Letter 78–6 dated December 27, 1978, I request that you publish this information in a Defense Acquisition Circular and Federal Procurement Regulations Bulletin.

[FR Doc. 80–20889 Filed 7–11–80; 8:45 am]

BILLING CODE 6820–61–M

## GSA Bulletin FPR Federal Procurement; Current Interest Rate of 10 1/2 Percent Under Pub. L. 92–41.

July 2, 1980.

1. *Purpose.* This bulletin provides, for the information of exective agencies, the current interest rate established by the Secretary of the Treasury under Pub. L. 92–41 (85 Stat. 97) for the Renegotiation Board.

2. *Expiration date.* This bulletin expires December 31, 1980, unless sooner revised or superceded.

3. *Background.* The interest rate determined by the Secretary of the Treasury, as required by Pub. L. 92–41 for Renegotiation Act purposes, has been applied to various interest rate payment requirements in the FPR. For the January 1—June 30, 1980, period, the interest was announced in GSA Bulletin FPR 40. Use of the Renegotiation Act rates will be continued for the present. As previously indicated, the propriety of this arrangement is being discussed with the Department of the Treasury.

4. *Agency information.* The Secretary of the Treasury has established an interest rate of 10½ percent as applicable to the 6–month period beginning on July 1, 1980, and ending on December 31, 1980. The following sections of the Federal Procurement Regulations are affected by the interest rate:

1–3.1204–1, 1–3.1204–2, 1–7.203–15, 1–8.212–1(f), 1–8.701, 1–8.702, 1–8.703, 1–8.704–1, 1–8.706, 1–8.804–2(b), 1–8.806–4, 1–30.403, 1–30.414–2(k)(2), 1–30.414–2(n)(3), and FPR Temporary Regulation 55, dated May 23, 1980, (45 FR 35815, May 28, 1980)

**Gerald McBride,**

*Assistant Administrator for Acquisition Policy.*

[FR Doc. 80–20887 Filed 7–11–80; 8:45 am]

BILLING CODE 6820–61–M

[E–80–15]

## Delegation of Authority to the Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in proceedings before the Minnesota Public Service Commission involving electric rate increases.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the Federal executive agencies before the Minnesota Public Service Commission involving the application of the Minnesota Power and Light Company for an increase in its electric rates.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

Dated: July 3, 1980.

**Ray Kline,**

*Acting Administrator of General Services.*

[FR Doc. 80–20888 Filed 7–11–80; 8:45 am]

BILLING CODE 6820–AM–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Public Health Service

### National Institutes of Health; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HN (National Institutes of Health) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (40 FR 22859, May 27, 1975, as amended most recently at 44 FR 66697, November 20, 1979), is amended to reflect the following changes in the National Cancer Institute (NCI): (1) modification of the functions of the Office of International Affairs within the Office of the Director; (2) modification of the functions and internal organization of the Division of Cancer Biology and Diagnosis; (3) modification of the functions and internal organization of the Division of Cancer Cause and Prevention; (4) modification of the functions and internal organization of the Divison of Cancer Control and Rehabilitation and change of name to the Division of Resources, Centers, and Community Activities; (5) change of name of the Division of Cancer Research Resources and Centers to the Division of Extramural Activities; (6) modification of the functions of the Division of Cancer Treatment. These changes reflect a restructuring of several current organizational components which will strengthen existing programs and initiate new program activities.

*Sec. HN–B Organization and Functions* is amended as follows:

Under the heading, *National Cancer Institute (HNC),* make the following changes:

Delete the statement for the *Office of International Affairs (HNC15)* and all the following statements (*HNC6*) through (*HNC43*) in their entirety and substitute the following:

*Office of International Affairs (HNC15)*

(1) Coordinates the planning, management, and evaluation of the international research, control and information activities of the National Cancer Program; (2) serves as National Cancer Institute focal point with the Fogarty International Center, the Office of International Health, the State Department, and other Federal organizations involved in international health activities; (3) coordinates cancer activities under bilateral agreements between the United States and other countries; (4) plans and implements programs for the international exchange of scientists; and (5) maintains liaison with international agencies involved in the National Cancer Program.

*Division of Cancer Biology and Diagnosis (HNC2)*

(1) Plans and directs the research activities of the National Cancer Institute relating to cancer biology and diagnosis; (2) maintains surveillance over developments in its program and assesses the national need for research in cancer biology and diagnosis; and (3) maintains the necessary scientific

management capability to foster and guide an effective research program.

*Immunology Intramural Research Program (HNC22)*

(1) Plans, directs, coordinates, and evaluates a program of basic research on immunology and cell biology and applied research on tumor immunology; (2) establishes program priorities, allocates resources, integrates the projects of the various branches, evaluates program effectiveness, and represents program area in management and scientific decision-making meetings within the Institute; (3) through intramural laboratories, administers research in basic immunology (including cellular immunology, immunochemistry, protein chemistry, transplantation immunology, and tumor immunology) and cell biology, as well as applications of immunology and cell biology to studies of the biology, diagnosis, and treatment of neoplastic diseases; and (4) advises the Division Director, the Institute Director, and other Institute staff on the immunology intramural research and areas of science of interest to the Institute.

*Extramural Research Program (HNC23)*

(1) Plans, directs, coordinates, and evaluates a program of basic and applied research on cancer biology and diagnosis and also monitors the professional aspects of research contract and grant management; (2) establishes program priorities, allocates resources, integrates the projects of the various branches, evaluates program effectiveness, and represents program area in management and scientific decision-making meetings within the Institute; (3) through grants and research contracts, administers studies in the cancer biology and diagnosis of cancer; and (4) advises the Division Director, the Institute Director, and other Institute staff on the extramural research and areas of science of interest to the Institute.

*Intramural Research Program (HNC24)*

(1) Plans, directs, coordinates and evaluates a program of basic research on cancer biology and diagnosis; (2) establishes program priorities, allocates resources, integrates the projects of the various branches, evaluates program effectiveness, and represents program area in management and scientific decision-making meetings within the Institute; (3) through intramural laboratories, administers research in basic cancer biology (including biochemistry, pathophysiology, molecular biology, and theoretical biology) and diagnosis, as well as applications of cancer biology and diagnosis to studies in metabolism, dermatology, and pathology; and (4) advises the Division Director, the Institute Director, and other Institute staff on the intramural research and areas of science of interest to the Institute.

*Division of Cancer Cause and Prevention (HNC3)*

(1) Plans and directs a national program of laboratory, field, and demographic research on the cause and natural history of cancer and means for preventing cancer through direct intramural research, research grants and contracts; (2) evaluates mechanisms of cancer induction by viruses and by environmental carcinogenic hazards; (3) tests for carcinogenic potential of environmental agents; (4) serves as the focal point for the Federal Government on the syntheses of clinical, epidemiological, and experimental data relating to cancer; and (5) participates in the evaluation of and advises the Institute Director on program related aspects of the other grant and cancer control activities as they relate to cancer cause and prevention.

*Office of the Director (HNC31)*

(1) Plans, directs, and coordinates a program of laboratory, field, and biometric and epidemiologic research on the cause, prevention, and natural history of cancer; (2) evaluates environmental carcinogenic hazards, mechanisms of cancer induction, and the natural history of neoplasms; and (3) serves as the focal point for the Federal Government on the synthesis of clinical, epidemiological and experimental data relating to cancer cause and prevention; and (4) develops, maintains, and manages the International Cancer Research Data Bank programs.

*Field Studies and Statistics Program (HNC33)*

(1) Plans, directs, coordinates, and evaluates a program of epidemiologic, statistical, and mathematical research activities and statistical and automatic data processing services for all NCI research programs; (2) establishes program priorities, allocates resources, integrates the projects of various branches, evaluates program effectiveness, and represents program area in management and scientific decision-making meetings within the Institute; (3) through intramural and contract activities, administers research in biometry and epidemiology and the development of mathematical models and statistical methodology; and (4) advises the Division Director and supports the activities of the National Cancer Advisory Board and other scientific advisory committees.

*Bioassay Program (HNC35)*

(1) Plans, directs, and conducts a collaborative program for the *in vivo* and *in vitro* testing of chemical and physical agents in the environment for carcinogenic and cocarcinogenic effects; (2) establishes program priorities, allocates resources, evaluates effectiveness, represents program area in management and scientific decisionmaking meetings in the Institute, and coordinates with other related programs in the Institute, including the Clearinghouse for Environmental Carcinogens; (3) administers research in the development and evaluation of standardized methods, designs and models for *in vivo* and *in vitro* carcinogenesis testing, related toxicology, and tumor pathology; (4) establishes, maintains, and provides technical, scientific, and management information/reporting resources for monitoring, analyzing, and disseminating program findings; and (5) advises the Division Director on carcinogenesis testing and supports the activities of the National Cancer Advisory Board and other scientific advisory committees with regard to the program.

*Carcinogenesis Intramural Program (HNC36)*

(1) Plans, implements, and administers the Institute's program of general laboratory research on cancer causation by chemical, physical, and biological (viral) factors, and on the pathogenesis and prevention of various cancers; and (2) provides projects officers for monitoring collaborative research activities of the Division.

*Carcinogenesis Extramural Program (HNC37)*

(1) Develops, evaluates, and administers the Institute's program of research grant, contract, and similarly supported extramural activities in cancer causation and prevention; (2) responsible for program management, including improved management methods and practices, as well as maintaining liaison for extramural activities with various organizations and scientists; and (3) assists in the allocation of resources and evaluation of program priorities for these activities.

*Division of Resources, Centers, and Community Activities (HNC4)*

(1) Plans and conducts research, evaluation, demonstration, technology transfer, education and information

dissemination programs to expedite optimal use of new information relevant to the prevention, detection, and diagnosis of cancer, and the pretreatment evaluation, treatment, rehabilitation, and the continuing care of cancer patients in the community and in cancer centers; (2) plans, directs, and coordinates the support of cancer research at cancer centers and through organ site programs; (3) plans and conducts basic and applied research programs in pain and rehabilitation; (4) supports professional and paraprofessional clinical education, research training, and continuing education; (5) administers project grant programs for the construction, alteration, renovation, and equipping of basic and clinical research facilities; and (6) coordinates program activities with related activities in other divisions of NCI, the National Toxicology Program, other NIH Institutes, other Federal and state agencies and establishes liaison with professional and voluntary health agencies, labor organizations, and trade associations.

*Office of the Director (HNC41)*

(1) Plans, directs, and coordinates the Institute's prevention intervention, treatment intervention, and research resources programs through independent and cooperative studies with universities, state agencies, private industries and other Federal agencies; (2) develops close liaison with public health groups and agencies, cancer centers, public and professional educational organizations, labor organizations, trade and professional associations, voluntary health organizations, and regulatory agencies in order to facilitate communication, information exchange, and cooperation; (3) collaborates closely with all NCI divisions and offices, the National Toxicology Program, other NIH Institutes, and other national and international research organizations; (4) disseminates relevant prevention, detection, diagnosis, treatment, rehabilitation, and continuing care information to the lay and professional communities; and (5) provides analytic, administrative and management support to the Division.

*Prevention, Detection, and Diagnosis Program (HNC42)*

(1) Identifies new research findings that are of importance for prevention, early detection or diagnosis; (2) plans and conducts research necessary to further develop and ensure validity of measures for the prevention, early detection or diagnosis of cancer and to evaluate such programs when applied to the general population; (3) plans and conducts research to analyze, evaluate, and refine cancer prevention, detection and diagnosis strategies to assure maximum benefits to the largest possible population with the least risk and cost; and (4) demonstrates prevention, detection and diagnosis activities in cancer centers and communities and in selected populations.

*Treatment, Continuing Care, and Rehabilitation Program (HNC43)*

(1) Plans and conducts basic research programs in pain and rehabilitation; (2) identifies new research findings that are of importance for treatment, continuing care or rehabilitation of cancer patients; (3) plans and conducts research to determine best methods for limiting morbidity and mortality of cancer through participation of community physicians, community hospitals, and other community agencies in the treatment of cancer; (4) plans and conducts research necessary to further develop and ensure validity of measures for the continuing care or rehabilitation of cancer patients; (5) plans and conducts research to determine best methods for implementing new research findings of importance for cancer treatment, continuing care and rehabilitation to assure maximum benefits to the largest possible population with the least risk and cost; and (6) demonstrates treatment, continuing care and rehabilitation activities in cancer centers and communities.

*Research, Resources Program (HNC44)*

(1) Plans, directs, and evaluates a program of exploratory grants and care support grants for cancer research centers; (2) plans and conducts coordinated research programs on cancers of high incidence, e.g., urinary bladder, large bowel, pancreas, and prostate through the Organ Site Programs; (3) plans and conducts research resource activities including construction, professional and paraprofessional clinical education, research training, and continuing education; and (4) develops additional research resources as needed.

*Division of Extramural Activities (HNC5)*

(1) Administers and directs the Institute's grant and contract review, and processing activities; (2) provides initial technical and scientific merit review of grants and contracts for the Institute; (3) provides grants management for the Institute; (4) represents the Institute on overall NIH extramural and collaborative program policy committees, coordinates such policy within NCI, and develops and recommends NCI policies and procedures as related to the review of grants and contracts; (5) coordinates the Institute's review of research grant and training programs with the National Cancer Advisory Board and the President's Cancer Panel; (6) coordinates the implementation of committee management policies within the Institute and provides the Institute's staff support for the National Cancer Advisory Board and the President's Cancer Panel; (7) coordinates program planning and evaluation in the extramural area; (8) provides scientific reports and analyses to the Institute's grant and contract programs; (9) provides financial data and analyses on grants and contracts to the Institute; and (10) recommends to the Director, NCI, funding levels of extramural programs.

*Division of Cancer Treatment (HNC6)*

(1) Plans, directs, and coordinates an integrated program of cancer treatment activities with the objective of curing or controlling cancer in man by utilizing combination modalities including chemical, surgical, radiological, nutrition, antiemetic research, and certain immunological techniques, through intramural laboratory and clinical studies, contract and grant research, and research conducted in coorperation with other Federal agencies; (2) administers a total drug development program encompassing all phases from drug acquisition up to and including clinical trials; and (3) serves as the national focal point for information and data on experimental and clinical studies related to cancer treatment and for the distribution of such information to appropriate scientists and physicians.

*Clinical Oncology Program (HNC62)*

(1) Plans, directs, coordinates, and evaluates patient care activities of the NCI and a program of basic, applied, and clinical research in cancer treatment; (2) establishes program priorities, allocates clinical resources, integrates the projects of the various branches, evaluates program effectiveness, and represents the program area in management and scientific decision-making meetings within the Institute; (3) through intramural studies and contracts, administers research in surgery, radiotherapy, chemotherapy and combined modalities of treatment; and (4) advises the Division Director, the National Cancer Advisory Board, and other scientific advisory committee.

*Baltimore Cancer Research Program (HNC63)*

(1) Plans, directs, coordinates, and evaluates a program of laboratory and clinical research carried on by the NCI Baltimore Cancer Research Center; (2) establishes program priorities, allocates resources, integrates the projects of the various branches, evaluates program effectiveness, and represents program area in management and scientific decision-making meetings within the Institute; (3) through intramural studies and contracts, administers research and clinical support in general medical services including surgical, chemotherapeutic, and radiotherapeutic services; and (4) advises the Division Director and supports the activities of the National Cancer Advisory Board and other scientific advisory committees.

*Cancer Therapy Evaluation Program (HNC66)*

(1) Plans, evaluates and coordinates extramural clinical research programs testing combined modality approaches and the testing of investigational new agents; (2) directs the evaluation of the effectiveness of specific types and methods of cancer therapy and analyzes and assesses the applicability of new methods and agents in the clinical treatment of cancer; (3) coordinates with the Office of the Director, Division of Cancer Treatment, the exchange of scientific information with foreign organizations and institutions on all aspects of cancer treatment; (4) coordinates the activities of the branches within the Program to assure orderly evaluation and assessment of drugs and of other specific modalities in treating human malignancies; and (5) assesses the activities of the Program as a whole and advises the Division Director as to new areas of promising potential in the clinical treatment of cancer in humans.

*Development Therapeutics Program (HNC67)*

(1) Plans, directs, and conducts a basic and applied research program in the preclinical development of therapeutic modalities especially those related to chemotherapy; (2) establishes program priorities, allocates resources, maintains project integration, evaluates program effectiveness and represents the program area in management and scientific decision-making meetings in the Institute; (3) through intramural laboratories and contracts, administers research in programmed preclinical evaluation of potential cancer therapeutic agents, molecular pharmacology and toxicology of drugs, and molecular biological aspects of neoplastic transformation; (4) advises the Division Director and supports the activities of the National Cancer Advisory Board and other scientific advisory committees with regard to the program area.

Dated: June 30, 1980.

**Patricia Roberts Harris,**

*Secretary.*

[FR Doc. 80-20970 Filed 7-11-80; 8:45 am]

BILLING CODE 4110-08-M

## Privacy Act System

**AGENCY:** Department of Health and Human Services, Public Health Service.

**ACTION:** Notification of new system of records.

**SUMMARY:** In accordance with the requirements of the Privacy Act, the Public Health Service (PHS) is publishing notice of a proposal to establish a new system of records: Health Professions Planning and Evaluation, HHS/HRA/OA, 09-35-0044. We are proposing also to include routine uses with the system.

The proposed new system permits the continuation of contactual obligations and activities pursuant to a legal opinion of the Office of Management and Budget which brings these activities under the purview of the Privacy Act. The records in this system are collected by contractors and used to identify problems in the health care training and delivery systems, plan programs to correct those problems, and evaluate the effectiveness of the resultant programs.

PHS invites interested persons to submit comments on the proposed routine uses on or before August 13, 1980.

**DATES:** PHS has sent a Report of New System to the Congress and to the Office of Management and Budget on July 2, 1980. PHS has requested that OMB grant a waiver of the usual requirement that a system of records not be put into effect until 60 days after the report is sent to OMB and Congress. If this waiver is granted, PHS will publish a notice to that effect in the **Federal Register.**

**ADDRESS:** Address comments to the HRA Privacy Act Coordinator, Department of Health and Human Services, Center Building, Room 9-22, 3700 East-West Highway, Hyattsville, Maryland, 20782. We will make comments received available for public inspection at the above address during the normal business hours, 8:30 to 5:00.

**FOR FURTHER INFORMATION CONTACT:**

Ms. Kay Clarey, Privacy Act Coordinator, Health Resources Administration, Center Building, Room 9-22, 3700 East-West Highway, Hyattsville, Maryland, 20782, telephone (301) 436-7240.

**SUPPLEMENTARY INFORMATION:** The Office of the General Counsel is reexamining the applicability of the Privacy Act to records maintained by organizations under contract with the Department. In the meantime, the Health Resources Administration is proposing to establish this system which consists of individually identifiable records held by its contractors. Records are in the following general areas: 1) health professions supply and requirements, 2) educational programs in the health professions, and 3) planning of health professions programs to correct identified problems in the nation's health care training and delivery systems.

Records are indexed and retrieved by name or identifying symbol. This is done to assure the accuracy of the determination of the supply of health professionals. It is also necessary to monitor the progress of individuals participating in particular health professions education programs to evaluate the effectiveness of these programs in achieving their goals.

Information on individuals is maintained for the minimum amount of time necessary to achieve reliable results. Generally the retention and disposal procedures are specified in the project proposal documents. Unwarranted disclosures are avoided. For example, the Contracting Officer provides each contractor with the Department's guidance on safeguarding records. Project Officers emphasize the importance of protecting records and monitor compliance by the contractors. Personal identifiers are removed from records as soon as good data collection methods dictate.

The Privacy Act of 1974 allows disclosure of information without the consent of the individual for "routine uses," that is, disclosure for purposes which are compatible with the purposes for which the data are collected. Accordingly, we are establishing two routine uses for information in this system. These routine uses provide for disclosure in response to congressional inquiries made at the request of any individual included in the system of records and to an individual or organization to conduct research in the area of health professions, provided the disclosure is compatible with the purpose for which we collect the information. To determine compatibility,

the System Manager relies on the statement of work as agreed to in the contract document. For example, a request for disclosure from an organization studying the marital status and family size of nurses would not be compatible with the purpose for which we collect data on nurses, i.e., to determine the nationwide supply and distribution of nurses.

Individually identifiable data are maintained by various organizations under contract with the agency. Contractors agree to safeguard the records in accordance with requirements specified in the contract, which the Project Officer develops in compliance with Departmental guidance.

Since we propose to establish and maintain this system in accordance with the requirements of the Privacy Act, we anticipate no untoward effect on the privacy or other personal rights of individuals.

Dated: July 2, 1980.

Jack Markowitz,

*Acting Director, Office of Management.*

09-35-0044

**SYSTEM NAME:**

Health Professions Planning and Evaluation HHS/HRA/OA.

**SECURITY CLASSIFICATION:**

None.

**SYSTEM LOCATION:**

Health Resources Administration, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782.

In addition, data are at contractor and field work sites as studies are developed, data collected, and reports written. You may request a list of locations where individually identifiable data are currently located from the System Manager.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Health professionals and students in the various health professions. Physicians, dentists, pharmacists, optometrists, podiatrists, veterinarians, public health personnel, audiologists, speech pathologists, health care administration personnel, nurses, allied health personnel, medical technologists, and other health personnel may be included.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Name, address, health profession, education history, academic grades, employment history, nationality, race, ethnicity, economic background, and sex. The specific data items collected and maintained are determined by the needs of the individual project.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Public Health Service Act, Sections 708 (42 USC 292h), Health Professions Data, 787 (42 USC 295g–7), Educational Assistance to Individuals from Disadvantaged Backgrounds, 798 (42 USC 295h–6), Educational Assistance to Disadvantaged Individuals in Allied Health Training, and 820 (42 USC 296k), Special Project Grants and Contracts.

**PURPOSE(S):**

The Health Resources Administration uses various records in this system to identify problems in the health care training and delivery systems, plan programs to correct those problems, and evaluate the effectiveness of the resultant programs. The agency assesses the current supply of health professionals and predicts the supply needs of the future. We develop nationwide requirements as well as the needs of specific areas.

The agency also collects data on the educational system which supplies health professionals and on specific health education programs. We develop and test new methods of training and utilizing health professionals.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Disclosure may be made to individuals and organizations deemed qualified by the Secretary to carry out specific research solely for the purpose of carrying out such research.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

File folders, magnetic tape, card files, microfilm, microfiche, and disk storage. The needs of each project determine the types actually used.

**RETRIEVABILITY:**

By name. In some instances an assigned number may be used to retrieve records.

**SAFEGUARDS:**

Locked building, locked rooms locked file cabinets, personnel screening, locked computer rooms and computer tape vault, 24 hour guard service, password protection of automated records, and limited access to only authorized personnel may be used. Particular safeguards are selected as appropriate to the type of records included in each project. Authorized personnel are generally limited to contractor personnel directly involved in date collection, compilation, and analysis. (Safeguards are in accordance with Part 6, ADP Systems Security, of the Department's ADP Systems Manual, and Chapter 45–13, Safeguarding Records Contained in Systems of Records, of the Department's General Administration Manual.)

**RETENTION AND DISPOSAL:**

The contractor removes personal identifiers and destroys the records when they are no longer needed, as appropriate to the specific project. (Records may be retired to a Federal Records Center and subsequently disposed of in accordance with the Records Control Schedule of the Health Resources Administration.) You may obtain a copy of the disposal standard for a particular project by writing to the System Manager.

**SYSTEM MANAGER AND ADDRESS:**

Contracting Officer, HRA Center Building, Room 9–22 3700 East-West Highway Hyattsville, Maryland 20782

**NOTIFICATION PROCEDURE:**

To determine if a record exists, contact the system manager. Provide the name of the subject individual and, if possible, information about the specific project.

**RECORD ACCESS PROCEDURES;**

Contact the System Manager and provide the name of the subject individual, a reasonable description of the record and, if possible, information about the specific project.

**CONTESTING RECORD PROCEDURES:**

Contact the System Manager giving a reasonable description of the record, specify the information you want to contest, and state the corrective action sought.

**RECORD SOURCE CATEGORIES:**

Individuals in the system, State and local health departments, other health providers, health professions schools, and associations may provide information depending on the individual project involved.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

None.

[FR Doc. 80-20901 Filed 7-11-80; 8:45 am]

BILLING CODE 4110-83-M

## Health Resources Administration; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HR (Health Resources Administration) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (43 FR 39432–40, September 5, 1978) is amended to reflect revised functional statements for the Division of Management Policy, the Division of Grants and Procurement Management, the Division of Personnel Management, and the Division of Data Management, Office of Operations and Management, Office of the Administrator.

*Section HR–B, organization and functions* is amended as follows:

Under the heading *Office of Operations and Management (HRA5)*, make the following changes:

1. Delete the statement for the *Division of Management Policy (HRA51)* in its entirety and substitute the following:

*Division of Management Policy (HRA51).* (1) Develops, recommends, and provides advice and assistance on policies, methods, and procedures for the management of HRA programs; (2) Provides analysis, recommendations, and guidance related to the establishment or modification of organizational structures and functions; (3) Conducts management studies and evaluates studies of HRA conducted by outside organizations; (4) Performs a wide variety of special project assignments for the Associate Administrator for Operations and Management; (5) Conducts and coordinates HRA-wide management improvement programs; (6) Participates in program and legislative planning and implementation from the standpoint of assuring recognition of management problems; (7) Initiates or reviews proposed program and administrative delegations of authority; (8) Conducts and coordinates the HRA issuance management system; (9) Conducts and coordinates the HRA records, reports, and forms management programs; (10) Oversees and coordinates HRA implementation of legislation and directives relating to the privacy of records; (11) Oversees and coordinates HRA implementation of policies and directives relating to the security of ADP systems and facilities; (12) Maintains a policy and administrative reference file for use by agency staff; (13) Prepares and maintains the HRA Index of Policy documents required to implement freedom of Information legislation and directives; (14) Reviews and makes recommendations on intra- and interagency agreements proposed by HRA components; (15) Negotiates solutions to intra- and interagency problems and issues in such areas as organization, functions, delegations, and procedures; and (16) serves as the focal point for HRA participation in Departmental and PHS programs related to emergency preparedness and mobilization.

1. Amend the statement for the *Division of Grants and Procurement Management (HRA54)* by deleting the semicolon at the end of item (6), replacing it with a comma, and adding the following after the comma: "including coordination of responses to GAO audit reports and monitoring the implementation of GAO recommendations;".

3. Amend the statement for the *Division of Personnel Management (HRA55)* by deleting the references to "CSC" in items (6) and (7) and replacing them with "the Office of Personnel Management".

4. Amend the statement for the *Division of Data Management (HRA58)* by (a) deleting the semicolon at the end of item (4), replacing it with a comma, and adding the following after the comma: "other than the security of ADP systems and facilities;", and (b) deleting the words "and security" from item (5), deleting the semicolon at the end of item (5), replacing it with a comma, and adding the following after the comma: "and provides technical assistance to the Division of Management Policy, HRA, on matters involving the security of ADP systems and facilities;".

Dated: June 26, 1980.

**Patricia Roberts Harris,**

*Secretary.*

[FR Doc. 80-20950 Filed 7-11-80; 8:45 am]

BILLING CODE 4110-83-M

## Social Security Administration

## Redelegations of Authority To Make Various Certifications and To Cause the Department Seal To Be Affixed or Impressed

The Assistant Secretary for Management and Budget (the Assistant Secretary) of the Department of Health, and Human Services has redelegated to the Commissioner of Social Security (the Commissioner), with authority to redelegate, authority to: certify true copies of any books, records, papers or other documents on file within the Social Security Administration (SSA), or extracts from them; certify that true copies are true copies of SSA's entire file; certify the complete original record on file within SSA; certify the nonexistence of records on file within SSA; and cause the Seal of the Department to be affixed to these certifications and to agreements, awards, citations, diplomas and similar documents (44 FR 1473, dated January 5, 1979).

These redelegations by the Assistant Secretary superseded previous redelegations (34 FR 18049–50, dated November 7, 1969, and 35 FR 16384, dated October 20, 1970). However, the Assistant Secretary provided that redelegations previously made by the Commissioner were to remain in effect until appropriate new redelegations were made by the Commissioner.

The purpose of this notice is to indicate new redelegations by the Commissioner, as follows:

I. All prior redelegations of the subject authorities to SSA positions are rescinded.

II. Concurrently, the following authorities are redelegated to the SSA positions specified below; without authority to make further redelegations:

A. Authority to certify true copies of any books, records, papers or other documents on file within SSA.

B. Authority to certify extracts from material on file within SSA.

C. Authority to certify that true copies are true copies of the entire record on file within SSA.

D. Authority to certify the complete original record on file within SSA.

E. Authority to certify that particular records are not on file within SSA.

F. Authority to cause the Department Seal to be affixed or impressed to those certifications identified above.

G. Authority to cause the Department Seal to be affixed or impressed to agreements, awards, citations, diplomas and similar documents.

| Delegates | Scope of authority |
|---|---|
| 1. Deputy Commissioners of Social Security.<br>2. Associate Commissioner and Deputy Associate Commissioner for Management, Budget, and Personnel, SSA.<br>3. Associate Commissioners, Deputy Associate Commissioners, Director and Deputy Director of Civil Rights and Equal Opportunity and the Chief Administrative Law Judge, Office of Hearings and Appeals (OHA), SSA.<br>4. Office Directors, Deputy Office Directors, Division Directors and Deputy Division Directors in SSA Headquarters.<br>5. Regional Commissioners, Deputy Regional Commissioners and Assistant Regional Commissioners in the Offices of the Regional Commissioners, SSA. | 1. and 2. The incumbents of these positions may exercise any of the subject authorities for cases originating anywhere in SSA.<br>3. through 7. The incumbents of these positions may exercise any of the subject authorities for cases within their jurisdiction. |

| Delegates | Scope of authority |
|---|---|
| 6. Directors and Deputy Directors, Data Operations Centers (DOC's), Office of Central Records Operations, (OCRO), Office of Central Operations (OCO), SSA. | |
| 7. Directors, SSA Program Service Centers (PSC's), Directors (Management) and Directors (Operations), PSC's, Office of Program Service Centers OPSC), OCO, SSA. | |
| 8. Liaison Clerks, Foreign Claims Specialists, Technical Assistants, Process Module Managers and Assistant Module Managers, Process Branch, Division of International Operations (DIO), OPSC, OCO, SSA. | 8. The incumbents of these positions may exercise authorities 1. through 6. for cases processed under totalization agreements with foreign countries. |
| 9. All intervening positions in the direct line of supervision between the positions specified in item 8. above and the Division Director. | 9. The incumbents of these positions may exercise authorities 1. through 6. for cases processed under totalization agreements with foreign countries. |
| 10. Regional Chief Administrative Law Judges, OHA, SSA. | 10. The incumbents of these positions may exercise any of the subject authorities for cases within the jurisdiction of OHA field offices. |
| 11. Chief and Deputy Chief, Civil Actions Branch (CAB), Office of Appeals Operations (OAO), OHA. | 11. The incumbents of these positions may exercise authorities 1. through 6. for cases within the jurisdiction of CAB, OAO, OHA. |
| 12. Field Assessment Officers and Deputy Field Assessment Officers, Office of Assessment (OA), SSA. | 12. The incumbents of these positions may exercise any of the subject authorities for cases within the jurisdiction of OA field offices. |

III. The actions specified in sections I. and II. above are effective on the date this notice is published in the **Federal Register.**

IV. If any delegate exercises any of the subject authorities before this notice is published in the **Federal Register,** his/her actions are affirmed and ratified.

Dated: July 3, 1980.

**William J. Driver,**

*Commissioner of Social Security.*

[FR Doc. 80-20966 Filed 7-11-80; 8:45 am]

**BILLING CODE 4110-07-M**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. D-80-605]**

### Office of the Service Office Supervisor, Albuquerque Service Office; Designation

**AGENCY:** Department of Housing and Urban Development.

**ACTION:** Designation of line of succession.

**SUMMARY:** The Service Office Supervisor is designating Officials who may serve as Acting Service Office Supervisor during the absence of, or vacancy in the position of, the Service Office Supervisor.

**EFFECTIVE DATE:** The designation is effective immediately.

**SUPPLEMENTARY INFORMATION:** Each of the officials appointed to the following positions is designated to serve as Acting Service Office Supervisor during the absence of, or vacancy in the position of, the Service Office Supervisor; Provided, that no official is authorized to serve as Acting Service Office Supervisor unless all officials before him in this designation are unavailable to act by reason of absence or vacancy in the position:

1. Deputy Service Office Supervisor,
2. Chief Appraiser,
3. Chief, Architectural and Engineering Branch.

(Delegation of Authority by the Secretary effective October 1, 1970: 36 FR 3389, February 23, 1971)

Designated: March 11, 1980.

**Irving Statman,**

*Area Manager, Dallas Area Office, Region VI (Fort Worth).*

**Thomas J. Armstrong,**

*Regional Administrator, Region VI (Fort Worth).*

[FR Doc. 80-20828 Filed 7-11-80; 8:45 am]

**BILLING CODE 4210-01-M**

**[Docket No. D-80-604]**

### Office of the Service Office Supervisor, Lubbock Service Office; Designation

**AGENCY:** Department of Housing and Urban Development.

**ACTION:** Designation of line of succession.

**SUMMARY:** The Service Office Supervisor is designating Officials who may serve as Acting Service Office Supervisor during the absence of, or vacancy in the position of, the Service Office Supervisor.

**EFFECTIVE DATE:** The designation is effective immediately.

**SUPPLEMENTARY INFORMATION:** Each of the officials appointed to the following positions is designated to serve as Acting Service Office Supervisor during the absence of, or vacancy in the position of, the Service Office Supervisor; Provided, that no official is authorized to serve as Acting Service Office Supervisor unless all officials before him in this designation are unavailable to act by reason of absence or vacancy in the position:

1. Deputy Service Office Supervisor,
2. Chief, Valuation Branch,
3. Chief, Architectural and Engineering Branch,
4. Chief, Mortgage Credit Branch.

This designation supersedes the unpublished designation effective September 12, 1978.

(Delegation of Authority by the Secretary effective October 1, 1970: 36 FR 3389, February 23, 1971)

Designated: March 11, 1980.

**Irving Statman,**

*Area Manager, Dallas Area Office, Region VI (Fort Worth).*

**Thomas J. Armstrong,**

*Regional Administrator, Region VI (Fort Worth).*

[FR Doc. 80-20829 Filed 7-11-80; 8:45 am]

**BILLING CODE 4210-01-M**

**[Docket No. D-80-606]**

### Region III, Philadelphia; Redelegation of Authority With Respect to Fair Housing

**AGENCY:** Department of Housing and Urban Development.

**ACTION:** Delegation of authority pursuant to Section 811 of Title VIII of the Civil Rights Act of 1968, Pub. L. 90-284 (42 U.S.C. 3611) including the authority to issue subpoenas and interrogatories from the Regional Administrator, Region III to the Director of Regional Fair Housing and Equal Opportunity Region III.

**SUMMARY:** Pursuant to the Redelegation of Authority with Respect to Fair Housing, 41 FR 14208, April 2, 1976, the Regional Administrator is authorized to delegate to the Director of Regional Fair Housing and Equal Opportunity the authority of the Secretary pursuant to Section 801-819 of Title VIII of the Civil Rights Act of 1968 Public Law 90-284 (42 U.S.C. 3601-3619), except the authority to make studies, publish reports, and issue rules and regulations, but including the authority to issue subpoenas and interrogatories. The Regional Administrator of Region III, Philadelphia, has determined that such a redelegation should be made, including the authority to issue subpoenas and interrogatories, and is hereby publishing notice of that redelegation, superseding the Redelegation of Authority with Respect to Fair Housing found at 35 FR 9943, June 17, 1970.

**FOR FURTHER INFORMATION CONTACT:** Peter Campanella, Regional Counsel, Region III, Department of Housing and Urban Development, Room 992, Curtis Building, 625 Walnut Street,

Philadelphia, PA 19106. Telephone: 215–597–2574. This is not a toll free number.

**Department of Housing and Urban Development**

Region III, Philadelphia; Redelegation of Authority With Respect to Fair Housing.

Section A: Authority With Respect to Fair Housing. The Director of Regional Fair Housing and Equal Opportunity, Region III, Philadelphia, is authorized to exercise the power and authority of the Secretary of Housing and Urban Development under Title VIII (Fair Housing) of the Civil Rights Act of 1968, Pub. L. 90–284 (42 U.S.C. 3601–3619), except the authority to:

(1) Make studies and publish reports under Section 808(e) of the Act (42 U.S.C. 3608(d)).

(2) Issue rules and regulations.

Section B: Authority to Redelegate. The Director of Regional Fair Housing and Equal Opportunity is authorized to redelegate to subordinate employees any of the authority redelegated under Section A, except the authority to issue a subpoena or interrogatory under Section 811 of the Act (42 U.S.C. 3611) shall remain with the Director of Regional Fair Housing and Equal Opportunity.

Section C: Supersedure. This redelegation of authority supersedes the redelegation published at 35 FR 9943, June 17, 1970.

(Redelegation of Authority by Assistant Secretary for Fair Housing and Equal Opportunity published at 41 FR 14208, April 2, 1976, effective April 2, 1976)

Effective Date: This redelegation of authority shall become effective July 14, 1980.

**Thomas C. Maloney,**

*Regional Administrator, Region III, Philadelphia, Pennsylvania.*

[FR Doc. 80–20827 Filed 7–11–80; 8:45 am]

BILLING CODE 4210–01–M

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

### Status of Wilderness Review of Public Lands

**AGENCY:** Bureau of Land Mangement, Interior.

**ACTION:** Notice of status of wilderness review of public lands.

**SUMMARY:** This notice summarizes the present status of the wilderness review of roadless public lands and islands required by the Federal Land Policy and Management Act (FLPMA), section 603(a). The purposes of this notice and calendar of events are to provide (1) one source of information summarizing current wilderness review activities, and (2) advance notice of upcoming decisions, and public review periods.

**DATE:** All information in this notice is current through July 1, 1980.

**FOR FURTHER INFORMATION CONTACT:** Gary G. Marsh, Bureau of Land Management, Division of Wilderness and Environmental Areas, 18th and C Streets, NW., Washington, D.C. 20240, Telephone: (202) 343–6064.

**SUPPLEMENTARY INFORMATION:** This calendar of events is the sixth of a series whose last notice appeared in the **Federal Register** June 17, 1980, (p. 41075). The calendar of events focuses only on the current status of all ongoing wilderness review activities. Those inventories whose final decisions are in effect, as well as studies or reports not yet initiated, are not reported in this notice. For detailed information regarding each specific activity, reference is made either to the appropriate notice previously appearing in the **Federal Register**, or to notices which are anticipated to be published in the upcoming 30 days. It must be noted that "anticipated" dates are projected only, and thus are subject to change.

The Bureau of Land Management wilderness review includes: (1) An inventory of public lands to identify roadless lands and islands having wilderness characteristics; (2) A study of those areas found to have wilderness characteristics (wilderness study areas or "WSA's"); and (3) A report from the Secretary of the Interior to the President as to whether each WSA is more suitable for wilderness or other resource uses. The President will send his recommendations to Congress. Only Congress can actually designate an area as wilderness.

The inventory process has two stages: (1) An initial inventory designed to quickly identify and release from wilderness review those lands which clearly and obviously lack wilderness characteristics; and (2) An intensive inventory for those lands which may posses wilderness characteristics. The initial inventory process was completed in the contiguous Western States by October 1, 1979. In instances where important resource use decisions are pending. The inventory process may be accelerated in order to reach final decisions as quickly as possible. Such inventories are referred to as "special project inventories" or "accelerated intensive inventories."

The FLPMA also requires early study of 55 natural and primitive areas which were formally identified by the Secretary of the Interior prior to November 1, 1975. They are referred to as "instant study areas" (ISA's). As of July 1, 1980, the reports are under administrative review.

The wilderness inventory deadline of September 30, 1980, for the contiguous Western States has been extended to November 15, 1980, as announced in the **Federal Register** on June 17, 1980 (p. 41074).

The statistical summary table reflects both proposed and final intensive inventory decisions in the contiguous Western States and Minnesota. Other Eastern States will be listed in future statistical summaries as decisions are announced. All acreages are presented by State political boundaries and not BLM administrative boundaries. Some final decisions listed under the "inventory completed" column may be under protest or appeal. In those instances, decisions are not yet in effect. It has been determined as a matter of Bureau policy that the appropriate means to handle any appeals of the State Directors' intensive inventory decisions are the procedures outlined in 43 *Code of Federal Regulations*, Part 4. This regulation identifies the Interior Board of Land Appeals as the office to hear and evaluate such appeals.

Dated: July 9, 1980.

**James W. Monroe,**

*Assistant Director.*

**Calendar of Events**

*Arizona*

Statewide Intensive Inventory:

—proposed decision announced in **Federal Register** May 30, 1980 (p. 36525); 90-day public comment period ends August 28, 1980.

Accelerated Intensive Inventory:

—Hualapai-Aquarius proposed decision announced in **Federal Register** September 7, 1979 (p. 52340); comment period ended December 12, 1979; awaiting final decision. Affects units 2–37, 2–43, 2–46, 2–48, 2–50, 2–51 to 2–54, 2–56 to 2–63, 2–65, 2–67.

—Overthrust Belt final decision announced in **Federal Register** February 22, 1980 (p. 11919); protest period ended March 26, 1980, with protests; awaiting State Director's announcement of decision on protests. Affects units: 1–105 to 1–109, 1–112 to 1–115, 1–119 to 1–124, 1–127 to 1–130, 1–134, 1–135.

—Safford District units contiguous to Coronado National Forest proposed decision announced in **Federal Register** April 30, 1980 (p. 28822); public comment period ended June 9, 1980. Final decision anticipated mid-July 1980. Affects units 4–66, 4–70, 4–72, 4–73, 4–79, 4–80, 4–81.

Study/Reporting:

—Aravaipa Canyon Instant Study Area final environmental impact statement and suitability report complete; under administrative review.

—Paiute, Paria, and Vermillion Cliffs ISA's draft suitability report and draft environmental impact statement availability announced in **Federal Register** April 22, 1980 (p. 27022); public comment period extended until 30 days after the U.S. Geological Survey and Bureau of Mines report is made available to the public as announced in **Federal Register** May 8, 1980 (p. 30547). Anticipated date of release is mid-July 1980 for Paiute and August 1, 1980 for Paria and Vermillion Cliffs.

*California*

Statewide Intensive Inventory:

State Director's announcement of decision on protests for 9 units anticipated mid-August. Affects non-CDCA units: CA–010–064, 075; CA–020–211, 609, 1013; CA–030–402, 501, 504; CA–060–026.

—proposed decision for Oregon-California interstate units announced in **Federal Register** April 3, 1980 (p. 22198); 90-day public comment period ended June 25, 1980; awaiting final decision.

—proposed decision for Nevada-California interstate units announced in **Federal Register** April 3, 1980 (p. 22198); 90-day public comment period ended June 30, 1980; awaiting final decision.

Units Under Appeal to IBLA:

—Notice of appeal announced in **Federal Register** January 7, 1980, (p. 1456). Affects CDCA intensive inventory units: 117, 131, 136, 137–A, 143, 150, 156, 158, 172, 207, 217, 221, 222, 227, 242, 251, 251A, 263, 264, 265, 266, 271, 299, 305, 321, 325, 334, 343, 348, 376.

—Notice of appeal announced in **Federal Register** January 7, 1980, (p. 1457). Affects non-CDCA initial inventory units: CA–010–031, 033, 047, 069, 087, 101; CA–020–701, 901, 1001; CA–030–300, 400, and 500.

Study/Reporting:

—CDCA draft Plan Alternatives and Environmental Impact Statement released February 15, 1980; 90-day public comment period ended May 15, 1980. Proposed plan expected to be released September 30, 1980.

*Colorado*

Statewide Intensive Inventory:

—proposed decision announced in **Federal Register** February 1, 1980 (p. 7312); 90-day public comment period ended April 30, 1980; public comments being analyzed prior to final decision.

Units under Appeal to IBLA:

—Notice of appeal filed January 21, 1980. Affects initial inventory unit 070–031.

Study/Reporting:

—Powderhorn ISA draft environmental impact statement and draft suitability report availability announced in **Federal Register** May 7, 1980 (p. 30141); public comment period ended July 1, 1980.

*Eastern States*

Statewide Intensive Inventory (Minnesota Only)

—proposed decision on remaining 174 islands announced in **Federal Register** May 20, 1980 (p. 33730); began 90-day public comment period which ends August 18, 1980.

*Idaho*

Statewide Initial Inventory

—amended decision announced in **Federal Register** February 8, 1980 (p. 8732) after State Director requested IBLA to remand an earlier appealed decision for reconsideration; protests received;

State Director's proposed intensive inventory decision on unit 23–1 announced in **Federal Register** June 4, 1980 (p. 37738) initiating 90-day comment period which ends September 2, 1980; State Director's decision on protests announced in **Federal Register** June 30, 1980 (p. 43876), initiating 30-day appeal period. Affects units 35–3, 35–4, and 35–5.

Statewide Intensive Inventory:

—proposed decision announced in **Federal Register** April 3, 1980 (p. 22195); 90-day public comment period ends July 3, 1980; public comments will be analyzed prior to final decision.

Accelerated Intensive Inventory:

—Owyhee Planning Area final decision announced in **Federal Register** January 16, 1980 (p. 3114); protest period ended February 15, 1980; protests received as announced in **Federal Register** April 17, 1980 (p. 26140); State Director's announcement of decision on protests anticipated July 1980. Affects units 16–26, 16–28, 16–36, 16–40 to 16–42, 16–44, 16–45, 16–47, 16–49 a, b, d, e, and 16–52.

Study/Reporting:

—Great Rift (Grassland Kipuka) ISA draft environmental impact statement availability announced in **Federal Register** March 5, 1980 (p. 14251); public comment period ended May 27, 1980; under Administrative review.

Units Under Appeal to IBLA:

—Notice of Appeal filed April 11, 1980, affecting stateline initial inventory units 16–48 a, b, and c, 16–53, 16–56a, 16–59, 16–70e, 17–19, 17–21, 17–26, 22–1.

—Two Notices of Appeal filed April 11, 1980, affecting Challis Planning Area intensive inventory units 46–11, 46–13, 46–14, 46–14a.

*Montana*

Statewide Intensive Inventory

—proposed decision announced in **Federal Register** March 28, 1980 (p. 20570); public comment period ends August 30, 1980.

Accelerated Intensive Inventory:

—Bitter Creek (unit 064–356) as affected by proposed Alaska Natural Gas Transportation System final decision announced in **Federal Register** April 9, 1980 (p. 24254); protest period ended May 9, 1980; protests received.

—State Director's announcement of Overthrust Belt decision on protests anticipated late July 1980. Affects units 074–151 a and b, 074–155, 075–102, 075–105 to 107, 075–110, 075–114, 075–115, 075–123, 075–133, 075–138, 076–001 to 003, 076–006 to 008, 076–011, 076–015, 076–022, 076–025, 076–026, 076–028, 076–029, 076–033, 076–034, 076–059, 076–063, 076–069, 076–070, 076–079.

Units Under Appeal to IBLA

—Notice of appeal filed June 11, 1980. Affects intensive inventory unit 076–026.

Study/Reporting

—Humbug Spires and Bear Trap Canyon ISA's draft environmental impact statements and draft suitability reports availability announced in **Federal Register** April 18, 1980 (p. 26477) and April 30, 1980 (p. 28823); public comment period ended June 17, 1980.

*Nevada*

Statewide Intensive Inventory

—proposed decision announced in **Federal Register** April 1, 1980 (p. 21356); 90-day public comment period ended June 30, 1980; public comments being analyzed prior to final decision.

Accelerated Intensive Inventory

—State Director's announcement of Overthrust Belt decision on protests anticipated late July 1980. Affects units 0161, 0231 to 0233, 0235, 0236, 0238, 0411, 0412, 0423, 04R–15, 0438.

*New Mexico*

Statewide Intensive Inventory

—proposed decision announced in **Federal Register** March 28, 1980 (p. 20572); corrections announced in **Federal Register** May 2, 1980 (p. 29417); public comment period extended from June 30, 1980, to July 21, 1980, as announced in the **Federal Register** June 27, 1980 (p. 43477).

*Oregon*

Statewide Intensive Inventory (includes Washington)

—proposed decision announced in **Federal Register** March 27, 1980 (p. 20167); 90-day public comment period ended June 25, 1980; public comments being analyzed prior to final decision.

Accelerated Intensive Inventory

—State Director's announcement of decision on protests anticipated July 1980. Affects units: 1–76, 1–77, 1–105, 2–1, 2–11, 2–23E, 2–26, 2–74E, 2–74N, 2–81L, 2–82H, 3–154, 5–14.

Units Under Appeal to IBLA

—Notice of appeal announced in **Federal Register** November 29, 1979 (p. 68526); affects initial inventory unit 11–6.

*Utah*

Statewide Intensive Inventory

—90-day public comment period ended June 30, 1980; public comments being analyzed prior to final decision.

Accelerated Intensive Inventory

—State Director's decision on protests for Dirty Devil (unit 050–236) announced in **Federal Register** on June 5, 1980 (p. 37894); initiates 30-day appeal period.

—Joshua Tree and Book Cliffs ISA's final intensive inventory decision in effect as announced in **Federal Register** June 18, 1980 (p. 41223); due to protests received on Devil's Garden and Link Flats ISA's, the final decision is not yet in effect until rendered by the State Director.

Units Under Appeal to IBLA

—Notice of appeal filed January 24, 1980. Affects accelerated intensive inventory units 060–007, 060–011, 060–012, 050–233.

*Wyoming*

Statewide Intensive Inventory

—proposed decision announced in **Federal Register** April 4, 1980 (p. 23073); public comment period extended to August 19, 1980, as announced in **Federal Register** on June 5, 1980 (p. 37894).

Units Under Appeal to IBLA

—Three notices of appeal filed April 14, 1980. Affects accelerated intensive inventory units 040–110, 040–221, 040–222, and 040–223.

BILLING CODE 4310–84–M

STATISTICAL SUMMARY TABLE
BLM Wilderness Inventory Results (Shown in Acres) as of May 30, 1980

1. Contiguous Western States

| State | Public lands subject to wilderness inventory | Proposed Intensive Inventory Decisions | | | Inventory Completed Final Decisions Announced | |
|---|---|---|---|---|---|---|
| | | Not yet announced | Announced Subject to Public Review | | | |
| | | | Lacking wilderness characteristics | With wilderness characteristics | Lacking wilderness characteristics | Wilderness study areas |
| AZ | 12,596,000 | 0 | 2,705,000 | 2,164,000 | 7,210,000 | 517,000 |
| CA | 16,585,000 | 0 | 120,000 | 9,000 | 10,118,000 | 6,338,000 |
| CO | 7,996,000 | 0 | 491,000 | 765,000 | 6,690,000 | 50,000 |
| ID | 11,949,000 | 252,000 | 1,090,000 | 804,000 | 8,983,000 | 820,000 |
| MT | 8,140,000 | 0 | 1,357,000 | 475,000 | 6,000,000 | 308,000 |
| NV | 49,118,000 | 17,000 | 11,319,000 | 3,079,000 | 33,077,000 | 1,626,000 |
| NM | 12,847,000 | 0 | 1,327,000 | 886,000 | 10,486,000 | 148,000 |
| ND | 68,000 | 0 | 0 | 0 | 68,000 | 0 |
| OK | 7,000 | 0 | 0 | 0 | 7,000 | 0 |
| OR | 13,965,000* | 0 | 4,192,000 | 1,750,000 | 7,584,000 | 439,000 |
| SD | 277,000 | 0 | 5,000 | 0 | 272,000 | 0 |
| UT | 22,076,000 | 0 | 3,190,000 | 1,752,000 | 16,707,000 | 427,000 |
| WA | 310,000 | 0 | 14,000 | 15 | 296,000 | 0 |
| WY | 17,793,000 | 0 | 562,000 | 497,000 | 16,678,000 | 56,000 |
| Totals | 173,727,000 | 269,000 | 26,372,000 | 12,181,000 | 124,176,000 | 10,729,000 |

2. Eastern States

| State | Public lands subject to wilderness inventory | Proposed Intensive Inventory Decisions | | | Inventory Completed Final Decisions Announced | |
|---|---|---|---|---|---|---|
| | | Not yet announced | Announced Subject to Public Review | | | |
| | | | Lacking wilderness characteristics | With wilderness characteristics | Lacking wilderness characteristics | Wilderness study areas |
| MN | 45,000** | 0 | 701 | 0 | 44,299 | 0 |

*Does not include 1,759,200 acres of Oregon and California Grant lands which are exempt from wilderness review.
**Includes an estimated 2,000 acres of unsurveyed islands.

[FR Doc. 80-20891 Filed 7-11-80; 8:45 am]
BILLING CODE 4310-84-C

[Serial No. M 15779]

### Montana: Termination of Proposed Withdrawal and Reservation of Lands

July 3, 1980.

Notice of an application, serial No. M 15779, for withdrawal and reservation of lands was published as Federal Register Document No. 70–7521 on page 9935 of the issue for June 17, 1970. The applicant agency has cancelled its application in its entirety. The lands involved are described as follows:

Principal Meridian, Montana

T. 13 S., R. 5 E.,
Sec. 10, Lots 1, 2, 3, and 4, SE¼SE¼NW¼, E½NE¼SW¼, SW¼NE¼SW¼, E½SW¼SW¼, and SE¼SW¼;
Sec. 15, Lot 1, N½ Lot 2 (20 acres), SW¼ Lot 2 (10 acres), NW¼ Lot 3 (10 acres), and W½;
Sec. 16, E½SE¼NE¼, E½SE¼, and E½SE¼SE¼
Sec. 21, E½, E½W½, and E½SW¼SW¼;
Sec. 22, SW¼ Lot 2 (10 acres), W½NE¼NW¼, W½NW¼, S½SE¼NW¼, and NW¼NW¼SW¼;
Sec. 28, NW¼NE¼NE¼, NW¼NE¼, N½SW¼NE¼, SW¼SW¼NE¼, NW¼, N½SW¼, SW¼SW¼, N½SE¼SW¼, SW¼SE¼SW¼, and NW¼NW¼SE¼;
Sec. 29, E½SE¼NE¼, E½SE¼, and E½SW¼SE¼;
Sec. 32, E½, E½SE¼NW¼, E½SW¼, SE¼NW¼SW¼, E½SW¼SW¼, and SW¼SW¼SW¼; and
Sec. 33, NW¼NE¼NW¼, NW¼NW¼, N½SW¼NW¼, SW¼SW¼NW¼, and NW¼NW¼SW¼.
T. 14 S., R. 5 E.,
Sec. 5, NE¼NE¼, W½NE¼, W½SE¼NE¼, and NW¼; and
Sec. 6, NE¼NE¼NE¼, S½NE¼NE¼, SE¼SW¼NE¼, and SE¼NE¼.

The areas described aggegate 2870 acres in Gallatin County, Montana.

Therefore, pursuant to the regulations contained in 43 CFR, Subpart 2091, such lands will be relieved of the segregative effect of the above application at 10 a.m. on August 4, 1980.

**Edgar D. Stark,**

*Acting Chief, Branch of Lands and Minerals Operations.*

[FR Doc. 80–20647 Filed 7–11–80; 8:45 am]

BILLING CODE 4310–84–M

## National Park Service

### New River Gorge National River Draft Land Acquisition Plan; Meetings

Notice is hereby given of the availability of the New River Gorge National River Draft Land Acquisition Plan. A series of ten public meetings will be held at locations in Fayette, Raleigh and Summers Counties, West Virginia between the dates of July 28 and August 1, 1980 to review this plan.

Section 1103 of the National Parks and Recreation Act of 1978 (Pub. L. 95–625) provides . . . that by November 1980 the Secretary of the Interior shall submit, in writing, to the House Committee on Interior and Insular Affairs, the Senate Committee on Energy and Natural Resources and the Committees on Appropriations of the U.S. Congress a detailed plan which shall indicate the lands and areas which he deems essential to the protection and public enjoyment of the natural, scenic, and historic values and objects of this national river, as well as other considerations.

The Draft Land Acquisition Plan was prepared by the National Park Service after having held 14 public meetings in southern West Virginia during February of 1980 to gather citizens' ideas on how to proceed with its development. Over 450 persons attended these meetings and 71 written responses were received that addressed land acquisition issues.

The upcoming public meetings are being held to review the plan with those interested in its effect on the development of the national river and private land owners. Any member of the public may file with the National Park Service a written statement addressing the draft plan. The written comment period will remain open until September 2, 1980.

Persons wishing further information concerning these meetings, copies of the draft plan, or who wish to submit written statements, may write or telephone: Superintendent James W. Carrico, New River Gorge National River, 137½ Main Street, Oak Hill, West Virginia 25901, (304) 465–0508.

Meetings are scheduled to be held as follows:

July 28:
2:00 P.M.—Fayette County Courthouse, Courtroom, Fayetteville, West Virginia
7:00 P.M.—Ansted City Hall, Courtroom, Second Floor, Cemetery Street, Ansted, West Virginia.

July 29:
2:00 P.M.—Sandstone Senior Citizens Center, Sandstone, West Virginia.
7:00 P.M.—National Guard Armory, Hinton, West Virginia, (½ mile east of Hinton City Limits on Route 3).

July 30:
2:00 P.M.—Better Citizens Club, Pluto Road, Richmond District, Raleigh County, West Virginia.
7:00 P.M.—Raleigh County Courthouse, Courtroom, Beckley, West Virginia.

July 31:
2:00 P.M.—Thurmond Union Church, Thurmond, West Virginia.
7:00 P.M.—Mount Hope Middle School, Gymnasium, Mount Hope, West Virginia.

August 1:
2:00 P.M.—Old Quinnimont School, Prince, West Virginia.
7:00 P.M.—Nuttall Middle School, Auditorium, Lookout, West Virginia.

Dated: July 2, 1980.

**John W. Bond,**

*Acting Regional Director, Mid-Atlantic Region.*

[FR Doc. 80–20951 Filed 7–11–80; 8:45 am]

BILLING CODE 4310–70–M

## INTERNATIONAL COMMUNICATION AGENCY

### U.S. Advisory Commission on Public Diplomacy

The U.S. Advisory Commission on Public Diplomacy will meet on July 31–August 1 in Minneapolis, Minnesota with scholars, educators and other members of Minnesota's international affairs community. USICA activities to be discussed will include the American Participant Program, the International Visitor Program, the Fulbright Scholars Program, the Hubert H. Humphrey Fellowship Program, and "Economic Portfolio."

Place: Room 238, Morrill Hall, University of Minnesota, Minneapolis, Minnesota.

Time: July 31: 2–5 PM; August 1: 9 AM–12 Noon.

**Jane S. Grymes,**

*Management Analyst, Management Analysis/Regulations Staff, Associate Directorate for Management, International Communication Agency.*

[FR Doc. 80–20871 Filed 7–11–80; 8:45 am]

BILLING CODE 8230–01–M

## INTERSTATE COMMERCE COMMISSION

### Decision-Notice

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). These rules provide, among other things, that opposition to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the Federal Register. Failure seasonably to oppose will be construed as a waiver of opposition and

participation in the proceeding. Opposition under these rules should comply with Rule 240(c) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, and specify with particularity the facts, matters and things relied upon, but shall not include issues or allegations phrased generally. Opposition not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of any protest shall be filed with the Commission, and a copy shall also be served upon applicant's representative or applicant if no representative is named. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 240(c)(4) of the special rules and shall include the certification required.

Section 240(c) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request its dismissal.

Further processing steps will be by Commission notice or order which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication except for good cause shown.*

Any authority granted may reflect administratively acceptable restrictive amendments to the transaction proposed. Some of the applications may have been modified to conform with Commission policy.

*We find* with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as 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 national transportation policy 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.

In the absence of legally sufficient protests as to the finance application *or* any application directly related thereto filed within 30 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with impediments) 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, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Decided: July 2, 1980.

By the Commission, Review Board Number 5, Members Krock, Taylor, and Williams.

Agatha L. Mergenovich,

*Secretary.*

MC-F-14371F, filed April 10, 1980. BULS EYE TRANSPORT, INC. (Buls Eye) (33 North Dearborn Street, Chicago, IL 60603)—Purchase (Portion)—OHIO PACIFIC EXPRESS, INC. (Ohio Pacific) (683 East Broad Street, Columbus, OH 43215). Representatives: Anthony E. Young, 29 South LaSalle, 350, Chicago, IL, 60603, and Harry Horak, 115, 5001 Brentwood Stair Road, Fort Worth, TX 76112. Buls Eye seeks authority to purchase a portion of the interstate operating rights of Ohio Pacific. Edward J. Nagle and Richard Buls, who control Buls Eye through management and stock ownership, also seek authority to acquire control of said rights through the transaction. Buls Eye is purchasing the operating rights of Ohio Pacific evidenced by Permit No. MC-141759 (Sub-No. 4) authorizing the transportation of *plastic materials, plastic articles, and chemical compounds* (except in bulk), between Ottawa, IL, and Parkersburg and Washington, WV, on the one hand, and, on the other, points in AL, AR, GA, LA, MI, MS, NC, SC, and TN, under continuing contract(s) with Borg-Warner Chemicals of Parkersburg, WV Buls Eye is authorized to operate as a motor contract carrier under Permit No. MC-144527 (Sub-No. 3). (Hearing site: Chicago, IL or Washington, D.C.)

Note.—Application for temporary authority has been filed.

MC-F-14372F, filed April 17, 1980. SUGARLAND EXPRESS, INC. (Sugarland) (P.O. Box 266, Iola, KS 66749)—Purchase (Portion)—BRAY TRANSPORTS, INC. (Bray) (P.O. Box 270, Cushing, OK 74023). Representative: John E. Jandera, 641 Harrison Street, Topeka, KS 66603. Sugarland seeks to purchase a portion of the interstate operating rights and property of Bray. Arthur Jewell Beard (P.O. Box 266, Iola, KS 66749), who owns 51 percent of the common stock of Sugarland, and his wife, Leslie R. Beard (P.O. Box 266, Iola, KS 66749), who owns 49 percent of the common stock of Sugarland, seek to acquire control of said rights and property through the transaction. Although Sugarland is not now a carrier, its president and majority stockholder, Arthur Jewell Beard, also is the president of Cyrus Truck Line, Inc., of Iola, KS, which holds authority in No. MC-114965, to transport petroleum products and fertilizer through 13 midwestern States. The operating rights sought to be purchased are contained in (A) Certificate No. MC-140755 (Sub-No. 11) authorizing the transportation as a motor common carrier, over irregular routes, of *sugar*, from Kansas City, MO, to points in Kansas, Missouri, Arkansas (except Little Rock), Nebraska (except Omaha), and Iowa (except Cedar Rapids, Clinton and Keokuk); (B) Certificate No. MC-140755 (Sub-No. 15), authorizing the transportation as a motor common carrier, over irregular routes, of *liquid sugar*, in bulk, in tank vehicles, from Grimes, IA, to points in MN, MO, and NE; (C) Certificate No. MC-140755 (Sub-No. 25), authorizing the transportation as a motor common carrier, over irregular routes, of *sugar and syrups and blends thereof*, in bulk, from Bonner Springs, KS, to points in Missouri (D) Certificate No. MC-140755 (Sub-No. 29), authorizing the transportation as a motor common carrier, over irregular routes, of industrial molasses, in bulk, in tank vehicles, from Rocky Ford and Swink, CO, to points in Kansas (on and west of U.S. Highway 81), Oklahoma (on and west of U.S. Highway 81 and on and north of U.S. Highway 66) and New Mexico (on and north of U.S. Highway 66); sugars and syrups and blends thereof, in bulk, from the plantsite of Holly Sugar Co. at or near Hereford, TX to points in Colorado and sugar, in bulk, from Nampa, Rupert, Twin Falls and Idaho Falls, ID, and Layton, West Jordan and Garland, UT, to points in Colorado, Nebraska and Iowa and Missouri (on and west of U.S. Highway 65); sugar, in bulk, from Rocky Ford and Swink, CO, to points in Nebraska and Kansas (on

and north of U.S. Highway 50 to Garden City then along U.S. Highway 156 to jct., U.S. Highway 56, then on U.S. Highway 56 to jct., S.H. 99 then on S.H. 99 to jct. U.S. Highway 54, then on U.S. Highway 54 to the Kansas-Missouri State line), from Rocky Ford, CO to points in Missouri. (on and west of U.S. Highway 65 and north of U.S. Highway 54), from Swink, CO, to points in Missouri and Arkansas (on and west of U.S. Highway 65 to jct. U.S. Highway 67 then on U.S. Highway 67 to the State line), and from South Torrington, WY, to points in Colorado, Nebraska, and Iowa and Missouri (on and west of U.S. Highway 65); liquid sugar, in bulk, in tank vehicles, from Denver, CO, to Rocky Ford, CO, from Pueblo, CO to Rocky Ford, CO, from Rocky Ford, CO, to points in Arkansas, Kansas, Missouri, and Houston, TX, from Rocky Ford, CO, to Swink, CO, between Rocky Ford, CO, on the one hand, and, on the other, points in Oklahoma, and from Rocky Ford, CO, to points in Texas (on and south along U.S. Highway 180 to jct. U.S. Highway 87, then on U.S. Highway 87 to jct. U.S. Highway 80 then on U.S. Highway 80 to jct. of U.S. Highway 281, and on west of U.S. Highway 281 and U.S. Highway 80 extending south on U.S. Highway 281 to San Antonio, then on U.S. Highway 81 to the United States-Mexico Boundary Line at Laredo, TX); liquid sugar, in bulk, in tank vehicles, from Rocky Ford, CO, to points in Texas (except Houston) east and south over U.S. Highway 75 to the jct. of U.S. Highway 80 then over U.S. Highway 80 to jct. U.S. Highway 281 to the jct. of U.S. Highway 81, then over U.S. Highway 81 to the United States-Mexico boundary line at Laredo, TX), from Rocky Ford, CO, to points in New Mexico, Arkansas (on and west of U.S. Highway 65 to jct. U.S. Highway 67, then on U.S. Highway 67 to the State line) and Missouri (on and south of U.S. Highway 54 to the jct. of U.S. Highway 65, then on and west of U.S. Highway 65 to the State line), from Swink, CO, to points in Oklahoma; from Swink, CO, to points in New Mexico, between Rocky Ford and Swink, CO, on the one hand, and, on the other, points in Kansas (on and south of U.S. Highway 50 to the jct. of U.S. Highway 156, then on U.S. Highway 156 to jct. U.S. Highway 56, then on U.S. Highway 56 to the jct. of S.H. 99, then on S.H. 99 to jct. of U.S. Highway 54, then on U.S. Highway 54 to the Kansas-Missouri State line), from Rocky Ford and Swink, CO, to points in Texas (on and north along U.S. Highway 180 to jct. U.S. Highway 87, then on U.S. Highway 87 to jct. U.S. Highway 80, then on U.S. Highway 80 to jct. of U.S. Highway 75, then on and west of U.S. Highway 75 to the Texas-Oklahoma State line); from Idaho Falls, Blackfoot, McMillan, Paul and Nampa, ID and Garland, West Jordan and Lewiston, UT, to points in Kansas and Kansas City, MO; from Idaho Falls, McMillan, Nampa and Paul, ID, and Garland, West Jordan, Lewiston and Layton, UT, to points in Oklahoma and Texas (on and north along U.S. Highway 180 to jct. 87 then on U.S. Highway 87 to jct. 80, then on U.S. Highway 80 to jct. of U.S. Highway 75 then on and west of U.S. Highway 75 to the Texas-Oklahoma State line); liquid sugar, in bulk in tank vehicles, from Garden City, KS, to points in Kansas, Oklahoma and Texas (on and north along U.S. Highway 190 to jct. U.S. Highway 87, then on U.S. Highway 87 to jct. U.S. Highway 80 then on U.S. Highway 80 to jct. of U.S. Highway 75 then on and west of U.S. Highway 75 to the Texas-Oklahoma State line); from Hardin, MT and Worland and Torrington, WY to Denver, CO; from Mitchell, Bayard, Gering and Scottsbluff, NE and 5 miles from each point, to points in Kansas, Missouri (on and south of U.S. Highway 54 to jct. of U.S. Highway 65, than on and west of U.S. 54 to the Missouri-Arkansas State line), and Arkansas (on and west of U.S. Highway 65 to jct. of U.S. Highway 67, then on and west of U.S. Highway 67 to the Arkansas-Texas State line); from Hereford, TX, to points in Kansas, Oklahoma, Missouri (on and west of U.S. Highway 65) and Arkansas (on and west of U.S. Highway 65 to the jct. U.S. Highway 67, then on and west of U.S. Highway 67 to the State line); from Torrington, WY to points in Kansas and Oklahoma, from Torrington, WY, to Rocky Ford and Swink, CO; from Torrington, WY to Pueblo, CO; from Worland, WY and points within 5 miles to Kansas City, MO; from Worland, WY and Hardin, MT and points within 5 miles of each, to points in Kansas, Oklahoma, Missouri (on and south of U.S. Highway 54 to jct. U.S. Highway 65, then on and west of U.S. Highway 65 to the State line) and Arkansas (on and west of U.S. Highway 65 to the jct. U.S. Highway 67, then on U.S. Highway 67 to the State line); (E) Certificate No. MC-140755 (Sub-No. 33), authorizing the transportation, as a motor common carrier, over irregular routes, of liquid sugar, in bulk, in tank vehicles, from Denver, Ft. Morgan, Ovid, and Sterling, CO, to points in Arkansas, Kansas, Missouri, New Mexico, Oklahoma, and Texas; (F) Certificate No. MC-140755 (Sub-No. 34), authorizing the transportation, as a motor common carrier, over irregular routes, of sugar and syrups, in bulk, in tank vehicles, from the site of the Mid-Continent Underground Warehouse at or near Loring, KS, to points in Arkansas, Iowa, Nebraska, and Oklahoma; (G) Certificate No. MC-140755 (Sub-No. 36), authorizing the transportation, as a motor common carrier, over irregular routes, of liquid and invert sugar, in bulk, in tank vehicles, from Muncie and Lenexa, KS, to Omaha, NE; (H) Certificate No. MC-140755 (Sub-No. 44), authorizing the transportation, as motor common carrier, over irregular routes of liquid sugar, in bulk, in tank vehicles, from Lenexa, KS, to Tulsa, OK; and (I) Application No. MC-140775 (Sub-No. 72F), now pending before the Commission in which Bray seeks authority to transport, as a motor common carrier, over irregular routes, liquid sugar and corn syrup, in bulk, in tank vehicles, from Muncie, KS, to points in Oklahoma. Additionally, the following authorities granted to Bray by the Commission through gateway eliminations are sought to be purchased. (1) No. MC-140755 (Sub-No. E-57), authorizing the transportation as a motor common carrier, of sugar, from Torrington, WY, to New Mexico; (2) No. MC-140755 (Sub-No. E-58), authorizing the transportation as a motor common carrier, of liquid sugar, in bulk, in tank vehicles, from Grimes, IA, to Oklahoma, (3) No. MC-140755 (Sub-No. E-59), authorizing the transportation as a motor common carrier, of liquid sugar, in bulk, in tank vehicles, from Bonner Springs, KS, to Minnesota. (4) No. MC-140755 (Sub-No. E-60), authorizing the transportation as a motor common carrier, of sugar, in bulk, from Nampa, Rupert, Twin Falls, and Idaho Falls, ID, to Missouri; (5) No. MC-140755 (Sub-No. E-61, authorizing the transportation as a motor common carrier, of liquid sugar, in bulk, in tank vehicles, from Kansas City, MO, to Minnesota; (6) No. MC-140755 (Sub-No. E-62), authorizing the transportation as a motor common carrier, of sugar, in bulk, in tank vehicles, from Kansas City Mo, to Arkansas, Iowa and Nebraska; (7) No. MC-140755 (Sub-No. E-63), authorizing the transportation as a motor common carrier, of dry sugar, in bulk, in tank vehicles, from Kansas City, MO, to Oklahoma; (8) No. MC-140755 (Sub-No. E-64), authorizing the transportation as a motor common carrier, of sugar, from Hardin, MT, to that part of Texas bounded by a line beginning at the junction of the Texas-New Mexico State boundary line and U.S. Highway 180, thence along U.S. Highway 180 to junction U.S. Highway 87, thence along U.S. Highway 87 to junction U.S.

Highway 80, thence along U.S. Highway 80 to junction U.S. Highway 75, thence north along U.S. Highway 75 to the Texas-Oklahoma State line, thence north-westerly, northerly, and westerly along the Texas-Oklahoma State line to the Texas-New Mexico State line and thence south along the Texas-New Mexico State line to point of beginning, including points on the indicated portions of the highway specified; (9) No. MC–140755 (Sub-No. E–72), authorizing the transportation as a motor common carrier, of liquid sugar, in bulk, in tank vehicles, from Grimes, IA to Arkansas (except Little Rock); (10) No. MC–140755 (Sub-No. 73), authorizing the transportation as a motor common carrier, of sugar, in bulk, from Hardin, MT to Arkansas and Missouri; (11) No. MC–140755 (Sub-No. 74), authorizing the transportation as a motor common carrier, of sugar, from Torrington, WY, to Arkansas and Texas; (12) No. MC–140755 (Sub-No. 75), authorizing the transportation as a motor common carrier, of sugar, from Pueblo, CO, to Arkansas, Kansas, Missouri, Nebraska, Oklahoma and Texas; (13) No. MC–140755 (Sub-No. E. 76), authorizing the transportation as a motor common carrier, of sugar, from Mitchell, Scottsbluff, Gering, and Bayard, NE, to points in that part of Texas bounded by a line beginning at the Texas-New Mexico State line and extending east along U.S. Highway Highway 180 to junction U.S. Highway 87, then along U.S. Highway 87 to junction U.S. Highway 80, thence, along U.S. Highway 80 to junction U.S. Highway 75, thence north along U.S. Highway 75 to the Texas-Oklahoma State line, thence northwesterly, northerly, and westerly along the Texas-Oklahoma State line to the Texas-New Mexico State line to point of beginning, including points on the indicated portions of the highway specified; (14) No. MC–140755 (Sub-No. E–77), authorizing the transportation as a motor common carrier, of sugar, in bulk, from Hereford, TX, to points in Iowa (except Cedar Rapids, Clinton and Keokuk); (15) No. MC–140755 (Sub-No. E–78), authorizing the transportation as a motor common carrier, of sugar, in bulk, from Idaho Falls, Nampa, Rupert, and Twin Falls, ID, to points in Arkansas and Texas (except points in El Paso and Hudspeth Counties); No. MC–140755 (Sub-No. E–79), authorizing the transportation, as a motor common carrier, of sugar, in bulk, from Lewiston, UT, to Arkansas (except Little Rock) and Missouri; (16) No. MC–140755 (Sub-No. E–80), authorizing the transportation as a motor common carrier, of sugar, in bulk, from Blackfoot, McMillan and Paul, ID, to Arkansas (except Little Rock) and Missouri; (17) No. MC–140755 (Sub-No. E–81), authorizing the transportation, as a motor common carrier, of sugar, in bulk, from Garland, Layton and West Jordan, UT, to Arkansas and Missouri; (18) No. MC–140755 (Sub-No. E–114), authorizing the transportation, as a motor common carrier, of sugar, from Worland, WY, to that part of Texas bounded by a line beginning at the Texas-New Mexico State line and extending east along U.S. 180 to junction U.S. Highway 87, thence along U.S. Highway 87 to junction U.S. Highway 80, thence along U.S. Highway 80 to junction U.S. Highway 75, thence north along U.S. Highway 75 to the Texas-Oklahoma State line, thence northwesterly, northerly, and westerly along the Texas-Oklahoma State line to the Texas-New Mexico State line, and thence south along the Texas-New Mexico State line to points of beginning, including points on the indicated portions of the highway specified; (19) No. MC–140755 (Sub-No. E–115), authorizing the transportation as a motor common carrier, of sugar, in bulk, from Worland, WY, and points within 5 miles thereof, to points in Arkansas and Missouri (except Atchison County); (20) No. MC–140755 (Sub-No. E–116), authorizing the transportation, as a motor common carrier, of sugar, from points in that part of Kansas on, south, and east of a line beginning at the Oklahoma-Kansas State line and extending along U.S. Highway 183 to junction U.S. Highway 54, thence along U.S. Highway 54 to the Kansas-Missouri State line to points in that part of New Mexico on, north, and west of a line beginning at the Texas-New Mexico State line and extending along U.S. Highway 56 to Springer, thence along U.S. Highway 85 to Ribera, thence along New Mexico Highway 3 to Duran, thence along U.S. Highway 54 to the New Mexico-Texas State line; (21) No. MC–140755 (Sub-No. E–117) authorizing the transportation as a motor common carrier, of sugar, in bulk, from Bayard, Gering, Mitchell and Scottsbluff, NE, to points in Arkansas and Missouri; (22) No. MC–140755 (Sub-No. E–118), authorizing the transportation as a motor common carrier, of sugar, in bulk, from Idaho Falls, Nampa, Rupert, and Twin Falls, ID, to points in that part of New Mexico on and east of a line beginning at the Colorado-New Mexico State line and extending along U.S. Highway 85 to Romeroville, thence along U.S. Highway 84 to Fort Sumner, thence along New Mexico Highway 20 to junction U.S. Highway 285, thence along U.S. Highway 285 to the New Mexico-Texas State line; (23) No. MC–140755 (Sub-No. E–183), authorizing the transportation as a motor common carrier, of sugar, in bulk, in tank vehicles, from Rocky Ford, CO, to points in Iowa east of U.S. Highway 59 (except Cedar Rapids, Clinton and Keokuk); and (24) No. MC–140755 (Sub-No. E–186), authorizing the transportation as carrier, of sugar, in bulk, from Bonner Springs, KS, to points in Arkansas (except Little Rock), Iowa (except Cedar Rapids, Clinton, and Keokuk), and Nebraska (except Omaha).

Because the proceeding No. MC–140755 (Sub-No. 72F), is described as pending, the authority sought therein is not a property-right subject to transfer. Hence it lies beyond the scope of any authority which may be issued herein. Applicants are advised to file a joint petition seeking substitution of parties—applicant in that proceeding. (Hearing site: Kansas City, MO.)

MC F–14373F, filed April 21, 1980. Applicant: C.-C. BORING TRUCKING, INC. (Boring) (Star Route Box A–7, Belleville, PA 17004)—Purchase—Lorne R. Wills, doing business as W. B. WILLS & SON (Wills) (17 West Main Street, Belleville, PA 17004). Representative: T. Bruce Walter, P.O. Box 1146, 410 North Third St., Harrisburg, PA 17108. Boring seeks authority to purchase the interstate operating rights and property of Wills. William K. Boring (Star Route Box A–7, Belleville, PA 17004), who owns all of Boring's outstanding stock, also seeks authority to control the rights through the transaction.

Boring is a carrier holding authority from this Commission in No. MC–96235. It is purchasing the interstate operating rights contained in Wills' certificates Nos. MC–97116 (Sub-No. 4) and MC–97116 (Sub-No. 5). The Sub-No. 4 certificate authorizes the transportation, as motor common carrier, over irregular routes, of *general commodities*, moving in express service, between Belleville, Burnham, Lewiston and Reedsville, PA, with the restriction that the authority, to the extent authorizing the transportation of classes A and B explosives shall be limited in point of line, to a period expiring June 11, 1970.

The Sub-No. 5 certificate authorizes the transportation as a motor common carrier, over irregular routes, of *agricultural implements and machinery, parts and accessories therefor*, and *equipment, materials and supplies* used in the manufacture, assembly, and distribution of agricultural implements and machinery, between Belleville, PA, on the one hand, and, on the other, Intercourse, Lancaster, Mountville and New Holland, PA.

Because the restriction contained in the Sub-No. 5 certificate has taken effect by lapse of time, it will be treated as an exception to any general commodities authorization. Any authority which may be granted will be modified accordingly. (Hearing site: Harrisburg, PA.)

[FR Doc. 80-20851 Filed 7-11-80; 8:45 am]
BILLING CODE 7035-01-M

## Motor Carrier Temporary Authority Application

**Important Notice:**

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

**Motor Carriers of Property**

**Notice No. F-39**

THE FOLLOWING APPLICATIONS WERE FILED IN REGION I.

SEND PROTESTS TO: Regional Authority Center, Interstate Commerce Commission, 150 Causway St.—Rm. 501, Boston, MA 02114.

MC 37216, (Sub-1-1), filed June 16, 1980. Applicant: M. H. WINN TRUCKING CO. INC., 195 New Boston Street, Woburn, Massachusetts, 01801. Representative: Robert M. Winn, Vice President, M. H. Winn Trucking Co., Inc., 195 New Boston Street, Woburn, Massachusetts, 01801. Applicant seeks common carrier authority via motor vehicle to transport over irregular routes, electrical and electronic equipment, data processing equipment, computers, parts and components thereof and materials and supplies used in the manufacture, processing, distribution, sale and use of such commodities; between points in MA, the NH Counties of Cheshire, Hillsborough, Merrimac, Rockingham and Stratford, and the RI Counties of Kent and Providence.

MC 136916 (Sub-1-2TA), filed July 1, 1980. Applicant: LENAPE TRANSPORTATION CO., INC., P.O. Box 227, Lafayette, NJ 07848. Representative: Eugene M. Malkin, Suite 1832, 2 World Trade Center, New York, NY 10048. *Cullet (broken glass), in bulk,* from points in CT to points in NJ. Supporting shipper(s): Thatcher Glass Manufacturing Co., P.O. Box 265, Elmira, NY 14902; Owens-Illinois, Inc., 405 Madison Avenue, Toledo, OH 43665.

MC 63837 (Sub-1-1TA), filed July 1, 1980. Applicant: DIGGINS & ROSE, INC., 3 Sagamore Park Road, Hudson, NH 03051. Representative: Francis E. Barrett, Jr., Esq., 10 Industrial Park Road, Hingham, MA 02043. *General commodities in containers (except in bulk) and empty containers* between Portsmouth, NH and Port Elizabeth, NJ, on the one hand, and on the other, Hudson, NH and Chelmsford, MA, restricted to traffic having a prior or subsequent movement by water. Supporting shipper: Centronics Data Corporation, One Wall Street, Hudson, NH 03051.

MC 150955 (Sub-1-3TA), filed June 30, 1980. Applicant: AERONAUTICS FORWARDERS, INC., 11 Middle Neck Road, Great Neck, NY 11021. Representative: Piken & Piken, Esqs., Queens Office Tower, 95-25 Queens Boulevard, Rego Park, NY 11374. *Cosmetics, perfumes, toilet preparations, notions and advertising materials* between Dayton and Edison, NJ, on the one hand and, on the other, Philadelphia, PA and points in its commercial zone. Supporting shipper(s): Revlon, Inc., Route 27 and Talmadge Road, Edison, NJ 08817, and Max Factor & Co., Inc., 1655 N. McCadden Place, Hollywood, CA 90028.

MC 30204 (Sub-1-2TA), filed June 30, 1980. Applicant: HEMINGWAY TRANSPORT, INC., 438 Dartmouth Street, New Bedford, MA 02740. Representative: Thomas N. Willess, 1000 Sixteenth Street, NW., Suite 502, Solar Building, Washington, D.C. 20036. *General commodities,* except those of unusual value, classes A & B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between Baltimore, MD, and Boston, MA, on the one hand, and on the other, points in New York. No new service points are requested and authorization will not involve traffic that is not presently being handled by the applicant. Applicant seeks to eliminate the necessity of traversing the Allentown, PA, gateway on traffic moving between Hemingway's New England Terminals and its middle-Atlantic terminals on the one hand, and on the other, its New York terminal. Tacking and Interline authority requested.

MC 141533 (Sub-1-6TA), filed June 30, 1980. Applicant: LYN TRANSPORT, INC., 37 North Central Avenue, Elmsford, NY 10532. Representative: Bruce J. Robbins, Esq., Robbins & Newman, 118-21 Queens Boulevard, Forest Hills, NY 11375. *Such commodities as are dealt in or used by chain grocery stores and food business houses (except commodities in bulk, in tank vehicles),* in vehicles equipped with mechanical refrigeration, between points in the New York, NY Commercial Zone, on the one hand, and, on the other, points in the State of Pennsylvania. There are approximately 20 shipper statements which are available for inspection at the Boston office of the Interstate Commerce Commission.

MC 150686 (Sub-1-1TA), filed June 30, 1980. Applicant: ELTON M. HARVEY TRUCKING, INC., 671 Eighth Street, Secaucus, New Jersey 07094. Representative: Herbert S. Zischkau, III, Arsham & Keenan, 277 Park Avenue, New York, New York 10172, (212) 759-1000. *Contract carrier, irregular routes: Commodities which because of size or weight require the use of special equipment, factory equipment or contractor's equipment.* Between points in NJ, and NY and PA on the one hand, and on the other, points in AL, AZ, AR, CA, CT, DC, DE, FL, GA, IL, IN, IA, KY, LA, MA, MD, MI, MN, MS, MO, NC, NJ, NM, NY, OH, OK, PA, RI, SC, TN, TX, VA, WV and WI. Supporting shippers: There are three supporting shippers. (Hearing Site: New York, New York or Washington, D.C.)

MC 133590 (Sub-1-1TA), filed June 30, 1980. Applicant: WESTERN CARRIERS,

INC., P.O. Box 925, Worcester, MA 01613. Representative: David M. Marshall, Marshall and Marshall, 101 State Street—Suite 304, Springfield, MA 01103. Contract carrier, irregular routes, such commodities as are dealt in or used by a manufacturer or distributor of telephones and telephone equipment, and materials and supplies used in the construction and maintenance of telephone systems from Kearny, NJ to Los Angeles, San Francisco, Oakland and Sunset Whitney, CA and Atlanta, GA, under continuing contract(s) with Western Carriers, Inc.

MC 114896 (Sub-1–7TA), filed June 27, 1980. Applicant: PUROLATOR ARMORED, INC., 225 Old New Brunswick Road, Piscataway, NJ 00859. Representative: Peter A. Greene, 900 17th Street, NW., Washington, D.C. 20036. Contract, irregular: *Gold and silver coins and bullion,* between Chattanooga, TN, on the one hand, and, on the other, Atlanta, GA. Supporting Shipper: Lewis Revels Rare Coins, Inc., P.O. Box 393, Rossville, GA 30741.

MC 64501 (Sub-1–1TA), filed June 30, 1980. Applicant: UNITED TRANSPORTATION COMPANY OF RHODE ISLAND, 34 Mohawk Drive, Leominster, MA 01453. Representative: Ronald Tarloff (same address). *Cleaning, scouring or washing compounds.* Between Pen Argyl, PA and Woburn, MA. Supporting Shipper: Economic Laboratories, Inc. Avenel, NJ.

MC 151167 (Sub-1–1TA), filed June 30, 1980. Applicant: MAILWAY TRUCKING CORP., 180 Winfred Ave., Yonkers, NY 10704. Representative: Harold L. Reckson, 33–28 Halsey Rd., Fair Lawn, NJ 07410. *Contract,* Irregular: *Used machinery, office fixtures and furniture, appliances and scrap metal.* From facilities of or used by IBM Corp., Beacon, East Fishkill, Kingston, Poughkeepsie and Saugerties, NY, to New Haven, CT and points in its commercial zone.

MC 151166 (Sub-1–1TA), filed June 30, 1980. Applicant: GERRY'S TRANSPORT LEASING, INC., 103–17 Metropolitan Avenue, Forest Hills, NY 11375. Representative: Michael R. Werner, 167 Fairfield Road, P.O. Box 1409, Fairfield, NJ 07006. *Contract carrier,* Irregular routes: *Floor covering,* from points in GA, TN, NC and SC to New York, NY. Supporting shipper: Turkeltaub & Schiffer, Inc., 65–25 Otto Road, Glendale, NY 11227.

MC 135568 (Sub-1–1TA), filed June 30, 1980. Applicant: CHRISTIE RIGGING & TRUCKING CO., 182 Oakwood Drive, Glastonbury, CT 06033. Representative: Paul F. Sullivan, 711 Washington Building, Washington, DC 20005. *Machinery and parts,* between North Haven, CT, on the one hand, and, on the other, Ashville, NC. Supporting shipper: Branford Wire Mfg. Co., 222 Universal Drive, North Haven, CT 06473.

MC 151164 (Sub-1–1TA), filed June 27, 1980. Applicant: T. L. C. CHARTER COACH, INC., 186 New Wilmot Road, Scarsdale, NY 10583. Representative: L. C. Major, Jr., suite 400, Overlook Building, 6121 Lincolnia Road, Alexandria, VA 22312. Contract, regular: Passengers and their baggage, in the same vehicle with passengers, in charter service, pursuant to a continuing contract with T. L. C. Senior Tours Ltd., an authorized broker of passenger transportation, beginning and ending at points in Westchester, Nassau, Suffolk and Putnam Counties, NY, and extending to points in the U.S., including AK, but excluding HI. Supporting shipper: T. L. C. Senior Tours, Ltd.

MC 151163 (Sub-1–1TA), filed June 27, 1980. Applicant: D.W.G. TRANSPORT, INC., 1600 Jamesville Avenue, P.O. Box 250, Syracuse, NY 13205. Representative: William Q. Keenan, Arsham & Keenan, 277 Park Avenue, New York, NY 10172 (212) 759–1000. *Contract carrier,* irregular routes, *foodstuffs and such general merchandise as is dealt in by wholesale, retail chain, convenience and super market food and business houses or by discount department stores, and in connection therewith equipment, materials and supplies used in the conduct of such businesses,* except articles of unusual value, used household goods, commodities in bulk and commodities in tank vehicles; between the facilities of Dewitt Wholesale Grocery, Inc. in Onondaga, New York on the one hand, and, on the other, points in the states of Maine, Connecticut, New Hampshire, Massachusetts, New Jersey, Pennsylvania, Delaware, Maryland, Ohio and Michigan; from points in the states of Maine, connecticut, New Hampshire, Massachusetts, New Jersey, Pennsylvania, Delaware, Maryland, Ohio and Michigan to the facilities of Olean Wholesale Grocery Co-op., Inc. at Olean, New York. (Hearing site: Syracuse, New York or Washington, DC.)

MC 151105 (Sub-1–1TA), filed June 27, 1980. Applicant: TILLAMOOK SERVICES, INC., 10 Stuyvesant Avenue, Lyndhurst, NJ 07071. Representative: James Robert Evans, 145 West Wisconsin Avenue, Neenah, WI 54956. *Contract Carrier,* irregular routes: *Fresh and frozen meat,* from points in CO, IL, IA, KS, MN, MO, NE, TX and WI to Philadelphia, PA, for the account of A. Servetnick & Sons. Supporting shipper: A. Servetnick & Sons, 420 N. 9th St., Philadelphia, PA 19123.

MC 141546 (Sub-1–3), filed June 27, 1980. Applicant: BULK TRANSPORT SERVICE, INC., One Dundee Park, Andover, MA 01810. Attorney: Kenneth B. Williams, 84 State Street, Boston, MA 02109. *Cement* from Nazareth, Pa. to points in NY, NJ, CT, MA, and RI.

MC 59640 (Sub-1–7TA), filed June 27, 1980. Applicant: PAULS TRUCKING CORP., Three Commerce Drive, Cranford, NJ 07016. Representative: Michael A. Beam, 301 Blair Road, Woodbridge, NJ 07095. *Contract carrier:* Irregular routes: *Printed matter and books,* (1) Between Clark, NJ, on the one hand, and, on the other, Crawfordsville, IN, Willard, OH, San Francisco, CA, and Chicago, IL, (2) Between Crawfordsville, IN, and Willard, OH, on the one hand, and, on the other, Chicago, IL and its commercial zone. Restricted to traffic originating at or destined to the facilities of Commerce Clearing House, Inc. Supporting shipper: Commerce Clearing House, Inc., 111 Terminal Avenue, Clark, NJ 07066. (Hearing Site: Newark, NJ, or New York, NY.)

MC 151–008 (Sub-1–1TA), filed June 27, 1980. Applicant: STEWART C. SILVER, R.R. No. 2, Hardwick, VT 05843. Representative: William G. Congleton, 10 Pearl Street, Essex Junction, VT 05452. *Lumber, woodchips and bark,* from Hardwick, VT, to Massena, NY, Quincy, MA; Easton, MA; New York, NY; Odgenburg, NY; unspecified points in NJ; Berlin, NH and Bethel, CT. Supporting shipper: Pelletier Lumber Company, Hardwick, VT 05843.

MC 59457 (Sub-1–2TA), filed June 27, 1980. Applicant: SORENSEN TRANSPORTATION CO., INC., 6 Old Amity Road, Bethany, CT 06525. Representative: Gerald A. Joseloff, 80 State Street, Hartford, CT 06103. Transportation of *(1) ice cream, ice products, dairy products, and frozen and refrigerated food products and (2) materials, equipment and supplies used in the manufacture, sale and distribution thereof* between the facilities of Kraft, Inc. at East Windsor and Norwalk, CT; Nashville and Memphis, TN; Huntington, IN; Peoria, IL; Richmond, VA; Charlotte, NC; Jacksonville, FL; and Syracuse, NY, on the one hand, and, on the other, points in ME, NH, VT and CT. Supporting shipper: Kraft, Inc., 225 Homestead Avenue, Hartford, CT 06112.

MC 116371 (Sub-1–3TA), filed June 20, 1980. Applicant: LIQUID CARGO LINES, LTD., P.O. Box 269, Clarkson, ONT, Canada L5J 2Y4. Representative: Miss Wilhelmina Boersma, 1600 First Federal Building, Detroit, MI 48226. Authority

sought to operate as a common carrier, over irregular routes, transporting: *asphaltum material, in bulk, in tank vehicles*, from ports of entry on the U.S.-Canada International Boundary line in Michigan on the Detroit and St. Clair Rivers and in New York on the Niagara River to Columbus and Ashtabula, OH and Howell, MI, restricted to traffic originating at the facilities of Chevron Asphalt Limited in Toronto, Ontario, Canada. Supporting shipper: Chevron Asphalt Limited, 43 Industrial Street, Toronto, Ontario, Canada M4G 1Z2.

MC 148127 (Sub-1–7TA), filed June 20, 1980. Applicant: LINEHAUL EXPRESS CORP., P.O. Box 5078, Manchester, NH 03108. Representative: Neal R. Michaud, P.O. Box 5078, Manchester, NH 03108. Irregular routes, *paper and paper products and materials and supplies used in the manufacture of paper* (except in bulk) between points in NH and VT on the one hand, and, on the other, points in the U.S. (except NH, VT, ME, MA, RI, and CT). Supporting shippers: Chemco Corp., Bellows Falls, VT; Paper Service Mills, Inc., Hillsdale, NH. (Hearing site: Concord, NH or Boston, MA.)

MC 142603 (Sub-1–7TA), filed June 20, 1980. Applicant: CONTRACT CARRIERS OF AMERICA, P.O. Box 1968, Springfield, MA 01101. Representative: Robert W. Gardier, Jr., Baker & Hostetler, 100 East Broad Street, Columbus, OH 43215. Contract: irregular: (1) *Batteries, electric storage;* (2) *accessories and supplies* used in connection with (1) above; and (3) *materials, equipment and supplies* used in the manufacture and distribution of (1), between points in and east of MN, IA, MO, AR and LA. Restricted to traffic originating at or destined to the facilities of ESB Incorporated, Division of Exide Corporation. Supporting shipper: ESB Incorporated, Division of Exide Corporation, 101 Gibraltar Rd., Horsham, PA 19044.

MC 140768 (Sub-1–6TA), filed June 20, 1980. Applicant: AMERICAN TRANS-FREIGHT, INC., P.O. Box 796, Manville, NJ 08835. Representative: Eugene M. Malkin, Suite 1832, Two World Trade Center, New York, NY 10048. *Insulation, sound deadening and fireproofing materials, and equipment, material and supplies used in the manufacture and installation thereof (except in bulk)* between points in the United States in and east of ND, SD, NE, KS, OK and TX. Restricted to transportation of traffic originating at or destined to the facilities utilized by U.S. Mineral Products Co. of Stanhope, NJ. Supporting shipper: U.S. Mineral Products Co., Furnace Street, Stanhope, NJ 07874.

MC 135633 (Sub-1–2TA), filed June 20, 1980. Applicant: NATIONWIDE AUTO TRANSPORTERS, INC., 140 Sylvan Avenue, Englewood Cliffs, NJ 07632. Representative: Jay Hernly, 110 South Columbus Street, Alexandria, VA 22314. *Trucks* in driveaway service in secondary movement between Baltimore, MD on the one hand, and, on the other, points in the U.S. except: AL, DE, HA, NC, NJ, NY, PA, VA, and DC. Supporting shipper: GMC Truck & Coach Div., 7667 Pulaski Highway, Baltimore, MD 21237.

MC 111625 (Sub-1–4TA), filed June 19, 1980. Applicant: BERMAN'S MOTOR EXPRESS, INC., P.O. Box 1566, Binghamton, NY 13902. Representative: J. Edward Derrick, (same address as the applicant). *Plastic pipe or tubing, fittings and other related articles*, from the facilities of Robintech, Inc. at Vestal, New York to points and places in the States of Maine, New Hampshire and Vermont. Supporting shipper: Francis J. Brink, Traffic Manager, Robintech, Inc. 3421 Vestal Road, Vestal, New York 13850.

MC 111625 (Sub-1–3TA), filed June 19, 1980. Applicant: BERMAN'S MOTOR EXPRESS, INC., P.O. Box 1566, Binghamton, NY 13902. Representative: J. Edward Derrick, (same address as the applicant). *Iron and Steel Articles* from the Facilities of Cives Steel Company at Conklin, New York to Newport News, Virginia. Supporting shipper: James E. Jackson, President and General Manager of Civies Steel Company, Conklin, New York 13748.

MC 99848 (Sub-1–TA), filed June 19, 1980. Applicant: J. F. LUX TRANS CO., INC., 232 Ash Street, Reading, MA 01867. Representative: Joseph T. Bambrick, Jr., P.O. Box 216, Douglassville, PA 19518. (1) *General commodities (except Classes A and B explosives, commodities in bulk, those of unusual value, Household Goods as defined by the Interstate Commerce Commission and those requiring special equipment)* from the facilities of the A. B. Dick Company at Suffield, CT to the facilities of North Central Warehouse, Inc. Reading, MA. (2) *General Commodities* (as described above) from points in MA; Hillsboro, Merrmick, Rockingham, and Stafford Counties, NH, and points in RI to Suffield, CT.

MC 151063 (Sub-1–1TA), filed June 19, 1980. Applicant: LODWICK TRANSPORT LTD., R.R. No. 1, Brechin, ON, Canada LOK 1B0. Representative: William J. Hirsch, attorney at law, 1125 Convention Tower, 43 Court Street, Buffalo, NY 14202. *Contract carrier:* irregular routes: automobiles jacks and handles, and materials, parts, supplies and equipment used in the manufacture thereof; between ports of entry on the International boundary line between the U.S. and CD in MI and NY, on the one hand and, on the other, points in DE, IL, IN, MD, MA, MI, NY, OH, WI. Supporting shippers: Seeburn Metal Products Limited, Beaverton, Ontario, Canada; Seemetal Products Limited, Orillia, Ontario, Canada.

MC 149302 (Sub-1–3TA), filed June 19, 1980. Applicant: EXPRESS TRANSPORT, INC., 247 Moorland Street, Fall River, MA 02724. Representative: Francis E. Barrett, Jr., Esq., 10 Industrial Park Road, Hingham, MA 02043. *Yarn, piece goods and materials, supplies and equipment* used in the manufacture thereof (except commodities in bulk) between Fall River, MA and Patterson, NJ on the one hand, and, on the other, points in NC, SC and VA. Supporting shipper: Landau and Company, 32 North Third Street, Philadelphia, Pennsylvania 19106.

MC 55898 (Sub-1–1TA), filed June 19, 1980. Applicant: DECATO BROS., INC., Heater Road, Lebanon, NH 03766. Representative: R. Peter Decato, 23 Bank Street, Lebanon, NH 03766. (1) *Buildings knocked down and parts and attachments for buildings;* (2) *Materials and supplies used in the installation of buildings*, from the facilities of Traditional Log Homes at or near State Road, North Carolina to all points east of the Mississippi River, and including the state of Arkansas. Supporting shipper: Traditional Log Homes, Inc., State Road, North Carolina 28676.

MC 145888 (Sub-1–1TA), filed June 19, 1980. Applicant: GRAHAM BELL d.b.a. B & W TRUCKING, P.O. Box 281, Gloucester, MA 01930. Representative: Graham Bell, P.O. Box 281, Gloucester, MA 01930. *Fish, Fish products, and materials used in the Manufacture thereof*, between points in ME, MA, NH, VT, CT, RI, NY, NJ, DE, MD, VA, OH, MI, IN, IL, KY, WV, PA, TN, SC, NC, WI, DC. Supporting shipper: Empire Fish Co. of Gloucester, MA 01930.

MC 148106F (Sub-1–1TA), filed June 19, 1980. Applicant: CASEY TRANSPORTATION, INC., P.O. Box 1054, Leominister, MA 01453. Representative: David M. Marshall, Marshall & Marshall, 101 State Street, suite 304, Springfield, MA 01103. *Such commodities as are dealt in by a supplier of plastic and rubber materials*, between the facilities of H. Muehlstein & Co., Inc, at Fitchburg, MA on the one hand, and, on the other, points in AL, TX, OH, IL, MI, MN, and points in NY west of NY Highway 12. Restriction: restricted to shipments originating at or

destined to the facilities of H. Muehlstein & Co., Inc.

MC 150546 (Sub-1–1TA), (correction), filed April 11, 1980. Applicant: S–J TRANSPORTATION CO., E. Millbrooke Avenue, P.O. Box 91, Woodstown, NJ. 08098. Representative: S. H. Jones, Jr., E. Millbrooke Avenue, P.O. Box 91, Woodstown, NJ. 08098. In FR Doc. 80 appearing in the issue of Monday, April 28, 1980 on page 28213, first column, second full paragraph, line 11 of paragraph starting MC 150546 Sub 1 TA, "OR" should be corrected to read "OH".

MC 150838 (Sub-1–1TA), (correction), filed June 6, 1980. Applicant: R. A. PRINDIVILLE & ASSOCIATES TRUCKING CO., INC., 4588 Broadway Street, Depew, NY 14043. Representative: LeBlanc & Panara, John M. Panara, Esq., 230 Clark Street, Hamburg, NY 14075. In FR Doc. 80 appearing in the issue of Monday, June 16, 1980 on pages 40703 and 40704, first column, first partial paragraph, line 3 of paragraph on page 40704 starting MC 150838 (Sub 1–1 TA), "UT" should be corrected to read "VT".

MC 145116 (Sub-1–1TA), filed June 18, 1980. Applicant: EASTERN SUPPLY CO., INC., Route 9, Freehold, NJ 07728. Representative: Harold L. Reckson, 33–28 Halsey Road, Fair Lawn, NJ 07410. *Contract,* irregular: (a) *Television cable, and materials, equipment and supplies* used in the manufacture and distribution thereof, between the facilities of Cerro Communications Products, Freehold, NJ, on the one hand, and, on the other, East Granby, CT, and points in NC, SC, GA, FL, AL, TN, KY, WV and PA. (b) *Wooden reels,* from Rutland, VT, and North Anson, ME, to Freehold, NJ. Supporting shipper: Cerro Communications Products, Freehold, NJ 07728.

MC 150688 (Sub-1–1TA), filed June 18, 1980. Applicant: COLONIAL TRUCKING CO., INC., Chandler Avenue, Pittsfield, ME 04096. Representative: John G. Feehan, Esq., Hewes, Culley, Feehan and Beals, 178 Middle Street, Portland, ME 04112. (1) *Wooden products, wood turnings, dowels, and golf tees* from Guilford and Madison, ME to points and places in the United States except Alaska and Hawaii. *Restricted* to traffic originating at the facilities of Hardwood Products, Inc. and the facilities of Pride Manufacturing Company; (2) *Construction material* from points and places within the United States except Alaska and Hawaii to points and places within the State of ME. *Restricted* to traffic destined to job sites or storage facilities of the Cianbro Corporation; (3) *Industrial supplies, plumbing and heating equipment, and building materials and supplies* from all points in the United States except Alaska and Hawaii to Madison, ME. *Restricted* to traffic destined to the facilities of Ferris Supply Company; (4) *Electrical, plumbing, and heating equipment and supplies and articles used in the construction business* from points and places in the United States except Alaska and Hawaii to Portland, Lewiston, Waterville, Augusta, Bangor, and Rockland, ME. *Restricted* to traffic destined to the facilities of Talma Corporation. Supporting shippers: Pride Manufacturing Co., Guilford, ME; Ferris Supply Co., Madison, ME; Hardwood Products, Inc., Guilford, ME; Talma Corp., South Portland, ME.

MC 84428 (Sub-1–2TA), filed June 19, 1980. Applicant: CHESTER JACKSON CO., 475 Schuyler Avenue, Kearny, NJ 07032. Representative: Charles J. Irwin, Esq., Irwin and Post, P.A., 744 Broad Street, Newark, NJ 07102. *Spent aqua-ammonia solution* and *spent ferric chloride solution,* in bulk, in rubber-lined tank vehicles, from Long Island City, NY to Joliet, IL. Supporting shipper: P.A. Hunt Chemical Corporation, Roosevelt Pl., Palisades Park, NJ 07650.

THE FOLLOWING APPLICATIONS WERE FILED IN REGION 2. SEND PROTESTS TO: ICC, FEDERAL RESERVE BANK BUILDING, 101 NORTH SEVENTH STREET, ROOM 620, PHILADELPHIA, PA 19106.

MC 1824 (Sub-2–9TA), filed June 30, 1980. Applicant: PRESTON TRUCKING CO., INC., 151 Easton Boulevard, Preston, MD 21655. Representative: Thomas M. Auchincloss, Jr., 700 World Center, 918 16th Street, N.W., Washington, DC 20006. Common; regular *General commodities, except those of unusual value, classes A & B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment,* serving points in Cumberland, Gloucester, and Salem Counties, NJ, as off-route points in connection with applicant's presently authorized regular route between Baltimore, MD, and New York, NY for 180 days. Applicant intends to tack authority sought with authority held under docket MC 1824 and all subs thereunder. Applicant intends to interline with present connecting carriers at authorized points including but not limited to Baltimore, MD, Pittsburgh, PA, and Cleveland, OH. An underlying ETA seeks 90 days authority. Supporting shippers: There are 32 supporting shippers. Their statements may be examined at the ICC Regional Office in Phila., PA.

**Note.**—Dual operations may be involved.

MC 107012 (Sub-II–55TA), filed July 1, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same as applicant). *Parts, materials and supplies used in the manufacture of toys and games (except commodities in bulk and commodities which because of size or weight require the use of specialized equipment),* between Edison and South Plainfield, NJ, on the one hand, and, on the other, points in Los Angeles and Orange, CA for 180 days. (Restricted to traffic originating at or destined to the facilities of Mattel Toys). An underlying ETA seeks 90 days authority. Supporting shipper: Mattel Toys, 5150 Rosecrans Ave., Hawthorne, CA 90250.

**Note.**—Common control may be involved.

MC 107012 (Sub-II–54TA), filed July 1, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same as applicant). *Heating and air conditioning ducts and fittings,* from the facilities of Gowco, Inc., at or near Houston, TX to AL, AR, FL, GA, IL, LA, MI, MS, OK and TN for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Gowco, Inc., 515 Norwood, P.O. Box 9248, Houston, TX 77011.

**Note.**—Common control may be involved.

MC 144910 (Sub-II–3TA), filed June 27, 1980. Applicant: TY PRUITT TRUCKING, INC., 6717 Quad Avenue, Baltimore, MD 21237. Representative: Chester A. Zyblut, 366 Executive Building, 1030 15th Street, NW., Wash., DC 20005. *Caprolactam, in containers,* from Hopewell, VA, to Baltimore, MD, restricted to foreign commerce only. An underlying ETA seeks 90 days authority. Supporting shipper: Allied Chemical Corp., New York, NY 10018.

MC 107012 (Sub-II–53TA), filed June 26, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Bruce W. Boyarko (same as applicant). *Such commodities as are utilized in and incidental to the operation of a restaurant (except commodities in bulk and commodities which because of size or weight require the utilization of specialized equipment)* from Orange County, CA to points in US for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Paul L. Dodds Co., Inc., 2356 Moore Ave., Fullerton, CA 92633.

**Note.**—Common control may be involved.

MC 1239 (Sub-II–1TA), filed June 30, 1980. Applicant: PONY TRUCKING, INC., 501 State Route No. 7, Steubenville, OH 43952. Representative: Maxwell A. Howell, 1100 Investment Bldg., 1511 K St., NW, Washington, DC 20005. *Contract; irregular: Iron and steel articles, and materials and supplies used in the manufacture thereof,* between the facilities of Weirton Steel Division of National Steel Corp., at or near Newark, OH, on the one hand, and, on the other, points in AL, AR, CT, DC, DE, FL, GA, IL, IN, KS, KY, LA, MD, MA, MI, MO, MS, NJ, NY, NC, OK, PA, RI, SC, TN, TX, VA, WV and WI for 180 days, under a continuing contract with the Weirton Steel Division, National Steel Corp. of Weirton, WV. Supporting shipper(s): Weirton Steel Division, Three Springs Dr., Weirton, WV.

MC 52614 (Sub-II–2TA), filed June 27, 1980. Applicant: R. S. POWELL, INC., P.O. Box 338, Madison Heights, VA 24572. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048. *Contract, Irregular: Materials and supplies used in the manufacture and distribution of cast iron products (except in bulk in tank vehicles),* between points in Burlington County, NJ, on the one hand, and, on the other, points in AL, CT, DC, DE, FL, GA, IL, IN, KY, ME, MA, MD, MS, MI, NC, NH, NJ, NY, OH, PA, RI, SC, TN, VA, VT, and WV for 180 days. Supporting shipper(s): Griffin Pipe Products Co., 2000 Spring Rd., Oak Brook, IL 60521.

MC 148978 (Sub-II–1TA), filed June 26, 1980. Applicant: OHIO SWIFTWAY, INC., 105 Jamison Ave., Cadiz, OH 43907. Representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, PA 15219. *Contract; irregular: Staircase parts,* from Bowerston, OH to points in CA and CO. Restriction: The authority granted herein is limited to a transportation service to be performed under continuing contract(s) with L. J. Smith, Inc. for 180 days. An underlying ETA seeks 90 days. Supporting shipper: L. J. Smith, Inc., R. D. No. 1, Bowerston, OH 44695.

MC 124212 (Sub-II–1TA), filed June 26, 1980. Applicant: MITCHELL TRANSPORT, INC., 6500 Pearl Rd., P.O. Box 30248, Cleveland, OH 44130. Representative: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, OH 44114. *Cement, in bulk,* between points in CT, restricted to traffic originating at the plant sites of Alpha Portland Cement Co., and restricted to shipments having an immediately prior movement by rail. An underlying ETA seeks 90 days authority. Supporting shipper: Alpha Portland Cement Co., P.O. Box 138, Cementon, NY 12415.

MC 102616 (Sub-II–11–TA), filed July 2, 1980. Applicant: COASTAL TANK LINES, INC., 250 N. Cleveland-Massillon Rd., Akron, OH 44313. Representative: W. M. Kiefaber (same as applicant). *Carbon black,* in bulk, in tank or hopper-type vehicles, from Marshall county, WV to pts. in OH. An underlying ETA seeks 90 days authority. Supporting shipper: Columbian Chemicals Co., P.O. Box 37, Tulsa, OK 74102.

MC 1291 (Sub-2–1TA), filed June 27, 1980. Applicant: ALUMINA TRANSPORT CORP., 6600 W. Broad St., Richmond, VA 23261. Representative: Peter A. Greene, 900 17th St, N.W., Washington, DC 20006. Contract: *Phosphate rock in bulk,* by water vessel, from Jacksonville, FL to Crockett and Stockton, CA via the Panama Canal, for 180 days. The Philadelphia Regional Motor Carrier Board approved the authority sought for 180 days commencing July 7, 1980. Protests should be submitted to the Philadelphia Regional Office within 20 days from date of publication. Supporting shipper: Occidental Chemical Co., 2000 S. Post Oak Rd., Houston, TX 77056.

MC 73533 (Sub-II–3TA), filed May 9, 1980. Originally published in **Federal Register** of May 29, 1980. Applicant: KEY WAY TRANSPORT, INC., 820 S. Oldham St., Baltimore, MD 21224. Representative: William F. Lamperelli (same address as above). *Books and printed matter* from Baltimore, MD to Philadelphia, PA; Albany and New York, NY; Boston, MA and Somerset, NJ, for 180 days. Applicant intends to tack the authority sought herein with its existing operating authority. Applicant also proposes to interline at Baltimore, MD. An underlying ETA seeks 90 days authority. Supporting shipper(s): Port City Press, Inc., 1323 Greenwood Rd. Baltimore, MD 21208. The purpose of this re-publication is to reflect the tacking and interlining statement previously omitted in the first publication.

MC 140555 (Sub-II–1TA), filed May 15, 1980. Originally published in **Federal Register** of May 29, 1980. Applicant: J G EXEC, INC., P.O. Box 593, 1125 S. Bradford St., Dover, DE 19901. Representative: Marshall Kragen, 1535 K St., NW. Suite 600, Washington, DC 20006. *Passengers and their baggage, limited to transportation of not more than 12 passengers in any one vehicle,* between Kent County, DE, on the one hand, and, on the other, Norfolk, VA, for 180 days. Applicant intends to tack the authority sought herein with its existing operating authority. Supporting shipper(s): Comnavairlant, Naval Air Station Norfolk, VA. The purpose of the re-publication is to reflect the tacking statement previously omitted in the first publication.

MC 112595 (Sub-II–1TA), filed June 20, 1980. Applicant: FORD BROTHERS, INC. P.O. Box 727 Ironton, OH 45638. Representative: Jerry B. Sellman 50 W. Broad St. Columbus, OH 43215. *Acrylonitrile Butadiene Styrene (ABS), in bulk, in tank or hopper type vehicles,* from the facilities of United States Steel Corporation located at or near Haverhill, Scioto County, OH, to points in the US, except AK and HI, and returned and rejected shipments from the above named destination territory to the above named origin point, for 180 days. Supporting shipper: United States Steel Corporation, 600 Grant St., Pittsburgh, PA 15230.

MC 124821 (Sub-II–20TA), filed June 26, 1980. Applicant: GILCHRIST TRUCKING, INC., 105 N. Keyser Ave., Old Forge, PA 18518. Representative: John W. Frame, Box 626, 2207 Old Gettysburg Rd., Camp Hill, PA 17011. *General commodities* (Except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), (1) Between points in Cortland, Chenango, Broome, Chemung and Steuben Counties, NY; Franklin, Columbia, Montour, Bradford, Lackawanna, Luzerne, Wayne, Lehigh, Northampton, Tioga and Schulykill Counties, PA, on the one hand, and, on the other, AR, LA, OK and IN; (2) Between points in Wyoming, Pike, Monroe and Carbon Counties, PA, on the one hand, and, on the other, AR, CA, CO, FL, GA, IL, IN, LA, MI, MN, MO, OH, OK, OR, WA, WI and TX, restricted to traffic originating at or destined to facilities utilized by Northeastern Pennsylvania Shippers Cooperative Association, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Northeastern Pennsylvania Shippers Cooperative Association, Inc., Suite 300—Penn Park Bldg., Pittston, PA 18640.

MC 38921 (Sub-II–2TA), filed June 26, 1980. Applicant: KMA LEASING, INC., d.b.a. WM. H. P., 1345 N. Howard St., Philadelphia, PA 19122. Representative: Michael R. Werner, 167 Fairfield Rd, Fairfield, NJ 07006. *Iron and steel articles via: Terne plate and/or tin plate,* from the facilities of Weirton Steel Co., Inc., at Stuebenville, OH and/or Weirton, WV, to the facilities of Crown Cork and Seal Co., at Baltimore and Fruitland, MD; Lawrence, MA; North Bergen, NJ and Philadelphia, PA. An underlying ETA seeks 90 days authority. Applicant intends to tack the authority

sought herein with its present authority in MC–38921 and MC–29684. Supporting shipper(s): Crown Cork and Seal Co., 9300 Ashton Rd, Phila., PA 19136.

MC 118570 (Sub-II–1TA), filed June 16, 1980. Applicant: DeFAZIO EXPRESS, INC., 1028 Springbrook Ave., Moosic, PA 18507. Representative: John L. Alfano, 550 Mamaroneck Ave., Harrison, NY 10528. Contract, irregular: *Such commodities as are dealt in by wholesale, retail and chain grocery stores and food business houses, equipment, supplies and materials used in the manufacture and distribution of the commodities herein (except commodities in bulk),* (1) from the facilities of Procter & Gamble Co. at Lackawanna, Luzerne and Wyoming Counties, PA, to Baltimore, MD, Washington, DC, and Orange County, NY; and (2) from the facilities of Procter & Gamble Co at Baltimore, MD and Cockeysville, MD, to Broome, Chemung, and Tioga Counties, NY and Columbia, Lackawanna, Luzerne, Monroe, Montour, Northumberland, Wayne and Pike Counties, PA, *RESTRICTED* to a transportation service to be performed under continuing contract(s) with Procter & Gamble Co. of Cincinnati, OH. Supporting shipper: Procter & Gamble Co., P.O. Box 599, Cincinnati, OH 45201.

Note.—Dual operations involved.

MC 143522 (Sub-II–4TA), filed June 27, 1980. Applicant: CONSOLIDATED CARRIERS, INC., 123 Sunrise Drive, Irwin, PA 15642. Representative: Scott E. Daniel, 80 Nebraska Savings Bldg., 1623 Farnam, Omaha, NE 68102. *General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment and commodities injurious or contaminating to other lading),* between pts. in the U.S. for 180 days. Restriction: Restricted to traffic originating at or destined to the facilities of McGraw-Edison. Supporting shipper(s): McGraw-Edison Power Systems Group, P.O. Box 2850, Pittsburgh, PA 15230.

MC 110525 (Sub-II–12TA), filed June 27, 1980. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 E. Lancaster Ave, Downingtown, PA 19335. Representative: Thomas J. O'Brien (same as applicant). *Acrylonitrile Butadiene Styrene (ABS), in bulk, in tank or hopper type vehicles:* from the facilities of United States Steel Corp. located at or near Haverhill, Scioto County, OH to pts. in US (ex AK & HI) and returned and rejected shipments from the above named destination territory to the above named origin point. For 180 days. Supporting shipper: United States Steel Corp., 600 Grant St., Pittsburgh, PA 15230.

MC 109736 (Sub-II–1TA), filed June 27, 1980. Applicant: CAPITOL BUS COMPANY, P.O. Box 3343, Harrisburg, PA 17105. Representative: S. Berne Smith, P.O. Box 1166, Harrisburg PA 17108. Common: Regular: *Passengers and their baggage, and express and newspapers, in the same vehicle with passengers,* between Springettsbury and Manchester Townships, York County, PA, and Harrisburg, PA, serving the Capital City Airport, Fairview Township, York County, PA, as an off-route point, from Springettsbury and Machester Townships, over Interstate Hwy 83 to Harrisburg, and return over the same route. Restricted to the transportation of traffic moving to or from Atlantic, City, NJ; with the right to tack with carrier's other regular routes so as to serve Atlantic City, NJ., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 26 supporting shippers. Their statements may be examined at the ICC Regional Office, Phila., PA.

MC 123744 (Sub-II–7TA), filed July 1, 1980. Applicant: BUTLER TRUCKING CO., P.O. Box 88, Woodland, PA 16881. Representative: Dwight L. Koerber, Jr., P.O. Box 1320, Clearfield, PA 16830. *Metals, metal products, and material and supplies used in the production or distribution of metals and metal products (except commodities in bulk),* between the facilities of Cerro Metal Products, at or near Bellefonte, PA and Weyers Cave, Virginia on the one hand, and, on the other, pts. in and east of ND, SD, NE, KS, OK and TX. Supporting shipper: Cerro Metal Products, P.O. Box 288, Bellefonte, PA 16823.

MC 128484 (Sub-II–1TA), filed June 27, 1980. Applicant: BOWEIL STORAGE & TRANSIT CO., 5850 Center Hill, Cincinnati, OH 45232. Representative: Richard D. Mathias, 1100 Connecticut Ave., NW., Washington, DC 20036. *Household goods as defined by the Commission,* (1) between pts. in Dayton, KY and pts. within 15 miles thereof, on the one hand, and on the other, pts. in AL, CT, DE, FL, GA, IN, IA, KS, MD, MA, MI, MO, NJ, NY, NC, PA, RI, SC, VA, WI, and DC; (2) between pts. in Hamilton County, OH, on the one hand, and on the other, pts. in AL, CT, DE, FL, GA, IL, IA, KS, KY, MD, MA, MI, MN, MO, NJ, NY, NC, OH, PA, RI, SC, TN, VA, WV, WI, and DC; and (3) between pts. in KY, other than Dayton, KY and pts. 15 miles thereof, pts. in OH, other than Hamilton County, and pts. in IN, on the one hand, and, on the other, pts. in AL, CT, DE, FL, GA, IL, IN, IA, KS, KY, MD, MA, MI, MN, MO, NJ, NY, NC, OH, PA, RI, SC, TN, VA, WV, WI, and DC, for 180 days. Applicant intends to tack. Supporting shipper: Display Sales Inc., 5555 Fair Lane, Cincinnati, OH 45227. Mead Containers, 5533 Fair Lane, Cincinnati, OH 45227. General Electric Co., Neumann Way, Cincinnati, OH 45215. The Early & Daniels Co., Inc., 525 Carr St., Cincinnati, OH 45203.

MC 115413 (Sub-II–4TA), filed June 27, 1980. Applicant: BLISSFIELD TRUCK LINE, INC., P.O. Box 245, Archbold, OH 43502. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215. *(1) ramps, stands and scaffolding; (2) accessories and supplies used for those items in (1) above and (3) equipment, materials and supplies used in the manufacture or distribution of the commodities named in (1) and (2) above,* (A) Between Erin, TN, on the one hand, and, on the other pts. in the U.S. (except AK, HI, IL, IN, KY, MI, TN, CT, FL, MA, NJ, NY, PA, TX, VA, and St. Louis and its commercial zone). (B) Between Archbold, OH, on the one hand, and, on the other, pts. in the U.S. (except AK, HI, IL, IN, KY, MI, OH, CT, FL, MA, NJ, NY, PA, TX, VA, and St. Louis, MO and its commercial zone) for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Bil-Jax, Inc., E. Lugbill Rd., Archbold, OH 43502.

MC 151018 (Sub-II–1TA), filed July 1, 1980. Applicant: H. C. BERGER TRUCKING CO., INC., 210 Kingston Dr., Pittsburgh, PA 15235. Representative: Harry C. Berger III (Same as applicant). *General commodities* between pts. in Pittsburgh, PA to pts. in the states of OH, IN, IL, WV, MD, NJ, VA, NC, SC, and KY. Supporting shipper: Northern Industrial Maintenance, 3000 Industrial Blvd., Bethel Park, PA 15102. Koolvent Aluminum Products Inc., 1417 McLaughlin Run Rd., Pittsburgh, PA 15241. Alfred M. Lutheran Distributors Inc., 2007 Whitaker Way, Munhall, PA 15120.

MC 146571 (Sub-II–1TA), filed June 27, 1980. Applicant: DONALD A. BENSON d.b.a. BENSON TRUCKING, R. D. 1, Box 44, Mansfield, PA 16933. Representative: S. Berne Smith, P.O. Box 1166, Harrisburg, PA 17108. *Malt beverages* from Rochester, NY, to points in PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers: There are 9 supporting shippers. Their statements may be examined at the ICC Regional Office, Philadelphia, PA.

MC 124333 (Sub-II–3TA), filed June 27, 1980. Applicant: BAKER PETROLEUM TRANSPORTATION CO. INC., Pyles Lane, New Castle, DE 19720. Representative: Samuel W. Earnshaw, 833 Washington Bldg., Washington, DC

20005. *Contract,* irregular: *Fuel oil, in bulk, in tank vehicles,* from Pennsauken, NJ to Clayton, DE for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Campbell Soup Co., Campbell Place, Camden, NJ 08101.

MC 151177 (Sub-II–1TA), filed July 1, 1980. Applicant: ATI, INC., 123 Harper Rd., Portsmouth, VA 23707. Representative: Herbert Alan Dubin, 818 Connecticut Ave., NW., Washington, DC 20006. *Imported automobiles* from the Portsmouth, VA Marine Terminal to points in VA, NC, SC, GA, TN, KY, WV, MD, DE, and DC. Supporting shippers: American Honda Motor Co., Inc., 100 W. Alondra Blvd., P.O. Box 970, Gardena, CA 90247. Eastern Auto Distributors, Inc., 933 E. Little Creek Rd., Norfolk, VA 23518.

MC 135121 (Sub-II–1TA), filed May 16, 1980. Originally published in **Federal Register** dated May 28, 1980. Applicant: DODSWORTH, INC., 928 W. 19th St., Erie, PA 16502. Representative: John Guandolo, 1000 16th St., NW., Washington, DC 20036. *General Commodities, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, and commodities in bulk,* between Erie, Crawford, Venango, and Warren Counties, PA, Ashtabula County, OH, and Chautauqua, NY, on the one hand, and, on the other, points in the states of NY, OH, and PA, for 180 days. An underlying ETA seeks 90 days authority. Applicant intends to interline. Supporting shippers: There are 152 supporting shippers. Their statements may be examined at ICC Regional Office in Philadelphia, PA. The purpose of republication is to show applicants intent to interline.

MC 14252 (Sub-II–2TA), filed May 12, 1980. Originally published in **Federal Register** dated May 28, 1980. Applicant: COMMERCIAL LOVELACE MOTOR FREIGHT, INC., 3400 Refugee Rd., Columbus, OH 43227. Representative: William C. Buckham (same address as applicant). *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)* to serve Owensboro, KY and its commercial zone as an off route point in connection with our established regular route operation. An underlying ETA seeks 90 days authority. Applicant intends to tack and interline. Supporting shippers: Bearing Headquarters Co., 1234 E. 2nd St., Owensboro, KY 42301. Pinkerton Tobacco Co., 1121 Industrial Dr., Owensboro, KY 42301. Harsh Mfg. Co., P.O. Box 927, Owensboro, KY 42301. Modern Methods, Inc., 1120 Swing Rd., Owensboro, KY 42301. The purpose of republication is to show applicant intends to tack and interline.

MC 151002 (Sub-II–1TA), filed June 6, 1980. Originally published in **Federal Register** dated June 23, 1980. Applicant: C & H TRUCK BROKERS, P.O. Box 236, Harrington, DE 19952. Representative: John A. Guernsey, 2001 The Fidelity Bldg., Philadelphia, PA 19109. Contract, irregular; *Canned clam products,* from the plant facility of American Original Clam Co. in Cannon, DE to points in AL, AR, AZ, CA, CO, CT, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, MA, ME, MD, MI, MN, MO, MS, NE, NH, NV, NJ, NM, NY, NC, OH, OK, OR, PA, RI, SC, TN, TX, UT, VA, VT, WA, WV, and WI. Supporting shipper: American Original Clam Co., 215 High St., Seaford, DE. The purpose of republication is to show the State of Vermont which was omitted from the first publication.

MC 106920 (Sub-II–6TA), filed June 26, 1980. Applicant: RIGGS FOOD EXPRESS, INC., West Monroe St., P.O. Box 26, New Bremen, OH 45869. Representative: E. Stephen Heisley, Suite 805, 666 Eleventh St. NW., Washington, DC 20001. *Such commodities as are dealt in by wholesale and retail grocery and food business houses,* between Dorsey, MD; Indianapolis, IN; Lyons, IL; and Kansas City, KS, on the one hand, and, on the other, points in the U.S. in and east of MT, WY, CO and NM, for 180 days. Restricted to traffic originating at and destined to facilities used by John Sexton Co. An underlying ETA seeks 90 days authority. Supporting shipper: John Sexton & Co., Division of Beatrice Foods Co., 222 South Riverside Plaza, Chicago, IL 60606.

MC 106920 (Sub-II–5TA), filed June 26, 1980. Applicant: RIGGS FOOD EXPRESS, INC., West Monroe St., P.O. Box 26, New Bremen, OH 45869. Representative: E. Stephen Heisley, Suite 805, 666 Eleventh St. NW., Washington, DC 20001. *Soy sauce* (in bulk, in tank vehicles), (1) from Decatur, IL and Harbor Beach, MI to Archbold and Napoleon, OH, and (2) from Archbold and Napoleon, OH to points in WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: La Choy Food Products, Div. of Beatrice Foods Co., 901 Stryker St., Archbold, OH 43502.

MC 106920 (Sub-II–4TA), filed June 25, 1980. Applicant: RIGGS FOOD EXPRESS, INC., West Monroe St., P.O. Box 26, New Bremen, OH. Representative: E. Stephen Heisley, Suite 805, 666 Eleventh St. NW., Washington, DC 20001. *Foodstuffs* (except commodities in bulk) *and such materials supplies, and equipment used in the manufacture and distribution of foodstuffs,* between plants and warehouse facilities of La Choy Food Products, Division of Beatrice Foods Co. at Archbold and Napoleon, OH on the one hand, and, on the other, points in the U.S. in and east of MT, WY, CO, and NM, except foodstuffs from Archbold, OH to points in CT, DE, IL, IN, KY, ME, MD, MA, MI, NH, NJ, NY, PA, RI, VT, WV, and DC, for 180 days. Restricted to the transportation of traffic originating at above named origins and destined to the indicated destinations. An underlying ETA seeks 90 days authority. Supporting shipper: La Choy Food Products, Div. of Beatrice Foods Co., 901 Stryker St., Archbold, OH 43502.

MC 140210 (Sub-II–4TA), filed June 25, 1980. Applicant: SONELL, INC., 4th and Melrose Ave., Chester, PA 19013. Representative: Steven M. Tannenbaum, 135 N. 4th St., Philadelphia, PA 19106. *Cleaning, washing, buffing or polishing compounds, textile softeners, lubricants, hypochlorite solutions, deodorants, disinfectants, paints, stains or varnishes, plastic bags, filters, cleaning and sanitizing equipment,* and materials, equipment and supplies used in the manufacture, distribution and sale thereof (except in bulk, in tank vehicles). (a) Between the facilities of Economics Laboratory, Inc., at or near Pen Argyl and Windgap, PA on the one hand, and, on the other, points in ME, NH, VT, MA, RI, CT, NY, NJ, DE, MD, DC, VA, WV, OH, KY, TN, NC, SC, GA, AL, MS, LA and FL, and; (b) Between the facilities of Economics Laboratory, Inc., at Avenel, NJ on the one hand, and, on the other, points in ME, NH, VT, RI, CT, NY, DE, MD, DC, VA, WV, OH, KY, TN, NC, SC, GA, AL, MS, LA, and FL, for 180 days. Restricted to the transportation of traffic originating and destined to the named facilities and described territory. An underlying ETA seeks 90 days authority. Supporting shipper: Economics Laboratory, Inc., 255 Blair Rd., Avenel, NJ 07001.

MC 117883 (Sub-II–4TA), filed June 26, 1980. Applicant: SUBLER TRANSFER, INC., 1 Vista Dr., P.O. Box 62, Versailles, OH 45380. Representative: Robert Von Aschen (same as applicant). *Plastic, Plastic Articles,* and *Plastic Products* (except in bulk in tank vehicles), from Coleman, MI to Akron OH. An underlying ETA seeks 90 days authority. Supporting Shipper(s) Ohio Pure Foods, Inc., 1680 East Market St., Akron, OH 44305.

MC 8958 (Sub-II–9TA), filed June 27, 1980. Applicant: YOUNGSTOWN

CARTAGE CO., 825 West Federal St., Youngstown, OH 44501. Representative: Philip J. Cianciolo (same as applicant). *Iron and steel articles,* between Albany, NY, North Haven, CT and points in ME, NH, and VT, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper: Bethlehem Steel Corp., 33 Stiles Lane, North Haven, CT 18016.

MC 13471 (Sub-II–1TA), filed June 25, 1980. Applicant: WILEY'S AUTO EXPRESS, INC., Oak Lane & Mac Dade Blvd., Glenolden, PA 19036. Representative: Fred E. Wiley, Jr., Oak Lane & Mac Dade Blvd., Glenolden, PA 19036. *Contract Carrier, Irregular Route: Petroleum Products in Containers,* from Philadelphia, PA to points in IN and MI. Supporting Shipper: Gulf Oil Company—US 1900 E. Dublin-Granville Rd., Columbus, OH, 43229.

MC 150840 (Sub-II–1TA), filed June 30, 1980. Applicant: HERBERT G. STEPHENS d.b.a. STEPHENS TOUR SERVICE, 710 Owens St., Rockville, MD 20850. Representative: Timothy C. Miller, Suite 301, 1307 Dolley Madison Blvd., McLean, VA 22101. *Passengers and their luggage* in special and charter operations in vehicles of not less than 15 passengers beginning and ending in the Washington, D.C. Commercial Zone and extending to points in the U.S., except AL and HI. There are 8 supporting shippers. Their statements may be examined at the Philadelphia office.

MC 107012 (Sub-II–28TA), filed May 7, 1980. (Originally published in Federal Register, May 29, 1980.) Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Bruce W. Boyarko (same as applicant). *General commodities (except commodities in bulk, those of unusual value, class A & B explosives, household goods as defined by the Commmission,* and *those requiring special equipment),* from the facilities of Black & Decker (U.S.), Inc. at or near Raleigh, NC to points in AZ, AR, CA, CO, DC, FL, GA, IL, IN, IA, KS, NM, LA, MD, MI, MS, MO, NE, NV, NY, OH, OK, OR, PA, SC, SD, TN, TX, UT, VA, WA, WV and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Black & Decker (U.S.), Inc., 701 East Joppa Rd., Towson, MD 21204. The purpose of republication is to change destination State of MN to NM.

Note.—Common control may be involved.

THE FOLLOWING APPLICATIONS WERE FILED IN REGION 3. SEND PROTESTS TO ICC, REGIONAL AUTHORITY CENTER, P.O. BOX 7520, ATLANTA, GA 30357.

MC 150864 (Sub-3–2TA), filed June 26, 1980. Applicant: SABRE TRANSPORT, INC., P.O. Box 12288, Atlanta, GA. 30305, Representative: Harry L. Walsh (same as applicant). *Contract carrier:* irregular: *wheat flour, breadons, white, black pepper,* between Dallas, TX, Chicago, IL and Atlanta, GA. Supporting shipper: Stange Co., 5820 Tulane Dr., Atlanta, GA. 30336.

MC 142835 (Sub-3–4TA), filed May 21, 1980. Applicant: CARSON MOTOR LINES, INC., P.O. Box 337, Auburndale, FL 33823. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215. *Canned and preserved foodstuffs,* from the facilities of Heinz USA at or near Pittsburgh, PA and Fremont, OH to points in FL, GA and SC, restricted to traffic originating at the named facilities and destined to the named states. Supporting shipper: Heinz USA, Div. of H. J. Heinz Co., P.O. Box 57, Pittsburgh, PA 15230.

MC 135895 (Sub-3–9TA), filed June 26, 1980. Applicant: B & R DRAYAGE, INC., P.O. Box 8534, Battlefield Station, Jackson, MS 39204. Representative: Wynn, Bogen & Mitchell, P.O. Box 1295, Greenville, MS 38701, (1) *Motor vehicle exhaust mufflers, muffler assemblies, tail pipes, tail pipe assemblies, flexible tubing, and accessories therefor and (2) materials, equipment and supplies used in the manufacture, sale and distribution of commodities described in (1) above (except commodities in bulk and those requiring special equipment)* between the facilities of Walker Manufacturing, Inc. at or near Aberdeen, MS, Arden, NC, Harrisonburg, VA, Jonesboro, AR, Seward, ND and Greenville, TX on the one hand, and, on the other, points in the U.S. in and east of ND, SD, NB, CO and NM. Supporting shipper: Walker Manufacturing, Inc., South Matubba Street, Aberdeen, MS 39730.

MC 149353 (Sub-3–1TA), filed June 26, 1980. Applicant: D. D. H., INC., P.O. Box 459, Middleburg, FL 32068. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202. *Raw Sugar, in bulk,* from Jacksonville and Tampa, FL to Brunswick, GA. Supporting shipper: Marine Port Terminals, Inc., P.O. Box 1411, Brunswick, GA 31521.

MC 141832 (Sub-III–2TA), filed June 26, 1980. Applicant: K.I.T. MOTOR EXPRESS, INC., 1228 Highland Avenue, Louisville, KY 40204. Representative: Edward J. Kiley, 1730 M Street, N.W., Washington, D.C. 20036. As a motor *contract* carrier, over *irregular* routes: (1) *rod, bar, sheet, plate and tubing extrusions of aluminum, brass and copper,* between the facilities of Meier Metal Services, Inc., located in or near Hazel Park, MI; Broadview, IL; Moraine, OH; Guilford County, NC; and Maryville, TN, and (2) *aluminum coil and sheets* from Alcoa, TN to the facilities of Meier Metal Services, Inc., located at or near Hazel Park MI. Supporting shipper(s): Meier Metal Services, Inc., 1471 East Nine Mile Road, Hazel Part, MI 48030.

MC 107515 (Sub-3–36TA), filed June 26, 1980. Applicant: REFRIGERATED TRANSPORT CO. INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, Esq., 3390 Peachtree Road, N.E., 5th Floor-Lenox Towers South, Atlanta, GA 30326. *Such Commodities As Are Dealt in by Wholesale and Retail Drug, Grocery and Food Business Houses (except in bulk)* from facilities of Warner-Lambert Company, Grand Prairie, TX to Little Rock, AR and Memphis, TN. Supporting shipper: Warner-Lambert Company, 1102 W. N. Carrier Parkway, Grand Prairie, TX 75050.

MC 107515 (Sub-3–35TA), filed June 26, 1980. Applicant: REFRIGERATED TRANSPORT CO. INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, Esq., 3390 Peachtree Road, N.E., 5th Floor-Lenox Towers South, Atlanta, GA 30326. *Carpets, Rugs, and Tufted Textile Products* from the facilities of Armstrong World Industries, Inc. at or near Ringgold, GA to Elk Grove Village, IL. Supporting shipper: Armstrong World Industries, Inc., P.O. Box 3001, Lancaster, PA 17604.

MC 138882 (Sub-3–22TA), filed June 26, 1980. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, Alabama 36081. Representative: John J. Dykema (same address as applicant). *Denatured Anhydrous Ethanol Alcohol (in bulk and tank vehicles)* between Gretna, LA and its commercial zone, on the one hand, and, on the other, points in AL. Supporting shipper: Clouse Oil Company of Ozark, Inc., P.O. Box 818, Ozark, AL 36360.

MC 85970 (Sub-3–5TA), filed June 4, 1980. (Republication—originally published in Federal Register of 06–18–80 page 41238, volume 45, No. 119.) Applicant: SARTAIN TRUCK LINE, INC., 1625 Hornbrook Street, Dyersburg, TN 38024. Representative: Warren A. Goff, 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. *Common carrier:* Regular routes: *General commodities, except Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and articles requiring special equipment,* (1) Between Covington, TN, and Dyersburg, TN, over U.S. Hwy. 51, serving all intermediate points. (2)

Serving Alamo, TN, as an off-route point in conjuction with applicant's regular route authority. Applicant intends to tack the authority applied for with its MC 85970 and subs thereunder at Dyersburg, TN, and to interline with other carriers at Nashville and Memphis, TN, and St. Louis, MO. There are 13 statements in support attached to the application which may be examined at the I.C.C. Regional Office in Atlanta, GA.

MC 103051 (Sub-3–2TA), filed June 6, 1980. (Republication—originally published in **Federal Register** of June 18, 1980, page 41239, volume 45, No. 119.) Applicant: FLEET TRANSPORT COMPANY, INC., 934 44th Ave., North, P.O. Box 90408, Nashville, TN 37209. Representative: Russell E. Stone (same as above). *Alcohol, in bulk, in tank vehicles*, from Gretna, LA to points in AL, FL, GA, MS, NC, SC, and TN. Supporting shipper(s): Scientific South of Alabama, Inc., 2513 31st St., S.W., Birmingham, AL 35221.

MC 119777 (Sub-3–11TA), filed June 27, 1980. Applicant: LIGON SPECIALIZED HAULER, INC., Highway 85 East, Madisonville, KY 42431. Representative: Carl U. Hurst, P.O. Drawer "L", Madisonville, KY 42431. *Component parts, materials, equipment and supplies (except in bulk) used in connection with or in the manufacture of mobile homes and recreational vehicles*, between points in the US (except AK and HI), restricted to shipments originating at or destined to the facilities of Elixir Industries, Inc. or its customers or suppliers. Supporting shipper: Elixir Industries, 17925 S. Broadway, Gardena, CA 90248.

MC 139958 (Sub-3–5TA), filed June 4, 1980. (Republication—originally published in **Federal Register** of June 18, 1980, page 41240, volume 45, No. 119.) Applicant: R. T. TRUCK SERVICE, INC., 2334 Millers Lane, Louisville, KY 40216. Representative: Rudy Yessin, 314 Wilkinson Street, Frankfort, KY 40601. *Common carrier:* Regular routes: *General commodities (except those of unusual value, Class A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment)*, between the facilities of Hobart Corporation at or near Seymour and Scottsburg, IN, via U.S. Hwy. 31, as an extension to applicant's present authority from Scottsburg, IN, to Louisville, KY. Applicant intends to interline with other carriers at Louisville, KY. Supporting shipper: Hobart Corporation, Troy, OH 45374.

MC 111839 (Sub-3–1TA), filed June 3, 1980. (Republication—originally published in **Federal Register** of June 18, 1980, page 41234, volume 45, No. 119.) Applicant: BEE LINE EXPRESS, INC., P.O. Box 388, Albertville, AL 35950. Representative: Donald B. Sweeney, Jr., 603 Frank Nelson Building, Birmingham, AL 35203. Common, regular: *General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk)*, serving the facilities of Benham Corporation and Skyline Corporation at or near Skyline, AL as an off-route point in connection with carrier's otherwise authorized regular route operations. Supporting shippers: Benham Corporation and Skyline Corporation, P.O. Box 250, Scottsboro, AL 35768. Note: Applicant intends to tack to its existing authority in MC 11839, Sub Nos. 9 and 10. Applicant also intends to interline at Birmingham, AL and Chattanooga, TN with other carriers.

MC 30446 (Sub-3–3TA), filed May 29, 1980. (Republication—originally published in **Federal Register** of June 18, 1980, page 41240 and 41241, volume 45, No. 119.) Applicant: BRUCE JOHNSON TRUCKING COMPANY, INC., 3408 N. Graham St., Charlotte, NC 28225. Representative: Charles Ephraim, Suite 600, 1250 Connecticut Ave., N.W., Washington, D.C. 20036. Common carrier: regular: *General commodities, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment*, serving all intermediate points and the off-route points in NC and SC in connection with the regular routes authorized hereinafter: Between August, GA and Florence, SC, over U.S. Hwy 20 and return over the same route; between Charleston, SC and Greenville, SC, over U.S. Hwy 26 to junction of U.S. Hwy 276, then over U.S. Hwy 276 to Greenville, SC, and return over the same route; between Clinton, SC and Spartanburg, SC, over U.S. Hwy 26 and return over the same route; between Savannah, GA and Florence, SC, over U.S. Hwy 95 and return over the same route; between Florence, SC and Myrtle Beach, SC, over U.S. Hwys 76 and 301, to Marion, SC, then U.S. Hwy 501 to Myrtle Beach, SC, and return over the same route; between the GA–SC state line, over U.S. Hwy 85 to Greenville, SC, and return over the same route; between Spartanburg, SC and Asheville, NC, over U.S. Hwy 26, and return over the same route; between Greenville, SC and U.S. Hwy 26, over U.S. Hwy 25, and return over the same route; between Columbia, SC and Charlotte, NC, over U.S. Hwy 77, and return over the same route; between Columbia, SC and Rock Hill, SC, over U.S. Hwy 21, and return over the same route; between Columbia, SC and Gastonia, NC, over U.S. Hwy 321, and return over the same route; between Greenville, SC and Charlotte, NC, over U.S. Hwy 85, and return over the same route; between Greenville, SC and Spartanburg, SC, over U.S. Hwy 29, and return over the same route; between Charleston, SC and Myrtle Beach, SC, over U.S. Hwy 17, and return over the same route; between Augusta, GA and intersection of U.S. Hwy 95, over U.S. Hwy 78 to Aiken, SC, thence over U.S. Hwy 302 to intersection of U.S. Hwy 4, then over U.S. Hwy 4 to intersection of U.S. Hwy 301, then over U.S. Hwy 301 to intersection of U.S. Hwy 95, and return over the same route; between Augusta, GA and Savannah, GA, over SC Hwy 125 to Allendale, SC, then over U.S. Hwy 278 to intersection of U.S. Hwy 321, then over U.S. Hwy 321 to junction U.S. Hwy 95 and U.S. Hwy 17 to Savannah, GA, and return over the same route; between Charleston, SC and Savannah, GA, over U.S. Hwy 17, and return over the same route; between Charleston, SC and Florence, SC, over U.S. Hwy 52, and return over the same route; between Charleston, SC and Wilmington, NC, over U.S. Hwy 17 and return over the same route; between Columbia, SC and Conway, SC, over U.S. Hwy 378, and return over the same route; between the GA–SC state line, over SC Hwy 72 to the intersection of U.S. Hwy 26, and return over the same route; between Greenwood, SC and the intersection of U.S. Hwy 85, over U.S. Hwy 178, serving Ware Shoals, SC, as an off-route point, and return over the same route; between Augusta, GA and the junction of U.S. Hwy 26, then over U.S. Hwy 25 to Johnston, SC, then SC Hwy 121 to Saluda, SC, then SC Hwy 39 to Chappells, SC, then SC Hwy 56 to the junction of U.S. Hwy 26, and return over the same route; between the GA–SC state line, and Orangeburg, SC, over U.S. Hwy 301, and return over the same route; between Union, SC and York, SC, over U.S. Hwy 49, and return over the same route; between Saluda, SC and Spartanburg, SC, over SC Hwy 121 to junction of U.S. Hwy 176, and return over the same route; between Savannah, GA and Beaufort, SC, over U.S. Hwy 170, and return over the same route; between GA–SC state line, and Greenville, SC, over U.S. Hwy 123, and return over the same route; between Westminister, SC and Greenville, SC, over U.S. Hwy 183, and return over the

same route; between Florence, SC and U.S. Hwy 21, over U.S. Hwy 52 to junction SC Hwy 151, then over SC Hwy 151 to junction of SC Hwy 903, then over SC Hwy 903 to SC Hwy 9, then over SC Hwy 9 to U.S. Hwy 21, and return over the same route; between Lancaster, SC and N. Myrtle, SC, over SC Hwy 9, and return over the same route; between Florence, SC and Roanoke Rapids, NC, over U.S. Hwy 95, and return over the same route; between Florence, SC and Wadesboro, NC, over U.S. Hwy 52, and return over the same route; between Charlotte, NC and Wilmington, NC, over U.S. Hwy 74, and return over the same route; between Charlotte, NC and Raleigh, NC, over U.S. Hwy 49 to junction of U.S. Hwy 64, then over U.S. Hwy 64, to Raleigh, NC, and return over the same route; between Charlotte, NC and Raleigh, NC, over U.S. Hwy 85 to junction of U.S. Hwy 70, then over U.S. Hwy 70 to Raleigh, NC, and return over the same route; between Wadesboro, NC, and the VA–NC state line, over U.S. Hwy 52, and return over the same route; between Asheville, NC and Greensboro, NC, over U.S. Hwy 40, and return over the same route; between Gastonia, NC and Boone, NC, over U.S. Hwy 321, and return over the same route; between Charlotte, NC and N. Wilkesboro, NC, over U.S. Hwy 16, and return over the same route; between Statesville, NC and Salisbury, NC, over U.S. Hwy 70, and return over the same route; between Greensboro, NC and Boone, NC, over U.S. Hwy 421, and return over the same route; between Greensboro, NC and the NC–VA state line, over U.S. Hwy 29, and return over the same route; between Rockingham, NC and the NC–VA state line, over U.S. Hwy 220, and return over the same route; between Greenboro, NC and Wilmington, NC, over U.S. Hwy 421, and return over the same route; between Sanford, NC and Fayetteville, NC, over U.S. Hwy 87, and return over the same route; between Rockingham, NC and Raleigh, NC, over U.S. Hwy 1, and return over the same route; between Fayetteville, NC and Raleigh, NC, over U.S. Hwy 401, and return over the same route; between Raleigh, NC and Kinston, NC, over U.S. Hwy 70, and return over the same route; between Smithfield, NC and Rocky Mount, NC, over U.S. Hwy 301, and return over the same route; between Wilmington, NC and the junction of U.S. Hwy 301, over U.S. Hwy 117, and return over the same route; between Raleigh, NC, and Henderson, NC, over U.S. Hwy 1, and return over the same route; between Durham, NC and Henderson, NC, over U.S. Hwy 85, and return over the same route; between Raleigh, NC and Tarboro, NC, over U.S. Hwy 64, and return over the same route; between Laurinburg, NC and Fayetteville, NC, over U.S. Hwy 401, and return over the same route; between Fayetteville, NC and U.S. Hwy 74, and return over the same route; between Charlotte, NC and Asheville, NC, over U.S. Hwy 74, to Rutherfordton, NC, then NC Hwy 221 to U.S. Hwy 40, then U.S. Hwy 40 to Asheville, NC, and return over the same route; between Charlotte, NC and Elkin, NC, over U.S. Hwy 77, and return over the same route; between Durham, NC and Raleigh, NC, over U.S. Hwy 40, and return over the same route. Service in connection with the above specified routes is authorized to and from all intermediate and all off-route points in NC, SC, and points in Bullock, Burke, Chatham, Columbia, Effingham, Jenkins, Richmond and Screven counties, GA. Applicant intends to interline at Asheville, Fayetteville, Charlotte, Greensboro, Hickory, Raleigh and Wilmington, NC; Charleston, Columbia, Greenville and Greer, SC; and Augusta and Savannah, GA. Supporting shippers: There are 40 statements in support to this application which can be examined at the ICC Regional Office. NOTE: Applicant states that it presently serves all points in the involved three-state area under irregular-route authority and that the purposes of the application are: (a) to convert to regular-route authority; and (b) enable operations between included points in those instances where service is now limited.

THE FOLLOWING APPLICATIONS WERE FILED IN REGION 4. SEND PROTESTS TO: ICC, DIRKSEN BLDG., 219 S. DEARBORN ST., ROOM 1386, CHICAGO, IL 60604.

MC 150103 (Sub-4–6TA), filed June 23, 1980. Applicant: SCHWEIGER INDUSTRIES, INC., 116 W. Washington St., Jefferson, WI 53549. Representative: Michael J. Wyngaard, 150 E. Gilman St., Madison, WI 53703. *Contract;* irregular; *Cloth,* from points in NC, SC, GA, TX, and AL to Jumpertown and Booneville, MS. Restricted to service to be performed under continuing contract(s) with Prentiss Manufacturing Company, Inc. Underlying ETA seeks 90 days authority. Prentiss Manufacturing Company, Inc., P.O. Box 369, Booneville, MS 38829.

MC 103993 (Sub-4–6TA), filed June 25, 1980. Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West, Elkhart, IN 46515. Representative: James B. Buda (same address as applicant). *Asphalt handling equipment trailer mounted,* from Liquid Asphalt Systems, Inc., located at or near Kansas City, MO., to points in the U.S. (except AK and HI). An underlying ETA seeks 90 days authority. Supporting shipper: Liquid Asphalt Systems, Inc., Kansas City, MO, 64108.

MC 125777 (Sub-4–3TA), filed June 27, 1980. Applicant: JACK GRAY TRANSPORT, INC., 4600 E. 15th Ave., Gary, IN 46403. Representative: Joel H. Steiner, 39 S. LaSalle St., Chicago, IL 60603. *Pig iron, in dump vehicles,* from Cincinnati, OH to points in IL, IN, KY, MI, VA, TN, NY, PA and WV. An underlying ETA SEEKS 90-days authority. Supporting shipper: Miller & Company, 55 E. Monroe St., Chicago, IL 60603.

MC 150381 (Sub-4–2TA), filed June 27, 1980. Applicant: SOUTH EAST TRANSFER, LTD., PTH No. 12, Steinbach, Manitoba ROA 2AO. Representative: Mike Miller, P.O. Box 1897, Fargo, ND 58107. *General commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, and automobiles, trucks and buses) in sealed intermodal containers,* between points of entry on the international boundary line between Manitoba, Canada, and the U.S. on the one hand, and on the other, MT and NE. Supporting shippers: Kuehue & Hagel, Ltd., 10 Hutchings St., Winnipeg, Manitoba, Allworld Shipping, Ltd., 302–960 Portage Ave., Winnipeg, Manitoba.

MC 147499 (Sub-4–2TA), filed June 25, 1980. Applicant: DONALD HOOPER d.b.a. D. H. TRANSFER, 671 M–73, Iron River, MI 49935. Representative: Donald Hooper (same address as applicant). *Iron or Steel grinding balls, castings, and associated Iron or Steel articles with return of refused materials and/or materials used in the manufacture thereof,* between the plant site and warehouse of Northern Automatic Electric Foundry (Division of Armco Inc.) located in Northlake Community at or near Ishpeming, MI to points in MN. Supporting Shipper: ARMCO INC., 7000 Roberts St., Kansas City, MO 64125.

MC 144323 (Sub-4–1TA), filed June 23, 1980. Applicant: RICHARD P. CHARAPATA, d.b.a. CHARAPATA TRUCKING, N30 W26466 Petersen Dr., Pewaukee, WI 53072. Representative: Daniel R. Dineen, 710 N. Plankinton Ave., Milwaukee, WI 53203. *Contract;* irregular; *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 Green Bay Dressed Beef, Inc., at Green Bay, WI to points in AL, AR, CT,

DC, FL, GA, IA, IL, KS, KY, LA, MA, MD, MI, MN, MO, MS, NE, NC, NY, OK, PA, SC, TN, TX and VA. An underlying ETA seeks 90 days authority. Supporting shipper: Green Bay Dressed Beef, Inc., 520 Lawrence, Green Bay, WI, 54302.

MC 142059 (Sub-4–6TA), filed June 24, 1980. Applicant: CARDINAL TRANSPORT, INC., 1830 Mound Rd., Joliet, IL 60436. Representative: Jack Riley (same address as applicant). *Cleaning compounds in packages* from New Eagle, PA to Boston, MA and Chicago, IL. Supporting Shipper: Allied Block Chemical Company, P.O. Box 455 New EAgle, PA 15067.

MC 142059 (Sub-4–7TA), filed June 24, 1980. Applicant: CARDINAL TRANSPORT, INC., 1830 Mound Rd., Joliet, IL 60436. Representative: Jack Riley. *Chain link fencing and accessories,* from Denver CO to points in KS, NE, NM, SD and WY. Supporting Shipper: Master Fence Fittings, Inc., 481 E. 66th Ave., Denver, CO 80229.

MC 151119 (Sub-4–1TA), filed June 24, 1980. Applicant: OVERLAND CONTRACT CARRIERS CORP., 2025 English Ave., Indianapolis, IN 46206. Representative: Robert W. Loser II, 1101 Chamber of Commerce Bldg., Indianapolis, IN 46204. *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 Indianapolis, IN, on the one hand, and, on the other, points in IN. Supporting shippers: A. E. Staley Manufacturing Company, 2222 Kensington Court, Oakbrook, IL 60521; Boise Cascade Corporation, P.O. Box 7747, Boise, ID 83707; The Singer Company, 313 Underhill Blvd., Syosset, NY 11791; and Bristol-Myers Co., P.O. Box 8528, Chicago, IL 60680.

MC 143356 (Sub-4–1TA), filed June 26, 1980. Applicant: MIRACL MOTOR SERVICE LTD., 1825 N. California Ave., Chicago, IL 60647. Representative: Stanley Phillips, 5527 N. Central Ave., Chicago, IL 60630. *Common;* regular; *Composition board, accessories and materials used in the installation thereof,* from the Plant-site and warehouse facilities of Abitibi-Price Corp. at or near Toledo, OH to points in OH, IN, and IA. Supporting shipper: Abitibi-Price Corporation, 3250 W. Big Beaver Rd., Troy, MI 48012.

MC 151151 (Sub-4–1TA), filed June 26, 1980. Applicant: LaVONNE R. JAHN, 417 Hokah St., Caledonia, MN 55921. Representative: Joseph E. Ludden, 324 Exchange Bldg., P.O. Box 1567, La Crosse, WI 54601. *Common,* regular, *General commodities, except those of unusual value, and except high explosives, household goods, commodities in bulk, those requiring special equipment, and those injurious or contaminating to other lading,* over regular routes between Spring Grove and Harmony, MN; from Spring Grove over MN Hwy 44 to Harmony and return over the same route serving Canton, MN as an intermediate point. An underlying ETA seeks 30 days authority. There are ten supporting shippers.

MC 126276 (Sub-4–9TA), filed June 26, 1980. Applicant: FAST MOTOR SERVICE, INC., 9100 Plainfield Rd., Brookfield, IL 60513. Representative: Albert A. Andrin, 180 N. La Salle St., Chicago, IL 60601. *Contract;* irregular; *Containers and container ends,* from the facilities of American Can Company located in OH to points in the U.S. An underlying ETA seeks 90 days authority. Supporting shipper: American Can Company, 915 Harger Road, Oak Brook, IL 60521.

MC 142565 (Sub-4–1TA), filed June 25, 1980. Applicant: DON RAY DRIVE-A-WAY CO., INC., 305 N. 13th St., Decatur, IN 46733. Representative: Constance J. Goodwin, Suite 800 Circle Tower, Five E. Market St., Indianapolis, IN. *Motor homes in drive-away service and motor home chassis in truck-away service,* Between the facilities of Pace Arrow of Pennsylvania, Inc., Northumberland County, PA, on the one hand, and, on the other, points in and east of CO, MT, NM and WY. Supporting shipper: Pace Arrow of Pennsylvania, P.O. Draw 5, Poxinos, PA 17860.

MC 107605 (Sub-4–2TA), filed June 26, 1980. Applicant: ADVANCE-UNITED EXPRESSWAYS, INC., 2601 Broadway Rd. N.E., Minneapolis, MN 55413. Representative: William S. Rosen, 630 Osborn Bldg., St. Paul, MN 55102. *Common;* Regular; *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 Minneapolis-St. Paul, MN, and their commercial zones, and Kansas City, MO and Kansas City, KS, and their commercial zones, from Minneapolis-St. Paul, MN over Interstate Hwy 35 to Kansas City, MO and Kansas City, KS, and return over the same route. Applicant intends to tack authority and interline. Underlying ETA seeks 90 days authority. Supporting shipper: There are seven supporting shippers:

MC 148144 (Sub-4–1TA), filed June 26, 1980. Applicant: RALPH J. MARQUARDT & SONS, INC., Rural Route 1, Box 203A, Volin, SD 57072. Representative: Scott E. Daniel, 800 Nebraska Savings Bldg., 1623 Farnam, Omaha, NE 68102. *Contract;* irregular; *Aluminum,* between the facilities of Alumax Extrusion, Inc., at Yankton, SD on the one hand, and, on the other, points in MS, under continuing contract(s) with Alumax Extrusion, Inc. An underlying ETA seeks 90 days authority. Supporting shipper: Alumax Extrusion, Inc., P.O. Box 681, Yankton, SD 57078.

MC 140644 (Sub-4–1TA), filed June 26, 1980. Applicant: SURE WAY TRUCK SERVICE, INC., R.R. #2, Auburn, IN 46706. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. *Contract;* irregular; *Cheese,* (1) From Auburn, IN to Cambridge, OH; (2) from Cambridge, OH to points in AL, FL, GA, KY, TN, PA, and WV, under a continuing contract with County Line Cheese Co., Inc. Supporting shipper: County Line Cheese Co., Inc., R.R. #2, Auburn, IN 46706.

MC 150952 (Sub-4–1TA), filed June 26, 1980. Applicant: DAIRYLAND TRANSPORT, INC., P.O. Box 1116, Wisconsin Rapids, WI 54494. Representative: Terrence D. Jones, 2033 K St., N.W., Washington, DC 20006. *Contract;* irregular; *Dairy products,* between points in the U.S. in and east of ND, SD, NE, CO, OK, TX, and UT, under a continuing contract(s) with Cheese Specialties Services, Inc., Wisconsin Rapids, WI. An underlying ETA seeks 90 days authority. Supporting shipper: Cheese Specialties Services, Inc., P.O. Box 1327, Wisconsin Rapids, WI 54494.

MC 151115 (Sub-4–1TA), filed June 26, 1980. Applicant: CHAS. J. BURNHAM CARTAGE, INC., 1448 Wabash, Detroit, MI 48216. Representative: William B. Elmer, 21635 E. Nine Mile Rd., St. Clair Shores, MI 48080. *Paper and paper products,* from Detroit, MI, to points in MI located in Wayne, Oakland, Macomb, Washtenaw, Livingston, Monroe, and St. Clair Counties, restricted to shipments having a prior movement by rail. Supporting shipper: International Paper Co. 220 E. 42nd St, New York, NY 10017.

MC 116915 (Sub-4–8TA), filed June 25, 1980. Applicant: ECK MILLER TRANSPORTATION CORPORATION, Route #1, Box 248, Rockport, IN 47635. Representative: U.S. Reduction Company, Fred F. Bradley, P.O. Box 773, Frankfort, KY 40602. *Non-ferrous metals and materials, equipment, and supplies used in the manufacturing thereof (except commodities in bulk),* between the facilities of U.S. Reduction at Anniston, AL, on the one hand, and, on the other, points in the U.S. in and east of ND, SD, NE, KS, OK, and TX. Supporting shipper: U.S. Reduction

Company, 4610 Kennedy Ave., E. Chicago, IN 46312.

MC 80430 (Sub-4–3TA), filed June 25, 1980. Applicant: GATEWAY TRANSPORTATION, CO., INC., 455 Park Plaza Dr., La Crosse, WI 54601. Representative: Lem Smith (same address as applicant). *Common;* regular; *General Commodities, except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk and those requiring special equipment,* (1) Between St. Louis, MO and Terre Haute, IN, over U.S. Hwy. 40, and return over the same route, serving all intermediate points between Effingham, IL and Terre Haute, IN, (2) Between St. Louis, MO and Danville, IL, over U.S. Hwy. 66 to jct. IL Hwy. 48, then over IL Hwy. 48 to jct. Interstate Hwy. 72, then over Interstate Hwy. 72 to jct. Interstate Hwy. 74, then over Interstate Hwy. 74 to Danville, and return over the same routes, serving intermediate points between Taylorville, IL and Danville, IL, (3) Between Springfield, IL and Terre Haute, IN, over IL Hwy. 29 to jct. of IL Hwy. 16, then over IL Hwy. 16 to jct. of U.S. Hwy. 150, then over U.S. Hwy. 150 to Terre Haute, and return over the same routes, serving all intermediate points, (4) Between Lincoln, IL and Decatur, IL, over IL Hwy. 121, and return over the same route, serving all intermediate points, (5) Between Bloomington, IL and Decatur, IL, over U.S. Hwy. 51, and return over the same route, serving all intermediate points, (6) Between Bloomington, IL and Champaign, IL, over U.S. Hwy. 150, and return over the same route, serving all intermediate points, (7) Between Chicago, IL and Effingham, IL, over U.S. Hwy. 45 and return over the same route, serving all intermediate points between Rantoul, IL and Effingham, IL, (8) Between Chicago, IL and Marshall, IL, over IL Hwy. 1, and return over the same route, serving all intermediate points between Rossville, IL and Marshall, IL, (9) Between Danville, IL and Crawfordsville, IN, over U.S. Hwy. 136, and return over the same route, serving no intermediate points, (10) Serving as off route points all points in Champaign, Coles, Douglas, Edgar, Macon, Moultrie, Piatt, and Vermillion Counties, IL. 13 supporting shippers.

THE FOLLOWING PROTESTS WERE FILED IN REGION 5. SEND PROTESTS TO: CONSUMER ASSISTANCE CENTER, INTERSTATE COMMERCE COMMISSION, POST OFFICE BOX 17150, FORT WORTH, TX 76102.

MC 200 (Sub-5–35TA), filed June 27, 1980. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Representative: H. Lynn Davis, same as applicant. *Diatomaceous earth (except in bulk)* from the facilities of Magic Mountain Mining Co. at or near Kirkland, AZ to Los Angeles, CA; San Francisco, CA; Dallas, TX; Houston, TX; Denver, CO; Salt Lake City, UT; Boise, ID; Portland, OR; Seattle, WA. Restricted to shipments originating at the named origin and destined to the indicated destinations. Supporting shipper: Magic Mountain Mining Co., P.O. Box 112, Kirkland, AZ 86332.

MC 16831 (Sub-5–1TA), filed June 27, 1980. Applicant: MID SEVEN TRANSPORTATION COMPANY, 2323 Delaware Avenue, Des Moines, IA 50317. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. (1) *Water purification materials and equipment,* from Ames and Muscatine, IA, and Eau Claire, WI, to points in IL, IN, IA, KY, MI, MN, MO, OH and WI. Supporting shipper: General Filter Company, R.R. #1 Arrasmith Trail, Ames, IA 50010.

MC 52460 (Sub-5–12TA), filed June 27, 1980. Applicant: ELLEX TRANSPORTATION, INC., 1420 W. 35th St., P.O. Box 9637, Tulsa, Oklahoma 74107. Representative: William L. Tipton, 1420 W. 35th St., P.O. Box 9637, Tulsa, Oklahoma 74107. *Petroleum and Petroleum Products, Automotive Chemicals, and Cleaning Compounds, and such equipment, materials, and supplies, as are used by automotive service centers (except in bulk),* Between the facilities of Valvoline Oil Company, a division of Ashland Oil, Inc. located at Willow Springs, IL, on the one hand, and, on the other, points in AR, CO, IL, IN, IA, KY, KS, LA, MI, MN, MO, MT, NE, NM, ND, OH, OK, PA, SD, TN, TX, WI and WY. Restriction: Restricted to traffic originating at or destined to named facilities. Supporting shipper: Valvoline Oil Co., Div. of Ashland Oil, Inc. P.O. Box 391, Ashland, KY 41101.

MC 99149 (Sub-5–1TA), filed June 27, 1980. Applicant: MIDWAY MOTOR FREIGHT LINES, INC., P.O. Box 9390, Little Rock, AR 72209. Representative: Charles J. Lincoln, II, 1550 Tower Building, Little Rock, AR 72201. Common, Regular. *General commodities (except those of unusual value, Classes A & B Explosives, household goods as described by the Commission, commodities in bulk, and those requiring special equipment.* (1) Between Texarkana, TX/AR, and Dallas/Ft. Worth, TX, and points in their Commercial Zones; from Texarkana, TX/AR over Interstate Highway 30 to Dallas/Ft. Worth, TX, and return over the same route serving no intermediate points and serving the commercial zone of Dallas/Ft. Worth, TX. (2) Between Shreveport, LA and Dallas/Ft. Worth, TX and points in their commercial zone; from Shreveport, LA over Interstate Highway 20 to Dallas, TX, and return over the same route serving no intermediate points and serving the commercial zone of Dallas/Ft. Worth, TX. The applicant intends to tack the requested authority to the applicant's existing regular route authority at the points of Texarkana, TX/AR and Shreveport, LA. Supporting shipper(s): 236.

MC 111401 (Sub-5–10TA), filed June 27, 1980. Applicant: GROENDYKE TRANSPORT, INC., P.O. Box 632, 2510 Rock Island Blvd., Enid, OK 73701. Representative: Victor R. Comstock, Vice President, Traffic (same as applicant). *Petroleum White Mineral Oil, in bulk, in tank vehicles,* from the facilities of Witco Chemical Corp., Gretna, LA to Brownsville, TX, in foreign commerce. Supporting shipper: Witco Chemical Corp., P.O. Box 308, Gretna, LA, 70054.

MC 115331 (Sub-5–9TA), filed June 25, 1980. Applicant: TRUCK TRANSPORT, INCORPORATED, 11040 Manchester Road, St. Louis, Missouri 63122. Representative: J. R. Ferris (same as applicant). *Petroleum and Petroleum Products, Automotive Chemicals, and Cleaning Compounds, and such equipment, materials, and supplies as are used by automotive service centers (except in bulk),* between the facilities of Valvoline Oil Company, a division of Ashland Oil, Inc. located at Willow Springs, IL on the one hand, and, on the other, points in AR, CO, IL, IN, IA, KY, KS, LA, MI, MN, MO, MT, NE, NM, ND, OH, OK, PA, SD, TN, TX, WI, and WY. Restriction: Restricted to traffic originating at or destined to named facilities. Supporting shipper: Valvoline Oil Co., Div. of Ashland Oil, Inc., P.O. Box 391, Ashland, KY 41101.

MC 119399 (Sub-5–19TA), filed June 27, 1980. Applicant: CONTRACT FREIGHTERS, INC., 2900 Davis Boulevard, P.O. Box 1375, Joplin, MO 64801. Representative: Thomas P. O'Hara (same address as applicant). *Oil absorbent clay (except in bulk)* from Middleton, TN to Muskogee, OK. Supporting shipper: Tackett East Company, 1311 N. Main St., Muskogee, OK 74401.

MC 119988 (Sub-5–17TA), filed June 27, 1980. Applicant: GREAT WESTERN TRUCKING CO., INC., P.O. Box 1384, Lufkin, TX 75901. Representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, TX 75201. *Drugs, pharmaceuticals* and *medical*

*equipment (except in bulk),* between the facilities of Alcon Labs, Inc. and its subsidiaries at or near Fort Worth, TX, on the one hand, and, on the other, Easton and Elkridge, MD; Washington, DC and Irvine, CA. Supporting shipper: Alcon Labs, Inc., 8907 Forum Way, Everman, TX.

MC 119988 (Sub-5–18TA), filed June 27, 1980. Applicant: GREAT WESTERN TRUCKING CO., INC., P.O. Box 1384, Lufkin, TX 75901. Representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, TX 75201. *Plastic bags* and *plastic roll film,* between Tyler, TX, on the one hand, and, on the other, points in the United States (except AK and HI). Supporting shipper: USI Film Products, P.O. Box 818, Tyler, TX 75710.

MC 121801 (Sub-5–2TA), filed June 30, 1980. Applicant: HAYES MOTOR FREIGHT, INC., P.O. Box 793, Ardmore, OK 73401. Representative: G. Timothy Armstrong, 200 N. Choctaw, P.O. Box 1124, El Reno, OK 73036. *Common* regular, *General Commodities, (except those of unusual value, class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment),* between Ardmore, OK and Gainesville, TX, serving no intermediate points: from Ardmore over Interstate Hwy. 35 to Gainesville and return over the same route. Applicant proposes to tack the authority sought with its authority in MC 121801 and subs thereto, and proposes to interline with other motor carriers. Supporting shippers: 26.

MC 123476 (Sub-5–3TA), filed June 27, 1980. Applicant: CURTIS TRANSPORT, INC., #23 Grandview Ind. Ct., Arnold, MO 63010. Representative: David G. Dimit, same address as applicant. (1) *Paper products (except in bulk in tank vehicles)* and (2) *Materials, equipment and supplies used in the manufacture and distribution of items in (1)* from St. Claire County, IL and Elkhart, IN to points in the U.S. in and east of ND, SD, NE, KS, OK and TX with return of items named in (2) above from the destination area to St. Claire County, IL and Elkhart, IL. Supporting shipper: Hexagon Honeycomb Corp., Suite 201, 7803 Clayton Rd., St. Louis, MO 63117.

MC 123987 (Sub-5–4TA), filed June 27, 1980. Applicant: JEWETT SCOTT TRUCK LINE, INC., P.O. Box 267, Mangum, OK 73554. Representative: Jewett Scott Jr., P.O. Box 267, Mangum, OK 73554. *Roofing and roofing material, materials, equipment and supplies used in manufacturing and distribution of roofing materials,* between Slidell, LA on the one hand, on the other, points in AR, MS, OK and TX. Supporting shipper: Delta Roofing Mills, Inc., 641 Carnation Boulevard, Slidell, LA 70458.

MC 123993 (Sub-5–17TA), filed June 27, 1980. Applicant: FOGLEMAN TRUCK LINE, INC., P.O. Box 1504, Crowley, LA 70526. Representative: Byron Fogleman, P.O. Box 1504, Crowley, LA 70526. *(1) Poultry and animal feed and mineral and vitamin mixtures for poultry and animal feeding (except in bulk); (2) materials and supplies used in manufacture, distribution or sale of (1) (except in bulk),* between Little Rock, AR on the one hand, and, on the other, points in AR, AL, LA, MS and TX. Supporting shipper: Thibault Milling Company, Box 549, Little Rock, AR 72203.

MC 124774 (Sub-5–2TA), filed June 27, 1980. Applicant: MIDWEST REFRIGERATED EXPRESS, INC., 4440 Buckingham Avenue, Omaha, NE 68107. Representative: Arlyn L. Westergren, Westergren & Hauptman, P.C., Suite 106, 7101 Mercy Road, Omaha, NE 68106. *Prepared food products,* from the facilities of Anatox, Inc. at Franklin, MA to Kansas City, MO and its Commercial Zone. Supporting shipper: Anatox, Inc., 813 Lincoln Street, Franklin, MA 02038.

MC 134922 (Sub-5–2TA), filed June 30, 1980. Applicant: B. J. McADAMS, INC., Rt. 6, Box 15, North Little Rock, AR 72118. Representative: Bob McAdams, Route 6, Box 15, North Little Rock, AR 72118. *Frozen foods and foodstuffs (except in bulk),* between the facilities of Bannworth, Inc. at or near La Joya, TX, on the one hand, and, on the other, points in the United States (except AK and HI). Supporting shipper: Bannworth, Inc., P.O. Box 2007 C, La Joya, TX 78560.

MC 135797 (Sub-5–55TA), filed June 27, 1980. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 130, Lowell, AR 72745. Representative: Paul R. Bergant, Esq. (address same as applicant). *(1) Tools and (2) materials, equipment and supplies used in the manufacture and distribution of the commodities named in (1) above,* between the facilities of Armstrong Brothers Tool Co. at Fayetteville, AR on the one hand, and on the other, points in the United States (except AK and HI). Supporting shipper: Armstrong Brothers Tool Company, 2501 Armstrong Ave., Fayetteville, AR 72701.

MC 135797 (Sub-5–56TA), filed June 27, 1980. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 130, Lowell, AR 72745. Representative: Paul R. Bergant, Esq. (address same as applicant). *(1) Recreational equipment and sporting goods and (2) materials, equipment and supplies used in the manufacture of the commodities named in (1) above,* between the facilities of Kransco Manufacturing Company at or near South San Franscisco, CA on the one hand, and, on the other, points in the United States (except AK and HI). Supporting shipper: Kransco Manufacturing Company, P.O. Box 2747, South San Francisco, CA 94080.

MC 141865 (Sub-5–6TA), filed June 25, 1980. Applicant: ACTION DELIVERY SERVICE, INC., 2401 West Marshall Drive, Grand Prairie, TX 75051. Representative: Clayte Binion, 1108 Continental Life Building, Fort Worth, TX 76102. *Ajuvants, sprayable product, in containers,* from the facilities of Sellers Chemical Co., Harahan, LA to points in CA, CO, GA, IA, MI, NJ, TX and WA. Supporting shipper: Amway Corp., 7575 E. Fulton Rd., Ada, MI 49355.

MC 146336 (Sub-5–4TA), filed June 27, 1980. Applicant: WESTERN TRANSPORTATION SYSTEMS, INC., 1609 109th Street, Grand Prairie, TX 75050. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245. Contract, irregular; *Electronic visual systems and component parts for flight simulators,* (1) from Salt Lake City, UT, to Arlington, TX, and (2) from Arlington, TX to flight training centers located in the States of CA, NJ, TX, VA, NC, OK, FL, CO, NY, KS, MO, GA, DE, WA, UT, and TN. Supporting shipper: Redifon Simulation, Inc., 2201 Arlington Downs Road, Arlington, TX 76011.

MC 147793 (Sub-5–1TA), filed June 27, 1980. Applicant: C. L. HALL, Route 2, Cumby, Texas 75433. Representative: Lawrence A. Winkle, P.O. Box 45538, Dallas, TX 75245. *Animal or poultry feedstuff, in packages* from Ft. Worth, TX to Brownsville, TX. Restricted to traffic having a subsequent movement into Mexico. Supporting shipper(s): Cargill-Nutrina Feed Division, P.O. Box 79150, Saginaw, TX 79150.

MC 148914 (Sub-5–3TA), filed June 27, 1980. Applicant: ASTRO MOTOR FREIGHT SYSTEM, INC., 6th and Iron, Salem, MO 65560. Representative: Frank W. Taylor, Jr., 1221 Baltimore Ave., Suite 600, Kansas City, MO 64105. Common, regular, *General commodities, except household.goods, commodities which because of size or weight require the use of special equipment, classes A and B explosives, commodities in bulk, and those injurious to other lading,* (1) Between the Kansas City, MO–KS Commercial Zone and Rolla, MO: (a) from Kansas City over U.S. Hwy 70 to junction U.S. Hwy 63, then over U.S. Hwy 63 to Rolla, MO, and return over the same route; (b) from Kansas City over U.S. Hway 50 to its junction with U.S. Hwy 63, then over U.S. Hwy 63 to Rolla, MO, and return over the same route; (2) Between the Kansas City, MO–

KS Commercial Zone and Springfield, MO, serving Springfield, MO for purposes of joinder only: (a) from Kansas City over U.S. Hwy 71 to junction MO Hwy 7, then over MO Hwy 7 to junction MO Hwy 13, then over MO Hwy 13 to Springfield, MO, and return over the same route; (b) from Kansas City over U.S. Hwy 50 to junction MO Hwy 13, then over MO Hwy 13 to Springfield, MO, and return over the same route. Applicant proposes to tack the authority sought with its authority in MC–FC–78297 and proposes to interline at Kansas City, MO. Supporting shippers: 15.

MC 150257 (Sub-5–2TA), filed June 27, 1980. Applicant: B & W FREIGHT COMPANY, 749 Pearl Street, Houston, TX 77029. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245. *Chemicals NOS including scrap synthetic resin waste.* From Tulsa, OK to Houston, TX restricted to traffic having a subsequent movement by water carrier. Supporting shipper(s): Lee Industrial Marketing, 7914 South Toledo, Tulsa, OK 74136.

MC 151129 (Sub-5–3TA), filed June 23, 1980. Applicant: BRONC ENTERPRISES, INC., 14315 West Hardy, Houston, TX 77088. Representative: C. W. Ferebee, 720 N. Post Oak, Suite 230, Houston, TX 77024. *Pipe, Pipe Fittings and Accessories* between the storage facilities of Davidson Oil Country Supply Company, Inc. located within the Commercial zones of Houston and Crowley, TX, Edmond, Tulsa, and the Port of Cootosh, OK on the one hand and LA, AR, TX, MI, KS, NM, and OK on the other hand. Supporting shipper: Davidson Oil Country Supply Company, Inc., 126 North Point, Suite 122, Houston, TX 77060.

MC 150985 (Sub-5–1TA), filed June 9, 1980, Republication. Applicant: KEITH LANKFORD d.b.a., K. TRUCKING, R. R. #4, Fairfield, IA 52556. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501, Phone: 515–682–8154 or 515–682–3403. *Buildings and Component Parts,* from WA, IA to points in IL, IN, MN, MO, and WI. Supporting shipper: Richard V. Willmarth, Traffic Supervisor-Rates & Routing, CROWMARK, INC., 1701 Towanda Avenue, Bloomington, IL 61701.

MC 108207 (Sub-5–18TA), filed July 2 1980. Applicant: FROZEN FOOD EXPRESS, INC., P.O. Box 225888, Dallas, TX 75265. Representative: M. W. Smith (same address as applicant). *Foodstuffs, moving in mechanically refrigerated equipment,* from St. Louis, MO and its commercial zone, to points in OH. Supporting shippers: The Slimmery, Trimmery, Thinnery Corp., 1889 Craig Rd., St. Louis, MO 63141; Quelle Quiche, Ltd., 814 Hanley Industrial Court, Brentwood, MO; DCA Food Industries, 701 Fee Fee, Maryland Hights, MO 63043.

MC 113908 (Sub-5–15TA), filed July 2, 1980. Applicant: ERICKSON TRANSPORT CORP., 2255 North Packer Road, P.O. Box 10068 G.S., Springfield, MO 65804. Representative: Jim G. Erickson (same address as applicant). *Refined, Hydrogenated, Deodorized Soybean Oil, and Various Blends Thereof, in bulk,* From Helena and Stuttgart, AR, to Houston, TX and the Commercial Zone Thereof. Supporting shipper: Riceland Foods, Inc., P.O. Box 927, Stuttgart, AR 72160.

MC 11592 (Sub-5–2TA), filed June 27, 1980. Applicant: BEST REFRIGERATED EXPRESS, INC., P.O. Box 7365, Omaha, NE 68107. Representative: Frank E. Myers, P.O. Box 7365, Omaha, NE 68107. *Inedible tallow, in tank vehicles.* From: the facilities of Spencer Foods Company at or near Oakland, IA to: Omaha, NE and points in the Omaha commercial zone located in IA for further transportation by rail or water. Supporting shipper: Spencer Foods Company, P.O. Box 544, Schuyler, NE 68661.

MC 119789 (Sub-5–24TA), filed June 30, 1980. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr. (same as applicant). *(1) Paint and paint related products (except in bulk) and (2) plastic articles (except in bulk)* from Brea, CA; Wichita, KS; Buffalo, NY; Eighty Four, and Palmerton, PA; and Sand Springs, OK to points in the US (except AK and HI). Supporting shipper: Ameron Protective Coatings Division, P.O. Box 1020, Brea, CA 92621.

MC 119988 (Sub-5–19TA), filed July 1, 1980. Applicant: GREAT WESTERN TRUCKING CO., INC., P.O. Box 1384, Lufkin, TX 75901. Representative: Larry Norwood, P.O. Box 1384, Lufkin, TX 75901. *Such merchandise as is dealt in by retail department stores (except in bulk),* from points in the United States (except AK and HI) to the facilities of Lebow Wholesale Distributors, Inc., in Houston, TX. Supporting shippers(s): Lebow Wholesale Distributors, Inc., 9655 West Tidwell Street, Houston, TX 77041.

MC 133805 (Sub-5–11TA), filed July 2, 1980. Applicant: LONE STAR CARRIERS, INC., Route 1, Box 48, Tolar, TX 76476. Representative: Don Garrison, Esq., P.O. Box 1065, Fayetteville, AR 72701. *Inedible Fatty Acid of Animal Oil: Fatty Acid of Vegetable Oil: Stearic Acid; Azelaic Acid; Pelargonic Acid; Chemicals; Organic Ammonia Compounds: Esters: Glycerines: Lubricating Oils: Petroleum Oil: Flakes (Plastic, Pellets or Solid); Liquid Plastic; Candle Tar; Resin Plasticizer and Cleaning Compounds (except in bulk)*—Between Los Angeles, CA and Cincinnati, OH, 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 facilities of Emery Industries, Inc. Supporting shipper: Emery Industries, 1300 Carew Tower, Cincinnati, OH 45202.

MC 133805 (Sub-5–12TA), filed July 2, 1980. Applicant: LONE STAR CARRIERS, INC., Route 1, Box 48, Tolar, TX 76476. Representative: Don Garrison, Esq., P.O. Box 1065, Fayetteville, AR 72701. *Agricultural Weed Killer Compounds, in Containers*—from Vineland, NJ—to points in AL, AR, FL, GA, LA, MO, MS, NC, NE, OK, TN and TX. Supporting shipper: Vineland Chemical Company, Vineland, NJ 08360.

MC 133805 (Sub-5–13TA), filed July 2, 1980. Applicant: LONE STAR CARRIERS, INC., Route 1, Box 48, Tolar, TX 76476. Representative: Don Garrison, Esq., P.O. Box 1065, Fayetteville, AR 72701. *Animal Feed and Animal Feed ingredients and such commodities as are dealt in or used by manufacturers of animal feed*—between points in the United States (except AK and HI)—restricted to the transportation of traffic originating at or destined to the facilities of Kal Kan Foods, Inc. Supporting shipper: Kal Kan Foods, Inc., 3386 East 44th Street, Vernon, CA 90058.

MC 133805 (Sub-5–14TA), filed July 2, 1980. Applicant: LONE STAR CARRIERS, INC., Route 1, Box 48, Tolar, TX 76476. Representative: Don Garrison, Esq., P.O. Box 1065, Fayetteville, AR 72701. *Foodstuffs, canned, preserved or prepared (other than frozen)*—from the facilities of Ocean Spray Cranberry Corporation, at or near Montgomery, AL; Lake Wales, FL; Middleboro, MA; Bordentown, NJ; North East, PA; Sulphur Springs, TX; Eau Claire and Kenosha, WI—to points in the United States (except AZ, CA, ID, MT, NV, OR, UT, WA and WY). Supporting shipper: Ocean Spray Cranberry Corporation, 7800 South 60th Avenue, Kenosha, WI 53142.

MC 133805 (Sub-5–15TA), filed July 2, 1980. Applicant: LONE STAR CARRIERS, INC., Route 1, Box 48, Tolar, TX 76476. Representative: Don Garrison, Esq., P.O. Box 1065, Fayetteville, AR 72701. *Charcoal, Charcoal briquettes, Wood chips, Vermiculite, Ligher fluid, Fireplace logs, Paper bags and related items used in outdoor cooking*—between

the facilities of the Kingsford Company, on the one hand, and, on the other, points in the United States (except AK and HI). Supporting shipper: The Kingsford Company, P.O. Box 1033, Louisville, KY 40201.

MC 135033 (Sub-5–2TA), filed July 2, 1980. Applicant: SILVEY REFRIGERATED CARRIERS, INC., 7000 West Center Road—Suite 325, Omaha, NE 68106. Representative: Robert M. Cimino, (same address as applicant). *Retail store fixtures and equipment, materials and supplies used in the manufacture thereof.* Between the facilities of Lozier Store Fixtures, Inc. located at or near Omaha, NE; Scottsboro, AL, and Cucomango, CA, and all points in the United States except AK and HI, under a continuing contract or contracts with Lozier Store Fixtures, Inc. Supporting shipper: Lozier Store Fixtures, Inc., 4401 North 21st Street, Omaha, NE 68110.

MC 135070 (Sub-5–22TA), filed July 1, 1980. Applicant: JAY LINES, INC., P.O. Box 30180, Amarillo, TX 79120. Representative: Gailyn L. Larsen, P.O. Box 82816, Lincoln, NE 68501. *Foodstuffs* from New Orleans, LA to points in AR, CO, IL, MO, NE, TN, TX, and WI. Supporting shipper: New Orleans Cold Storage & Warehouse Co., Ltd., P.O. Box 895, Metairie, LA 70004.

MC 135070 (Sub-5–23TA), filed July 2, 1980. Applicant: JAY LINES, INC., P.O. Box 30180, Amarillo, TX 79120. Representative: Gailyn L. Larsen, P.O. Box 82816, Lincoln, NE 68501. *Petroleum products, (except in bulk),* from Vernon, CA, to Point of Rocks and Sheridan, WY; Pittsburgh, PA; Trenton, NJ; Atlanta, GA; Lakeland, FL; Chicago and Skokie, IL; Denver, CO; Detroit, MI; Seattle and Vancouver, WA, and points in TX. Supporting shipper: Beatrice Foods Co., Robert R. Grant, Operations Manager, 4287 South Eldridge, Morrison, CO 80465.

MC 136220 (Sub-5–7TA), filed July 2, 1980. Applicant: SULLIVAN'S TRUCKING COMPANY, INC., P.O. Box 2164, Ponca City, OK 74601. Representative: G. Timothy Armstrong, 200 N. Choctaw, P.O. Box 1124, El Reno, OK 73036. *Spent alumina, in bulk, in dump vehicles,* from Pasadena, TX to Woodstock, TN. Supporting shipper: FMC Corporation, 2000 Market St., Philadelphia, PA 19103.

MC 138328 (Sub-5–7TA), filed July 2, 1980. Applicant: CLARENCE L. WERNER, d.b.a. WERNER ENTERPRISES, I–80 & Hwy 50, P.O. Box 37308, Omaha, NE 68137. Representative: Donna Ehrlich (same address as applicant). *Such commodities as are dealt in or used by retail and discount stores (except commodites in bulk),* from Seattle and Kent, WA, to Minneapolis, MN; Omaha, NE; Denver, CO; Oklahoma City, OK; Dallas and Houston, TX; Des Moines and Davenport, IA; St. Louis, MO; Little Rock, AR; and Milwaukee, WI, restricted to traffic destined to the facilities of Target Stores, Division of Dayton-Hudson Corporation. Supporting shipper: Target Stores, Division of Dayton-Hudson Corporation, 7120 Hwy. 65 N.E., Fridley, MN 55432.

MC 142672 (Sub-5–9TA), filed June 30, 1980. Applicant: DAVID BENEUX PRODUCE & TRUCKING, INC., P.O. Drawer F, Mulberry, AR 72947. Representative: Don Garrison, Esq., P.O. Box 1065, Fayetteville, AR 72701. *Candy* from the facilities of Cella's Confections, Inc., at or near New York City, NY, to points in CA, GA, IL, OR, TX and WA. Supporting shipper: Cella's Confections, Inc., 327 West Broadway, New York, NY 10013.

MC 142672 (Sub-5–10TA), filed June 30, 1980. Applicant: DAVID BENEUX PRODUCE & TRUCKING, INC., P.O. Drawer F, Mulberry, AR 72947. Representative: Don Garrison, Esq., P.O. Box 1065, Fayetteville, AR 72701. *Freezers, Ice Cream, Hand and Power NOI* from the facilities of Richmond Cedar Works Manufacturing Corporation, at or near Danville, VA to points in AR, AZ, CA, IL, IN, LA, MI, MO, MS, OK and TX. Supporting shipper: Richmond Cedar Works Manufacturing, Inc., 400 Bridge Street, Danville, VA 24541.

MC 144603 (Sub-5–6TA), filed July 2, 1980. Applicant: F.M.S. TRANSPORTATION, INC., 2564 Harley Drive, Maryland Heights, MO 63043. Representative: Laura C. Berry (same address as applicant). *Paper pads; tablets; blank books; looseleaf fillers; printing paper or newsprint; paper forms NOI, printed or not printed; drawing paper and materials used in the manufacture and sale of said items* from Mattoon, IL to Grapevine, TX, Detroit, MI, Columbus, OH, Minneapolis, MN, St. Paul, MN, North Salt Lake City, UT, Los Angeles, CA and Holyoke, MA. Restricted to traffic originating at the facilities of American Pad and Paper Co., P.O. Box 1250, Holyoke, MA 01041. Supporting shipper: American Pad & Paper Co., P.O. Box 7250, Holyoke, MS 01041.

MC 145743 (Sub-5–1TA), filed July 2, 1980. Applicant: T.F.S., INC., RR 2, Box 126, Grand Island, NE 68801. Representative: A. J. Swanson, Quaintance & Swanson, P.O. Box 1103, 226 North Phillips Avenue, Sioux Falls, SD 57101. (1) *Plumbing fixtures, materials and supplies,* from Garden Grove, CA to Denver, CO, and (2) *Carpeting materials and supplies* from City of Industry and Garden Grove, CA to points in CO. Supporting shippers: Professional Trade Supply of Colorado, Inc., 2485 West Second Avenue, Unit 6, Denver, CO 80223. Kinkead Industries, Inc., 2801 Finley Road, Downer Grove, IL 60515.

MC 148833 (Sub-5–2TA), filed July 2, 1980. Applicant: REBEL EXPRESS, INC., Box 98, Dawson, IA 50066. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. *Meat,* from points in IA and NE to the facilities of Dolores Canning Company, Inc., and Lomita Food Distributors, Inc. at Los Angeles, CA, and the facilities of Dubuque Packing Co. at South San Francisco, CA. Supporting shipper: Dolores Canning Company, Inc., Lomita Food Distributors, Inc., 1020 Northeastern Avenue, Los Angeles, CA 90063.

MC 151118 (Sub-5–2TA), filed July 1, 1980. Applicant: MDR CARTAGE, INC., 516 West Johnson, Jonesboro, AR 72401. Representative: Douglas C. Wynn, P.O. Box 1295, Greenville, MS 38701. *(1) Footwear and (2) Equipment, materials and supplies used in the manufacture, sale and distribution of footwear (except commodities in bulk and those requiring special equipment)* between the facilities of Consolidator's Warehouse Co. at or near Brockton, MA on the one hand, and, on the other, Memphis, TN and points in AR. Supporting shipper(s): Consolidator's Warehouse, 1029 Pearl Street, Brockton, MA 02401.

MC 200 (Sub-5–36TA), filed June 30, 1980. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Representative: H. Lynn Davis (same as applicant). *Steel forgings, in the rough,* from Baltimore, MD to Somerset, KY. Restricted to shipments originating at the named origin and destined to the indicated destination. Supporting shipper: Kanematsu-Gosho, 543 W. Algonquin Road, Arlington Heights, IL 60005.

MC 4405 (Sub-5–3TA), filed June 30, 1980. Applicant: DEALERS TRANSIT, INC., a Corporation, P.O. Box 236, Tulsa, OK 74101. Representative: Leonard L. Bennett, P.O. Box 236, Tulsa, OK 74101. *Trailers and trailer chassis other than those designed to be drawn by passenger automobiles, in initial movements in truckaway service* from New Prague, MN, to points in the United States except AK and HI. Supporting shipper(s): Minnesota Valley Engineering (Division of Beatrice Foods,

Inc.), 407 7th St. N.W., New Prague, MN 56071.

MC 29910 (Sub-5–36TA), filed June 30, 1980. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South Eleventh Street, Fort Smith, AR 72901. Representative: Joseph K. Reber (same address as applicant). Common, regular; *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 Houma, LA as an off-route points in connection with applicant's regular route service at New Orleans, LA. Applicant intends to tack and interline. Supporting shippers: 14.

MC 29910 (Sub-5–37TA), filed June 30, 1980. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South Eleventh Street, Fort Smith, AR 72901. Representative: Joseph K. Reber (same as applicant). Common, regular, *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 Farmington, NM as an off-route point in connection with carrier's regular route service at Gallup, NM. Supporting shippers: 29. Applicant intends to tack and interline.

MC 29910 (Sub-5–38TA), filed June 30, 1980. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South Eleventh Street, Fort Smith, AR 72901. Representative: Joseph K. Reber (same as applicant). Common, Regular. *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 American Cotton Growers Textile Division, at or near Littlefield, TX as an off-route point in connection with applicant's regular route service at Lubbock, TX. Supporting Shipper: American Cotton Growers, P.O. Box 512, Littlefield, TX 79339. Applicant intends to tack and interline.

MC 52727 (Sub-5–1TA), filed June 30, 1980. Applicant: RAY BELLEW, INC., 7810 Almeda-Genoa Road, Houston, TX 77034. Representative: Joe G. Fender, 711 Louisiana, Suite 1150, Houston, TX 77072. *Iron and steel articles, oilfield equipment as defined T. E. Mercer Extension 74 MCC 459, 543, and concrete beams* between points in TX on the one hand and LA, OK and NM on the other. Supporting Shippers: 19.

MC 60066 (Sub-5–2TA), filed July 2, 1980. Applicant: BEE LINE MOTOR FREIGHT, INC., 1804 Paul Street, Omaha, NE 68102. Representative: Donald L. Stern, of Stern & Becker, P.C., Suite 610, 7171 Mercy Road, Omaha, NE 68106. (1) *Such merchandise as is dealt in by discount, variety and retail department stores,* from Memphis, TN to Omaha, NE; (2) *Shock absorbers* from Cozad, NE to Paragould, AR. Supporting Shippers: K–Mart Corporation, 3100 W. Bog Beaver Road, Troy, MI 48084; Monroe Auto Equipment Co., International Drive, Monroe, MI 48161.

Note.—Tacking with applicant's regular route authority at Omaha, NE is requested.

MC 67234 (Sub-5–3TA), filed July 2, 1980. Applicant: UNITED VAN LINES, INC., One United Drive, Fenton, MO 63026. Representative: B. W. LaTourette, Jr., 11 S. Meramec, Suite 1400, St. Louis, MO 63105, (314) 727–0777. *New Furniture and Furniture Parts, crated and uncrated* between Kent, WA, on the one hand, and, on the other, points in the United States, except AK and HI. Supporting shipper(s): Harry Lunstead Designs, Inc., 8655 South 208th, Kent, WA 98031.

MC 100666 (Sub-5–8TA), filed June 30, 1980. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 71107. Representative: Wilburn L. Williamson, Suite 615 East, The Oil Center, Oklahoma City, OK 73112. *Steel Pallet Racks* from Pontiac, IL to Maumelle, AR. Supporting shipper: Target Stores, Inc., 7120 Hwy 65, Fridley, MN 55423.

MC 102567 (Sub-5–10TA), filed June 30, 1980. Applicant: McNAIR TRANSPORT, INC., 4295 Meadow Lane, P.O. Drawer 5357, Bossier City, LA 71111. Representative: Edward M. Regan, Traffic Manager, 4295 Meadow Lane, P.O. Drawer 5357, Bossier City, LA 71111. *Agricultural Insecticides, in bulk, in tank vehicles, from a bulk transfer site at,* or near, Chandler, AZ, to points in AZ. Restriction: This authority is restricted to movements having an immediate prior movement by rail. Supporting shipper: Ciba Geigy Corporation, P.O. Box 11422, Greensboro, NC 27409.

MC 105566 (Sub-5–9TA), filed June 30, 1980. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1120, Cape Girardeau, MO 63701. Representative: William F. King, Suite 400, Overlook Building, 6121 Lincolnia Road, Alexandria, VA 22312. *General commodities, except household goods as defined by the Commission, dangerous explosives, commodities in bulk and those requiring special equipment* between all points in the United States, except AK and HI, restricted to the transportation of shipments originating at or destined to the facilities of Westinghouse Electric Corporation. Supporting shipper: Westinghouse Electric Corporation, 290 Leger Road, North Huntington, PA 15692.

MC 106398 (Sub-5–38TA), filed June 30, 1980. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Gayle Gibson, National Trailer Convoy, Inc., 705 South Elgin, Tulsa, OK 74120. *Grain Drying and handling equipment and materials and supplies used in the installation, manufacture and distribution of grain drying and handling equipment.* Between: The facilities of Billy Johnson, Inc., at West Memphis, AR on the one hand, and on the other, all points in states of IL, IN, IA, KS, KY, MO, NE and WI. Supporting shipper: Billy Johnson, Inc., 910 Thompson, West Memphis, AR 72301.

MC 109818 (Sub-5–3TA), filed June 30, 1980. Applicant: WENGER TRUCK LINE, INC., P.O. Box 4327, Davenport, Iowa 52804. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. *Meats, meat products, meat by-products, and articles distributed by meat packinghouses, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except commodities in bulk),* from Oakland, IA, to points in IL. Supporting shipper: Spencer Foods, Inc., P.O. Box 544, Schulyer, NE 68661.

MC 112822 (Sub-5–3TA), filed June 30, 1980. Applicant: BRAY LINES INCORPORATED, P.O. Box 1191, 1401 N. Little Street, Cushing, Oklahoma 74023. Representative: Dudley G. Sherill (same address as applicant). *Electrical equipment and materials, equipment, and supplies used in the manufacture and distribution of electrical equipment,* between Chicago, IL and its Commercial Zone and Joplin, MO. Supporting shipper: Motorala Inc., 1299 E. Algonquin Rd., Schaumburg, IL 60196.

MC 113362 (Sub-5–11TA), filed June 30, 1980. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, IA 50533. Representative: Milton D. Adams, P.O. Box 429, Austin, MN 55912. *Millwork, Hardwood Furniture, and Hardwood Furniture Parts,* from the facilities of Davidson-McNair Products Company located at Oil City, PA to points in RI. Supporting shipper: Davidson-McNair Products Co., P.O. Box 223, Oil City, PA 16301.

MC 113362 (Sub-5–12TA), filed June 30, 1980. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, IA 50533. Representative: Milton D. Adams, P.O. Box 429, Austin, MN 55912. *Such*

*Commodities as are dealt in or used by Retail Stores (except commodities in bulk)* Between points in the United States in and east of ND, SD, NE, CO, and NM. Restricted to traffic from or to the facilities of Ardans, Inc. Supporting shipper: Ardan, Inc., 2320 Euclid Avenue, Des Moines, IA 50310.

MC 113908 (Sub-5–14TA), filed June 27, 1980. Applicant: ERICKSON TRANSPORT CORP., 2255 North Packer Road, P.O. Box 10068 G.S., Springfield, MO 65804. Representative: Jim G. Erickson, (same address as applicant). *Vinegar, vinegar stock and vinegar stock concentrate, in bulk,* From Olney, IL and the commercial zone therof, to AZ, AR, CA, CO, DE, ID, IL, IN, IA, KS, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, OH, OK, OR, PA, TN, TX, UT, VA, WA, WV, WI, and WY. Supporting shipper: National Vinegar Co., P.O. Box 255, Alton, IL 62002.

MC 115554 (Sub-5–2TA), filed June 30, 1980. Applicant: HEARTLAND EXPRESS, INC. OF IOWA, P.O. box 89B, R. R. #6, Iowa City, IA 52240. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501. (1) *Telephones, telephone sets,* and *telephone equipment,* and (2) *Parts, materials, equipment* and *supplies used in the manufacture, distribution, installation or operation of those items named in (1) above (except commodities in bulk),* from Houston, TX to Shreveport, LA, restricted to traffic originating at or destined to the facilities of Western Electric Company, Inc. Supporting shipper: Western Electric Company, Inc., 1111 Woodsmill Road, Ballwin, MO 63011.

MC 115554 (Sub-5–3TA), filed June 30, 1980. Applicant: HEARTLAND EXPRESS, INC. OF IOWA, P.O. box 89B, R. R. #6, Iowa City, IA 52240. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501. *Insulation and insulation materials (except in bulk),* from Rogers, TX to points in AR, IA, KS, MO, NE, and OK. Supporting shipper: Mineral Wool Insulation Manufacturing Co., Inc., Box 218, Rogers, TX 76569.

MC 117119 (Sub-5–16TA), filed June 30, 1980. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean (same address as applicant). *Canned and preserved foodstuffs (except in bulk)* from Houma, LA to points in CA, OR, WA, NV, IL, IN, OH, MI, ME, MA, PA, NY, NJ, CT, RI, VA, MD, and KS. Supporting shipper(s): Calvin J. Authement Packing Co., Inc., Route 4 Box 311, Houma, LA 70361.

MC 119399 (Sub-5–20TA), filed June 30, 1980. Applicant: CONTRACT FREIGHTERS, INC., 2900 Davis Boulevard, P.O. Box 1375, Joplin, MO 64801. Representative: Thomas P. O'Hara (same address as applicant). *Cheese* From Muenster, TX to points in Barry, Jasper, Lawrence and Newton Counties, MO restricted to shipments destined to the facilities of L.D. Schreiber Cheese Company, Inc. Supporting shipper: L. D. Schreiber Cheese Company, Inc., P.O. Box 610, Green Bay, WI 54305.

MC 119741 (Sub-5–11TA), filed June 30, 1980. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Avenue, NW., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson, (same as applicant). *Foodstuffs,* from the facilities of Kitty Clover Div., Culbro Snack Foods Inc., at or near (1) Omaha, NE to Lexington, KY; and (2) Terre Haute, IN to Oklahoma City and Tulsa, OK. Supporting shipper: Kitty Clover Div., Culbro Snack Foods, Inc., 2200 South 24th Street, Omaha, NE 68106.

MC 119741 (Sub-5–12TA), filed June 30, 1980. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Avenue, NW., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson, (same as applicant). *General commodities (except those requiring special equipment and commodities in bulk),* between all points in the United States (except AK and HI), restricted to traffic originating at and/or destined to the facilities of Archer Daniels Midland Company and its subsidiaries. Supporting shipper: Archer Daniels Midland Company, Box 7007, Shawnee Mission, KS 66207.

MC 119789 (Sub-5–23TA), filed July 2, 1980. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr. (same as applicant). *Wine and Brandy (except in bulk)* from CA to FL. Supporting shippers: Bisceglia Brothers Wine Company, 25427 Avenue 13, CA 93637; Wine Service Cooperative, 1150 Dowdell Lane, St. Helena, CA 94574.

MC 123389 (Sub-5–1TA), filed July 1, 1980. Applicant: CROUSE CARTAGE COMPANY, P.O. Box 151, Carroll, IA 51401. Representative: James E. Ballenthin, 630 Osborn Building, St. Paul, MN 55102. *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 IA on and east of U.S. Hwy 69 with the right to tack and interline in IA. There are 194 supporting shippers.

MC 123490 (Sub-5–1TA), filed June 30, 1980. Applicant: CHIP CARRIERS, INC., 11216 Elm Street, Omaha, NE 68144. Representative: Donald L. Stern, Stern & Becker, P.C., Suite 610, 7171 Mercy Road, Omaha, NE 68106. *Contract* Irregular *Foodstuffs, except in bulk,* from Beaverton, OR to Dallas, TX and Denver, CO. Supporting shipper: Frito-Lay, Inc., Frito-Lay Tower, Exchange Park, Dallas, TX 75235.

MC 125535 (Sub-5–2TA), filed July 1, 1980. Applicant: NATIONAL SERVICE LINES, INC. OF NEW JERSEY, 12015 Manchester Road, Suite 118, St. Louis, MO 63131. Representative: (same as applicant). Contract; Irregular. *(1) Copper, Aluminum Products, Wire and Cable, and (2) Commodities used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk in tank vehicles),* between the facilities of Pirelli Cable Corporation at Abbeville, SC, Bayonne, NJ, Colusa, CA, Elkton, MD, Hot Springs, AR, Farmers Branch, TX, Morrow, GA, Salt Lake City, UT, Tulsa, OK, on the one hand, and, on the other, points in the United States. Supporting shipper: Pirelli Cable Corporation, 800 Rahway Avenue, Union, NJ 08077.

MC 128883 (Sub-5–1TA), filed June 30, 1980. Applicant: NORTH IOWA EXPRESS, INC., 1921 N.E. 58th Avenue, Des Moines, IA 50313. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. *General commodities except Class A and B explosives, commodities in bulk and those requiring special equipment* between Adams, Albert Lea, Cherry Grove, Brownsdale, Altura, Chester, Clarksboro, Dodge Center, Bowerville, Byron, Caledonia, Canton, Chatfield, Claremont, Eyota, Fairbault, Eitzen, Havana, Elba, Elgin, Houston, LeRoy, Lewiston, Mendota, New Brighton, Owatonna, Plainview, Peterson, Pine Island, Red Wing, Rochester, Spring Grove, Winona, Wykoff, Zumbrota, Elkton, Ellendale, Fountain, Geneva, Goodhue, Grand Meadow, Grainger, Gray Cloud Island, Harmony, Hart, Highland Park, Hokah, Hope, Kasson, Kenyon, La Crescent, Lanesboro, Maple, Mantorville, Miesville, Money Creek, Oronoco, Ostrander, Pearson, Pine Island, Plainview, Preston, Prosper, Racine, Rockdale, Rolling Stone, Rose Creek, Rushport, Sargeant, Simpson, Skyburg, Spring Valley, Stuartville, Stockton, Taopi, Utica, Vasa, Viola, Waltham, Winnebago, MN; Eau Claire, Stillwater, LaCrosse, Menomonie, Madison, Alma, Alma Center, Arkansas, Black Earth, Cross Plains, Cottage Grove, Hudson, Independence, Lone Rock, Loyal, Maple Bluff, Mazomanie,

Merrillan, Middleton, Mondovi, Monona, Neillsville, Onalaska, Osseo, Prescott, River Falls, Sparta, Spencer, Spring Valley, Strum, Tomah, West Baraboo, WI; Algona, Bancroft, Boone, Britt, Buffalo Center, Burr Oak, Clarion, Delaware, Delhi, Dundee, Dyersville, Eldora, Hanover, Humboldt, Lakota, Lansing, Manchester, New Albin, Ringsted, St. Cathleen, Sexton, Swea City, Thompson, Wesley, IA. Service to be joined with applicant's present regular route authority. Supporting shippers: Herregon Distributors, 2128 N.E. Broadway, Des Moines, IA, Dealers Hobby, 2150 Delaware, Des Moines, IA, Bernie Marks Co., 3920 McDonald, Des Moines, IA, John Day Co., 2323 Dean, Des Moines, IA.

MC 133655 (Sub-5–10TA), filed June 30, 1980. Applicant: TRANS-NATIONAL TRUCK, INC., P.O. Box 402535, Dallas, TX 75240. Representative: Matthew J. Reid, Jr., P.O. Box 2298, Green Bay, WI 54306. *Such commodities as are dealt in, or used by, office supply companies and food business houses (except commodities in bulk, and those which because of size or weight require the use of special equipment)* between Dallas, TX and points in its commercial zone on the one hand, and, on the other, Oklahoma City, OK and New Orleans, LA and points in their commercial zones, restricted to the transportation of traffic originating at or destined to the facilities of United Stationers Supply Company. Supporting shipper: United Stationers Supply Company, 1701 S. First Avenue, Maywood, IL 60153.

MC 134405 (Sub-5–5TA), filed June 30, 1980. Applicant: BACON TRANSPORT COMPANY, P.O. Box 1134, Ardmore, OK 73112. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. *Waste oil* from the facilities of Uniroyal Incorporated at or near Ardmore, OK to Opelika, AL. Supporting shipper: Uniroyal Incorporated, P.O. Box 1867, Ardmore, OK 73401.

MC 135070 (Sub-5–21TA), filed June 30, 1980. Applicant: JAY LINES, INC., P.O. Box 30180, Amarillo, TX 79120. Representative: Gailyn L. Larsen, P.O. Box 82816, Lincoln, NE 68501. *(1) Insulated copper wire cable, and (2) equipment, materials and supplies used in the manufacture and distribution of the commodities named in (1) above,* From Schuylkill Haven, PA, to points in AZ, AR, CA, CO, ID, KS, LA, MO, MT, NV, NM, OK, OR, TX, UT, WA, and WY. Supporting shipper: Tamaqua Cable Products Corp., P.O. Box 347, Schuylkill Haven, PA 17972.

MC 135605 (Sub-5–1TA), filed June 30, 1980. Applicant: WILKINSON TRANSPORT, INC., P.O. Box 25, Barton, AR 72312. Representative: R. Connor Wiggins, Jr., Suite 909, 100 N. Main Bldg., Memphis, TN 38103. *Tile and such commodities as are dealt in and used by wholesale and retail stores,* between the facilities of American Olean Tile Company located in Lansdale, PA; Quakertown, PA; Jackson, TN; and Olean, NY, on the one hand, and on the other, points in the United States. Supporting shipper: American Olean Tile Company, 1000 Cannon Avenue, Lansdale, PA 19446.

MC 135936 (Sub-5–1TA), filed July 2, 1980. Applicant: C & K TRANSPORT, INC., Box 205, Webster City, IA 50595. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. *Industrial chemicals in containers* from Alsip, Chicago, Elk Grove Village and Waukegan, IL; Delaware, OH; Kansas City, KS and Natrium, WV, to Sioux City, IA and Omaha, NE. Supporting shipper: Van Waters & Rogers—Division Univar, 3002 F Street, Omaha, NE 68107.

MC 143179 (Sub-5–2TA), filed June 30, 1980. Applicant: CNM CONTRACT CARRIERS, INC., P.O. Box 1017, Omaha, NE 68101. Representative: Foster L. Kent (same address as applicant). Contract; Irregular. *Styrofoam and fiber egg trays, and materials and supplies used in the packaging and shipment of eggs,* from Griffith, IN, and Chicago and Frankfort, IL, to Wakefield, NE. Supporting shipper: Milton G. Waldbaum Company, 501 Main Street, Wakefield, NE 68784.

MC 145384 (Sub-5–7TA), filed June 30, 1980. Applicant: ROSE-WAY, INC., P.O. Box 4644, Des Moines, IA 50306. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. *Iron and steel pipe,* from the facilities of Allied Tube & Conduit Corporation at Harvey, IL to points in AZ, CA, ID, NV, OR, UT and WA. Supporting shipper(s): Allied Tube & Conduit Corporation, 16100 South Lathrop, Harvey, IL 60426.

MC 146360 (Sub-5–6TA), filed June 30, 1980. Applicant: FLOYD SMITH, JR. TRUCKING, INC., 4415 Highline St., Suite 107, Oklahoma City, OK 73148. Representative: C. L. Phillips, Room 248—Classen Terrace Bldg., 1411 N. Classen, Oklahoma City, OK 73106. *Paper and Paper Products,* from points in CA, MN, NH and WI to points in ID, MT, OR, WA and UT. Supporting shipper: Lewis and Clark Paper and Supply, Inc., 805 E. Park Blvd., Boise, ID 83702.

MC 150086 (Sub-5–1TA), filed July 1, 1980. Applicant: WADE TRUCK LINES, INC., P.O. Box 156, Verona, MO 65769. Representative: (same as applicant). *Sugar in packages, (except in bulk),* between points in LA and points in and east of ND, SD, NE, KS, OK, and TX. Supporting shippers: Georgia Sugar Refinery, P.O. Box 69, Mathews, LA 70375; Godchaux-Henderson Sugar Company, General Delivery, Reserve, LA 70084; Supreme Sugar Company, Inc., 1 Shell Square, New Orleans, LA 70130; Colonial Sugar Corporation, Gramercy, LA 70052.

MC 151118 (Sub-5–1TA), filed July 1, 1980. Applicant: MDR CARTAGE, INC., 516 West Johnson, Jonesboro, AR 72401. Representative: Douglas C. Wynn, P.O. Box 1295, Greenville, MS 38701. (1) *Athletic equipment and supplies and* (2) *equipment, materials and supplies used in the manuafacture, sale and distribution of commodities described in (1) above (except commodities in bulk and those requiring special equipment),* between Jonesboro, AR, on the one hand and on the other, points in the U.S. in and east of WI, IL, KY, TN and MS: Restricted to traffic originating at or destined to the facilities of Penn Athletic Products, a Division of General Tire Corp., at or near Jonesboro, AR. Supporting shipper(s): Penn Athletic Products, a division of General Tire Corp., 2400 Industrial Drive, Jonesboro, AR 72401.

MC 151178 (Sub-5–1TA), filed June 30, 1980. Applicant: KENNETH DIXON, Dixon Farm Supply, 101 S.W. "A" Street, Stigler, Oklahoma 74462. Representative: Louis E. Striegel, 6110 S. 221 East Avenue, Broken Arrow, Oklahoma 74012. Contract irregular *agricultural machinery and equipment including parts (except commodities in bulk)* from Canton, East Moline, Moline, and Rock Island, IL; Mountville and Belleville, PA; Grand Island and Lexington, NE; and Fowler, CA, to points in AL, AR, CA, CO, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MS, MO, NH, NJ, NY, NM, NE, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WA, and WI, and from points within the states named to other points in those states. Supporting shipper: 3.

MC 151179 (Sub-5–1TA), filed June 30, 1980. Applicant: G–M TRANSPORTS, INC., 12344 East Northwest Highway, Dallas, Texas 75228. Representative: James W. Hightower, Hightower, Alexander and Cook, P.C., 5801 Marvin D. Love Freeway, No. 301, Dallas, Texas 75237 (214) 339–4108. *Contract* irregular *Such commodities as are dealt in by wholesale, retail and discount stores, except commodities in bulk and fresh meats and poultry,* between Dallas, TX, on the one hand, and, on the other, points in AR, AL, CO, FL, GA, KS, LA,

MS, MO, NE, NM, OK, WY, TN, and TX. Supporting shipper: Gibson Co-Op Warehouse, Inc., 12344 East Northwest Highway, Dallas, TX 75228.

MC 151180 (Sub-5–1TA), filed June 30, 1980. Applicant: C & M CARTAGE, INC., (a Kansas Corporation), 1308 West 11th Street, Kansas City, MO. 64101. Representative: Donald J. Quinn, Attorney-at-law, Suite 900, 1012 Baltimore, Kansas City, MO 64105. *Such merchandise as is dealt in by wholesale, retail and chain grocery, food, variety, discount and drug stores, (except commodities in bulk) from the facilities* of Kansas City Distribution, Inc., at Kansas City, MO, on the one hand, to points in IA, KS, NE and OK, on the other hand, restricted to traffic originating at Kansas City Distribution, Inc., in Kansas City, MO, and destined to the named states.

MC 151187 (Sub-5–1TA), filed June 30, 1980. Applicant: ROSENDO ZEPEDA AND SONS, INC., 1601 Laredo Street, Laredo, Texas 78040. Representative: James W. Hightower, Hightower, Alexander and Cook, P.C., 5801 Marvin D. Love Freeway, No. 301, Dallas, Texas 75237 (214) 339–4108. *General commodities (except Classes A and B explosives),* between Laredo, TX and Ports of Entry on the International Boundary Line between the United States and Mexico at Laredo, TX, restricted to traffic moving in foreign commerce. Supporting shipper: Oscar Fernandez of Texas, Inc., 817 Willow, P.O. Box 1242, Laredo, TX 78040.

MC 200 (Sub-5–30TA), filed June 26, 1980. (Republication) Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Representative: H. Lynn Davis (same as applicant). Common; Regular. *General commodities (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment),* serving the facilities of T. J. Lipton, Inc. at or near Suffolk, VA as an off-route point in connection with applicant's regular route authority. Restricted to shipments originating at or destined to the indicated facility. Applicant intends to tack to its existing authority. Supporting shipper: Thomas J. Lipton, Inc., 800 Sylvan Avenue, Englewood Cliffs, NJ 07632.

**Agatha L. Mergenovich,**

*Secretary.*

[FR Doc. 80-20852 Filed 7-11-80; 8:45 am]

BILLING CODE 7035-01-M

**[Ex Parte No. 241; Tenth Revised Exemption 141]**

## Aberdeen & Rockfish Railroad Co., et al.; Exemption Under Mandatory Car Service Rules

It appearing, That the railroads named herein own numerous plain gondola cars less than 61-ft.; that under present conditions, there are surpluses of these cars on their lines; that return of these cars to the car owners would result in their being stored idle; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of these cars, resulting in unnecessary loss of utilization of such cars.

*It is ordered,* That, pursuant to the authority vested in me by Car Service Rule 19, plain gondola cars, 61-ft. in length, described in the Official Railway Equipment Register, ICC–RER No. 6410–B, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "GB," which are less than 61-ft. in length, and which bear the reporting marks listed below, may be used without regard to the requirements of Car Service Rules 1 and 2.

Aberdeen and Rockfish Railroad Company
Reporting Marks: AR
Atlantic and Western Railway Company
Reporting Marks: ATW
Chicago, West Pullman & Southern Railroad Company
Reporting Marks: CWP
Columbus and Greenville Railway Company
Reporting Marks: CAGY
East St. Louis Junction Railroad Company
Reporting Marks: ESLJ
Illinois Terminal Railroad Company
Reporting Marks: ITC
Louisiana Midland Railway Company
Reporting Marks: LOAM
Maryland and Delaware Railroad Company
Reporting Marks: MDDE
Octoraro Railway, Inc.
Reporting Marks: OCTR
The Pittsburgh and Lake Erie Railroad Company
Reporting Marks: PLE
Southern Railway Company
Reporting Marks: SOU
*Upper Merion and Plymouth Railroad Company
Reporting Marks: UMP

*Effective July 1, 1980,* and continuing in effect until further order of this Commission.

Issued at Washington, D.C., June 27, 1980.

*Addition.

Interstate Commerce Commission.

**Joel E. Burns,**

*Agent.*

[FR Doc. 80-20849 Filed 7-11-80; 8:45 am]

BILLING CODE 7035-01-M

**[Docket No. AB-1(Sub-No. 89F)]**

## Chicago & North Western Transportation Co.—Abandonment Between Redfield and Frankfort, South Dak.; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a Certificate and Decision decided June 19, 1980, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, the public convenience and necessity permit the abandonment by the Chicago and North Western Transportation Company of a line of railroad known as the Redfield-Frankfort line extending from railroad milepost 388.9 near Redfield to rail milepost 379.2 near Frankfort, a distance of 9.7 miles, in Spink County, SD, subject to the conditions for the protection of employees discussed in *Oregon Short Line R. Co.—Abandonment Goshen,* 360 I.C.C. 91(1979), and further that applicant shall keep intact all of the right-of-way underlying the track, including all the bridges and culverts for a period of 120 days from June 19, 1980, to permit any state or local government agency or other interested party to negotiate the acquisition for public use of all or any portion of the right-of-way. A certificate of public convenience and necessity permitting abandonment was issued to Chicago and North Western Transportation Company. Since no investigation was instituted, the requirement of § 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the Federal Register be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I § 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than July 29, 1980. The offer, as filed, shall contain information required pursuant to § 1121.38(b)(2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment

shall become effective 45 days from the date of this publication.

Agatha L. Mergenovich,

*Secretary.*

[FR Doc. 80-20838 Filed 7-11-80; 8:45 am]

BILLING CODE 7035-01-M

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[Docket No. AB-1 (Sub-90F)]

## Chicago & North Western Transportation Co.—Abandonment Camp Dodge and Granger, Iowa; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a Certificate and Decision decided June 19, 1980, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, the public convenience and necessity permit the abandonment by the Chicago and North Western Transportation Company of a line of railroad known as the Camp Dodge-Granger line (portion of the Des Moines and Central Iowa Railway) extending from railroad milepost 11.4 near Camp Dodge to railroad milepost 18.6 near Granger, a distance of 7.2 miles in Dallas and Polk Counties, IA, subject to the conditions for the protection of employees discussed in *Oregon Short Line R. Co.—Abandonment Goshen*, 360 ICC 91 (1976). A certificate of public convenience and necessity permitting abandonment was issued to Chicago and North Western Transportation Company. Since no investigation was instituted, the requirement of § 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (§ 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than July 29, 1980. The offer, as filed, shall contain information required pursuant to § 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective August 28, 1980.

Agatha L. Mergenovich,

*Secretary.*

[FR Doc. 80-20846 Filed 7-11-80; 8:45 am]

BILLING CODE 7035-01-M

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[Docket No. AB-1 (Sub-No. 77F)]

## Chicago & North Western Transportation Co.—Abandonment Near St. James and Hanska in Watonwan and Brown Counties, Minn.; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a decision decided April 4, 1980, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, the public convenience and necessity permit the abandonment by the Chicago and North Western Transportation Company of a line of railroad known as the Hanska Spur extending from railroad milepost 125.2 near St. James to railroad milepost 111.8 at the end of the line near Hanska, a distance of 13.4 miles, in Watonwan and Brown Counties, MN, subject to the conditions for the protection of employees discussed in *Oregon Short Line R. Co.—Abandonment Goshen*, 360 I.C.C. 91 (1979). A certificate of abandonment will be issued to the Chicago and North Western Transportation Company based on the above-described finding of abandonment, 30 days after publication of this notice (August 13, 1980), unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued. The offer must be filed and served no later than 15 days after publication of this Notice; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail service over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the **Federal Register** on March 31, 1976, at 41 FR 13691, as amended by publication of May 10, 1978, at 43 FR 20072. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced decision.

Agatha L. Mergenovich,

*Secretary.*

[FR Doc. 80-20839 Filed 7-11-80; 8:45 am]

BILLING CODE 7035-01-M

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[No. 37453]

## Colorado Intrastate Freight Rates—Bituminous Coal—1980

Decided: July 3, 1980.

The Denver and Rio Grande Western Railroad Company (petitioner) has requested an investigation of certain Colorado intrastate freight rates on bituminous coal. Petitioner seeks an order conforming bituminous coal rates from Oakridge, CO to Colorado Springs, CO to the level of interstate rates in Item 2016.9 of Tariff C-U-W 4223 reflecting increases approved in Ex Parte Nos. 343, 349, 357-A and 368-A. Petitioner also requests authority to publish these rates upon one day's notice, subject to refund. Under 49 U.S.C. § 11501(b), we have jurisdiction because petitioner filed with the appropriate state authority at the time of each increase and the state authority either failed to act within 120 days or denied the petition.

*It is ordered:*

We grant the petition. An investigation under 49 U.S.C. § 11501 is instituted to determine whether the Colorado intrastate rail freight rates on bituminous coal cause unjust discrimination against or impose a burden upon interstate or foreign commerce or cause undue or unreasonable advantage, preference or prejudice between persons or localities in intrastate commerce and in interstate and foreign commerce due to the failure

to apply to intrastate coal traffic the increases authorized by the Commission in Ex Parte Nos. 343, 349, 357–A and 368–A. In the investigation we shall also determine if any rates or charges, or maximum or minimum charges, or both, maintained by petitioners should be prescribed to remove any unlawful advantage, preference, discrimination, undue burden, or other violation of law, found to exist.

Persons who wish to participate in this proceeding and to file and receive copies of pleadings must notify the Office of Proceedings, Room 5340, Interstate Commerce Commission, Washington, D.C. 20432, on or before July 29, 1980. We encourage persons with common interests to consolidate their presentations.

As soon as possible after the final date for submitting notices of participation in this proceeding, we will serve a list of names and addresses upon all persons designated for service of the pleadings. The proceeding will then be assigned for oral hearing or for modified procedure.

A copy of this order shall be served upon petitioner. Service of this order shall also be made by certified mail to counsel for the City of Colorado Springs, to the Colorado Public Utilities Commission and to the Governor of Colorado. Further public notice shall be made by depositing a copy of this decision in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and by filing a copy with the Director, Office of the Federal Register, for publication in the **Federal Register.**

This decision will not significantly affect either the quality of the human environment or conservation of energy resources.

By the Commission, Gary J. Edles, Director, Office of Proceedings.

**Agatha L. Mergenovich,**

*Secretary.*

[FR Doc. 80–20847 Filed 7–11–80; 8:45 am]

**BILLING CODE 7035–01–M**

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**[Ex Parte No. 311]**

## Expedited Procedures for Recovery of Fuel Costs

Decided: July 8, 1980.

In our decisions of May 13, 20, and 27, June 3, 10, 17, 24, and July 1, 1980, a 13-percent surcharge was authorized on all owner-operator traffic, and on all truckload traffic whether or not owner-operators were employed. We ordered that all owner-operators were to receive compensation at this level.

The weekly figures set forth in the appendix for transportation performed by owner-operators and for truckload traffic is 13.4 percent. Accordingly, we are authorizing that the 13-percent surcharge for this traffic remain in effect. All owner-operators are to receive compensation at this level. No change is authorized in the 2.3-percent surcharge on less-than-truckload (LTL) traffic performed by carriers not utilizing owner-operators, the 1.3-percent surcharge for United Parcel Service, nor in the 5.0-percent surcharge authorized for the bus carriers.

Notice shall be given to the general public by mailing a copy of this decision to the Governor of each State and to the Public Utilities Commissions or Boards of each State having jurisdiction over transportation, by depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection and by delivering a copy to the Director, Office of the **Federal Register** for publication therein.

*It is ordered:*

This decision shall become effective Friday, 12:01 a.m. July 11, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Stafford, Clapp, Trantum, Alexis, and Gilliam. Commissioner Trantum absent and not participating.

**Agatha L. Mergenovich,**

*Secretary.*

**Appendix—Fuel Surcharge**

*Base date and price per gallon (including tax)*

January 1, 1979 ..... 63.5¢

*Date of current price measurement and price per gallon (including tax)*

July 7, 1980 ..... 114.0¢

| | Transportation performed by— | | | |
|---|---|---|---|---|
| | Owner operators [1] (1) | Other [2] (2) | Bus carrier (3) | UPS (4) |
| Average percent: Fuel expenses (including taxes) of total revenue.. | 16.9 | 2.9 | 6.3 | 3.3 |
| Percent surcharge developed..... | 13.4 | 2.3 | 5.0 | [3]2.1 |
| Percent surcharge allowed ..... | 13.0 | 2.3 | 5.0 | [4]1.3 |

[1] Apply to all truckload rated traffic.

[2] Including less-than-truckload traffic.

[3] The percentage surcharge developed for UPS is calculated by applying 81 percent of the percentage increase in the current price per gallon over the base price per gallon to the UPS average percent of fuel expense to revenue figure as of January 1, 1979 (3.3 percent).

[4] The developed surcharge figure is reduced by 0.8 percent to reflect fuel related increases already included in UPS rates.

[FR Doc. 80–20850 Filed 7–11–80; 8:45 am]

**BILLING CODE 7035–01–M**

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## Long and Short-Haul Application for Relief (Formerly Fourth Section Application)

July 9, 1980.

This application for long-and-short-haul relief has been filed with the I.C.C.

Protests are due at the I.C.C. on or before July 29, 1980.

FSA No. 43839, Western Trunk Line Committee, Agent No. A–2763, liquefied petroleum gas, in tank cars, from Millis, Wyoming, to points in Western Trunk Line Territory, in Supp. 29 to its tariff ICC WTL 3200–G, effective August 3, 1980. Grounds for relief—Market competition, short-line distance formula and grouping.

By the Commission.

**Agatha L. Mergenovich,**

*Secretary.*

[FR Doc. 80–20848 Filed 7–11–80; 8:45 am]

**BILLING CODE 7035–01–M**

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**[Docket No. AB–12 (Sub-No. 63F)]**

## Southern Pacific Transportation Co.—Abandonment Between Lick and Alamitos, CA; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a Certificate and Decision decided June 19, 1980, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, the public convenience and necessity permit the abandonment by the Southern Pacific Transportation Company of a line of railroad known as the Lick Branch extending from, milepost 55.24 at or near Lick to milepost 58.97 at or near Alamitos, a distance of 3.73 miles in Santa Clara County, CA, subject to the conditions for the protection of employees discussed in *Oregon Short Line R. Co.—Abandonment Goshen,* 360 ICC 91 (1976). A certificate of public convenience and necessity permitting abandonment was issued to Southern Pacific Transportation Company. Since no investigation was instituted, the requirement of § 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (§ 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than July 29, 1980. The offer, as

filed, shall contain information required pursuant to § 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective August 28, 1980.

Agatha L. Mergenovich,

*Secretary.*

[FR Doc. 80-20845 Filed 7-11-80; 8:45 am]

BILLING CODE 7035-01-M

## INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

**[Delegation of Authority No. 1]**

### Trade and Development Program; Contracting and Personnel Management Functions for the Trade and Development Program

July 1, 1980.

1. Pursuant to authority vested in me by International Development Cooperation Agency ("IDCA") Delegation of Authority No. 4, effective July 1, 1980, I hereby delegate to the Administrator of the Agency for International Development:

(A) the authority to sign or approve, on behalf of the Trade and Development Program, contracts, grants and cooperative agreements financed under authority vested in the Trade and Development Program by section 1-203 of IDCA Delegation of Authority No. 4; and

(B) the authority necessary to implement sections 1-203 and 1-401 of IDCA Delegation of Authority No. 4 insofar as they relate to personnel of the Trade and Development Program.

2. The authority delegated herein may be redelegated successively and may be exercised by persons who are performing the functions of the designated offices on an acting basis.

3. Notwithstanding any provision of this Delegation of Authority, the Director or Acting Director of the Trade and Development Program may at any time exercise any function delegated by this Delegation of Authority.

4. This delegation of authority shall be deemed effective as of July 1, 1980, and actions within the scope of this delegation and any redelegation hereunder undertaken prior hereto which are consistent with the terms and scope of this delegation of authority are hereby ratified and confirmed.

Dated: July 8, 1980.

David A. Raymond,

*Acting Director, Trade and Development Program.*

[FR Doc. 80-20658 Filed 7-12-80; 8:45 am]

BILLING CODE 4710-02-M

## NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

### National Council on the Humanities Advisory Committee; Meetings

July 9, 1980.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463) notice is hereby given that meetings of the National Council on the Humanities will be conducted in Washington, D.C. on July 29th and August 14-15, 1980.

The purpose of the meetings is to advise the Chairman of the National Endowment for the Humanities with respect to policies, programs, and procedures for carrying out his functions, and to review applications for financial support and gifts offered to the Endowment and to make recommendations thereon to the Chairman.

The meetings will be held in the Shoreham Building, 806 15th Street, N.W., Washington, D.C. The first part of the afternoon session of the proposed meeting on July 29th, and a portion of the morning and afternoon sessions on August 14 and the afternoon session on August 15, 1980 will not be open to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code because the Council will consider information that may disclose: trade secrets and commercial or financial information obtained from a person and privileged or confidential; information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and information the disclosure of which would significantly frustrate implementation of proposed agency action. I have made this determination under the authority granted me by the Chairman's Delegation of Authority dated January 15, 1978.

The agenda for the July 29, 1980 meeting will be as follows:

1:30 to 4:30: Consideration of specific applications (Closed to the public for the reasons stated above).

4:30 to Adjournment: Matters of policy (Open to the public).

The agenda for the meeting on August 14, 1980 follows:

9:00 to 10:30: Committee Meetings—Policy Discussion (Open to the public):
Education Programs—Room 807.
Fellowship Programs—Room 314.
Planning and Special Programs—Room 1025.
Public Programs & State Programs—1st Floor.
Research Programs—Room 1134.

10:30 to Adjourn: Consideration of specific applications, (Closed to the public for the reasons stated above).

The morning session on August 15, 1980 will convene at 9:00 a.m. in the 1st Floor Conference Room and will be open to the public. The agenda for the morning session will be as follows:

Minutes of the Previous Meeting.
Reports:
A. Introductory Remarks.
B. Chairman's Grants & Grants Departing from Council Recommendation.
C. Endowment Review Process.
D. Application Report.
E. Gifts and Matching Report.
F. FY 1980 Program Funding.
G. FY 1981 Appropriations.
H. FY 1982 Budget Request.
I. Reauthorization.
J. Dates of Future Council Meetings.
K. Selected Project Evaluations.
L. Committee Reports on Policy and General Matters: Challenge Grants, Education Programs, Public Programs, State Programs, Fellowship Programs, Planning and Assessment Studies, Special Programs, Research Programs.

The remainder of the proposed meeting will be given to the consideration of specific applications, (closed to the public for the reasons stated above).

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street, N.W., Washington, D.C. 20506, or call area code 202-724-0367.

Stephen J. McCleary,

*Advisory Committee Management Officer.*

[FR Doc. 80-20967 Filed 7-11-80; 8:45 am]

BILLING CODE 7536-01-M

## NUCLEAR REGULATORY COMMISSION

**[Dockets Nos. 50-250 and 50-251]**

### Florida Power & Light Co.; Notice of Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 58 to Facility Operating License No. DPR-31, and Amendment No. 51 to Facility Operating License No. DPR-41 issued to Florida Power and Light Company (the licensee), which revised Technical Specifications for operation of Turkey Point Plant, Unit Nos. 3 and 4 (the facilities) located in Dade County, Florida. The amendments are effective as of the date of issuance.

The amendments incorporate the results of a revised ECCS analysis for a steam generator plugging level of 25 percent for both Unit 3 and Unit 4 and

permit continued operation of Unit 4 for six equivalent months of operation from June 11, 1980, at which time the steam generators for Unit 4 shall be inspected.

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 applications for amendments dated March 14 (L–80–83), and June 5, 1980 (L–80–170 and L–80–171), (2) Amendment Nos. 58 and 51 to License Nos. DPR–31 and DPR–41, 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 Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199. 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 Licensing.

Dated at Bethesda, Maryland, this 12th day of June, 1980.

For the Nuclear Regulatory Commission.

**Steven A. Varga,**

*Chief, Operating Reactors Branch No. 1, Division of Licensing.*

[FR Doc. 80–20873 Filed 7–11–80; 8:45 am]

BILLING CODE 7590–01–M

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**[Docket No. 50–366]**

## Georgia Power Co., et al.; Notice of Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 16 to Facility Operating License No. NPF–5, issued to Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, and City of Dalton, Georgia, which revised Technical Specifications for operation of the Edwin I. Hatch Nuclear Plant Unit No. 2 (the facility) located in Appling County, Georgia. The amendment is effective as of June 2, 1980.

This amendment revises temporarily the Technical Specifications for the High Pressure Coolant Injection System (HPCI) to permit startups with an inoperable HPCI for the purpose of conducting a special test.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental 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 June 2, 1980, (2) the Commission's letter to the licensee dated June 2, 1980, (3) Amendment No. 16 to License No. NPF–5, and (4) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Appling County Public Library, Parker Street, Baxley, Georgia 31513. A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 2nd day of July 1980.

For the Nuclear Regulatory Commission.

**Robert W. Reid,**

*Chief, Operating Reactors Branch No. 4, Division of Licensing.*

[FR Doc. 80–20876 Filed 7–11–80; 8:45 am]

BILLING CODE 7590–01–M

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**[Docket No. 50–316]**

## Indiana & Michigan Electric Co.; Notice of Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 21 to Facility Operating License No. DPR–74, issued to Indiana and Michigan Electric Company (the licensee), which revised Technical Specifications for operation of Donald C. Cook Nuclear Plant, Unit No. 2 (the facility) located in Berrien County, Michigan. This amendment is effective as of the date of issuance.

This amendment provides for a revision to Unit No. 2 Technical Specifications to separate the limiting conditions for operation and surveillance requirements for Unit No. 2 motor driven auxiliary feedwater pumps from those in Unit No. 1.

The application for this amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental 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 9, 1979, as supplemented by letters dated December 7, 1979, March 28, 1980, and May 23, 1980, (2) Amendment No. 21 to License No. 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 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 Licensing.

Dated at Bethesda, Maryland, this 18th day of June, 1980.

For the Nuclear Regulatory Commission.

**Steven A. Varga,**

*Chief Operating Reactors Branch No. 1, Division of Licensing.*

[FR Doc. 80-20875 Filed 7-11-80; 8:45 am]

BILLING CODE 7590-01-M

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**Docket No. 50-286**

### Power Authority of the State of New York; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 31 to Facility Operating License No. DPR-64, issued to the Power Authority of the State of New York (the licensee), which revised Technical Specifications for operation of the Indian Point Nuclear Generating Unit No. 3 (the facility) located in Buchanan, Westchester County, New York. The amendment is effective as of the date of issuance.

The amendment requires a mid-cycle inspection of one steam generator, an end-of-cycle inspection of all four steam generators, and incorporates new limiting conditions of operation for the steam generators.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental 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 January 28, 1980, (2) Amendment No. 31 to License No. DPR-64, 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 White Plains Public Library, 100 Martine Avenue, White Plains, New York. A copy of items (2) and (3) may be obtained upon rquest addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 27th day of June, 1980.

For the Nuclear Regulatory Commission.

**Steven A. Varga,**

*Chief Operating Reactors Branch No. 1 Division of Licensing.*

[FR Doc. 80-20874 Filed 7-11-80; 8:45 am]

BILLING CODE 7590-01-M

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**[Docket No. 50-346]**

### The Toledo Edison Co. and the Cleveland Electric Illuminating Co.; Issuance of Amendment to Facility Operating License and Negative Declaration

The United States Nuclear Regulatory Commission (the Commission) has issued Amendment No. 26 to Facility Operating License No. NPF-3, issued to The Toledo Edison Company and The Cleveland Electric Illuminating Company (the licensees), which revised Technical Specifications for operation of the Davis-Besse Nuclear Power Station, Unit No. 1 (the facility) located in Ottawa County, Ohio. The amendment is effective as of its date of issuance.

This amendment deletes certain satisfied Appendix B Environmental Technical Specifications related to studies on fish, fish eggs, and larvae.

The Commission has made appropriate findings as required by the Atomic Energy Act of 1954, as amended, 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 this action 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. This action involves changes to environmental monitoring programs and does not involve any change in plant design or operation or an increase in effluent types or quantities. The impact of the overall plant has already been predicted and described in the Commission's Final Environmental Statement for the facility dated October 1975.

For further details with respect to this action, see (1) the licensee's filing dated March 28, 1979, (2) Amendment No. 26 to License No. NPF-3, 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, NW., Washington, D.C., and at the Ida Rupp Public Library, 310 Madison Street, Port Clinton, Ohio.

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 Licensing.

Dated at Bethesda, Maryland, this 2nd day of July 1980.

For the Nuclear Regulatory Commission.

**Robert W. Reid,**

*Chief, Operating Reactors Branch 4, Division of Licensing.*

[FR Doc. 80-20877 Filed 7-11-80; 8:45 am]

BILLING CODE 7590-01-M

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### Implementation of Requirements for Environmental Qualification of Electrical Equipment; Meeting

*Correction*

In FR Doc. 80-20146, published at page 45432, on Thursday, July 3, 1980, on page 45432, in the third column, under *Dates and Locations*, the second meeting "July 14, 1980—Region II—Hyatt Regency" should be corrected to read "July 15, 1980—Region II—Hyatt Regency".

BILLING CODE 1505-01-M

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## OFFICE OF MANAGEMENT AND BUDGET

### Agency Forms Under Review

July 9, 1980.

#### Background

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 USC, Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

#### List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions, or reinstatements. Some forms listed as revisions may only have a change in the number of respondents or a reestimate of the time needed to fill them out rather than any change to the

content of the form. The agency clearance officer can tell you the nature of any particular revision you are interested in. Each entry contains the following information:

The name and telephone number of the agency clearance officer (from whom a copy of the form and supporting documents is available);

The office of the agency issuing this form;

The title of the form;

The agency form number, if applicable;

How often the form must be filled out;

Who will be required or asked to report;

An estimate of the number of forms that will be filled out;

An estimate of the total number of hours needed to fill out the form; and

The name and telephone number of the person or office responsible for OMB review.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. Our usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register** but occasionally the public interest requires more rapid action.

**Comments and Questions**

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review. If you experience difficulty in obtaining the information you need in reasonable time, please advise the OMB reviewer to whom the report is assigned. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Jim J. Tozzi, Assistant Director for Regulatory and Information Policy, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503

**DEPARTMENT OF AGRICULTURE**

**Agency Clearance Officer—Richard J. Schrimper—447–6201**

*New Forms*

Departmental and other
Recipient self-evaluation requirement on occasion
Federal assistance recipients
Charles A. Ellett, 395–7340

Economics, Statistics, and Cooperatives Service
Small farm survey
Single time
Description not furnished by agency, 7,630 responses; 3,205 hours
Off. of Federal Statistical Policy and Standard, 673–7974

Food and Nutrition Service
Study of use of breastmilk substitutes and diarrhea
Among low income infants
Single time
Mothers, 3,900 responses; 265 hours
Charles A. Ellett, 395–7340

Forest Service
the impacts of fire upon recreation
Single time
Individuals recreationists, 7,000 responses; 1,400 hours
Off. of Federal Statistical Policy and Standard, 673–7974

*Revisions*

Agricultural Stabilization and Conservation Service
Subsequent examination report—farmers stock peanuts in warehouses
CCC–1032
On occasion
Warehousemen, 600 responses; 1,350 hours
Charles A. Ellett, 395–7340

*Extensions*

Agricultural Stabilization and Conservation Service
Original examination report—peanut warehouse (concerning building and storage facilities)
CCC–1071
Annually
Peanut warehousemen, 246 responses; 246 hours
Charles E. Ellett, 395–7340

Rural Electrification Administration
Financial requirement statement (for requesting of advances of telephone loan funds)
REA 481
On occasion
REA telephone borrowers, 1,500 responses; 15,000 hours
Charles A. Ellett, 395–7340

*Reinstatements*

Economics, Statistics, and Cooperatives Service
Direct Marketing-case study of consumer benefits and questionnaire for farm cooperatives
Annually
Households in S.W. Illinois, 400 responses; 160 hours
Charles A. Ellett, 395–7340

**DEPARTMENT OF COMMERCE**

**Agency Clearance Officer—Edward Michals—377–3627**

*New Forms*

Economic Development Administration
Assessment of trade adjustment assistance/handbag industry
ED–4540
Single time
Handbag manufacturers, 45 responses; 45 hours
William T. Adams, 395–4814

**DEPARTMENT OF ENERGY**

**Agency Clearance Officer—Diane W. Lique—633–8526**

*New Forms*

Refinery report supplement
EIA–87s
Monthly
Petroleum refineries, 3,924 responses; 654 hours
Jefferson B. Hill, 395–7340

Crude oil ownership report
EIA–456
Monthly
Major oil refiners, 252 responses; 5,796 hours
Jefferson B. Hill, 395–7340

*Revisions*

Domestic crude oil entitlements program refiners
Monthly report
ERA–49
Monthly
Refiners of crude oil, 2,280 responses; 21,660 hours
Jefferson B. Hill, 395–7340

*Reinstatements*

DOE/International Energy Agency questionnaire A[1]
EIA–401
Monthly
20 major oil companies, 288 responses; 23,040 hours
Jefferson B. Hill, 395–7340

[1] This request for clearance has been approved prior to the end of the normal 10-day public comment period so that the United States may fulfill its obligations as a participating country in IEA. Because the Department of Justice has withdrawn antitrust provisions which would enable the companies to report direct to the IEA, the Department of Energy required prompt clearance of this request.

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Agency Clearance Officer—Joseph J. Strnad—245–7488**

*New Forms*

Health Resources Administration
A follow-up study of medical and dental career choices of 1972 college freshmen
Single time
First-time freshmen, fall 1972, 29,627 responses; 15,972 hours
Off. of Federal Statistical Policy and Standard, 673–7974
National Institutes of Health
Evaluation of sickle cell education—questionnaires
Single time
Health providers, sickle cell patients, population at risk, 2,300 responses; 1,334 hours
Richard Eisinger, 395–6880
Public Health Service
An etiologic investigation of renal cancer in Minneapolis-St. Paul
Single time
Next-of-kin of kidney cancer patients and controls, 600 responses; 520 hours
Richard Eisinger, 395–6880
Social Security Administration
Division of Program Evaluation and Measurement questionnaire
RSDI
SSA–2930, SSA–2931, SSA–2932, and SSA–1398–F7
Single time
Beneficiaries receiving title II payments, 150 responses; 125 hours
Barbara F. Young, 395–6880
Social Security Administration
State plan preprints for home energy assistance program—FY 1981
Single time
State agencies admin. Federal energy programs, 60 responses; 600 hours
Barbara F. Young, 395–6880

*Revisions*

Office of Human Development
Survey on use of social services information in social services, U.S.A.
Single time
State and local social service employees, 800 responses; 235 hours
Barbara F. Young, 395–6880

**DEPARTMENT OF LABOR**

**Agency Clearance Officer—Paul E. Larson—523–6341**

*New Forms*

Employment and Training Administration
Standard assessment system for CETA youth demonstration projects
ETA—RC37
Single time
Youth participants project staff and employers, 112,531 responses; 276,621 hours
Arnold Strasser, 395–6880

**DEPARTMENT OF TRANSPORTATION**

**Agency Clearance Officer—Bruce H. Allen—426–1887**

*New Forms*

Federal Railroad Administration
Locomotive daily inspection record
On occasion
Railroads, 9,198,000 responses; 355,145 hours
Susan B. Geiger, 395–7340

**VETERANS ADMINISTRATION**

**Agency Clearance Officer—R. C. Whitt—389–2146**

*Reinstatements*

Fuel and heating systems inspection report (mobile home)
26–8731C
On occasion
Inspectors, 500 responses; 1,000 hours
Laverne V. Collins, 395–6880
Water-plumbing systems inspection report (mobile home)
26–8731A
On occasion
Inspectors, 500 responses; 1,000 hours
Laverne V. Collins, 395–6880

**C. Louis Kincannon,**

*Acting Deputy Assistant Director For Reports Management.*

[FR Doc. 80-20969 Filed 7-11-80; 8:45 am]

**BILLING CODE 3110-01-M**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 11252]**

### IMS Variable Leverage Fund, Ltd.; Filing of Application Pursuant to Section 6(c) of the Act for Exemption From Sections 2(a)(3), 2(a)(19), and 22(e) of the Act

July 8, 1980.

Notice is hereby given that IMS Variable Leverage Fund, Ltd., 11624 Old Trail Count Fountain Hill, Arizona 85268 a Nebraska Limited partnership ("Applicant") registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on May 28, 1980, requesting an order of the Commission pursuant to Section 6(c) of the Act exempting the Applicant from the provisions of Sections 2(a)(3), 2(a)(19), and 22(e) of the Act to the extent necessary to allow Applicant to operate using the limited partnership form. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it has been organized as a limited partnership under the Uniform Limited Partnership Act of Nebraska and proposes to operate as an open-end, diversified, management investment company registered under the Act, with the objective of providing investors with capital appreciation and modest annual distributions of income. Moreover, the Applicant states that it has been organized on the initiative of Dr. Hebert W. Robinson, who together with members of his family owns all of the outstanding stock of International Management Systems Corporation. The Applicant further states that it will seek to achieve this objective by investing in a diversified portfolio of common stocks or securities convertible into common stock, or (for defensive purposes or for temporary periods) in non-convertible fixed obligations. Applicant also states that it may employ "leverage" by borrowing money to purchase additional securities to better achieve its primary investment objective of capital appreciation but that this use of leverage will be limited by the Applicant's secondary objective of making moderate annual distributions of income. According to the application, requests for rulings have been filed with the Internal Revenue Service seeking a determination that Applicant will be a partnership for federal income tax purposes and not an association taxed as a corporation.

The general partners of the Applicant will consist of three Director General Partners and an Adviser General Partner; the Applicant will be managed solely by the Director General Partners except in the circumstances described below. Only individuals may serve as Director General Partners. They will perform the same functions as directors of incorporated investment companies. Applicant states that the Adviser General Partner, International Management Systems Corporation ("IMSC"), in its capacity as such is excluded from participation in the management of the Applicant, except in the circumstances described below. In its capacity as investment adviser, however, IMSC will have the authority to act on behalf of the Applicant to the extent provided in its advisory agreement.

According to the application, the Director General Partners may act only by majority vote or consent and are

subject to election and removal by vote of the limited partners. Applicant states that a Director General Partner may resign by giving not less than 180 days written notice to the other General Partners. If at any time the number of Director General Partners is reduced to less than three, the remaining Director General Partners shall within 120 days call a meeting of the limited partners for the purpose of electing an additional Director General Partner or Partners so as to restore the number of Director General Partners to at least three. In the event no Director General Partner remains, it is the responsibility of the Adviser General Partner to call a meeting of the limited partners of the Applicant ("Limited Partners"), to be held within 60 days of the date the last Director General Partner ceased to act in such capacity, for the purpose of determining whether to elect to continue the business of the Applicant and, if the business is to be continued, electing new Director General Partners. During a period of time in which no Director General Partner remains, the Adviser General Partner is permitted to engage in the management, conduct and operation of the business of the Applicant to the same extent as a Director General Partner.

According to the application the Applicant's Limited Partners have no right to control the Applicant's business, but may exercise certain rights and powers of a limited Partner under the partnership agreement, including voting rights, and the giving of consents and approvals provided for in the partnership agreement. The partnership agreement authorizes Limited Partners to exercise voting rights on certain matters, including the right to elect or remove general partners, approval or termination of investment advisory contracts, approval or disapproval of the sale of all or substantially all of the assets of the Applicant, ratification or rejection of the appointment of the independent public accountants of the Applicant and amendments to the partnership agreement (other than those to admit or substitute Limited Partners or to return or reduce the amount of partners' capital contributions). Applicant states that it has been advised that it will be the opinion of Nebraska counsel that the existence or exercise of these voting rights does not subject the Limited Partners to liability as general partners under the Uniform Limited Partnership Act of Nebraska. However, Applicant further states that it is possible that, because of such voting rights, the Limited Partners might be found to be subject to liability as general partners by the courts of another state. In this regard, the Applicant states that, if a Limited Partner is sued to satisfy an obligation of the Applicant, the Applicant will, upon notice of such suit by the Limited Partner, either satisfy such obligation or, if it believes such suit is without merit, undertake the defense of such suit. In addition, the Applicant intends to include in all material contracts a provision limiting the claims of creditors to Applicant's assets. The Applicant specifically recognizes that in the event a Limited Partner should be found to be liable as a general partner, he will be required to satisfy such a claim personally to the extent that the assets and insurance of the Applicant are insufficient to reimburse him.

Applicant states that the entire interest of the partners will be divided into Shares of Partnership Interest ("Shares") which will be offered to investors, and that upon the sale of a Share to a purchaser who is not a Limited Partner, and upon receipt of a signed partnership authorization, including a power of attorney required of all Limited Partners, the purchaser will become a Limited Partner upon the filing of an amendment to the partnership agreement. According to the application, the Director General Partners agree to process such amendments at least weekly. However, while amendments will be processed at least weekly, income, loss, gain, expense or credits will be allocated to a holder of Shares on the day following receipt of payment for shares purchased and a signed partnership authorization. Applicant further states that (1) all items of income, gain, loss, deductions and credits will be allocated equally among the outstanding Shares of the Applicant, (2) all Shares will have equal rights and one vote each on all matters to be voted upon by partners and are redeemable, and (3) a Limited Partner can assign or pledge his Shares, in whole or part, provided the assignee agrees to become a substituted Limited Partner, the general partners consent to such assignment and substitution, and the assignee execute the necessary documents to become a substituted Limited Partner.

It is anticipated that, as a condition of the granting of the rulings noted above, the Internal Revenue Service will require that at all times the General Partners must have in the aggregate a one percent interest in all Applicant items of income, gains and losses. The General Partners intend to meet this condition by purchasing in the aggregate one percent of the outstanding Shares of the Applicant. In addition, IMSC undertakes that at all times while serving as Adviser General Partner it will own a sufficient amount of the Applicant's outstanding Shares so that when its ownership is combined with the Share ownership of the Director General Partners, the aggregate Share ownership of the general partners will amount to at least one percent of the outstanding Shares of the Applicant (or such other minimum percentage as may be required by the Internal Revenue Service to preserve the status of the Applicant as a partnership for federal income tax purposes). IMSC also undertakes that it will not withdraw as an Adviser General Partner except on 180 days notice or unless another General Partner has assumed this obligation. The Applicant undertakes that any successor Adviser General Partner will agree to the same undertakings as IMSC.

Applicant asserts that if it is organized as a limited partnership, certain tax benefits will accrue to its investors which would not be available if it were organized in corporate form. Applicant states this is because the sponsor of the Applicant and his family propose to make a large initial investment in the Applicant prior to any public offering of its Shares. Applicant further states that if it were to be organized in corporate form, it would risk being subject to surtaxes imposed by federal tax laws on corporations which are deemed to be "personal holding companies" within the meaning of the Internal Revenue Code.

Applicant states that its investment objectives and the manner in which they will be implemented will make the Applicant's Shares a unique investment vehicle which will fill a need of the class of investors for which they are intended. Applicant further states that Applicant's Shares are designed for those persons whose income and capital gains attract high rates of federal, state and local income tax and that the Applicant will make available to such persons the opportunity to invest in an open-end, diversified management investment company which will take explicitly into account the impact of capital gains taxes. Thus, when considering changes in the portfolio of the Applicant which will result in either long or short-term capital gains or losses, weight will be given to the fact that payment of capital gains taxes by the limited partners will reduce to that extent the funds available to the limited partners for investment. Applicant states that, in general, investment switches resulting in net capital gains will be considered appropriate only if the anticipated total

return on the new investment will exceed the return on the old investment by an amount sufficient to compensate the partners for their assumed capital gains taxes. Applicant represents that the level of personal income tax to be assumed by the Applicant (federal, state and local) will initially be 65 percent, which is a compromise rate selected as suitable for a range of upper-income tax brackets. Applicant also states that the Applicant will require a minimum $30,000 investment by each purchaser with a view to attracting only those investors for whom Applicant's Shares would be an appropriate investment medium.

Section 10(a) of the Act provides that no registered investment company shall have a board of directors more than 60 percent of the members of which are persons who are "interested persons" of such registered company. Section 2(a)(12) of the Act defines "director" to include any director of a corporation or any person performing similar functions with respect to any organization, whether incorporated or unincorporated.

Section 2(a)(19)(A) of the Act provides, in part, that an "interested person" of another person, when the other person is an investment company, means (1) any affiliated person of such investment company, and (2) any interested person of any investment adviser for such company. Section 2(a)(19)(B) of the Act provides, in part, that an "affiliated person" of an investment adviser is an "interested person" of such investment adviser.

Section 2(a)(3)(D) of the Act provides, in pertinent part, that an "affiliated person" of another person means any officer, director, partner, co-partner or employee of such other person.

Applicant submits that the relationship of the Director General Partners to the Applicant is essentially identical to the relationship of directors to an incorporated investment company. It states that, nevertheless, the provisions of Section 2(a)(3) of the Act would make all Director General Partners affiliated persons of IMSC, the investment adviser, which is the Adviser General Partner, with the result that the Director General Partners would be deemed interested persons of the Applicant and its Adviser General Partner under Section 2(a)(19) of the Act.

Applicant submits that such a finding would conflict with the intention of Section 2(a)(19) which provides that "no person shall be deemed to be an interested person of an investment company solely by reason of . . . his being a member of its board of directors . . .", but to resolve this conflict and assure compliance with the provisions of Section 10(a) of the Act. Applicant requests that it and its Director General Partners be exempted from the provisions of Section 2(a)(19) to the extent that the Director General Partners would otherwise be deemed to be interested persons of any other person solely because they are general partners of the Applicant or co-partners in the Applicant in which IMSC is also a general partner. Applicant asserts that since the Adviser General Partner is excluded from participation in the management of Applicant except in the limited circumstance described above, it is consistent with the purposes fairly intended by the policy and provisions of the Act to grant the requested exemption from the provisions of Section 2(a)(19).

Section 22(e) provides, in part, that no registered investment company shall suspend the date of redemption or postpone the date of payment or satisfaction upon redemption of any redeemable security in accordance with its terms for more than seven days after tender of such security. Section 47(b) of the Act provides, in part, that every contract the performance of which involves the violation of, or the continuance of any relationship or practice in violation of, any provision of the Act, or any rule, regulation, or order thereunder shall be void.

As stated above, the Applicant's General Partners have undertaken to hold a minimum of 1 percent of its outstanding Shares. Applicant asserts that, nevertheless, the General Partners could tender their Shares for redemption in violation of the undertaking and the Partnership Agreement and could allege upon so doing that the provision was in contravention of Section 22(e) and therefore, void under Section 47(b). Applicant submits that this restraint upon redemption is similar to a commitment with respect to original subscribers who hold shares with investment intent. Since such restraint on redemption would not adversely affect, but rather would be for the benefit of the public investors, and would only serve the limited purpose of ensuring compliance by the General Partners of the above undertaking. Applicant asserts that an exemption from Section 22(e) allowing it to obtain enforcement of that undertaking in the event of its violation would be consistent with the purposes fairly intended by the policy and provisions of the Act.

As noted above Section 2(a)(3) of the Act in part defines an affiliated person of another person as "any . . . partner of such other person" Applicant states that its investors will be limited partners and thereby may, pursuant to Section 2(a)(3), be deemed its affiliated persons. Applicant submits that its Limited Partners will be equivalent to shareholders of an investment company organized as a corporation. Applicant further states that the extension of "affiliated person" status to such persons creates the possibility of violation of the provisions of Section 17 of the Act upon the redemption of Shares by a distribution of portfolio securities in kind, and renders meaningless those provisions of Section 2(a)(3) that require a minimum percentage ownership before a shareholder is considered an affiliated person. Since its requested exemption would not cover a Limited Partner for any reason other than partnership status, Applicant asserts that an exemption from the provisions of Section 2(a)(3) so that no person will be considered an "affiliated person" of Applicant solely by reason of being a Limited Partner of the Applicant would be consistent with the purposes fairly intended by the policy and provisions of the Act.

In addition to the undertakings summarized above, Applicant represents that when the total Shares owned, directly or by attribution, by Dr. Robinson and members of his family, by IMSC, and by four other holders of Fund Shares amounts to no more than 40 percent of the Shares of the Fund outstanding, or at such earlier time as, in the judgment of the Director General Partners, there is no significant risk that Applicant may be or become a personal holding company, the Director General Partners will recommend to Applicant's shareholders that Applicant be converted to corporate form.

Applicant states that, prior to a public offering of Shares, the Applicant will be named as an assured in an errors and omissions insurance policy, up to a maximum amount of $5,000,000 (with a $50,000 deductible for any one claim) and in a stock brokers blanket bond in the aggregate amount of $10,000,000. Applicant further states that it will not voluntarily cancel such insurance policies while it is organized as a limited partnership and that, if such policies are cancelled by the insurance companies, it will seek to obtain comparable insurance.

Applicant agrees that any exemptive order granted may be conditioned upon the continued effectiveness of the above-described undertakings. In conclusion, Applicant submits that the granting of the requested exemptions is

necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Section 6(c) of the Act provides, in part, that the Commission may by order upon application conditionally or unconditionally exempt any person, security, or transaction or any class or classes of persons, securities, or transactions, from any provision of the Act or any rule or regulation thereunder, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than August 4, 1980 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit, or in case of attorney-at-law by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

**George A. Fitzsimmons,**

*Secretary.*

[FR Doc. 80–20857 Filed 7–12–80; 8:45 am]

BILLING CODE 8010–01–M

**[Release No. 16969; SR–MSE–80–7]**

## Midwest Stock Exchange, Inc.; Order Approving Proposed Rule Change

July 8, 1980.

On May 9, 1980, the Midwest Stock Exchange, Inc.; 120 South LaSalle Street, Chicago, Illinois 60603 ("MSE") filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) ("Act") and Rule 19b–4 thereunder, copies of a proposed rule change which would provide that a member of either the MSE equity or options floor who appeals from the imposition of a summary fine or censure must, in writing, specifically state the actions complained of, the reasons for the appeal and the relief sought. A member appealing from a summary censure or fine must, in writing, specifically admit or deny each charge complained of in addition to the information stated above. The proposed rule change would provide that the reviewing committee may affirm, reverse, modify, increase or decrease a penalty.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 16832, May 22, 1980) and by publication in the **Federal Register** [45 FR 35245, May 29, 1980). No comments were received with respect to the proposed rule filing.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder, applicable to national stock exchanges, and in particular, the requirements of Section 6(b)(5) which requires exchange rules to promote just and equitable principles of trade and Section 6(b)(7) which requires exchanges to provide fair procedures for disciplining their members.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, granted.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

**George A. Fitzsimmons,**

*Secretary.*

[FR Doc. 80–20860 Filed 7–12–80; 8:45 am]

BILLING CODE 8010–01–M

**[Release No. 34–16959; File No. SR–MSE–80–12]**

## Self-Regulatory Organizations; Proposed Rule Change by Midwest Stock Exchange, Inc.

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 June 19, 1980 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

### Statement of Terms of Substance of the Proposed Rule Change

Rules 1 and 8 of Article XXX of the Rules of the Midwest Stock Exchange are hereby amended by having "Committee on Specialist Assignment and Evaluation" substituted for "Committee on Floor Procedure" whenever the latter term appears.

### Statement of Basis and Purpose of the Proposed Rule Change

The basis and purpose of the foregoing rule change is as follows:

The rule changes which are the subject matter of this filing informs the membership and other interested parties about how the Committee on Specialist Assignment and Evaluation will make assignments and reassignments of issues to specialists, co-specialists, relief specialist, and odd-lot dealers. The rule changes were inadvertently omitted from 19b–4 filing SR–MSE–80–1.

The basis under the Act for the proposed rule change is Section 6(b)(5) since it is believed such rule change will work toward a more competitive national market system in the public interest enabling the Exhange to process assignments and re-assignments of issues to specialists, co-specialists, relief specialists and odd-lot dealers in an efficient manner.

The Midwest Stock Exchange has not received nor solicited any comments.

The Midwest Stock Exchange does not believe that the proposed rule change will impose any burdens on competition.

On or before August 18, 1980 or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(a) by order approve such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of all such filings with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before August 4, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: July 7, 1980.

**George A. Fitzsimmons,**

*Secretary.*

[FR Doc. 80-20867 Filed 7-12-80; 8:45 am]

BILLING CODE 8010-01-M

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**[Rel. No. 21652; 70-6273]**

## Blackhawk Coal Co. and Indiana & Michigan Electric Co.; Proposed Sale of Coal Mines

July 8, 1980.

In the Matter of Blackhawk Coal Company, c/o American Electric Power Service Corporation, 2 Broadway, New York, New York 10004. Indiana & Michigan Electric Company, 2101 Spy Run Avenue, Fort Wayne, Indiana 46801.

Notice is hereby given that Indiana & Michigan Electric Company ("I&M"), an electric utility subsidiary of American Electric Power Company, Inc. ("AEP"), a registered holding company, and Blackhawk Coal Company ("Blackhawk"), a coal mining subsidiary of I&M, have filed with this Commission an application-declaration and an amendment thereto pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6, 7, 9, 10, 12(b), 12(f) and 13(b) of the Act and Rules 43, 45, 50(a)(3) and 86–92 promulgated thereunder as applicable to the 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 order dated October 21, 1974 (HCAR No. 18614), I&M was authorized to acquire up to $10,000,000 of notes to be issued by Braztah Corporation ("Braztah"), a subsidiary of McCulloch Oil Corporation ("McCulloch"), for the purpose of financing the expansion and operation of certain coal mines located in Carbon County, Utah ("Carbon County Mines"), from which mines McCulloch and Braztah were to sell coal to AEP system companies pursuant to a June 19, 1974, coal supply contract. By order dated June 26, 1975 (HCAR No. 19064), I&M was authorized to acquire the Carbon County Mines and related equipment, pursuant to arrangements therein set forth, which included, among other things, I&M's employment of Braztah to operate the mines until December 31, 1999. Title to the mines and equipment was taken by Franklin Real Estate Company ("Franklin"), a real estate subsidiary of AEP. The results of Braztah's operating the mines subsequently led to disputes between Braztah and McCulloch on the one hand and the AEP system on the other. Such controversy was resolved in November 1979 when McCulloch, Braztah, I&M and Franklin entered into a Settlement Agreement and a Post-Closing Adjustment Agreement (collectively the "Settlement Agreement"). Under the Settlement Agreement (1) the provision that Braztah was operator of the Carbon County Mines was terminated; (2) Braztah assigned to Franklin Braztah's application to the Bureau of Land Management, Department of Interior, for a United States Coal Lease (No. U-25683) (the "Federal Coal Lease"), which was not previously transferred when Franklin purchased the bulk of the Carbon County Mines' reserves in 1975; (3) I&M paid to McCulloch and Braztah $15,000,000 on November 30, 1979, $4,125,000 on June 27, 1980, and agreed to pay an additional amount aggregating $19,800,000 (the "Braztah Obligation") in installments over a five-year period ending in 1985; and (4) I&M agreed to pay McCulloch and Braztah, if the Federal Coal Lease were issued to Franklin on or before June 27, 1985, the amount of $3,888,000 (the "Contingent Braztah Obligation"), in installments beginning on the latter of June 27, 1981, or the June 27 next following the issuance of such lease, and on each June 27 thereafter to and including June 27, 1985, with interest on the unpaid balance of said amount at the rate of 8% per annum from June 27, 1979. The Carbon County Mines are currently being operated by Price River Coal Company ("Price"), a coal mining subsidiary of I&M; coal therefrom is presently being mined at the rate of 1.25 to 1.3 million tons per year, all of which is currently being delivered to I&M's Tanners Creek Plant; and I&M's investment therein as of February 29, 1980, was approximately $190,482,000.

In the instant filing, applicants-declarants request authorization (1) for I&M to transfer its interest in the Carbon County Mines and related reserves, leases, options, equipment, and stock certificates and other instruments representing water rights, water way and other licenses, etc., related to the ownership and operation of the Carbon County Mines (all such assets collectively, the "Mines") to Blackhawk, and (2) for Blackhawk to spend up to $13,000,000 between December 31, 1980, and June 30, 1981, on additional mine improvements in the event that a contemplated sale of the Mines to non-affiliated parties is not consummated prior to December 31, 1980.

On May 29, 1980, I&M and Franklin (collectively the "Prospective Seller") entered into an agreement ("Agreement") dated as of May 1, 1980, with Alusuisse of America, Inc. ("Alusuisse") and Samusa, Inc. ("Samusa"), a subsidiary of Alusuisse, non-affiliates of AEP (collectively the "Prospective Purchaser"), for further negotiatios during a Negotiation Period (of a maximum of 180 days) to attempt to evolve arrangements on mutually agreed conditions providing for (i) a Mine Purchase Agreement under which the Prospective Seller would sell the Mines to the Prospective Purchaser; and (ii) a Coal Supply Agreement under which the Prospective Purchaser would sell to I&M, for the benefit of I&M and/or its affiliates and possibly non-affiliates, for up to 60 months following such purchase, coal mined by the Prospective Purchaser (or an affiliate) from the Mines (or from an alternative source), such coal to have characteristics as therein set forth, at a base price of $40 per ton, f.o.b. mine, plus escalation.

Under the Agreement the Prospective Purchaser also has a separate option to elect, at any time during the Negotiation Period, to purchase the Mines for cash at a price of approximately $195,000,000, subject to adjustments. The amount to be added to such option price is to be the sum, without duplication, of: (a) The undepreciated value of assets added to the Prospective Seller's Central Asset File—Coal Mining Assets—during the period February 29, 1980, and prior to the close of business on the fifth day prior to the closing date; and (b) amounts not exceeding in any one case, or in the aggregate, the respective amounts set forth in an appendix to the Agreement concerning projects involving projected capital expenditures during the period March 1, 1980, through

December 31, 1980 (approximately $10,000,000 in the aggregate), expended by, and/or recorded on the accounting records of, the Prospective Seller in accordance with its normal accounting procedure, in accordance with written commitments authorized under the Agreement. The amount to be deducted from such option price is to be the sum, without duplication, of: (a) The aggregate amount of earnest money previously paid to the Prospective Seller under the Agreement; (b) the depreciated value of any depreciable assets included in the Prospective Seller's Central Asset File—Coal Mining Assets—at February 29, 1980, which shall have been retired subsequent to such date and prior to the close of business on the fifth day prior to the closing date; (c) the aggregate amount of depreciation recorded on the accounting records of Prospective Seller in accordance with its normal accounting procedures concerning depreciable assets owned and operated by Prospective Seller as a part of the Mines during the period subsequent to February 29, 1980, and prior to the close of business on the fifth day prior to the closing date; (d) the amount of $3,880,000, the Contingent Braztah Obligation, if the assignment to Franklin of the Federal Coal Lease shall not have been approved prior to the closing date and the Prospective Purchaser shall have assumed the obligation of the Prospective Seller to pay such amount to McCulloch and Braztah; and (e) accounts payable applicable to approved capital expenditure projects listed in the appendix to the Agreement if the Prospective Purchaser shall have, at the closing date, assumed the obligation to make such payments in lieu of the Prospective Seller. The arrangements for the determination of and adjustments to the option price are designed to provide for the recovery, in the event the Prospective Purchaser exercises its option, by I&M of its investment in the Mines. As of February 29, 1980, I&M's investment therein was as follows (in thousands):

| | Total | Plant in service | Coal property held for future use |
|---|---|---|---|
| Land | $1,263 | $955 | $308 |
| Water rights | 482 | 482 | |
| Coal reserves | 49,824 | 16,100 | 33,724 |
| Contract settlement | 14,929 | 14,929 | |
| Depreciable assets | 32,658 | 32,370 | 288 |
| Development and pre-operating expense | 56,072 | 47,079 | 8,943 |
| Reorganization deferral | 7,267 | 7,267 | |
| AFUDC | 28,049 | 22,223 | 5,825 |
| Total | 190,492 | 141,404 | 49,088 |

[1] Excludes the Braztah Contingent Obligation.

The Agreement also contemplates that, if the Prospective Purchaser does exercise its option to purchase the Mines, I&M will, if requested in writing to do so by the Prospective Purchaser, purchase, during a period of approximately five years, unless such option shall be earlier terminated by the Prospective Purchaser, washed coal from the Mines on terms specified in the Agreement, one such term being that coal so sold to I&M shall be sold to it at a base price of $40 per ton f.o.b. mine, subject to escalation.

The Agreement further contemplates that I&M and Franklin may transfer at any time their entire right, title and interest in the Mines to Blackhawk, if (a) Blackhawk shall be designated by I&M and Franklin one of the entities constituting the Prospective Seller under the Agreement and (b) Blackhawk shall execute and deliver a valid and binding Agreement pursuant to which it shall expressly assume all the obligations of the Prospective Seller under the option granted in the Agreement. I&M proposes that it will assign and transfer to Blackhawk all of I&M's right, title and interest, including its beneficial interest in assets owned by Franklin for the benefit of I&M, in the assets comprising the Mines (with the exception of certain assets which will not be transferred during the pendency of the option period); that I&M and Franklin will designate Blackhawk as one of the entities constituting the Prospective Seller under the Agreement; and that Blackhawk will execute and deliver to Alusuisse and Samusa a written instrument pursuant to which Blackhawk will assume all of the obligations of the Prospective Seller under the option provisions of the Agreement. Such transaction will enable Blackhawk, in conjunction with I&M and Franklin, to convey the Mines to the Prospective Purchaser in the event that (a) a Mine Purchase Agreement is negotiated and completed pursuant to the Agreement, or (b) if, failing to reach an accord upon such Mine Purchase Agreement, Alusuisse and Samusa decide to exercise the option granted in the Agreement.

It is further proposed that in connection with the acquisition by Blackhawk of I&M's beneficial interest in the Mines: (i) Blackhawk will assume I&M's Braztah Obligation of $19,800,000 with interest at the rate of 8% per annum (and also assume I&M's Contingent Braztah Obligation of $3,888,000); (ii) I&M will make an advance of $31,000,000 to Blackhawk to be repaid not later than December 31, 1981, Blackhawk (a) to pay interest on the outstanding balance of such advance at the prime rate in effect from time to time of Manufacturers Hanover Trust Company, and (b) to endeavor to pay back the advance as soon as practicable with proceeds from a possible sale and leaseback transaction (to be the subject of a future filing with this Commission) involving certain coal processing and mining equipment; (iii) Blackhawk will issue to I&M a promissory note bearing interest at the rate of 10.13% per annum (reflecting I&M's weighted average cost of first mortgage bonds issued between March 1975 and March 1978) and maturing on December 31, 2010; (iv) Blackhawk will issue to I&M approximately 49,800 of Blackhawk's common stock, stated value $1,000 per share; and (v) I&M will make a non-interest bearing advance to Blackhawk in the amount of $49,100,000, said amount to finance to Blackhawk's acquisition of the portion of the reserves of the Mines which constitute Coal Property Held For Future Use.

It is also proposed that Blackhawk be authorized to make capital expenditures required for mine improvements subsequent to December 31, 1980, in the event the Mines are not sold by such date. Such expenditures are estimated to require up to $13,000,000 between such date and June 30, 1981. It is proposed that any additional capital required will be supplied by I&M, such capital to be split between the purchase of debt, in the form of a promissory note of Blackhawk maturing December 31, 2010, and the purchase of equity in proportions corresponding to the respective debt-equity ratios of I&M at the end of the calendar year preceding the year in which such additional capital shall be supplied to Blackhawk. The interest rate on the new debt would be set at the effective interest cost of I&M's then most recent issue of first mortgage bonds preceding each such additional investment.

Blackhawk proposes, prior to, or in the absence of, any sale of the Mines under the Agreement, to carry out the further development and operation of the Mines, through Price, functioning as operator as at present, and to sell the coal so mined to I&M or to such affiliate or non-affiliate as I&M shall direct. It is further proposed that if at any time neither I&M nor its affiliates should have any need for coal produced from the Mines, then the excess coal will be sold, to the extent practicable, to one or more non-affiliates at the highest practicable price.

I&M proposes, in return for its right to receive all of the coal produced by Blackhawk from the Mines, to pay

Blackhawk such amount as, when added to amounts received by Blackhawk from all other sources, will be at least sufficient to enable Blackhawk to pay when due, all of its operating and other expenses, including: (i) Any amounts which Blackhawk may be required to pay as rent pursuant to any lease of real or personal property and/or as interest on any indebtedness of Blackhawk for borrowed money or purchase money indebtedness, issued or assumed by Blackhawk; and (ii) such additional amount as, after provision for taxes based upon or measured by income, will enable Blackhawk to earn a return on its equity equal to the sum of the products of (a) the weighted average of the effective dividend rates on the appropriately included outstanding preferred stock issued by I&M during the period when the related investments were made by Blackhawk in the Mines, and (b) a return of 12.5% on equity through December 31, 1980, and thereafter the return last allowed I&M by the Federal Energy Regulatory Commission ("FERC") on I&M's common equity in wholesale rate proceedings before FERC, multiplied, respectively, by the applicable percentages of I&M's total capitalization represented by preferred stock and common equity during the periods in which such related investments were made by Blackhawk. The return factor would be adjusted as a result of a change in any FERC-approved return on common equity, effective the succeeding January 1.

It is stated that the "Plant in Service" facilities, aggregating approximately $141,000,000 as of February 29, 1980, were substantially placed in service as of April 1, 1979, following an extended development period. During the development period, the developmental coal produced was priced at the average cost of coal purchased from non-affiliated sources by I&M and other AEP system companies purchasing such coal. However, upon the declaration of commercial operation, April 1, 1979, the basis of pricing the coal production shifted to the recovery of all expenses associated with the mining of such coal, including the cost of capital invested in the mining operation. Effective on such date I&M began to impute investment carrying charges to the current commercial coal production on the "Plant in Service" assets. The imputation of such investment carrying charges has been accomplished on I&M's books of account by crediting "Other Income" (the same classification in which the return on investment in Blackhawk would be recognized on I&M's books) with a corresponding charge to fuel stock. Depreciation of mining equipment in service and amortization have likewise been associated directly with tonnages produced. The provision for allowance for funds used during construction, and associated capitalization as a component of mine development costs, was discontinued effective April 1, 1979, on assets then ready for service.

It is further stated that to the extent that any subsequent order of this Commission authorizes a return on investment different from that proposed in this amended application-declaration for use in determining pricing arrangements for coal produced and delivered during this interim period, I&M and Blackhawk would reflect any necessary adjustments in subsequent coal billings.

Applicants-declarants claim exemption from the competitive bidding requirements of Rule 50 for Blackhawk's issuance of its common stock and notes to I&M pursuant to Rule 50(a)(3).

The fees and expenses to be incurred in connection with the proposed transactions will be supplied by amendment. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions (except that if the proposed coal supply arrangements between I&M and Blackhawk are reduced to any writing other than the amended application-declaration, which is not anticipated, then such further writing must be filed with the Public Service Commission of Indiana).

Notice is further given that any interested person may not later than August 6, 1980, 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 amended application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date the application-declaration, as amended or as it may be further amended may be granted and be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

**George A. Fitzsimmons,**

*Secretary.*

[FR Doc. 80-20862 Filed 7-11-80; 8:45 am]

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**[Release No. 16970; SR-BSE-80-3**

## Boston Stock Exchange, Inc.; Order Approving Proposed Rule Change

July 8, 1980.

*I. Introduction*

On April 30, 1980, the Boston Stock Exchange, Inc., 53 State Street, Boston, MA 02109, filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) ("Act") and Rule 19b–4 thereunder, copies of a proposed rule change which would establish a Guaranteed Execution System available to member-firms for agency market orders from 100 up to and including 399 shares of stocks traded on the Intermarket Trading System ("ITS").The proposed rule would require that BSE specialists execute such orders on the basis of the prevailing price in the primary market or better.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 16795, May 9, 1980) and by publication in the **Federal Register** (45 FR 32458, May 16, 1980). All written statements with respect to the proposed rule change which were filed with the Commission and all written communications relating to the proposed rule change between the commission and any person were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552) were made available to the public at the Commission's Public Reference Room.

*II. Summary of Comments*

Comments were received from four specialists on the BSE who opposed the proposed rule on the ground that in order to ensure that they have adequate capital to assure execution of up to 399

shares in their specialty stocks, they would have to reduce the number of their specialty stocks. These commentators state that such a reduction would cause declines in their business and, in addition, would detract from the attractiveness of the BSE marketplace. Some of the specialists also suggested that the rule would be anti-competitive in that it would apply only to primary specialists (who would have to bear increased risks and expenses associated with guaranteed execution) but not to alternate specialists.[1] Several specialists stated that the proposed requirement to purchase for their own account up to 399 shares of their specialty stock rather than take the order as agent and sell it on ITS would force them to bear two sets of clearing charges and would create "fictitious volume." Two specialists suggested the proposed rule would be difficult to enforce since there would be no way to detect instances in which a specialist refuses to execute an order.

James E. Dowd, president of the BSE, submitted a letter responding to the comments filed by the specialists. Mr. Dowd states that the proposed rule change is absolutely essential if BSE is to remain competitive with the other regional stock exchanges which all operate automated or manual guaranteed small order execution systems.[2] Mr. Dowd also notes since brokers would report any instances in which their orders were turned down, the proposed rule could be enforced, and further would result in establishing for the first time, a standard by which BSE specialists may be evaluated. Mr. Dowd states that the proposed rule change is designed to encourage a balanced order flow to the floor; and, to the extent that the proposal would require thinly capitalized specialists to commit additional capital to the exchange, he believes that such a requirement is necessary if the BSE market is to remain competitive. Finally, Mr. Dowd states that the BSE plans to drop the two cents per share clearing charge on ITS trades coincident with the institution of the system in order to facilitate the ability of a dealer to change his position if local order flow does not provide such opportunity.

[1] The commentators suggest that alternative specialists also would benefit from the BSE's planned elimination of the current two cent per share ITS clearing charge, since they would obtain "free" access to the New York Stock Exchange for their ITS trades.

[2] Those systems are the Midwest Stock Exchange's Best Execution System, Pacific Stock Exchange's "Scorex" and Philadelphia Stock Exchange's "Pace."

*III. Discussion and Findings*

The establishment of a Guaranteed Execution System on the BSE is designed to make the exchange more competitive with other marketplaces. To the extent that it may be necessary for BSE specialists to reduce their number of specialty stocks, or to commit additional capital to their markets, the proposed rule change should result in better, more liquid markets in those ITS stocks that are retained by BSE specialists, and further, may attract increased order flow to the BSE. While the Commission would prefer that the system guarantee execution at the best consolidated quote rather than that of the primary market, it notes that the BSE will consider imposing such a requirement after the system has been in operation for an appropriate period. Moreover, the BSE states that it is possible that the routing of orders and their execution could be automated sometime in the future.

Accordingly, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchange, and in particular, the requirements of Section 6(b)(5) and the rules and regulations thereunder, to remove impediments to and perfect the mechanisms of a free and open market and a national market system.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the division of Market Regulation pursuant to delegated authority.

**George A. Fitzsimmons,**

*Secretary.*

[FR Doc. 80-20861 Filed 7-11-80; 8:45 am]

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**[Release No. 16968]**

## Chicago Board Options Exchange, Inc.; Order Instituting Proceedings To Determine Whether To Disapprove Proposed Rule Change

July 8, 1980.

*I. Introduction*

The Chicago Board Options Exchange Incorporated ("CBOE"), LaSalle at Jackson, Chicago, Illinois 60604, has filed with the Commission pursuant to Section 19(b)(1) of the Securities Exchange Act ("Act") [1] and Rule 19b-4 thereunder [2] a proposed rule change [3] that would restructure the CBOE disciplinary process. The proposed rule change was adopted by membership petition, over the opposition of the Board of Directors. According to the CBOE Market Maker Association ("Association"), the proponent of the rule changes, the proposed modifications are designed to improve the exchange's judicial procedures and to bring them into conformity with the law and Commission regulations. The Association states that the proposals are designed to reduce the number of enforcement actions brought for violations of CBOE rules, in particular, the rules respecting position limits and off-floor trades by markers.[4] The CBOE Board of Directors unanimously opposed the proposed rule change on the grounds that their adoption would result in unnecessary delay and expense in the resolution of disciplinary matters, as well as instability and lack of continuity in the disciplinary process.[5] The proposed rule change was approved by a membership vote at a special meeting held on December 19, 1979.

*II. Background*

1. *Current CBOE Disciplinary Systems and Procedures.*

Under current CBOE rules, following the conclusion of a staff investigation of possible misconduct, the CBOE Business Conduct Committee ("BCC"), a standing committee currently comprised of a cross section of exchange members and one representative of the public, reviews the staff's recommendation and findings to determine whether formal disciplinary proceedings should be instituted.[6] If the BCC determines that

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b-4.

[3] File No. SR-CBOE-80-1. Notice of the filing was given by issuance of a Commission release and by publication in the **Federal Register.** Securities Exchange Act Release No. 16551 (February 1, 1980), 45 FR 8411. No comments were received.

[4] CBOE Rules 4.11 and 8.1. An Association Newsletter dated December 10, 1979, stated that "This year 94 floor members of the CBOE have been cited for major violations. On the NYSE the count is 4." It further stated that most of these violations involve "[v]ictimless crimes as position limit violations and off floor trading into market maker accounts. In offenses of a serious nature, the CBOE runs about the same as NYSE, 4 a year." The Newsletter concluded that the implementation of the proposed rule change" * * * may result in cut[ting] the number of violations back down to 4." *See* exhibit 3 to the CBOE's Form 19b-4A.

[5] *See* letter dated December 5, 1979, from Wally E. Auch, Chairman of the Board, and Edward F. Neild, Chairman of the Executive Committee, to the CBOE membership.

[6] CBOE Rule 2.5 provides that the BCC shall consist of at least four members of the Exchange or Registered Options Principals ("ROP") associated with members and either one officer of the Exchange or one non-member who is not engaged in the conduct of a public securities business. The BCC

Footnotes continued on next page

there is probable cause for finding a violation within the disciplinary jurisdiction of the CBOE, it directs the staff to prepare a statement of charges against the person or organization alleged to have committed the violation (the "respondent"). A copy of the charges must be served upon the respondent [7] who may submit a written statement to the BCC setting forth why he should not be named in a statement of charges or why an offer by the respondent to settle those charges should be accepted.[8]

If the BCC issues a statement of charges, a hearing on the merits is held before a panel of one or more of its members at which the respondent is entitled to present evidence and produce witnesses, and to be represented by counsel who may participate fully in the hearings.[9] Following the hearing, the panel issues a written decision setting forth its findings, and if a violation is found to have been committed, imposing a penalty, if any.[10]

A respondent has the right to appeal any decision of the BCC to the Board of Directors.[11] The Board also may review a BCC decision on its own initiative. Board reviews are conducted by the full Board of Directors or by a committee of the Board composed of at least three directors. The Board may affirm, reverse or modify, in whole or in part, the decision of the BCC.[12]

2. *Summary of Proposed Rule Change:*

a. *Bifurcation of BCC Functions.* The proposed rule change would remove the existing authority of the BCC to initiate formal disciplinary actions, and would vest that authority in a new Complaint Committee ("CC") whose sole function would be to determine whether or not probable cause exists to issue a statement of charges and, if so, to issue the charges.[13] A respondent would be entitled to an oral hearing before the CC at which he would have the right to present evidence and be represented by counsel.[14] After the hearing before the CC, if a statement of charges is issued, another hearing would be held, this time before the BCC, to determine whether a violation has occured and whether to accept offers of settlement.

The rule proposal would eliminate the ability of the BCC to hold hearings by a panel of its members and would require the BCC to hold hearings with a full committee.[15] Any action taken by the BCC would require the vote of a majority of all its members.[16] Similar requirements would be applicable to the CC.[17]

b. *Composition and Method of Selection of BCC and CC Members.* Eligibility for membership on the BCC and CC would be restricted to members and Registered Options Principals ("ROP") associated with members.[18] Thus, the amendment would eliminate the present practice of having a public representative or an officer of the CBOE on the BCC. Further, the proposed rule change would provide for the annual election of BCC and CC members by the CBOE membership. Candidates for election to the BCC or CC would be selected by the CBOE Nominating Committee and additional candidates could be nominated by a petition signed by 100 members.[19] Eligibility for the BCC would be limited to members or ROPs who are not serving on the Board of Directors and who had not served on the Appeals Committee [20] or the Complaint Committee during the preceding two years. Similarly, a candidate for the CC could not be serving on the Board of Directors nor have been a member of the BCC or the Appeals Committee during the preceding two years.

c. *Attorney's Fees.* The amendment would authorize the BCC, in its discretion, to award to a respondent the payment of reasonable expenses and attorneys fees if the BCC finds that there was no reasonable basis to support the charge brought against the respondent, or that a charge was frivolous, was brought for the purpose of harassing the respondent or otherwise was brought in bad faith, or was substantially duplicative of other charges brought against the respondent.[21]

d. *Review by Appeals Committee.* The rule filing would divest the Board of Directors of its authority to review decisions of the BCC, either on its own motion or on petition by a respondent. The proposal would place such authority in the Appeals Committee [22] whose decision would be final.[23]

e. *Ex Parte Communications.* The rule filing provides that during the pendency of the disciplinary proceedings "no person who is not a member of the BCC, the Board or the Appeals Committee shall make or knowingly cause to be made to any person who is not a member of the BCC, the Board, or the Appeals Committee an ex parte communication relevant to the merits of the proceedings."[24] Thus, the proposal would preclude all *ex parte* communications between CBOE staff members regarding the merits of any disciplinary proceeding during the pendency of such proceedings, but would not preclude the CBOE staff from having *ex parte* communications with the BCC, the Board or the Appeals Committee.[25]

f. *Miscellaneous Changes.* Other significant modifications to the CBOE disciplinary process that would be effected by the amendments include: (i) a requirement that any determination by the BCC that a member committed a violation must be based on clear and convincing evidence; [26] and, (ii) the imposition of a three year statute of limitations for all disciplinary proceedings, except actions for theft, embezzlement, fraud, or manipulation.[27]

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currently consists of five market makers, one floor broker, two ROPs associated with public brokerage firms and one public representative. Members of the BCC are appointed by the Chairman of the CBOE Executive Committee, with the approval of the Board of Directors.

[7] CBOE Rule 17.3.

[8] Memorandum from CBOE Executive Committee to Membership, dated September 14, 1979.

[9] CBOE Rule 17.5.

[10] If the hearing panel is composed of less than a majority of the BCC, its determination must be reviewed by a majority of the BCC which may accept or modify the determination or remand the matter for additional findings or supplemental proceedings. CBOE Rule 17.8.

[11] CBOE Rule 17.9.

[12] *Id.*

[13] Proposed Rule 2.11. The CC would be composed of at least seven members.

[14] In addition the respondent would be afforded the right to submit a written statement to the CC in opposition to the position of the staff (Proposed amendment to Rule 17.5); a procedure which CBOE already permits. *See* note 8 *supra.*

[15] The minimum number of BCC members would be increased from four to seven.

[16] Proposed amendment to Rule 17.5.

[17] *Id.*

[18] Proposed Rules 2.5 and 2.11.

[19] Proposed Rules 2.5 and 2.11. The Nominating Committee presently has responsibility for selecting candidates for the Board of Directors and all other special and standing committees of the CBOE. It is composed of seven CBOE members. Six members of the Nominating Committee are elected by the membership and one member is appointed by the Chairman of the the Executive Committee with the approval of the Board of Directors. CBOE Constitution, Article IV, Sections 4.1 and 4.3.

[20] The Appeals Committee presently has responsibility for conducting hearings and reviews with respect to member grievances against the CBOE relating solely to non-disciplinary matters. The Appeals Committee is composed of 10 individuals: Nine CBOE members and one member of the Board of Directors selected by the Chairman of the Executive Committee with the approval of the Board. CBOE Rule 2.11. For the proposed changes to the Appeals Committee, *see* discussion p. 6 *infra.*

[21] Proposed amendment to Rule 17.8.

[22] Proposed amendment to Rule 17.9.

[23] Of course, a respondent wishing further review could file a petition for review with the Commission under Section 19(d)(2) of the Act.

[24] Proposed amendment to Rule 17.11.

[25] The Commission understands that the proposal was intended to preclude *ex parte* communications between the CBOE staff and the Board of Directors, the Appeals Committee or the BCC.

[26] Proposed amendment to Rule 17.5.

[27] Proposed amendment to Rule 17.2.

*III. Institution of Proceedings To Determine Whether To Disapprove SR–CBOE–80–1*

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act to determine whether the proposed rule changes should be disapproved. Institution of these proceedings is required in view of the legal and policy issues raised under the Act, summarized below, and does not indicate that the Commission has formulated any final conclusions with respect to any of the issues involved.

Section 19(b)(2) of the Act provides that the Commission must approve a proposed rule change of an exchange if it finds that the proposal is consistent with the requirements of the Act and the rules and regulations thereunder applicable to exchanges. It must disapprove a proposed rule change if it cannot make those findings. Section 6(b) of the Act [28] sets forth criteria for evaluating the rules of a national securities exchange with respect to the disciplining of members and their associated persons. In particular, Section 6(b)(1) provides that an exchange must be organized and have the capacity to carry out the purposes of the Act, and to comply and to enforce compliance by its members and associated persons with the provisions of the Act, the rules and regulations thereunder, and the rules of the exchange. Section 6(b)(5) provides that the rules of an exchange, in general, must be designed to protect investors and the public interest. And, Section 6(b)(6) provides that exchange rules must provide that its members and associated persons shall be appropriately disciplined for violations of the Act, the rules and regulations thereunder, and the rules of the exchange. Moreover, Section 19(g)(1) of the Act requires an exchange to enforce compliance with the Act, the rules and regulations thereunder, and Exchange rules, while under Section 19(h)(4)(A) of the Act, officers and directors of an exchange are charged with responsibility for ensuring the implementation of such compliance.[29]

The Commission is concerned that a number of the proposed structural and procedural amendments may seriously undermine the CBOE's ability to enforce compliance with the Act and Commission and exchange rules. For example, the vesting of the present functions of the BCC in two committees, both of which would be precluded from acting by subcommittees of their members, could, because of conflicting schedules of committee members, result in fewer hearings and a concomitant undue delay in the resolution of disciplinary matters. Similarly, the proposal to afford respondents the right to present evidence and witnesses at a heaing before the CC, which is convened solely to determine whether formal disciplinary action should be initiated, may result in unnecessary delay and expense in the resolution of disciplinary matters.[30] Moreover, it may not be necessary or appropriate to permit a member to obtain an adjudicatory hearing on the issue of probable cause; such a procedure would, in effect, result in a member obtaining two heaings on the merits of his case—a right not even afforded to defendants in criminal proceedings.

Although the proponents of the rule filing state that the proposal is necessary to inject fairness into the CBOE's disciplinary proceedings, some of the proposed changes may, in fact, seriously udermine the integrity of the CBOE disciplinary process. In this regard, the Commission is concerned that the proposal that BCC and CC members be elected by the membership, rather than appointed by the Board of Directors, may permit the composition of the BCC and CC to reflect the political interests of CBOE members and that, as a result, the CBOE would not be able to discharge fully its responsibilities under Sections 6(b)(1), 6(b)(6) and 19(g)(1) of the Act, to enforce compliance with the Act, the rules thereunder and exchange rules, and to ensure that members who violate those provisions are appropriately disciplined. Moreover, the rule change, by also eliminating the authority of the Chairman to remove members of the disciplinary committee, would permit members to elect committee members solely on the basis of partisan interests without providing for any oversight to ensure that such committee members fulfill their responsibilities.[31]

Other proposed changes would erect additional procedural hurdles which may make it more difficult for the CBOE to resolve disciplinary matters. For example, the proposal to require the CBOE to find violations by clear and convincing evidence could result in the CBOE applying a more rigorous standard of proof than even the Commission applies, either in its review of CBOE disciplinary actions or in its own administrative proceedings brought to enforce the securities laws.[32] As a result, culpable individuals might not be disciplined by the CBOE because of its application of a more rigorous standard of proof. In this regard, the proposal may be inconsistent with the statutorily mandated self-regulatory scheme which charges the CBOE with primary responsibility to enforce compliance with the securities laws by its members.[33]

Similarly, the proposed three year statute of limitations for the initiation of disciplinary actions would require the Commission to assume sole responsibility for enforcing violations of the securities laws discovered subsequent to the expiration of the statute of limitations, and therefore, also may be inconsistent with the CBOE's enforcement responsibilities. Moreover, the proposed limitation may be inconsistent with the public policy embodied in the Act in favor of proceedings brought to enforce the securities laws.[34]

Further, the proposal to authorize awards of attorney's fees under circumstances in which a proceeding is brought in good faith appears to go beyond those circumstances in which attorneys fees traditionally are awarded to successful litigants.[35] This proposal may inhibit the CBOE staff from pursing an aggressive enforcement program and, along with the proposal to preclude the BCC from assessing costs against a respondent,[36] is, in the words of the Association included so that

> * * * Overzealous Exchange employees would be placed on notice that failure to make reasonable settlements could result in substantial cash losses to the Exchange and

[28] 15 U.S.C. 78f(b) (1975).

[29] Section 19(h)(4) provides that the Commission may remove from office or censure any officer or director of a self-regulatory organization if it finds, among other things, that such officer or director failed, without reasonable justification or excuse, to enforce compliance with the Act and rules thereunder, or other applicable rules.

[30] Moreover, such a procedure may not be appropriate since a potential respondent currently is permitted to make a written submission to the BCC at the probable cause stage setting forth reasons why he should be charged or submitting an offer of settlement.

[31] Presently, the Chairman of the Executive Committee has authority to remove a member of the BCC. CBOE Rule 2.1. As discussed *infra*, the proposed rule change would remove that authority.

[32] There is split of authority on whether the Commission must apply a clear and convincing standard of proof in its administrative proceedings involving allegations of violations of the anti-fraud provisions of the federal securities laws. *Compare Collins Securities Corporation* v. *Securities and Exchange Commission*, 562 F.2d 820 (D.C. Cir. 1977) with *Steadman* v. *Securities and Exchange Commission*, 603 F.2d 1126 (5th Cir. 1978). In *Steadman* the Supreme Court has granted *certiorari* to decide this question. 48 U.S.L.W. 3693 (April 29, 1980).

[33] Sections 6(b)(1) and 19(g)(1).

[34] In contrast, the Act imposes a relatively short statute of limitations for private actions brought under Sections 9 and 18.

[35] *See Alyesko Pipeline Service Co.* v. *Wilderness*, 421 U.S. 240 (1975).

[36] Proposed Rule 17.10.

would reflect adversely on their job security.[37]

Finally, the proposed rule change would eliminate the authority of the Board of Directors to review BCC decisions and to appoint CC members as well as eliminate the authority of the Chairman of the Executive Committee to remove BCC members. Thus, the proposals would effectively exclude the Board or any Board member from having any meaningful role in the CBOE disciplinary process. Further the proposal would preclude the Board or any other body from taking steps (other than by annual membership elections) to ensure that the members of the CC and BCC responsibility discharge their obligations. As noted previously, Sections 6(b)(1), 19(g)(1) and 19(h)(4) of the Act charge the Exchange and its officers and Board of Directors with responsibility for enforcing compliance by members with the Act, the rules thereunder and Exchange rules.

The disciplinary responsibilities of a national securities exchange are central to the scheme of self-regulation embodied in the Act. A self-regulatory organization has primary responsibility for enforcing compliance by its members with the Act and rules thereunder and with its own rules.[38] Since the Commission has only limited resources to devote to this important task, it must depend on the self-regulatory organizations to vigorously discharge their responsibilities in this regard. A failure of a self regulatory organization to maintain an effective disciplinary system inevitably undermines public confidence in the ability of that self regulatory organization to adequately police its market and results in a loss of investor confidence in the fairness and integrity of the securities markets generally.

The current CBOE disciplinary system generally has been well-administered in the past, resulting in the timely discovery and prosecution of violations.[39] Indeed, the Commission believes the current CBOE disciplinary system has been one of the most effective disciplinary programs operated by a self-regulatory organization. The Commission is concerned that the proposed modifications to the CBOE disciplinary system embodied in this rule filing would undermine a heretofore effective disciplinary system and that approval of the modification would erode the ability of the CBOE to discharge its self-regulatory responsibilities.

In light of the above, the Commission is unable to conclude at this time that the proposed rule change is consistent with the Act. The potential grounds for disapproving the proposed rule changes under consideration by the Commission are that, for the reasons set forth above, the proposed rule changes are inconsistent with Sections 6(b)(1), 6(b)(6), 6(b)(7), 19(g)(1) and 19(h)(4) of the Act.

*IV. Procedure: Request for Written Comments*

The Commission requests that interested persons provide written submissions of their views, data and arguments with respect to the potential grounds for disapproval identified above. Although there do not appear to be any issues relevant to approval or disapproval that would be facilitated by an oral presentation of views, arguments and data, the Commission will consider, pursuant to Rule 19b–4, any request for an opportunity to make an oral presentation.[40] In particular, the Commission invites the written views of interested persons concerning whether the proposed rule changes are inconsistent with the provisions of the Act and the rules and regulations thereunder, specifically Section 6(b) and 19(g) and (h).

In view of the varied issues raised by the proposed rule change, the Commission believes it necessary and appropriate to provide interested persons additional time to submit written comments. Accordingly, the Commission hereby extends the time for conclusion of the disapproval proceeding until September 26, 1980.[41] Interested persons are invited to submit written data, views and arguments regarding the proposed rule changes by August 1, 1980. Any person who wishes to file a rebuttal to any other person's submission must file their rebuttal by August 25, 1980. Persons desiring to submit written data, views and arguments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549. Reference should be made to File No. SR–CBOE–80–1.

Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of the filing and of any subsequent amendments will also be available at the principal office of the above-mentioned self-regulatory organizations.

It is hereby ordered, pursuant to Section 19(b)(2) of the Act that proceedings be instituted to determine whether to disapprove proposed rule change CBOE–80–1.

By the Commission.

**George A. Fitzsimmons,**

*Secretary.*

[FR Doc. 80-20868 Filed 7-11-80; 8:45 am]

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[37] November 29, 1979, Newsletter at 6 attached as Exhibit 3 to the CBOE's Form 19b–4A.

[38] Sections 6(b)(1) and 19(g)(1).

[39] *See* Securities and Exchange Commission, *Report of the Special Study of the Options Markets*, H.R. Comm. Print 1FC3, 96th Cong., 1st Sess. 256 (1979).

[40] Section 19(b)(2) of the Act, as amended by the Securities Acts Amendments of 1975 (Pub. L. 94–29, June 4, 1975), grants the Commission flexibility to determine what type of proceeding—either oral hearing or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. *See* Securities Acts Amendments of 1975, Report of the Senate Committee on Banking, Housing and Urban Affairs to Accompany S.249, S. Rep. No. 75, 94th Cong. 1st Sess. 30 (1975).

[41] Section 19(b)(2) of the Act requires that proceedings to determine whether to disapprove a proposed rule change be concluded within 180 days of the date of publication of notice of filing of the proposed rule change, unless the Commission finds good cause to extend the time for the conclusion of such proceedings.

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**[Release No. 11251; 811-411]**

## Equity Trust Shares in America; Proposal To Terminate Registration

July 8, 1980.

Notice is hereby given that the Commission proposes, pursuant to Section 8(f) of the Investment Company Act of 1940 ("Act"), to declare by order on its own motion, that Equity Trust Shares In America ("Fund"), c/o Stifel, Nicolaus & Company, Inc., 500 N. Broadway, St. Louis, MO. 63102, registered under the Act as a unit investment trust, has ceased to be an investment company as defined in the Act.

Information contained in the files of the Commission indicates that the Fund was organized pursuant to a Trust Indenture date June 30, 1930, and executed on September 13, 1930, between the Equity Securities Corporation ("ESC"), the Fund's Sponsor, and the Mississippi Valley Trust Company ("Trustee"). ESC was organized on August 29, 1930, under the laws of the State of Missouri for the purpose of dealing in securities and the

formation of investment trusts. Since 1935 ESC has been inactive, and since that date its only assets have consisted of cash on deposit with the Fund's Trustee.

The Fund registered under the Act on December 18, 1940. It did not file a registration statement pursuant to the Securities Act of 1933 to make a public offering of shares of its capital stock. An accountants and auditors report to the Board of Directors of ESC dated February 5, 1945, states, among other things, that as of December 31, 1944, the Fund had 82 stock units, comprising 164,000 shares of the Fund outstanding, of which 17,712 shares were held by the Fund's Trustee as an integral part of the stock units. A stock unit on December 31, 1944, consisted of 98 shares of various issues of capital stock listed on the New York Stock Exchange and 216 shares of the Fund. The Fund's existence terminated as of June 30, 1950, as provided in the Trust Indenture, and on September 29, 1950, the first and final liquidating payment of $5.2638 per share was distributed to the Fund's shareholders representing their pro-rata share of the Fund's remaining assets.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, on its own motion or upon application, finds that a registered investment company has ceased to be an investment company it shall so declare by order, which may be made upon appropriate conditions if necessary for the protection of investors, and upon the taking effect of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may not later than August 4, 1980, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Fund at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the matter will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

**George A. Fitzsimmons,**

*Secretary.*

[FR Doc. 80–20864 Filed 7–11–80; 8:45 am]

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**[Release No. 16960; SR–NASD–80–3]**

## National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change

July 7, 1980.

### *I. Introduction*

On March 17, 1980, the National Association of Securities Dealers, Inc. ("NASD"), 1735 K Street NW., Washington, D.C. 20006, filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] copies of a proposed rule change which would provide for gross reporting of third market transactions.[3]

Notice of the proposed rule change together with its terms of substance was given by publication of a Commission release[4] and by publication in the **Federal Register.**[5] Further, the NASD notified its own members of the proposed rule change, although it did not receive any comments from its members thereon.[6] The Commission has received three comments on the proposed rule change.[7] All written statements regarding the proposed rule change which were filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person were considered and (with the exception of those statements or communications which may be withheld from the public [8] were made available to the public at the Commission's Public Reference Room.[9] As discussed more fully below, the Commission has determined to approve the proposed rule change.

### *II. Discussion*

A. *Terms and Purpose of the Proposed Rule Change.* Presently, OTC market makers in exchange listed securities ("third market makers") are permitted to report OTC transactions in listed securities somewhat differently than exchange members reporting transactions in those same securities. While all transactions effected on an exchange are reported on a "gross" basis (*i.e.*, exclusive of any commission which may be charged to the actual customer in connection with the transaction), principal transactions effected OTC are reported on a "net" basis (*i.e.*, exclusive of any commission, commission equivalent or differential, but inclusive of any retail mark-up or mark-down (collectively, "Mark-Up")).

To achieve "comparability of transaction prices reported" in the consolidated system and to improve "the manner in which transaction prices are disclosed to public investors," [10] the NASD filed SR–NASD–80–3, which would require reporting OTC transactions on a gross basis, the same as provided by exchanges. Specifically, SR–NASD–80–3 would provide that the reported price:

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The proposed rule change would amend Sections 1(a)(2) and 1(b)(2) of Schedule G of the NASD's By-Laws. Schedule G sets forth the procedures for reporting over-the-counter ("OTC") transactions in listed securities to the consolidated transaction reporting system ("consolidated system").

[4] Securities Exchange Act Release No. 16686 (March 21, 1980).

[5] 45 FR 20604 (March 28, 1980) ("Notice Release"). The NASD consented to an extension of the time period applicable to Commission consideration of the proposed rule change. Form 19b–4A, SR–NASD–80–3, at 6. *See* Section 19(b)(2).

[6] NASD Notice to Members, No. 80–12, To all NASD Members and Interested Parties, from NASD, re Amendments to Procedures for Reporting Third Market Transactions to the Consolidated Tape, dated April 7, 1980.

[7] Letter from Richard D. Scribner, Executive Vice President, American Stock Exchange, Inc. ("Amex"), to George A. Fitzsimmons, Secretary, SEC, dated May 23, 1980 ("Amex Letter"); Letter from Gordon S. Macklin, President, NASD, to George T. Simon, Associate Director, Division of Market Regulation, SEC, dated June 12, 1980 ("NASD Letter"); and Letter from James E. Buck, Secretary, New York Stock Exchange, Inc. ("NYSE"), to George A. Fitzsimmons, Secretary, SEC, dated May 13, 1980 ("NYSE Letter").

[8] *See* Section 24(b) of the Act.

[9] *See* File No. SR–NASD–80–3. The NYSE Letter also referenced its earlier comments on another NASD proposed rule change, SR–NASD–79–12, which is still pending before the Commission. SR–NASD–79–12 would, among other matters, provide for gross reporting of riskless principal trades by non-market makers and reporting of block crosses at an average price. Interested parties are directed to the Commission's File No. SR–NASD–79–12. *See* Securities Exchange Act Release No. 16426 (December 4, 1979), 44 FR 75542 (December 20, 1979); Letter from Robert J. Birnbaum, President, Amex, to George A. Fitzsimmons, Secretary, SEC, dated February 21, 1980; Letter from R. T. O'Connell, Treasurer, General Motors Corp. ("GM"), to George A. Fitzsimmons, Secretary, SEC, dated January 30, 1980 ("GM Letter"); and Letter from James E. Buck, Secretary, NYSE, to George Fitzsimmons, Secretary, SEC, dated February 22, 1980.

[10] Notice Release, *supra* note 5, 45 FR at 20604.

Shall be reasonably related to the prevailing market, taking into consideration all relevant circumstances including, but not limited to, (1) market conditions with respect to the security, (2) the number of shares involved in the transaction, (3) the published bids and offers with size at the time of the execution (including the reporting firm's own quotation), (4) accessibility to market centers publishing bids and offers with size, (5) the cost of execution and (6) the expenses involved in clearing the transaction.[11]

The NASD envisions that reporting OTC transactions on a gross, rather than net, basis will increase the comparability of transactions reported in the consolidated system and thereby increase investor confidence in the integrity of the consolidated system. For example, the NASD notes that, if, as at present, the consolidated system includes both wholesale prices (*i.e.*, gross) and retail prices (*i.e.*, net) then "many persons and corporations" who use reported transaction prices "for a variety of important inventory and portfolio valuations" may have their securities valued differently than they anticipate.[12] In addition, the NASD notes that "certain * * * practices relating to the execution of limit orders * * * will be substantially improved by" [13] gross reporting.[14]

B. *Comments.* As noted above,[15] the Commission received three comments on the proposed rule change. Two of the commentators, the Amex and NYSE, were generally critical of the proposed rule change. Both the Amex and NYSE concluded that the existing net reporting procedures, notwithstanding their lack of comparability to exchange reporting procedures, should be retained. The third comment was submitted by the NASD to respond to the concerns raised by the Amex and NYSE.

The NYSE agrees that "[t]o the extent that a mark-up or mark-down does, in fact, constitute the equivalent of a commission * * * such a mark-up or mark-down might be excluded from the tape print" [16] and that, in the case of a "riskless principal" transaction, "the spread or mark-up might be viewed as a commission equivalent." [17] However, both the Amex and the NYSE criticize the absence of objective standards in the proposed rule change to ensure consistent third market price reporting, especially regarding block transactions. Moreover, the NYSE suggests that the six specific factors enumerated by the NASD to provide guidance in determining the gross price still allow third market makers too much latitude in determining the reported price of a tranaction.

For example, the Amex and NYSE suggest that, without further definition, the term Mark-Up could be construed to include a "dealer's turn," *i.e.*, the profit a dealer normally anticipated receiving from buying at his bid and selling at his offer.[18] The NYSE also contends that the term Mark-Up could be interpreted to include the normal discount from or premium over the prevailing market price in the event of a block transaction.[19]

In particular, the NYSE argues that the rule proposal creates incentives for NASD members to price block transactions at artifically high prices to accomplish certain objectives. First, the NYSE suggests that a third market maker acting as a block positioner may desire to price a transaction artifically high (by including a larger amount in the mark-down and a correspondingly smaller discount from the market price) to create a tape print which will allow him to more effectively liquidate his position. By so doing, the NYSE claims that NASD members would give the appearance that the block was easily absorbed at a price at or near the market and thus perhaps enable the third market maker to sell those same securities at more favorable prices later.[20] Second, the NYSE argues that the rule proposal might have implications for the Commission's announced goal of ensuring nationwide price protestion for displayed public limit orders.[21] Specifically, the NYSE suggests that, assuming the existence of intermarket limit order protection, the proposed reporting procedures would allow an NASD member buying a block as a block positioner to price a transaction at an inflated value to avoid triggering various buy limit orders.[22] Third, the NYSE suggests that the rule proposal allows a third market maker acting as a block positioner, when selling securities, to price the transaction artifically high to effect formal, but not substantive, compliance with the Commission's rule governing short sales, Rule 10a–1 under the Act.[23]

The NASD, however, disputes the Amex and NYSE arguments that its proposed reporting standards do not provide sufficient objectivity to ensure consistent reporting by third market makers. Specifically, the NASD states:

[a] Mark-up is simply the difference between the price a customer paid for stock and the previling wholesale market in the issue at the time of the trade. Conversely, a mark-down is the difference between the price a customer receives for his stock and the prevailing wholesale market. Mark-ups and mark-downs do not exist in trades between NASD members since they are effected at the prevailing wholesale market * * *.[24]

In addition, the NASD indicates that there is a clear understanding in the securities industry that the term Mark-up normally does not include a dealer's turn.[25] Moreover, the NASD further notes that those institutional investors who are fiduciaries, the primary users of the third market for block transactions, can be expected to ensure the proper recording of block transactions.[26]

In response to the concerns raised by the NYSE regarding the effect of the rule on the reporting on block transactions, the NASD notes first that "the majority of block size transactions that are effected on stock exchanges today are negotiated as to the print price and the commission to be charged in the

[11] Proposed § 1(a)(2), Sch. G, Art. XVIII of the NASD's By-Laws. *See* Notice Release, *supra* note 5, 45 FR at 20604.

[12] Notice Release, *supra* note 5, 45 FR at 20604. For example, in response to the earlier NASD filing, SR–NASD–79–12, GM argued for the complete elimination of net reporting because it funds various of its employee benefit plans with stock valued on the basis of the high and low prices reported for various days in the consolidated system. GM Letter, *supra* note 9. *See In re* Off-Board Trading Restrictions, File No. 4–220, at 183–84, dated June 20, 1979 (Testimony of George M. Ferris, Jr. on behalf of Ferris & Company). *Cf.* NYSE Response to Securities Exchange Act Release No. 13662, 42 FR 33510 (Proposal of Rule 19c–2 under the Act), at 119, dated August 31, 1977 ("NYSE 19c–2 Response"), *in* File No. 4–180.

[13] Notice Release, *supra* note 5, 45 FR at 20604.

[14] In addition, it should be noted that the NASD has agreed to "closely" study the effects of gross reporting in the third market and "to monitor its impact and determine whether any modifications to the reporting procedures are necessary." Notice Release, *id.*, 45 FR at 20604.

[15] *See* note 7, *supra*.

[16] NYSE Letter, *supra* note 16, at 2.

[17] *Id.* at 3.

[18] *See* Amex Letter, *supra* note 7, at 3 and NYSE Letter, *supra* note 7, at 2.

[19] NYSE Letter, *id.*

[20] Of course, the Commission would be particularly concerned if third market makers were to pursue such a course of action. *See* Section 9(a)(2) of the Act.

[21] *See* Securities Exchange Act Release No. 15770 (April 26, 1979), 44 FR 26692.

[22] *See also* Amex Letter, *supra* note 7, at 2.

[23] *See also id.*

[24] NASD Letter, *supra* note 7, at 1.

[25] The NASD states: [n]o one of the industry representatives who worked on our proposed trade reporting procedures has ever heard the term "dealer's turn" used to refer to a mark-up. A "dealer's turn" is the spread between the bid and ask quoted by a wholesale market maker. *Id.* at 1.

[26] The NASD states: [t]raders who represent institutions and initiate block size transactions are highly sophisticated people with strong and clearly defined fiduciary responsibilities. The prospect that they will accept a print price with a discount or premium from the last sale [i]n the security (or from the prevailing consolidated quote) which is an eighth of a point more than what is necessary is highly unrealistic. This is true irrespective of the commission or commission equivalent that has been agreed upon. Institutions simply will not accept take prints which are away from the wholesale market. *Id.* at 3.

upstairs offices of exchange member firms in much the same manner that they are negotiated by off-board market makers today * * *."[27] Second, the NASD notes that the price of a block transaction, is normally either subject to arms-length negotiation between institutional investors, in the event of an agency cross transaction, or regulated by the fiduciary obligations of most institutional investors.[28] Finally, in contrast to the NYSE's concerns regarding compliance with Rule 10a–1, the NASD believes that the proposed rule change is "a great improvement over the current reporting procedures which can create up ticks and down ticks solely from inclusion of a mark-up or mark-down in the reported price."[29]

*C. Analysis*

The Commission believes that providing for comparable reporting of OTC and exchange transactions is a substantial improvement over the present reporting procedures. While the Commission shares the concerns expressed by commentators that reporting standards should be clear and readily enforceable, the Commission also is concerned that investors not be misled by inconsistent reporting procedures and that any such inconsistencies not frustrate private contractual agreements regarding the valuation of securities.[30] Therefore, the Commission believes that the proposed rule change is a satisfactory initial approach to the method of reporting OTC transactions with retail customers and that there exist sufficient incentives (*e.g.*, competitive forces and surveillance) to ensure generally consistent reporting.

Specifically, the present differences in reporting exchange and third market transactions may result in public investors misperceiving that their limit orders have not been executed even though the market apparently moved past their limit prices. For example, assume that the market in *Y* security on the NYSE is 20 bid and 20¼ offered and that there are limit orders to buy on the specialist's book at 19⅞. Further, assume that a third market maker agrees to buy 5,000 shares of *Y* at 20 minus a ¼ mark-down. Because the third market maker presently is required to report the transaction inclusive of mark-down, he would report the trade at 19¾. As a result, the investors who placed limit orders at 19⅞ might receive indications, through the newspapers or otherwise, that the market had moved past their limit price without any resulting execution of their orders. In contrast, under the proposed reporting procedures, the third market maker would report the transaction at 20 thus eliminating this problem.

In addition, as noted by the NASD, net reporting can create situations where an issuer's securities are valued on the basis of the retail price rather than, as intended by the issuer, the wholesale price. Gross reporting, as proposed by the NASD, should remove this problem.[31]

Finally, the Commission does not believe that the specific issues raised by the Amex and NYSE outweigh the benefits noted above. The Commission agrees with the NASD that there is general industry understanding of what a Mark-Up includes.[32] Furthermore, the Commission believes that the six factors enumerated by the proposed rule change will provide sufficient guidance to third market makers to ensure consistent reporting with the exchanges. This would appear especially likely in light of the competitive and economic incentives third market members would have to report agency trades at prices which accurately reflect the prevailing wholesale market. Moreover, the Commission believes that the NASD's commitment to monitor carefully third market maker compliance with the new reporting procedures also should ensure consistent reporting.[33]

The Commission is mindful of the concerns raised regarding the possibility that third market makers might abuse the proposed rule change in reporting block transactions but does not believe those concerns should cause it to disapprove the proposed rule change. The method by which third market makers would report block transactions is in many respects similar to the current method by which exchange members assemble and price block transactions.[34] Moreover, it would seem unlikely that institutions, particularly those who are fiduciaries, and, as such, are responsible both for the quality of their executions received and for the amount of commissions or commission equivalents paid, would permit discounts or premiums from the market price to be included in the Mark-Up. Thus, such investors should be capable of ensuring the proper recording of transaction prices and Mark-Ups.[35]

*III. Conclusion*

For the reasons discussed above, the NASD proposal appears to offer a useful experimental step toward a greater comparability of transaction information. Therefore, in light of the NASD's commitment to monitor the effects of the proposed rule change and to modify its reporting procedures if

[27] NASD Letter, *supra* note 7, at 3.

[28] *See* note 26, *supra*.

[29] NASD Letter, *supra* note 7, at 4. An "up tick" is a purchase at a price above the last reported transaction price and a "down tick" is a purchase at a price below the last reported transaction price.

[30] *See* GM Letter, *supra* note 9, and text accompanying note 12, *supra*.

[31] The Commission also notes that, since the filing of SR–NASD–80–3, Rule 19c–3 under the Act has been adopted. Securities Exchange Act Release No. 16888 (June 11, 1980), 45 FR 41125 (June 18, 1980) ("Rule 19c–3 Adopting Rule Release"). If the adoption of Rule 19c–3, which removes off-board trading restrictions regarding certain newly listed securities, results in increased third market trading, the concerns raised by the lack of comparability in reporting may be of greater significance.

[32] *CF.* Letter from Jeffrey L. Steele, Assistant Chief Counsel, Division of Market Regulation, to Jack A. Alexander, President, First Affiliated Securities, dated December 10, 1979, publicly available January 10, 1980 (regarding definitions of the terms mark-up and mark-down for purposes of Rule 10b–10 under the Act).

[33] In this regard, the Commission notes that it called for the NASD to undertake "a rigorous monitoring and enforcement effort," (Rule 19c–3 Adopting Release, *supra* note 31, at 35, 45 FR at 41131) to prevent overreaching (*see id.* at 19 n.33, 45 FR at 41128 n.33) in Rule 19c–3 securities. Specifically, the Commission called for, among other matters, "evaluation of individual (OTC) transactions * * * taking into account (1) the net transaction price to customers; (2) the amount of mark-up or mark-down; (3) the net price reported to the consolidated system; and (4) the price obtainable if the customer's order were executed on an agency basis in another market." *Id.* at 35, 45 FR at 41131.

[34] Indeed, the NYSE Letter itself notes that its members determine the price of a block cross transaction after "probing the market" to determine the number of eligible limit orders at particular cross transaction prices. NYSE Letter, *supra* note 7, at 6.

[35] In addition, the Amex and NYSE's concerns regarding the Rule 10a–1 seem misplaced. In every situation where a third market block positioner seeks to sell a security, the net price, inclusive of the premium for selling the block, would be higher than the gross price exclusive of the mark-up. For example, assume the current quotation for *Z* security was 20–20¼, the last transaction was on a minus tick at 20⅜ and that a customer wished to buy a block of stock from a third market maker who was willing to sell the stock short. Assuming further a ¼ point mark-up, net printing of the transaction, *i.e.*, 20½, would avoid the strictures of Rule 10a–1, whereas gross printing under the rule proposal, *i.e.*, 20¼, would fall within the Rule's prohibition.

In addition, the concern that a third market maker would price a transaction so as to avoid public limit orders seems misplaced. Normally, if a third market maker is positioning stock, as an accommodation for a customer, he seeks to avoid taking down any more stock than is necessary. Thus, his incentive is to give up more stock to the limit order book, not less. Indeed, a third market maker, acting as a block positioner, would only have an incentive to avoid giving up orders to the book when he has arranged a cross transaction and does not wish to have the cross broken up by losing orders to the book. In this situation, however, the third market maker normally would be acting as agent for two institutions bargaining at arms-length over the transaction price. Thus, in the primary situation where a third market maker might wish to avoid the book, the accuracy of the transaction price is ensured by arms-length institutional buyers and sellers.

necessary,[36] the Commission finds that the proposed rule change is, on balance, consistent with the requirements of the Act (particularly Sections 11A and 15A thereof) and the rules and regulations thereunder applicable to a national securities association. Specifically, the Commission believes that the proposed rule change should further the goals of Sections 11A(a)(1)(C)(iii) and 15A(b)(6) of the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above mentioned proposed rule change, SR–NASD–80–3, be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

**George A. Fitzsimmons,**

*Secretary.*

[FR Doc. 80–20863 Filed 7–11–80; 8:45 am]

BILLING CODE 8010–01–M

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**[Release No. 16967; SR–NASD–77–8]**

## National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change

July 8, 1980.

On March 4, 1980, the National Association of Securities Dealers, Inc. (the "NASD") 1735 K Street NW., Washington, D.C. 20006, filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 [1] (the "Act") and Rule 19b–4 thereunder, copies of Amendment No. 1 with respect to a proposed rule previously filed on July 7, 1977. The proposed rule, Article III, Section 35 of the Rules of Fair Practice, is an "enabling" rule that authorizes the NASD Board of Governors (the "Board") to adopt rules regulating the involvement of NASD members and their affiliates and associates in direct participation programs (programs with flow-through tax consequences).[2] Specifically, Section 35 authorizes the Board to adopt rules relating to: (1) The operation, structure, and management of programs of which an NASD member or affiliate of a member is a sponsor; (2) the underwriting of, advertising and sales literature in, and suitability of investments in, programs of which an NASD member or affiliate of a member is an underwriter, a participant in the distribution, or a sponsor; and (3) the definitions of terms used in connection with direct participation programs.

Rules adopted by the Board pursuant to Section 35 will be filed for Commission approval pursuant to Section 19(b) of the Act. If approved, they will be incorporated into an Appendix F to the NASD's Rules of Fair Practice.

The purpose of the proposed rule is to establish a system of regulation in connection with the distribution of direct participation programs by NASD members and the sponsorship of such programs by NASD members or their "affiliates." [3] More particularly, the purpose of the proposed rule is to prohibit abuses by members and persons associated with members that the NASD has identified in the distribution and sponsorship of programs.

The NASD first proposed to develop a regulatory scheme for direct participation programs in 1972. Antecedents of Section 35 were published by the NASD for comment by members and other interested persons in 1972 and 1973. Those earlier proposals for regulating direct participation programs would have regulated the operation, structure, and management of any direct participation program underwritten by an NASD member, even if the program sponsor was not an NASD member or affiliate.

In 1973, the Commission solicited public comment on, among other things, whether it would be "appropriate" and "practical" to limit the application of rules concerning operation, structure, and management to member-affiliated sponsors.[4] A number of comments received in response to that release questioned the NASD's authority to adopt rules affecting sponsors not affiliated with NASD members. The NASD thereafter redrafted its regulatory proposal to limit the application of rules concerning operation, structure, and management to programs of which an NASD member or affiliate is a sponsor.

The current proposal was approved by the NASD membership in 1977 and subsequently filed with the Commission. Notice of the proposed rule was given by publication of a Commission release [5] and by publication in the **Federal Register.**[6] As discussed below, one letter of comment was received in response to that notice of filing. The NASD more recently amended its filing to give additional notice of the basis and purpose of its rule proposal, and the amended notice was published for public comment.[7] In response to that notice, one comment letter was received after the expiration of the comment period.

Since Section 35 is in the nature of an enabling rule authorizing the Board to adopt specific, substantive regulations, the Commission has analyzed the proposed rule from the perspective of whether the authority could be used to further the purposes of the Act and whether the proposed rule would confer authority upon the Board that would exceed any limitations upon the NASD's regulatory authority under the Act. In that regard, the one comment letter received by the Commission questioned the NASD's authority to regulate the operation, structure, and management of direct participation programs sponsored by affiliates of NASD members, arguing that an affiliation between the NASD member and the program sponsor was an insufficient basis for such "issuer-oriented" regulation.

The NASD has indicated that the rules concerning operation, structure, and management will not be applied to sponsors who are affiliates of NASD members solely on the basis of a legal affiliation. The NASD has argued that, as a general matter, a sufficient factual nexus exists between a member's traditional securities or brokerage activities and the sponsorship of direct participation programs to support such an assertion of jurisdiction. The NASD has stated:

> In adopting proposed Article III, Section 35, the Association was relying upon the cumulative experience of its Board, relevant committees and staff which experience has demonstrated that, even if a member is not participating in the distribution of program interests, when a member or affiliate acts as sponsor of a limited partnership, there exists such an identity of interest between the member and the sponsor as to make the individual interests of the two indistinguishable * * *. There is very often common personnel between the member and the sponsor such that the one is the alter ego of the other and it becomes impossible to determine whether the broker-dealer or its affiliate/sponsor is performing a particular action.

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[36] The Commission expects the NASD to make a major commitment of staff resources to conduct surveillance for violations of its reporting rules, to monitor the effects of its rule, and to report the results of such surveillance and monitoring to the Commission by January 12, 1981. In addition, the Commission will be alert to possible instances in which these reporting procedures may be improved and remains prepared to take appropriate action if necessary.

[1] 15 U.S.C. 78(s)(b)(1).

[2] Although Section 35 provides that the Board may adopt rules pursuant to that section without recourse to the membership for approval, the NASD has indicated that it will not adopt or amend rules under Section 35 without first submitting such rules or amendments (other than technical changes) to its membership for comment. Amendment No. 1, p. 8, File No. SR–NASD–77–8.

[3] *See* Section 35(d)(1).

[4] Securities Exchange Act Release No. 10260 (July 2, 1973).

[5] Securities Exchange Act Release No. 13753 (July 15, 1977).

[6] 42 FR 37461 (July 21, 1977).

[7] Securities Exchange Act Release No. 16659 (March 17, 1980), 45 FR 18534 (March 21, 1980).

This situation is exacerbated by the fact * * * that a limited partnership is wholly managed by, and acts only in the person of, its general partner or sponsor * * *. When this situation is combined with the coincidence of a broker-dealer or its affiliate performing the functions of sponsor, a potentially dangerous situation is created. This is so because a broker-dealer, existing as does any broker-dealer primarily for the purpose of selling securities, fully qualified to sell such securities, holding Association membership, and presumably respected by investors as a source of sound investment advice, is placed in a position to exert control, or be subjected to control, which could lead to the structuring of an offering of securities in a way to conceal conflicts of interest and to incorporate weaknesses into the structure of a program solely to make the program interests a more attractive sales item.

The Association maintains that the presence of an Association member in such a position as to influence the creation and marketing, from a sponsor's viewpoint, of program interests imposes upon the Association the responsibility to assure that that member is prevented from abusing investors and the public interest * * *.[8]

The NASD believes that Section 35 is consistent with the Act and indicates that it will adopt rules in furtherance of the purposes of the Act under Section 35 if approved. Section 15A(b)(6), for example, provides that the NASD's rules must be designed to prevent fraudulent acts and practices, to promote just and equitable principles of trade, and to protect investors and the public interest. At the same time, the NASD is mindful of the fact that there are limits to the regulatory authority conferred upon it by the Act. Section 15A(b)(9) provides that the NASD may not adopt rules that impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Section 15A(b)(6) provides that the rules of the NASD may not be designed to discriminate unfairly among issuers or broker-dealers or to regulate by virtue of any authority under the Act matters not related to the purposes of the Act.[9]

One commentator noted that any substantive rules adopted by the NASD pursuant to Section 35 and approved by the Commission will apply only to programs sponsored by NASD members or their affiliates. It was argued that the rules would, therefore, place NASD members at a competitive disadvantage with respect to nonmembers and would unfairly discriminate between members and nonmembers. The Commission, however, does not believe that arguments based essentially upon the limits of NASD authority can provide a basis for reaching a general conclusion that the NASD is barred from regulating the involvement of its members in sponsoring direct participation programs. In that connection, the Commission has concluded that Section 35 would not be inconsistent with the limitations upon NASD rulemaking authority contained in Sections 15A(b)(6) and 15A(b)(9) of the Act.

One other commentator argued that public direct participation programs are "already sufficiently regulated as to substance and sufficiency of disclosure" by both the Commission and state securities administrators. The Commission does not believe that it should disapprove proposed Section 35 because offerings of direct participation programs are subject to the requirements of the Securities Act of 1933 or to regulation by the states. In some circumstances, however, those considerations might be pertinent to an evaluation of particular proposed rules filed by the NASD pursuant to Section 35.

The Commission finds that Section 35 is consistent with the Act and the rules thereunder applicable to a national securities association and, in particular, the requirements of Section 15A and the rules thereunder. Section 35, of course, does not impose any substantive requirements upon NASD members, and determinations concerning any rules adopted by the NASD Board of Governors must await the filing of those rules pursuant to Section 19(b) of the Act. Nevertheless, the Commission believes that the NASD could adopt rules pursuant to Section 35 that are designed to further purposes of the Act and that would not exceed the NASD's regulatory authority under the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above mentioned proposed rule change be, and it hereby is, approved.

By the Commission.

George A. Fitzsimmons,

*Secretary.*

[FR Doc. 80-20866 Filed 7-11-80; 8:45 am]

BILLING CODE 8010-01-M

[8] *See* File No. SR-NASD-77-8, letter of July 27, 1979 to Roger D. Blanc from Dennis C. Hensley, Vice-President, NASD.

[9] The *Report of the Senate Committee on Banking, Housing and Urban Affairs to Accompany S.249* states: The bill would eliminate present Section 6(c) and the open-ended authority it grants to the exchanges, and it would limit by Sections 6(b)(5) and 15A(b)(6) the scope of the self-regulatory organizations' authority over their members to matters related to the purposesa of the Exchange Act. The growing diversification of securities firms into non-securities activities has raised, and will continue to raise, significant question about the adequacy of the present regulatory structure. However, the diversification of securities firms should not automatically extend the jurisdiction of the self-regulatory agencies. Until it is specifically demonstrated to the Congress that the non-securities activities of firms which are members of self-regulatory agencies should be limited or regulated in the public interest, such firms should be free to undertake and pursue these activities in the same manner as other business organizations, subject only to those regulatory limitations necessary to assure protection of public investors and the public interest.

S. Rep. No. 94-75, 94th Cong., 1st Sess. 28 (1975).

[Release No. 16965; SR-PSE-80-7]

## Pacific Stock Exchange, Inc.; Order Approving Proposed Rule Change

July 8, 1980.

On May 27, 1980, the Pacific Stock Exchange Incorporated, 301 Pine Street, San Francisco, California 94104, filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act, 15 U.S.C. 78s(b)(1) (the "Act") and Rule 19b-4 thereunder, copies of a proposed rule change to amend its Options Floor Procedure Advice B-5 to establish attendance requirements for Market Makers and specify disciplinary procedures and the specific sanctions that may be imposed for failure to satisfy those attendance requirements. The proposed amendment also would establish rules governing the granting of leaves of absence to Market Makers.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 16855, May 29, 1980) and by publication in the **Federal Register** (45 FR 37794, June 4, 1980). All written statements with respect to the proposed rule change which were filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552) were made available to the public at the Commission's Public Reference Room.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges and in particular, the requirements of Section 6, and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

*Secretary.*

[FR Doc. 80-20865 Filed 7-11-80; 8:45 am]

BILLING CODE 8010-01-M

## SMALL BUSINESS ADMINISTRATION

[License No. 02/02-5393]

### Medallion Funding Corp.; Issuance of a Small Business Investment Company

On April 9, 1980, a notice was published in the **Federal Register** (45 FR 24294) stating that an application had been filed by Medallion Funding Corporation, 86 Glen Cove Road, East Hills, New York 11577, with the Small Business Administration (SBA), pursuant to Section 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1980)) for a license as a small business investment company.

Interested parties were given until close of business April 24, 1980, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to section 301(d) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 02/02-5393 on June 23, 1980, to Medallion Funding Corporation to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: July 7, 1980.

Michael K. Casey,

*Associate Administrator for Investment.*

[FR Doc. 80-20831 Filed 7-11-80; 8:45 am]

BILLING CODE 8025-01-M

### Region IX Advisory Council Executive Board; Public Meeting

The Small Business Administration Region IX Advisory Council Executive Board will hold a public meeting at 9:00 a.m., Friday, July 25, 1980, at the Federal Building, U.S. Courthouse, 450 Golden Gate Avenue, Room 15343 (15th Floor), San Francisco, California, to discuss such matters as may be presented by members, staff of the Small Business Administration, and others present.

For further information, write or call Robert Strauss, Regional Administrator, U.S. Small Business, 450 Golden Gate Avenue, Box 36044, San Francisco, California 94102—(415) 556-7487.

Dated: July 1, 1980.

Michael B. Kraft,

*Deputy Advocate for Advisory Councils.*

[FR Doc. 80-20830 Filed 7-11-80; 8:45 am]

BILLING CODE 8025-01-M

## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

[Notice No. 80-7]

### Texas Deepwater Port Authority; Deepwater Port License Extension

**AGENCY:** Department of Transportation, Office of the Secretary.

**ACTION:** Extension of deadline to accept license.

**SUMMARY:** The purpose of this notice is to inform the public of the Department's decision to extend the date by which the deepwater port license offered the Texas Deepwater Port Authority (TDPA) must be accepted in order to become effective.

**DATE:** Deadline date for acceptance of the license is November 15, 1980.

**FOR FURTHER INFORMATION CONTACT:** Mr. Ernest T. Bauer, U.S. Department of Transportation, Office of Marine Transportation, Ports Division, 400 7th Street SW., Washington, D.C. 20590 (202) 426-4144.

**SUPPLEMENTARY INFORMATION:** On Monday, May 19, 1980, a notice was published in the **Federal Register** (45 FR 32824) indicating our intention to grant a six month extension (to November 15, 1980) of the date by which the deepwater port license offered TDPA must be accepted and soliciting public comment. While the TDPA has originally requested a one year extension, six months was deemed more appropriate because of the possibility that other parties may desire to submit an application for the same location as the TDPA facility and because the Deepwater Port Act of 1974 prevents the Secretary from accepting other applications for the same location for which a license offer is outstanding.

Eight comments were received concerning this TDPA license extension proposal, seven of which were in favor of the extension. One comment from the Port of Galveston, Texas, however, which is planning to dredge a 50 foot deep channel to a new crude oil receiving terminal on Pelican Island in Galveston, which is considered competitive with the TDPA deepwater port proposal, appears to be opposed to the license extension. The Port of Galveston takes this position because it feels its proposal is more viable than the project of the TDPA.

After considering all comments, the Department of Transportation has determined that an extension of the date by which the TDPA must accept its deepwater port license until November 15, 1980 is warranted. No comments received demonstrated that an extension of time to TDPA would adversely affect or otherwise be harmful to the public interest.

I intend to entertain no further TDPA license offer extension requests unless the TDPA provides, prior to November 15, 1980:

(1) Signed and binding commitments from potential shippers indicating their intent to ship collectively at least 1.4 million barrels per day through the proposed port for which TDPA holds a license offer, or

(2) An acceptable amended application from TDPA for a smaller capacity port in the application area, together with letters of intent from potential shippers which will enable TDPA to finance such a port.

(Deepwater Port Act of 1974, 33 U.S.C. 1501 et seq.)

Issued in Washington, D.C. on June 30, 1980.

Neil Goldschmidt,

*Secretary of Transportation.*

[FR Doc. 80-20682 Filed 7-11-80; 8:45 am]

BILLING CODE 4910-62-1-M

### Federal Railroad Administration

### Rock Island Railroad Transition and Employee Assistance Act Service Continuation Guidelines

**AGENCY:** Federal Railroad Administration (FRA) of the Department of Transportation.

**ACTION:** Final Guidelines.

**SUMMARY:** The Rock Island Railroad Transition and Employee Assistance Act (RITEA Act), Pub. L. 96-254, was signed by President Carter on May 30, 1980. The RITEA Act authorizes the Interstate Commerce Commission (Commission) to direct service over Chicago, Rock Island and Pacific Railroad Company (Rock Island Railroad) lines and Chicago, Milwaukee, St. Paul and Pacific Railroad Co. (Milwaukee Road) lines if the Secretary of Transportation (Secretary) makes and certifies certain findings to the Commission. These guidelines are issued by the Administrator of the FRA (Administrator) as a delegate of the Secretary, and state the procedures under which the public may submit applications for directed service under Pub. L. 96-254 and the criteria which the

Administrator will use to evaluate those applications.

**FOR FURTHER INFORMATION CONTACT:** Douglas H. Taylor, Office of Federal Assistance, FRA, 400 7th Street, S.W., Washington, D.C. 20590, (202) 472–5410.

**DATES:** Applications received not later than 15 working days after [publication of these guidelines in the **Federal Register**] will be evaluated as a group in accordance with guidelines established herein. Applications received thereafter will be evaluated in the order received on the basis of the guidelines and to the extent funding remains.

**SUPPLEMENTARY INFORMATION:** On June 26, 1980, the FRA published in the **Federal Register** (45 FR 43302) proposed RITEA Act service continuation guidelines. Interested parties were invited to submit written comments on the proposed guidelines prior to July 2, 1980. This period was preceded by a public meeting held on June 25, 1980, in Washington, D.C. At that time, states and other interested parties were given copies of the proposed guidelines and comments were solicited. The major comments, and subsequent responses resulting from these comments, are discussed below:

In the proposed guidelines it was stipulated that "applications received not later than 15 working days after publication of the guidelines will be evaluated as a group." In its comments, the State of Oklahoma questioned this, as it was felt that evaluation as a group might be a problem and that the FRA should use the flexibility available to them to make decisions on individual applications separately.

The FRA acknowledges this concern and intends to consider all applications individually, and on their own merit, but in competition with all other timely applications if funds are insufficient to cover all applications. In light of the statutory $15,000,000 program limit, every effort must be made to maximize the use of the resources available. The review of timely applications as a group will not preclude consideration of later applications, assuming the necessary funds remain available; nor will it mean applicants seeking directed service for later in the harvest season who apply during the initial 15 day period will not be given equal opportunity for certification. The initial 15 day period is thus part of the final guidelines to assure expedited, equitable and beneficial allocation of the limited funds available.

Section IA(1)(c) of the proposed guidelines required applicants to provide "[a] description of the availability and costs of alternate modes of transportation if available." The State of Oklahoma interpreted this to mean that a general statement for the area served by the line under consideration for directed service will be sufficient rather than the detailed descriptions contemplated by FRA. The commentor felt that, given the time frame for application, this requirement presented an unwarranted burden and requested it be deleted from the final guidelines. FRA believes that the inclusion of such alternative transportation access and cost information in the application for directed service will assist it in ensuring the maximum access to directed service for those rail users having no reasonable alternative.

The State of Oklahoma also included in its comments a request for the inclusion of non-food or grain commodities in the evaluation of line segments for which directed service is requested. The purpose of directed service under section 104(a)(1) of the RITEA Act is to move grain or food products. Evaluation of applications for directed service under this section will therefore be focused on those involving such commodities.

The Administrator's certification to the Commission will provide that shippers of commodities other than food and grain on those segments certified for directed service under section 104(a)(1) are to be served at no more than the same frequency than that required for food and grain shipments. Such intermediate service should be provided at the lowest possible cost to the government.

Oklahoma also proposed that the requirement in section IA(3) of the proposed guidelines that there be a "reasonable expectation" that purchase, lease or rehabilitaton will be consummated, be interpreted to require only "a clear intent to undertake active negotiations with the Rock Island Trustee." The FRA believes that at least a tentative agreement (not necessarily including final purchase price) between the interested party and the Trustee, or an intent to use legal rights, such as eminent domain to consummate the purchase, lease, or rehabilitation, is warranted.

Section IA(3) of the proposed guidelines stated that "the applicant has an interest in purchasing, leasing or rehabilitating the particular line or facility for which directed service is sought." The States of Iowa and Oklahoma correctly pointed out that the applicant ( a state, for example) may not be the party who is interested in acquisition, lease, or rehabilitation. As a result, the final guidelines are amended to read "the applicant or an appropriate party * * *"

Oklahoma also requested clarification of the administrative requirements asking for an agreement on the number and type of Rock Island employees to be used in providing directed service. It is FRA's view that the March 4 agreement between interim operators and Railroad labor organizations is the appropriate mechanism for hiring Rock Island employees. The guidelines suggest that determination of the number and type of Rock Island Railroad and Milwaukee employees to be used in providing directed service should be made at a meeting involving the proposed directed service carrier, labor organizations, the applicant, the State, the Commission and the FRA. Until this meeting, the applicant's estimate of the number of employees the applicant feels the proposed carrier would use for completing directed service will be used by FRA to assist it in preparing for the final directed service orders.

Finally, the State of Oklahoma requested that the FRA delete the certification requirement where a state agency or a political subdivision of a state is an applicant for directed service. The RITEA Act of Section 104(a) requires the Secretary to certify the Secretary's findings to the Commission when requesting directed service. The intent of the proposed guidelines is to enable FRA to rely on the applicant for the appropriate information which FRA will use to evaluate applications. There is not enough time for the FRA to investigate the applications on its own, hence the need for certification. This certification requirement by all parties remains in the final guidelines. It is there, however, with the clear understanding that FRA is not suggesting that any applicant will purposely be misleading in its application. Rather, it is there to ensure fairness in the final determination of which applicants are to receive directed service.

**Background**

In order to minimize economic repercussions on states, communities, and the shipping public, section 104 of the RITEA Act authorizes the Commission to direct service for a period not to exceed 90 days over any line of the Rock Island Railroad if the Secretary finds and certifies to the Commission either of two alternative rail service conditions discussed below. Section 116 of the RITEA Act amends section 18 of the Milwaukee Railroad Restructuring Act (MRRA), 49 U.S.C. 916, to authorize directed service for a period not to exceed 30 days over certain lines of the Milwaukee Road if the Secretary makes the determination

discussed below. Not more than $15,000,000 may be made available by the Secretary to the Commission for the purposes of providing directed service under section 104 of the RITEA Act and section 18(b) of the MRRA. The funds are to be made available from the Railroad Rehabilitation and Improvement Fund established under Title V of the Railroad Revitalization and Regulatory Reform Act of 1976, 45 U.S.C. 821.

Section 104(a) of the RITEA Act requires the Commission to order directed service over lines of the Rock Island Railroad if the Secretary finds and certifies that

(1) a lack of rail service exists which cannot be resolved by a grant of interim operating authority over such line and grains or foods are ready to be shipped to market; or

(2) a lack of rail service exists which cannot be resolved by a grant of interim operating authority over such line and a rail carrier, shipper, state, or other interested party has expressed in writing to the Secretary an interest in purchasing, leasing, or rehabilitating the particular rail line or facility for purposes of providing rail services, and there is a reasonable expectation that such transaction will be consummated.

Section 18(b) of the MRRA authorizes the Commission to order directed service over lines of the Milwaukee Road, for 30 days immediately prior to acquisition where legislation has been enacted by a State legislature prior to May 30, 1980, which provides for such State to tender a bona fide offer for acquisition of such lines or line segments, if the Secretary determines that such service cannot be continued under the Emergency Rail Services Act of 1970. (The RITEA Act in section 116 mistakenly refers to the Emergency Rail Services Act of 1970 as the Emergency Rail Services Assistance Act.) The Secretary has delegated his authority under Section 104 of the RITEA Act and section 18 of the MRRA to the Administrator, 49 C.F.R. 1.49(v).

## GUIDELINES

### I. Application Procedures

Each application shall be concise and in writing and shall comply with paragraph A or B (as applicable) *and* paragraph C of this section. An application for directed service will not be considered unless it is timely and in compliance with these guidelines.

*A. Rock Island Railroad*

Section 104 of the RITEA Act does not specify or limit which parties or entities may apply to the Administrator for the certification of directed service. The Administrator anticipates receiving such applications from states, labor organizations, shipper associations, specific shippers, employee groups, local communities and rail carriers, or combinations thereof. Applications will be evaluated to determine the public interest in the service being sought and should be prepared on that basis. Applicants for directed service pursuant to section 104 shall follow the procedures outlined hereunder.

(1) Each application shall include a full explanation of the specific interest in and relationship of the applicant to the service being sought (e.g. to ship applicant's August grain harvest) and why the applicant requires rail service. In addition, the application shall include the following:

(a) The type of service required, i.e., daily, tri-weekly, etc., the kind and volume (including carloads) of the commodity to be shipped, the type and source of equipment required, and the expected origins and destinations of the shipments.

(b) Dates on which directed service is requested to begin and to terminate (not to exceed 90 days), and the justification for such dates within the time period stated.

(c) A description of the availability and costs of alternative modes of transportation if available; a description of other transportation services, if any, used since March 23, 1980.

(d) Likelihood of the rail service continuing upon expiration of the directed service order.

(e) To the extent known, the location and condition of the track to be utilized, including mainlines, sidings, leads, team tracks, etc., and service facilities that are required in order to provide rail service.

(f) which carrier or carriers could be directed to provide service and what rate would be paid for such service.

(2) Each application submitted under section 104(a)(1) shall further include the applicant's certification, with supporting evidence, that interim operating service is not available and that grains or foods are ready to be shipped to market.

(3) Each application submitted under section 104(a)(2) shall further include the applicant's certification, with supporting evidence, that interim operating service is not available, that the applicant or an appropriate party has an interest in purchasing, leasing, or rehabilitating the particular line or facility for which directed service is sought, and that there is a reasonable expectation that such purchase, lease, or rehabilitation will be consummated. Such reasonable expectation shall be supported, at a minimum, by a description of all terms to which the applicant or appropriate party and the Trustee have agreed in order to consummate such purchase, lease or rehabilitation.

*B. Milwaukee Road*

Applications for directed service under section 18(b) of the MRRA shall include a full explanation, with supporting evidence, why such service cannot be continued under the Emergency Rail Services Act of 1970, a copy of the appropriate State legislation including the date of enactment, a copy of the fully executed purchase agreement or a purchase agreement which has been submitted to the Court for approval to execute, and the applicant's certification that acquisition will be consummated no later than 30 days after the date on which directed service is requested to begin.

In addition, the application shall include the following:

(a) The type of service required, i.e., daily, tri-weekly, etc., the type and source of equipment required, and the expected origins and destinations of shipments.

(b) The dates on which directed service is requested to begin and to terminate (not to exceed 30 days) and the date on which the acquisition is expected to be consummated.

(c) A description of the availability and costs of alternative modes of transportation if available.

(d) To the extent known, the location and condition of the track to be utilized, including mainlines, sidings, leads, team tracks, etc., and service facilities that are required in order to provide rail service.

(e) Which carrier or carriers could be directed to provide service and what rates would be paid for such service.

*C. Certification*

Each application shall include a certification by the applicant (under applicable legal penalty including that prescribed by 18 U.S.C. 1001) that (1) all information provided by applicant as part of or in connection with the application, and all certifications and statements contained in the application are true and complete;

(2) applicant is aware of no current circumstance or fact and foresees none which would adversely affect FRA's consideration of the application; and (3) applicant will update the application as needed to keep the application truthful and complete.

If applicant is a corporation, organization, or government agency, this certification shall be signed by applicant's chief executive officer

(C.E.O.) or his or her delegate (in which case a copy of the delegation signed by the C.E.O. shall be included).

**II. Evaluation Guidelines**

The aggregate incurred and estimated costs of directed service certified or sought to be certified pursuant to section 104 of the RITEA Act and section 18(b) of the MRAA could exceed the availability of funds. Consequently, the Administrator will weigh the costs and benefits of each application and fund those applications deemed to best serve the public interest. Therefore, each application shall state the specific service sought including:

(1) The total estimated cost on a per car basis for providing directed service.

(2) The extent of any rehabilitation required in order to meet FRA track safety standards prior to initiating directed service.

(3) The availability of operating equipment (cars and locomotives).

(4) The locaton of the nearest interchange point for connection to main line service in order to mimimize long haul movements on Rock Island Railroad or Milwaukee Road lines, and in order to maximize directed service coverage.

(5) Any other information which the applicant believes would relate to the public interest served by granting the application.

*Administrative Requirements*

For purposes of effective administration of this directed service program, the Administrator proposes that representatives of the Trustee, the proposed directed service carrier, labor organizations, the applicant, the State, the Commission, and the FRA meet jointly in order to reach an understanding on service matters and that the appropriate parties enter into an agreement with respect to the following:

(1) The service levels to be provided and the time period for such services.

(2) The anticipated funding requirements for the directed rail service.

(3) The number and type of Rock Island Railroad and Milwaukee Road employees who will be used to provide directed service.

(4) In the event anticipated funding requirements are exceeded, the party accepting responsibility for funding the resultant shortfall.

(5) Resolution of those issues raised by the Trustees which are deemed appropriate under the RITEA Act or the MRRA.

*Certification Procedures*

If, with respect to any application, the Administrator makes the statutory finding under paragraph (1) or (2) of section 104(a) of the RITEA Act or under section 18(b) of the MRRA and there are funds available to provide directed service, the Administrator will certify to the Commission that directed service shall be ordered. As part of the certification the Administrator will designate the level and extent of service, the length of time for such service, not to exceed the statutory maximums, the recommended proposed directed service carrier, and the maximum amount of funds to be provided by the Administrator.

Issued in Washington, D.C. on

**John M. Sullivan,**

*Federal Railroad Administrator.*

[FR Doc. 80-21117 Filed 7-11-80; 10:13 am]

BILLING CODE 4910-06-M

## DEPARTMENT OF THE TREASURY

### Comptroller of the Currency

**[Docket No. 80-2]**

### Citibank (South Dakota), N.A.; Application to Charter a National Banking Association; Public Hearing

**AGENCY:** Comptroller of the Currency, Treasury.

**ACTION:** Notice of public hearing.

**SUMMARY:** A public hearing on the application of Citicorp, New York to charter a National Banking Association to be known as Citibank (South Dakota), N.A., will be continued in Sioux Falls, South Dakota on July 17, 1980.

**DATE:** July 17, 1980, 9:00 a.m. to 1:00 p.m.

**ADDRESS:** Holiday Inn—Downtown, 100 West 8th Street, International West Room.

**FOR FURTHER INFORMATION:** James Elliott, Director, Bank Organization and Structure Division, Comptroller of the Currency, Washington, D.C. 20219. (202) 447-1184.

**SUPPLEMENTARY INFORMATION:** On June 20, 1980, the Comptroller published notice (45 FR 41752) that a public hearing would be held on Tuesday, July 15, 1980, in New York, New York on the application of Citicorp, New York, New York to charter a National Banking Association. The notice also stated that if requested by July 8, 1980, and if determined to be necessary, the hearing may be continued in Sioux Falls, South Dakota on July 17, 1980.

The Comptroller of the Currency has decided to continue the hearing in Sioux Falls, South Dakota on July 17, 1980.

**John G. Heimann,**

*Comptroller of the Currency.*

July 9, 1980.

[FR Doc. 80-21018 Filed 7-11-80; 8:45 am]

BILLING CODE 4810-33

### Customs Service

**[T.D. 80-173]**

### Customs Bonds; General Bond for Smelting and Refining Warehouses; Revised

In FR Doc. 80-18998, in the issue of Tuesday, June 24, 1980, appearing at page 42433, please make the following correction:

On page 42434, in the third column, in the paragraph designated (5), in line three, the last word "cosigneed" should be changed to "consignees."

BILLING CODE 1505-01-M

# Sunshine Act Meetings

Federal Register
Vol. 45, No. 136
Monday, July 14, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

## CONTENTS



1

**EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.**

**TIME AND DATE:** 9:30 a.m. (Eastern Time), Tuesday, July 15, 1980.

**PLACE:** Commission Conference Room, No. 5240, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street, NW., Washington, D.C. 20506

**STATUS:** Part will be open to the public and part will be closed to the public.

**MATTERS TO BE CONSIDERED:**

1. Freedom of Information Act Appeal Nos. 80-4-FOIA-233 and 80-5-FOIA-251 concerning an attorney's request for all documents relative to an EEOC decision not to sue a particular company.

2. Proposed 90 Day Notice Regarding Issuing Notices of Right to Sue When Charges Against State of Local Government are Dismissed.

3. Proposed Revisions to Section 1601.21(b), (d) and 1601.28 of the Commission Procedural Regulations 29 CFR Part 1601.

4. Report on Commission Operations by the Executive Director.

**Closed to the Public**

Litigation authorization; General Counsel Recommendations.

**Note.**—Any matter not discussed or concluded may be carried over to a later meeting.

**CONTACT PERSON FOR MORE INFORMATION:** Marie D. Wilson, Executive Officer, Executive Secretariat, at (202) 634-6748.

This notice issued: July 9, 1980.

[S-1340-80; Filed 7-10-80; 10:16 am]

BILLING CODE 6570-06-M

2

**FEDERAL ENERGY REGULATORY COMMISSION.**

**TIME AND DATE:** 10 a.m., July 16, 1980.

**PLACE:** 825 North Capitol Street NE., Washington, D.C. 20426.

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:** Agenda.

**Note.**—Items listed on the agenda may be deleted without further notice.

**CONTACT PERSON FOR MORE INFORMATION:** Kenneth F. Plumb, Secretary, telephone (202) 357-8400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Division of Public Information.

**Power Agenda—456th Meeting, July 16, 1980, Regular Meeting (10 a.m.)**

CAP-1. Project No. 2911, Ketchikan Public Utilities.
CAP-2. Project No. 768, City of Colorado Springs, Colo.
CAP-3. Docket No. ID-1840, Frederick G. Larkin, Jr.
CAP-4. Docket No. ER-78-522, Virginia Electric Power Co.
CAP-5. Docket No. ER78-490, Ohio Edison Co.
CAP-6. Dockets Nos. ER80-411, ER80-417, ER80-438, ER80-479, ER80-480, ER80-486, ER80-498, and ER80-501, Florida Power & Light Co.
CAP-7. Docket No. ER80-425, Black Hills Power & Light Co.
CAP-8. Docket No. ER80-235, Public Service Co. of New Mexico.
CAP-9. Docket No. ES80-45, Idaho Power Co.
CAP-10. Docket No. ER78-414, Delmarva Power & Light Co.
CAP-11. Docket No. ER79-58, Metropolitan Edison Co.

**Miscellaneous Agenda—456th Meeting, July 16, 1980, Regular Meeting**

CAM-1. Docket No. GP79-84, State of Utah, NGPA section 108 determinations, Gililland & Fix, Whyte—State #2 well, JD79-12345, Legg Resources, Ltd., Joyce—State #1 well, JD79-12346.
CAM-2. Docket No. GP80-79, State of Kansas, NGPA section 108 determination, Ladd Petroleum Corp., HCU 1731 #1 well, FERC No. JD80-3571.

**Gas Agenda—456th Meeting, July 16, 1980, Regular Meeting**

CAG-1. Docket No. TA80-1-15 (PGA80-2), (IPR80-2), (TT80-1), and (LFUT80-1), Mid-Louisiana Gas Co.
CAG-2. Docket No. TA80-2-38 (PGA80-2), Natural Gas Gathering Co.
CAG-3. Docket No. RP80-115, The Union Light, Heat & Power Co.
CAG-4. Docket No. RP80-98, Valley Gas Transmission, Inc.
CAG-5. Docket No. RP78-68, United Gas Pipe Line Co.
CAG-6. Docket No. RP80-101, Texas Gas Transmission Corp.
CAG-7. Docket No. RP79-39, Michigan Wisconsin Pipeline Co.
CAG-8. Docket No. RP73-36 (PGA78-3), (DCA78-2), Panhandle Eastern Pipe Line Co.
CAG-9. Docket No. CI78-832, Transco Exploration Co.
CAG-10. Docket No. CI62-841 (FERC Gas Rate Schedule No. 6), Hudson Gas & Oil Corp.; Docket Nos. AR61-2, et al., and AR69-1, southern Louisiana area rate proceeding; Docket No. RI70-1570 (FERC gas rate schedule No. 3), A. A. Cameron, d.b.a. Cameron Oil Corp. and Consolidated Production Corp.; Docket Nos. AR64-1, et al., Hugoton-Anadarko area rate proceeding.
CAG-11. Docket No. RI65-448 (FERC gas rate schedule No. 1), King Resources Co. (now Phoenix Resources Co.); Docket No. AR64-1, et al., area rate proceeding, et al., (Hugoton-Anadarko area).
CAG-12. Docket Nos. CP75-209 and RP72-155 (PGA77-2 and 3), (PGA78-1 and 2), El Paso Natural Gas Co.; Docket No. CI75-594, Texaco Inc.; Docket Nos. G-7156, G-13445 and CI72-760, Warren Petroleum Co., a division of Gulf Oil Corp.; Docket No CI72-590, Phillips Petroleum Co.; Docket No. CI76-188, Gulf Oil Corp.; Docket No. CI79-216, Texaco Inc.; Docket No. CI79-220, Exxon Corp.; Docket No. CI79-227, Mobil Producing Texas & New Mexico, Inc.; Docket No. CS80-75, Robert U. Parish; Docket No. CS80-96, Frank B. Westerman; Docket No. CS80-99, Ceil W. Moore; Docket No. CS80-103, Betty H. Klein; Docket No. CS80-114, Bank of the Southwest, National Association, Houston, trustee under the will of Jesse Andrews, deceased, but not otherwise; Docket No. CS80-125, the First National Bank of Midland, Texas, trustee for trust acct. No. 797 and 798.
CAG-13. FERC gas rate schedule No. 49, Gulf Oil Corp.; Docket No. CI77-689, Exxon Corp.; Docket Nos. G-15048, CI80-177, and CI80-248, Exxon Corp.
CAG-14. Docket No. CI80-247, Ocean Production Co., et al.; Docket Nos. G-15238, et al., (CS71-962), Mobil Oil Corp., et al.; Docket No. G-12128, Arco Oil & Gas Co., a division of Atlantic Richfield Co.; Docket Nos. CI74-421, et al., Chevron U.S.A. Inc., et al.; Docket No. CI78-910, Aminoil USA, Inc.; Docket No. CI74-421, et al., Chevron U.S.A., Inc.; Docket No. CI80-177, Exxon Corp.; Docket No. CI80-248, Exxon Corp.; Docket No. CI69-1026, Getty Oil Co.; Docket No. CI77-69, Tenneco Exploration, Ltd.; Docket No. CI78-144, CIG Exploration, Inc.; Docket No. CI80-199, Arco Oil & Gas Co., division of Atlantic Richfield Co.;

Docket No. CI80–257, Phillips Petroleum Co.; Docket No. CI76–289, Amoco Production Co.; Docket No. CI80–195, Amoco Production Co.; Docket No. CI63–1493, May Petroleum Inc.; Docket No. CS67–95, et al., estate of Fred Turner, Jr. (Fred Turner, Jr., et al.); Docket No. CS73–319, Dinero Oil Corp. (Dinero Oil Co.); Docket No. CS71–303, N. H. Wheless, Jr. individually and as trustee (N. H. Wheless); Docket No. CS80–101, Fred Wilson.

CAG–15. Docket No. CP76–118, U–T Offshore Systems.

CAG–16. Docket No. CP78–306, Montana-Dakota Utilities Co.

CAG–17. Docket No. CP80–45, Transcontinental Gas Pipe Line Corp.

CAG–18. Docket No. CP80–66, Mountain Fuel Supply Co.

CAG–19. Docket No. CP80–126, Carnegie Natural Gas Co.

CAG–20. Docket No. CP80–213, Michigan Wisconsin Pipe Line Co.

CAG–21. Docket No. CP80–218, Transcontinental Gas Pipe Line Corp. and United Gas Pipe Line Co.; Docket No. CP80–217, Transcontinental Gas Pipe Line Corp.; Docket No. CP79–70, Transcontinental Gas Pipe Line Corp. and United Gas Pipe Line Co.

CAG–22. Docket No. CP80–236, Transcontinental Gas Pipe Line Corp.

CAG–23. Docket No. CP80–289, Columbia Gas Transmission Corp.

CAG–24. Docket No. CP80–320, Columbia Gas Transmission Corp.

CAG–25. Docket No. CP80–323, Northern Natural Gas Co., division of Internorth Inc.

CAG–26. Docket No. CP80–329, Southern Natural Gas Co.

CAG–27. Docket No. CP80–340, Michigan Consolidated Gas Co.

**Power Agenda—456th Meeting, July 16, 1980, Regular Meeting**

**I. Licensed Project Matters**

P–1. Reserved.

**II. Electric Rate Matters**

ER–1. Docket No. ID–1818, George Fabian Brewer.

ER–2. Docket Nos. ER77–488 and ER78–520 (phase I), El Paso Electric Co.

ER–3. Docket No. ER80–368, Boston Edison Co.

ER–4. Docket No. ER80–311, Public Service Co. of Oklahoma.

ER–5. Docket No. ER80–420, Long Island Lighting Co.

ER–6. Docket No. ER80–415, Southern Co. Services, Inc.

ER–7. Docket No. ER80–298, El Paso Electric Co.

**Miscellaneous Agenda—456th Meeting, July 16, 1980, Regular Meeting**

M–1. Docket No. RM79–28, amendments to part 32 of the regulations under the Federal Power Act; regulation governing interchange energy transmission rates for section 202(c) emergencies.

M–2. Docket No. RM80– , exemption of small hydroelectric power projects of 5 megawatts or less from all or part of part I of the Federal Power Act.

M–3. Reserved.

M–4. Reserved.

M–5. Docket No. RM80– , Economic Regulatory Administration—proposed rulemaking concerning review and establishment of natural gas curtailment priorities for interstate pipelines.

M–6. Docket No. RM80–21, regulations under section 110 of the Natural Gas Policy Act of 1978.

M–7. Docket No. RM80–14, final regulations under sections 105 and 106(b) of the Natural Gas Policy Act of 1978.

M–8. Docket No. RM80–18, treatment under the incremental pricing program of natural gas used as boiler fuel to raise steam which forms an integral step in the manufacturing process for fertilizer.

M–9A. Docket No. RM80–47, final subpart K of part 271 regulations under the Natural Gas Policy Act of 1978.

M–9B. Docket No. CI77–412, Phillips Petroleum Co.

M–10. Docket No. RM80–34, nondiscriminatory access to the outer continental shelf.

M–11. Docket No. GP79–90, Texas Pacific Oil Co., Inc.

M–12. Docket No. GP80–80, L & B Oil Co., JD80–14668.

M–13. Docket No. GP80–85, et al., New Mexico Oil Conservation Division, Southland Royalty Co., Oliver No. 1 well, JD79–203, et al.

M–14. Docket No. GP80– , State of New Mexico, section 108 NGPA determination, Southland Royalty Co., State 575 No. 1 well, State Docket No. 36–26–8, JD80–15789.

M–15. Docket No. RA79–30, Young Coal Co.

M–16. Docket No. RO79–6, R. H. Engelke.

**Gas Agenda, 456th Meeting, July 16, 1980, Regular Meeting**

**I. Pipeline Rate Matters**

RP–1. Docket No. OR78–5, Northville Dock Pipe Line Corp. and Consolidated Petroleum Terminal Inc.

**II. Producer Matters**

CI–1. Docket No. RI79–21, Shell Oil Co.

**III. Pipeline Certificate Matters**

CP–1. Docket No. CP79–234, Algonquin Gas Transmission Co.; Docket Nos. CP79–338 and CP79–339, Texas Eastern Transmission Corp.; Docket Nos. CP79–368 and CP79–369, Transcontinental Gas Pipe Line Corp.; Docket No. CP78–256, Algonquin LNG, Inc., and Algonquin Gas Transmission Co.

CP–2. Docket No. CP80–153, Cerro Wire & Cable Co., et al., complainants v. Transcontinental Gas Pipe Line Corp., defendant; Docket No. CP80–154, American Bakeries Co., Guilford Mills, Inc., and Champion Valley Group, complainants v. Transcontinental Gas Pipe Line Corp., defendant.

CP–3. Docket No. CP79–242, Transcontinental Gas Pipeline Corp. and Tennessee Gas Pipeline Co.; Docket No. CP80–44, Consolidated Gas Supply Corp.; Docket No. CP80–100, Tennessee Gas Pipeline Co.

**Kenneth F. Plumb,**

*Secretary*

[S–1339–80 Filed 7–10–80; 9:44 am]

BILLING CODE 6450–85–M

3

**NATIONAL CREDIT UNION ADMINISTRATION.**

**TIME AND DATE:** 9:30 a.m., Thursday, July 17, 1980.

**PLACE:** 1776 G Street NW., Washington, D.C., seventh floor board room.

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:**

1. Review of Central Liquidity Facility Lending Rates.
2. Central Liquidity Facility Third Quarter Dividend.
3. Report on actions taken under delegations of authority.
4. Applications for charters, amendments to charters, bylaw amendments, mergers as may be pending at that time.

**FOR MORE INFORMATION CONTACT:** Joan O'Neill, Program Assistant, telephone (202) 357–1100.

[S–1341–80 Filed 7–10–80; 11:55 am]

BILLING CODE 7535–01–M

4

[NM–80–26]

**NATIONAL TRANSPORTATION SAFETY BOARD.**

**TIME AND DATE:** 9 a.m., Tuesday, July 22, 1980.

**PLACE:** NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue SW., Washington, D.C. 20594.

**STATUS:** The first four items 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. *Special Study*—Commuter Aviation Safety Study and *Recommendations* to the Federal Aviation Administration.
2. *Aircraft Accident Report*—Transamerica Airlines, Inc., Lockheed L–188, N859U, Salt Lake City, Utah, November 18, 1979.
3. *Highway Accident Report*—Head-on Collision of Sedan and Pickup Truck, U.S. Route 64, near Perry, Oklahoma, February 23, 1980, and *Recommendations* to the National Highway Traffic Safety Administration, the Federal Highway Administration, and the Oklahoma Department of Transportation.
4. *Regulation*—49 CFR Part 840, Notification of Railroad Accidents.
5. *Opinion and Order*—Petition of Spivey, Dkt. SM–2352; disposition of Administrator's appeal.
6. *Opinion and Order*—Petition of Wheat, Dkt. SM–2371; disposition of Administrator's appeal.

**CONTACT PERSON FOR MORE INFORMATION:** Sharon Flemming, 202–462–6022.

July 10, 1980.

[S–1343–80 Filed 7–10–80; 3:49 pm]

BILLING CODE 4910–58–M

5

**SECURITIES AND EXCHANGE COMMISSION.**

**"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT:** 45 FR 45755 July 7, 1980.

**STATUS:** Room 825, 500 North Capitol Street, Washington, D.C.

**DATE PREVIOUSLY ANNOUNCED:** Tuesday, July 1, 1980.

**CHANGES IN THE MEETING:** Additional items. The following additional items will be considered at a closed meeting scheduled on Thursday, July 10, 1980, at 9:00 a.m.:

Access to investigate files by Federal, State, or Self-Regulatory Authorities.
Freedom of Information Act appeal.
Consideration of *amicus* participation.

Chairman Williams and Commissioners Loomis, Evans, and Friedman 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 Granda at (202) 272–2209.

July 9, 1980.

[S–1338–80 Filed 7–9–80; 5:03 pm]

**BILLING CODE 8010–01–M**

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6

**[Meeting No. 1247]**

**TENNESSEE VALLEY AUTHORITY.**

**TIME AND DATE:** 7 p.m., CST, Thursday, July 17, 1980.

**PLACE:** West Elementary School, Clay Avenue, Russellville, Alabama.

**STATUS:** Open.

*Old Business*

1. Req. No. 170183 (Reissue)—Load management control system for the Load Management Air-Conditioning Cycling Program.

*New Business*

A—Project Authorizations:
1. Project Authorization No. 3520—Voluntary electric water heater cycling program.
2. Project Authorization No. 3251.1—Amendment to Project Authorization for prediction of scale formation in recirculating evaporative cooling systems (in collaboration with U.S. Environmental Protection Agency).
3. Project Authorization No. 3518—Mineral recovery from fly ash (in collaboration with the City of Lawrenceburg, Tennessee).
4. Project Authorization No. 3477.1—Demonstration of a commercial-scale coal gasification facility producing medium-Btu gas—Phase II engineering design and support.

B—Purchase Awards:
*1. Req. No. 614837—Amdahl 470 V/B, central processing units for Computing Operations Branch.
2. Req. No. 826608—$SO_2$ absorber vessels for Johnsonville Stream Plant.
3. Sales Invitation No. 43–4217—Sale of various items of used heavy equipment.
*4. Amendment to Contract 78K71–823941 with Atlas Machine and Iron Works, Inc., Gainesville, Virginia, for drywell framed embedments for Hartsville and Phipps Bend Nuclear Plants.

C—Power Items:
*1. Letter agreement with Union Carbide Corporation, Columbia, Tennessee, to change the power contract demand.
2. Lease and amendatory agreement with Macon, Mississippi, covering arrangements for 161–kV delivery at TVA's Macon Substation.
3. Lease and amendatory agreement with Cumberland Electric Membership Corporation covering lease of TVA's Adams Substation.
4. New power contract with Tennessee Valley Electric Cooperative.
5. New power contract with North Alabama Electric Cooperative.
6. Disposal of surplus uranium conversion services.

E—Real Property Transactions:
1. Grant of permanent easement to the Town of Waterloo, Alabama, for a fire station, affecting approximately 1.0 acre of Pickwick Reservoir land—Tract XTPR–48FS.
2. Agreement with Adolph Coors Company covering arrangements for grant of an option on 2.547 acres of land adjacent to the Tellico Reservoir.
3. Filing of condemnation suits.

F—Unclassified:
1. Agreement between TVA and EPA for use of TVA helicopter and pilot in an Air Quality Study.
2. Revised TVA policy code relating to contracts for the purchase, sale, or exchange of electric power and energy.
3. Revised TVA policy code relating to services to individuals and organizations outside TVA.
4. Revised budget plan for 1980—Midyear Review.

**DATED:** July 10, 1980.

**CONTACT PERSON FOR MORE INFORMATION:** Craven Crowell, Director of Information, or a member of his staff can respond to requests for information about this meeting. Call (615) 632–3257, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 245–0101.

[S–1342–80 Filed 6–10–80; 3:28 pm]

**BILLING CODE 8120–01–M**

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*Approved by individual Board members. This would give formal ratification to the Board's action.

federal register

Monday
July 14, 1980

Part II

# Department of the Interior

Fish and Wildlife Service

Endangered and Threatened Wildlife and Plants; Black Rhinoceros; San Marcos Salamander; Texas Wild Rice; San Marcos Gambusia; Fountain Darter; and Silver Rice Rat; Final Rules and Proposed Rule

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Part 17**

## Endangered and Threatened Wildlife and Plants; Endangered Status for the Black Rhinoceros

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Final rule.

**SUMMARY:** The Service determines that the African black rhinoceros (*Diceros bicornis*) is an endangered species pursuant to the Endangered Species Act of 1973. This action is being taken because information has revealed that the species has declined rapidly throughout a significant portion of its range and is in danger of extinction. Listing the black rhinoceros as endangered will benefit the species by affording it the protection of the Endangered Species Act of 1973, and then hopefully will aid in the prevention of its demise.

**DATES:** This rule becomes effective on August 16, 1980.

**ADDRESSES:** Questions concerning this action may be addressed to Director (OES), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Comments and other materials relating to this rulemaking are available for public inspection by appointment during normal business hours at the Service's Office of Endangered Species, Suite 500, 1000 North Glebe Road, Arlington, Virginia 22201.

**FOR FURTHER INFORMATION CONTACT:** Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240 (703/235–2771).

**SUPPLEMENTARY INFORMATION:**

**Background:**

On August 11, 1977, the Service published a notice of review in the **Federal Register** (42 FR 40716–17) announcing that it was conducting a review of the status of the black rhinoceros *(Diceros bicornis)* and requesting comments from interested parties. The Service carefully reviewed the public comments and available evidence and determined that sufficient data were available to propose this species for endangered status; this proposal was published on October 1, 1979 (44 FR 56618–20). The Service now determines the black rhinoceros to be endangered. The basis for the determination is summarized below:

The Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.)* defines an endangered species as:

Any species which is in danger of extinction throughout all or a significant portion of its range * * * (16 U.S.C. 1532 (6)); and a threatened species as:

Any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range * * * (16 U.S.C. 1532 (20)).

The Act also provides that the Secretary shall by regulation determine a species to be endangered or threatened because of any of the following factors:

(1) The present or threatened destruction, modification or curtailment of its habitat or range;

(2) Overutilization for commercial, sporting, scientific or educational purposes;

(3) Disease or predation;

(4) The inadequacy of existing regulatory mechanisms; or

(5) Other natural or man-made factors affecting its continued existence.

This authority has been delegated to the Director.

**Summary of Factors Affecting the Species**

There are currently five species of rhinoceroses occurring in Africa and Southeast Asia. All five have long suffered from the effects of human demands. As a result, the Javan and Sumatran rhinos, which 50 years ago were widespread, have been reduced to tiny relict populations; less than 55 Javan rhinos *(Rhinoceros sondaicus)* remain in western Java (there are a few unconfirmed reports of their existence on mainland Asia), and there are less than 300 Sumatran rhinos *(Didermocerus sumatrensis)* in the world. The Indian or greater one-horned rhinoceros *(Rhinoceros unicornis)* has had its once extensive range reduced to a few populations totalling less than 1,200 individuals in small reserves in northeast India and Nepal. All of the above species are officially listed as Endangered under the Endangered Species Act of 1973.

The scientific evidence suggest that the African rhinos are now under severe threat. The southern white rhinoceros *(Ceratotherium simum simum)* was saved from total extinction by drastic measures of translocation to protected reserves. Its population has now recovered to such an extent that individuals can be translocated elsewhere, though the total world population is probable less than 3,000. The northern white rhinoceros *(C. simum cottoni)* has been reduced over the last 80 years by legal and illegal hunting and its range reduced to relict populations in the southern Central African Republic, Zaire, Uganda and Sudan. The northern white rhinoceros is listed as an Endangered Species.

The black rhinoceros *(Diceros bicornis)*, although still the most numerous of the world's rhinos, now appears dangerously threatened with extinction. As long ago as 1963, the Chief Game Warden of Kenya wrote that the black rhinoceros was "one of the species in most danger of extinction" (I.U.C.N., 1979). The best biological and commercial evidence suggests that the black rhino has significantly declined since that time.

Although figures as to the exact numbers of black rhinos in the wild are difficult to obtain, comparison of figures obtained over time by similar methods in the same areas give an indication of recent population trends. Extrapolation of these statistics show probable losses in Kenya of up to 95% of the black rhino population in Tsavo National Park, 85% in Amboseli and over 90% in Meru National Park over the last five to eight years. In Amboseli the once famous long-horned population of rhinos has been reduced from an estimated 52 in 1970, to 7 resident animals in 1979. Even in 1970 fears were being expressed that the population had been declining at 12% per year for the previous four years (Western and Sindiyo, 1972). The data that we have indicate that this trend is continuing. Only two years ago Meru National Park could have been regarded as the last stronghold of the rhino in northern Kenya but it now contains less than twenty specimens (Patrick Hamilton, pers. comm.).

The Service believes that there are presently fewer than 1,500 black rhinos in Kenya, less than 10% of the number present only ten years ago. This compares with an estimate of 6,000 to 9,000 specimens in Kenya's Tsavo ecological unit alone in 1969. The trend is also evident in other African nations. In Tanzania probable black rhino declines of 70% in Ngorongoro, 70–80% in Ruaha, 80% in Tarangire and 80–85% in Manyara over the last ten years are suggested by the data. Twenty-five rhinos were killed in Manyara last year alone (1979) and probably less than 12 are left alive now, of which perhaps three or four are females capable of reproduction.

Based on the available data, the Service believes that there are perhaps fewer than 15,000 black rhinos remaining in Africa and in the world.

A number of factors have contributed to the severe decline in rhino populations in general and black rhino numbers in particular. Perhaps the major reason why the black rhino has declined is trade in its parts and products. East African statistics on the legal export of rhino horn from 1950 to 1971 show that 1.56 tons were exported annually. From 1972 to 1976, the statistics show that 4.2 tons of rhino horn were exported legally from East Africa, a tremendous increase when compared with the figures from the earlier period. During the two years 1976 and 1977, official North Yemen statistics showed that traders imported an average of 7.6 tons per year of rhino horn. Since the average weight of rhino horn is approximately 3.5 kilos (about 7.7 pounds) per animal, over this two year period at least 4,000 rhinos were killed to provide for North Yemen imports alone. These statistics indicate the great number of rhinos that were taken to satisfy world demand for their parts or products.

In 1976, the black rhinoceros was listed on Appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (Convention). The Convention limits international trade in parts or products of species listed on Appendix I for nations party to the agreement, and the 1976 listing probably reduced pressure on the black rhinoceros from this source to some extent. However, the evidence indicates that the black rhinoceros has not significantly increased in numbers since the trade restrictions of the Convention went into effect. This is due, in part, to the fact that much of the rhino trade occurs between countries which are not parties to the Convention.

The black rhinoceros is also subject to illegal poaching. The price of rhino horn increased from $23 per kilo in 1969, to $112 in 1976, to $675 in 1978. The increased value in rhinoceros parts or products has stimulated illegal poaching, which has reportedly become both more widespread and sophisticated. In the past, spears, traps and poisoned arrows were the poachers' main weapons. Today the rhinos are generally shot. In some quoted examples the horns are then removed crudely with axes. They are transported by the poachers and sold to middlemen. At present, there is inadequate information on the transport routes out of East Africa, but some leave by dhows or aircraft.

The biology of the black rhinoceros also may be contributing to its demise. For a species that exists largely as solitary individuals at a naturally low density, the severe declines cause further problems by reducing the densities of individuals to such an extent that the probabilities of reproduction may also be greatly reduced. In addition, they are easy animals to stalk and those that are left are showing evidence of extreme disturbance in response to the harassment. The potential reproductive rate of the decimated populations may therefore also be lowered and some populations face total extinction without strong measures being taken.

In listing the black rhinoceros as an endangered species, the Service also relies on the fact that the species was added to Appendix I of the Convention. Recognition of the precarious status of the black rhinoceros by the party nations constitutes evidence that the species is Endangered under the Endangered Species Act.

### References

1. Hamilton, P. 1979. Status of the rhino population of Meru National Park. Unpublished Report.

2. Hitchens, P.M. 1975. The black rhinoceros *(Diceros bicornis* Linn.) in Zululand. S. Afr. J. Wild. Res. 8:71–80.

3. Hitchens, P.M. 1976. The status of the black rhinoceros, *Diceros bicornis* Linn., in the Zululand game and nature reserves. Proc. of Symposium on Endangered Wildlife in Southern Africa, Pretoria. pp. 54–68.

4. I.U.C.N., African Rhino Group. 1979. Rhinos—within and out of Africa. Unpublished Report. 9 pp.

### Summary of Comments

Section 4(b)(1)(c) of the Act requires that a summary of all comments and recommendations received be published in the **Federal Register** prior to adding any species to the List of Endangered and Threatened Wildlife.

In the October 1, 1979, **Federal Register** Proposed Rulemaking (44 FR 56618–56620) all interested parties were invited to submit factual reports or information which might contribute to the formulation of a final rulemaking.

All public comments received during the October 1, 1979, to December 30, 1979, comment period were considered.

A total of 12 letters containing comments were received. Two, one from the Peace Corps and one from the Department of the Army, commented only that they had no further information and were not involved in any projects that would affect the species. One, from Safari Club International, favored a listing of Threatened throughout most of the black rhino's range. The remaining 9 favored protection as proposed.

Dr. Kes Hillman (IUCN/SSC African Rhino Group):

Dr. Hillman supplied articles on the black rhino including the following new information:

(1) Rhino horn is being sold at about $675 a kilo;

(2) 1979 population estimates are less than 1,500 rhinos in Kenya and between 2,000 and 8,000 in Tanzania; and

(3) The Selous Game Reserve, Tanzania, may be secure from poaching but poaching has increased in the Parks and Reserves to the north. Poaching increased in Manyara from 2 in 1975 to 25 in 1978, with probably less than 12 rhinos remaining alive. In Serengeti, 6 poached rhinos were found in 1975, 24 in 1977. In Arusha N.P. poaching had increased from 1 animal in 1975 to 10 in 1977. At the end of 1978, 4 or 5 rhinos were still alive in the park. In Ruaha N.P., two were found dead in 1975, and 32 in 1977. In addition, Tarangire census figures show a decrease from 239 in 1976, to 55 in 1977, to 0 in December, 1978.

S. Dillon Ripley (Secretary, Smithsonian Institution):

Dr. Ripley verified the $675 per kilo price for rhino horn. He cited the *International Trade in Wildlife* (1979) Earthscan publication as the source.

Stefan Graham (Director, City of Baltimore Department of Recreation and Parks):

Mr. Graham provided information on the value of a single rhino horn selling in the range of $15,000. No sources were cited.

Thurman S. Grafton, D.V.M. (Executive Director, National Society for Medical Research):

Dr. Grafton indicated that there is no known scientific basis for medicinal use of rhino horns.

Seymore H. Levy (Legislative Vice President, Safari Club International): Mr. Levy agreed that the black rhinoceros was endangered in Kenya, but felt that populations in Zambia and South Africa were not. He feels that threatened status would be sufficient throughout most of its range. He indicated that listing would provide little benefit, since the reasons for its decline are beyond our control, i.e., poaching, land clearance and demand for rhino horn.

Safari Club also submitted additional information for southern and southwestern Africa. The information indicates a long term decline in the population and that the rhino is considered locally endangered but the overall present trend is for a population increase. They also cite evidence that present survey techniques are grossly underestimating actual populations.

Response: The Service realizes that present survey techniques tend to provide underestimates of actual

populations of rhinos. However, field workers generally take this into account and adjust figures upward. Surveys are conducted repeatedly in the same manner and thus show trends. This is all present survey techniques can hope to accomplish. Clearly, the trends are toward a population decline and poaching activity increases.

The Service must consider the status of the species throughout its entire range. Kenya and Tanzania make up a significant portion of the range of the black rhinoceros and clearly the populations are declining seriously in these areas. The Kenya population is near extinction; less than ten years ago it had populations similar to or greater than Tanzania's present population. Now, Tanzania is experiencing increased poaching pressure. If present and past trends continue, along with the increased value of rhino horn, the Tanzania population can be expected to be extinct in less than ten years.

An endangered species is defined in the Act as:

"Any species which is in danger of extinction throughout all or a significant portion of its range * * *"

In the Service's opinion, the black rhino is in danger of extinction throughout a significant portion of its range. Listing this rhino as endangered in parts of its range and threatened in others would be inconsistent with the Act's intent. Problems would also result for law enforcement officials since animals from different parts of the species' range could not be distinguished. Conservation policies and attitudes of the countries involved also may pose a threat to the species overall in that they differ and periodically change. Therefore, the Service feels it must designate the black rhino as endangered throughout its entire range rather than endangered in some areas and threatened in others as recommended by Safari Club International.

Rabi B. Bista (Ecologist, National Parks and Wildlife Conservation Office, His Majesty's Government of Nepal):

Mr. Bista supported the proposal based on the belief that it would provide additional safeguards for the Asian rhinoceroses whose horns are indistinguishable from those of the black African rhino.

The following correspondents provided no new information but favored the proposal:

Don D. Farst and Robert O. Wagner, American Association of Zoological Parks and Aquariums; Jane Risk, Animal Protection Institute of America; Wilbur B. Amand, Philadelphia Zoological Garden; and Gerald D. Aquilina, Buffalo Zoological Gardens.

After a thorough review and consideration of all the information available, the Director has determined that (1) the black rhinoceros is in danger of extinction throughout a significant portion of its range due to one or more of the factors described in Section 4(a) of the Act, and (2) listing this species as Endangered will provide it with some protection which may help ensure its survival.

### Effects of the Rulemaking

As noted above, the black rhinoceros is on Appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and Flora. Therefore, legal trade in the species is already regulated among nations that adhere to this Convention. Listing of the black rhinoceros as endangered under the Endangered Species Act of 1973 will not only provide an additional prohibition against importation of the species and its parts and products (such as hunting trophies) into the United States, but will also restrict transportation or sale in interstate or foreign commerce (16 U.S.C. 1538(a)(1); 50 CFR 17.21(a)). The other prohibitions of Section 9 of the Act will also be applicable, as well as restrictions on Federal activity jeopardizing the continued existence of the species, as contained in Section 7.

Under both the Convention and the Act, permits are available in certain instances for scientific and other specified purposes such as hardship situations. However, given the present precarious status of the black rhino, the Service believes that the issuance of hardship permits for the importation of any sport hunting trophies is inconsistent with the conservation of the species at this time, and therefore intends to deny all such applications.

Listing of the black rhinoceros as endangered will also allow the United States to attempt to: (1) Make the countries in which the black rhino is resident more aware of the importance of providing strong and immediate protection for the species; (2) make available to scientists of other countries the results of rhino research undertaken under U.S. sponsorship in such forms as to be helpful to them in developing their own research plans; (3) encourage African countries to undertake comprehensive surveys of the status and distribution of this species; (4) encourage African countries to establish additional reserves; (5) encourage reintroductions into areas where black rhinos were once distributed; (6) consult with U.S. Federal agencies contemplating any actions which might jeopardize the continued existence of the species; (7) provide, if requested, U.S. technical expertise for establishing management and recovery programs; and (8) possibly provide funds if available, to assist in the management and recovery of the species.

### National Environmental Policy Act

An Environmental Assessment has been prepared in conjunction with this rule. It is on file at the Office of Endangered Species, and may be examined during regular business hours. This assessment forms the basis for a decision that this is not a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969.

The primary authors of this rule are John L. Paradiso and William Gill, Office of Endangered Species, 1000 N. Glebe Road, Arlington, Virginia 22201 (telephone (703) 235–1975).

**Note.**—The Service has determined that this document does not contain a significant proposal requiring preparation of a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Accordingly, the Service amends 50 CFR Part 17 by adding the following to the list in § 17.11(i), alphabetically under "MAMMALS".

| Species | | Historic range | Vertebrate population where endangered or threatened | Status | When listed | Critical habitat | Special rules |
|---|---|---|---|---|---|---|---|
| Common name | Scientific name | | | | | | |
| Rhinoceros, black | *Diceros bicornis* | Sub-Saharan Africa | Sub-Saharan Africa | E | | NA | NA |

(Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.)

Dated: July 7, 1980.

Lynn A. Greenwalt,

*Director, Fish and Wildlife Service.*

[FR Doc. 80-20840 Filed 7-11-80; 8:45 am]

BILLING CODE 4310-55-M

## 50 CFR Part 17

## Endangered and Threatened Wildlife and Plants; Listing of the San Marcos Salamander as Threatened, the San Marcos Gambusia as Endangered, and the Listing of Critical Habitat for Texas Wild Rice, San Marcos Salamander, San Marcos Gambusia, and Fountain Darter

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Final rule.

**SUMMARY:** The Service determines the San Marcos salamander (*Eurycea nana*) to be a Threatened species and the San Marcos gambusia (*Gambusia georgei*) to be an Endangered species, and determines the Critical Habitat of the Texas wild rice (*Zizania texana*), San Marcos salamander (*Eurycea nana*), San Marcos gambusia (*Gambusia georgei*), and fountain darter (*Etheostoma fonticola*). All four species are known only from the San Marcos River in San Marcos, Texas. This action is being taken due to decline in population sizes of the species, low population numbers, and various threats to the species, such as the possibility of lowered water tables, pollution, bottom plowing, and cutting of vegetation. This rule provides the full protection of the Endangered Species Act of 1973, as amended, to these species, with the single exception that the San Marcos salamander has been listed with special rules (§ 17.43) which allow taking in accordance with Texas State law.

**DATES:** This rule becomes effective on August 14, 1980.

**ADDRESSES:** Questions concerning this action may be addressed to: Director (OES), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Comments and materials relating to the rule are available for public inspection by appointment during normal business hours at the Service's Office of Endangered Species, Suite 500, 1000 N. Glebe Road, Arlington, Virginia.

**FOR FURTHER INFORMATION CONTACT:** Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235-2771).

**SUPPLEMENTARY INFORMATION:**

### Background

On August 2, 1977, the U.S. Fish and Wildlife Service published a notice in the **Federal Register** (42 FR 39119-39120) to the effect that a review of the status of 10 amphibians was being conducted. The San Marcos salamander (*Eurycea nana*) was included as part of the review. As a result of the notice of review, responses were received from the State of Texas and professional biologists. The comments and supportive documents were reviewed and a summary was presented in the July 14, 1978, proposed rule to list this species as Threatened with special rules which would allow taking under State law (see the **Federal Register** 43 FR 30316-30319). These special rules have been promulgated because take is not seen as a threat to the continued survival of the species, since the animals are safeguarded by the owners of Spring Lake and through efforts of the Texas Parks and Wildlife Department.

The San Marcos gambusia (*Gambusia georgei*) was proposed for listing as Endangered, with a segment of the San Marcos River as its Critical Habitat, on July 14, 1978 (43 FR 30316-30319). On March 6, 1979, the Service withdrew all pending Critical Habitat proposals in compliance with the Endangered Species Act Amendments of 1978 (44 FR 12382—12384). Critical Habitat was reproposed for these two species, in conformance with the requirements of the 1978 Amendments, on March 19, 1980 (45 FR 17888-17891).

Texas wild rice (*Zizania texana*) and the fountain darter (*Etheostoma fonticola*) were listed as Endangered on April 26, 1978 (43 FR 17910-1791?) and on October 13, 1970 (35 FR 16047), respectively. Critical Habitat for the latter two species was proposed for the first time on March 19, 1980 (45 FR 17888-17891).

The present rule finalizes the listing of the San Marcos salamander (*Eurycea nana*) as Threatened, and of the San Marcos gambusia (*Gambusia georgei*) as Endangered; and determines the Critical Habitat of the San Marcos salamander, San Marcos gambusia, Texas wild rice (*Zizania texana*) and fountain darter (*Etheostoma fonticola*).

In conjunction with the March 19, 1980, proposal of Critical Habitat, the Service held a public meeting on April 8, 1980, and a public hearing on May 12, 1980, in San Marcos, Texas, to explain the proposal, answer public questions, and to solicit additional information on the biology of the four species and the economic effects of a Critical Habitat designation on Federally authorized and funded projects in the area. All public comment periods were closed on May 19, 1980.

The greatly restricted distribution of these four species and apparent intolerance of habitat conditions outside the immediate vicinity of this spring system gives evidence to their vulnerability. Increased groundwater utilization in the near future and the probability of contaminants increasing in almost direct ratio to expanding real estate development activity over aquifer recharge zones constitute serious potential threats to the continued existence of the species. A series of drought years approaching 1956 drought conditions, when coupled with the effects of increasing human impact, could precipitate extirpation of these species from major segments if not all of their currently known range.

The biology of these four species was reviewed in the original proposals as well as in the proposals of Critical Habitat. Persons who desire to review these data should consult these documents. The threats to the species and their environment are further specified in these proposals and in the Critical Habitat section of this rule.

### Summary of Comments and Recommendations

Section 4(b)(1)(C) of the Act requires that a summary of all comments and recommendations received be published in the **Federal Register** prior to adding any species to the list of Endangered and Threatened Wildlife and Plants.

### Proposed Listings with Critical Habitat

In the July 14, 1978, **Federal Register** (43 FR 30316-30319) the Service proposed to list the San Marcos salamander (*Eurycea nana*) and the San Marcos gambusia (*Gambusia georgei*) with Critical Habitat. The Critical Habitat portion of this proposal was withdrawn on March 6, 1979 (44 FR 12382-12384) and reproposed on March 19, 1980 (45 FR 17888-17891).

Comments received through June 15, 1980, on the proposed listing of the San Marcos salamander as Threatened with special rules and the San Marcos gambusia as Endangered are

summarized below. A total of 9 comments were received, 1 from a Federal agency, 2 from conservation organizations, and 6 from individuals.

The Bureau of Reclamation (now Water and Power Resources Service) indicated that according to their studies the San Marcos spring flow should not become intermittent until the year 2005. They also indicated that pumping from the aquifer at depths greater than the spring outlets could maintain the spring flow indefinitely. They suggested that if the Service determines Critical Habitat it should develop a management plan which considers augmenting spring flow through pumping. They also suggested that the Service conduct additional studies on the San Marcos gambusia. The Service has contracted for additional studies on the San Marcos gambusia regarding its existence and distribution in the San Marcos River.

The New York Zoological Society and the Lone Star Chapter of the Sierra Club both supported the listing and the Critical Habitat delineation. Three biologists familiar with the San Marcos River ecosytem responded supporting the proposed listing and delineation of Critical Habitat. One biologist suggested that a recovery plan be developed for the San Marcos gambusia.

Three individuals responded in support of the proposal and one opposed. The individual who opposed the proposal did not provide any biological data to support his position. He felt that the water should be used for humans and not Endangered species.

**Designation of Critical Habitat for Four Species**

Comments were also received regarding the proposal of Critical Habitat for the San Marcos salamander, San Marcos gambusia, Texas wild rice, and fountain darter. All public comments submitted between March 19, 1980, and June 15, 1980, were considered. These comments are summarized below.

A total of 24 comments were received in writing by the Service regarding the proposal of Critical Habitat. In addition, 15 comments were presented at the public hearing on May 12, 1980. Of all comments, 15 were opposed to the Critical Habitat proposal, 16 supported the proposal, and 8 addressed specific concerns but did not state support or opposition to the proposal.

There were five comments which added new information with regard to the biology of the San Marcos river and the species in question. Two of the commentors supported the proposal of Critical Habitat, 2 were opposed, and one did not state support or opposition.

With regard to the Taxas wild rice, Dr. William H.P. Emery of Southwest Texas State University reports that "preliminary estimates place the 1980 'area of vegetative dominance' at 750 $m^2$. This is down from 1131 $m^2$ measured in 1976 and also from the measured area in 1978 which was 980 $m^2$."

Dr. Emery further states: "While I support the critical habitat designation, together with all proposals that offer hope of retarding the rapid decline of these species, I do not believe that additional regulations alone will solve the threatened species problem. Much, much more is required than simple legislative acts and legal regulations.

"I believe that the FWS should seriously consider if 'rule making' by itself is sufficient to save the threatened species. Certainly the data currently at hand based on the status of Texas wild rice would tend to indicate that neither the Endangered Species Act, nor the designation of Texas wild rice as an endanger (sic) species has helped to stem the populations (sic) decline. I believe a recovery team might provide a positive aid to the plants (sic) population, while alerting landowners and officials that the Fish and Wildlife Service was truly concerned with saving the threatened plants of this species.

"I would also suggest that the 'local fears' and opposition to the current proposal arises directly from a poor job of public education. Much more effort should be expended to cultivate public awareness before the promulgation of additional rules regarding the threaten (sic) species and their habitats."

With regard to establishment of Texas wild rice populations in areas outside of the species' historical range, Dr. Emery states: "I believe that the concept of translocation of endanered species only within the 'historical range of the species' is detrimental to the survival of Texas wild rice. Texas wild rice is endemic to a small segment of the San Marcos River lying within the city limits of San Marcos. It cannot possibly survive the pollution, the weed cutting, the river improvement projects, the silt deposition, the recreational activities, the pumping of water, and dozens of other biological and physical factors that are impacting the native wild rice population as the human population of this area increases. Survival of the species may well depend on location of a wild rice population in some location outside the San Marcos area. I have already demonstrated that such translocations are possible. Some of the translocated plants having survived more than 3 years at their new locations.

"New habitats, at least for the Texas wild rice, should be given full consideration."

Dr Emery also feels that FWS Office of Endangered Species personnel should:

(a) (Recognize) the species they are assigned to protect and monitor.

(b) They should, on occasion, have these personnel making on site inspections, of the endangered species populations.

(c) They should address themselves promptly to citizen's complaints to determine whether the complaints are valid or invalid."

Dr. Samuel S. Sweet, University of California, Santa Barbara, noted his support of the Critical Habitat proposal, and called the attention of the Service to the "probable occurrence of *Eurycea nana* in Comal Springs, Comal County," which he considers conspecific with the San Marcos Springs population despite slight differentiation between populations. He notes that "this population is in good condition, and that it is less threatened with disruption than is the San Marcos Springs population."

Dr. Camm C. Swift, Natural History Museum, Los Angeles County, California, notes the occurrence of a disjunct population of fish, *Notropis chalybaeus*, in the upper San Marcos River. He points out that though the species is not threatened due to its occurrence in Louisiana and extreme eastern Texas, "its disjunct distribution in the San Marcos is part of the evidence for the distinctness and isolation of this river's fauna."

One person at the public hearing stated that the gambusia is not limited to the San Marcos River, but could be found in many places, including Alabama, Georgia, and other areas in Texas.

The Guadalupe-Blanco River Authority states that "other studies have found greater populations of certain species of concern to the Fish and Wildlife Service in evidence."

Several commentors offered opinions, but it was not clear whether they supported or opposed the Critical Habitat proposal:

Herbert K. Durand notes that "many plants that are rare or endangered can be ameliorated by propagation and transplant to new areas," and wonders if the Department could "protect the current seed crop and obtain seeds for experimental transplant to other areas for close observation and increase." He also suggests that commercial production of Texas wild rice "may be a good way to preserve this southern ecotype."

Another person at the public hearing urged the organizations, agencies, and personalities involved in this matter to use "careful thought and the weighing of all the facts and all of the considerations" in dealing with "one of this planet's most precious resources" (the San Marcos River).

Dr. Glenn Longley, Southwest Texas State University states: "I do feel that this proposal will serve to bring the status of these species to the attention of those water managers in the region. I think that a logical approach to maintaining habitat in the San Marcos River would be to make contingency plans for supplementing the flow by pumping when water levels in the springs fall below historic low levels. Studies should be conducted on the adaptability of these species to artifical flow conditions and possible transplantation to other springs in their historic range.

"As a biologist who has worked on the San Marcos River and on 'Endangered Species' in this area, I would support the idea that the San Marcos gambusia is in the greatest danger of becoming extinct. The Texas wild rice has been cultivated artificially at Southwest Texas State University and is planted in other springs in the region. The San Marcos salamander and the fountain darter are threatened at this time only by the potential stoppage of spring flow."

Sixteen comments were submitted in support of the proposed Critical Habitat designation. These comments generally addressed the unique nature of the species and of the San Marcos River itself and of the necessity of preserving these elements for their own well-being as well as for the survival of the entire area.

Mr. Scott McGehee, Director of Operations of Aquarena Springs (which owns Spring Lake) stated the interest of his company "in helping to prevent the extinction of the four endangered species which are found in our area." He further states that: "We are very protective of all flora and fauna that has its habitat in our lake area. Since the area is privately owned, we are able to prevent most activities which endanger the ecology of the lake. The greatest danger to these species is people pollution, primarily diving. Although it is a great sport and excellent recreation, it is our biggest threat. Not only do the divers disturb the bottom mat but they also enter and leave the water in areas where the wild rice growns. There are several state and local laws that make skindiving illegal in our area; enforcement of these is poor to none at best.

"In our efforts to maintain the lake, we do trim and cut plant life. We cut quite often and try to keep the cuttings down to as small a quantity as possible. If the lake was not cut, the plant life would soon form a mat on the surface and would turn the bottom (which is where most of these species dwell) into a virtual desert or wasteland. We do avoid the areas in the lake where the Texas wild rice is growing.

"In recent years outdoor recreation has increased tremendously. Many of the areas which are the niches for the endangered species are also ideally suited for swimmers in the San Marcos River. The shallower areas are destroyed as people enter and leave the water for swimming, boating, and skindiving. Since these are basically public areas, this problem will be hard to solve."

Several of the commentors supporting the Critical Habitat proposal felt that maintaining high quality water flow from San Marcos Spring would benefit not only the four species in question, but the human population of the area as well.

Dr. Robert J. Edwards, University of Texas at Austin states: "It would indeed be tragic for this unique part of our national heritage to be lost because of the insensitivities and greed of so few. The fact remains that the well-being of the city of San Marcos (and the rest of the cities bordering the Edwards Underground Aquifer) is intimately tied to the well-being of the aquifer. When the water is gone, the healthy economies of the area will also suffer a similar fate."

Dr. Clark Hubbs, University of Texas at Austin, commented along similar lines: "I am deeply troubled by the opposition to the proposed Critical Habitat designations for the Texas wild rice, San Marcos salamander, San Marcos gambusia, and fountain darter (March 19, 1980; 45 FR 17888–17891 as amended by 45 FR 27457–27458). Much of that oppostion stems from the philosophical position that economic growth must take precedence over the integrity of biological systems. That philosophy overlooks the inevitable need to maintain a viable environment and comments such as those contrasting the welfare of a million humans with that of a river forget that eventually the environmental resources will be exhausted and the welfare of two million humans would then be impacted. Those hard decisions will eventually have to be made and deferral will not make that decision any easier.

"The central issue of all of the debate is whether it is best to insure a minimum flow rate in the San Marcos River. Those individuals opposing critical habitat designation do that on the assumption that the demise of the river is a foregone conclusion. I have been extensively involved with studies of biological interactions in the San Marcos, initiating in 1938 and see no reason for the necessity to assume the river is to cease flowing. A variety of options are available in the Texas Water Development Board's report which is the basis of much of the pessimistic viewpoint. In addition to those alternatives, the Soil Conservation Service subsequently has proposed a flood control project that when activated will substantially increase aquifer recharge. When that project is completed the pessimistic view will be inappropriate.

"As I stated above, I have been involved in many studies of the biota of the San Marcos River. I have also had occasion to make similar observations on the biology of other waters and am convinced that the San Marcos is among our most unique ecosystems (world-wide). As a biological (and recreational) resource it has enormous financial and aesthetic value. That value cannot be overlooked in your consideration. No opponent has addressed the question 'Why is the city of San Marcos there?' The answer is self evident."

Mr. Rick Ward, student body representative at Southwest Texas State University makes the following comments concerning the statements made at the public hearing on May 12, 1980: "In representing my organization last Monday night, I was somewhat amazed at the general opposition to establishment of critical habitat areas on the river. The prepared statements by area groups such as the Guadalupe-Blanco River Authority, the Edwards Underground Water District, and the Nueces River Authority did not surprise me. These groups are obviously only interested in their continued water supply from the Edwards Aquifer, and not the well-being of the San Marcos River. The local residents' opposition to the establishment of critical habitat areas continues to baffle me. Their concern apparently arises from the fact that recreational use on the river could be limited. This possibility also concerned myself at first, and this I contribute to a lack of facts that were available to the public before the hearing on May 12. The question and answer meeting held one month before this hearing was not publicized to my knowledge and so factual information was scarce. After hearing Dr. James Johnson's [U.S. FWS] proposal, however, it became apparent to me that

the protection of the listed species and their habitat was the only concern of the Fish and Wildlife Service. They have no intention of limiting individual enjoyment of this resource by tourists or local residents.

"The only reason for opposition to the proposal which I repeatedly heard that night, was the economic impact of Federal regulation. This is always a major concern with any new action in our society today and deservingly so. It is my belief, however, that we cannot allow a setting aside of resource protection standards until more favorable economic conditions prevail. It is time we realized that environmental protection is a social responsibility to ourselves and not just an economic luxury.

"There seems to be a general belief that if present use of Edwards Aquifer Water continues, the San Marcos River will cease flowing as we know it within 20 to 40 years. Many people at the hearing seemed willing to accept this fact as if nothing could be done about it. Hopefully by establishing the river as a critical habitat, Federal regulation will provide for a longer life for both the species and the San Marcos River."

Opposition to the Critical Habitat proposal addressed three basic issues:

1. Opposition to proposal because of resulting Federal restrictions on recreation and tourism in the area.

2. Opposition to proposal due to lack of economic impact information.

3. Opposition to proposal due to resulting Federal restrictions on groundwater pumping from aquifer to maintain high quality spring flow.

With regard to the proposal's impact on recreational use of the San Marcos River, one person at the public hearing stated his strong opposition to anything "that would have any bearing on our recreational use (of the San Marcos River) in the City of San Marcos."

Beth Morrisset, San Marcos Chamber of Commerce, stated the opposition of the River Awareness Task Force and the Executive Committee of the San Marcos Chamber of Commerce to the Critical Habitat proposal, based on the proposal's projected significant impact on the tourist industry and on recreational use of the river by the Southwest Texas State University and the citizens of San Marcos: "We want to be certainly assured that by this designation the economic and recreational attributes of this portion of the San Marcos River would not be detrimentally affected. We are very much concerned that the possibility exists that the FWS may acquire land or interests for the conservation of the endangered species and that this action may adversely affect the recreational use of the San Marcos River.

"If, in the long term effect, the possibility that by lowering the water level in the Edwards Aquifer drastically and the destruction of essential habitat is caused; then we urge strong conservation of the water use from the Edwards Aquifer be enforced by the Regional Water Resource Agencies or other agencies as deemed necessary."

In the opinion of one commentor at the public hearing: "This river ought to be designated as a critical habitat for the students of SWT and for the citizens of San Marcos and for all the tourists who come here to use the river. Now it is obvious to anybody who goes down to the San Marcos River that it is being taken care of, that there is continued concern shown by this school and by canoe rentals along the river to keep it clean and to try to maintain the natural habitat. Now I believe we haven't abused our rights to use the river and that they should not be taken away from us, so I suggest that the government who is already spending too much money researching, spend more money into cleaning up this river—channel the funds into supplementing some river clean-ups that we hold every season and make this river a place that both the people can enjoy as well as the Texas wild rice and the salamander. I think we can all live in this river together and I think if we all try to pitch in and help its going to work out, but I don't think there is a person in this room that seriously believes that the preservation of those two or three animals and the Texas wild rice precludes the enjoyment of the river by all of the citizens here and the tourists that come here because we only have about 20 years left that the river is going to flow. We might as well enjoy it."

Eleven commentors expressed the opinion that the economic impacts of maintaining sufficient spring flow to maintain Critical Habitat were not properly addressed in the economic and environmental assessment portions of the proposal.

One person at the public hearing stated: "We're very concerned that the Fish and Wildlife Service would not take the time to develop in great detail the economic impacts that are very obvious whenever you begin to infer that you are going to maintain a steady state flow in springs or sufficient flows so that species could be preserved. Certainly, I think we are all concerned about endangered species and yet in the final analysis, before we take any actions whether it is to preserve or whether to simply recognize that we are going to loose some species, adequate studies must be made, the law has now provided for that and I think it is critical that those studies be made before this proceeds further, so I would implore that you proceed with those studies and if it is to proceed beyond that, that those studies be brought back to the people in this area for review and comment before final decisions are made by the Secretary."

A statement submitted by the Guadalupe-Blanco River Authority addresses the same issue: "Our review indicates that 'the environmental impacts of the proposed action' and 'the alternatives of the action' contained in the draft are inadequate. The basic assumption, necessary to protect the species identified by the Fish and Wildlife Service, is that San Marcos spring flow must be maintained to protect the habitat. Historical spring flow and projections of future withdrawals from the Edwards Aquifer which is the source of the springs, indicate extended periods of no discharge from the springs in the future. The impact of limiting withdrawals from the Edwards Aquifer on the regional economy and on surface water resources were not addressed as is required in Pub. L. 93–205, as amended.

"Based on numerous studies by the Authority, the Texas Department of Water Resources, the U.S. Water and Power Resources Service and others, water supply to meet future municipal, industrial, and agricultural needs in the Guadalupe River Basin and adjacent river basins will require the full use of the Edwards Aquifer and the development of all surface water sources to supplement existing ground water resources. The commitment of a major portion of the Edwards Aquifer water supply to habitat maintenance in the San Marcos springs area would have a drastic effect on those people presently dependent on the Aquifer, would require the immediate development of additional surface water resources and would preclude future economic development and growth of the region."

The U.S. Water and Power Resources Service also commented on this point: "Reduced and/or intermittent flows of the springs feeding the San Marcos River or the Edwards Aquifer are described as potential threats to the Texas wild rice, San Marcos salamander and gambusia, and the fountain darter. It would be appropriate for the environmental assessment and economic analysis to address more fully the long-term impacts of maintaining a constant flow in the San Marcos River, particularly as this may necessitate the

artificial maintenance of stream flows. The impacts of critical habitat designation upon the future utilization of waters from the Edwards Aquifer, which is presently providing municipal, industrial, and irrigation water for the area, need to be assessed."

The Texas Department of Water Resources, San Antonio City Water Board, San Antonio River Authority, Guadalupe-Blanco River Authority, Edwards Underground Water District, and Mr. William P. Clements, the Governor of Texas, feel that the economic effect of the proposed Critical Habitat would be substantial, thereby constituting a "significant" rule, requiring an environmental impact statement and regulatory analysis. The Edwards Underground Water District identifies those who will be affected by the Critical Habitat proposal:

1. All who pump water from the Edwards Aquifer.
   a. Pumping for municipal/industrial use.
   b. Pumping for agricultural use.
   c. Pumping for maintenance of fresh water flow in rivers.
2. All municipal governments receiving Federal funds.
3. Federal agricultural agencies.
4. Military bases.
5. Water resource development projects, both upstream and downstream of the Edwards Aquifer.
6. All discharges of waste water in the drainage area of the recharge zone.

Eight commentors expressed opposition to the Critical Habitat proposal based on their concern that Federal restrictions on groundwater pumping would be imposed with the Critical Habitat designation.

This concern arose due to the lack of discussion in the March 19, 1980, proposal of regulatory mechanisms to maintain spring flow. As stated by the Edwards Underground Water District, the Guadalupe-Blanco River Authority, the San Antonio River Authority and the San Antonio City Water Board: "Throughout the FWS proposal presented in the **Federal Register**, the necessity of maintaining spring flow for all four species is stated repeatedly. Yet, the procedure or regulatory mechanism for accomplishing this flow maintenance is never addressed. Unless the FWS proposes the control of pumping for all current uses (which we would vigorously oppose) and/or increase recharge by increasing rainfall, there is nothing that they can do to insure the maintenance of water levels and the resulting spring flow at San Marcos.

"The Regional Water Resource Agencies *are* working to increase recharge, improve water use efficiency, and develop supplementary water sources. This leads to the conclusion that if the FWS does *not* intend to somehow regulate pumping, the proposed Critical Habitat designation is unnecessary and ineffective, and therefore, should not be made."

The Nueces River Authority is also opposed to the concept of Federal regulation of underground water pumping: "* * * it it is quite possible that FWS could effectively regulate pumping from the Edwards Aquifer by convincing other Federal agencies to withhold funding and financial support programs throughout the Edwards Aquifer region from any farmer, rancher, businessman, industry, or municipality which uses Edwards Aquifer water and receives Federal funds from any source until these people are persuaded to reduce pumping from the aquifer on the basis that these Federal programs encourage pumping from the Edwards Aquifer which in turn conflicts with spring flow at San Marcos."

One commentor at the public hearing stated: "I am opposed to this designation by U.S. Parks (sic) and Wildlife because somehow we seem to forget about the human species from time to time and under this proposal limit his available water supply. Even though the Edwards Underground Water District and individual counties comprising the Edwards Underground Water District have spent millions of dollars to preserve, protect and recharge the Edwards Underground Reservoir. This was taxpayers money. I sometimes get the impression we are unconscientiously (sic) drifting in towards the Hindus religion—worshiping a plurality of gods, looking at cows as sacred animals and regarding certain rivers and pools of water as sacred."

Five commentors remarked that sufficient regulatory mechanisms exist in the area of concern to protect water quality and quantity.

Robert Farrington, Jr., of the Greater San Antonio Chamber of Commerce stated in this regard: "The Chamber has long been interested in insuring that San Antonio and the surrounding area has an adequate quality and quantity of water. Current local, Federal, and state regulatory mechanisms to protect the water supply of well over one million persons. However, designation of a Critical Habitat for San Marcos Springs would jeopardize the delivery of water to our area citizens and businesses."

The Edwards Underground Water District further expanded on this theme: "In 1959, the Texas Legislature empowered the Edwards Underground Water District with the responsibility 'to conserve, preserve, protect, and increase the recharge of and prevent the waste and pollution of the underground water.' The protection of the water in the Edwards Aquifer, both quality and quantity, has consistently been the primary activity of the Edwards Underground Water District.

"The Edwards Underground Water District, along with other local and state water resource agencies are vitally interested in protecting the quality and quantity of the water within the Edwards Aquifer *and* insuring an adequate water supply for all persons and purposes of the region. Because of our concern for the water supply, we are opposed to the proposed Critical Habitat designation.

"One of the factors used to determine whether a species is endangered or not is the presence or absence of regulatory mechanisms adequate to prevent the decline of a species or degradation of its habitat. An abundance of local, state, and Federal regulatory mechanisms address the protection of the water quality of the Edwards Aquifer. While not regulatory in nature, the Edwards Underground Water District is in the continuous process of developing and carrying out projects to increase the recharge to the Edwards Aquifer. All local water resource agencies have stressed the importance of proper water conservation and the need to develop supplemental water supplies for this region. Even with all of these efforts there can be no firm guarantee that at some point in the future, the water level in the Edwards Aquifer will not drop to the point that the San Marcos Springs stop flowing."

Two people commented generally on undefined impacts on federal funding of unspecified projects. A flood control project for the San Marcos area was cited. The Service assumes that the commentor was referring to the Upper San Marcos River Watershed Plan which was the subject of a Section 7 consultation, as discussed below. The second commentor proposed three hypothetical situations, and inquired as to the resulting Federal involvement.

Three people commented that the designation of Critical Habitat on the San Marcos River was useless, since the water supply was projected to last only another 20 years, and increased human demand on the water supply would use it all anyway: "Now according to the testimony of Mr. Johnson and everyone else in the Edwards Underground Water District that the use of the river is limited, at best, to 20 years at which time demands upon the river by the City of San Antonio and possibly projections about a million and a half people that

will be living on the Edwards Aquifer * * * will make a more significant demand from the Edwards gives you a choice of either providing water for individuals or providing water for the Texas wild rice. Even though you reach a point in time when decisions have to be made, no one can really say that you are going to protect rice, protect darters, salamanders, and gambusia and let the people do without water. The people will take the water, so you are trying to do a fruitless thing. You are trying to limit the use of the river for approximately 20 years when your designation will not mean anything."

One commentor at the public hearing made several additional points:

1. The Greater New Braunfels Chamber of Commerce never heard of the public meeting and wasn't able to properly prepare.

2. That animal "habitat has to move with the environment, it cannot stay stationary and it cannot be designated and it cannot be depended upon constantly for a source of life for the animal kingdom."

3. That prohibition of mowing Texas wild rice in the San Marcos springs would be detrimental to the springs since "we would choke it up so tight that there would be nothing there in a very short time."

Finally, one commentor at the public hearing questioned the economic value of the Texas wild rice: "I would like somebody to explain to me the economic values of the wild rice that's grown in the San Marcos River. If I had collected every seed that I've seen in that 55 years, you wouldn't have two gallons."

**Discussion and Conclusions**

The Service acknowledges Dr. William Emery's updated information on the vegetative area occupied by the Texas wild-rice, and agrees that legislation alone will not solve the threatened species problem. Federal listing does, however, make plant species eligible for recovery efforts, and designation of Critical Habitat serves to alert Federal agencies of a significant area which they may not adversely modify by their actions. With regard to the need "to cultivate public awareness before the promulgation of additional rules," the Service attempts to give the public opportunity to ask questions and submit comments through the public meeting, public hearing, and public comment process. The Service also acknowledges Dr. Emery's concern about the welfare of the Texas wild rice in San Marcos. However, the policy of the Service is to reestablish listed species in the wild within their historical range. The Service believes that every effort must be made to preserve in a wild state all species within their historical ranges. The Service feels that any endorsement of a transplantation policy could be overutilized as a simplistic approach to habitat and species preservation.

The Service acknowledges Dr. Samuel Sweet's information on a population of San Marcos salamanders (or close relatives) in Comal Springs. Because specific information concerning this population is not presently available, consideration of the population will have to be deferred to a later time when additional Critical Habitat areas may be proposed.

Dr. Camm Swift's report of a disjunct population of fish species, *Notropis chalybaeus*, does indeed emphasize the unique quality of this river ecosystem.

In response to the two commentors who know of other populations of the species in question, the Service does not now have sufficient information to ascertain the existence of these populations, but requests supporting biological data so that appropriate action, such as proposal of additional Critical Habitat areas or delisting or reclassification of species, be initiated if warranted.

The Service refers Herbert K. Durand to the response to Dr. William Emery's comment regarding transplantation of Texas wild-rice.

The Service acknowledges that the San Marcos River is "one of the planet's most precious resources", and pledges to carefully examine all considerations in making decisions which will affect the river system.

Dr. Glenn Longley's suggestions to conduct studies on species adaptability, possible transplantation within the species historical range, and to form contingency plans to maintain habitat when water levels are low, are good ones. The Service wishes to note, however, that only the fountain darter has been known historically outside of the Upper San Marcos River. The Service also emphasizes that all four species have been determined to be either threatened or endangered in their native habitat.

The Service acknowledges Aquarena Springs' efforts to conserve the species in question, and would appreciate its continued efforts in this regard. The Service also acknowledges Dr. Robert J. Edwards, Dr. Clark Hubbs, and Mr. Rick Ward for their long letters supporting the preservation of the species and river system, as well as the others who attended the public meeting and/or hearing, or wrote regarding this proposal.

Many of those who spoke in opposition to the proposal did not seriously question the status of the four species or the potential for their decline. Instead, they voiced concern at the impact of the designation of Critical Habitat on their activities and future use of groundwater in the area around San Marcos. Actually, there may be many kinds of actions which can be carried out within the Critical Habitat of a species which would not be expected to adversely affect the species. Indeed, no activity is automatically excluded. This point is poorly understood by much of the public. There is widespread and erroneous belief that a Critical Habitat designation is somewhat akin to the establishment of a wildlife refuge and automatically closes an area to most human uses. A Critical Habitat designation applies only to Federal agencies, and is an official notification to these agencies that their responsibilities under Section 7 of the Endangered Species Act are applicable in a certain area.

The Act provides no legal means of prohibiting the activities of private landowners, such as excluding people from the Critical Habitat who are not involved in direct taking of the species ("taking" prohibitions do not apply to plants). In this regard, the designation of Critical Habitat will not impose restrictions on private recreational use of the San Marcos River. The Service has no intention or authority to limit recreational use of the river, providing it does not involve taking or harassing of the fish or salamander (special regulations have been determined in conjunction with this rule to allow taking of the San Marcos salamander in accordance with Texas State law).

The Service wishes to emphasize that it will work in close cooperation with any agency to minimize impacts of the present rules on future developments in the San Marcos area. No automatic limitations are imposed by a designation of Critical Habitat. It does, however, assist Federal agencies in insuring that their actions are not likely to jeopardize the continued existence of the species.

During the extensive public comment period and associated meetings and hearings, no Federal activities were pinpointed which would be affected by such a designation. In addition, Federal agencies which were contacted were unable to identify any adverse impacts. The Service believes that the four species and the people residing in the area can coexist with minimum adverse impact on future growth.

In reference to those concerned with the economic impact of this action, and with Federal regulation of water in the

Edwards Aquifer, the Service makes the following comments. The Edwards Underground Aquifer covers a huge geographical area and its water is the source of an economy which sustains almost one million people. The Aquifer has not, for reasons seen below, been listed as the Critical Habitat, only the body of the stream.

The Service does not foresee that the listing of Critical Habitat will prevent the expansion and growth of the economy supported by the Aquifer or prevent Federal funds from going into this area. The listing action is not foreseen to lead to far reaching controls upon Edwards Aquifer water users.

The procedure or regulatory mechanisms for maintenance of flow on the San Marcos is not addressed because the spring is determined by water levels in the Edwards Aquifer. These water levels are determined by recharge to the Aquifer, pumping usage, and spring discharge at other locations. Recharge to the Aquifer is determined by rainfall. Pumping usage is determined by rainfall and water needs for agricultural production and for municipal and industrial purposes. Most of these actions proceed without the direct involvement of Federal funds.

The Texas Department of Water Resources has responsibility for assuring that the long-range water supply needs of Texas are met. The Department, from its own statements, has long recognized that the San Marcos Springs area is unique, having unique environment and water resource characteristics, including unique aquatic ecosystems. The Department's long-range planning has taken the spring flow and habitat concerns into account in its water supply projections for the areas, and has recommended to local units of government and the public at large that the area needs to invest in additional surface water supplying facilities to better meet the long-range economic and environmental needs of the area through conjunctive ground-water and surface-water systems. Progress is being made to implement these recommendations.

An abundance of local, State, and Federal regulatory mechanisms address the protection of the water quality of the Edwards Aquifer. While not regulatory in nature, the Edwards Underground Water District is in the continuous process of developing and carrying out projects to increase the recharge to the Edwards Aquifer. All local water resource agencies have stressed the importance of proper water conservation and the need to develop supplemental water supplies for this region. Even with all of these efforts there can be no firm guarantee that at some point in the future, the water level in the Edwards Aquifer will not drop to the point that the San Marcos Springs stop flowing. Further, despite these local regulatory mechanisms, Critical Habitat designation is necessary to adequately safeguard the habitat of the species.

Only Federal action is impacted by the designation of Critical Habitat. Critical Habitat designation has no implications on private lands except when private individuals use Federal funds or require Federal permits. For example, HEW minority education aid to the University would not be affected should the University choose to use non-Federal funds to clear vegetation in the river. Federal flood control projects on the upper area of the watershed as proposed by SCS are not expected to be affected by the listing. A Federal flood control project on the actual stream would require consultation; however, no such project has been proposed.

From comments received, the impact of the listing of Critical Habitat seems to be misunderstood. Regionwide Federal control of water use is not foreseen. Federal regulation of the watercourse will be affected and this has been accounted for in the economic analysis. The proposed action will also bring the status of the species to the attention of the water managers and hopefully will cause increased awareness of the regional water resources management problem.

Presently no known Federal actions are being undertaken, authorized, funded or proposed which would incur an adverse economic effect as a result of the listing. Owner, managers, and users of the water are not expected to sustain any adverse economic effect.

With regard to the flood control project, the Fish and Wildlife Service has completed a Section 7 consultation with the Soil Conservation Service. It was decided that the proposed Upper San Marcos River Watershed Plan would not jeopardize any listed or proposed species on the San Marcos River.

In reply to the commentor who proposed three hypothetical situations involving projects affecting the Edwards Aquifer which were Federally funded or which required Federal permits, the Service offers the following information. In each case, since Federal permits or funds are involved, the permitting or funding agency must decide whether its actions may affect the listed species or their habitat. If the agency decides that a "may affect" situation exists, it is required to request Section 7 consultation with the Fish and Wildlife Service. If the agency decides its action will not affect listed species or their habitat, the Fish and Wildlife Service has the option to notify the agency that its action may affect the species or habitat, and request consultation. Section 7 consultations could be requested or required whether or not Critical Habitat were designated.

With regard to the people who commented on the finite supply of water which should be used for human consumption, the Service replies that the communities and economies dependent upon the Edwards Aquifer will suffer as well as the Endangered and Threatened species should this water supply become depleted or seriously polluted.

In reference to those commenting on not hearing about the public meeting, the Service attempts to schedule and to publicly announce meetings and hearings as far in advance as possible.

The Service believes that designation of a "stationary" Critical Habitat is an effective means of notifying Federal agencies of the existence of an Endangered or Threatened species, and thereby a worthwhile aid in species and ecosystem conservation.

The Service refers the person who was critical of the prohibition of mowing of Texas wild rice to the comments offered by Aquarena Springs.

Finally, to the person who requested information pertaining to the economic value of the Texas wild rice, the Service replies that the species is not currently "grown" in the San Marcos River as a crop plant. The plant occurs in nature only in the San Marcos River, and it is a very *rare* species which is severely declining in numbers. One of the reasons for its decline is its inability, probably due to a combination of factors, to produce seeds. The Service refers the commentor to the text of the March 19, 1980 **Federal Register** proposal of Critical Habitat for further details on the biology of the Texas wild rice.

After a thorough review and consideration of all the information available, the Director has determined that (1) the San Marcos salamander is threatened with becoming extinct throughout all or a significant portion of its range due to one or more of the factors described in Section 4(a) of the Act, as specified in the proposal of July 14, 1978 (43 FR 30316–30319), (2) that the San Marcos gambusia (*Gambusia georgei*) is in danger of becoming extinct throughout all or a significant portion of its range due to one or more of the factors described in Section 4(a) of the Act, as specified in the proposal of July 14, 1978 (43 FR 30316–30319), (3) that listing these species as Threatened and Endangered, respectively, with the specified Critical Habitats, and (4) that

listing the Critical Habitat of Texas wild-rice (*Zizania texana*) and fountain darter (*Etheostoma fonticola*) will provide these four species with necessary protection to ensure their survival.

**Critical Habitat**

The Act defines "critical habitat" as (i) the specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the provisions of Section 4 of this Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection; and (ii) specific areas outside the geographic area occupied by the species at the time it is listed in accordance with the provisions of Section 4 of this Act, upon a determination by the Secretary that such areas are essential for the conservation of the species.

The Service believes that the entire known ranges of the species under consideration should be designated as Critical Habitat. Each of the species occupies an extremely restricted range, and is, therefore, highly susceptible to changes in habitat. The Critical Habitat areas designated are areas on which are found those evolutionary, ecological, behavioral, and physiological features essential to the conservation of the species. The physical and biological features of this habitat are such as to require special management considerations and protection.

Section 4(b)(4) of the Act requires the Service to consider economic and other impacts of specifying a particular area as Critical Habitat. The Service has prepared an impact analysis and believes that economic and other impacts of this action are not significant in the foreseeable future. The Service is notifying Federal agencies that may have jurisdiction over the land and water under consideration in this action.

Section 4(f)(4) of the Act requires, to the maximum extent practicable, that any rule which determines Critical Habitat be accompanied by a brief description and evaluation of those activities which in the opinion of the Director, may adversely modify such habitat if undertaken, or may be impacted by such designation. Such activities are identified below for these species.

*Texas wild rice*—The most significant factors presently affecting the continued existence of the Texas wild rice are its extreme vulnerability due to limited range, its apparent inability to reproduce sexually in its native habitat, and the possibility of hybridization. Any action which would significantly alter the flow or water quality of the San Marcos River could adversely modify the Critical Habitat, since the species is adapted to conditions of clear water, uniform annual flow rate and constant year-round temperature (Beaty, 1975). *Zizania Texana* does not survive in stagnant water (Beaty, pers. comm., 1980). In addition, any actions which would physically alter the Spring Lake-San Marcos River site, such as dredging, bulldozing, or bottom plowing; or physically disturb the Texas wild rice, such as harrowing, cutting, or intensive collecting, would adversely modify Critical Habitat. These disturbances have been identified as contributors to the decline of the existing Texas wild rice population.

*San Marcos salamander*—Foremost among the factors contributing to this salamander's threatened status is its very limited range coupled with the threat of lowered water tables affecting Spring Lake (Longley, 1978).

The owner of Spring Lake, Aquarena Springs, has taken particular care to safeguard the animals in the Lake and has taken particular care to safeguard the animals in the Lake and has cooperated closely with biologists in the Texas Parks and Wildlife Department to ensure that populations can be maintained. Hence, take is not seen as a threat to the continued survival of the species. The major threats to this species are: (1) Lowering of water tables in the area such that Spring Lake could become either dry or intermittent, thus exposing algal mats, and leading to the destruction of this species' sole habitat; (2) the owners of Spring Lake expressed concern that skin divers could disrupt algal mats and the bottom of the lake. This could expose salamanders to predation by fish and other predatory species.

*San Marcos Gambusia*—This species; absence from Spring Lake and its very restricted distribution in the San Marcos River is an indication of its sensitivity and habitat specificity. The areas inhabited by the San Marcos Gambusia are open areas away from the stream banks with a minimum of aquatic vegetation over a mud bottom with little current. The habitat is also characterized by thermal constancy. Any actions which would result in an increase in vegetation, disrupt the mud bottom, or alter the temperature regime could easily eliminate the species.

*Fountain darter*—Specific actions which would reduce or eliminate the fountain darter populations include the destruction or significant reduction of aquatic vegetation in Spring Lake and the San Marcos River. It has been demonstrated that the preferred habitat of adult and young fountain darters are areas with rooted aquatic vegetation which grows close to the substrate with filamentous algae present (Schenck and Whiteside, 1976).

Other actions which could adversely impact the fountain darter include impoundments, excessive withdrawal of water, and pollution. An impoundment on the lower portion of the San Marcos River apparently eliminated the fountain darter in that section of the river. The Comal River population of fountain darters was extirpated when its habitat was reduced to isolated pools by excessive removal of water. The darter has recently been reintroduced into the Comal River in an attempt to reestablish that population (Schenck and Whiteside, 1976). Pollution in the form of silt from improperly maintained construction activities could temporarily reduce the population in some areas.

Any Federal activity which would significantly reduce the water level or flow, would disturb the river bottom, or would pollute the river may be affected by designation of Critical Habitat. However, no such activity is presently foreseen.

**Effects of the Rule**

Section 7(a) of the Act provides:

(1) The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act. All other Federal agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to Section 4 of this Act.

(2) Each Federal agency shall, in consultation with and with the assistance of the Secretary, insure that any action authorized, funded, or carried out by such agency (hereinafter in this section referred to as an "agency action") is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with affected States, to be critical, unless such agency has been granted an exemption for such action by the Committee pursuant to subsection (h) of this section. In fulfilling the requirements of this paragraph, each agency shall use the best scientific and commercial data available.

(3) Each Federal agency shall confer with the Secretary on any agency action which is likely to jeopardize the continued existence of any species proposed to be listed under Section 4 or result in the destruction or adverse modification of critical habitat proposed to be designated for such species . . .

Provisions for Interagency Cooperation are codified at 50 CFR Part 402. This rule now requires Federal agencies not only to insure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of the Texas wild rice, San Marcos salamander, San Marcos gambusia, or fountain darter, but also to insure that their actions do not result in the destruction or adverse modification of their Critical Habitat.

Private activity, such as recreational uses of the river, will not be affected by the rule except where such uses involve a taking under Section 9 of the Endangered Species Act. Other activities affecting the river will be impacted only if there is Federal involvement in those activities. No such Federal involvement is presently foreseen. The only project which could have possibly been impacted by the rule was the proposed Upper San Marcos River Watershed Plan. Consultation on that plan resulted in a biological opinion of no jeopardy.

With respect to the San Marcos salamander, San Marcos gambusia, and fountain darter, all prohibitions of Section 9(a)(1) of the Act, as implemented by 50 CFR 17.21 and 17.23, would apply. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale these species in interstate or foreign commerce. (However, special regulations are promulgated which would allow taking of the San Marcos salamander in accordance with Texas State law.) It also would be illegal to possess, sell, deliver, carry, transport, or ship any such wildlife which was illegally taken. Certain exceptions would apply to agents of the Service and State conservation agencies. The same prohibitions are contained in Section 9(a)(2) pertaining to plants with the exception of the taking prohibitions. The prohibitions are codified at 50 CFR 17.61.

Regulations published in the **Federal Register** of September 26, 1975 (40 FR 44412), codified at 50 CFR 17.22 and 17.23 and 17.72, provide for the issuance of permits to carry out otherwise prohibited activities involving Endangered or Threatened species under certain circumstances. Such permits involving Endangered species are available for scientific purposes or to enhance the propagation or survival of the species. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship which would be suffered if such relief were not available.

### Effect Internationally

The Service will review the status of the San Marcos salamander and the San Marcos gambusia to determine whether they should be proposed to the Secretariat of the Convention on International Trade in Endangered Species of Wild Fauna and Flora for placement upon the appropriate appendix to that Convention, and whether it should be considered under the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere, or other appropriate international agreements.

### National Environmental Policy Act

A final environmental assessment has been prepared and is on file in the Service's Office of Endangered Species. This assessment is the basis for a decision that this rule is not a major Federal action that significantly affects the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969.

The primary authors of this rule are Irene M. Storks, Dr. James D. Williams, Dr. C. Kenneth Dodd, Jr., and Dr. O. Ray Stanton, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–1975).

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

### Literature Cited


Beaty, H. E. 1975. Texas wild rice. Texas Hort. 2:9–11.

Beaty, H. E. Ecology Environments Temple, Texas, Personal communication, telephone. January 24, 1980.

Longley, G. 1978. Status of *Typhlomolge (=Eurycea) rathbuni*, the Texas blind salamander. U.S. Fish and Wildlife Service, Endangered Species Report No. 2, Albuquerque, N.M. 45 pp.

Schenck, J. R., and B. G. Whiteside, 1976. Distribution, habitat preference and population size estimate of *Etheostoma fonticola*. Copeia 4.


### Regulations Promulgation

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, is amended as set forth below:

1. Section 17.11 is amended by adding, in alphabetical order, the following to the list of animals:

**§ 17.11 Endangered and threatened wildlife.**

| Species | | Historic range | Vertebrate population where endangered or threatened | Status | When listed | Critical habitat | Special rules |
|---|---|---|---|---|---|---|---|
| Common name | Scientific name | | | | | | |
| Amphibians: | | | | | | | |
| Salamander, San Marcos | *Eurycea nana* | U.S.A. (Texas) | Entire | T | | 17.95(d) | 17.43(a) |
| Fishes: | | | | | | | |
| Gambusia, San Marcos | *Gambusia georgei* | U.S.A. (Texas) | Entire | E | | 17.95(e) | NA |

2. The Service also amends § 17.43 by adding a new paragraph (a) as follows:

**§ 17.43 Special Rules—Amphibians.**

(a) San Marcos salamander (*Eurycea nana*)

(1) All provisions of § 17.31 apply to this species, except that it may be taken in accordance with applicable State law.

(2) Any violation of State law will also be a violation of the Act.

**§ 17.96 [Amended]**

3. Section 17.96(a), Plants, is amended by adding Critical Habitat of *Zizania texana* (Texas wild rice) after that of Family Oenothera: (Antioch Dunes

evening primrose (*Oenothera deltoides ssp. howelli*) as follows:

Family *Poaceae:* Texas Wild-Rice (*Zizania texana*) Texas, Hays County; Spring Lake and its outflow, the San Marcos River, downstream to its confluence with the Blanco River.

TEXAS WILD RICE

Hays County, TEXAS


**§ 17.95 [Amended]**

4. Section 17.95(d), Amphibians, is amended by adding Critical Habitat of the San Marcos salamander before that of the Houston Toad as follows:

**San Marcos Salamander** *(Eurycea nana)* Texas, Hays County; Spring Lake and its outflow, the San Marcos River, downstream approximately 50 meters from the Spring Lake Dam.

SAN MARCOS SALAMANDER

Hays County, TEXAS


**§ 17.95 [Amended]**

5. Section 17.95(e), Fishes, is amended by adding Critical Habitat of the San Marcos gambusia after that of the yellowfin madtom as follows:

**San Marcos Gambusia** *(Gambusia georgei)* Texas, Hays County; San Marcos River from Highway 12 bridge downstream to approximately 0.5 miles below Interstate Highway 35 bridge.

SAN MARCOS GAMBUSIA

Hays County, TEXAS


**§ 17.95 [Amended]**

6. Section 17.95(e), Fishes, is further amended by adding Critical Habitat of the Fountain darter after that of the slackwater darter as follows:

**Fountain Darter** *(Etheostoma fonticola)* Texas, Hays County; Spring Lake and its outflow, the San Marcos River, downstream approximately 0.5 miles below Interstate Highway 35 bridge.

FOUNTAIN DARTER

Hays County, TEXAS


Dated: July 9, 1980.

**Robert S. Cook,**

*Director, Fish and Wildlife Service.*

[FR Doc. 80-20842 Filed 7-10-80; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

## Endangered and Threatened Wildlife and Plants; Acceptance of Petition and Status Review

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Acceptance of petition and status review.

**SUMMARY:** The Service has accepted a petition to add the silver rice rat to the U.S. List of Endangered and Threatened Wildlife. This small mammal, only recently discovered, occupies a very restricted range in the Florida Keys, and is jeopardized by loss of suitable habitat. The Service now is assembling supporting information and as soon as possible will issue a proposal in the **Federal Register** to list the silver rice rat.

**FOR FURTHER INFORMATION CONTACT:** Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240 (703/235–2771).

**SUPPLEMENTARY INFORMATION:** On March 12, 1980, the Center for Action on Endangered Species (175 West Main Street, Ayer, Massachusetts 01432) submitted a petition requesting that the silver rice rat (*Oryzomys argentatus*), a small mammal, be listed as Endangered, pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*). In addition to the petition, the following written sources of data are available to the Service:

*Layne, James N., ed. 1978. Rare and Endangered Biota of Florida. I. Mammals.* University Presses of Florida, Gainesville.

Spitzer, Numi C., and James D. Lazell. 1978. A New Rice Rat (Genus *Oryzomys*) from Florida's lower Keys. *Journal of Mammalogy*, 59:787–792.

Humphrey, Stephen R., and D. Bruce Barbour. 1979. *Status and Habitat of Eight Kinds of Endangered and Threatened Rodents in Florida.* Special Sicentific Report No. 2, Office of Ecological Services, Florida State Museum, Gainesville.

According to this information, and sources contacted personally by the Service, the silver rice rat was discovered during the winter of 1972–1973 on Cudjoe Key in the lower Florida Keys. Two specimens were then collected in a small freshwater marsh with a thick swatch of cattails (*Typha domingensis*) along its edge. The marsh is located beside U.S. Highway 1, and is bordered on most sides by Red Mangrove *(Rhizophora mangle)*. Two more specimens were taken in 1976 and 1980 on nearby Raccoon Key. The species is known only from these four specimens and appears to be rare. It is possible that it occurs on several other islands, but its rarity and secretive nature make it difficult to locate. It depends on marshes for survival, but suitable habitat in the area is being lost to drainage and filling for commercial development, road construction and mosquito control. The remaining adequate areas are in and around hardwood hammocks where development is rampant. Much of the best habitat is within the right-of-way of U.S. Highway 1 on Cudjoe Key. This road is presently being re-bedded and widened.

The Service has determined that this petition presented substantial evidence warranting a proposal to add the silver rice rat to the List of Endangered and Threatened Wildlife. The Service now is assembling supporting information needed to list the species and determine its Critical Habitat, and will issue a proposed rulemaking as soon as possible. At this time the Service does not have sufficient information to make determinations regarding the significance or need for a regulatory analysis under executive Order 12044 and 43 CFR Part 14. Such determinations will be made prior to initiating a proposal for the silver rice rat.

The primary authors of this notice are Ronald M. Nowak and John L. Paradiso, Office of Endangered Species (703/235–1975).

Dated: July 7, 1980.

**Robert S. Cook,**

*Director, Fish and Wildlife Service.*

[FR Doc. 80–20841 Filed 7–11–80; 8:45 am]

BILLING CODE 4310–55–M

federal register

Monday
July 14, 1980

Part III

# Department of Health and Human Services

## Health Care Financing Administration

## Conditions of Participation for Skilled Nursing and Intermediate Care Facilities

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Health Care Financing Administration**

**42 CFR Parts 405, 442, and 483**

**Conditions of Participation for Skilled Nursing and Intermediate Care Facilities**

**AGENCY:** Health Care Financing Administration (HCFA), HHS.

**ACTION:** Proposed rule.

**SUMMARY:** We are proposing a general revision of the current regulations establishing the Conditions which Skilled Nursing Facilities (SNFs) and Intermediate Care Facilities (ICFs) must meet in order to participate in Medicare (Title XVIII) of the Social Security Act and Medicaid (Title XIX) of the Act. The proposed revision is designed to simplify and clarify the regulations, to focus on patient care, to promote cost containment while maintaining quality care, and to achieve more effective compliance.

**DATES:** Consideration will be given to written comments or suggestions received by September 12, 1980.

**ADDRESSES:** Address comments to: Administrator, Health Care Financing Administration, Department of Health and Human Services, P.O. Box 17082, Baltimore, Maryland 21235.

In commenting, please refer to HSQ–53–P. We request agencies and organizations to submit their comments in duplicate. Comments will be available for public inspection, beginning approximately 2 weeks after publication, in Room 309G of the Department's offices at the Hubert H. Humphrey Building, 200 Independence Avenue, Washington, D.C. 20201, on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (202–245–7890).

Because of the large number of comments we receive, we cannot acknowledge or respond to them individually. However, in preparing the final rule, we will consider all comments and will respond to them in the preamble to that rule.

**FOR FURTHER INFORMATION CONTACT:** Mr. J. Richard Lenehan, Jr. (301–594–7651).

**SUPPLEMENTARY INFORMATION:** Conditions of Participation are the requirements SNFs and ICFs must meet in order to participate in the Medicare and Medicaid programs. These requirements serve as the basis for Federal and State agency survey and certification activities to determine if facilities are in compliance with the regulations. This regulation is based on sections 1861 and 1905 of the social Security Act. Separate regulations were originally promulgated in 1974 as conditions of Participation for SNFs and Standards for ICFs.

Operation Common Sense, a project which committed the Department to revise and recodify its regulations to produce clear, readable, and helpful documents, gave the initial impetus to rewriting these regulations. However, rather than simply rewriting the regulations to meet these objectives, it was decided to take the opportunity to also make some needed policy changes.

In 1976, the Department's Long-Term Care Facility Improvement Campaign (LTCFIC) issued its first monograph. Among the recommendations was strong support for a comprehensive patient assessment mechanism which would serve as a basis for planning and integrating the care of the long-term patient. This gave rise to the Patient Appraisal Care Evaluation (PACE) Project. During the three years of the project's existence, PACE gradually became associated with the development of a patient assessment instrument. PACE I, the first version, was tested in nursing homes, critiqued by various professionals, and generated a good deal of interest in the health care community. PACE II, a somewhat shorter version, was an attempt to respond to the criticisms of burdensome paperwork, too much emphasis on the medical model, and lack of evidence of cost effectiveness and benefit.

The revision of the Conditions of Participation provided the opportunity to take the best of what had been learned from the PACE project and incorporate it into the proposed rule. This has been done and will be discussed in more detail later in the Preamble.

A third stimulus for the revision was found in our communications with the Department's Regional Offices, State agencies, and the general public. These revealed that certain provisions of the existing regulations warranted review in light of changing technology and new developments in the field of aging.

On June 8, 1978, HCFA published a general notice in the **Federal Register** to solicit comments on specific questions, as well as to seek general guidance from the public on revising the Conditions of Participation for SNFs and Standards for ICFs. Draft specifications and pertinent issues for discussion were developed.

Over 1,200 organizations, long-term care providers, consumers, and other interested groups requested copies of the specifications. Five public meetings were held during the Summer of 1978: in Rockville, Maryland, Chicago, Illinois, Washington, D.C., Atlanta, Georgia, and San Francisco, California. Our aims were to obtain a nationwide perspective on the issues and to encourage productive dialogue between Federal officials, providers, consumers, health professionals, and concerned citizens.

**Summary of Comments**

We received over 620 comments. Many commenters stressed the need to improve the survey and certification process by streamlining the information needed and making the requirements more surveyable. They also reiterated the Department's own finding in the LTCFIC that the survey process was too paper oriented. State surveyors rely almost totally on records, documentation, and written policies in their assessment of care provided. Relatively little time is given to measuring patient focused outcomes.

Moreover, the Federal process was criticized for not having accommodated various changes in provider and State activities. These comments, though not address specifically in this rule, will be acted upon in two subsequent activities: (1) development of new survey forms and interpretive guidelines with a view toward pointing the surveyor's attention toward more outcome, patient focused evaluation of compliance with the regulations; and (2) proposed regulatory revision which would affect the entire survey and certification process. Hearings to gain public opinion on the proposed revision of 42 Code of Federal Regulations (CFR) Subpart S will be held in all ten HEW Regions from April to June 1980.

Especially noteworthy about the comments received was the absence of the "horrow stories" of abuses which characterized the Senate hearings of the early 1970's. Acknowledging that conditions have been vastly improved, many commenters emphasized that the task for the 1980's should be to enhance the quality of life for the long-term care resident. These concerns manifested themselves in comments stating the residents should have whatever care and services were necessary to meet their total needs, particularly psychosocial needs. Many commenters urged broader concern for patients' rights—not just legal rights, but the right to self-determination and involvement in planning the services and activities which will characterize the patient's life for an extended period of time. Along the same lines, many commenters emphasized a need for reciprocal "openness" from the facility outward

and from the community into the nursing home.

Rising health care costs were deplored and most commenters urged us to find ways to ease the burdens of regulation. On the other hand, some commenters insisted that professional qualifications and training requirements for personnel be upgraded and that specific manpower changes be considered.

**Provisions of the Proposed Rule**

Many of the comments and suggestions resulting from issues discussed at the hearings and in written comments are reflected in this revision. Sound provisions from the existing rules were reinstated after other alternatives had been considered. No attempt was made to make changes merely for the sake of change.

There are significant innovations in this rule, however, which we hope will serve as models for State nursing home regulations. First, we have elevated Patients' Rights to the level of a Condition of Participation. This expanded section testifies to the Department's position that one does not surrender the right to self-determination when entering a long-term care facility. The standards in this Condition reinforce the specifics of this concept and will become items to be evaluated during the survey process.

Review of the literature and existing State laws on patients' rights suggests that by developing Standards which comprise a Condition, the Department will strengthen the enforcement capability for Patients' Rights. Clearly, we do not pretend to provide "new" rights to nursing home patients; constitutional and legal rights are guaranteed by other more prestigious means than this regulation. Rather, we intend to reaffirm the position that institutionalization in a nursing home does not constitute an abrogation of these rights and, further, we set in place a mechanism to assure this, by incorporating a more definitive structure for patients' rights in the survey process through establishing it as a Condition of Participation.

As part of this expansion of Patients' Rights, we have proposed a standard for a stronger provision on accessibility. This will ensure access at all times to nursing home ombudsmen and legal advocates and reinforces their mandate under the 1977 Amendments to the Order Americans Act. However, since the patient has the right to see or refuse to see anyone, it is the patient who will ultimately determine just how accessible he or she will be.

The specifics of patient participation in surveys will be included in the proposed regulatory revision of Subpart S. However, the facility's responsibility to notify the patients in meeting with survey personnel is addressed in the proposed Condition.

Other provisions include the patient's right to form resident councils, to be fully informed regarding all decisions affecting them, to privacy, and to have personal property. Standards will permit patient involvement in planning the care regimen. Patients should also be permitted to do as much for themselves as possible to forestall being cast in a dependent or helpless role.

Additionally, no limit on the nature or amount of personal property a patient may retain has been specified. However, we are concerned about the ability of a facility to operate without limits in this area. For example, under the proposed language, it is not clear whether a patient could be prevented from retaining furniture, such as beds or bureaus, or perishables and pets. We invite comments on how to accommodate the patient's right to a comfortable and familiar surrounding while respecting the facility's needs in areas such as housekeeping.

The second significant change is the introduction of a Patient Care Management System (PCMS). The PCMS is a systematic, holistic approach to the care of the long-term patient. The process begins upon admission to the SNF or ICF when a comprehensive, interdisciplinary assessment of the patient's medical, physical, and psychosocial needs is conducted. Involvement of all the health professionals in the facility as needed (dietitian, rehabilitative specialist, pharmacist, activities director, social services director, nurses and physicians) will ensure the comprehensiveness of the assessment.

The findings of the assessment will serve as the basis for planning the individual's care. Clearly delineated, time-limited goals will then characterize the plan of care. Periodic evaluations will review goal achievement and changes in needs which should trigger new goals. Undoubtedly, this process will result in more individualized patient-centered care planning.

In this proposed rule, we have simply listed the data categories for patient assessment. HCFA will specify more detailed minimum data requirements and common definitions. States will develop their own assessment form which must include HCFA's criteria but will permit them to include their own data requirements as well. The benefits inherent in this strategy include:

1. Paperwork will be limited to a single form which will satisfy both Federal and State survey requirements.
2. States will have the opportunity to coordinate and include data needs for quality assurance review, i.e., Inspections of Care and PSRO Long Term Care Review.
3. Surveyors and review teams may be trained at the State level in the review of documentation which is specific to their own State.
4. States and facilities which already employ some form of assessment will not necessarily have to abandon their current system, especially if it already includes the critical data elements which will be required.

The PCMS actually consolidates the care planning standards of five existing Conditions of Participation (Nursing, Social Services, Dietetic Services, Rehabilitation, and Patient Activities) under one Condition of Participation. Other standards throughout the proposed regulation relating to patient care include cross references to PCMS. Discharge Planning, currently part of Utilization Review, will be relocated in the PCMS as the logical final step in the process. In sum, aside from requiring comprehensive assessment on admission, this requirement simply systematizes existing patient care activities.

By creating a conceptual framework for total patient care and treatment, we hope to integrate the fragmented approach so reminiscent of the acute care model. We expect the PCMS to facilitate this treatment of the whole person.

The utility of patient assessment has been widely accepted. It provides important patient data for facility resource management at the local level. On the State and National level it will, for the first time, provide us with descriptive data on the needs of individuals admitted into nursing homes. The assertion that nursing homes are full of people who do not belong there will finally be answerable from a strong base of assessment data.

We welcome comments on this approach to patient care management and are especially interested in suggestions on time frames for phase-in; reasonable expectancy for full compliance; and observations from those who have had experience in comprehensive assessment and total care planning.

Other revisions in the proposed rule are as follows: (1) We have developed a single set of Conditions of Participation for both SNFs and ICFs. These rules do not apply to Intermediate Care Facilities for the Mentally Retarded (ICFs/MR)

which are governed by a separate set of standards. Where possible, general provisions, e.g., Administration, Food and Nutrition Services, Physical Environment, Safety, and Patients' Rights have been made uniform. ICFs serve as the primary focus of this rule with specific exceptions for SNFs clearly identified. The differences in patient needs and level of care will be reflected in provisions such as staffing and required services.

Commenters convinced us that similarities between facilities justify this consolidation. ICFs have evolved an institutional structure so similar to that of the SNF that in practice many facilities are dually certified as SFN/ICF. The simplicity of dealing with only one set of regulations should be a distinct advantage to such providers. Any "watering down" of the SNF regulations which will be applied equally to certified SNFs for both Title XVIII and XIX has been avoided. The net effect on ICFs, however, may be more substantial since both the wording is tighter, and the requirements more specific, than in the existing ICF standards.

(2) We have revised the physician visit schedule so that the attending physician (or physician's assistant or nurse practitioner employed and directed by the physician) will review the patient's plan of care, update the medical regimen, and evaluate the patient's condition as often as necessary. At least once every 30 days for the first 90 days, the physician will visit the patient to assure that the transition to the SNF or ICF is relatively non-traumatic and that the plan of care is appropriate and being implemented properly.

Subsequent to the 90th day, the physician will schedule visits in accordance with individual professional determination of the patient's needs, not to exceed 60 days for SNF patients or 120 days for ICF patients. The professional staffing of the facility and the availability of the physician by telephone should ensure adequate care during the intervals between physician visits. The rationale behind this change is simple: one must question the predication of visits on a time interval rather than on patient need. The proposed change is patient-centered with patient needs specifying the visit schedule. The outside limits are a necessity for enforcement purposes. We expect, as a result of this change, a firm commitment by the attending physician to a schedule that has been based on professional judgment.

(3) The role of the Medical Director in SNFs has been strengthened to include establishing standard operating procedures for physician practices in the facility. These procedures will govern such issues as patient visit schedules and coverage during emergencies and in the absence of the attending physician. The attending physician will be expected to formalize acceptance of these procedures and work closely with the Medical Director for the benefit of the patient.

The Department is interested in studying alternative models for medical direction perhaps by using physician directed teams of physician's assistants and nurse practitioners and possibly expanding the concept to ICFs. Any comments or suggestions on this approach are welcome.

(4) We are retaining the provisions for consultant services but have not specified a minimum number of hours for their services. Additionally, we propose to give the facility administrator the option of discontinuing the services of a consultant, after one year, when he judges that his staff is meeting the needs of the patients as specified in the standards. This option will apply only for the Medical Records, Dietitian, Social Services, and Activities Consultants. The Administrator may exercise this option by documenting the adequacy of staff performance and requesting review of the case by the on-site State surveyor. Past survey results would also serve as a basis for the decision.

The basis for this provision is concern that the use of consultants has inadvertently created a subset of the long-term care industry. Originally, consultants were seen as backup resources for full-time staff who lacked required education, training, and experience. What has resulted instead is continued use of unqualified staff and a near total dependency on the consultant for professional judgment and the performance of routine activities that the facility should have the in-house capability to perform. We would like to reverse this trend in the interest of both cost containment and quality care.

Our position should not be construed as a universal criticism of consultants. There is no disputing the contribution toward staff development and improved services that some consultants have made. We do not believe that these consultants have anything to fear in our proposed change.

Finally, we would like to explore other models for consultation. One might be for student internships, e.g. in Social Work or Activities where the school would provide professional direction while the student performs on-site consultation to facility staff. Another, might be for States to use the authority contained in Section 1864 of the Social Security Act, as amended by Section 227 of P.L. 92–603, and provide consultation to providers directly—not in an enforcement capacity—but as technical assistance.

(5) Although most commenters deplored the use of temporary pool personnel, they agreed that they perform a useful service in emergencies. We have not prohibited their use, therefore, but will not permit them to fill the position of charge nurse on the day shift or director of nursing services. Furthermore, as an outside resource, temporary personnel must meet the same training and education qualifications required for permanent staff.

We look to the States to provide oversight as to the quality of training and education of temporary personnel. The General Accounting Office (GAO) is currently exploring the entire issue and we will consider their findings in preparing provisions for the Final Rule.

(6) In this revision, we have eliminated the standards on Medical Care Evaluation Studies (MCEs) under the Utilization Review (UR) requirements. MCEs originated in acute care settings as a mechanism for Professional Standards Review Organizations to provide quality assurance. However, this criteria is not wholly transferable to the long-term care setting. In addition, the 1979 *Rand Study* ("The PSRO and the Nursing Home: An Assessment of PSRO Long-Term Care Review," Vol. 1, August 1979) concluded that there are definite limitations to applying the MCE study methodology to the long-term care setting. Many of the problems of nursing home patients (especially in the areas of quality of life and psychosocial aspects of care) are unique to the long-term care setting and it is therefore extremely difficult to develop meaningful process criteria.

A review of the existing UR requirements for SNFs, ICFs, and Intermediate Care Facilities for the Mentally Retarded (ICFs/MR) is currently underway, and a proposed revision consolidating these requirements is planned for future publication.

(7) Section 21(a) of Pub. L. 95–142, the Medicare-Medicaid Anti-Fraud and Abuse Amendments of 1977, requires long-term care facilities to establish and maintain a complete accounting system of patients' funds which prevents commingling of patient and facility monies. These regulations will be forthcoming as a final rule. We intend to include a standard on the protection of

patients' personal funds in Subpart E—Patients' Rights. Furthermore, Section 21(b) of Pub. L. 95–142, a companion regulation on Permissible Charges to Patients' Funds will soon be published as a proposed rule. The provisions of this regulation will ultimately be incorporated into patients' rights.

(8) Under the revised Pharmaceutical Services section, the pharmacist and the director of nursing are jointly responsible for developing a safe and accurate system of drug distribution. This section addresses requirements for stock orders, drug integrity, and labeling in order to ensure that therapy does not continue beyond an appropriate period and that the drugs used are of good quality and properly labeled. There is nothing in these proposals which would limit the facility's freedom to choose a unit does dispensing system.

We are extending the role of the pharmacy consultant to monthly reviews of drug therapy in ICFs as well as in SNFs. Since there is little difference in drug utilization patterns in both facilities, it makes sense to use the same review procedure for both. Research has shown that the clinical pharmacist does make an impact in SNFs and a similar outcome may be expected in ICFs. In addition, the consultant registered nurse who was formerly performing the drug regimen reviews in an ICF will now be available to take an active part in patient care management activities.

This revision also includes proposed "limit" standards which are intended to reduce the amount of unaccounted for schedule drugs, drug wastage, and errors in administration within a facility. For example, limits are established for unaccounted for schedule drugs. There is a 5 percent limit on drug administration errors and a 4 percent limit on drugs which may be discarded. These are new criteria and are based primarily on expert opinion solicited during the rewriting of these regulations, as well as a review of the literature on studies conducted in hospitals and long-term care facilities. The Department welcomes comments on whether such limits should be established at all, their appropriateness, and any data that would suggest more appropriate levels.

Concurrent with these proposals, we are funding a study to determine the feasibility of documenting and surveying for standards expressed in such terms. Should the study find that these criteria are not reasonable and cannot accurately be verified through the survey process, the requirements of the 1974 regulations will be reinstated in the final version of this rule.

(9) With regard to the use of medication aides rather than licensed personnel in the distribution of medications, we have found that there is no national consensus. While many States require that only licensed personnel perform this function, a significant number permit specially trained medication aides under the direction of a licensed nurse to distribute medications. Consequently, we will defer to State law in this matter. We feel that the central issue is not who actually administers the medication, but who is on-site and trained to recognize and attend to drug reactions. Since this proposed rule explicitly holds the director of nursing services accountable for drug administration, we expect that the distribution will be under the supervision of a licensed nurse. Furthermore, with the advent of unit does dispensing it seems less efficient to use licensed personnel for the dispensing function.

(10) We have followed the suggestions of many commenters to combine all physical environment and safety requirements under one heading. This section also addresses two major changes in granting Life Safety Code waivers. In the present regulations, waivers were granted for one year for construction *types* (e.g., one-story protected, woodframe) and construction *features* (e.g., width of corridors and doors). With rare exceptions, neither of these construction categories change once evaluated. Granting only one-year waivers has compounded paperwork for surveyors and facilities, since a yearly justification was necessary. We are proposing that construction type waivers be granted for 5 years and construction feature waivers for 2 years. Of course, any changes in building construction or renovations will trigger complete re-evaluation.

In order to ensure that patient safety is safeguarded, we are requiring that there be sufficient staff on duty at all times so that the facility's disaster plan may be fully implemented. This constant readiness to act in emergencies has been shown repeatedly to be a major factor in saving lives and appropriately complements other fire safety provisions of this regulation.

In an effort to create a more pleasant, homelike environment, we propose to permit residents to have their own possessions in their rooms with reasonable restriction for safety and medical contraindication.

Specific provisions requiring a 3-day supply of food and back-up emergency power, heat, and water reflect nationwide concern over tragic episodes which occured during recent extremes in weather.

(11) An expanded role for physician extenders (we use the generic term to include both nurse practitioners and physician's assistants) received favorable comment in our public hearings. However, no clear pattern emerged on what that role might be. Most commenters favored the substitution of physician extenders (PEs) for physicians on the required visit schedule. Although, current Medicare law expressly prohibits this, States may reimburse for this service if they choose to under Medicaid. There was negative reaction to earlier drafts of this proposed rule in which we expanded the definition of physicians to include PEs where States would permit them to perform certain services.

As a compromise, we have defined "physician" to include a physician directed team where direction need not be on-site. In States where PEs are permitted to practice, this expanded definition may eliminate some existing impediments to their provision of services.

The Department has sponsored many studies and several training programs for PEs. The Public Health Service has fostered their involvement in the National Health Service Corps, and their establishment as providers under the Rural Health Service Act was a gigantic step forward. We welcome further comment to help us establish a role for PEs in nursing homes and ask that commenters share with us their personal experiences in this regard.

(12) We have not proposed any nursing staff ratios or minimum number of nursing hours per patient per day. Instead we have retained the language in the existing regulations which calls for adequate staff to meet pateient needs. One of the reasons for this decision was that we are not sure how much staffing will be required to carry out the cycle of PCMS activities. We have made some estimates but do not have enough conclusive evidence to support requiring any specific numerical standards.

Some States have chosen to employ such standards but to our knowledge there has been no systematic evaluation of their effectiveness, impact on quality, problems of over-staffing, or cost/benefit analysis of any of these approaches. In the absence of supporting evidence, we have chosen not to require specific staffing ratios at this time. However, we would appreciate knowing more about the experiences of those States which require specifics in staffing as well as any documentation of the relative

impact of such standards. Concurrently, we are planning to undertake a study on this subject, and will contact States to provide us with their assessment of the effectiveness of their staffing requirements.

**Related Issues on Which We Seek Comment**

There remains a group of issues which we have not addressed in this proposed rule. We welcome direction on these problem areas both in terms of whether or not to regulate as well as how to do so should regulation be expedient.

**Inappropriate Placement**

We are very concerned about the increasing numbers of "deinstitutionalized" mentally ill patients who are being inappropriately placed in SNFs and ICFs because of lack of alternative modes of care. This practice offers a short-term solution, but does not address the basic problem of providing them appropriate care, treatment, and services.

Neither existing regulations nor these proposed rules have any requirements for services, staffing, or quality care for facilities faced with a shift in their patient mix. There is a Medicaid Transmittal of May 11, 1977 (A.T. 77–51, "MSA Medical Assistance Manual: Mental Health Care in Skilled Nursing and Intermediate Care Facilities that are Institutions for Mental Diseases" (IMDs)) which provides guidelines for SNFs and ICFs which become IMDs by virtue of their patient population. These guidelines do not have the force of regulation and are neither widely accepted nor enforced.

We believe we should do more than create "housing" for these patients and seek some suggestions on ways to assure them appropriate care, treatment, and services.

We would appreciate guidance in criteria for classification of IMDs, e.g., percentage of mentally ill patients which could change the overall character of a SNF enough to justify its different classification; types and qualifications of personnel who should staff an IMD; or additional services that should be offered to patients in an IMD. Should we write supplementary regulations for SNFs and ICFs that are IMDs, or a separate set of regulations for IMDs as a specific provider category?

**Psychosocial Care**

Most elderly patients in nursing homes suffer some form of brain deterioration. Therefore, it would be appropriate to add standards for psychosocial care to the existing SNF/ICF regulations. These would be a requirement incumbent on all nursing homes. Should the facility accept patients with more serious mental illnesses, it would have to intensify the level of its "routine" psychosocial services. Standards which lend themselves to this course of action would include: staff development and training, arrangement for psychiatric consultant services, patient care planning, drug monitoring for psychotropic drugs, and the like.

**Selection of Patients by Source of Payment**

We solicit comments on what, if any, regulatory involvement is appropriate with regard to facility policies on admitting Medicare or Medicaid patients.

There is an apparent shortage of nursing home beds for Medicare and Medicaid patients. They appear to be on waiting lists longer than private pay patients who rarely seem to have trouble finding an available bed. For Medicare beneficiaries, the problem is a shortage of certified beds; for Medicaid beneficiaries, the problem is gaining admission. We note that participation in Medicare and Medicaid is voluntary, and some facilities may now compensate for low government reimbursement rates by maintaining a certain proportion of private pay patients.

**Small Businesses**

Another unresolved issue is the potential impact of this regulation on small businesses. Over the last five years we have seen increasing growth of multifacility corporations. The frequently cited reason for the demise of the individually owned and operated facility is the burdensomeness of regulations. We wish to encourage the continued operation of individual providers and would like to receive comments from them regarding what accommodations might be introduced into the regulation to make requirements less burdensome.

**Regulatory Analysis**

In an effort to explain how we arrived at the provisions of this proposed rule, we have prepared an analysis of the regulation. This document contains an extensive discussion of the major issues addressed in this regulation, the options considered along with factors such as cost and benefit which were weighed in the considerations, and the rationale for options being accepted or rejected. Some of the issues discussed at greater length than is possible in the Preamble include cost/benefit analyses of: comprehensive patient assessment, involuntary transfers, required visiting hours, proposed manpower changes, and the new Patients' Right Condition.

Therefore, it is hereby certified that the economic effects of this proposal have been carefully analyzed in accordance with Executive Order 12044 and that a regulatory analysis has been prepared.

This regulatory analysis is available to the public upon request at the following address: Division of Long Term Care, Dogwood East Building, 1849 Gwynn Oak Avenue, Baltimore, Maryland 21207, (301–594–3642).

We urge all interested persons who intend to comment on this proposed rule to review this analysis in an attempt to appreciate our position. We welcome comments on the analysis which will be revised and reissued when the final rule is published.

42 CFR Chapter IV is amended as set forth below:

A. The Table of Contents for Chapter IV is amended by adding Subchapter E; transfering Part 481 from Subchapter D to the new Subchapter E; and adding a new Part 483 to read as follows:

## CHAPTER IV—HEALTH CARE FINANCING ADMINISTRATION, DEPARTMENT OF HEALTH AND HUMAN SERVICES

* * * * *

### SUBCHAPTER E—STANDARDS AND CERTIFICATION FOR PARTICIPATION IN MEDICARE AND MEDICAID

Part

481 Certification of certain health facilities.
482 [Reserved]
483 Conditions of participation for skilled nursing and intermediate care facilities.

## PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

B. Part 405 is amended as follows:

### Subpart K—[Vacated]

1. Subpart K is vacated and its content transferred to Part 483.

**§ 405.1911 [Vacated]**

2. Subpart S is amended by vacating § 405.1911 and transferring its content to Part 483.

## PART 442—STANDARDS FOR PAYMENT FOR SKILLED NURSING AND INTERMEDIATE CARE FACILITY SERVICES

### Subparts D, E, and F—[Vacated]

C. Part 442 is amended by vacating Subparts D, E, and F and transferring their content to Part 483.

D. A new Part 483 is added to read as follows:

## SUBCHAPTER E—STANDARDS AND CERTIFICATION FOR PARTICIPATION IN MEDICARE AND MEDICAID

## PART 483—CONDITIONS OF PARTICIPATION FOR SKILLED NURSING AND INTERMEDIATE CARE FACILITIES

### Subpart A—General Provisions

Sec.



### Subpart B—Administration



### Subpart C—Patient Care Services



### Subpart D—Physical Environment and Safety



### Subpart E—Patients' Rights



Authority: Secs. 1102, 1814, 1832, 1833, 1861, 1865, 1866, and 1871 of the Social Security Act (42 U.S.C. 1302, 1395f, 1395k, 1395l, 1395x, 1395bb, 1395cc, 1395hh).

## Subpart A—General Provisions

### § 483.01 Purpose.

This part specifies the Federal requirements for participation by Skilled Nursing Facilities (SNFs) and Intermediate Care Facilities (ICFs) in the Medicare and Medicaid programs. These Conditions of Participation will serve as the basis for survey activities by Federal and State surveyors.

### § 483.02 Definitions.

*"Chemical restraints"* are medications such as tranquilizers or sedatives, which are used primarily to modify patient behavior or make the patient more manageable.

*"Drug administration error"* means that a drug was given (1) in the wrong amount, (2) in the wrong strength, (3) at the wrong time (more than 60 minutes from the ordered time of administration), (4) by the wrong route of administration, (5) to the wrong patient, or (6) was ordered and not administered, and the reasons and justification for the omission were not recorded.

*"Facility"* means a skilled nursing facility (SNF) or an intermediate care facility (ICF). A SNF, as defined in section 1861(j) of the Social Security Act, is primarily engaged in providing skilled nursing and related services for patients who require medical or nursing care. An ICF, as defined in section 1905(c) of the Act, provides health-related care and services to individuals who do not require the degree of care and treatment which a SNF is designed to provide. Except where otherwise specified, "facility" refers to both SNFs and ICFs.

*"Involuntary transfer"* means removal of a patient from the facility, or transfer from one room to another within the same facility, without the patient's consent.

*"Patient"* means any person who is admitted to a facility for the purpose of receiving care, services, and treatment. Patients whose care, services, and treatment are not reimbursed by Medicare or Medicaid may be exempted from any of the requirements of this regulation provided the patient's request for exemption from each specific requirement is documented in their medical record.

*"Physical restraint"* means confinement in a locked room or the use of any article, device, or garment that interferes with freedom of movement and is used against the patient's will to control behavior in order to prevent harm to the patient or to others.

*"Physician"* is a doctor of medicine or osteopathy licensed under State law to practice medicine or surgery, as specified in section 1861(r)(1) of the Social Security Act. Where State law permits, the term "physician" includes a physician-directed team of physician assistants and nurse practitioners. Direction need not be on-site.

*"Attending physician"* is a physician who is designated by the patient or his representative to be responsible for the supervision of the patient's overall medical care.

*"Representative"* is a person authorized to act for the patient as an official delegate or agent. This definition includes, where appropriate, a patient's next of kin or legal guardian.

*"Supervision"* means the on-site monitoring of a function of activity.

## Subpart B—Administration

### § 483.10 Condition of participation: Compliance with Federal laws.

The facility must be in compliance with all applicable Federal laws.

(a) *Standard: Section 504 of the Rehabilitation Act of 1973.* The facility must be in compliance with 45 CFR Part 84 which states that "No qualified handicapped person shall, on the basis of handicap be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from Federal financial assistance." The facility must—

(1) In accordance with § 84.6(c), conduct a self-evaluation of its current policies and practices and the effects thereof that do not or may not meet the requirements of section 504;

(2) In accordance with § 84.11 and § 84.12, execute the provisions of nondiscrimination in employment practices and reasonable accommodation.

(3) In accordance with § 84.22(e), develop a transition plan, if warranted, setting forth the steps necessary to complete structural changes to ensure program accessibility;

(4) In accordance with § 84.23, apply requirements for new construction to facilities constructed after June 1977; and

(5) In accordance with § 84.52(a), execute the provisions on nondiscrimination in employment of handicapped persons.

(b) *Standard: Uncompensated care and community services.* The facility must be in compliance with 42 CFR Part 124, Subparts F and G. Subpart F requires facilities receiving (or having received) Title VI and XVI (Hill-Burton) assistance, to provide annually a reasonable amount of services to persons unable to pay. Subpart G requires facilities to assure that their services are available to all persons "residing in the facility's service area without discrimination on the ground of race, color, national origin, creed, or any other ground unrelated to an individual's need for the service * * *."

(c) *Standard: Civil Rights Act of 1964.* The facility must be in compliance with Title VI of the Civil Rights Act which states that "No person in the United States shall on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance."

(d) *Standard: Age Discrimination Act of 1975.* The facility must be in compliance with 45 CFR Part 90 which prohibits discrimination on the basis of age in programs or activities receiving Federal financial assistance.

**§ 483.11 Condition of participation: Compliance with State and local laws.**

The facility must be in compliance with applicable State and local laws and regulations relating to health and safety, including, but not limited to, fire, sanitation, communicable and reportable diseases, and postmortem procedures.

(a) *Standard: Licensure.* The facility must be currently licensed as a long-term care facility in accordance with State and local laws. If the facility is not subject to licensure, the appropriate agency must determine that the facility meets all applicable standards of this regulation.

(b) *Standard: Licensure, registration, or certification of personnel.* All facility personnel and consultants must be currently licensed, registered, or certified as required by State or local law. In addition, they must meet requirements specified throughout this regulation.

**§ 483.12 Condition of participation: Governing body and management.**

The facility must have a governing body to assume full legal responsibility for the determination and implementation of policy, management, operation, and finances of the facility.

(a) *Standard: Governing body.* The governing body must have written guidelines that are formally adopted, dated, and available to all of its members. The guidelines must include a statement of the mission and objectives of the facility, including types of services offered. The governing body must—

(1) Designate officers, their terms of office and duties, and appoint committees and individuals to discharge responsibilities of the governing body;

(2) Schedule meetings, attendance requirements, and record and maintain minutes;

(3) Appoint a qualified nursing home administrator as the official representative of the governing body and designate his responsibilities and authority; and

(4) Specify any delegations of responsibility to individuals for direction, supervision, and evaluation of administrative practices, and the methods the governing body will use to hold those individuals accountable.

(b) *Standard: Patient admission.* (1) The facility may admit only those patients whose health care needs can be met through services offered by the facility itself, in cooperation with community resources, or in cooperation with other providers under contract with the facility. Admission must be ordered by a physician. Admitting policies must be written, dated, revised when necessary, and approved by the governing body.

(2) The facility must not discriminate against any individual in its admission policies or provision of basic services based upon that individual's race, color, national origin, age, or handicap.

(c) *Standard: Institutional plan.* The governing body must prepare an institutional plan which it must review and update annually. The plan must include: (1) An annual operating budget prepared according to generally accepted accounting principles; and

(2) A capital expenditures plan for at least a 3-year period.

(d) *Standard: Administration.* The facility must be operated under the supervision of a nursing home administrator licensed by the State in which the facility is located. The nursing home administrator must be accountable to the governing body for the overall management of the facility. The administrator's authority and responsibilities must be clearly delineated and must include:

(1) Maintaining liaison with the governing body, medical and nursing staff, and other professional and supervisory staff, through regularly scheduled meetings and periodic reports;

(2) Adopting and enforcing rules and regulations covering the health care and safety of patients and others and the protection of their personal property, and civil rights;

(3) Establishing standard operating procedures for physician practices in an ICF, in coordination with the director of nursing.

(4) Evaluating and implementing recommendations from the facility's committees and consultants;

(5) Managing the facility through employment of trained professional and ancillary personnel and through appropriate delegation of duties;

(6) Designating an employee (by name and position) to act in the administrator's absence in order that the facility has administrative direction at all times;

(7) Ensuring that any volunteer program be planned and supervised by a designated employee; and

(8) Ensuring the implementation of a Patient Care Management System (PCMS), as specified in § 483.20.

(e) *Standard: Operating policies and procedures.* (1) The facility must have a written administrative manual that outlines the general operating policies and procedures of the facility. The manual must include policies and procedures relating to admission and admission agreements, patient care services, charges, payments, refunds, transfer, and discharge.

(2) The facility must have written personnel policies and procedures that are explained to employees at the time of their employment and available to them on a continuing basis. These policies must include application procedures, job assignment, working hours, overtime, payment basis, payroll deductions, paydays, insurance, fringe benefits, time off, educational programs, holidays, vacations, sick leave, resignations and terminations, breaks, probation, leaves of absence, dress, and conduct. All personnel must be oriented to these policies upon employment.

(3) Information in personnel records must be current, contain sufficient information to support placement in the assigned position, and be available for employee's inspection.

(4) The facility must have written policies governing control of communicable diseases in employees, a safe and sanitary environment for patients and personnel, and reporting and review of accidents involving patients and personnel. Employees must receive periodic health examinations to ensure the absence of communicable disease.

(5) The facility must have written procedures for moving, transferring, and discharging patients based on the State's relocation plan.

(f) *Standard: Visiting hours.* (1) The facility must provide daily visiting hours which are posted in a conspicuous location.

(2) Visiting hours must encompass at least a 12-hour period sometime between 7:00 a.m. and 10:00 p.m. and need not include time devoted to patient feeding, bathing, and treatment.

(3) Under certain circumstances, the patient's family may have access to the patient outside regular visiting hours.

(4) The facility must furnish accomodations for patients to receive visitors in comfort and privacy.

(g) *Standard: Staff development.* (1) Each employee must receive orientation to the facility, its policies, and to his or her position.

(2) Personnel who provide direct patient care but are not required to be licensed, registered, or certified, must receive at least 30 hours of training from a physician or a registered or licensed practical (vocational) nurse. This training must be completed within 30 days following employment and must include—

(i) An introduction to the job assignment (duties and repsonsibilities of the employee; application of Federal and State regulations with special emphasis on patients' rights; and other legal aspects that may impact on the position);

(ii) Physical needs of the patients (hygiene; nutrition; bowel and bladder function; proper method to align and move patients; bedmaking; observation of physical or behavioral changes; taking vital signs; and rehabilitation); and

(iii) Psychosocial needs of the patients (adjustment to institutional life; special problems of the elderly; communication disorders and skills; understanding death and dying; and the importance of patients participating in decision-making and self-determination).

(3) The facility must provide for continuing education and training to develop the skills of all personnel. This program must include:

(i) Training and skills needed to attend to, and methods and techniques related to, everyday care of aged, ill, and disabled; and

(ii) Training concerning prevention and control of infections, fire and safety rules, accident prevention, confidentiality of patient information, and patients' rights.

(4) The facility must document the content of, and attendance at, inservice training.

(h) *Standard: Transfer agreement.* The facility must have a written transfer agreement with one or more general hospitals to ensure continuity of care. If a hospital and long-term care facility share a common governing body and administration, a written agreement is not necessary. If the State survey agency finds that the facility tried in good faith to enter into an agreement but could not, the facility may be considered to meet this standard as long as the State survey agency determines that it is in the public interest and essential to assuring services for eligible individuals in the community not to enforce this requirement. This agreement must:

(1) Ensure accountability for a patient's personal effects that are left in the control of the facility;

(2) Specify the steps needed to transfer a patient in a prompt, safe, and efficient manner; and

(3) Provide for supplying at the time of transfer, a summary of administrative, social, medical, and nursing information to the facility to which the patient is transferred. This summary must either be a transcript of the patient's medical record, an interagency referral form, or a copy of the admission sheet and summary.

(i) *Standard: Use of outside resources* If the facility does not employ a person qualified to furnish a specific service, it must have arrangements with outside resources to provide the service. An outside resource must be a qualified person or agency, including temporary personnel agencies, that will provide the service directly to patients or act as a consultant to the facility.

(1) If the facility enters into a written agreement with any outside resources, the agreement must state the responsibilities, functions, objectives, and terms of the agreement, including financial arrangements and charges.

(2) The facility must ensure that outside resources meet the same qualifications that would apply if such services were provided by facility employees.

(3) The outside resource, when acting as a consultant, must prepare written, signed, and dated reports to apprise the nursing home administrator of progress, plans for implementation, evaluation of performance, and recommendations. These reports must be retained by the nursing home administrator for follow-up.

(j) *Standard: Consultant services.* Regularly scheduled visits of sufficient duration and frequency must be provided by a qualified consultant to ensure that services are rendered in accordance with requirements in § 483.13, § 483.24, § 483.27, and § 483.28. Less qualified staff must receive consultant services for at least one year. If, after one year, it is the nursing home administrator's judgment that less qualified staff are meeting these requirements, consultant visits may be discontinued.

(k) *Standard: Disclosure of owhership.* The facility must comply with 42 CFR Parts 420 and 455 of this chapter which require health care providers and fiscal agents to disclose certain information about owners, employees, subcontractors, and suppliers, as a Condition of Participation in Medicare or Medicaid. HCFA may refuse to enter into, or renew, or may terminate an agreement with a provider if any owner, officer, director, agent, or managing employee has been convicted of a program-related criminal offense or if the provider failed to disclose this information at the time the agreement was entered into.

**§ 483.13 Condition of participation: Medical records.**

The facility must maintain medical records that include clinical, medical, and psychosocial information on every patient.

(a) *Standard: Provision of services.* The facility must—

(1) Designate a director of medical records to be responsible for developing and guiding the implementation of a plan for the overall operation of the medical record service;

(2) Protect records against loss, damage, destruction, and unauthorized use;

(3) Safeguard confidentiality of medical record information. The facility must release confidential medical record information under court order, by written authorization from the patient, or as required under third party contract. If the patient is unable to authorize release of confidential information, responsibility for such release must be in accordance with State law;

(4) Regularly analyze medical records for completeness during the patient's stay and must record necessary information as a result of that analysis. Medical records must also be analyzed upon discharge or death of the patient; and

(5) Retain records in accordance with the period of time specified under State law or for six years from date of discharge or death, whichever is longer.

(b) *Standard: Staffing and qualifications.* (1) The person designated as director of medical records must—

(i) Be eligible to be certified as a Registered Record Administrator (RRA), or an Accredited Record Technician (ART); or

(ii) Have training, experience, and demonstrated supervisory competency appropriate to the scope and complexity of services performed. This person must receive consultation from a medical record consultant who is an RRA or ART and has management experience or specialized training in long-term care consulting.

(c) *Standard: Content.* Medical records must contain—

(1) Sufficient information from the transferring facility to ensure continuity of care upon admission of the patient;

(2) Admission data and orders for immediate care;
(3) Medical findings;
(4) Patient care management cycle of activities specified in § 483.20;
(5) Identification data and consent or authorization forms;
(6) Identification of prognosis, plans for future care, social and community support needs, and medications and appliances needed for continued care upon discharge; and
(7) A discharge summary upon discharge or death.
(d) *Standard: Additional requirements.* The facility must maintain—
(1) A Master Patient Register comprised of individual entries identifying the patient by name, address, date of birth, date of admission, date of transfer, discharge or death, attending physician, sex, religious preference, race, national origin, and additional data according to facility needs.
(2) An admission and discharge register and a daily census.
(3) Administrative records separate from the medical record including—
(i) An inventory of personal effects and valuables;
(ii) Patient's written acknowledgement of receipt of patients; rights information; and
(iii) Legal correspondence and documents relating to the patient including information of a personal or sensitive nature which need not be entered into the patient's medical record.

**§ 483.14 Condition of participation: Utilization review (UR) for SNF's.**

The provisions of this section apply to each SNF for which a Professional Standards Review Organization (PSRO) has not assumed binding review. The facility must—
(a) Have in effect a written UR plan that provides for review of each Medicare or Medicaid beneficiary's need for the medical services that are provided; and
(b) Meet common UR plan requirements. For purposes of this section, the UR plan requirements under 42 CFR § 456.305–338, and § 456.505–508 apply.

## Subpart C—Patient Care Services

**§ 483.20 Condition of participation: Patient care mangement.**

The facility's patient care management activities must ensure the provision of quality care, and be designed to permit achievement and maintenance of optimal functional status and independence.

(a) *Standard: Scope of services.* The facility's Patient Care Management System (PCMS) must include the following cycle of activities—
(1) Preparation of a preliminary care plan;
(2) Conducting an initial comprehensive assessment of each patient's medical, physical, and psychosocial needs defined in paragraph (c) of this section;
(3) Preparation of a care and discharge plan based on the needs identified by the comprehensive assessment;
(4) Implementation of the care and discharge plan;
(5) Reassessment of the patient's needs;
(6) Evaluation that compares the goals outlined in the last care plan with the most recent assessment of the patient's needs;
(7) Revision of the patient's care plan to reflect the findings of the care evaluation; and
(8) Any necessary repetition of activities under paragraphs (a)(4) through (a)(7) of this section.
(b) *Standard: Supervision and accountability.* (1) The director of nursing must be responsible for the supervision and implementation of the facility's patient care management system. These responsibilities include—
(i) Orienting and training personnel for their roles in the operation of the system;
(ii) Assigning one or more trained and qualified nurses to be responsible for the patient's care, developing preliminary care plans, and performing assessments;
(iii) Regularly monitoring a sample of patient records for completeness, validity, reliability, and timeliness of data;
(iv) Ensuring that all activities addressed in PCMS are documented in writing in each patient's medical record;
(v) Ensuring that each patient's care and discharge plan are properly executed;
(vi) Ensuring that the health professionals participate, as needed, in patient care management activities; and
(vii) Coordinating all interdisciplinary team activities.
(2) The professional members of the interdisciplinary team are responsible for providing care and services to the patient and documenting, in writing, all information in the patient's medical record. Team members must exchange information about the patient's care and ensure coordination of their related activities. Each interdisciplinary team member is responsible for providing input for—
(i) The comprehensive assessment;
(ii) The periodic reassessment;
(iii) Developing a comprehensive care plan;
(iv) Preparation of a discharge plan; and
(v) The evaluation of the patient's care plan and goals.
(3) Members of the interdisciplinary team include—
(i) The patient's attending physician;
(ii) The nurse who has primary responsibility for the patient's nursing care;
(iii) Health professionals who provide specific rehabilitation services to the patient;
(iv) Representatives from the facility's food and nutrition service, social service, and patient activities program;
(v) Other facility personnel when their participation is needed; and
(vi) The patient and the patient's family when appropriate.
(c) *Standard: Comprehensive patient assessment.* (1) A comprehensive assessment of each patient's medical, physical, and psychosocial needs must be conducted within 14 days of admission, and on an annual basis thereafter. A comprehensive assessment must be conducted on each patient unless—
(i) The patient is admitted from a hospital and the medical records and prognosis indicate a potential for discharge within 45 days; or
(ii) The patient is admitted from another certified long-term care facility and has already been assessed within the calendar year; or
(iii) The patient is admitted from either another certified long-term care facility or from the community and the attending physician documents in the patient's medical record that the patient has a discharge potential within 45 days.
(2) This assessment must be updated when significant changes in the patient's condition occur.
(3) The facility must use an assessment form certified by the State survey agency as meeting minimum core data requirements specified by HCFA. These forms must include the following basic data—
(i) Medically defined conditions (diagnoses);
(ii) Medical status measurements (height, weight, blood pressure and laboratory findings);
(iii) Impairments (status of sight, hearing, speech, dental/oral, fractures and dislocations, missing limbs, paralysis, decubitus ulcers);
(iv) Functioning status (mobility, bowel and bladder function, and activities of daily living);

(v) Nutritional status (nutritional deficiencies, cultural, religious, or other preferences, special dietary requirements, intake/output problems);

(vi) Psychosocial (outside contacts, frequency of visitors, use of free time, preinstitutional hobbies and interests, participation in activities, communication, orientation, behavior);

(vii) Special treatments/procedures (medications, general and restorative nursing care, rehabilitative services); and

(viii) Discharge potential (status of independent functioning, availability of support personnel at home, service needs, and financial resources).

(d) *Standard: Care planning.* (1) A preliminary care plan must be developed in accordance with the attending physician's admission orders within 48 hours of the patient's admission.

(2) A comprehensive care plan must be developed within 1 week of completion of the comprehensive assessment.

(3) The patient's care plan must specify—

(i) Those needs identified in paragraph (c)(3) of this section;

(ii) Goals for the patient that are time-limited and measurable;

(iii) The necessary care and services that must be provided to meet the goals (general and restorative nursing care, rehabilitative services, dietary orders, and medications); and

(iv) The team members responsible for providing specific care and the frequency of their visits.

(4) The care plan must be updated to reflect changes identified in accordance with paragraph (c)(2) of this section. The care plan, however, must be evaluated and updated before each scheduled visit of the attending physician (see § 483.21(c)). The evaluation must include—

(i) An analysis of whether or not the previously set goals in the care plan were achieved, partially achieved or unachieved; and

(ii) A determination of the reason that any goal was partially achieved or unachieved.

(e) *Standard: Discharge plan.* A discharge plan must be prepared when the attending physician documents in the patient's medical record that the patient has discharge potential.

(1) Each patient's discharge plan must include pertinent information to indicate the patient's readiness for discharge and specify needed direction, services, and assistance by a health, social, or welfare community agency after discharge.

(2) At the time of discharge, the facility must provide those persons or agencies responsible for the patient's post-discharge care with an appropriate summary of information to ensure optimal continuity of care.

(f) *Standard: Professional standards of care.* The facility must correct all deficiencies in the quality of its care and services in a timely manner. These deficiencies are those identified by the State survey agency and either the Medicaid Inspection of Care team or the Professional Standards Review Organization (where it has assumed review responsibility in the facility).

**§ 483.21 Condition of participation: Physician services.**

Patients may be admitted to the facility only upon the recommendation of a physician. The medical care of each patient in the facility must be under the supervision of a physician. Each patient or his representative has the right to designate an attending physician in accordance with the facility's standard operating procedures.

(a) *Standard: Medical findings and physician orders at time of admission.* At the time of admission, the facility must obtain patient status information from a physician, including current medical findings, diagnoses, orders for immediate care, and the patient's discharge and rehabilitation potential. If medical orders are unobtainable from the attending physician on admission, the medical director in a SNF or emergency physician may give temporary orders until the attending physician discharges this responsibility.

(b) *Standard: Patient supervision by physician.* The health care of every patient must be under the supervision of a physician who—

(1) Conducts a medical evaluation of the patient's immediate and long-term needs, based on a medical history and a physical examination conducted within 48 hours of admission and entered in the patient's medical record unless—

(i) A comparable examination was completd within 15 days before admission and the report is available at the time of admission; or

(ii) The attending physician documents in the patient's medical record that no significant changes have occurred since the time of the last physical examination and a copy of that examination is included in the patient's medical record; and

(2) Prescribes a planned regimen of medical care based on the medical evaluation.

(c) *Standard: Visit schedule.* The attending physician must review the patient's medical plan of care, update the medical regimen, and make written comments on the patient's condition as often as necessary.

(1) The attending physician must—

(i) Adhere to established facility policies governing physician practices;

(ii) Record results of each patient visit in progress notes in the patient's medical record;

(iii) Prepare the medical aspects of the patient's care plan in conjunction with PCMS (see § 483.20(d)); and

(iv) Give telephone orders only to licensed staff members which must be countersigned within 5 days.

(2) At least once every 30 days for the first 90 days, the attending physician msut visit the patient and enter progress notes in the patient's medical record.

(3) Subsequent to the 90th day following admission, the physician may schedule visits in accordance with his or her professional determination of the patient's needs except that—

(i) The interval between visits must not exceed 60 days for SNF patients or 120 days for ICF patients;

(ii) Recertification of the necessity of patient services under Medicaid must be made every 60 days in accordance with section 1903(g)(1)(A) of the Social Security Act.

(4) The physician must record the intended visit schedule in the patient's medical record.

(d) *Standard: Availability of physicians for emergency patient care.* The facility must have written procedures, available at each nursing station, that provide for emergency physician services at all times.

(e) *Standard: Dental services.* The facility must have a written plan to assist patients in obtaining routine and emergency dental care. The facility must—

(1) Maintain a list of dentists in the community for patients who do not have a private dentist;

(2) Assist the patient, if necessary, in arranging for transportation to and from the dentist's office at the patient's or program's expense; and

(3) Ensure that a dentist or dental hygienist participates at least annually in the staff development program for nursing and other personnel and recommends oral hygiene policies and practices for the care of patients.

(f) *Standard: Podiatric services.* The facility must have a written plan to assist patients in obtaining routine and emergency podiatric care. The facility must—

(1) Maintain a list of podiatrists in the community for patients who do not have a private podiatrist;

(2) Assist the patient, if necessary, in arranging for transportation to and from

the podiatrist's office at the patient's or program's expense; and

(3) Ensure that a podiatrist participates at least annually in the staff development program for nursing and other personnel, and recommends podiatric policies and practices for the care of patients.

**§ 483.22 Condition of participation: Medical direction.**

All SNFs must have a written agreement with a physician to serve as medical director on a part-time or full-time basis, as appropriate for the needs of the patients and the facility.

(a) *Standard: Functions.* The medical director must be responsible for—

(1) Coordination of medical care;

(2) Development of written guidelines which must be approved by the governing body and include standard operating procedures for physician practices in the facility;

(3) Liaison with administrative and medical staffs;

(4) Ensuring that orders are written as required;

(5) Reviewing and evaluating patient care policies and procedures;

(6) Acting as a consultant to the facility in matters related to patient care policies;

(7) Assessment of employee health status; and

(8) Reviewing reports of accidents that occur on the premises to identify health and safety hazards;

(b) *Standard: Waiver of the medical direction requirement.* The Secretary may waive the requirements for the full-time or part-time medical director for appropriate periods if, based upon documented findings of the State survey agency, the Secretary determines that—

(1) The facility has made and continues to make a good faith effort to comply with the medical direction requirement; and

(2) The facility is located in an area where the supply of physicians is not sufficient to permit compliance with this standard without seriously reducing the availability of physician services within the area.

**§ 483.23 Condition of participation: Nursing services.**

(a) *Standard: 24-hour nursing service.* All facilities must provide 24-hour nursing service with a sufficient number of qualified nursing personnel to meet the total nursing needs of the patient. Nursing personnel include registered and licensed practical (vocational) nurses, nurses aides and orderlies.

(1) Nursing personnel must be assigned duties consistent with their education and experience, and based on the characteristics of the patient load and the nursing skills needed to provide care to the patients.

(2) The facility must maintain weekly time schedules that indicate the number and classification of nursing personnel, including relief personnel, who will work on each unit during each tour of duty.

(3) If the facility uses licensed temporary nursing pool personnel, they must meet the same qualifications that would apply if they were permanent facility employees. Temporary pool personnel may not serve as charge nurses on the day shift or as the director of nursing. If temporary pool personnel are used for coverage on evening or night shifts, a full-time, currently licensed nurse must be on call and immediately available by telephone. In a SNF, this person must be a registered nurse.

(4) An ICF must have a registered or licensed practical (vocational) nurse full-time, 7 days a week on the day shift.

(5) A SNF must have a registered nurse full-time, 7 days a week on the day shift.

(b) *Standard: Waiver of 7-day registered nurse requirement.* The Secretary may waive the requirement of paragraph (a)(5) of this section for appropriate periods if, based upon documented findings of the State survey agency, the Secretary determines that—

(1) The facility is located in a rural area, and the supply of SNF services in the area is not sufficient to meet the needs of individual patients;

(2) The facility has at least one full-time registered nurse who is regularly on duty at the facility at least 40 hours a week;

(3) The facility only has patients whose attending physicians have indicated and documented in the patient's medical record that their patient does not require the services of a registered nurse in any 48-hour period;

(4) The facility has arrangements for a registered nurse or a physician to staff the facility to provide services that the attending physician determines are necessary on days when the regular full-time registered nurse is not on duty; and

(5) The facility has made and continues to make a good faith effort to comply with paragraph (a)(5) of this section, but compliance is impeded by the unavailability of registered nurses in that area.

(c) *Standard: Supervision (Director of nursing).* Nursing supervision must be provided by a director of nursing who must have at least 1 year of additional training or experience in long-term or acute care settings and additional training or experience in such areas as rehabilitative or geriatric nursing.

(1) An ICF must have a registered nurse or a licensed practical (vocational) nurse to supervise and direct nursing services.

(2) If an ICF employs a licensed practical (vocational) nurse to supervise and direct nursing services, the ICF must have a contract with a registered nurse to provide at least weekly consultation in the facility to the licensed practical (vocational) nurse.

(3) A SNF must have a registered nurse to supervise and direct nursing services. The director of nursing must designate a charge nurse for all shifts as specified in paragraph (e) of this section.

(d) *Standard: Responsibilities.* The director of nursing must have written administrative responsibility and accountability for the activities and training of nursing personnel, and may serve only one facility in this capacity. These responsibilities must include but are not limited to—

(1) Administering, supervising, and implementing a PCMS, as specified in § 483.20.

(2) Developing and maintaining nursing service objectives, standards of nursing practice, nursing policy and procedure manuals, and written job descriptions for each level of nursing personnel;

(3) Scheduling of an participating in daily rounds;

(4) Coordinating nursing service with other patient services;

(5) Recommending the number and levels of nursing personnel to be employed;

(6) Participating in nursing staff development; and

(7) Ensuring that nursing personnel—

(i) Provide treatments, medications, and diets to patients as prescribed;

(ii) Provide rehabilitative nursing care to patients as needed;

(iii) Keep patients comfortable, clean, and well-groomed;

(iv) Protect patients from accident, injury, and infection; and

(v) Assist and train patients in self-care and encourage them to participate in group activities.

(e) *Standard: Supervision: Charge nurse.* (1) In a SNF, the director of nursing must designate a charge nurse to be responsible for supervising all nursing activities on all shifts. The charge nurse may delegate responsibility to nursing personnel for the direct nursing care of specific patients during each tour of duty on the basis of staff qualifications, size, and physical layout of the facility, characteristics of the patient load, and

the emotional, social, and nursing care needs of patients.

(2) Except in emergencies, the director of nursing may not serve as a charge nurse in a facility with an average daily total occupancy of 60 or more patients.

(3) A charge nurse must be—

(i) A registered nurse or a practical (vocational) nurse;

(ii) If a practical (vocational nurse—

(A) Is a graduate of a State-approved school of practical (vocational) nursing; or

(B) Has passed the Public Health Service examination (offered until December 31, 1977) for waivered practical (vocational) nurses; and

(iii) Experienced in nursing service administration, supervision, and such areas as rehabilitative or geriatric nursing, or acquires preparation through formal staff development programs.

(f) *Standard: Rehabilitative nursing care.* The facility must have a program of rehabilitative nursing care that is an integral part of nursing service and is directed toward assisting each patient in achieving and maintaining an optimal level of self-care and independence. Nursing personnal must be trained in rehabilitative nursing, and services must be provided daily for those patients who require such care. These services must be routinely recorded in the patient's medical record.

(g) *Standard: Supervision of patient nutrition.* Nursing personnel must be aware of the nutritional needs of the patients and—

(1) Encourage patients to eat in the dining area unless medically contraindicated;

(2) Ensure that patients who do not eat in the dining are are provided their own trays;

(3) Assist in the feeding of patients, when necessary, so that food is served at the proper temperature;

(4) Observe food and fluid intake of patients, record deviations from normal in the patient's medical record, and report them to the attending physician or the dietetic service supervisor; and

(5) Ensure that drinking water is available to patients at all times unless medically contraindicated.

(h) *Standard: Administration of drugs.* Drugs and biologicals must be administered only by a physician, licensed nurse, or an individual who has successfully completed a State-approved training program in medication administration. Proper administration of a drug means that the individual dose must be removed from a previously dispensed, properly labeled container (including a unit dose container), verified with the physician's orders, and administered to the proper patient. The facility's pharmaceutical services committee must establish procedures to ensure that—

(1) Drugs and biologicals are checked against the physician's orders;

(2) The patient is identified before administration of a drug;

(3) Each patient has an individual medication record;

(4) The dose administered to the patient is properly recorded in the medication record by the person who administered the drug;

(5) Drugs and biologicals are administered as soon as possible after doses are prepared;

(6) Drugs and biologicals are administered by the same person who prepared the dose, except under single unit dose package distribution systems; and

(7) Patients must be allowed to self administer medications unless prohibited in writing by the attending physician.

(i) *Standard: Conformance with physicians' drug orders.* (1) Drugs and biologicals must be administered in accordance with the written orders of the attending physician.

(2) The facility must have written policies and procedures that are followed when stopping the administration of drugs.

(3) Physicians' verbal orders for drugs may be given only to a licensed nurse, pharmacist, or physician, and must be immediately recorded and signed by the person receiving the order.

(i) The facility may permit verbal orders for schedule II drugs only in an emergency.

(ii) Verbal orders must be countersigned by the attending physician within 5 days.

(4) The facility must notify the attending physician of an automatic stop order before the last dose is administered.

(j) *Standard: Patient care management.* Nursing personnel must participate in the development, implementation, and evaluation of the patient's plan of care, as specified in § 483.20(d). The nursing service component of each patient's plan must be based on an assessment of the patient's nursing needs.

**§ 483.24 Condition of participation: Food and nutrition services.**

The facility must have written procedures which are implemented to ensure that the food and nutrition service is operating in a safe, sanitary, and efficient manner. The facility must provide daily meals which are adequate in amount, palatable, prepared and transported in a sanitary manner, and served in accordance with accepted professional practices. Daily meals must meet the regular and therapeutic dietary needs of the patients. The facility must have a plan for obtaining, preparing, and serving meals in case of emergencies that delay or interrupt supplies or contracted food service.

(a) *Standard: Staffing and qualifications.* (1) A full-time dietetic service supervisor must supervise the overall operation of the dietetic service. If this person is not a qualified dietitian, he or she must receive consultation from a qualified dietitian.

(i) A qualified dietitian must be registered, or eligible for registration, as determined by the Commission on Dietetic Registration. In addition, this person must have at least 1 year of supervisory experience in the food and nutrition service of a health care facility and participate annually in continuing education.

(ii) A dietetic service supervisor must be—

(A) A qualified dietitian; or

(B) A graduate of a dietetic technician or dietetic assistant training program, correspondence or classroom, approved by the American Dietetic Association; or

(C) A graduate of a State-approved course that provided 90 or more hours of classroom instruction in food service supervision and has experience as a supervisor in a health care institution and maintains 15 hours of continuing education annually; or

(D) Trained and experienced in food service supervision and management in a military service equivalent in content to the requirements specified in paragraph (a)(1)(ii) (B) or (C) of this section, and maintains 15 hours of continuing education annually.

(2) The facility must employ sufficient supportive personnel, trained in the preparation and service of food, to carry out the functions of the food and nutrition service.

(3) The dietetic service supervisor must participate in the development of the patient's plan of care, as specified in § 483.20(d).

(4) If consultant services are used, the consultant's visits must be of sufficient duration to allow—

(i) Continuing liaison with medical and nursing staffs;

(ii) Participation in patient care planning, as specified in § 483.20(d);

(iii) Nutritional assessment and patient counseling;

(iv) Guidance to the supervisor and staff of the food and nutrition service;

(v) Approval of all menus;

(vi) Participation in the development or revision of dietetic policies and procedures; and

(vii) Planning and conducting inservice education programs.

(b) *Standard: Menus and nutritional adequacy.* (1) Menus must be planned and written at least one week in advance and designed to meet nutritional and special dietary needs of patients in accordance with the attending physician's orders, and with the recommended dietary allowances of the National Research Council, National Academy of Sciences.

(2) A current diet manual must be used to plan, order, and prepare regular and therapeutic diets.

(3) If a patient refuses food, appropriate substitutes of similar nutritive value must be offered.

(4) The facility must ensure the availability of religious preference diets;

(5) The facility must retain records of all menus served and of food purchased for 30 days.

(6) At least three meals or their equivalent must be served daily with no more than 14 hours between a substantial evening meal and breakfast.

(7) Daily evening nourishments must be provided to patients unless prohibited by the prescribed diet.

(c) *Standard: Storage and preparation.* All foods must be stored, prepared, and distributed under hygienic and sanitary conditions.

(1) Written reports of inspections by State and local health authorities must be on file at the facility indicating action taken to comply with any recommendations.

(2) The kitchen must be located, designed, and equipped to efficiently—

(i) Handle and store incoming supplies;

(ii) Prepare meals;

(iii) Wash trays, dishes, pots, and hands; and

(iv) Dispose of rubbish and garbage.

(3) Personnel, other than those essential to food-handling operations, must not routinely be permitted to pass through the kitchen;

(4) The facility must retain a 3-day supply of staple foods at all times; and

(5) Foods must be prepared by methods that conserve nutritive value, flavor, appearance, served at the proper temperature, and in a form to meet individual patient needs.

**§ 483.25 Condition of participation: Pharmaceutical services.**

The facility must provide routine and emergency drugs and biologicals to its patients to the extent that they are covered under the Medicare or Medicaid programs. The facility must ensure safe and accurate ordering, storage, distribution, administration, review, and recording of all drugs and biologicals (see also § 483.23(h) and (i)).

(a) *Standard: Supervision.* The facility must provide pharmaceutical services under the responsibility and supervision of a pharmacist and the director of nursing.

(b) *Standard: Pharmaceutical services committee.* The facility must have a pharmaceutical services committee comprised of at least the pharmacist, the director of nursing, the nursing home administrator, and one physician. The committee must—

(1) Ensure that the objectives of the pharmaceutical services condition of participation are met;

(2) Meet at least quarterly; and

(3) Document its activities, findings, and recommendations.

(c) *Standard: Drug security.* The facility must establish procedures for storing and disposing of drugs and biologicals in accordance with Federal, State, and local laws.

(1) All drugs and biologicals must be stored in locked compartments and only authorized personnel have access to the keys.

(2) The number of unaccounted for dosage units of drugs listed as being subject to the Comprehensive Drug Abuse Prevention Act of 1970 (Pub. L. 91–513, see 21 CFR Part 1308) must not exceed 1 percent of those received that are classified in schedule II and 3 percent of those received that are classified in schedules III and IV.

(3) Separately locked, permanently affixed compartments must be provided for storage of controlled drugs classified in schedule II, except those drugs administered under single unit package drug distribution systems in which the quantity stored is minimal and a missing dose can be readily detected.

(4) An emergency drug kit must be readily available.

(d) *Standard: Drug records.* The facility must maintain detailed records of the receipt and disposition of all drugs subject to the Comprehensive Drug Abuse Prevention and Control Act of 1970. The facility must also maintain an individual drug administration record for each patient.

(e) *Standard: Drug administration.* The system of drug ordering, storage, distribution, and administration must ensure that the drug administration error rate does not exceed 5 percent of the total dosage units administered and that the drug discard rate does not exceed 4 percent of the total dosage units received by the facility.

(f) *Standard: Stop orders.* Drugs not specifically limited to time or number of doses must be controlled by automatic stop orders or other methods as determined by the facility's pharmaceutical services committee.

(g) *Standard: Drug integrity and labeling.* (1) The pharmaceutical services committee must develop policies and procedures relative to the uniform packaging and labeling of drugs and biologicals. All drugs and biologicals used in the facility must be packaged and labeled in compliance with these policies and procedures.

(2) Drugs and biologicals must be stored under established temperature, humidity, and light control. Containers with illegible, incomplete, or missing labels must be returned to the pharmacist for proper disposition.

(3) Discontinued, outdated, recalled, adulterated, and deteriorated drugs and biologicals must not be available for use.

(h) *Standard: Drug monitoring.* The pharmacist must review the drug regimen of each patient at least monthly. Any irregularities detected during these reviews must be reported to the attending physician or the director of nursing. A record of drug regimen reviews must be prepared by the pharmacist and maintained in the facility. Drug regimen review activities must be integrated, as necessary, into patient care planning as specified in § 483.20(d).

**§ 483.26 Condition of participation: Laboratory and radiologic services; blood.**

The facility must have written policies that provide for routine and emergency laboratory and radiologic services to meet the needs of the patients.

(a) *Standard: Provision of services.* (1) The facility may furnish laboratory and radiologic services itself or have written agreements and procedures for referring patients to qualified outside resources.

(2) If the facility provides its own laboratory or radiologic services, it must meet the applicable conditions established for certification of hospitals that are contained in 42 CFR § 405.1028 and § 405.1029.

(b) *Standard: Availability.* Laboratory and radiologic services must be available. Orders for services must be noted in the patient's medical record by the physician who orders the service. The facility must ensure that the physician receives notification of test results promptly. All test results must be authenticated, dated, and made a part of the patient's medical record.

(c) *Standard: Transportation.* The facility must assist the patient, if necessary, in arranging for transportation to obtain the required service, at the patient's or program's expense.

(d) *Standard: Blood and blood products.* If the facility stores and transfuses blood or blood products, the facility must meet the conditions established for certification of hospitals that are contained in 42 CFR § 405.1028(j), (k), and (l).

**§ 483.27 Condition of participation: Social services.**

The facility must provide services to identify and meet the social and emotional needs of the patient; to assist each patient and family in adjusting to the effects of the illness, treatment, and stay in the facility; and to facilitate discharge planning and the use of community resources.

(a) *Standard: Provision of services.* (1) The facility may furnish social services itself or have written agreements and procedures for referring patients to qualified outside resources.

(2) These services must be provided consistent with the needs identified in the patient care plan (see § 483.20(d)).

(3) The nursing home administrator must designate a social services director to be responsible for arranging and integrating social services with other elements of the care plan.

(b) *Standard: Staffing and qualifications.* (1) The person designated as social services director must have—

(i) A Master of Social Work (M.S.W.) degree;

(ii) A graduate degree in social or behavioral sciences with a speciality in gerontology;

(iii) A Bachelor of Social Work (B.S.W.) degree from a college or university with an undergraduate social work program accredited by the Council on Social Work Education;

(iv) A Bachelor of Arts (B.A.) or Bachelor of Science (B.S.) degree in social or behavioral sciences with 1 year of experience in the provision of social services in a long-term care facility; or

(v) An Associate of Arts (A.A.) degree in social or behavioral sciences with 2 years of experience in the provision of social services in a long-term care facility.

(2) If the person designated as social services director does not meet the requirements of paragraph (1)(i) or (ii) of this section, he or she must receive consultation from a social services consultant who meets these requirements and has at least 1 year of experience in the provision of social services in a long-term care facility.

**§ 483.28 Condition of participation: Patient activities.**

The facility must provide daily activities to patients under a clearly defined plan consistent with needs identified through the patient assessment. The facility must provide an ongoing program of activities to stimulate and promote the physical, social, emotional, and intellectual well-being of the patient. The activities program must also address the needs of bedridden patients and those otherwise unable to participate.

(a) *Standard: Provision of services.* The facility must—

(1) Designate a patient activities director, qualified by training or experience in directing group activity, to be responsible for the program;

(2) Have a plan for independent and group activities for each patient that is—

(i) Developed according to needs and interests;

(ii) Designed to encourage maintenance of normal activities and return to self-care;

(iii) Incorporated into the overall plan of care, as defined in § 483.20(d); and

(iv) Reviewed with patient participation at least quarterly and revised as necessary;

(3) Provide adequate recreation areas with sufficient equipment and materials to support the program.

(b) *Standard: Staffing and qualifications.* The nursing home administrator must designate a patient activities director who must be—

(1) A therapeutic recreation specialist who—

(i) Has completed a full 4-year course in an accredited college or university with a major study appropriate to the field of therapeutic recreation, or has 3 years of experience in the principles, methods, and techniques of recreation; and

(ii) Is eligible for registration as a Therapeutic Recreation Specialist under the requirements set by the National Therapeutic Recreation Society (Branch of the National Recreation and Park Association); or

(2) An occupational therapist who—

(i) Is eligible for certification as an occupational therapist (OTR) by the American Occupational Therapy Association;

(ii) Is a graduate of an occupational therapist educational program accredited jointly by the American Occupational Therapy Association and the Committee on Allied Health Education and Accreditdation of the American Medical Association; or

(iii) Has equivalent training and experience; or

(3) An occupational therapy assistant who—

(i) Is eligible for certification as a certified occupational therapy assistant (COTA) by the American Occupational Therapy Association;

(ii) Is a graduate of an occupational therapy assistant program accredited by the American Occupational Therapy Association; or

(iii) Has equivalent training and experience; or

(4) A person with the qualifications specified in § 483.27(b)(1)(i) or (ii), social services; or

(5) A person who—

(i) Has completed a course approved by the Secretary that provides at least 36 classroom hours in patient activities coordination; and

(ii) Has 2 years of full-time experience in a patient activities program in a health care setting.

(6) A person who does not meet one of the qualifications in paragraphs (b)(1) through (5) of this section, must receive regularly escheduled consultation from an individual who meets one of the requirements of paragraphs (b)(1) through (4) of this section and has at least 1 year of experience as director of a long-term care activities program.

**§ 483.29 Condition of participation: Rehabilitative services.**

Written objectives, policies, and procedures for the provision of rehabilitative services must be established by the facility's therapists and representatives of the medical, administrative, and nursing staff.

(a) *Standard: Provision of services.* (1) Rehabilitative needs must be met either through services provided directly by the facility or by contract with qualified outside sources.

(2) Safe and adequate space and equipment must be available commensurate with the services offered.

(3) Services must be provided under a written plan of treatment based on the physician's diagnosis and orders and must be documented in the patient's medical record.

(4) An assessment and evaluation of the patient's rehabilitation needs must be integrated into the patient's overall plan of care, as specified in § 483.20(d).

(b) *Standard: Staffing and qualifications.* Services must be provided within specific disciplines by qualified therapists, assistants, and supportive personnel supervised by the qualified therapist. A qualified therapist is—

(1) A speech-language pathologist who—

(i) Is eligible for a certificate of clinical competence in speech-language pathology granted by the American Speech-Language-Hearing Association in effect on January 17, 1974, or

(ii) Meets the educational requirements for certification, and has or is in the process of accumulating the supervised clinical experience required for certification;

(2) An audiologist who—

(i) Is eligible for a certificate of clinical competence in audiology granted by the American Speech-Language-Hearing Association, in effect on January 17, 1974; or

(ii) Meets the educational requirements for certification and has or is in the process of accumulating the supervised clinical experience required for certification;

(3) An occupational therapist who meets the requirements specified in § 483.28(b)(2) or (3);

(4) A physical therapist who—

(i) Is a graduate of a program in physical therapy approved by the American Physical Therapy Association or by the Council on Medical Education of American Medical Association;

(ii) Has two years of experience as a physical therapist and has achieved a satisfactory grade on a proficiency examination approved by the Secretary, offered until December 31, 1977;

(iii) Was licensed or registered before January 1, 1966, and had 15 years of full-time experience as a physical therapist before January 1, 1970; or

(iv) Has graduated from a State-approved 4-year college program in physical therapy before January 1, 1966;

(5) A physical therapist assistant who—

(i) Is a graduate of a 2-year college-level program approved by the American Physical Therapy Association; or

(ii) Has equivalent training and experience.

(c) *Standard: Responsibilities.* Therapists must—

(1) Ensure the safety, effectiveness, and cleanliness of the equipment used;

(2) Perform assessments and develop required care plans and progress reports; and

(3) Submit reports of the patient's progress to the physician within 2 weeks after initial therapy and at least every 30 days thereafter as necessary.

(d) *Standard: Qualifying to provide outpatient physical therapy and speech pathology services.* If the facility provides either outpatient physical therapy or speech pathology services, it must meet the applicable health and safety regulations pertaining to those services specified in 42 CFR Subpart Q, § 405.1717, § 405.1718, § 405.1719, § 405.1723, and § 405.1726.

## Subpart D—Physical Environment and Safety

### § 483.40 Condition of participation: Physical environment.

The facility must provide a physical environment that promotes the health, safety, and well-being of the patient and others.

(a) *Standard: Patient sleeping rooms.* (1) Patient sleeping rooms must be designed and equipped for the patient's comfort. A minimum of 100 square feet of floor space in one-bed patient sleeping rooms and 80 square feet per bed in multi-bed rooms must be provided. The Secretary, for Medicare-only and Medicare/Medicaid participating facilities, or the State, for Medicaid-only participating facilities, may waive up to 10% of the square footage requirement for a period not to exceed 3 years if rigid enforcement would result in unreasonable hardship on the facility and the waiver would not adversely affect the health and safety of the patients.

(2) Rooms must not contain more than four beds. In facilities primarily for the care of the mentally ill and/or retarded, there must be no more than 12 beds per room. (An institution primarily engaged in the care of the mentally retarded or in the treatment of mental diseases cannot qualify as a participating SNF under Medicare). The Secretary, for Medicare/Medicaid participating SNFs, or the State survey agency, for Medicaid SNFs and ICFs, may waive the occupancy requirement for the period of the provider agreement provided that the facility demonstrates in writing that the requirement would result in unreasonable hardship on the facility and the waiver would not adversely affect the health and safety of the patients.

(3) Toilet, bathing, and handwashing facilities must be located in or near patients' rooms and be appropriate in number, size, and design to meet the needs of the patients.

(b) *Standard: Multi-purpose rooms.* The facility must have appropriately furnished areas for dining, social, and recreational activities. If an area is used for multi-purposes, there be sufficient space to accommodate all activities and prevent their interference with each other. A dining schedule that allows alternate seatings to accommodate all patients is permitted.

(c) *Standard: Communications.* Each nursing station must be equipped to register patients' calls through a communication system from patient areas including patient rooms, toilet, and bathing facilities. In a SNF, each patient's bed must have a call signal that registers at the nursing station.

(d) *Standard: Comfortable environment.* The facility must provide a functional, safe, sanitary, and comfortable environment for patients, personnel, and others.

(1) *Pest control.* The facility must have an effective, safe, and continuing pest control system against insects and rodents.

(2) *Facility lighting.* All areas occupied by people, machinery, and equipment within buildings, as well as parking lots, and approaches to buildings must have proper lighting. Patient rooms must have general lighting, night lighting, and a reading light for each patient.

(3) *Noise levels.* Sound must be limited to a comfortable level.

(4) *Facility temperature.* For all areas occupied by patients, the facility must maintain indoor temperature and humidity within a normal comfort range by heating, cooling, or other means. Beds must be placed in such manner that patients are not exposed to temperatures outside of a normal comfort range.

(5) *Ventilation.* All areas within the facility must be adequately ventilated.

(6) *Furnishings.* The facility must provide furnishings and interior decorations which promote a homelike atmosphere. Patients must be permitted and encouraged to have personal possessions in their rooms that do not interfere with their care, treatment, or well-being or that of other patients.

(e) *Standard: Linens and clothing.* The facility must ensure that every patient has at all times clean linens, blankets, bed clothing, robes, underwear, and street clothing.

(f) *Standard: Infection control.* The facility must establish a program for identifying, investigating, preventing, and controlling infections, maintaining a sanitary environment, and reporting the results to appropriate authorities. The program must—

(1) Review food handling, laundry, disposal of environmental and patient wastes, pest control, traffic control, visiting rules, and patient care practices for possible sources of infection;

(2) Monitor the health status of employees;

(3) Monitor staff performance to ensure that policies and procedures are being followed; and

(4) Ensure that asceptic procedures and isolation techniques are followed.

(g) *Standard: Plant engineering and maintenance.* (1) *Patient care equipment.* The facility must maintain and service patient care equipment in accordance with the manufacturer's

recommendations to ensure that it is kept safe, sanitary, and operational.

(2) *Facility equipment.* The facility must maintain plumbing, heating, electrical, mechanical, water, kitchen appliances and equipment, and other systems in a safe operating condition.

(i) The facility must have a water supply system that is safe and meets all of the needs of the facility. The system must supply water at sufficient pressure to operate all fixtures and equipment during maximum demand periods, and must have an adequate supply of hot water for patient use at all times.

(ii) The facility must ensure that the temperature of hot water for bathing and handwashing does not exceed 120 degrees Fahrenheit (48.8 Celsius).

(iii) The facility must have a qualified person to maintain its heating, ventilating, and air conditioning system and provide emergency service. If the facility does not employ a qualified person to provide this service, it must have a written agreement with a qualified outside resource to provide normal maintenance and emergency service.

(3) *Emergency power, heat, and water.* The facility must have a contingency plan to ensure a supply of power, heat, and water.

(h) *Standard: Housekeeping.* The facility must employ sufficient housekeeping personnel and provide all necessary housekeeping equipment to ensure that the interior and exterior of the building are clean, sanitary, and orderly. A designated employee must be responsible for these services and for supervision and training of housekeeping personnel. The facility may have a contract with an outside resource for housekeeping services.

**§ 483.45 Condition of participation: Safety.**

(a) *Standard: Life safety from fire.* The facility must meet the provisions of the 1973 edition of the *Life Safety Code* of the National Fire Protection Association (NFPA) that apply to nursing homes.

(1) Any facility which on May 31, 1976 complied with the requirements of the 1967 edition of the *Life Safety Code,* with or without waivers, shall be considered to be in compliance with this standard so long as the facility continues to remain in compliance with that edition of the Code.

(2) The provisions of the *Life Safety Code* shall not apply in any State where the Secretary finds that the State Fire and Safety Code adequately protects patients in long-term care facilities.

(3) *Waivers.* The Secretary, for Medicare-only and Medicare/Medicaid participating facilities, or the State survey agency, for Medicaid/only participating facilities, may waive specific provisions of the Code which, if rigidly applied, would result in unreasonable hardship upon the facility but only if the waiver would not adversely affect the health and safety of patients. All waivers must be re-evaluated upon modification, renovation, alteration or any other change of the feature waived.

(i) Specific construction types as specified in NFPA 220, Standard Types of Building Construction, 1961, may be waived for up to 5 years.

(ii) Specific building construction features, not generally subject to change, may be waived for a period of up to 2 years.

(iii) Operational features may be waived for a period not to exceed 1 year, if correction of the deficiency cannot be accomplished within the time frame specified in the plan of correction.

(4) *Non-flammable medical gases.* Non-flammable medical gases such as oxygen and nitrous oxide, installed or used in the facilty, must comply with the applicable provisions of NFPA No. 56B, Respiratory Therapy, 1973 and NFPA No. 56F, Non-Flammable Medical Gases, 1973.

(5) *Blind and non-ambulatory patients.* An existing facility of two or more stories which is not of at least 2-hour fire resistive construction and is participating on the basis of a waiver, may not have blind, non-ambulatory, or physically handicapped patients above the street level floor unless the facility is of one of the following construction types as defined in NFPA No. 220—

(i) 1-hour protected noncombustible construction;

(ii) Fully sprinklered 1-hour protected ordinary construction; or

(iii) Fully sprinklered 1-hour protected wood frame construction.

(b) *Standard: Disaster preparedness.* The facility must have a written plan with procedures to be followed in the event of an internal or external disaster and for the care of casualties arising during a disaster. The plan and procedures must be prominently posted throughout the facility, periodically reviewed, and rehearsed at least monthly. All accidents must be investigated, reported to proper authorities as required, and any necessary corrective action must be taken.

(1) The disaster plan must include evacuation routes and procedures to be followed in the event of fire, explosion, or other disaster. The plan must also include procedures for the prompt transfer of casualties, medical records, medications, and notification of appropriate persons.

(2) All employees must be familiar with the facility's disaster plan and must be instructed as to the location and use of all alarm systems, fire-fighting equipment, and procedures.

(3) In addition to the staff development requirements under § 483.12(g)(3), all facility employees must attend, at least annually, a fire safety training program conducted by a qualified outside organization or agency, such as the local fire department.

(4) The facility must have sufficient staff on duty at all times to ensure implementation of the disaster plan.

## Subpart E—Patients' Rights

**§ 483.50 Condition of participation: Patients' rights.**

The facility must protect and promote each patient's right to a dignified existence, self-determination, communication with and access to persons and services inside and outside the facility, and to exercise his or her legal rights.

(a) *Standard: Exercise of rights.* (1) The facility must permit each patient to exercise the rights and pursue the interests described in this subpart without restraint, interference, coercion, discrimination, or reprisal from the facility.

(2) When a patient has been adjudicated incompetent, has been found by his physician to medically incapable of understanding these rights, or exhibits a communication barrier, the patient's rights may be exercised by his legal guardian or next of kin.

(3) The facility must exercise judgment in situations which pose an immediate threat to the health or safety of a patient, and when necessary, must achieve a reasonable accommodation of conflicting rights or patients.

(b) *Standard: Establishing policies and procedures.* In accordance with § 483.12(d)(2), the nursing home administrator must establish policies and procedures concerning patients' rights that include, but are not limited to, those covered in this Condition.

(1) The facility must provide a written copy of these policies and procedures to each patient upon admission, request, and upon any revision. The facility must also make copies available to representatives of any federally mandated ombudsman or advocacy group upon request.

(2) The facility must obtain written confirmation from each patient that he or she has received the copy and is aware of its content.

(3) The facility must post a copy of the policies and procedures in a conspicuous location.

(c) *Standard: Freedom of association.* (1) The facility must permit each patient to receive visitors and associate freely inside or outside of the facility with persons and groups on the patient's own initiative.

(2) Patients must have the right to interact with members of the opposite sex and to have private visits. The joint request of a married couple to share a room must be honored.

(d) *Standard: Access to facility.* (1) Visitors must be granted access to patients, who have the right to refuse or teminate any visit.

(2) The facility must permit the patient's representative, and representatives of any federally mandated ombudsman or advocacy program access to the patient at all times.

(e) *Standard: Access to information.* The facility must post the following information in a conspicuous location accessible to patients and visitors—

(1) The address and telephone number of the Regional Office of the Health Standards and Quality Bureau, Health Care Financing Administration, Department of Health, Education and Welfare;

(2) The address and telephone number of the State survey agency designated pursuant to section 1864 of the Social Security Act;

(3) The name, address, and telephone number of the State long-term care ombudsman appointed pursuant to 45 CFR § 1321.43(c);

(4) The address and telephone number of the Area Agency on Aging designated pursuant to 45 CFR § 1321.61; and

(5) A copy of the most recent Medicare-Medicaid Survey Report, and the most recent Statement of Deficiencies and Plan of Correction executed by the facility.

(f) *Standard: Resident Council.* (1) The facility must permit the formation of a resident council by interested patients, provide space for meetings, and provide assistance in attending meetings to those patients who require it. Examples of the function of the council are to: consider issues and complaints related to conditions in the facility; relay complaints and suggestions to the nursing home administrator; and to relay complaints to the persons and organizations listed in paragraphs (c) (1) through (3) of this section.

(2) The facility may not compel attendance at, or participation in, resident council meetings.

(g) *Standard: Patient participation in surveys.* (1) The facility must notify the patients of the dates of any announced survey as soon as notice is received, and of any unannounced survey as soon as the survey begins.

(2) The facility must assist patients in meeting with surveyors during the visits. These meetings must be held without facility personnel present, unless their presence is specifically requested.

(h) *Standard: Patient privacy.* The facility must ensure the patient's right to privacy, particularly in the following areas—

(1) *Accommodations.* (i) Living quarters must provide the patient privacy in bathing, dressing, sleeping, reading and writing.

(ii) Staff may not enter a patient's room without making their presence known, except in an emergency threatening the health or safety of the patient.

(2) *Medical Treatment.* The facility must provide each patient privacy during examinations, treatments, case discussions, and consultations and must treat these matters confidentially.

(3) *Telephone.* The facility must—

(i) Maintain at least one telephone for the use of patients. The telephone must be in a reasonably accessible location, be equipped with sound amplification, and be available to patients at all times; and

(ii) Permit patients to contract for private telephones at their own expense. The facility may not require that private telephones be connected to a central switchboard.

(4) *Mail.* (i) The facility may not open, or read a patient's incoming or outgoing mail without the patient's permission.

(ii) Upon a patient's request, the facility must assist in opening and reading incoming mail, and addressing and posting outgoing mail.

(i) *Standard: Patient records.* (1) The facility must maintain the confidentiality of a patient's personal and medical records and refuse their release without the patient's prior written consent to any individual outside the facility, except in case of transfer to another facility, during Medicare and Medicaid surveys, or as otherwise required by law or third-party payment contract.

(2) Upon the death of a patient, the facility must, within 15 days after receipt of a written request, permit the patient's representative to inspect and copy the deceased patient's records.

(3) Upon written request by a patient, the facility must promptly provide the patient with his records to inspect, and upon request, must provide the patient with a copy of the record.

(4) The facility must immediately permit any person who presents a written authorization from a patient to inspect and copy that patient's record. The facility must document in the patient's record the name of each person who inspects or copies the record and the date on which this occurs.

(5) The facility may require payment of reasonable copying charges for the record, which may not exceed the amount customarily charged in the facility's community for similar services.

(j) *Standard: Patient property.* (1) The facility must permit each patient to maintain and use his or her own personal property. The number of personal possessions may be limited for health and safety reasons which are documented in the patient's medical record.

(2) Within 24 hours of admission, the facility must prepare a written inventory of the personal property a patient brings to the facility. (For patients residing in facilities at the time these regulations are published in final form, the inventory must be prepared within 30 days of the date of publication.)

(3) The nursing home administrator, or delegate, must sign and retain the inventory and must give a copy to the patient.

(4) At the patient's request, the facility must revise the inventory.

(k) *Standard: Involuntary transfers.* (1) A facility may involuntarily transfer a patient only in the following situations—

(i) The patient's attending physician determines that failure to transfer the patient will threaten the health or safety of the patient or others, and documents that determination in the patient's medical record;

(ii) The facility voluntarily or involuntarily ceases to operate, or participate in the program which reimburses for the patient's care;

(iii) Nonpayment of allowable fees has occurred. The conversion of a patient from private pay status to Medicaid eligibility due to exhaustion of personal financial resources, or from Medicare to Medicaid, does not constitute nonpayment of fees under this section; or

(iv) When the findings of a Medicare or Medicaid medical necessity review determine that the patient no longer requires the level of care provided at the facility.

(2) If the facility voluntarily or involuntarily ceases to operate or participate in the program which reimburses for the patient's care, the facility must cooperate fully with the State Medicaid Agency and the HCFA Regional Office in the implementation of any transfer planning and transfer counseling conducted by these agencies.

(3) The facility must notify the patient, or the patient's representative and attending physician at least 15 days before an involuntary intrafacility transfer and at least 30 days before any other involuntary transfer, except as specified in paragraph (j)(1) (i) and (iv) of this section. This notice must be in writing and contain—

(i) The reasons for the proposed transfer;

(ii) The effective date of the proposed transfer; and

(iii) The location to which the facility proposes to transfer the patient.

(4) If two patients in a facility are married and the facility proposes to involuntarily transfer one spouse to another facility at a similar level-of-care, the facility must give the other spouse notice of his or her right to be transferred to the same facility. If the spouse notifies a facility, in writing, that he wishes to be transferred, the facility must transfer both spouses on the same day (pending availability of accommodations).

(l) *Standard: Care involvement.* The facility must provide quality and appropriate care, treatment, and services in accordance with 483.20. The facility may not interfere with the patient's right to—

(1) Choose and retain an attending physician (subject to that physician's compliance with the facility's standard operating procedures for physician practices in the facility);

(2) Receive complete, accurate, and current information regarding his or her medical condition, including diagnosis, proposed treatment, and prognosis (in terms and language he or she can understand);

(3) Participate in the planning of his or her care, treatment and services;

(4) Refuse treatment and medication (the patient must be informed of the consequences of that decision. The refusal and its reason must be documented in the patient's medical record); or

(5) Participate as a subject in experimental research. An informed written consent must be obtained and retained in the patient's medical record.

(m) *Standard: Patient work activity.* (1) The facility may not require a patient to perform labor or services.

(2) The facility may permit a patient to perform personal housekeeping tasks or other services at the facility if the patient so requests and if the attending physician documents in the patient's medical record that performance of the particular tasks would be therapeutic for the patient.

(n) *Standard: Patient restraints.* The facility may not mentally or physically abuse patients or subject them to corporal punishment. The facility may not subject any patient to physical or chemical restraints for purposes of discipline or convenience.

(1) *Imposition of restraints.* The facility may subject a patient to physical or chemical restraints—

(i) Only if an emergency exists in which failure to use restraints is likely to endanger the health or safety of the patient or others; and

(ii) Only upon the written order of a physician.

(A) The physician's written order for restraints must be for a specified period of time and must document the necessity of the restraint.

(B) The facility may not reimpose restraints except upon the written order of a physician who has personally observed the patient since the previous restraint order was imposed.

(2) *Observation.* The nursing staff must observe—

(i) A chemically restrained patient at least every 4 hours to assess possible side effects; and

(ii) A physically restrained patient at least every 30 minutes to assess possible adverse effects and attend to the patient's physical needs.

(o) *Standard: Statement of services; bills.* (1) At the time of admission, the facility must provide the patient with—

(i) A written notice of the facility's basic daily or monthly rates; and

(ii) A written statement of all facility services, including those offered on a needed basis, and related charges, including any extra charges for services not covered under Medicare or Medicaid or by the facility's basic daily or monthly rate.

(2) Upon a patient's request, the facility must provide that patient with a current list of all services and charges. Current charges must be posted in a conspicuous location.

(3) The facility must inform each patient, in writing, at least 30 days in advance of the effective date of any changes in rates or the services that these rates cover.

(4) A facility must bill for charges at least once a month. Each bill must itemize charges for—

(i) The daily or monthly rate; and

(ii) All extra charges by general category.

(5) A facility may not require patients to purchase supplies or services, including pharmaceutical supplies or services, from the facility itself or from any particular vendor. The patient has the right to be informed of prices before purchasing any item or service from the facility, unless an emergency occurs.

(Catalog of Federal Domestic Assistance Program No. 13.714—Medical Assistance Program; No. 13.773—Medicare-Hospital Insurance; No. 13.774—Medicare-Supplementary Medical Insurance)

Dated: March 19, 1980.

**Earl M. Collier, Jr.,**

*Acting Administrator, Health Care Financing Administration.*

Approved: June 30, 1980.

**Patricia Roberts Harris,**

*Secretary.*

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Part IV

# Department of Energy

## Economic Regulatory Administration

## Financial Assistance Programs for State Utility Regulatory Commissions and Eligible Nonregulated Electric Utilities

**DEPARTMENT OF ENERGY**

**Economic Regulatory Administration**

**10 CFR Part 461**

**[Docket No. ERA-R-79-12A]**

# Financial Assistance Programs for State Utility Regulatory Commissions and Eligible Nonregulated Electric Utilities

**AGENCY:** Economic Regulatory Administration, Department of Energy.

**ACTION:** Final rule.

**SUMMARY:** The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby amends the regulations for its Innovative Rates Program. This program provides financial assistance for electric utility regulatory rate reform initiatives relating to innovative rate structures under Title II of the Energy Conservation and Production Act, as amended by Title I of the Public Utility Regulatory Policies Act of 1978. DOE is revising this program in order to (1) establish a procedure for evaluating proposals to continue tasks for which cooperative agreements were awarded in 1979, (2) modify the tasks eligible for funding, and (3) make other changes in response to experience gained from DOE's operation of the program.

**DATES:** Effective: July 14, 1980. Applications under the Innovative Rates Program must be received by DOE by 5:30 p.m., e.d.t., on the August 15 preceding the fiscal year for which financial assistance is sought, unless DOE establishes a different deadline by a notice published in the **Federal Register.**

**FOR FURTHER INFORMATION CONTACT:**

M. Larry Kaseman, Office of Utility Systems, Economic Regulatory Administration, Department of Energy, 2000 M Street, NW., Room 4306, Washington, D.C. 20461, (202) 653-4006.

Mary Ann Masterson, Office of the Assistant General Counsel for Conservation and Solar Applications, Department of Energy, James Forrestal Building, Room 1E-254, Washington, D.C. 20585, (202) 252-9516.

William L. Webb, Office of Public Information, Economic Regulatory Administration, Department of Energy, 2000 M Street, NW., Room B-110, Washington, D.C. 20461, (202) 653-4055.

**SUPPLEMENTARY INFORMATION:**



## I. Background

Regulations establishing financial assistance programs for State utility regulatory commissions and nonregulated electric utilities were issued by the DOE as 10 CFR Part 461 on June 29, 1979 (44 FR 40262, July 9, 1979). A notice of proposed rulemaking and public hearing had been issued on March 21, 1979 (44 FR 18856, March 29, 1979) and comments solicited from interested parties.

Subpart C of these regulations established the Innovative Rates Program, pursuant to section 204(1)(B) of the Energy Conservation and Production Act (ECPA), Pub. L. 94-385, 90 Stat. 1125 *et seq.* (42 U.S.C. 6801 *et seq.*), as amended by section 142 of the Public Utility Regulatory Policies Act of 1978 (PURPA), Pub. L. 95-617, 92 Stat. 3117 *et seq.* (16 U.S.C. 2601 *et seq.*).

On April 2, 1980, the Department of Energy (DOE) issued a notice of proposed rulemaking and public hearing for the purpose of amending the Innovative Rates Program (45 FR 24092, April 8, 1980). The public hearing was cancelled due to a lack of written requests to speak. DOE received and considered eight written comments on the proposed amendments. A number of commenters made suggestions which have resulted in some changes in the regulations issued today.

## II. Discussion of Comments and DOE Response

The following is a discussion of comments received and DOE's response to these comments. The discussion is organized according to the sections of the regulations.

A. *Eligibility Requirements*—§ 461.31. One commenter suggested that regulated utilities be made eligible for funding under this program. Although § 461.31 of Subpart C was not proposed to be amended by the Notice of Proposed Rulemaking issued on April 2, 1980, DOE has chosen to respond to this comment. DOE does not dispute the commenter's assertion that regulated utilities have made important contributions to rate innovations. However, DOE continues to believe that the purposes of this program are most effectively served by limiting eligibility to those entities having legal authority to set rates—State utility regulatory commissions, nonregulated electric utilities and the Tennessee Valley Authority. Consequently, no change has been made to § 461.31 as a result of this comment. Comments were also received suggesting that DOE extend program eligibility to cover utility regulatory authorities in the territories of the United States. Although this section of the rule was not proposed to be amended, DOE has chosen to respond to the comments because they raise an apparent inconsistency in the manner in which the program regulations treat utility regulatory authorities and nonregulated electric utilities for purposes of eligibility. In order to be consistent with the provision of the program rule which provides that all nonregulated electric utilities are eligible for funding, including those in the United States territories, DOE has decided that utility regulatory authorities in the United States territories should also be eligible for financial assistance under the Innovative Rates Program. Consequently, DOE has added a new subsection (c) to § 461.31 which provides that, for the purposes of this program, "State" means a State, the District of Columbia, Puerto Rico, and any territory or possession of the United States. With this amendment, all utility regulatory authorities in the 50 States, the District of Columbia, Puerto Rico, and territories or possessions of the United States are eligible to receive funding under the Innovative Rates Program.

B. *Tasks Eligible for Funding*—§ 461.32. Two commenters recommended the addition of an additional task activity: to allow or encourage utilities to finance conservation/load management investments as an alternative to investments in central station generation. These investments would be part of a comprehensive "least cost strategy" for providing utility service and would raise a number of critical ratemaking issues, including the allocation for ratemaking purposes of the cost of assisting customers to reduce consumption or shift a portion of their load to off-peak periods. DOE agrees that the costs and benefits of utility investments in conservation, as compared with investments in additional generating capacity, are important considerations in utility planning and projections and that the least cost approach has the potential of assisting regulatory agencies and utility managers in more efficiently meeting customer needs. Therefore, DOE has modified the proposed Allocation of Conservation Service Costs task in order to give needed emphasis to the

issue of conservation/load management investment versus generation capacity investment. It is DOE's opinion that this modified task best describes the range of activities relevant to utility conservation efforts.

Two commenters raised parallel concerns about certain aspects of the Innovative Rates Program task activities. These issues, and DOE's responses, are summarized individually below.

The commenters stated that the Innovative Rates Program, by funding projects which are intended to change ratemaking policies or practices, is in conflict with the consideration process required by PURPA. The commenters recommended that DOE require, as part of this program, that a rate initiative not be funded until a determination has been made as to its appropriateness in meeting PURPA's objectives. DOE notes that nothing in the rule overrides applicable Federal or State law, including any requirements with respect to the policies and procedures of State regulatory authorities. To the contrary, many of the tasks eligible for funding include activities which involve public participation in the ratemaking process and consideration of the PURPA purposes and standards. DOE does not believe that requiring a PURPA consideration and determination process for each ratemaking initiative is necessary or advisable, given the scope and variety of tasks eligible for funding.

The commenters alleged that some of the tasks funded in the first year of the program have resulted in unnecessarily redundant studies. DOE disagrees with this characterization. The projects funded under the program are not experiments, research, or studies. Rather, they involve local planning and implementation of discrete regulatory initiatives intended to yield locally-appropriate ratemaking reforms. In a given substantive area, DOE may decide to fund more than one task because the subject is both important and complex, thereby meriting a variety of approaches.

The commenters also assert that certain of the tasks are not rate reform, *per se*, and therefore exceed DOE's authority to fund regulatory rate reform initiatives as authorized by section 204 of ECPA.

It is DOE's opinion that, while certain of the tasks eligible for funding may not be direct rate structure reforms, each of the tasks is likely to lead to innovative rate structuring. In addition, the tasks listed in § 461.32 are necessary and important elements in the development and adoption of regulatory rate reforms. Consequently, DOE has not revised the program rule in response to this comment.

C. *Proposal Requirements*—§ 461.33. Two commenters questioned DOE's intent to award funds for the full performance period of up to 2 years for new proposals. The commenters felt DOE should not commit funds for a period which exceeds the period of Congressional authorization and that the 2 year funding would lessen DOE's ability to monitor the tasks effectively. DOE notes that agency funds from a given fiscal year may be obligated for projects which extend beyond the end of that fiscal year. In addition, DOE does not believe that the 2 year funding of tasks will impede its ability to monitor performance of task activities.

D. *Evaluation Criteria*—§ 461.34. No comments were received regarding DOE's proposed modifications to the evaluation criteria.

E. *Selection Process*—§ 461.35. No comments were received regarding DOE's proposed modifications to the selection process. DOE did receive, however, a number of questions regarding the provision that no proposer may receive funding for more than three tasks at the same time. This limitation applies to the total number of a proposer's tasks to be funded, including tasks continued from the first year of the program and new tasks to be funded initially in 1980.

## III. The Final Regulations

The purpose of the Innovative Rates Program is to reform regulatory policies and practices by the development and implementation of innovative ratemaking initiatives. Since the purpose of this program is actually to carry out, rather than simply consider, regulatory ratemaking initiatives relating to innovative electric rates, DOE intends to fund initiatives which will actually change electric regulatory ratemaking policies or practices.

The tasks covered by the Innovative Rate Program share one or more of the following key characteristics. First, the activities undertaken in performing each task are to result in decisions by the proposer regarding the adoption of a regulatory policy or practice. Second, in developing innovative ratemaking policies and practices, the activities are to focus on practical, immediate issues faced by regulatory authorities. Consequently, the activities are not to focus heavily on developing theoretical studies and models or initiating large primary data collection efforts. Third, the performance of the activities is to expand the proposer's areas of knowledge and level of expertise. Fourth, completed tasks are to result in basic tools, techniques, and organizational resources essential to innovative rate reform. Fifth, the products and results from performance of the tasks are to be largely applicable to other regulatory authorities.

In order to be considered for financial assistance, a proposer must submit a proposal in accordance with § 461.33.

The proposal is to contain a separate task work plan outlining specific activities to be undertaken for each proposed task. In addressing the requirements for each task, DOE expects the proposer to perform the types of activities specified for the individual tasks in § 461.32. However, the activities listed are not intended to be exhaustive.

DOE will evaluate each proposal using the criteria in § 461.34. These evaluation criteria focus on determining the quality and feasibility of the proposed approach to performing the task. Each proposed task will be evaluated separately and may receive a maximum of 100 points. However, any proposed task receiving an evaluation score of less than 45 points will not be considered for a cooperative agreement.

DOE will utilize the evaluation scores for the proposed tasks as a means of selecting, on a competitive basis, those tasks to be funded. Given the level of funding available, DOE anticipates making only a few awards for any given task. DOE anticipates that approximately $5.0 million will be available for proposals, both continuation and new, in Fiscal Year 1980.

The final rule is adopted as proposed except for the modifications described above. In addition, it should be noted that "DOE Assistance Regulations" (10 CFR Part 600) apply to this program except where the program regulations otherwise provide.

## IV. Other Matters

DOE has determined that this rulemaking is significant as that term is used in Executive Order 12044 and DOE Order 2030, but is not likely to have a major impact as defined in these two documents. The rule is considered significant since it would provide funds to carry out national energy legislation. The rule is considered not likely to have a major impact, with respect to its incremental effect on the existing regulatory environment, since it would not impose a gross economical annual cost of $100 million or more; is not likely to impose a major increase in costs or prices for individual industries, levels of government, geographic regions, or demographic groups, or to have an adverse impact on competition; is not likely to have a substantial effect on any

of the objectives of national energy policy or energy statutes; and has not been considered by the Secretary, Deputy Secretary or Under Secretary as likely to have a major impact for any other reason. Accordingly, no regulatory analysis will be performed.

In accordance with section 404 of the Department of Energy Organization Act (DOE Act) (Pub. L. 95–91, 42 U.S.C. 7101 *et seq.*), the Federal Energy Regulatory Commission received a copy of the proposed rule. On July 1, 1980, the FERC determined that the proposed regulations would not significantly affect any function within its jurisdiction under section 402(a)(1), (b) and (c)(1) of the DOE Act.

(Energy Conservation and Production Act, Pub. L. 94–385), as amended by the Public Utility Regulatory Policies Act of 1978, Pub. L. 95–617 (16 U.S.C. 2601 *et seq.*); Department of Energy Organization Act, Pub. L. 95–91 (42 U.S.C. 7101 *et seq.*).

In consideration of the need to make continued financial assistance available and to ensure sufficient time for the preparation and submission of financial assistance applications, good cause exists to make this regulation effective July 14, 1980, rather than 30 days thereafter, as would otherwise be required by the Administrative Procedure Act. Accordingly, these amendments shall be effective July 14, 1980.

In consideration of the foregoing, Subpart C of Part 461 of Chapter II, Title 10 of Code of Federal Regulations, is amended as set forth below.

Issued in Washington, D.C. on July 1, 1980.

**Hazel R. Rollins,**

*Administrator, Economic Regulatory Administration.*

Chapter II of Title 10, Code of Federal Regulations, Part 461 Subpart C is revised to read as follows:

**Subpart C–Innovative Rates Program**

Sec.



**Authority:** Energy Conservation and Production Act, Pub. L. 94–385, as amended by the Public Utility Regulatory Policies Act of 1978, Pub. L. 95–617 (16 U.S.C. 2601 *et seq.*); Department of Energy Organization Act, Pub. L. 95–91 (42 U.S.C. 7101 *et seq.*).

## PART 461—FINANCIAL ASSISTANCE PROGRAMS FOR STATE UTILITY REGULATORY COMMISSIONS AND ELIGIBLE NONREGULATED ELECTRIC UTILITIES

### Subpart C—Innovative Rates Program

#### § 461.30 Purpose and scope.

This subpart establishes a program of financial assistance through cooperative agreements with State utility regulatory commissions, nonregulated electric utilities and the Tennessee Valley Authority (TVA), pursuant to section 204(1)(B) of ECPA. The purpose of this program is to provide financial assistance to these entities for planning and carrying out electric utility regulatory rate reform initiatives relating to innovative rate structures that encourage conservation of energy, electric utility efficiency and reduced costs and equitable rates to consumers.

#### § 461.31 Eligibility requirements.

(a) Cooperative agreements awarded under this subpart may be awarded only to State utility regulatory commissions, nonregulated electric utilities and TVA.

(b) A cooperative agreement may be only for an initiative which will be completed within 2 years.

(c) With respect to this subpart, "State" means a State, the District of Columbia, Puerto Rico, and any territory or possession of the United States.

#### § 461.32 Tasks eligible for funding.

(a) DOE may award cooperative agreements for initiatives which may require up to 2 years to complete, which carry out the purpose of the program as expressed in § 461.30, and which perform up to three of the following ratemaking tasks.

(1) Estimating Consumer Load Characteristics. Activities undertaken in performance of this task could include:

(i) Identifying and assessing existing approaches and methods in the public and private sectors that might be used within the proposer's service area(s) for determining electric load characteristics by consumer class;

(ii) Developing and testing, without extensive data collection efforts or load research studies, innovative methods of estimating consumer class load characteristics;

(iii) Adopting one or more such methods for estimating electric load characteristics, by consumer class, for electric ratemaking purposes;

(iv) Developing, as necessary, a model rate provision which allows a residual charge or credit to compensate for inaccurate estimation of load;

(v) Identifying and documenting procedures that can be used to conduct electric load research studies; and

(vi) Adopting appropriate guidelines for the design, operation, analysis, documentation and reporting of utility load research studies.

(2) Solar Rate Initiative. Activities undertaken in performance of this task could include:

(i) Developing a solar electric rate study to help design a rate structure for electric consumers in the proposer's service area(s) who use supplementary solar systems on existing electric appliance and/or heating and cooling systems;

(ii) Collecting and analyzing appropriate data including weather, demographic, household and load characteristics to assess alternative solar rate structures, including time-of-use electric rate structures; and

(iii) Developing guidelines for establishing rates for electric consumers who use supplementary solar systems on electric appliances and/or heating and cooling systems.

(3) Rate Incentives for Oil Conservation. Activities undertaken in performance of this task could include:

(i) Identifying opportunities for end-use oil conservation by substituting selected non-oil generated electric loads, with particular attention to space heating, water heating, and transportation;

(ii) Identifying rate incentives for promoting such end-use fuel switching;

(iii) Assessing the rate base impacts of a successful oil conservation incentive rate;

(iv) Developing one or more oil conservation rate incentives, consistent with the PURPA purposes and standards; and

(v) Formulating customer relations guidelines to be followed by the utility in informing its customers of the advantages of such fuel switching, in light of the applicable incentive rate and the relative costs and availability outlook for oil.

(4) Rate Incentives for Utility Efficiency. Activities undertaken in performance of this task could include:

(i) Identifying and assessing, for possible adoption by the proposer, current regulatory policies and practices with respect to incentives for efficient electric utility resource utilization, including such aspects of utility operation as fuel use and powerplant availability;

(ii) Reviewing and assessing alternative regulatory approaches that might increase the efficiency of electric utility operation, including incentive

rates of return and restrictions on automatic adjustment clauses; and

(iii) Developing and adopting regulatory guidelines and ratemaking standards to increase the efficiency of electric utility operation.

(5) Nondiscriminatory Cogeneration Rates. Activities (consistent with section 210 of PURPA and the FERC regulations promulgated pursuant thereto) undertaken in performance of this task could include:

(i) Identifying and assessing for possible adoption by the proposer, pertinent regulatory policies and practices for setting rates for electric utility purchase of electric energy and/or capacity from qualifying cogeneration and small power production facilities;

(ii) Identifying, evaluating, and selecting the information, analytical method(s), and procedures that might be used by the proposer to establish appropriate rates for electric utility purchase of electrical energy and/or capacity from qualifying cogeneration and small power production facilities. Emphasis might be given to the appropriate methods for determining the cost the purchasing utility can avoid as a result of obtaining electric energy and/or capacity from the qualifying facilities;

(iii) Adopting as a standard, through public hearings on a case by case basis or through generic proceedings, one or more of the identified methods and procedural processes for establishing cogeneration rates. The standard should identify the data required as well as reporting and filing requirements; and

(iv) Documenting the method(s) established for setting cogeneration rates, model contractual agreements, and provision of necessary organizational resources and information to assist potential facilities in establishing sales agreements with potential purchasers of electric power and/or capacity.

(6) Emergency Conservation Rates. Activities undertaken in performance of this task could include:

(i) Identifying and assessing pertinent regulatory policies and practices for establishing standby electric rates to insure exceptional conservation during periods of energy emergency;

(ii) Determining appropriate triggering criteria for the activation of such standby emergency rates, with particular attention to the availability of primary energy to the electric utility;

(iii) Identification of the cost factors and usage characteristics essential to the design of reasonable standby emergency conservation rates, including consideration of short-run marginal costs and economic impact;

(iv) Developing and adopting standby emergency conservation rates; and

(v) Formulation of customer relations guidelines to be followed by the utility in informing its customers about the need for, and application of, the standby emergency conservation rate, both routinely and upon activation of the standby rate.

(7) Financing Energy Management Measures. Activities undertaken in performance of this task could include:

(i) Identifying, assessing, and estimating the costs and benefits of end-use energy management measures as alternatives to central station generation; such measures could include weatherization, solar energy and renewable resources, load management, and small scale decentralized generation;

(ii) Developing the analytical methods, procedures and data requirements needed to compare the marginal costs and benefits of alternative supply-side and demand-side investments, with a key criterion being cost-minimization in providing a given level of service;

(iii) Determining the most appropriate method(s) of allocating energy management costs for ratemaking purposes, with particular attention to the question of undue discrimination; such methods may need to take into account the difference between the marginal and embedded costs of supply-side options;

(iv) Developing policy and procedural guidelines for financing energy management measures that reflect consideration of end-use conservation, utility efficiency, and equitable rates, as well as attendant reliability and legal issues.

(8) Other Tasks. Other activities may be undertaken to plan and carry out electric utility regulatory rate reform initiatives, relating to innovative rate structures, that carry out the purposes expressed in § 461.30 and that will, or are likely to result in the adoption by the proposer of a reform in its ratemaking practices or policies.

(b) DOE may also award cooperative agreements for the continuance of initiatives funded in Fiscal Year 1979 under this subpart and which may require up to an additional year to complete.

**§ 461.33 Proposal requirements.**

(a) To be eligible to receive a cooperative agreement under this subpart, a proposer must submit to DOE a proposal on Standard Form 424 to be provided by DOE in conformity with paragraph (b) of this section. This proposal must be received by DOE on or before 5:30 P.M. e.d.t., on the August 15 preceding the fiscal year for which financial assistance is sought, or such other date as may be established by DOE and published in the **Federal Register.**

(b) Each proposal must include—

(1) A brief overview, including a summary of each of the tasks proposed to be carried out with the financial assistance requested by the proposer.

(2) For funding under § 461.32(b), a separate Task Work Plan for each proposed task to be carried out by the proposer. Each Task Work Plan shall not exceed 25 pages in length and shall include—

(i) A brief statement of the specific objectives of the task and an identification of how the objectives relate to the proposer's ongoing work and needs;

(ii) A description of the activities proposed to be undertaken in the originally-funded proposal under this program, a description of the activities actually undertaken, and an explanation, if appropriate, of the reasons why any proposed activities were not undertaken.

(iii) A detailed Scope of Work describing the activities to be undertaken to complete the task within the anticipated period of time for the proposed task, not to exceed 1 year, including—

(A) A discussion of how the activities will accomplish the objectives of the task;

(B) A detailed desciption of each activity;

(C) A statement of anticipated problems associated with carrying out the activities;

(D) An identification of methodological issues associated with the activities; and

(E) An identification of data requirements, sources, and availability associated with the activities.

(iv) A timetable by calendar month showing the activities to be performed to complete the task;

(v) A description of task management and administration, which identifies the responsibilities of key personnel and the organizational units assigned to undertake and complete the task, and an indication of any major changes from the year 1 proposal;

(vi) A description of the experience of key personnel, including an identification of the percent of time each will devote to the remainder of the task, and an indication of any major changes from the year 1 proposal;

(vii) A cost estimate by activity for the remainder of the task;

(viii) A budget by cost category for the remainder of the task, including the amount requested of DOE, and the total amount estimated for each task for the period of time to complete the proposed task;

(3) For tasks eligible for funding under § 461.32(a), a separate Task Work Plan for each proposed task to be carried out by the proposer. Each Task Work Plan shall not exceed 25 pages in length and shall include—

(i) A brief statement of the specific objectives of the task and an identification of how the objectives relate to the proposer's ongoing work and needs;

(ii) A detailed Scope of Work describing the activities to be undertaken to complete the task within the anticipated period of time for the proposed task, not to exceed 2 years, including—

(A) A discussion of how the activities will accomplish the objectives of the task;

(B) A detailed description of each activity;

(C) A statement of anticipated problems associated with carrying out the activities;

(D) An identification of methodological issues associated with the activities; and

(E) An identification of data requirements, sources, and availability associated with the activities.

(iii) A timetable by calendar month showing the activities to be performed;

(iv) A description of task management and administration, which identifies the responsibilities of key personnel and the organizational units assigned to undertake the task;

(v) A description of the experience of key personnel, including an identification of the percent of time each will devote to the task;

(vi) A cost estimate by activity for each task;

(vii) A budget by cost category for each task, including the amount requested of DOE, and the total amount estimated for each task for the period of time to complete the proposed task;

(4) An assurance that funds received by the proposer under this subpart will be used in addition to, and not in substitution for, funds made available to the proposer from other governmental sources.

(5) A commitment to submit a Management Plan 60 days after receipt of any cooperative agreement under this subpart. The Management Plan will set forth in detail the organizational, budgetary, technical, and scheduling requirements necessary for successful completion of each task covered in the cooperative agreement. The Management Plan must be submitted for DOE review and approval, and the recipient may not proceed with the subsequent task(s) until the Management Plan is approved.

(6) Identification of the person responsible for coordination and management of the cooperative agreement, including the person's name, title, address, and telephone number.

(7) Referenced appendices, including any pertinent legislation and regulatory orders which are cited in the proposal.

**§ 461.34 Evaluation criteria.**

(a) The following criteria will be used to evaluate each task for which funding under § 461.32(b) is sought.

(1) *Task Objectives.* 5 points maximum.

(i) The extent to which the proposed task describes specific objectives; and

(ii) The extent to which the proposed task demonstrates that accomplishments of the task will be applicable and usable by other State utility regulatory commissions and/or nonregulated electric utilities.

(2) *Task Work Plan.* 35 points maximum.

(i) The extent to which the activities and objectives in the Task Work Plan evidence innovative, effective, and practical approaches to utility rate regulation;

(ii) The extent to which the activities described in the Task Work Plan are clearly related to, and show promise of attaining, the objectives;

(iii) The extent to which activities in the Task Work Plan are integrated into a realistic timetable;

(iv) The extent to which the anticipated results, accomplishments and associated products (including studies, procedures, guidelines and policy directives), are identified;

(v) The extent to which potential problems and alternative courses of action to resolve the problems are identified and addressed.

(3) *Analytical and Methodological Approaches for Task.* 15 points maximum.

(i) The extent to which the evaluation procedures to be used by the proposer in selecting the methodologies and policy alternatives to be employed in the task are clearly described and are workable;

(ii) The extent to which the issues associated with data requirements, sources, availability, costs, and validity are clearly and adequately addressed.

(4) *Task Management.* 10 points maximum.

(i) The extent to which the staffing plan:

(A) Evidences an evaluation of the proposer's current organization with respect to its capability to carry out the task; and

(B) Establishes clear organizational responsibilities for carrying out the task;

(ii) The extent to which the proposer's staff are qualified to perform their functions and will be involved with the work performed by any consultants; and

(iii) The extent to which the Task Work Plan includes provisions for making maximum use of present staff and/or provide for training of staff in order to increase the proposer's effectiveness in carrying out the task.

(5) *Task Budget.* 10 points maximum.

The extent to which the proposed Task Work Plan contains evidence that the amount of funds requested is realistically related to the activities, especially in terms of achieving the stated objectives.

(6) *Performance to Date.* 25 points maximum.

(i) The extent to which completed performance under the task evidences that adequate progress in meeting established goals and objectives has been achieved.

(ii) The extent to which the work performed (Task Work Plan) evidences effective use of personnel and budgetary resources.

(b) The following criteria will be used to evaluate each proposed task for which funding under § 461.32(a) is sought.

(1) *Task Objectives.* 10 points maximum.

(i) The extent to which the proposed task describes specific objectives; and

(ii) The extent to which the proposed task demonstrates that accomplishments of the task will be applicable and usable by other State utility regulatory commissions and/or nonregulated electric utilities.

(2) *Task Work Plan.* 45 points maximum.

(i) The extent to which the activities and objectives in the Task Work Plan evidence innovative, effective, and practical approaches to utility rate regulation;

(ii) The extent to which the activities described in the Task Work Plan are clearly related to, and show promise of attaining, the objectives;

(iii) The extent to which activities in the Task Work Plan are integrated into a realistic timetable;

(iv) The extent to which the anticipated results, accomplishments and associated products (including studies, procedures, guidelines and policy directives), are identified;

(v) The extent to which potential problems and alternative courses of

action to resolve the problems are identified and addressed.

(3) *Analytical and Methodological Approaches for Task.* 25 points maximum.

(i) The extent to which the evaluation procedures to be used by the proposer in selecting the methodologies and policy alternatives to be employed in the task are clearly described and are workable;

(ii) The extent to which the issues associated with data requirements, sources, availability, costs, and validity are clearly and adequately addressed.

(4) *Task Management.* 10 points maximum.

(i) The extent to which the staffing plan:

(A) Evidences an evaluation of the proposer's current organization with respect to its capability to carry out the task; and

(B) Establishes clear organizational responsibilities for carrying out the task;

(ii) The extent to which the proposer's staff are qualified to perform their functions and will be involved with the work performed by any consultants; and

(iii) The extent to which the Task Work Plan includes provisions for making maximum use of present staff and/or provide for training of staff in order to increase the proposer's effectiveness in carrying out the task.

(5) *Budget for Task.* 10 points maximum.

The extent to which the proposed Task Work Plan contains evidence that the amount of funds requested is realistically related to the activities, especially in terms of achieving the stated objectives.

**§ 461.35 Selection process.**

The following evaluation and selection process will be used to award cooperative agreements to proposers.

(a) Any proposal that does not include items required in § 461.33(b)(1) through § 461.33(b)(7) will not be considered for a cooperative agreement.

(b) DOE shall first select for funding tasks proposed under § 461.32(b), as follows:

(1) DOE shall evaluate each task in accordance with the criteria specified in § 461.34(a), and shall give each a point score according to those criteria.

(2) Any task receiving a score of 45 points or less will not be considered for a cooperative agreement.

(3) DOE shall rank all tasks in accordance with their point scores.

(4) DOE shall fund the tasks in their order of ranking.

(c) DOE shall then select for funding tasks proposed under § 461.32(a), as follows:

(1) DOE shall evaluate each task in accordance with the criteria specified in § 461.34(b), and shall give each a point score according to these criteria.

(2) Any proposed task receiving a point score of 45 points or less will not be considered for a cooperative agreement.

(3) DOE shall rank all proposed tasks in accordance with their point scores.

(4) DOE shall select for funding the proposed tasks in their order of ranking, until available funds for award are utilized, except that no proposer may receive funding under this subpart for more than three tasks at the same time.

(d) When determined to be necessary and appropriate by DOE, DOE may negotiate with the proposer on Task Work Plans and budgets for tasks, prior to the award of a cooperative agreement.

**§ 461.36 Allowable expenditures.**

Expenditures of funds provided under this subpart are subject to the following limitations:

(a) Funds may not be used for the purchase or lease of non-office equipment.

(b) Funds may not be used for the purchase of data processing hardware.

(c) Funds may not be substituted for funds made available to the recipient from other governmental sources.

(d) Other limitations imposed by DOE pursuant to applicable statutes or regulations, in order to ensure effective performance by the recipient under the cooperative agreement.

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July 14, 1980

Part V

# Department of Energy

## Office of Energy Conservation and Solar Energy

## Energy Conservation Program for Consumer Products; Proposed Test Procedures for Electric Refrigerators, Electric Refrigerator-Freezers, and Freezers

**DEPARTMENT OF ENERGY**

**Office of Energy Conservation and Solar Energy**

**10 CFR Part 430**

**[Docket No. CAS-RM-80-118]**

# Energy Conservation Program for Consumer Products; Proposed Rulemaking and Public Hearing Regarding Test Procedures for Electric Refrigerators, Electric Refrigerator-Freezers, and Freezers

**AGENCY:** Department of Energy.

**ACTION:** Proposed rule.

**SUMMARY:** The Department of Energy hereby proposes to amend its test procedures for refrigerators, refrigerator-freezers, and freezers. These test procedures are part of the energy conservation program for consumer products established pursuant to the Energy Policy and Conservation Act, as amended by the National Energy Conservation Policy Act. Among other program elements, the legislation requires that standard methods of testing be prescribed for covered products.

**DATES:** Written comments in response to this notice by September 12, 1980; requests to speak by Aug. 21, 1980; statements by Sept. 5, 1980; public hearing to be held on Sept. 9, 1980. Speakers to be notified by Aug. 27, 1980.

**ADDRESSES:** Public hearing to be held at: Room 3000A Federal Building, Department of Energy, 12th and Pennsylvania Avenue, N.W., Washington, D.C.

Comments, requests to speak at the hearing and statements to: Ms. C. Snipes, U.S. Department of Energy, Office of Conservation and Solar Energy, Hearings and Dockets, Mail Stop 6B-025, 1000 Independence Ave., S.W., Washington, D.C. 20585.

**FOR FURTHER INFORMATION CONTACT:**

James A. Smith, U.S. Department of Energy, Office of Conservation and Solar Energy, Division of Buildings and Community Systems, Consumer Products Efficiency Branch, Room GH-065, Mail Station 6B-025, 1000 Independence Ave. S.W., Washington, D.C. 20585, (202) 252-9127.

Carol A. Snipes (Hearing Procedures), U.S. Department of Energy, Office of Conservation and Solar Energy, Office of Hearings and Dockets, Mail Station 6B-025, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-9319.

Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Room 1E-254, Mail Station 6A-152, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-9510.

**SUPPLEMENTARY INFORMATION:**

## A. Background

On October 1, 1977, the Department of Energy (DOE) assumed the authority of the Federal Energy Administration (FEA) for the energy conservation program for consumer products, under Section 301 of the Department of Energy Organization Act (DOE Act) (Pub. L. 95-91). The energy conservation program for consumer products was established by FEA pursuant to Title III, Part B of the Energy Policy and Conservation Act (Act) (Pub. L. 94-163). Subsequently, the Act was amended by the National Energy Conservation Policy Act (NECPA) (Pub. L. 95-619). References in this notice to "the Act", or to sections of the Act, refer to the Energy Policy and Conservation Act as amended by NECPA. Section 323 (42 U.S.C. 6293) of the Act requires that standard methods of testing be prescribed for covered products. Test procedures appear at 10 CFR Part 430, Subpart B.

Test procedures were proposed for refrigerators, refrigerator-freezers, and freezers by notice issued April 21, 1977 (42 FR 21576, April 27, 1977) and a public hearing on the proposed test procedures was held on June 14, 1977. Final test procedures were prescribed on September 8, 1977 (42 FR 46140, September 14, 1977).

Subsequently, a Petition for Rulemaking was submitted by the Association of Home Applicance Manufacturers (AHAM). This petition requested that DOE examine shortened test procedures for electric refrigerators, refrigerator-freezers, and freezers. AHAM stated that its alternate test procedures were much less burdensome and would give results that would differ by less than four percent from those obtained under the existing DOE test procedures. The National Bureau of Standards (NBS) has evaluated experimentally the test procedures suggested by AHAM along with other comments received directly from manufacturers and has recommended to DOE revised test procedures which incorporate many of the AHAM suggestions. On the basis of this evaluation and recommendation by NBS, DOE is today proposing to amend the test procedures for electric refrigerators, refrigerator-freezers, and freezers as discussed below.

## B. Discussion

*(1) AHAM Petition (Single Control Refrigerators, Refrigerator-Freezers, and Freezers)*

The current DOE test procedures for refrigerators, refrigerator-freezers, and freezers with single temperature control devices specify that the units be tested for energy consumption at the warmest, midpoint, and coldest temperature positions of the control. After plotting an energy consumption vs. compartment temperature curve corresponding to these control positions, the energy consumption for the standardized freezer compartment temperatures (0° F for freezers, 5° F for refrigerator-freezers, and 15° F for refrigerators) is read from the graph. AHAM proposed than an alternate test procedure be allowed which requires that the control be set such that energy consumption is measured at two rather than three freezer compartment temperatures. One test is conducted by selecting a temperature control position such that the freezer compartment falls within 3° F above the standardized freezer compartment temperature. The other test is conducted with the freezer temperature within 3° F below the standardized freezer compartment temperature. These freezer temperatures and energy consumption values are plotted and are connected by straight lines. The energy consumption of the unit at the standardized freezer compartment temperature (either 0°, 5°, or 15° F, depending upon the class of product) is obtained from the graph.

NBS and DOE have analyzed this test procedure and have determined that a test which requires such careful selection of control positions could potentially be as burdensome as the existing procedure which requires three test points. Any data taken when temperatures differ by more than 3°F from the specified temperature would have to be discarded and the test would have to be repeated with different control settings. This difficulty would be most prevalent when independent laboratory technicians would have to guess correct control settings on products whose control characteristics were unfamiliar to them.

The test procedure proposed today for single control refrigeration products will never require more than two control settings for a valid test. The procedure requires that the energy consumption first be measured with the control set at the midpoint of the control range and that a second energy consumption value be measured with the control set either at the warmest or the coldest setting so that whenever possible, the freezer

compartment temperatures bracket (i.e., one is above and one is below) the standardized freezer compartment temperature. Energy consumption values are plotted vs. freezer temperature and the data points are connected by a straight line. The energy consumption of the test unit at the standardized freezer compartment temperature may be obtained from the graph.

*(2) AHAM Petition (Multiple Control Refrigerator-Freezers)*

The existing DOE test procedure specifies that multiple control refrigerator-freezers be tested at each of the extreme positions of the controls (warm/warm, warm/cold, cold/warm, cold/cold) and that the energy consumption and freezer compartment temperature be plotted vs. fresh food compartment temperature. These points are connected by straight lines to form envelopes. Test unit energy consumption is reported as the average of the two energy consumption values read from the graph at the 5° F freezer compartment temperature. These tests are carried out with the freezer loaded to 75% of its capacity with frozen food packages.

AHAM proposed that multiple control frost-free refrigerator-freezers by allowed to be tested for energy consumption under the following conditions:

a. No load in the freezer compartment.

b. Freezer compartment temperatures measured with weighted thermocouples as specified in ANSI B38.1–1970.

c. Freezer compartment thermocouples located in positions that would normally be occupied by the thermocoupled test packages.

d. After thermal stabilization has been achieved, energy consumption is measured from the time the compressor begins operating after defrost to the similar time in the next defrost cycle with each control set at the midpoint of its range (m/m). If the midpoint control positions (m/m) result in an average freezer compartment temperature greater than 5°F, the primary and secondary controls are reset to their coldest positions (c/c). If the midpoint control positions (m/m) result in an average freezer compartment temperature less than 5°F, the primary and secondary controls are reset at their warmest positions (w/w).

The resulting temperature and energy consumption values are plotted and the energy consumption of the unit is determined at the 5°F average freezer compartment temperature.

NBS carefully analyzed all four conditions of the AHAM-suggested procedure. The provision for no load in the freezer is a change from the present test procedure which specifies no load in the fresh food compartment and a 75% freezer compartment load of standard sized packages of frozen food. The change was requested by industry to reduce the burdensomeness of the test related to selecting and maintaining the packages, constantly relocating them, arranging them in the freezer compartment under test, and assuring that the imbedded thermocouples are correctly positioned. The load increases the length of time a test takes since a large thermal mass requires considerable time to reach equilibrium conditions. Industry has submitted data which shows that there is no appreciable difference in the results of tests with and without a load. The Canadian Standards Association has long been testing without a freezer compartment load and has obtained results equivalent to those from the current DOE test procedure. NBS ran tests on refrigerator-freezers both with and without loads to assure the acceptability of the proposal. The NBS tests showed that as the load is presently specified, many different load arrangements can result when the same refrigerator freezer compartment is loaded, unloaded, then reloaded several times. The exact placement of each package cannot be specified. Thus, the placement of the first food packages affects the final arrangement of the remaining packages, the location of the thermocouples, and the total number of packages finally placed in the compartment. Consequently, the specified 75% load is actually a variable.

NBS has also found that air circulation around the packages is a very important parameter. An air gap of ½ to 1½ inches (1.5 to 4 cm) between the packages and the freezer walls is specified and the use of insulating spacers is permitted to maintain this gap. Even with spacers, it is very difficult to arrange the load packages in a manner such that the gap is maintained. Also, normal vibrations such as those caused by the compressor motor starting and stopping can cause the food packages to shift position and the air gap to change. NBS concluded that tests with and without a load in the freezer compartment produced essentially the same test results when the load was arranged according to specifications. Blocking of any of the air gaps effects the results by producing different energy usage figures. The elimination of the test load should reduce not only burdensomeness but should also provide a much more standardized and repeatable test. Consequently, today's proposed rule does not require a load in the freezer compartment of automatic defrost refrigerator-freezers.

Since the proposed test procedure does not require a freezer compartment load for certain refrigerator-freezers, the existing method of measuring freezer compartment temperature must be modified since the temperature sensors are specified to be located in the load packages. AHAM requested that freezer temperatures be measured in accordance with an existing industry method in which a thermal mass (with a heat capacity not to exceed that of 20 grams of water) is attached to the temperature sensor. These sensors are then located in the freezer compartment in the positions previously occupied by the instrumented frozen food packages. NBS has determined that the thermal mass of 20 grams could be obtained with a small container of water (less than an ounce), a large volume of foam insulation, a metal sphere or a large thin sheet of metal, etc. The physical dimensions of the thermal mass can affect the measured compartment temperature, particularly in the freezer compartment. A thermal mass is desirable on temperature sensors in the freezer section because of the large cyclic temperature variation and sharp changes which make temperature averaging difficult. Today's proposed rule requires the use of weighted temperature sensors and specifies the thermal mass dimensionally, in order to reduce differences due to (1) the effects of the thermal mass on the air circulation in the compartment, (2) the locations of the sensors, and (3) the variation of measured temperatures. The metallic material used and its thermal mass are not critical since neither actually affect the average temperature measured. Therefore, a broad dimensional tolerance is permitted and any metal material is allowed.

The revised control settings suggested by AHAM (testing at the mid/mid and then either cold/cold or warm/warm positions), which reduce the refrigerator-freezer test procedure from a four-point test to a two-point test, were evaluated by NBS. NBS confirmed that these control settings, in combination with no load in the freezer, did give test results which varied no more than 4 percent from the existing test procedure. Part of this variation may be due to inaccuracies in selecting the mid/mid position on controls that have widely separated control setting markings and those with an even number of control markings such that none of the marks is at the actual center position. Some of

these controls also have detents and large differences in control settings can result by selecting a position (detent) on either side of the midpoint. Consequently, today's proposed rule includes the AHAM-suggested two-point test but requires that the controls be set at the midpoints even if detents have to be mechanically overridden.

*(3) Another Two-Point Test Procedure*

One industry member submitted data to NBS which indicated that a two-point test procedure using the cold/cold and warm/warm settings rather than a mid/mid setting would produce more consistent results with less deviation from test to test. While this conclusion may be true for this manufacturer, it may not hold true for all manufacturers. The use of extreme positions can produce erroneous results if the efficiency of the unit tested varies noticeably with the duration of compressor operating cycles. Consequently, this test procedure was not included in the proposed rule.

*(4) All-Refrigerator*

A new refrigeration product, which the present test procedures do not adequately evaluate, is now available in the marketplace. The "all-refrigerator" has a very small freezer compartment for frozen loads and is not designed to maintain temperatures much below the 32°F temperature needed to make the store ice cubes. Today's proposed rule contains a definition of the "all-refrigerator" which specifies that its freezer compartment can be no larger than 0.25 cubic feet. Since the freezer temperature of an all-refrigerator is not a critical parameter, a new test procedure is proposed which calculates energy consumption for this product based upon the temperature of the fresh food compartment. This calculation procedure employs two formulas. One formula determines the per-cycle energy use at 38.0°F (3.3.°C) in the fresh food compartment by selecting this point on the energy consumption curve defined by the two test data points. When the temperature control cannot be set to attain a fresh food compartment temperature at or above 38.0°F (3.3.°C), the other formula is used to select the minimum test energy use as the per cycle energy consumption.

*(5) NonTime-Initiated (Demand) Defrost*

At the present time, there are no refrigeration products on the market which initiate automatic defrosting of the freezer by measuring any parameter other than compressor run time. The technology to produce such a system is presently available. This technique is often called demand defrost and its use could reduce the amount of energy consumed by automatic defrost refrigeration products.

A test procedure for non-time-initiated defrost products is included in today's proposed rule and would be applicable to such a system when it appears on the market. This test procedure consists of two parts. The first part is the same as a nonautomatic defrost test and is used to determine the steady state energy use of a unit when not defrosting. The second part measures the energy of a defrost period and requires a manual initiation of defrost while the compressor motor is running. The energy use during defrost is measured from initiation until the completion of the second cycle of the compressor motor after defrost to include the most significant part of the energy consumption during the stabilization period after defrost. The manual defrost initiation is necessary since there is insufficient frost build-up during a no-load closed door test to cause an automatic initiation. If an attempt were made to cause frost build-up by using a water load in the fresh food or freezer compartment, the defrost energy would be artificially high (higher than for time-initiated defrost) since energy would be required to melt the frost. For time-initiated defrost systems, the existing test procedure measures the energy used to defrost a unit which has little accumulated frost and has been correlated to actual field use experience. A similar test without frost on the coil should also correlate for non-time-initiated defrost systems. The accurate calculation of energy consumption of demand defrost products requires knowledge of the average time between defrosts. Since demand defrost products currently are not marketed, the data is not available. Demand defrost frequency will vary depending upon the average amount of moisture input to the cabinet from the ambient air introduced by door openings and from moisture released by food items placed in the refrigerator-freezer. The moisture input due to food load will vary with the design of the product depending upon the amount of air circulation between the fresh food and freezer compartments. Based upon information published by a defrost control manufacturer, NBS has recommended that the proposed test procedure assume that demand defrosts occur once every 24 hours. Manufacturers are specifically invited to comment on this aspect of the proposed test procedure. When demand defrost products appear on the market, it is possible that the average frequency of defrost will differ from the 24 hour interval which is assumed by the test procedure. If manufacturers can substantiate the average defrost intervals for their products, DOE will consider modifying the test procedure calculations to utilize the more accurate information.

*(6) Temperature Measurements*

Methods of measuring compartment temperatures proposed in today's rule differ slightly from the methods in the existing test procedure. Instead of measuring temperatures on an unspecified number of compressor cycles before defrost, today's rule requires measurements to be made during one to four cycles, depending upon the frequency at which temperatures are measured. The number of temperature cycles measured is proposed to be equal to the time interval (in minutes) between temperature measurements. When averaging a number of measurements of a variable, the deviation to be expected is inversely proportional to the number of measurements taken. Today's proposed rule provides equivalent accuracy for differing frequencies of measurements, while keeping the number of measurements relatively constant.

*(7) Per-Cycle Energy Consumption*

Equations for calculating the per-cycle energy consumption are included in today's proposed procedure. These equations replace the graphical evaluation process of the present procedure. The equations mathematically determine energy use in exactly the same way as does a graphical procedure. In many cases, industry members already calculate these energy values because the calculated results are more accurate, less time consuming, and easily done with simple computers or calculators. For refrigerators or refrigerator-freezers, the per-cycle energy use is calculated by using one of three formulas described in section 6.2 of Appendix A. If the fresh food compartment temperature cannot be set at or above 45°F (7.2°C) and the freezer compartment cannot be set at or above its standardized temperature (either 5° or 15°F) with any control setting, the first formula selects the lowest actual test-measured energy consumption. In all other cases the per-cycle energy use is calculated using two formulas, one of which determines energy use as if the fresh food compartment were at 45°F and the other which calculates energy use as if the freezer were at its standardized temperature (5° or 15°F). These values may or may not be attainable in a particular test unit. If not attainable, the

formula extends the line passing through the two actual measured conditions so that energy consumption may be calculated for both of these temperatures. The reported value of per-cycle energy consumption is then selected as the higher of the two calculated values. These methods will replace the existing test procedure's graphical treatment of various special cases.

*(8) Definitions*

Today's proposed rule modifies the definition of "electric refrigerator" to eliminate the overly prescriptive requirement that the unit has "only one exterior door."

In addition, since DOE is not aware of any gas-powered refrigerators or refrigerator-freezers that are distributed to any significant extent in commerce for domestic use in the United States, today's proposed rule revises the definitions of these products to include only appliances powered by single-phase alternating current electric power.

*(9) Commercial Standards*

A new ANSI/AHAM standard has been approved which incorporates portions of two existing standards (AHAM HRF-2-ECFT and ANS B38.1-1970) which are referenced by the existing DOE test procedure. The differences between the old and new standards are minor and do not affect test procedure results. The standard is used to standardize the test setup and to measure the useful volume of refrigerators, refrigerator-freezers, and freezers. Where applicable, today's revised test procedure refers to the appropriate portion of the new ANSI/AHAM Standard HRF-1-1979.

Under section 301 of the DOE Act, DOE is required to comply with section 32 of the Federal Energy Administration Act of 1974 (FEA Act) (Pub. L. 93-275), as amended by section 9 of the Federal Energy Administration Authorization Act of 1977 (Pub. L. 95-70).

Sections 32 (a) and (b) of the FEA Act provide that:

(a) If any proposed rule by the Administrator contains any commercial standards, or specifically authorizes or requires the use of any such standards, then any general notice of the proposed rulemaking shall:

(1) Identify, by name, the organization which promulgated such standards; and

(2) State whether or not, in the judgment of the Administrator, such organization complied with the requirements of subsection (b) in the promulgation of such standards.

(b) An organization complies with the requirements of this subsection in promulgating any commercial standards if:

(1) It gives interested persons adequate notice of the proposed promulgation of the standards and an opportunity to participate in the promulgation process through the presentation of their views in hearings or meetings which are open to the public;

(2) The membership of the organization at the time of the promulgation of the standards is sufficiently balanced so as to allow for the effective representation of all interested persons;

(3) Before promulgating such standards, it makes available to the public any records or proceedings of the organization, and any documents, letters, memorandums, and materials relation to such standards; and

(4) It has procedures allowing interested persons to:

(A) Obtain a reconsideration of any action taken by the organization relating to the promulgation of such standards, and

(B) Obtain a review of the standards (including a review of the basis or adequacy of such standards).

The findings required of DOE by section 32 of the FEA Act serve to alert the public and DOE to the use and background of commercial standards in a proposed rulemaking and, through the comment and hearing process, allow interested persons to make known their views regarding the appropriateness of the use of those particular commercial standards in that proposed rulemaking. Any negative finding does not reflect a determination by DOE of the advisability of using a particular standard for part of the test procedure regulation.

As noted above, the rulemaking proposed today contains elements of a commercial standard ANSI/AHAM HRF-1-1979, promulgated by two nongovernmental organizations, ANSI and AHAM.

DOE has determined that this standard does not comply with the requirements of section 32(b) because, among other things, it was not developed in a manner which provided for public participation, comment, and review. As required by Section 32(c), DOE will consult with the Attorney General and the Chairman of the Federal Trade Commission concerning the impact of this standard on competition before prescribing final test procedures.

**C. Comment Procedure**

*1. Written Comment*

Interested persons are invited to participate in this rulemaking by submitting data, views or arguments with respect to the proposed amendments set forth in this notice.

Comments should be identified on the outside of the envelope and on documents submitted to DOE with the designation "Refrigerators, Refrigerator-freezers, and Freezers—Proposed Test Procedure Revision; Docket No. CAS-RM-80-118." Fifteen copies should be submitted if possible. All comments received by the data specified at the beginning of this notice, and all other relevant information, will be considered by DOE before final action is taken on the proposed regulation. Pursuant to the provisions of 10 CFR 1004.11, any person submitting information which he or she believes to be confidential and exempt by law from public disclosure should submit one complete copy, and fifteen copies from which information claimed to be confidential has been deleted. In accordance with the procedures established at 10 CFR 1004.11, DOE shall make its own determination which regard to any claim that information submitted be exempted from public disclosure.

*2. Public Hearing*

a. *Request Procedure.* The time and place of the public hearing are indicated at the beginning of this preamble. The hearing will be continued, if necessary, on the following day. DOE invites any person who has an interest in today's proposed rule, or who is a representative of a group or class of persons that has an interest in today's proposed amendments, to make a written request for an opportunity to make an oral presentation. Such a request should be directed to the address indicated at the beginning of this preamble and must be received by the date specified at the beginning of this notice. Such a request may be hand delivered to such address, between the hours of 9:00 a.m. and 5:00 p.m., Monday through Friday. A request should be labeled both on the document and on the envelope "Refrigerators, Refrigerator-freezers, and Freezers—Proposed Test Procedure Revision; Docket No. CAS-RM-80-118."

The person making the request should briefly describe the interest he or she represents (if any), and state why he or she is a proper representative of a group or class of persons that has such an interest. Each person requesting an opportunity for formal comment should give a concise summary of the proposed

oral presentation and a telephone number where he or she may be contacted.

DOE will notify each person selected to appear at the hearing. Each person selected to be heard should submit 15 copies of his statement to the address and by the date given in the beginning of this preamble. In the event any person wishing to testify cannot meet the 15 copy requirement, alternative arrangements can be made with Carol A. Snipes in advance of the hearing by so indicating in the letter requesting an oral presentation, or by calling (202) 252–9319.

b. *Conduct of Hearing.* DOE reserves 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.

A DOE official will be designated to preside at the hearing. This will not be a judicial or evidentiary type hearing. Questions may be asked only by those conducting the hearing, and there will be no cross-examination of persons presenting statements. Any decision made by DOE with respect to the subject matter of the hearing will be based on all information available to DOE. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit questions to be asked of any person making a statement at the hearing. DOE will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by DOE and made available for inspection at the DOE Freedom of Information Office in the Forrestal Building, 1000 Independence Ave., S.W., Room 5B–180, Washington, D.C. 20585, between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday. In addition, any person may purchase a copy of this transcript from the reporter.

*D. Regulatory and Environmental Review*

Pursuant to Section 7(a)(1) of the Federal Energy Administration Act of 1974, a copy of this notice has been submitted to the Administrator of the Environmental Protection Agency for his comments concerning the impact of this proposal on the quality of the environment. No comments have been received from the Administrator.

In accordance with the requirements of the National Environmental Policy Act of 1969 (NAPA), 42 U.S.C. 4321 et seq., DOE has evaluated the proposed establishment of these testing procedures for consumer products to determine if an environmental assessment (EA) or an environmental impact statement (EIS) is required. These test procedures will be used only to standardize the measurement of energy usage for the subject consumer products. The action of prescribing these test procedures, by itself, will not result in any environmental impacts. Thus, it is clear that the proposed action is not a major Federal action significantly affecting the quality of the human environment, and neither an EA nor an EIS is required. The potential environmental impacts that might occur from the application of the test procedures in connection with DOE's minimum energy efficiency standards program will be evaluated separately by that program.

The proposed rule has been reviewed in accordance with Executive Order 12044 and DOE Order 2030.1, and it has been determined that the proposal is significant in nature but does not have major impacts to manufacturers and consumers (i.e., would not impose annual economic costs of $100 million or more). Consequently, a regulatory analysis has not been prepared for this proposed rule.

In consideration of the foregoing, it is proposed to amend Chapter II of Title 10, Code of Federal Regulations, as set forth below.

Issued in Washington, D.C., July 9, 1980.

**T. E. Stelson,**

*Assistant Secretary, Conservation and Solar Energy.*

## PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

Provisions of 10 CFR Part 430, Subpart B and Appendices A and B are amended as follows:

### Subpart B—Test Procedures

1. Section 430.2 definitions of "electric refrigerator," "electric refrigerator-freezer," "freezer," "refrigerator," and "refrigerator-freezer" are revised to read as follows:

**§ 430.2 [Amended]**

* * * * *

"Electric refrigerator" means a cabinet designed for the refrigerated storage of food at temperatures above 32°F., and having a source of refrigeration requiring single phase, alternating current electric energy input only. An electric refrigerator may include a compartment for the freezing and storage of food at temperatures below 32°F., but does not provide a separate low temperature compartment designed for the freezing of and the long term storage of food at temperatures below 8°F.

* * * * *

"Electric refrigerator-freezer" means a cabinet which consists of two or more compartments with at least one of the compartments designed for the refrigerated storage of foods at temperatures above 32°F. and with at least one of the compartments designed for the freezing of and the storage of frozen foods at temperatures of 8°F. or below which may be adjusted by the user to a temperature of 0°F. or below. The source of refrigeration requires single phase, alternating current electrical energy input only.

* * * * *

"Freezer" means a cabinet designed as a unit for the storage of food at temperatures of 0°F. or below, having the ability to freeze food and having a source of refrigeration requiring single phase, alternating current energy input only.

* * * * *

"Refrigerator" means an electric refrigerator.

* * * * *

"Refrigerator-freezer" means an electric refrigerator-freezer.

2. Section 430.22 paragraphs (a) and (b) are revised to read as follows:

**§ 430.22 Test procedures for measures of energy consumption.**

(a) *Refrigerators and refrigerator-freezers.* (1) The estimated annual operating cost for electric refrigerators and electric refrigerator-freezers without an anti-sweat heater switch shall be the product of the following three factors: (i) The representative average-use cycle of 365 cycles per year, (ii) the average per-cycle energy consumption for the standard cycle in kilowatt-hours per cycle, determined according to 6.2 of

Appendix A of this subpart, and (iii) the representative average unit cost in dollars per kilowatt-hour as provided by the Secretary, the resulting product then being rounded off to the nearest dollar per year.

(2) The estimated annual operating cost for electric refrigerators and electric refrigerator-freezers with an anti-sweat heater switch shall be the product of the following three factors: (i) The representative average-use cycle of 365 cycles per year, (ii) half the sum of the average per-cycle energy consumption for the standard cycle and the average per-cycle energy consumption for a test cycle type with the anti-sweat heater switch in the position set at the factory just prior to shipping, each in kilowatt-hours per cycle, determined according to 6.2 of Appendix A of this subpart, and (iii) the representative average unit cost in dollars per kilowatt-hour as provided by the Secretary, the resulting product then being rounded off to the nearest dollar per year.

(3) The estimated annual operating cost for any other specified cycle type for electric refrigerators and electric refrigerator-freezers shall be the product of the following three factors: (i) The representative average-use cycle of 365 cycles per year, (ii) the average per-cycle energy consumption for the specified cycle type, determined according to 6.2 of Appendix A to this subpart, and (iii) the representative average unit cost in dollars per kilowatt-hour as provided by the Administrator, the resulting product then being rounded off to the nearest dollar per year.

(4) The energy factor for electric refrigerators and electric refrigerator-freezers, expressed in cubic feet per kilowatt-hour per cycle, shall be—

(i) For electric refrigerators and electric refrigerator-freezers not having an anti-sweat heater switch, the quotient of (A) the adjusted total volume in cubic feet, determined according to 6.1 of Appendix A of this subpart, divided by (B) the average per-cycle energy consumption for the standard cycle in kilowatt-hours per cycle, determined according to 6.2 of Appendix A of this subpart, the resulting quotient then being rounded off to the second decimal place, and

(ii) For electric refrigerators and electric refrigerator-freezers having an anti-sweat heater switch, the quotient of (A) the adjusted total volume in cubic feet, determined according to 6.1 of Appendix A of this subpart, divided by (B) half the sum of the average per-cycle energy consumption for the standard cycle and the average per-cycle energy consumption for a test cycle type with the anti-sweat heater switch in the position set at the factory, each in kilowatt-hours per cycle, determined according to 6.2 of Appendix A of this subpart, the resulting quotient then being rounded off to the second decimal place.

(5) Other useful measures of energy consumption for electric refrigerators and electric refrigerator-freezers shall be those measures of energy consumption for electric refrigerators and electric refrigerator-freezers which the Secretary determines are likely to assist consumers in making purchasing decisions and which are derived from the application of Appendix A of this subpart.

(b) *Freezers.* (1) The estimated annual operating cost for freezers without an anti-sweat heater switch shall be the product of the following three factors: (i) The representative average-use cycle of 365 cycles per year, (ii) the average per-cycle energy consumption for the standard cycle in kilowatt-hours per cycle, determined according to 6.2 of Appendix B of this subpart, and (iii) the representative average unit cost in dollars per kilowatt-hour as provided by the Secretary, the resulting product then being rounded off to the nearest dollar per year.

(2) The estimated annual operating cost for freezers with an anti-sweat heater switch shall be the product of the following three factors: (i) The representative average-use cycle of 365 cycles per year, (ii) half the sum of the average per-cycle energy consumption for the standard cycle and the average per-cycle energy consumption for a test cycle type with the anti-sweat heater switch in the position set at the factory, each in kilowatt-hours per cycle, determined according to 6.2 of Appendix B of this subpart, and (iii) the representative average unit cost in dollars per kilowatt-hour as provided by the Secretary, the resulting product then being rounded off to the nearest dollar per year.

(3) The estimated annual operating cost for any other specified cycle type for freezers shall be the product of the following three factors: (i) The representative average-use cycle of 365 cycles per year, (ii) the average per-cycle energy consumption for the specified cycle type, determined according to 6.2 of Appendix B of this subpart, and (iii) the representative average unit cost in dollars per kilowatt-hour as provided by the Secretary, the resulting product then being rounded off to the nearest dollar per year.

(4) The energy factor for freezers, expressed in cubic feet per kilowatt-hour per cycle, shall be—

(i) For freezers not having an anti-sweat heater switch, the quotient of (A) the adjusted net refrigerated volume in cubic feet, determined according to 6.1 of Appendix B of this subpart, divided by (B) the average per-cycle energy consumption for the standard cycle in kilowatt-hours per cycle, determined according to 6.2 of Appendix B of this subpart, the resulting quotient then being rounded off to the second decimal place, and

(ii) For freezers having an anti-sweat heater switch, the quotient of (A) the adjusted net refrigerated volume in cubic feet, determined according to 6.1 of Appendix B of this subpart, divided by (B) half the sum of the average per-cycle energy consumption for the standard cycle and the average per-cycle energy consumption for a test cycle type with the anti-sweat switch in the position set at the factory just prior to shipping, each in kilowatt-hours per cycle, determined according to 6.2 of Appendix B of this subpart, the resulting quotient then being rounded off to the second decimal place.

(5) Other useful measures of energy consumption for freezers shall be those measures of energy consumption for freezers which the Secretary determines are likely to assist consumers in making purchasing decisions and which are derived from the application of Appendix B of this subpart.

* * * * *

3. Appendix A is revised to read as follows:

**Appendix A—Uniform Test Method for Measuring the Energy Consumption of Electric Refrigerators and Electric Refrigerator-Freezers**

**1. Definitions**

1.1 "HRF–1–1979" means the Association of Home Appliance Manufacturers standard for household refrigerators, combination refrigerator-freezers, and household freezers, also approved as an American National Standard as a revision of ANSI B 38.1–1970.

1.2 "Adjusted total volume" means the sum of (i) the fresh food compartment volume as defined in HRF–1–1979 in cubic feet, and (ii) the product of an adjustment factor and the net freezer compartment volume as defined in HRF–1–1979, in cubic feet.

1.3 "Anti-sweat heater" means a device incorporated into the design of a refrigerator or refrigerator-freezer to prevent the accumulation of moisture on exterior surfaces of the cabinet under conditions of high ambient humidity.

1.4 "All-refrigerator" means an electric refrigerator which does not include a compartment for the storage of frozen food at temperatures below 32°F (0.0°C). It may include a compartment of 0.25 cubic feet (7.1 liters) or less for freezing and storage of ice.

1.5 "Cycle" means the period of 24 hours for which the energy use of an electric

refrigerator or electric refrigerator-freezer is calculated as though the consumer activated compartment temperature controls were set so that the desired compartment temperatures were maintained.

1.6 "Cycle type" means the set of test conditions having the calculated effect of operating an electric refrigerator or electric refrigerator-freezer for a period of 24 hours, with the consumer activated controls other than those that control compartment temperatures set to establish various operating characteristics.

1.7 "Standard cycle" means the cycle type in which the antisweat heater control, when provided, is set in the highest energy consuming position.

1.8 "Automatic defrost" means s system in which the defrost cycle is automatically initiated and terminated, with resumption of normal refrigeration at the conclusion of defrost operation. The system automatically prevents the permanent formation of frost on all refrigerated surfaces. Nominal refrigerated food temperatures are maintained during the operation of the automatic defrost system.

**2. Test Conditions**

2.1 Operational conditions. The electric refrigerator or electric refrigerator-freezer shall be installed and its operating conditions maintained in accordance with HRF-1-1979, section 7.1 through section 7.4.3.3, except as noted in paragraph 2.3, below.

2.2 Ambient temperature. The ambient temperature of the air surrounding the unit being tested shall be 90.0 ±1°F (32.3 ± 0.6°C) during the time while the unit is stabilizing to steady state conditions and during the test period.

2.3 Conditions for automatic defrost refrigerator-freezers. For automatic defrost refrigerator-freezers, the freezer compartments shall not be loaded with any frozen food packages. Cylindrical metallic masses of dimensions 1.12 ± 0.25 inches (2.9 ± 0.6 cm) in diameter and height shall be attached in good thermal contact with each temperature sensor within the refrigerated compartments. All temperature measuring sensor masses shall be supported by non-thermally conductive supports in such a manner that there will be at least one inch (2.5 cm) of air space separating the thermal mass from contact with any surface. In case of interference with hardware at the sensor locations specified in section 5.1, the sensors shall be placed at the nearest adjacent location such that there will be a one inch air space separating the sensor mass from the hardware.

**3. Test Control Settings**

3.1 Model with no user operable temperature control. A test shall be performed during which the compartment temperatures and energy use shall be measured. A second test shall be performed with the temperature control electrically short circuited to cause the compressor to run continuously.

3.2 Model with user operable temperature control. A first test shall be performed with all compartment temperature controls set at their median position midway between their warmest and coldest setting. Knob detents shall be mechanically defeated if necessary to attain a median setting. A second test shall be performed with all controls set either at their warmest or their coldest settings, whichever is needed to cause the compartment temperatures measured by the two tests to bracket (i.e., one is above and one is below) the standardized temperature for reporting energy consumption. The standardized temperatures shall be:

3.2.1 All-refrigerator, 38°F (3.8°C) fresh food compartment temperature.

3.2.2 Refrigerator, 15°F (−9.4°C) freezer compartment temperature.

3.2.3 Refrigerator-freezer, 5°F (−15°C) freezer compartment temperature.

If the standardized temperature cannot be attained even with the extreme position setting, the measured temperature at the extreme position shall be as close to the standardized temperature as possible.

**4. Test Period**

4.1 Test Period. Tests shall be performed by establishing the conditions set forth in Section 2. and using control settings as set forth in Section 3. above.

4.1.1 Nonautomatic Defrost. If no automatic freezer defrost provisions are provided on the model being tested, the test time period shall start after steady state conditions have been reached and be of not less than three hours in duration. During the test period, the compressor motor shall complete two or more whole compressor cycles (a compressor cycle is a complete "on" and a complete "off" period of the motor). If no "off" cycling will occur, the test period shall be three hours. If incomplete cycling (less than two compressor cycles) occurs during a 24 hour period, the results of the 24 hour period shall be used.

4.1.2 Timed Automatic Defrost. If a time-initiated defrost is provided in the device being tested, the test time period shall start after stabilization has been completed and be from one point during a defrost period to the same point during the next defrost period.

4.1.3 Non-Time-Initiated Defrost. If a non-time-initiated defrost system is provided in the model being tested, the test time period shall consist of two parts. A first part shall be the same as the test for a unit having no defrost provisions (section 4.1.1). The second part shall start when a defrost period is manually initiated during a compressor "on" cycle and terminate at the second turn "off" of the compressor motor or after four hours, whichever comes first.

**5. Test Measurements**

5.1 Temperature Measurements. Temperatures shall be measured at the locations prescribed in Figures 7.1, 7.2, and 7.3 of HRF-1-1979. No freezer temperature measurements need be taken in an all-refrigerator model.

If the interior arrangements of the cabinet do not conform with those shown in Figure 7-1 and 7-2 of HRF-1-1979, measurements shall be taken at selected locations chosen to represent approximately the entire refrigerated compartment. The locations selected shall be a matter of record.

5.1.1 Measured Temperature. The measured temperature of a compartment is to be the average of all sensor temperature readings taken in that compartment at a particular time. Measurements shall be taken at regular intervals not to exceed four minutes.

5.1.2 Compartment Temperature. The compartment temperature for each test period shall be an average of the measured temperatures taken in a compartment during a complete cycle or several complete cycles of the compressor motor (one compressor cycle is one complete motor "on" and one complete motor "off" period). for non-time-initiated defrost models, compartment temperatures shall be those measured in the first part of the test period specified in 4.1.3.

5.1.2.1 The number of compressor motor cycles over which the compartment temperature is to be averaged shall be equal to the number of minutes between measured temperature readings, rounded up to the next whole minute. One of the cycles shall be the last complete compressor motor cycle during the test period.

5.1.2.2 If no compressor motor cycling occurs, the compartment temperatures shall be the average of readings taken during the last thirty minutes of the test period.

5.1.2.3 If incomplete cycling occurs, the compartment temperatures shall be the average of all readings taken during the last three hours of the last complete "on" period.

5.2 Energy Measurements

5.2.1 Per-day Energy Consumption. The energy consumption in kilowatt-hours per day for each test period shall be the energy expended during the test period as specified in section 4.1 adjusted to a 24 hour period. The adjustment shall be determined as follows:

5.2.1.1 Non automatic and time-initiated automatic defrost refrigerators and refrigerator-freezer models. The energy consumption in kilowatt-hours per day shall be calculated as:

$ET = EP \times 1440/T$

where

ET = test cycle energy expended in kilowatt-hours per day,

EP = energy expended in kilowatt-hours during the test period,

T = length of time of the test period in minutes,

1440 = conversion factor to adjust to a 24 hour period in minutes per day.

5.2.1.2 Non-time-initiated defrost. The energy consumption in kilowatt-hours per day shall be calculated as:

$ET = ((EP1/T1) \times (1440 - T2)) + EP2$

where

ET = Defined in 5.2.1.1

EP1 = energy expended in kilowatt-hours during the first part of the test,

EP2 = energy expended in kilowatt-hours per day during the second part of the test,

T1 and T2 = length of time in minutes of the first and second test parts respectively, and

1440 = conversion factor to adjust to a 24-hour period.

5.3 Volume measurements. The electric refrigerator or electric refrigerator-freezer total refrigerated volume, VT, shall be measured in accordance with HRF-1-1979, section 3.2 and section 4.1 through 4.3, and defined as:

VT=VF+VFF
where
VT=total refrigerated volume in cubic feet,
VF=freezer compartment volume in cubic feet, and
VFF=fresh food compartment volume in cubic feet.

**6. Calculation of Derived Results from Test Measurements**

6.1 Adjusted Total Volume.

6.1.1 Electric refrigerators. The adjusted total volume,

VA, for electric refrigerators under test shall be defined as:
VA=(VF×CR)+VFF
where
VA=adjusted total volume in cubic feet,
VF and VFF are defined in 5.3, and
CR=adjustment factor of 1.44, dimensionless.

6.1.2. Electric refrigerator-freezers. The adjusted total volume, VA, for electric refrigerator-freezers under test shall be calculated as follows:
VA=(VF×CRF)+VFF
where
VF and VFF are defined in 5.3 and VA is defined in 6.1.1,
CRF=adjustment factor of 1.63, dimensionless.

6.2 Average Per-Cycle Energy Consumption.

6.2.1 All-refrigerator Models. The average per-cycle energy consumption for a cycle type is expressed in kilowatt-hours per cycle to the nearest tenth (0.1) kilowatt-hour and shall depend upon the temperature attainable in the fresh food compartment as shown below.

6.2.1.1 If the fresh food compartment temperature is always below 38.0°F (3.3°C), the average per-cycle energy consumption shall be defined as:
E=ET1
where
E=Total per-cycle energy in kilowatt-hours per day,
ET is defined in 5.2.1, and Number 1 indicates the test period during which the highest fresh food compartment temperature is measured.

6.2.1.2 If one of the fresh food compartment temperatures measured for a test period is greater than 38.0°F (3.3°C), the average per-cycle energy consumption shall be defined as:
EE=ET1+((ET2−ET1)×(38.0−TR1)/(TR2−TR1)
where
E is defined in 6.2.1.1,
ET is defined in 5.2.1,
TR=Fresh food compartment temperature determined according to 5.1.2 in degrees F,
Number 1 and 2 indicate measurements taken during the first and second test period as appropriate, and
38.0=Standardized fresh food compartment temperature in degrees F.

6.2.2 Refrigerators and refrigerator-freezers. The average per-cycle energy consumption for a cycle type is expressed in kilowatt-hours per-cycle to the nearest tenth (0.1) kilowatt-hour and shall be defined in the applicable following manner:

6.2.2.1 If the fresh food compartment temperature is at or below 45°F (7.2°C) in both of the tests and the freezer compartment temperature is always at or below 15°F (−9.4°C) in both tests of a refrigerator or at or below 5°F (−15°C) in both tests of a refrigerator-freezer, the per-cycle energy consumption shall be:
E=ET1
where
E is defined in 6.2.1.1,
ET is defined in 5.2.1, and
Number 1 indicates the test period during which the highest freezer compartment temperature was measured.

6.2.2.2 If the conditions of 6.2.2.1 do not exist, the per-cycle energy consumption shall be defined by the higher of the two values calculated by the following two formulas:
E=ET1+((ET2−ET1)×(45.0−TR1)/(TR2−TR1))
and
E=ET1+((ET2−ET1)×(k−TF1)/(TF2−TF1))
where
E is defined in 6.2.1.1,
ET is defined in 5.2.1,
TR and number 1 and 2 are defined in 6.2.1.2,
TF=Freezer compartment temperature determined according to 5.1.2 in degrees F,
45.0 is a specified fresh food compartment temperature in degree F, and
k is a constant 15.0 for refrigerators or 5.0 for refrigerator-freezers each being standardized freezer compartment temperature in degrees F.

4. Appendix B is revised to read as follows:

**Appendix B—Uniform Test Method for Measuring the Energy Consumption of Freezers**

**1. Definitions.**

1.1 "HRF-1-1979" means the Association of Home Appliance Manufacturers standard for household refrigerators, combination refrigerator-freezers, and household freezers, also approved as an American National Standard as a version of ANSI B38.1-1970.

1.2 "Anti-sweat heater" means a device incorporated into the design of a freezer to prevent the accumulation of moisture on exterior surfaces of the cabinet under conditions of high ambient humidity.

1.3 "Cycle" means the period of 24 hours for which the energy use of a freezer is calculated as though the consumer-activated compartment temperature controls were preset so that the desired compartment temperatures were maintained.

1.4 "Cycle type" means the set of test conditions having the calculated effect of operating a freezer for a period of 24 hours with the consumer-activated controls other than the compartment temperature control set to establish various operating characteristics.

1.5 "Standard cycle" means the cycle type in which the anti-sweat heater switch, when provided, is set in the highest energy consuming position.

1.6 "Adjusted total volume" means the product of, (1) the freezer volume as defined in HRF-1-1979 in cubic feet, times (2) an adjustment factor.

1.7 "Automatic Defrost" means a system in which the defrost cycle is automatically initiated and terminated, with resumption of normal refrigeration at the conclusion of defrost operation. The system automatically prevents the permanent formation of frost on all refrigerated surfaces. Nominal refrigerated food temperatures are maintained during the operation of the automatic defrost system.

**2. Test Conditions.**

2.1 Operational conditions. The freezer shall be installed and its operating conditions maintained in accordance with HRF-1-1979, section 3.19 and section 7 through section 7.4.3.3.

**3. Test Control Settings.**

3.1 Model with no user operable temperature control. A test shall be performed during which the compartment temperatures and energy use shall be measured. A second test shall be performed with the temperature control electrically short circuited to cause the compressor to run continuously.

3.2 Model with user operable temperature control. A first test shall be performed with temperature control set at its median position midway between the warmest and coldest setting. A second test shall be performed with the control set either at the warmest or coldest setting whichever is needed to cause the compartment temperatures measured by the two tests to bracket (one above and one below) 0.0° F (—17.8° C). If 0.0° F (—17.8° C) cannot be attained even with the extreme position setting, the measured temperature at the extreme position shall be as close as possible to 0.0° F (—17.8° C).

**4. Test Period.**

4.1 Test Period. Tests shall be performed by establishing the conditions set forth in Section 2 and using control settings as set forth in Section 3 above.

4.1.1 Nonautomatic Defrost. If no automatic freezer defrost provisions are provided on the model being tested, the test time period shall start after steady state conditions have been reached and be of not less than three hours duration. During the test period the compressor motor shall complete two or more whole cycles (a compressor cycle is a complete "on" and a complete "off" period of the motor). If no "off" cycling will occur the test period shall be three hours. If incomplete cycling (less than two compressor cycles) occurs during a 24 hour period, the results of the 24 hour period shall be used.

4.1.2 Timed Automatic Defrost. If a time-initiated defrost is provided in the device being tested, the test time period shall start after stabilization has been reached and be from one point during a defrost period to the same point during the next defrost period.

4.1.3 Non-Time-Initiated Defrost. If a non-time-initiated defrost system is provided in the model being tested, the test time period shall consist of two parts. A first part shall be the same as the test for a unit having no defrost provisions (section 4.1.1). The second part shall start when a defrost period is manually initiated during a compressor "on" cycle and terminate at the second turn "off" of the compressor motor or after four hours, whichever comes first.

**5. Test Measurements.**

5.1 Temperature measurements shall be made in accordance with HRF–1–1979 section 7.4.3.3.

5.1.1 Measured Temperature. The measured temperature is to be the average of all sensor temperature readings taken at a particular time. Measurements shall be taken at regular intervals not to exceed four minutes.

5.1.2 Compartment Temperature. The compartment temperature for each test period shall be an average of the measured temperatures taken during a complete cycle or several complete cycles of the compressor motor (one compressor cycle is one complete motor "on" and one complete motor "off" period). For non-time-initiated defrost models, compartment temperatures shall be those measured in the first part of the test period specified in 4.1.3.

5.1.2.1 The number of compressor motor cycles over which the compartment temperature is to be averaged shall be equal to the number of minutes between measured temperature readings rounded up to the next whole minute. One of the cycles shall be the last complete compressor motor cycle during the test period.

5.1.2.2 If no compressor motor cycling occurs, the compartment temperature shall be the average of readings taken during the last thirty minutes of the test period.

5.1.2.3 If incomplete cycling occurs (less than one cycle) the compartment temperature shall be the average of all readings taken during the last three hours of the last complete "on" period.

5.2 Energy Measurements:

5.2.1 Per-day Energy Consumption. The energy consumption in kilowatt-hours per day for each test period shall be the energy expended during the test period as specified in section 4.1 adjusted to a 24 hour period.

The adjustment shall be determined as follows:

5.2.1.1 Nonautomatic and time-initiated automatic defrost models. The energy consumption kilowatt-hours per day shall be calculated as:

$$ET=(EP\times1440\times k)/T$$

where

ET=test cycle energy expended in kilowatt-hours per day.

EP=energy expended in kilowatt-hours during the test period,

T=length of time of the test period in minutes,

1440=conversion factor to adjust to a 24 hour period in minutes per day, and

K=correction factor of 0.7 for chest freezers and 0.85 for upright freezers to adjust for average household usage, dimensionless.

5.2.1.3 Non-time-initiated defrost. The energy consumption in kilowatt-hours per day shall be calculated as:

$$ET=(((EP1/T1)\times(1440-T2))+EP2)\times K$$

where

ET, 1440, and K are defined in 5.2.1.1

EP1=energy expended in kilowatt-hours during the first part of the test,

EP2=energy expended in kilowatt-hours per day during the second part of the test, and

T1 and T2=length of time in minutes of the first and second test parts respectively.

5.3 Volume measurements. The electric freezer total refrigerated volume, VT, shall be measured in accordance with HRF–1–1979, section 3.2 and section 5.1 through 5.3.

**6. Calculation of Derived Results From Test Measurements.**

6.1 Adjusted Total Volume:

6.1.1 Electric freezers. The adjusted total volume, VA, for electric freezers under test shall be defined as:

$$VA=VT\times CF$$

where

VA=adjusted total volume in cubic feet,

VT=total refrigerated volume in cubic feet, and

CF=correction factor of 1.73, dimensionless.

6.2 Average Per-Cycle Energy Consumption:

6.2.1 The average per-cycle energy consumption for a cycle type is expressed in kilowatt-hours per cycle to the nearest tenth (0.1) kilowatt-hour and shall depend upon the temperature attainable in the freezer compartment as shown below.

6.2.1.1 If the freezer compartment temperature is always below 0.0° F (17.8° C), the average per-cycle energy consumption shall be defined as:

$$E=ET1$$

where

E=Total per-cycle energy in kilowatt-hours per day,

ET is defined in 5.2.1, and

Number 1 indicates the test period during which the highest freezer compartment temperature is measured.

6.2.1.2 If one of the freezer compartment temperatures measured for a test period is greater than 0.0° F (17.8° C), the average per-cycle energy consumption shall be defined as:

$$EE=ET1+(ET2-ET1\times(0.0-TF1)/(TF2-TF1))$$

where

E is defined in 6.2.1.1

ET is defined in 5.2.1

TF=Freezer compartment temperature determined according to 5.1.2 in degrees F,

Numbers 1 and 2 indicate measurements taken during the first and second test period as appropriate, and

0.0=Standardized freezer compartment temperature in degrees F.

[FR Doc. 80–20977 Filed 7–11–80; 8:45 am]

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federal register

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Part VI

# Department of Energy

## Economic Regulatory Administration

## Production Incentives for Marginal Properties

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 212

[Docket No. ERA-R-78-18-B]

# Mandatory Petroleum Price Regulations; Production Incentives for Marginal Properties

**AGENCY:** Economic Regulatory Administration, Department of Energy.

**ACTION:** Final rule.

**SUMMARY:** The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby adopts revisions to the definition of "marginal property" in the mandatory petroleum price regulations, 10 CFR 212.72, which recognize the increased production costs at average completion depths of 10,000 feet or more. The rule amends the qualifying depth and production limits set forth in the definition of a marginal property by increasing the present qualifying limit on average daily production per well of 35 barrels during calendar year 1978 for properties with an average completion depth of 8,000 feet and below by an additional five barrels per day for each 2,000 foot increment at depths beginning at 10,000 feet.

**EFFECTIVE DATE:** June 1, 1979.

**FOR FURTHER INFORMATION CONTACT:**

William Webb (Office of Public Information), Economic Regulatory Administration, Room B-110, 2000 M Street, N.W., Washington, D.C. 20461, (202) 653-4055

William Carson or Douglas Harnish (Office of Petroleum Price Regulations), Economic Regulatory Administration, Room 7302-F, 2000 M Street, N.W., Washington, D.C. 20461, (202) 653-3202

William Funk (Office of General Counsel), Department of Energy, Room 6A-099, 1000 Independence Avenue, S.W., Washington, D.C. 20461, (202) 252-6736

**SUPPLEMENTARY INFORMATION:**



## I. Background

On April 16, 1980, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) issued a notice of proposed rulemaking (45 FR 27767, April 24, 1980) to revise the definition of "marginal property" in 10 CFR 212.72 of the mandatory petroleum price regulations. "Marginal property" was defined in a rule issued by ERA on April 5, 1979, (44 FR 22010, April 12, 1979) to include a property for which the average daily production of crude oil per well during calendar year 1978 at a certain average completion depth did not exceed a specified number of barrels. At an average completion depth of 8,000 feet or more, the maximum production had to be 35 barrels per day or less in order to qualify as a marginal property.

The purpose of the April 5, 1979 rule was to increase domestic crude oil production by marginal wells, by providing price incentives that are more adequately tailored to meet the higher costs of production at deeper well depths. Effective June 1, 1979, the base production control level for a marginal property was defined in § 212.72 so as to allow most of the crude oil produced and sold from such a property to be classified as new crude oil and sold at upper tier ceiling prices. The remainder of the crude oil was to be released to upper tier prices beginning January 1, 1980. This action was postponed by Executive Order 12187 (45 FR 3, January 2, 1980) until April 1, 1980, when the President issued Executive Order 12209 (45 FR 26311, April 16, 1980).

The April 16, 1980 notice of proposed rulemaking proposed to revise the definition of "marginal property" by increasing the present qualifying limit on average daily production per well of 35 barrels during calendar year 1978 for properties with an average completion depth of 8,000 feet and below by an additional five barrels per day for each 2,000 foot increment beginning at 10,000 feet. By way of illustration, the new definition would include a property with 40 barrels or less of average daily production per well during 1978 from an average completion depth of 10,000 feet or more; 45 barrels or less from an average completion depth of 12,000 feet or more; etc.

## II. Response to Comments

ERA proposed the revision to the marginal property classification on the basis of information received subsequent to the initial marginal properties rulemaking, which indicated that production costs increased at greater depths. All of the 17 comments received in response to the proposed rule confirmed that production costs increase with greater well depths. As the commenters uniformly favored adoption of the proposed change to the qualifying limits, ERA is adopting the proposed change.

The issue of the effective date for the change to the qualifying limits was addressed in many of the comments. Three different commenters supported each of the alternatives proposed in the notice of proposed rulemaking: (1) June 1, 1979, the effective date of the original marginal properties rulemaking; (2) April 24, 1980, the date of the notice of proposed rulemaking for this rule; and, (3) the effective date of this final rule. Eight commenters did not address any of the alternatives.

The qualifying limits for the depth brackets below 10,000 feet now being adopted should have been included in the original marginal properties rule inasmuch as the policy concerns upon which the original rule was based apply equally to depths below 10,000 feet. In this case, the delay in obtaining sufficient factual information through the rulemaking process to confirm the need for different qualifying limits at depths below 10,000 feet should not result in a different effective date for these limits. Therefore, to restore the regulation to the state in which it originally should have been, ERA has decided to make these changes retroactive to June 1, 1979.

The principal argument against retroactivity is that it would increase administrative (accounting and reporting) burdens on the industry. However, this rule does not change the existing restriction limiting certification to the consecutive two-month period immediately following the month in which the crude oil is produced and sold, except where DOE explicitly requires or permits such recertification. The retroactive adoption of this rule does not constitute such permission. ERA therefore believes that there will be little or no increase in administrative burdens.

It was suggested by two commenters that ERA should include in the marginal rule concept the higher costs alleged in the 0 to 2000 foot depth bracket. A qualifying production rate of 15 barrels per day was recommended. ERA has not seen data to justify this proposal, and therefore is not convinced that the economics support the recommended change.

Other issues raised in the comments include: amending the marginal properties rule to recognize a 12 consecutive month rolling period for qualifying a marginal property to replace the existing fixed period of calendar year 1978; recognizing the higher costs of OCS (offshore) production by doubling the production limits provided for onshore properties at the same completion depths; changing the marginal property rules to account for the increased costs for higher water cut wells; releasing oil produced from

marginal properties to exempt status rather than upper tier prices, or, as one commenter recommended, exempting all production below 12,000 feet from price controls. These issues already were fully considered in the April 5, 1979 marginal properties final rule (44 FR 22010, April 12, 1979). In addition, we consider each of these issues to be beyond the scope of this rulemaking and therefore not properly included in this rulemaking.

### III. Additional Matters

*A. Section 404 of the DOE Act*

Pursuant to the requirements of section 404 of the Department of Energy Act, a copy of the proposed rule was sent to the Federal Energy Regulatory Commission (FERC) for review. The FERC determined that this rule would not significantly affect any of its functions.

*B. National Environmental Policy Act*

It has been determined that this rule does not contitute 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.

*C. Executive Order 12044*

ERA has decided that the preparation of a regulatory analysis under Executive Order No. 12044, entitled "Improving Government Regulations" (43 FR 12661, March 24, 1978), is not required for this rule. A detailed explanation of the basis for this decision may be found in the April 16, 1980 Notice of Proposed Rulemaking, 45 FR 27767, 27768–69 (April 24, 1980).

(Emergency Petroleum Allocation Act of 1973, 15 U.S.C. § 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. § 787 *et seq.*, Pub. L. 93–275, as amended, Pub. L. 94–332, Pub. L. 95–70, and Pub. L. 95–91; Energy Policy and Conservation Act, 42 U.S.C. § 6201 *et seq.*, Pub. L. 94–163, as amended, Pub. L. 94–385, Pub. L. 95–70, Pub. L. 95–619, and Pub. L. 96–30; Department of Energy Organization Act, 42 U.S.C. § 7101 *et seq.*, Pub. L. 95–91; Pub. L. 95–509, Pub. L. 95–619, Pub. L. 95–621; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267)

In consideration of the foregoing, Chapter II, Title 10 of the Code of Federal Regulations, is amended as set forth below, effective June 1, 1979.

Issued in Washington, D.C., on July 7, 1980.

**John C. Sawhill,**

*Deputy Secretary, Department of Energy.*

Section 212.72 is amended by revising the definition of "Marginal property" to read as follows:

**§ 212.72 Definitions.**

* * * * *

"Marginal property" means a property whose average daily production of crude oil (excluding condensate recovered in non-associated production) per well during calendar year 1978 did not exceed the number of barrels shown in the following table for the corresponding average completion depth:

| Average completion depth in feet | Barrels per day |
|---|---|
| 2,000 or more but less than 4,000 | 20 or less. |
| 4,000 or more but less than 6,000 | 25 or less. |
| 6,000 or more but less than 8,000 | 30 or less. |
| 8,000 or more but less than 10,000 | 35 or less. |
| Each additional 2,000 foot interval | An additional 5 barrels. |

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federal register

Monday
July 14, 1980

Part VII

# Department of the Interior

Bureau of Indian Affairs

## Off-Reservation Treaty Fishing, Fraser River Convention Sockeye and Pink Salmon Fishery

**DEPARTMENT OF THE INTERIOR**

**Bureau of Indian Affairs**

**25 CFR Part 256**

## Off-Reservation Treaty Fishing; Fraser River Convention Sockeye and Pink Salmon Fishery

**AGENCY:** Department of the Interior.

**ACTION:** Emergency regulations.

**SUMMARY:** These regulations implement a treaty Indian fishery for sockeye and pink salmon in treaty fishing areas located in waters coming under the United States Convention with Canada for the Protection, Preservation, and Extension of the Sockeye and Pink Salmon Fishery of the Fraser River System. Since pink salmon runs occur in odd years, only sockeye salmon will enter the fishery in 1980. These rules implement domestic law of the United States to provide treaty Indian tribes the full opportunity to harvest one-half of the United States share of sockeye salmon in Convention waters in a manner consistent with the United States' obligations to Canada under the Fraser River Convention. Non-Indian fisheries in these waters are governed by the regulations of the International Pacific Salmon Fisheries Commission. These rules are promulgated by the Department of the Interior to apply only to Indians exercising fishing rights secured to them by treaties of the United States.

**EFFECTIVE DATE:** 0001 a.m. on July 14, 1980.

**FOR FURTHER INFORMATION CONTACT:**

Robert D. Ringo, Fishery Management Biologist, Olympia Area Office Fisheries Assistance Office, U.S. Fish and Wildlife Service, 2625 Parkmont Lane, Bldg. A. Olympia, Washington 98502 (206) 753–9460

Dave McCraney, Office of the Secretary, Western Field Office, USDI, 915 Second Avenue, Room 3292, Seattle, Washington 98174 (206) 442–0814

**SUPPLEMENTARY INFORMATION:** The Department of the Interior is responsible for the supervision and management of Indian Affairs under 43 U.S.C. § 1457, 25 U.S.C. 2 and 9, and the Reorganization Plan No. 3 of 1950 (64 Stat. 1262), including the protection and implementation of off-reservation fishing rights secured by the Treaty of Point Elliott, 12 Stat. 927 (1859); Treaty with the Makah, 12 Stat. 939 (1859); and Treaty of Point No Point, 12 Stat. 933 (1859) as affirmed in *Washington* v. *Fishing Vessel Association,* 443 U.S. 658 (1979). Such treaty Indian fisheries include a sockeye and pink salmon fishery in treaty fishing places in waters coming under the United States Convention with Canada respecting the sockeye and pink salmon fisheries of the Fraser River System.

The International Pacific Salmon Fisheries Commission has forwarded to the Governments of Canada and the United States, for the approval required by the Convention, the regulations applicable in Convention waters during the 1980 fishing season. On May 22, 1980, the United States, acting through the Department of State, approved the regulations except as to treaty Indians fishing in accordance with regulations promulgated by this Department providing for the exercise of fishing rights secured by the United States treaties. The International Pacific Salmon Fisheries Commission assumes control over U.S. Convention waters on June 22, 1980, and the fishing season in Convention waters begins on July 20, 1980. These regulations are necessary to implement the fishing rights of certain Northwest Washington Indian tribes in that fishery and to meet the United States' obligations to Canada under the Fraser River Convention. For these reasons the Secretary of the Interior hereby and for good cause finds that the formal advance notice, public comment procedures, and delayed effectiveness procedures of 5 U.S.C. 553 are impracticable and contrary to the public interest. These regulations are therefore effective immediately.

The United States has two primary obligations to Canada under the Fraser River Convention. The first such obligation is to assure the proper escapement of sockeye and pink salmon into the Fraser River. The second obligation is to assure the equal division of the catch between Canadian and United States fishermen fishing in the Convention Waters. The United States also has treaty obligations to certain Northwest Indian tribes to assure that such tribes have the full opportunity to harvest one-half of the fish that pass through tribal usual and accustomed fishing areas.

In past years extensive comments have been received from treaty tribes objecting to the failure of the federal agencies to provide for the full implemention of the treaty tribes' right to catch one-half of the American share of Fraser River sockeye and pink salmon. The United States Supreme Court, in its July 2, 1979 decision in *Washington* v. *Fishing Vessel Ass'n,* affirmed the right of U.S. treaty Indian tribes to one-half of the American share of any run passing through their usual and accustomed fishing places, including United States Convention Waters. Only sockeye salmon enter the Fraser River Convention fishery in 1980, and regulation of the treaty Indian fishery will be consistent with fulfilling the United States' obligation to provide the treaty tribes full opportunity to catch one-half of the American share and to comply with the United States' obligations to Canada under the Convention.

In 1979 comments were received from non-Indian fishermen recommending adjustments to treaty Indian gill net regulations on days when the non-treaty Purse Seine fleet was scheduled to fish. These comments specifically recommended that treaty Indian gill net vessels not be allowed to daytime fish on such days in order to reduce congestion on the waters and to eliminate the conflict between different gear types. In response to this request the treaty Indian tribes and the Department of the Interior adjusted treaty Indian gill net regulations during the 1979 season to eliminate daytime gill net fishing on those dates when the non-treaty Purse Seine fleet was scheduled to fish. These 1980 treaty Indian fishing regulations have been drafted to reflect the same adjustment.

The United States action and these regulations implement the regulatory system which the United States has used since 1977 to meet its obligations both to Canada and to U.S. treaty Indians. The Supreme Court approved this regulatory system is *Washington* v. *Fishing Vessel Ass'n,* 443 U.S. 658 (1979). This year, as in previous years, the affected treaty tribes will regulate their fisheries concurrently and in a manner consistent with the regulations of the Department.

An environmental assessment has been completed and it has been concluded that the implementation of a treaty Indian fishery by these regulations is not a major federal action which would significantly affect the environment within the meaning of Section 102(2)(c) of the National Environmental Policy Act of 1969.

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

The primary author of this document is Robert D. Ringo, Fishery Management Biologist, Fisheries Assistance Office, U.S. Fish and Wildlife Service, 2625 Parkmont Lane, Olympia, Washington 98502 (206/753–9460).

Comments are invited at the address indicated above and will be considered

in respect to amendments to this subpart.

Dated: July 10, 1980.

**Cecil D. Andrus,**

*Secretary.*

**25 CFR Part 256, Subpart B is revised to read as follows:**

**Subpart B—Fraser River Convention Sockeye and Pink Salmon Fishery**

Sec.



**Authority:** The provisions of subpart B are issued under the authority of 25 U.S.C. §§ 2, 9; 5 U.S.C. § 301; 43 U.S.C. § 1451 *et. seq.*; 25 CFR 256.

**§ 256.11 Purpose of this subpart: compliance.**

(a) This subpart governs fishing for sockeye and pink salmon by any treaty Indian who is fishing at his tribe's treaty fishing places in U.S. Convention waters during the time the Commission exercises control over the Fraser River Convention sockeye and pink salmon fishery.

(b) Any treaty Indian shall comply with this subpart when fishing for sockeye and pink salmon at his tribe's treaty fishing places in U.S. Convention waters during the time the Commission exercises control over the Fraser River Convention sockeye and pink salmon fishery. Fishing by any person which is not in accordance with these regulations is governed by 50 CFR Part 371 and violations thereof are subject to the penalties of the Act.

**§ 256.12 Definition of terms.**

(a) Act means: the Sockeye Salmon or Pink Salmon Fishing Act of 1947, 16 U.S.C. 776–776f.

(b) Authorized assistant means: any Indian person described in Section 256.15 and thereby authorized to assist the treaty Indian.

(c) Commission means: the International Pacific Salmon Fisheries Commission provided for by Article II of the Convention.

(d) Convention means: the convention between the United States and Canada for the Protection, Preservation, and Extension of the Sockeye and Pink Salmon Fisheries of the Fraser River System, signed at Washington on the 26th day of May 1930, as amended by the protocol to include pink salmon, signed at Ottawa on the 28th day of December 1956.

(e) Convention waters mean: those waters described in Article I of the Convention.

(f) Enforcement Officer means:

(1) any enforcement agent of the National Marine Fisheries Services;

(2) any commissioned, warrant, or petty officer of the Coast Guard;

(3) any Coast Guard personnel accompanying and acting under direction of any persons described in (2) of this paragraph (f);

(4) any tribal enforcement officer authorized to enforce treaty tribal regulations described under section 256.19 of this subpart.

(5) any state enforcement officer authorized to enforce the Commission's regulations, 50 CFR Part 371, or consistent state regulations implementing the Commission's regulations.

(6) any other person authorized by the Regional Director, Northwest Region, National Marine Fisheries Service to enforce the provisions of the Convention, the Commission's regulations, the Act, or 50 CFR Part 371.

(7) Any other person authorized by the Secretary of the Interior to enforce the provisions of 25 CFR 256 Subpart A or B.

(g) Fish, fishing means: the fishing for, catching, or taking, or the attempted fishing for, catching, or taking, of any sockeye or pink salmon in Convention waters.

(h) Fishing gear means; any net, trap, hook, or other device, appurtenance or equipment, of whatever kind or description, used or capable of being used for the capturing of sockeye or pink salmon.

(i) Lawful gear means; any gill net, purse seine, reef net, troll line, beach seine, or stake net, as defined under tribal law or in Washington Administrative Code Chapter 220–16 and 220–47–301 through 304.

(j) Person includes: individuals, partnerships, associations and corporations.

(k) Pink salmon means: that species of salmon known by the scientific name *Oncorhynchus gorbuscha.*

(l) Sockeye salmon means; that species of salmon known by the scientific name *Oncorhynchus nerka.*

(m) State areas means: fishing areas defined as Puget Sound Salmon Management and Catch Reporting Areas in Washington Administrative Code Chapter 220–22.

(n) Stretch measure means: the distance between the inside of one knot to the outside of the opposite (vertical) knot in one mesh. Measurement shall be taken when the mesh is stretched vertically while wet, by using a tension of ten (10) pounds on any three (3) consecutive meshes, then measuring the middle mesh of the three while under tension.

(o) Treaty Indian means: any member of a treaty Indian tribe which has treaty fishing places in U.S. Convention waters.

(p) Treaty Indian identification means: identification issued by the Bureau of Indian Affairs or a treaty Indian tribe identifying the holder as a member of the issuing tribe. The identification card shall include the name and address of the tribal member, the member's enrollment number (if any), date of birth, and the member's photograph.

(q) Treaty Indian tribe mean any tribe which has been found by the United States District Court for the Western District of Washington to be entitled to exercise treaty-secured fishing rights in U.S. Convention waters. Currently these tribes are the Makah Tribe, Lower Elwha Band Clallam Tribe, Port Gamble Band Clallam Tribe, Suquamish Tribe, Lummi Tribe Nooksack Tribe, the Swinomish Indian Tribal Community, and Tulalip Tribe.

(r) Treaty fishing places (of an Indian tribe) means: any location which shall have been previously determined by the United States District Court for the Western District of Washington in *U.S. v. Washington* to be a place at which that treaty tribe may take fish under rights secured by a treaty of the United States with such tribe or its predecessor in interest.

(s) Washington Administrative Code means: only those chapters and sections of the Washington Administrative Code that were in effect as of June 22, 1980.

(t) Vessel means: every type or description of water craft or other contrivance used, or capable of being used, as means of transporation in water.

**§ 256.13 Other laws and regulations.**

Nothing in this subpart shall be construed to relieve a treaty Indian or his authorized assistant from any applicable requirement lawfully imposed by a tribe, the United States, or the State of Washington. Nor shall anything herein authorize any treaty Indian or his authorized assistant to act contrary to any restriction or requirement of applicable tribal laws.

**§ 256.14 Identification.**

(a) Any treaty Indian fishing under the authority of this subpart shall have in his possession at all such times treaty

Indian identification required by 25 CFR 256.3 and by applicable tribal law.

(b) Any person assisting a treaty Indian under the authority of § 256.15 of this subpart shall have in his possession at all such times an identification card issued by the Bureau of Indian Affairs or by a treaty Indan tribe, identifying the holder as an Indian qualified to assist a treaty Indian. The identification card shall include the name of the issuing tribe, the name, address, tribal affiliation, date of birth, and photograph of the assistant, and the name and enrollment number (if any) of the treaty Indian the assistant is qualified to assist.

(c) Identification described in paragraphs (a) or (b) shall be shown on demand to an enforcement officer by the treaty Indian or authorized assistant.

(d) Any treaty Indian fishing under this subpart shall comply with the treaty Indian vessel and gear identification requirements of Decision No. 1 and subsequent Orders of the U.S. District Court for the Western District of Washington in *U.S. v. Washington*, as implemented in Washington Administrative Code 220–47–121.

**§ 256.15 Fishing assistance.**

Notwithstanding 25 C.F.R. 256.5, any treaty Indian fishing under this subpart may be assisted, if authorized by the treaty Indian's tribe, by the treaty Indian's spouse (if Indian), forebears (if Indian), children, grandchildren and siblings authorized by the United States District Court for the Western District of Washington in *U.S. v. Washington*. Persons so authorized shall be considered treaty Indians for the purposes of this subpart.

**§ 256.16 Reporting requirements.**

(a) Any person receiving or purchasing fish caught by any treaty Indian fishing under this subpart shall comply with Decision No. 1 and subsequent Orders of the U.S. District Court for the Western District of Washington in *U.S. v. Washington* as implemented by the treaty tribes and in Washington Administrative Code Chapter 220–69.

(b) Any treaty Indian who sells fish caught under the authority of this subpart directly to a consumer, restaurant, boathouse, or any other retail outlet shall comply with Washington Administrative Code Chapter 220–69.

(c) No person receiving or purchasing sockeye and pink salmon caught in U.S. Convention waters during the time the Commission exercises control over fishing for sockeye and pink salmon shall fail to permit enforcement officers to inspect records or reports required by WAC 220–69 or to inspect fish landing, holding or storage areas under the control of this person.

**§ 256.17 Fishing seasons.**

(a) No treaty Indian shall fish for sockeye salmon with nets in U.S. Convention waters (State Areas 4B, 5, 6C, 6, 6A, 7, 7A, 7B and 7D) from June 22, 1980 to July 19, 1980, both dates inclusive.

(b) No treaty Indian shall fish for sockeye salmon in U.S. Convention waters in State Areas 4B and 5 except with lawful gear from:

(1) July 19, 1980 to July 25, 1980, both dates inclusive from 5:00 a.m. on Sunday to 9:30 a.m. on Friday.

(2) July 26, 1980 to August 8, 1980, both dates inclusive from 5:00 a.m. on Saturday to 9:30 a.m. on Friday of each week.

(3) August 9, 1980 to August 15, both dates inclusive from 5 a.m. on Saturday to 9:30 a.m. on Thursday.

(4) August 16, 1980 to August 29, 1980, both dates inclusive from 5:00 a.m. on Saturday to 9:00 a.m. on Thursday of each week.

(c) No treaty Indian shall fish for sockeye salmon in State Areas 6C, 6, 6A, 7, 7A and 7D with purse seines and reef nets except from:

(1) July 19, 1980 to July 25, 1980, both dates inclusive from 5:00 a.m. to 9:30 p.m. each day, on Sunday through Wednesday.

(2) July 26, 1980 to August 15, 1980, both dates inclusive from 5:00 a.m. to 9:30 p.m. each day, on Saturday through Tuesday of each week.

(3) August 16, 1980 to September 5, 1980, both dates inclusive from 5:00 a.m. to 9:00 p.m., each day, on Saturday through Tuesday of each week.

(4) September 6, 1980 to September 12, 1980, both dates inclusive from 5:00 a.m. to 9:30 p.m. each day, on Saturday through Monday.

(d) No treaty Indian shall fish for sockeye salmon in U.S. Convention waters in State Areas 6C, 6, 6A, 7, 7A and 7D with gill nets except from:

(1) July 19, 1980 to July 25, 1980, both dates inclusive from 5:00 a.m. on Sunday to 9:30 a.m. on Monday and from 7:00 p.m. on Monday to 9:30 a.m. on Thursday.

(2) July 26, 1980 to August 15, 1980, both dates inclusive from 5:00 a.m. on Saturday to 9:30 a.m. on Monday of each week, and from 7:00 p.m. on Monday to 9:30 a.m. on Wednesday of each week.

(3) August 16, 1980 to September 5, 1980, both dates inclusive from 5:00 a.m. on Saturday to 9:00 a.m. on Monday of each week, and from 6:00 p.m. on Monday to 9:00 a.m. on Wednesday of each week.

(4) September 6, 1980 to September 12, 1980, both dates inclusive from 5:00 a.m. on Saturday to 9:00 a.m. on Monday and from 6:00 p.m. on Monday to 9:00 a.m. on Tuesday.

(e) Notwithstanding the foregoing provisions, no treaty Indian shall fish for sockeye or pink salmon in U.S. Convention waters lying westerly and northerly of a straight line drawn from Iwerson's Dock on Point Roberts to Georgina Point Light at Active Pass, from August 31, 1980 to September 6, 1980, and from September 14, 1980 to September 20, 1980, all dates inclusive.

(f) Notwithstanding the foregoing provisions, no treaty Indian shall fish for sockeye or pink salmon in U.S. Convention waters lying westerly and northerly of a straight line drawn from the low water range marker in Boundary Bay on the International Boundary across the east tip of Point Roberts to the East Point Light on Saturna Island from September 7, 1980 to September 13, 1980, both dates inclusive.

(g) The foregoing regulations do not apply to the following United States Convention waters:

(1) Commencing July 20, the waters of Puget Sound State Area 7B.

(2) Puget Sound State Areas 6B and 7C.

(3) Preserves previously established by the Director of Fisheries of the State of Washington for the protection and preservation of other species of food fish.

**§ 256.18 Emergency orders.**

(a) These regulations are subject to frequent change by emergency order, particularly with respect to permissible fishing times. Notice of the basis of the emergency and anticipated change will be transmitted immediately to the Northwest Indian Fisheries Commission for the treaty tribes, in order that the treaty tribes may amend tribal fishing regulations in response to the emergency.

(b) Notice of a change in these regulations and tribal regulations referred to in § 256.19 will be provide through the Northwest Indian Fisheries Commission and is available by calling the Northwest Indian Fisheries Hot-Line (1–800–562–6142). Emergency orders will be published in the Federal Register as quickly as possible.

(c) Emergency orders are effective at the time notice is provided to the Northwest Indian Fisheries Commission or as otherwise stated in the order, whichever time is later.

**§ 256.19 Treaty tribe fishing regulations.**

To the extent that they are consistent with this subpart, treaty tribe fishing regulations governing treaty Indian sockeye and pink salmon fishing in U.S. Convention waters during the time the Commission exercises control, which are approved under 25 CFR 256.2(b), and emergency orders under such treaty tribe fishing regulations, are incorporated herein and are effective for all purposes as part of this subpart.

**§ 256.20 Unlawful possession.**

No treaty Indian shall possess sockeye or pink salmon on board a fishing vessel which is engaged in a fishery for other species in U.S. Convention waters during the times Convention waters are closed to sockeye and pink salmon fishing by the regulations in this subpart.

**§ 256.21 Forcible assault on enforcement officer.**

No person fishing under this subpart shall assault, resist, oppose, impede, intimidate, or interfere with an enforcement officer engaged in enforcing this subpart.

Dated: July 10, 1980.

**Cecil D. Andrus,**

*Secretary of the Interior.*

[FR Doc. 80-21119 Filed 7-11-80; 10:40 am]

BILLING CODE 4310-02-M

# Reader Aids

Federal Register

Vol. 45, No. 136

Monday, July 14, 1980

## INFORMATION AND ASSISTANCE

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

**Federal Register,** Daily Issue:

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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 41 FR 32914, August 6, 1976.)

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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

## REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

### Rules Going Into Effect Today

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40099 6–13–80 / Amended potency tests; Leptospira and Clostridium Bacterin; standard requirements

**COMMUNITY SERVICES ADMINISTRATION**

39849 6–12–80 / Funding of CSA grantees

**ENVIRONMENTAL PROTECTION AGENCY**

40030 6–12–80 / Revised motor vehicle exhaust emission standards for carbon monoxide (CO) for 1981 Model Year light-duty vehicles

**FEDERAL COMMUNICATIONS COMMISSION**

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41635 6–20–80 / Permitting public coast stations on Great Lakes to transmit scheduled weather broadcasts on Channel 17 utilizing both F3 and F4 emissions

40117 6–13–80 / Simplification of the licensing and call sign assignment systems for stations in the amateur radio service

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**HOUSING AND URBAN DEVELOPMENT DEPARTMENT**

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40556 6–13–80 / Guaranty of mortgage-backed securities; issuers' securities marketing and trading activities

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40474 6–13–80 / Land registration, purchaser's revocation rights, sales practices and standards, and formal procedures and rules of practice

**INTERSTATE COMMERCE COMMISSION**

39853 6–12–80 / Exempt zones—Specified Major Air Cargo Centers

**SECURITIES AND EXCHANGE COMMISSION**

39838 6–12–80 / Reports by national securities exchanges and registered national securities associations

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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.**

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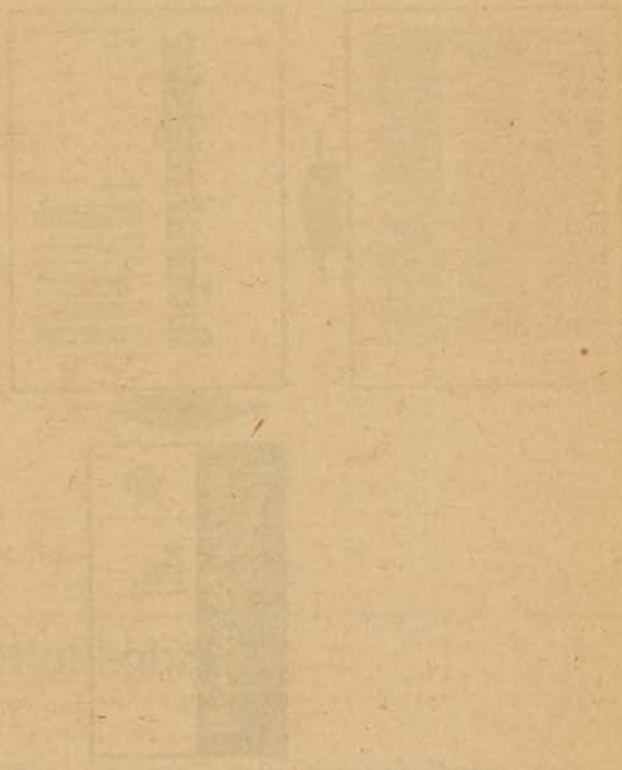

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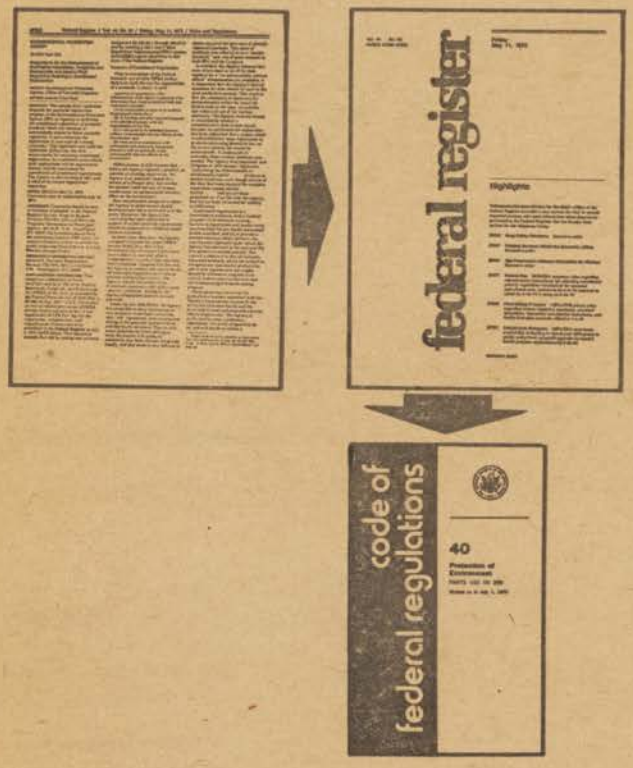


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