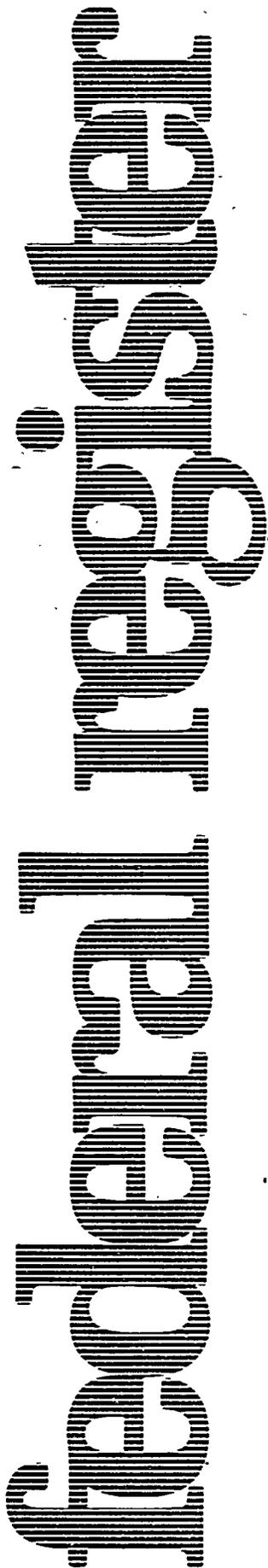

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Highlights

Telecommunications Device for the Deaf—Office of the Federal Register provides a new service for deaf or speech impaired persons who need information about documents published in the Federal Register. See the Reader Aids section for the telephone listing.

27063 Energy Emergency—Florida Presidential determination extension under the Clean Air Act

27065 Flag Day and National Flag Week Presidential proclamation

27168 Natural Gas Policy DOE/FERC requests comments on proper procedure for handling challenges to contractual authority to collect maximum lawful prices; comments by 5-16-79

27334, 27362 Toxic Substances Control EPA proposes rules and holds meetings on health effects test standards; comments by 8-7-79, public meetings July 1979 (2 documents) (Part II of this issue)

27194 Federal Photovoltaic Utilization Program DOE proposes rules for monitoring and assessment requirements; comments by 7-9-79, hearing 6-14-79, requests to testify at hearing by 6-4-79



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Area Code 202-523-5240

Highlights

- 27180 Puerto Rico and Possession Tax Credit** Treasury/IRS proposes rules for making and revoking elections relating to tax credit enacted by Tax Reform Act of 1976; comments and public hearing request by 7-9-79
- 27089, 27183 Earned Income Credit** Treasury/IRS issues temporary rules relating to advance payment by employers and advance payment certificates; effective for wages paid after 6-30-79, comments and requests for hearing by 7-9-79 (2 documents)
- 27079, 27181, 27182 Foreign Earned Income** Treasury/IRS provides temporary rules; proposes amendments to rules, and will hold public hearing relating to exclusion and deduction for excess foreign living costs; effective for taxable years after 12-31-77, comments by 7-30-79, hearing 8-28-79 (3 documents)
- 27068 Federal Credit Unions** NCUA finalizes rules regarding purchase, sale and pledge of eligible obligations; effective 5-9-79, comments by 6-15-79
- 27161 National Environmental Policy** NASA proposes to adopt procedures for implementation of the National Environmental Policy Act; comments by 6-8-79
- 27095 Offshore Military Activities Program** DOD/Sec'y updates procedures on use of offshore areas, states policy and assigns responsibilities; effective 3-22-79
- 27191 Waters Heaters** DOE proposes to amend test procedures; comments by 7-9-79, public hearing 6-27-79, requests to speak at hearing by 6-14-79, statements by 6-22-79
- 27190 American Alligator** Interior/FWS reopens comment period on proposal to reclassify to threatened, simplify certain licenses and allow for sale of meat; comments between 5-10 and 6-5-79
- 27093 Demands for Disclosure** Treasury/ATFB adds section to procedural rules regarding disclosure of information; effective 5-9-79
- 27232 Hong Kong Export Visas** CITA announces new endorsement stamp; effective 6-1-79 except for previously authorized merchandise
- 27331 Sunshine Act Meetings**
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- 27333 Part II, EPA**

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Title 3—

Memorandum of May 7, 1979

The President

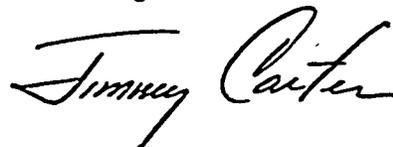
Extension of Determination Under Section 110(f) of the Clean Air Act—Florida**Memorandum for the Administrator, Environmental Protection Agency**

Based on a request submitted to me by the Governor of the State of Florida to extend my April 6, 1979 determination that a regional energy emergency exists in the State of Florida of such severity that a temporary suspension of certain particulate and opacity control regulations which apply to fossil-fuel fired electric generating plants under the Florida Air Quality Implementation Plan be necessary, and that other means of responding to the energy emergency may be inadequate, I hereby extend that determination from May 5 to June 4, 1979. This extension shall be effective for not more than thirty (30) days and is limited by the same conditions as my original determination. If, during the extension, I find that a regional energy emergency no longer exists in Florida, I will direct that this extension be rescinded and that all suspension orders issued by the Governor be terminated on the day of that rescission. You will continue to retain full authority to disapprove temporary suspension of regulations in Florida and to exercise your emergency powers authority under Section 303 of the Clean Air Act, when and if necessary.

It is important to keep suspensions to an absolute minimum since Section 110(f) of the Clean Air Act limits each suspension to a maximum duration of 120 days.

This determination shall be published in the Federal Register.

THE WHITE HOUSE,
Washington, May 7, 1979.



Proclamation 4660 of May 8, 1979

Flag Day and National Flag Week, 1979

By the President of the United States of America
A Proclamation

Two years after the Battle of Bunker Hill, on June 14, 1777, the Continental Congress chose a flag which tellingly expressed the unity and resolve of Colonials who had banded together to seek independence. The delegates voted "that the flag of the thirteen United States be thirteen stripes, alternate red and white; that the union be thirteen stars, white in a blue field representing a new constellation."

With the addition of thirty-seven stars, and after more than two centuries of history, the flag chosen by the Continental Congress in Philadelphia is our flag today, symbolizing a shared commitment to freedom and equality.

To commemorate the adoption of our flag, the Congress, by a joint resolution of August 3, 1949 (63 Stat. 492), designated June 14 of each year as Flag Day and requested the President to issue annually a proclamation calling for its observance. The Congress also requested the President, by joint resolution of June 9, 1966 (80 Stat. 194), to issue annually a proclamation designating the week in which June 14 occurs as National Flag Week and to call upon all citizens of the United States to display the flag of the United States on those days.

To focus the attention of the American people on their country's character, heritage and future well-being, the Congress has also, by joint resolution of June 13, 1975, set aside the 21 days from Flag Day through Independence Day as a period to honor America (89 Stat. 211).

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby designate the week beginning June 10, 1979, as National Flag Week, and I direct the appropriate officials of the Government to display the flag on all Government buildings during the week. I urge all Americans to observe Flag Day, June 14, and Flag Week by flying the Stars and Stripes from their homes and other suitable places.

IN WITNESS WHEREOF, I have hereunto set my hand this eighth day of May, in the year of our Lord nineteen hundred seventy-nine, and of the Independence of the United States of America the two hundred and third.



Rules and Regulations

Federal Register

Vol. 44, No. 91

Wednesday, May 9, 1979

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

7 CFR Part 2

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Revision of Delegations of Authority by the Secretary of Agriculture and General Officers of the Department

AGENCY: Department of Agriculture.

ACTION: Final rule.

SUMMARY: This document delegates authority to the Assistant Secretary for Marketing and Transportation Services and to the Under Secretary for International Affairs and Commodity Programs to administer functions under the Wheat and Wheat Foods Research and Nutrition Education Act and to redelegate that authority to the Administrators of the Agricultural Marketing Service and the Foreign Agricultural Service. These amendments to the delegations of authority are necessary for the expeditious handling of this program and to make other necessary changes.

EFFECTIVE DATE: May 9, 1979.

FOR FURTHER INFORMATION, CONTACT: W. David Spalding, Livestock, Poultry, Grain, and Seed Division, AMS, USDA, Washington, D.C., 20250, Phone: 202-447-3970.

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

Accordingly, Part 2, Subtitle A, Title 7 Code of Federal Regulations is amended as follows:

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

1. Section 2.17 is amended by adding a new paragraph (a)(3)(xxxii) and revising paragraph (a)(3)(xxxi) to read as follows:

§ 2.17 Delegations of authority to the Assistant Secretary for Marketing and Transportation Services.

* * * * *

(a) *Related to agricultural marketing.*

* * *

(3) * * *

(xxxi) Beef Research and Information Act, as amended, (7 U.S.C. 2901-2918), except as delegated to the Under Secretary for International Affairs and Commodity Programs in § 2.21(a)(33) and § 2.21(d)(10).

(xxxii) Wheat and Wheat Foods Research and Nutrition Education Act (7 U.S.C. 3401-3417), except as delegated to the Under Secretary for International Affairs and Commodity Programs in § 2.21(d)(10).

* * * * *

2. Section 2.21 is amended by revising paragraphs (a)(33) and (d)(10) to read as follows:

§ 2.21 Delegations of authority to the Under Secretary for International Affairs and Commodity Programs.

* * * * *

(a) *Related to agricultural stabilization and conservation.* * * *

(33) Conduct producer referendums required under Section 9 of the Beef Research and Information Act, as amended, (7 U.S.C. 2908).

* * * * *

(d) *Related to foreign agriculture.*

* * *

(10) Plan and carry out programs and activities under the foreign market promotion authority of the Wheat Research and Promotion Act (7 U.S.C. 1292 note); the Cotton Research and Promotion Act (7 U.S.C. 2101-2118); Section 610 of the Agricultural Act of 1970 (7 U.S.C. 2119); the Potato Research and Promotion Act (7 U.S.C. 2611-2627); the Egg Research and Consumer Information Act of 1974 (7 U.S.C. 2701-

2718); the National Wool Act of 1954, as amended (7 U.S.C. 1781-1787); The Beef Research and Information Act, as amended, (7 U.S.C. 2901-2918); and the Wheat and Wheat Foods Research and Nutrition Education Act (7 U.S.C. 3401-3417). This authority includes determining the programs and activities to be undertaken and assuring that they are coordinated with the overall departmental programs to develop foreign markets for U.S. agricultural products.

* * * * *

Subpart F—Delegations of Authority by the Assistant Secretary for Marketing and Transportation Services

3. Section 2.50 is amended by adding paragraph (a)(3)(xxxiii) and revising paragraph (a)(3)(xxxii) to read as follows:

§ 2.50 Administrator, Agricultural Marketing Service.

(a) *Delegations.* * * *

(3) * * *

(xxxii) Beef Research and Information Act, as amended.

(7 U.S.C. 2901-2918), except as delegated in § 2.65(a)(33) and § 2.68(a)(10).

(xxxiii) Wheat and Wheat Foods Research and Nutrition Education Act (7 U.S.C. 3401-3417), except as delegated in § 2.68(a)(10).

* * * * *

Subpart H—Delegations of Authority by the Under Secretary for International Affairs and Commodity Programs

4. Section 2.65 is amended by revising paragraph (a)(33) to read as follows:

§ 2.65 Administrator, Agricultural Stabilization and Conservation Service.

(a) *Delegations.* * * *

(33) Conduct producer referendums required under Section 9 of the Beef Research and Information Act, as amended, (7 U.S.C. 2908).

* * * * *

5. Section 2.68(a)(10) is amended to read as follows:

§ 2.68 Administrator, Foreign Agricultural Service.

(a) *Delegations.* * * *

(10) Plan and carry out programs and activities under the foreign market

promotion authority of the Wheat Research and Promotion Act (7 U.S.C. 1292 note); the Cotton Research and Promotion Act (7 U.S.C. 2101-2118); Section 610 of the Agricultural Act of 1970 (7 U.S.C. 2119); the Potato Research and Promotion Act (7 U.S.C. 2611-2627); the Egg Research and Consumer Information Act of 1974 (7 U.S.C. 2701-2718); the National Wool Act of 1954, as amended, (7 U.S.C. 1781-1787); the Beef Research and Information Act, as amended, (7 U.S.C. 2901-2918); and the Wheat and Wheat Foods Research and Nutrition Education Act (7 U.S.C. 3401-3417). This authority includes determining the programs and activities to be undertaken and assuring that they are coordinated with the overall departmental programs to develop foreign markets for U.S. agricultural products.

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

For Subpart C.

Dated: May 4, 1979.

Bob Bergland,
Secretary.

For Subpart F

Dated: May 4, 1979.

Jerry C. Hill,
Deputy Assistant Secretary for Marketing and Transportation Services.

For Subpart H:

Dated: May 4, 1979.

Dale E. Hathaway,
Assistant Secretary.
[FR Doc. 79-14509 Filed 5-8-79; 8:45 am]
BILLING CODE 3410-01-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Federal Credit Unions: Purchase, Sale, and Pledge of Eligible Obligations

AGENCY: National Credit Union
Administration.

ACTION: Final rule.

SUMMARY: The rule permits a Federal credit union to do the following things. First, it can purchase from, sell to, or pledge to any source any eligible obligations of its members. Second, it can purchase from a liquidating credit union any eligible obligations of the liquidating credit union's individual members. Eligible obligations purchased on this basis can be sold or pledged to any source. Third, if granting student loans on an ongoing basis, it can purchase student loans from any source, if the purchase will facilitate the purchaser's packaging of a pool of such

loans to be sold or pledged on the secondary market. Student loans purchased on this basis can be sold or pledged to any source. Fourth, if granting real estate loans pursuant to Section 701.21-6 on an ongoing basis, it can purchase real estate loans from any source, if the purchase will facilitate the purchaser's packaging of a pool of such loans to be sold or pledged on the secondary mortgage market. Real estate loans purchased on this basis can be sold or pledged to any source. The rule is necessary to implement provisions of the April 19, 1977 amendments (Pub. L. 95-22, 91 Stat. 49) to the Federal Credit Union Act. It is intended to provide Federal credit unions greater flexibility both in meeting member demands and in spreading the risk of those demands. It is also intended to provide Federal credit unions making student loans and Federal credit unions making long term real estate loans greater access to the respective secondary markets. This should enhance a credit union's ability to react quickly and efficiently to meet liquidity needs.

EFFECTIVE DATE: This rule will be effective on May 9, 1979. However, comments on it will be accepted if received on or before June 15, 1979. If necessary, an amended rule will be issued later.

ADDRESS: Send comments to Robert S. Monheit, Senior Attorney, Office of General Counsel, National Credit Union Administration, Room 4202, 2025 M Street, N.W., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: Stephen Raver, Director, Division of Examination, Office of Examination and Insurance, or John L. Culhane, Jr., Attorney-Advisor, Office of General Counsel, National Credit Union Administration, 2025 M Street, N.W., Washington, D.C. 20456. Telephone numbers: (202) 254-8760 (Mr. Raver), (202) 632-4870 (Mr. Calhane).

SUPPLEMENTARY INFORMATION: Before Pub. L. 95-22 was passed, Federal credit unions could not purchase, sell, or pledge obligations of their members. Pub. L. 95-22 granted these powers, to be implemented by rules adopted by the Administration.

As an interim measure, the Administration issued a rule allowing Federal credit unions to sell long term real estate loans to the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and to Federal, State, and local housing authorities. This interim rule was later amended to allow Federal credit unions to sell their members' guaranteed

student loans to the Student Loan Marketing Association.

On January 2, 1979, the Administration published a proposed rule, which would, when adopted in final form, replace the interim rule, 44 FR 60 (1979). Comments were requested by January 31, 1979. Shortly after the public comment period ended, one commenter requested, and was granted, permission to submit comments. Those comments were received on February 26, 1979. They were considered, along with all other comments received on or before that date.

Virtually all of the comments were favorable. Several commenters, while agreeing with most of the provisions of the proposed rule, raised questions or made suggestions that convinced the Administration that a number of changes from the proposed rule are warranted. In addition, some changes have been made to resolve problems detected by the Administration. This final rule replaces the interim rule, effective immediately.

Analysis of Changes and Comments

1. Purchases

a. **Overlap.** The final rule allows a Federal credit union to purchase different loans in different situations. It can purchase an eligible obligation of one of its members from any source. It can purchase an eligible obligation of a liquidating credit union's individual member from the liquidating credit union. It can purchase a student loan for pooling purposes. It can purchase a real estate loan for pooling purposes. As noted by several commenters, these provisions can overlap.

Where the provisions overlap, the purchaser may decide which provision it has relied on. This decision does not have to be made when the loan is purchased. However, if the purchaser delays too long it may find that it cannot use certain provisions. The circumstances that existed when the purchase was made, such as whether or not the borrower was then a member of the purchasing credit union, will govern in determining which provisions might have been used.

There will be different consequences depending upon which provision is selected. For example, suppose a Federal credit union discovers that it has purchased a real estate loan of one of its own members from a liquidating credit union. The loan has a maturity of thirty-five years, so it could not have been granted by the Federal credit union. This loan could have been purchased either as an eligible

obligation of a member, as an eligible obligation sold by a liquidating credit union, or in the proper circumstances, as a loan to be used in packaging a pool.

In this situation, the Federal credit union should consider these factors, among others, in making its decision. The loan must be refinanced within 60 days of the date it was purchased (as discussed below) if the Federal credit union wants to treat it as having been purchased as an eligible obligation of a member. If more than 60 days have passed, this provision could not be used. The loan need not be refinanced if it is to be treated as a loan purchased from a liquidating credit union. Under the proper circumstances, it could be treated as a loan purchased for pooling purposes. In that case, it would have to be promptly sold or pledged on the secondary market.

b. Eligible Obligations of Members. A Federal credit union can purchase the eligible obligation of a member if the obligation is a "loan it is empowered to grant." As originally drafted, the proposed rule required that the eligible obligation be a "type of loan [a Federal credit union] is empowered to grant." The phrase "type of loan" has been deleted from the final rule, since, as noted by one commenter, it was somewhat misleading. The basic restriction has been retained, however. It remains the Administration's belief that Congress did not intend that Federal credit unions should be handling unfamiliar obligations, with certain limited exceptions.

In order to provide some flexibility, a provision has been added which will allow a Federal credit union to purchase a member's loan which it could not grant, regardless of who the seller is. When this is done, the loan must be refinanced, within 60 days of the date it is purchased, to comply with the lending restrictions placed on Federal credit unions. For example, a consumer loan bearing interest at an annual rate of 13 percent could be purchased if refinanced so that the annual interest rate is no greater than 12 percent. In addition, the member must consent to the refinancing. To assure that this will happen, a Federal credit union should obtain the member's consent before completing arrangements to purchase the loan.

One problem concerning the purchase of eligible obligations of members has been noted. It is the extent to which Section 701.21-4 of the Administration's regulations should apply when the member whose loan is being purchased is also an official of the Federal credit union buying the loan.

Section 701.21-4 basically requires the board of directors to approve certain loan applications. Board approval is necessary on certain loans to officials and on certain loans guaranteed or endorsed by officials. To avoid any claims of preferential treatment of officials, the purchase of an official's loan and the purchase of a loan endorsed or guaranteed by an official will normally be treated as though the credit union is actually granting the loan. If under § 701.21-4 board approval would be necessary to grant the loan, it will be necessary to purchase the loan. Section 701.21-4 will soon be amended to explain how the appropriate calculations will be made.

The Administration does not intend to require board approval, however, where an official's loan or a loan endorsed or guaranteed by an official is purchased from a liquidating credit union. Nor will board approval be required where such a loan is purchased for pooling purposes. Board approval would slow down the liquidation process in the first case. In the second, it would unduly hamper a Federal credit union trying to package a pool of loans for the secondary market.

c. Eligible Obligations of a Liquidating Credit Union. One commenter asked how the proposed rule would relate to Section 701.29, the present rule governing the purchase of notes from a liquidating credit union. Having reviewed the requirements of Section 701.29, the Administration has decided to delete that Section. The purchase of notes from a liquidating credit union will be governed by this rule.

One change has been made from the proposed rule. Recognizing that the power to purchase notes from a liquidating credit union was added in part to speed up the liquidation process, the Administration has deleted the requirement that loans purchased be ones that the purchasing Federal credit union could have granted.

d. Student Loans. The Student Loan Marketing Association requested that the Administration review the language and legislative history of the Federal Credit Union Act to determine if Federal credit unions can purchase student loans of members and non-members in order to package a pool of loans to be sold or pledged on the secondary market. The Administration has concluded that this may be done provided that the purchasing credit union is granting student loans on an ongoing basis and provided that the loans purchased are ones on which payment has been deferred. In addition, the loans purchased must be secured by

the insurance or guarantee of the Federal Government, or a State government, or any agency of either.

As the Administration has noted, Section 107(13) of the Federal Credit Union Act (12 U.S.C. 1757(13)), which authorizes the purchase of eligible obligations, does not authorize a Federal credit union to purchase a loan unless the person liable on the loan happens to be a member of that credit union (or unless the seller is a liquidating credit union). However, considering the Congressional intent in enacting Pub. L. 95-22 to encourage Federal credit union lending to accomplish certain social or economic objectives, the Administration does not believe that Congress intended Section 107(13) to be an express prohibition on such purchases, provided they are authorized by other sections of the Act.

It is the Administration's belief that the power to purchase student loans is incidental to the power granted in section 107(5)(A)(iii) (12 U.S.C. 1757(5)(A)(iii)) to make loans secured by the insurance or guarantee of government agencies. In order to operate an effective student loan program, where payments on the loans are deferred, a Federal credit union must be able to access efficiently the secondary market for such loans. This can best be done by pooling these loans. Pooling is advantageous where a portfolio of a certain size must be amassed in order to qualify for a par purchase. Also, there may be important administrative advantages under a pooling arrangement, since only the Federal credit union packaging the pool will be a party to any purchase contract.

Student loans purchased to package a pool of loans will be treated similarly to real estate loans purchased to package a pool of loans. Consequently, they will not be included in determining whether the aggregate balance of unpaid notes purchased has exceeded 5 percent of the unimpaired capital and surplus of the purchaser.

To encourage Federal credit unions to make student loans and to assemble a pool of such loans to be sold or pledged on the secondary market, the Administration will permit the purchase of non-member loans for pooling purposes. However, because they will be purchasing loans of non-members, Federal credit unions will be expected to sell or pledge obligations purchased to package a pool of loans promptly. Arrangements to dispose of such loans should generally be made in advance of their purchase by obtaining a commitment from a buyer to purchase

the pool of loans before the pool is actually assembled.

The Administration believes that pooling student loans will benefit smaller Federal credit unions granting student loans by making entry into the secondary market more feasible. It will benefit larger Federal credit unions by allowing them to sell or pledge their loans in such a way as to take greater advantage of marketplace conditions. It will benefit credit union members by generating more funds for additional student loans.

e. Real Estate Loans. The comments received concerning the purchase of real estate loans for pooling purposes prompted the Administration to reexamine the statutory authority for this power. Balancing the need for efficient access to the secondary mortgage market against Congressional intent in restricting the real estate loans that can be made by Federal credit unions, the Administration had proposed to allow Federal credit unions actively engaged in real estate lending to purchase loans, for pooling purposes, only from other credit unions and only if those loans complied with § 701.21-6. These limitations were proposed to ensure that credit union funds would not be used for luxury homes or for other than one-to-four-family dwellings.

Based on its review, the Administration has decided that these limitations were unnecessarily restrictive. Consequently, the rule has been changed to allow Federal credit unions to purchase real estate loans for pooling purposes from any source. However, a loan can only be purchased if it was used to finance the acquisition of a one-to-four-family dwelling for the principal residence of the borrower, if the sales price was not more than 150 percent of the median sales price of residential real property situated in the geographical area in which the property is located, and if the loan is secured by a first lien upon such dwelling. As long as these requirements are met, maturities, interest rates, and other terms and conditions may vary from those required by § 701.21-6.

In order to purchase real estate loans for pooling purposes, the proposed rule required that a Federal credit union be "engaged in real estate lending pursuant to § 701.21-6." Because there seemed to be some confusion both as to how this phrase was to be interpreted and as to the degree of activity required, it has been revised. A Federal credit union must now be "granting real estate loans pursuant to § 701.21-6 on an ongoing basis."

This means that the Federal credit union's board of directors must have adopted a policy of granting long term real estate loans. The Federal credit union must actually be granting these loans, i.e. accepting applications, processing them, and disbursing its own funds. This must be done on an ongoing basis.

The purchase of loans must also "facilitate the purchaser's packaging of a pool of such loans." This means that the Federal credit union must include a substantial portion of its own loans in the pool. Once it disposes of, i.e. sells or pledges, a particular pool of loans, it must then grant more loans before a second pool can be assembled.

Should the board of directors decide that the credit union will stop making real estate loans, it will still be considered by the Administration to be "granting real estate loans . . . on an ongoing basis" for a reasonable period (e.g. 60 days) after the board's decision becomes final. Loans may be purchased for pooling purposes up to that time, provided that this last pool is disposed of promptly.

Given the statutory authority for this power, the Administration does not believe that the phrase "granting real estate loans pursuant to § 701.21-6 on an ongoing basis" can be deleted, nor can a specific exception be made for corporate centrals, as suggested by one commenter. If a central or corporate central has natural members to which it grants real estate loans on an ongoing basis, then it may purchase real estate loans for pooling purposes, if the purchase will facilitate the packaging of a pool.

Because they will be purchasing loans of non-members and loans they could not grant, Federal credit unions will be expected to sell or pledge obligations purchased to package a pool of loans promptly. Arrangements to dispose of such loans should generally be made in advance of their purchase by obtaining a commitment from a buyer to purchase the pool of loans before the pool is actually assembled.

f. The 5% Limitation. Two comments were received concerning this provision, which would have limited the amount of loans that could be purchased to 5 percent of the unimpaired capital and surplus of the purchaser. One commenter requested that a waiver clause be added allowing a Federal credit union to make more purchases with the Administration's prior written approval. Another commenter reviewed the legislative history of the provision and argued that the limitation should apply only to obligations of non-

members purchased from liquidating credit unions.

The Administration feels that the language of Section 107(13) is clear, and that the best interpretation is that adopted in the proposed rule. However, exceptions have been written into the rule for student loans and real estate loans purchased to package a pool of loans for the appropriate secondary market. The limitation is not applicable in those cases because such purchases are not made pursuant to Section 107(13). A similar restriction has not been imposed so as not to hamper the ability of Federal credit unions to access the respective secondary markets.

2. Sales

Although no comments were received concerning these provisions, two changes have been made. The Administration has amended the rule to clarify that student loans purchased to package a pool may be resold. The rule has also been amended to allow a Federal credit union to sell any loans it purchased using the power to purchase eligible obligations of a liquidating credit union's individual members from the liquidating credit union.

This second change is the result of the Administration's examination of relevant judicial decisions and of the language and legislative history of the Federal Credit Union Act. The Administration has concluded that the power to purchase notes from a liquidating credit union by implication includes the power to sell or pledge those loans.

3. Pledges

The one comment received on these provisions concerned the requirement of the proposed rule that the original loan documents be retained. The commenter noted that the Uniform Commercial Code will usually require that the party to whom loan documents have been pledged take possession of those documents in order to have priority over other creditors who may also have a security interest in them. In addition, in the event of default by a Federal credit union that has pledged loan documents as security for a loan it obtained, the lender will need to take possession of the loan documents to sell them.

The Administration agrees that a change is warranted and has therefore amended the rule to require that copies of the original loan documents be retained. The requirement has not been eliminated, as suggested by the commenter. The Administration believes that the loan documents or copies of them should be available for review by

the agency's examiners in order to assure that the loans comply with applicable laws and with sound credit union practice.

Two other changes have been made. The rule has been amended to allow a Federal credit union to pledge any loan it purchased using the power to purchase eligible obligations of a liquidating credit union's individual members from the liquidating credit union. The Administration has also amended the rule to clarify that student loans purchased to package a pool of loans may be pledged.

4. Discounts

In the preamble to the proposed rule the Administration announced that it did not presently intend to regulate the discounting of eligible obligations. Credit union officials were advised that any abuses would be remedied by administrative actions, including cease and desist actions. The Administration also advised that, under the proper circumstances, it would consider civil and criminal actions against the directors of a credit union who abuse the power. One commenter, referring to the possibility of civil or criminal liability, requested guidelines as to what would be considered reasonable.

The Administration believes that the facts of each case will, for the most part, determine whether or not a discounting was reasonable. Consequently, in reviewing a particular transaction the Administration will look at the effect of that transaction on the credit union's equity. It will also look to see if the transaction was designed to benefit certain officials, creditors, or third parties at the expense of the credit union.

5. Ten Percent Limitation

The proposed rule required that a Federal credit union's retained or acquired interest in loans to a member be added with other loans to the member and with partial interests in participation loans to determine the member's total indebtedness to the credit union. The sum of these amounts could not exceed 10 percent of the credit union's unimpaired capital and surplus. Real estate loans purchased to package a pool of loans to be sold or pledged on the secondary mortgage market were to be excluded in determining whether this limit would be exceeded.

Upon reconsideration the Administration has revised this part of the rule. Real estate loans of members will be considered in determining whether the 10 percent limit has been exceeded, even if they are purchased for

pooling purposes. In addition, when used in this part of the rule, the word "person" will be interpreted to mean both a member and a non-member. Consequently, the same calculations used to determine a member's total indebtedness will be used to determine a non-member's total indebtedness to the credit union. This sum may not exceed the 10 percent limit.

Real estate loans purchased for pooling purposes had originally been excluded so as not to hamper the purchasing credit union's ability to access the secondary mortgage market. Because Federal credit unions must generally have assets of \$2,000,000 or more to engage in real estate lending, and hence, to purchase other real estate loans for pooling purposes, this change should not adversely affect the purchasing credit union's ability to access the secondary market. Similarly, because a real estate loan cannot be purchased for pooling purposes if its sales price exceeds 150 percent of the median sales price of residential real property in the geographical area in which the property is located, this change should have little effect on the real estate loans that can be purchased for pooling purposes.

The change will serve to protect a credit union in the rare case where, under the proposed rule, a large loan could have been purchased. In that case, had the borrower defaulted before the loan was sold, the credit union's financial stability could have been jeopardized. Because the 10 percent limit protects the credit union when any one-person defaults, the rule has been revised so that similar protection will be afforded when non-member loans are purchased, regardless of whether they are purchased from liquidating credit unions or are purchased from other sources to be used in assembling pools of real estate or student loans.

6. Effective Date

Several commenters requested that the final rule be effective immediately upon publication. The Administration is convinced that good cause exists for the rule to become effective prior to thirty days from the date of publication in the Federal Register.

Although Federal credit unions may now grant long term real estate loans, they cannot always convert these loans into funds which can be used to generate additional loans. Further, by limiting the institutions to which Federal credit unions may sell loans, the interim rule subjects Federal credit unions to the risk of fluctuating interest rates, should they be unable to meet the yield

required by those institutions. The present interim rule, because it does not allow Federal credit unions to purchase non-member real estate loans for pooling purposes, also does not allow efficient access to the secondary mortgage market. Therefore, to ensure the liquidity of Federal credit unions making these loans, Federal credit unions need to be able to pool these loans and to sell them to any source immediately.

While the Administration believes that these reasons outweigh the need for a delayed effective date, the Administration recognizes its duty to provide an opportunity for further comment since substantive changes have been made. Therefore, comments received on or before June 15, 1979 will be considered, and, should a demonstrated need arise, further amendments to the rule will be made.

Lawrence Connell,

Administrator

May 3, 1979.

(Sec. 107(5)(A)(i), (iii), 91 Stat. 49 (12 U.S.C. 1757(5)(A)(i), (iii)), Sec. 107(13), 91 Stat. 51 (12 U.S.C. 1757(13)), Sec. 107(15), 82 Stat. 284 (12 U.S.C. 1757(15)), Sec. 120, 73 Stat. 635 (12 U.S.C. 1766) and Sec. 209, 84 Stat. 1104 (12 U.S.C. 1789))

Part 701—Organization and Operation of Federal Credit Unions

Accordingly, 12 CFR Part 701 is amended by replacing existing § 701.21-8 with the following and by deleting existing § 701.29 and reserving that section for later use:

§ 701.21-8 Purchase, sale, and pledge of eligible obligations.

(a) For purposes of this section:

(1) "Eligible obligation" means a loan or group of loans, other than a line of credit loan, except, however, the term shall include a line of credit loan of a liquidating credit union.

(2) "Student loan" means a loan granted to finance the borrower's attendance at an institution of higher education or at a vocational school, which is secured by and on which payment of the outstanding principal and interest has been deferred in accordance with the insurance or guarantee of the Federal Government, of a State government, or any agency of either.

(3) "Real estate loan" means a loan granted to finance the acquisition of a one-to-four-family dwelling for the principal residence of the borrower, the sales price of which is not more than 150 percent of the median sales price of residential real property situated in the geographical area in which the property

is located, and which is secured by a first lien upon such dwelling.

(4) "Obligation account" means a special payable account established for the accumulation of payments on a loan awaiting distribution to the purchaser of an eligible obligation.

(b) *Purchase.* (1) A Federal credit union may purchase, in whole or in part, within the limitations of the board of directors' written purchase policies:

(i) Eligible obligations of its members, from any source, if either (A) they are loans it is empowered to grant or (B) they are refinanced with the consent of the borrowers, within 60 days after they are purchased, so that they are loans it is empowered to grant;

(ii) Eligible obligations of a liquidating credit union's individual members, from the liquidating credit union;

(iii) Student loans, from any source, if the purchaser is granting student loans on an ongoing basis and if the purchase will facilitate the purchasing credit union's packaging of a pool of such loans to be sold or pledged on the secondary market; and

(iv) Real estate loans, from any source, if the purchaser is granting real estate loans pursuant to section 701.21-6 on an ongoing basis and if the purchase will facilitate the purchasing credit union's packaging of a pool of such loans to be sold or pledged on the secondary mortgage market. The dollar amount of loans purchased in accordance with this subsection shall be included in the aggregate dollar amount of real estate loans allowed under § 701.21-6(b)(4).

(2) A Federal credit union may make purchases in accordance with subsection (b), *provided:*

(i) The board of directors or investment committee approves the purchase; and

(ii) A written agreement and a schedule of the eligible obligations covered by the agreement are retained in the purchaser's office.

(3) The agreement to purchase a partial interest in eligible obligations shall, at a minimum:

(i) Identify the eligible obligations covered by the agreement;

(ii) Provide for the collection, processing and/or remittance of payments of principal and interest, late charges, service charges, escrow accounts (if required), and obligation accounts;

(iii) Disclose the responsibilities of each party in the event an eligible obligation becomes subject to collection, loss or foreclosure;

(iv) Provide that in the event of loss each owner shall share in the loss in

proportion to its interest in the eligible obligations;

(v) Provide for the distribution of payments of principal to each owner proportionate to its interest in the eligible obligation;

(vi) Provide for loan status reports; and

(vii) State the terms and conditions under which the agreement may be terminated or modified.

(4) The aggregate of the unpaid balances of eligible obligations purchased under subsection (b) shall not exceed 5 percent of the unimpaired capital and surplus of the purchaser. Student loans purchased in accordance with subsection (b)(1)(iii) and real estate loans purchased in accordance with subsection (b)(1)(iv) shall not be included in considering this 5 percent limitation.

(c) *Sale.* (1) A Federal credit union may sell, in whole or in part, to any source, eligible obligations of its members, eligible obligations purchased in accordance with subsection (b)(1)(ii), student loans purchased in accordance with subsection (b)(1)(iii); and real estate loans purchased in accordance with subsection (b)(1)(iv), within the limitations of the board of directors' written sale policies, *provided:*

(i) The board of directors or investment committee approves the sale; and

(ii) A written agreement and a schedule of the eligible obligations covered by the agreement are retained in the seller's office.

(2) An agreement to sell a partial interest in eligible obligations shall at a minimum comply with the requirements set forth in subsection (b)(3).

(3) A sale of an eligible obligation shall not be subject to recourse or repurchase provisions. However, the following are permitted:

(i) An agreement which requires the seller to repurchase the eligible obligation because of any breach of warranty or misrepresentation;

(ii) An agreement which allows the seller to repurchase at its discretion; and

(iii) An agreement which allows substitution of one loan for another loan.

(d) *Pledge.* (1) A Federal credit union may pledge, in whole or in part, to any source, eligible obligations of its members, eligible obligations purchased in accordance with subsection (b)(1)(ii), student loans purchased in accordance with subsection (b)(1)(iii), and real estate loans purchased in accordance with subsection (b)(1)(iv), within the limitations of the board of directors' written pledge policies, *provided:*

(i) The board of directors or investment committee approves the pledge;

(ii) Copies of the original loan documents are retained; and

(iii) A written agreement covering the pledging arrangement is retained in the office of the credit union that pledges the eligible obligations.

(2) The pledge agreement shall, at a minimum:

(i) Identify the eligible obligations covered by the agreement;

(ii) Disclose the responsibilities of each party in the event an eligible obligation becomes subject to collection, loss or foreclosure;

(iii) Set forth the terms and conditions regarding substitution; and

(iv) Set forth the terms and conditions under which the agreement may be modified or terminated.

(e) *Servicing.* A Federal credit union may agree to service any eligible obligation it purchases or sells in whole or in part.

(f) *10 Percent Limitation.* The total indebtedness owing to any Federal credit union by any person, inclusive of retained and reacquired interests, shall not exceed 10 percent of its unimpaired capital and surplus.

§ 701.29 [Reserved].

[FR Doc. 79-14506 Filed 5-8-79; 8:45 am]

BILLING CODE 7535-01-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 105

Standards of Conduct; Outside Employment and Activities

AGENCY: Small Business Administration.
ACTION: Final rule.

SUMMARY: (i) The Agency is amending §§ 105.510(a) and (b) and 105.801(b) (1), (2) and (3) of SBA's Standards of Conduct Regulations to: (1) provide for the approval of the Assistant Administrator for Personnel Management in lieu of the Director of Personnel in cases involving outside business, employment or vocation, and (2) to provide for the new composition of the Standards of Conduct Committee.

(ii) This action arises as the result of reorganization within the Small Business Administration.

(iii) The effect of said action with respect to § 105.510 (a) and (b) will be that the Assistant Administrator for Personnel Management will approve requests for employees engaged in any outside business, employment or vocation rather than the Director of

Personnel as previously provided by § 105.510 of the Standards of Conduct Regulations.

The effect of the revision of § 105.801(b) will be that the Standards of Conduct Committee will be comprised of the: (1) General Counsel or, in his absence, the Deputy General Counsel or, in his absence, the Acting General Counsel who shall act as Chairman of the Committee; (2) the Associate Deputy Administrator for Support Services or, in his absence, the Assistant Administrator for Personnel Management; and (3) the Associate Deputy Administrator for Programs or, in his absence, the Director, Office of Field Management.

EFFECTIVE DATE: May 9, 1979.

FOR FURTHER INFORMATION CONTACT: Robert M. Peterson, Office of General Counsel, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416; (202) 653-6477.

SUPPLEMENTARY INFORMATION: Inasmuch as the amendment set forth below is a procedural change, notice of proposed rulemaking and public proceedings thereon are not required by section 553 of Title 5 of the United States Code.

Accordingly, pursuant to the authority contained in Section 5 of the Small Business Act, 72 Stat. 384 (15 U.S.C. 631 *et seq.*) and E.O. 11222, 3 CFR 1964-65, Comp.; 5 CFR 735.104 notice is hereby given that the Small Business Administration amends Sections 105.510 (a) and (b) and 105.801(b) (1); (2), and (3) to read as follows:

1. Section 105.510 (a) and (b), are amended as follows:

§ 105.510 Outside employment and activities.

(a) Except with the written approval of the Assistant Administrator for Personnel Management, no employee shall engage in any outside business, employment or vocation. This limitation applies regardless of whether a fee, gift, salary or other compensation is received for the activity. In his discretion, the Assistant Administrator for Personnel Management may refer requests for approval to the Standards of Conduct Committee for its recommendations.

(b) In reviewing applications for approval under this section, the Assistant Administrator for Personnel Management and the Standards of Conduct Committee will consider all relevant factors, including: * * *

2. Section 105.801(b) (1), (2), and (3), are revised as follows:

§ 105.801 Standards of Conduct Committee.

(b) The Standards of Conduct Committee shall be comprised of:

(1) The General Counsel or, in his absence, the Deputy General Counsel or, in his absence, the Acting General Counsel who shall act as Chairman of the Committee;

(2) The Associate Deputy Administrator for Support Services or, in his absence, the Assistant Administrator for Personnel Management; and

(3) The Associate Deputy Administrator for Programs or, in his absence, the Director, Office of Field Management.

Dated: May 1, 1979.

A. Vernon Weaver,
Administrator

[Revision 2, Amendment 2]
[FR Doc. 79-14533 Filed 5-8-79; 8:45 am]
BILLING CODE 8325-01-M

CIVIL AERONAUTICS BOARD

14 CFR Part 385

Delegation to the Administrative Law Judges

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on May 3, 1979.
AGENCY: Civil Aeronautics Board.
ACTION: Final rule.

SUMMARY: The Board amends its delegation of authority to give a presiding administrative law judge authority to: (1) dismiss applications sought to be withdrawn by parties without objection, (2) grant requests for consolidation of conforming applications, and (3) deny requests for consolidation of non-conforming applications.

DATES: Adopted: May 3, 1979. Effective: May 3, 1979.

FOR FURTHER INFORMATION CONTACT: Richard B. Dyson, Associate General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, 202-673-5444.

SUPPLEMENTARY INFORMATION: The Board is amending 14 CFR 385.11, a section that delegates authority to the administrative law judges, by adding a paragraph (b) expanding their authority to enable them to dismiss applications sought to be withdrawn. This authority is presently delegated to the Chief Administrative Law Judge in § 385.10(b)(1). The Board is also adding a new paragraph (c) to 14 CFR 385.11 giving to the presiding administrative law judge authority to deny requests to

consolidate non-conforming applications and grant requests for consolidation of conforming applications within the scope of any route proceeding instituted by the Board.

On occasion the Board has had to act to consolidate applications long after a case was ready for a judge's decision. The delegated authority here alleviates the necessity for separate delegations whenever the Board changes the scope of a case on petition for reconsideration.

Since this amendment is administrative in nature, affecting a rule of agency organization and procedure, the Board finds that notice and public procedure are unnecessary, and that the rule may become effective immediately.

PART 385—DELEGATION AND REVIEW OF ACTION UNDER DELEGATION; NONHEARING MATTERS

Accordingly, the Board amends 14 CFR Part 385, *Delegation and Review of Action Under Delegation; Nonhearing Matters*, by adding new paragraphs (b) and (c) to § 385.11, to read:

§ 385.11 Delegation to Administrative Law Judges, Bureau of Administrative Law Judges.

The Board hereby delegates to the Administrative Law Judges, Bureau of Administrative Law Judges, the authority to take the following actions in matters to which they are respectively assigned:

(b) With respect to matters to be decided after notice and hearing, dismiss applications or complaints (except those falling under Subpart B of Part 302 of this chapter (Procedural Regulations)) when such dismissal is requested or consented to by the applicant or complainant, or where such party has failed to prosecute such application or complaint.

(c) Grant requests for consolidation of applications for route authority within the scope of the proceeding before him, and deny requests for consolidation of applications for route authority not within the scope of the proceeding;

(Section 204(a) of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 49 U.S.C. 1324; Reorganization Plan No. 3 of 1961, 25 Stat. 837, 26 FR 5989, 49 U.S.C. 1324 (note).)

By the Civil Aeronautics Board:
Phyllis T. Kaylor,
Secretary

[Regulation OR-152; Amdt. 85]
[FR Doc. 79-14507 Filed 5-8-79; 8:45 am]
BILLING CODE 8320-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

24 CFR Part 1914

Suspension of Community Eligibility Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, Federal Emergency Management Agency ¹

ACTION: Final rule.

SUMMARY: This rule lists communities where the sale of flood insurance, as authorized under the National Flood Insurance Program (NFIP), will be suspended because of noncompliance with the flood plain management requirements of the program.

EFFECTIVE DATES: The third date ("Susp.") listed in the fifth column.

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

¹The functions of the Federal Insurance Administration, U.S. Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001-4128) unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (24 CFR Part 1909 et seq.). Accordingly, the communities are suspended on the effective date in the fifth column, so that as of that date subsidized flood insurance is no longer available in the community.

In addition, the Federal Insurance Administrator has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the

sixth column of the table. Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), as amended, provides that no direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP, with respect to which a year has elapsed since identification of the community as having flood prone areas, as shown on the Federal Insurance Administration's initial flood insurance map of the community. This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

In each entry, a complete chronology of effective dates appears for each listed community.

Section 1914.6 is amended by adding in alphabetical sequence new entries to the table.

§ 1914.6 List of suspended communities.

State	County	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Hazard area identified	Date ¹
Alabama	Tuscaloosa	Tuscaloosa, city of	010203-A	May 5, 1973, emergency, Feb. 1, 1979, regular, May 15, 1979, suspended.	Oct. 24, 1975	May 15, 1979.
New Hampshire	Merrimack	Canterbury, town of	330108-A	June 10, 1975, emergency, May 15, 1979, regular, May 15, 1979, suspended.	Apr. 5, 1974 Jan. 14, 1979	Do.

¹Date certain Federal assistance no longer available in special flood hazard area.

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

Issued: April 30, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.
[Docket No. FI-5475]
[FR Doc. 79-14302 Filed 5-8-79; 8:45 am]
BILLING CODE 4210-23-M

24 CFR Part 1915

List of Communities With Special Hazard Areas Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, Federal Emergency Management Agency. ¹

¹The functions of the Federal Insurance Administration, U. S. Department of Housing and Urban Development, were transferred to the newly

ACTION: Final rule.

SUMMARY: This rule identifies communities with areas of special flood, mudslide, or erosion hazards as authorized by the National Flood Insurance Program. The identification of such areas is to provide guidance to

established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

communities on the reduction of property losses by the adoption of appropriate flood plain management or other measures to minimize damage. It will enable communities to guide future construction, where practicable, away from locations which are threatened by flood or other hazards.

EFFECTIVE DATES: The date listed in the eighth column of the table or 30 days after the date of this Federal Register publication, whichever is later.

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

SUPPLEMENTARY INFORMATION: The Flood Disaster Protection Act of 1973 (Pub. L. 93-234) requires the purchase of flood insurance on and after March 2, 1974, as a condition of receiving any form of Federal or federally related financial assistance for acquisition or construction purposes in an identified flood plain area having special flood hazards that is located within any community participating in the National Flood Insurance Program.

One year after the identification of the community as flood prone, the requirement applies to all identified special flood hazard areas within the United States, so that, after that date, no such financial assistance can legally be provided for acquisition and construction in these areas unless the community has entered the program. The prohibition, however, does not

apply to loans by federally regulated, insured, supervised, or approved lending institutions (1) to finance the acquisition of a residential dwelling occupied as a residence prior to March 1, 1976, or one year following identification of the area within which such dwelling is located as an area containing special flood hazards, whichever is later, or made to extend, renew, or increase the financing or refinancing in connection with such a dwelling, (2) to finance the acquisition of a building or structure completed and occupied by a small business concern, as defined by the Secretary, prior to January 1, 1976, (3) any loan or loans, which in the aggregate do not exceed \$5,000, to finance improvements to or rehabilitation of a building or structure occupied as a residence prior to January 1, 1976, or (4) any loan or loans, which in the aggregate do not exceed an amount prescribed by the Secretary, to finance nonresidential additions or improvements to be used solely for agricultural purposes on a farm.

This 30 day period does not supersede the statutory requirement that a

community, whether or not participating in the program, be given the opportunity for a period of six months to establish that it is not seriously flood prone or that such flood hazards as may have existed have been corrected by floodworks or other flood control methods. The six months period shall be considered to begin 30 days after the date of publication in the Federal Register or the effective date of the Flood Hazard Boundary Map, whichever is later. Similarly, the one year period a community has to enter the program under section 201(d) of the Flood Disaster Protection Act of 1973 shall be considered to begin 30 days after publication in the Federal Register or the effective date of the Flood Hazard Boundary Map, whichever is later.

This identification is made in accordance with Part 1915 or Title 24 of the Code of Federal Regulations as authorized by the National Flood Insurance Program (42 U.S.C. 4001-4128)

Section 1915.3 is amended by adding in alphabetical sequence a new entry to the table:

§ 1915.3 List of communities with special hazard areas (FHBMs in effect).

State, county, community name and number of panels	Community number and suffix	Program and change code	Inland or coastal	Hazard F/I/M/E	Identification date(s)	Effective date of this map action	Local map repository
Arkansas, Desha, city of McGehee, 0001B	050068B	E-8, 11, 12	I	F	Mar. 29, 1974, Dec. 12, 1975.	May 1, 1979	Honorable Hayes R. Stephens, Mayor, P.O. Drawer 61, McGehee, AR 71654 (501) 222-3160.
Louisiana, St. Tammany Parish, town of Abita Springs, 01B-02B.	220199B	E-8, 11, 12	I	F	May 17, 1974, Dec. 28, 1975.	May 1, 1979	Honorable Edwin S. Peters, Jr., Mayor, Town Hall, P.O. Box 416, Abita Springs, LA 70420 (504) 832-0711.
Missouri, unincorporated area, Ray County, 0001A-0006A.	290778A	E-5	I	F	May 1, 1979	May 1, 1979	Mr. Monroe Fields, Chairman, Ray County, Board of County Commissioners, Richmond, MO 64085 (316) 776-3181.
Texas, McLennan, city of Gholson, 0001A	481521A	N-5	I	F	May 1, 1979	May 1, 1979	Honorable Howard T. Sexton, Mayor, Office of Mayor, City of Gholson, Route 5, Box 435, Waco, TX 76705 (817) 829-1796.
Texas, Fort Bend, Pecan Grove Municipal Utility District No. 1, 0001B.	481486B	E-12	I	F	Nov. 1, 1977	May 1, 1979	Mr. J. B. Belin, Jr., Pecan Grove Associates, 1900 St. James Place, Suite 120, Houston, TX 77827 (713) 623-2160.
Texas, San Jacinto, city of Pointblank, 0001A	481528A	N-5	I	F	May 1, 1979	May 1, 1979	Honorable Dr. James H. Logan, Mayor, City of Pointblank, Office of Mayor, Pointblank, TX 77364 (713) 653-2357.
Illinois, Marion, village of Central City, 01	170452B	E-8, 11, 12, 14	I	F	Feb. 15, 1974, Jan. 16, 1976.	May 4, 1979	Charles Woodbright, V. Pres., 141 North Harrison St., Centralia, IL 62801, Phone: (618) 532-2123.
Illinois, Henderson, village of Lomax, 01	170281B	E-11, 12, 14	I	F	Mar 1, 1974, Jan 30, 1976.	May 4, 1979	Kenneth Webster, Mayor, Village Hall, Lomax, IL 61454, Phone: (217) 449-3433.
Michigan, Hillsdale, city of Litchfield, 01	260409B	E-11	I	F	July 11, 1975, Oct. 10, 1975.	May 4, 1979	Woodrow Southfield, Mayor, City Hall, Litchfield, MI 49252, Phone: (517) 542-3477.

State, county, community name and number of panels	Community number and suffix	Program and change code	Inland or coastal	Hazard F/M/E	Identification date(s)	Effective date of this map action	Local map repository
Arkansas, unincorporated area, St. Francis County, 0001B-0008B.	050184B.....N-11, 12.....		I	F	June 28, 1977.....	May 8, 1979.....	Mr. Thomas Aycock, Administrative Assistant to the County Judge, County Courthouse, 313 South Izard Street, Forrest City, AR 72335 (501) 633-1656.
California, Amador, city of Jackson, 0001A.....	060448A.....N-8, 11, 12.....		I	F	June 25, 1976.....	May 8, 1979.....	Mr. Kenneth H. Glantz, Consultative Civil Engineer, City of Jackson, P.O. Box 4437, 1150 West Robinhood Drive, Stockton, CA 95204 (209) 478-5777.
Colorado, Fremont, town of Rockvale, 01B-02B.	080221B.....N-9, 11, 12, 13, 15.		I	F	June 27, 1975.....	May 8, 1979.....	Honorable John Linnox, Mayor, Town Hall, 510 Railroad Street, Rockvale, CO 81244 (303) 784-3716.
Idaho, unincorporated area, Gooding County, 0003A-0010A; 0012A-0013A.	160227A.....E-5.....		I	F	May 8, 1979.....	May 8, 1979.....	Mr. John R. LeMoyno, Chairman, Gooding County, Board of County Commissioners, Box 417, Gooding, ID 83330 (208) 934-4841.
Iowa, Wapello, city of Eldon, 01C-02C.....	190271C.....E-9, 11, 12, 13, 15.		I	F	Dec. 17, 1973, June 18, 1976.	May 8, 1979.....	Mr. Thomas Allen, City Engineer for Eldon, IA, French-Roneker Associates, Inc., P.O. Box 135, Fairfield, IA 52556 (515) 472-5145.
Missouri, St. Charles, city of Lake Saint Louis, 0001A.	290868A.....E-5.....		I	F	May 8, 1979.....	May 8, 1979.....	Honorable George E. Heidelbaugh, Jr., Mayor, 1000 Lake Saint Louis Boulevard, Lake Saint Louis, MO 63367 (314) 532-3912.
Montana, unincorporated area, Prairie County, 0011A-0012A; 0016A-0017A.	300164A.....N-5.....		I	F	May 8, 1979.....	May 8, 1979.....	Mr. Fred Schwartz, Chairman, Prairie County, Board of County Commissioners, Terry, MT 59349 (406) 637-5431.
Oregon, Umatilla, city of Adams, 01B.....	410205B.....E-11, 12.....		I	F	August 30, 1974, December 26, 1975.	May 8, 1979.....	Honorable Lee Grimos, Mayor, City Hall, Main and Wado Streets, Adams, OR 97810 (503) 568-3383.
Texas, Kendall, city of Boerne, 01C-02C.....	480418C.....E-9, 11, 12, 13, 15.		I	F	November 30, 1973, January 23, 1976.	May 8, 1979.....	Honorable A. E. Howell, Jr., Mayor, P.O. Drawer U, Boerne, TX 78008 (512) 249-2511.
Vermont, Orange, town of Braintree, 0001A-0002A.	500235A.....E-11, 12.....		I	F	December 13, 1974.	May 8, 1979.....	Mrs. Helen E. Bowen, Braintree Town Clerk, R.D. #2, Randolph, VT 05060 (802) 728-9496.
Arizona, Pima, town of Marana, 0001A-0002A.	040118A.....N-5, 15.....		I	F	May 15, 1979.....	May 15, 1979.....	Honorable Donald Frew, Mayor, Town of Marana, P.O. Box 157, Marana, AZ 85238 (602) 602-3401.
Montana, unincorporated area, Powder River County, 0005A-0006A; 0016A; 0030A; 0035A.	300163A.....N-5.....		I	F	May 15, 1979.....	May 15, 1979.....	Mr. Floyd Irion, Chairman, Board of County Commissioners, County of Powder River, P.O. Box J, Broadus, MT 59317 (406) 436-2657.
New Mexico, Sandoval and Bernalillo, village of Corrales, 0001A.	350094A.....E-8, 12.....		I	F	Dec. 20, 1974.....	May 15, 1979.....	Honorable Ann Dunlap, Mayor, P.O. Box 707, Corrales, NM 87048 (505) 897-0502.
Texas, Brown, city of Brownwood, 0001B-0002B.	480087B.....E-11, 12.....		I	F	May 24, 1974, May 21, 1976.	May 15, 1979.....	Honorable W. T. Harlow, Mayor, P.O. Box 1389, Brownwood, TX 76801 (915) 648-6056.
Texas, Tarrant, city of Crowley, 0001B-0002B.	480591B.....E-11, 12, 13.....		I	F	June 28, 1974, July 2, 1976.	May 15, 1979.....	Ms. Nancy Eller, City Secretary, City Hall, Crowley, TX 76038 (817) 297-1311.
Texas, McLennan, city of Hallsburg, 0001A-0002A.	481522A.....N-5.....		I	F	May 15, 1979.....	May 15, 1979.....	Honorable Margie Wilbanks, Mayor, Office of Mayor, City of Hallsburg, Route 7, Box 428, Waco, TX 76705 (817) 875-2346.
Washington, unincorporated area, Mason County, 0001B-0012B.	530115B.....E-11, 12.....		I	F	Aug. 9, 1977.....	May 15, 1979.....	Mr. Jack Christenson, Assistant Engineer, Mason County, P.O. Box 357, Shelton, WA 98584 (206) 426-4443.
Indiana, Madison, town of Country Club Heights, 01.	180451A.....N-5.....		I	F	May 18, 1979.....	May 18, 1979.....	Dr. Beeler, Town Bd. Pres., Overlook Drive, Anderson, IN 46011, Phone: (317) 642-1316.
Ohio, Defiance, village of Hicksville, 0001B.....	390145.....E-8, 11, 12, 14.....		I	F	May 17, 1974, May 21, 1976.	May 18, 1979.....	Jay Volkert, Mayor, 111 S. Main Street, Hicksville, OH 43520, Phone: (419) 542-6138.
Ohio, Union, city of Marysville, 0001B.....	390548.....E-8, 11, 12, 14.....		I	F	Mar. 22, 1974, Aug. 27, 1976.	May 18, 1979.....	Clifton H. Brown, 6th and Main Street, Marysville, OH 43040, Phone: (513) 642-6015.
Ohio, Stark, city of Massillon, 0001B.....	390517.....E-8, 11, 12, 14.....		I	F	Jan. 9, 1974, Aug. 22, 1975.	May 18, 1979.....	Mark Ross, Mayor, City Hall, Massillon, OH 44646, Phone: (216) 833-1058.
Ohio, Fairfield and Franklin, village of Pickerington, 0001D.	390162.....E-11, 12, 14.....		I	F	June 28, 1974, Feb. 28, 1975, June 25, 1976, Dec. 16, 1977.	May 18, 1979.....	Garvan Smith, Mayor, 500 Herford Drive, Pickerington, OH 43147, Phone: (614) 837-3974.

State, county, community name and number of panels	Community number and suffix	Program and change code	Inland or coastal	Hazard F/I/M/E	Identification date(s)	Effective date of this map action	Local map repository
Ohio, Hamilton, city of Reading, 0001B	390234	E-11, 12, 14	I	F	Feb. 8, 1974, Apr 16, 1976.	May 18, 1979	William Ernst, Mayor, Pike and Market Street, Reading, OH 45215, Phone: (513) 733-4044.
Ohio, Summit, village of Reminderville, 0001A	390855	N-5	I	F	May 18, 1979	May 18, 1979	Ray W. Williams, Mayor, 3501 Glenwood Blvd., Reminderville, OH, Phone: (216) 562-8382 home; (216) 562-8373 work.
Ohio, Summit, city of Twinsburg, 0001B	390534	E-8, 11, 12, 14	I	F	Mar. 15, 1974, June 18, 1976.	May 18, 1979	Anthony Tenca, Mayor, 9810 Ravenna Road, Twinsburg, OH 44087, Phone: (216) 425-4234.
Ohio, Auglaize, city of Wapakoneta, 0001B	390023	E-8, 11, 12, 14	I	F	Feb. 15, 1974, May 28, 1976.	May 18, 1979	William Lietz, Mayor, 102 Perry Street, Wapakoneta, OH 45895, Phone: (419) 733-3011.
Pennsylvania, Huntingdon, township of Jackson, 0001A-0005A.	421691	E-11, 12, 14	I	F	Dec. 13, 1974	May 18, 1979	Ralph M. Weller, Chairman, R.D., Petersburg, PA 16669, Phone: (814) 687-3679.
Pennsylvania, Venango, township of Oakland, 0001A-0003A.	422111	E-11, 12, 14	I	F	Dec. 13, 1974	May 18, 1979	Ralph Prichard, Chairman, R.D. #1, Cooperstown, PA 16317, Phone: (814) 648-5272.
Pennsylvania, Huntingdon, township of West, 0001A-0003A.	421706	E-11, 12, 14	I	F	Jan. 17, 1975	May 18, 1979	Raymond McGargle, Chairman, R.D., Petersburg, PA 16669, Phone: (814) 663-4846.
New Hampshire, Sullivan, town of Lempster, 0001, 0003, 0004.	330160A	E-12	I	F	Jan. 31, 1975	May 18, 1979	Town of Lempster, Town Hall, Lempster, NH 03606.
New Hampshire, York, town of Warren, 0001, 0003.	330168B	E-11, 12	I	F	Sept. 13, 1974	May 18, 1979	Board of Selectmen, Town of Warren, Warren, NH 03279.
Idaho, unincorporated area, Kootenai County, 0001B-0014B.	160076B	E-8, 11, 12	I	F	June 7, 1977	May 22, 1979	Mr. Eugene W. Ingalls, Chairman, Board of County Commissioners, Kootenai County, County Courthouse, 501 Government Way, Coeur d'Alene, ID 83814 (208) 664-8291.
Iowa, unincorporated area, Franklin County, 0001A-0006A.	190867A	N-5	I	F	May 22, 1979	May 22, 1979	Mr. Conrad Meints, County Chairman, Franklin County, Board of Supervisors, Hampton, IA 50441 (515) 456-4226.
New Mexico, Lea, city of Hobbs, 0002A	350029A	E-8, 11, 12	I	F	Apr. 2, 1976	May 22, 1979	Honorable Max Clappitt, Mayor, 300 North Turner, P.O. Box 1117, Hobbs, NM 88240 (505) 397-3636.
Texas, unincorporated area, Angelina County, 0001B-0013B.	480007B	N-8, 11, 12	I	F	Dec. 27, 1974, June 28, 1977.	May 22, 1979	Honorable Claude E. Welch, County Judge, County Courthouse, County of Angelina, P.O. Box 908, Lufkin, TX 75901 (713) 633-2161.
Illinois, Monroe, city of Columbia, 0001B	170510	E-8, 11, 12, 14	I	F	May 17, 1974, Jan. 23, 1976.	May 25, 1979	Edd Ghent, Mayor, 208 South Rapp Street, Columbia, IL 62236, Phone: (618) 281-7144.
Illinois, Henderson, village of Oquawka, 01	170282B	E-12, 14	I	F	Dec. 7, 1973, July 16, 1976.	May 25, 1979	Harry Cooper, V. Pres., Village Hall, Oquawka, IL 61463, Phone: (309) 867-4721.
Indiana, Greene, city of Linton, 0001A	180456	N-5, 15	I	F	May 25, 1979	May 25, 1979	Robert C. Walters, Mayor, City Hall, Linton, IN 47441, Phone: (812) 847-7014.
Minnesota, Nobles, Nobles County, ¹ 0001A-0009A.	270668	E-5	I	F	May 25, 1979	May 25, 1979	Ken W. Roberts, Auditor, Courthouse, Worthington, MN 56187, Phone: (507) 376-4151.
Ohio, Delaware, village of Sunbury, 0001B	390152	E-8, 11, 12, 14	I	F	May 31, 1974, June 4, 1976.	May 25, 1979	Harold Kintner, Mayor, Box 449, Sunbury, OH 43074, Phone: (614) 965-3886.
Ohio, Fairfield, village of Thurston, 01	390690A	E-8, 11, 12, 14	I	F	Jan. 31, 1975	May 25, 1979	Charles George, Mayor, P.O. Box 102, Thurston, OH 43157, Phone: (614) 862-4534.
Ohio, Wyandot, Wyandot County, ¹ 0001B only.	390787	E-12, 14	I	F	Feb. 17, 1978	May 25, 1979	John A. Hendricks, Pres., Bd. of Comm., Courthouse, Upper Sandusky, OH 43351, Phone: (419) 234-3436.
Pennsylvania, Venango, township of Mineral, 0001A-0002A.	422538	N-11, 12, 14	I	F	Jan. 31, 1975	May 25, 1979	J. L. Krizon, Chairman, R.D. #1, Poik, PA 16342, Phone: (814) 437-1595.
Pennsylvania, Huntingdon, township of Penn, 0001A-0003A.	421698	E-11, 12, 14	I	F	Dec. 6, 1974	May 25, 1979	John W. Lynn, Chairman, R.D. #1, Hesston, PA 16647, Phone: (814) 658-3832.
Arkansas, unincorporated area, Mississippi county, 0001B-0016B.	050452B	N-11, 12	I	F	Oct. 18, 1977	May 29, 1979	Honorable A. A. "Shug" Banks, County Judge, Mississippi County Courthouse, Blytheville, AR 72315 (501) 763-3212.

State, county, community name and number of panels	Community number and suffix	Program and change code	Inland or coastal	Hazard F/M/E	Identification date(s)	Effective date of this map action	Local map repository
California, unincorporated area, Santa Cruz County, 0002A-0017A.	060353A	E-8, 11, 12	I	F	Aug. 16, 1974	May 29, 1979	Mr. John Gilchrist, Principal Planner, Environmental Division, County of Santa Cruz, Planning Department, Governmental Center, 701 Ocean Street, Santa Cruz, CA 95060 (408) 425-2191.
Colorado, El Paso, city of Fountain, 0001B-0002B.	080061B	E-8, 11, 12	I	F	June 28, 1974, Oct. 24, 1975.	May 29, 1979	Honorable Sigurd Aga, Mayor, City Hall, 116 South Main Street, Fountain, CO 80817 (303) 392-5604.
Louisiana, West Carroll Parish, village of Epps, 01A.	220283A	N-8, 11, 12	I	F	June 4, 1976	May 29, 1979	Honorable Edward C. Jones, Mayor, Village Hall, P.O. Box 253, Epps, LA 71237 (318) 926-5224.
Louisiana, Jackson Parish, town of Jonesboro, 0001A.	220252A	N-5, 15	I	F	May 29, 1979	May 29, 1979	Honorable W. Richard Zuber, Mayor, City Hall Building, 100 Fourth Street, Jonesboro, LA 71251 (318) 259-2385.
Montana, unincorporated area, Musselshell County, 0011A-0012A; 0014A.	300174A	N-5	I	F	May 29, 1979	May 29, 1979	Mr. O. S. Ellis, Chairman, Musselshell County, Board of County Commissioners, Roundup, MT 59072 (406) 323-1104.
Oregon, Malheur, city of Adrian, 0001A	410285A	N-5	I	F	May 29, 1979	May 29, 1979	Honorable Marvin Bowers, Mayor, Office of Mayor, P.O. Box 228, Adrian, OR 97901 (503) 372-2358.
Oregon, Umatilla, city of Ukiah, 0001A	410279A	E-5	I	F	May 29, 1979	May 29, 1979	Honorable Lloyd A. Wald, Mayor, City Hall, P.O. Box 187, Ukiah, OR 97880 (503) 427-3291.
Texas, Henderson, city of Tool, 0001A	481532A	N-5	I	F	May 29, 1979	May 29, 1979	Honorable Oran White, Mayor, City of Tool, Office of Mayor, Route 6, Kemp, TX 75143 (214) 432-2858.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19387; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 30, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI-5474]
[FR Doc. 79-14292 Filed 5-8-79; 8:45 am]
BILLING CODE 4210-23-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service 26 CFR Part 1

Investment Credit Employee Stock Ownership Plans (TRASOP's) Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Public hearing on temporary regulations.

SUMMARY: This document provides notice of a public hearing on temporary regulations relating to investment credit employee stock ownership plans ("TRASOP's").

DATES: The public hearing will be held on June 28, 1979, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by June 14, 1979.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, N.W., Washington, D.C. The outlines should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (EE-4-78), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: George Bradley or Charles Hayden of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202-566-3935, not a toll free call.

SUPPLEMENTARY INFORMATION: The subject of the public hearing is temporary regulations under section 46(a) of the Internal Revenue Code of 1954. The temporary regulations appeared in the Federal Register for Friday, January 19, 1979, at page 4128 (44 FR 4128).

On July 30, 1976, the Internal Revenue Service published proposals in the Federal Register to amend the Income Tax Regulations under section 46(a) of the Internal Revenue Code of 1954 and section 301(d) of the 1975 Tax Reduction Act (41 FR 31828).

By a notice published in the Federal Register on October 19, 1976, the public was invited to comment not only on issues addressed in the proposals, but

also on issues addressed by section 803(h) of the Tax Reform Act of 1976 and by the Conference Report of the Committee of Conference on H.R. 10612. A public hearing was held on November 12, 1976.

After consideration of all comments, some of the proposals were revised and adopted as final regulations and others were re-proposed in the temporary regulations that are the subject of this hearing.

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and also desire to present oral comments at the hearing on the proposed regulations should submit an outline of the comments to be presented at the hearing and the time they wish to devote to each subject by June 14, 1979. Each speaker will be limited to 10 minutes for an oral presentation exclusive of time consumed by questions from the panel for the Government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines

are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the Federal Register for Wednesday, November 8, 1978.

By direction of the Commissioner of Internal Revenue:

George H. Jelly,
Director, Employee Plans and Exempt Organizations Division.

[EE-4-78]
[FR Doc. 79-14490 Filed 5-8-79; 8:45 am]
BILLING CODE 4830-01-M

26 CFR Parts 1 and 5b

Temporary Income Tax; Foreign Earned Income Exclusion and the Deduction for Excess Foreign Living Costs

AGENCY: Internal Revenue Service, Treasury

ACTION: Temporary regulations.

SUMMARY: This document provides temporary regulations relating to the foreign earned income exclusion and the deduction for excess foreign living costs. Changes to the applicable tax law were made by the Foreign Earned Income Act of 1978. These regulations affect U.S. citizens and residents who work overseas and provide them with the guidance needed to comply with the law.

EFFECTIVE DATE: The regulations apply generally to taxable years beginning after December 31, 1977.

FOR FURTHER INFORMATION CONTACT: David K. Dolan of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, Attention: CC:LR:T; 202-566-3289 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

This document contains temporary regulations under section 911 of the Internal Revenue Code of 1954 relating to the foreign earned income exclusion. The temporary regulations under this section are necessary because of the amendments made to section 911 by section 202 of the Foreign Earned Income Act of 1978 (Pub. L. 95-615, 92 Stat. 3098). This document also contains temporary regulations under section 913

of the Code relating to the deduction for excess foreign living costs. Section 913 was enacted by section 203 of the Foreign Earned Income Act. The temporary regulations under sections 911 and 913 will remain in effect until superseded by final regulations under those sections.

Explanation of Provisions

Section 911

Section 911 was amended by the Foreign Earned Income Act of 1978 to permit qualifying taxpayers who reside in a camp located in a hardship area in a foreign country to exclude annually up to \$20,000 of foreign earned income. A taxpayer is not allowed a credit, however, for any foreign taxes paid or accrued on the excluded income.

Section 5b.911-1(b) of the temporary regulations provides rules for determining whether a taxpayer qualifies for the exclusion. Section 5b.911-2 specifies the type of income that may be excluded. Section 5b.911-3 sets forth the manner of determining the maximum amount of the exclusion for any taxable year. Section 5b.911-4 provides special rules applicable to married taxpayers with community income. Section 5b.911-5, among other things, specifies the manner of determining the portion of foreign taxes which is allocable to the excluded income and for which a foreign tax credit may not be claimed. Section 5b.911-6 contains procedural rules, including the manner of making an election not to claim the benefits of section 911 and thereby enabling the taxpayer to claim the benefits of section 913. Section 5b.911-7 contains the effective date of these regulations. The temporary regulations apply to taxable years beginning after December 31, 1978. They also apply to the taxable year beginning during 1978 of qualifying taxpayers who do not make an election pursuant to section 209(c) of the Foreign Earned Income Act to have prior law apply to that year. Prior law is section 911 as amended by section 1011 (a), (b), and (c) of the Tax Reform Act of 1976 and by section 701(u)(10) of the Revenue Act of 1978.

Section 913

Section 913, enacted by the Foreign Earned Income Act of 1978, allows to qualifying taxpayers with foreign tax homes a deduction which consists of the following amounts:

- (1) A cost-of-living differential;
- (2) Qualified housing expenses;
- (3) Qualified school expenses;

(4) Qualified home leave transportation expenses; and

(5) A hardship area amount.

The section 913 deduction is a deduction from gross income and is limited to the amount of the taxpayer's foreign source earned income reduced by certain amounts. The deduction may not be claimed by a taxpayer who claims the section 911 exclusion.

Section 5b.913-1 of the temporary regulations describes the deduction generally. Section 5b.913-2 provides rules for determining whether a taxpayer qualifies for the deduction. Among other things, the taxpayer must satisfy either the foreign residence test or the physical presence test (510 days/18-month requirement) which were prerequisites for qualifying for the section 911 exclusion before its amendment by the Foreign Earned Income Act of 1978.

Section 5b.913-3 contains definitions which are generally applicable to the section 913 deduction. The term "tax home," for example, is relevant to each of the five elements of the deduction because each is allowed only for periods when the taxpayer's tax home is in a foreign country. The term "qualified second household" is relevant to all elements of the deduction other than the hardship area amount; special rules relate to each if the taxpayer maintains a qualified second household.

Section 5b.913-4 specifies the method of computing the foreign source earned income limitation, which is the maximum amount of the section 913 deduction.

Sections 5b.913-5 through 5b.913-9 provide rules for computing, respectively, the cost-of-living differential, qualified housing expenses, qualified school expenses, qualified home leave transportation expenses, and the hardship area amount.

Section 5b.913-10 contains special rules for married couples both spouses of which qualify for the section 913 deduction. Section 5b.913-11 contains special rules for married couples with community income.

Section 5b.913-12 makes a cross-reference to regulations under section 911 which, among other things, permit both section 911 and section 913 taxpayers to apply for an extension for filing their return until after completion of the qualifying period for claiming the section 911 exclusion or the section 913 deduction. Finally, § 5b.913-13 sets forth the effective date of the section 913 regulations. The effective date is the same as that specified for the temporary regulations under section 911 contained in this document.

Waiver of Procedural Requirements of Treasury Directive

Expedient adoption of the provisions contained in this document is essential because of the need for immediate guidance to taxpayers in filing their 1978 income tax returns and in determining wages subject to income tax withholding during 1979. For this reason, Jerome Kurtz, Commissioner of Internal Revenue, has determined that the provisions of paragraphs 8 through 14 of the Treasury Department directive implementing Executive Order 12044 must be waived.

Drafting Information

The principal author of these regulations is David K. Dolan of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations in matters of both substance and style.

Adoption of Amendments to the Regulations

Accordingly, a new Part 5b Temporary Income Tax Regulations under the Foreign Earned Income Act of 1978, is added to Title 26 of the Code of Federal Regulations, and the following regulations are adopted:

§§ 1.911, 1.911-1, and 1.911-2 [Deleted]

Paragraph 1, Sections 1.911, 1.911-1, and 1.911-2 are deleted, and the following § 5b.911-1 through 5b.911-7 are adopted:

§ 5b.911-1 Individuals qualifying for the exclusion.

(a) *Scope.* Section 911 provides that a qualifying taxpayer may exclude from gross income qualifying earned income described in § 5b.911-2. The amount that may be excluded is subject to the limitation provided in § 5b.911-3. Taxpayers may make an election under § 5b.911-6(a) not to claim the benefit of section 911.

(b) *Taxpayers qualifying.* A taxpayer qualifies for the exclusion provided by section 911 if the taxpayer resides in a camp located in a hardship area and satisfies either the foreign residence test or the physical presence test of § 5b.913-2 (a) (1) and (2). A taxpayer is considered to reside in a camp only for portions of the taxable year during which the taxpayer's abode is in a camp. A taxpayer who is away from a camp for short periods of time may still be considered to reside in the camp during those periods of absence. As an

illustration, a taxpayer living in a camp who spends weekends or takes periodic vacations of short duration away from the camp may be considered to reside in the camp during those periods of absence. A taxpayer who spends 2 consecutive months away from the camp, however, is not considered to reside in the camp during that period of absence. An individual is not considered to reside in a camp located in a hardship area during any period when the area where the camp is located is not designated as a hardship area. (See § 5b.913-3(e).)

(c) *Camp*—(1) *In general.* A camp is lodging which—

- (i) Is substandard;
- (ii) Is provided by or on behalf of the employer for the convenience of the employee because the place where the taxpayer renders services is in a remote area where satisfactory housing is not available on the open market;
- (iii) Is located as near as practicable to the worksite of the taxpayer;
- (iv) Is furnished in a common area or enclave which is not available to the public for lodging or accommodations; and
- (v) Normally accommodates 10 or more persons who are either employees of the taxpayer's employer or other employees performing services at the taxpayer's worksite.

For purposes of paragraph (c)(1)(ii) of this section, the term "for the convenience of the employer" has the same meaning which it has for purposes of section 119. For purposes of paragraph (c)(1)(iv) of this section, a cluster of housing units occupied by employees who perform services at the taxpayer's worksite is not a common area or enclave if adjacent to or surrounded by similar housing occupied by other individuals.

(2) *Substandard lodging.* Substandard lodging means housing which—

- (i) Consists of movable units such as mobile homes and trailers;
- (ii) Is a mass housing structure, such as a barracks, where more than two unrelated persons are required to sleep in the same room;
- (iii) Is not equipped with air conditioning and heat, if appropriate for the climate, and electricity;
- (iv) Is not equipped with all of the following plumbing facilities for each family unit or, if unrelated employees are required to share housing, for every four persons on the average:
 - (A) Hot and cold piped water;
 - (B) A usable interior flush toilet; and
 - (C) A usable interior bathtub or shower; or

(v) Does not provide safe and adequate shelter—that is, in its present condition, it endangers the health, safety, or well-being of its occupants. For purposes of paragraph (c)(2)(i) of this section, housing does not necessarily consist of movable units merely because it is prefabricated. The environment or neighborhood in which housing is located is not relevant in determining whether housing is substandard.

(3) *Remote area.* A remote area is any place which is not within a reasonable commuting distance (defined in § 5b.913-3(f)) of a community (city, town, village, etc.) with a population of 2,500 or more individuals.

(d) *Hardship area.* A hardship area is defined in § 5b.913-3(e).

(e) *Section 119 and business premises.* With respect to a taxpayer who excludes income pursuant to section 911, a camp as defined in paragraph (c) of this section is considered to be part of the business premises of the taxpayer's employer for purposes of section 119 for the portion of the taxable year during which the taxpayer satisfies the foreign residence test or the physical presence test of § 5b.913-2(a) (1) and (2) and resides in a camp located in a hardship area.

§ 5b.911-2 Qualifying earned income.

(a) *In general.* Qualifying earned income is earned income (defined in paragraph (b) of this section) which—

(1) Is attributable to services performed in a foreign country (defined in § 5b.913-3(d)) during the portions of the taxable year during which the taxpayer resides in a camp located in a hardship area and satisfies the foreign residence test or the physical presence test of § 5b.913-2(a) (1) and (2);

(2) Is not paid by the U.S. government or any U.S. government agency or instrumentality;

(3) Is not received as a pension or annuity or included in the taxpayer's gross income by reason of section 402(b) (relating to the taxability of a beneficiary of a nonexempt trust) or section 403(c) (relating to the taxability of a beneficiary under a nonqualified annuity or under annuities purchased by exempt organizations); and

(4) Is not received after the close of the taxable year following the taxable year in which the services giving rise to the income are performed.

For purposes of paragraph (a) (1) of this section, the place of receipt of income is immaterial in determining whether

income is derived from services performed in a foreign country.

(b) *Definition of "earned income"*—(1) *In general.* "Earned income" means wages, salaries, professional fees, and other amounts received as compensation for personal services actually rendered. "Earned income" does not include any portion of compensation paid by a corporation which represents a distribution of earnings and profits rather than a reasonable allowance for personal services actually rendered to the corporation.

(2) *Earned income from business in which capital is material.* In the case of a taxpayer engaged in a trade or business (other than in corporate form) in which both personal services and capital are material income-producing factors, a reasonable allowance as compensation for the personal services actually rendered by the taxpayer shall be considered earned income. In no case, however, may the total amount to be treated as earned income exceed 30 percent of the taxpayer's share of the net profits of the trade or business.

(3) *Earned income and employed assistants.* Earned income includes all fees received by a taxpayer engaged in a professional occupation (such as a doctor or lawyer) in the performance of professional activities. Professional fees constitute earned income even though the taxpayer employs assistants to perform part or all of the services rendered, provided the taxpayer's patients or clients look to the taxpayer as the person responsible for the services rendered.

§ 5b.911-3 Determination of the maximum excludable amount of qualifying earned income.

(a) *Application of the limitation*—(1) *In general.* Qualifying earned income described in § 5b.911-2 is excludable only to the extent of the limitation specified in paragraph (b) of this section for the taxable year in which the income is earned. Income is considered to be earned in the taxable year in which the services giving rise to the income are performed. Earned income is not to be attributed to any year in which the services performed are insubstantial in nature. The determination of the amount of excluded earned income in this manner does not affect the time for reporting any amounts included in gross income.

(2) *Illustrations.* Paragraph (a) (1) of this section is illustrated by the following examples:

Example (1). B, a U.S. citizen and cash-basis taxpayer, is a *bona fide* resident of

foreign country X for the entire taxable years 1980 and 1981. During that entire period, B resides in a camp located in a hardship area. In 1981, B receives \$40,000 for services performed in country X during 1980 and 1981. Of the total amount received in 1981 (\$40,000), \$30,000 is attributable to services performed during 1980, and \$10,000 is attributable to services performed during 1981. The limitation specified in § 5b.911-3 (b) is \$20,000 for income earned in each of the years 1980 and 1981. Thus, \$20,000 of the \$30,000 earned in 1980 and the entire \$10,000 earned in 1981 are excluded in 1981 (the year of receipt). The nonexcludable \$10,000 of the \$30,000 earned in 1980 must be included in B's gross income in 1981 (the year of receipt).

Example (2). The facts are the same as in example (1), except that in 1982 B receives an additional \$5,000 for services performed in country X in 1981. Since the \$10,000 of income earned and received in 1981 is excluded, the remaining limitation for income earned in 1981 which is available for earned income received in 1982 is \$10,000. Accordingly, the \$5,000 earned in 1981 but received in 1982 is excluded from B's gross income in 1982.

(b) *Limitation*—(1) *In general.* The limitation for each taxable year on the exclusion of qualifying earned income described in § 5b.911-2 equals \$20,000 multiplied by the following fraction:

$$\frac{\text{The number of qualifying days}}{\text{The number of days in the taxable year}}$$

(2) *Qualifying days.* The number of qualifying days is the total number of calendar days in the taxable year during which the taxpayer—

- (i) Resides in a camp located in a hardship area within the meaning of § 5b.911-1 (b); and
- (ii) Satisfies the foreign residence test or the physical presence test of § 5b.913-2 (a) (1) and (2).

(c) *Illustrations.* This section is illustrated by the following examples:

Example (1). B, a U.S. citizen and a calendar year, cash-basis taxpayer, is a *bona fide* resident of foreign country X for the period April 1, 1979, through September 30, 1981. B resides in a camp located in a hardship area during that entire period and returns to the United States during that period only for a 3-week vacation in 1980. B receives \$50,000 in each of the years 1979, 1980, and 1981 as current compensation for services performed in country X during the portions of those years during which B is a resident of country X. B receives no other compensation. The amounts of excluded income earned in taxable years 1979 through 1981 are computed as follows: of the income earned in 1979, \$15,068 ($\$20,000 \times 275/365$); of the income earned in 1980, \$20,000 ($\$20,000 \times 366/366$); and of the income earned in 1981, \$14,959 ($\$20,000 \times 273/365$).

Example (2). B, a U.S. resident and a calendar year, cash-basis taxpayer, arrives in foreign country Y from the United States on April 24, 1980. B resides in a camp located in a hardship area during the entire time B is in

country Y. B remains in country Y until October 25, 1981, at which time B departs for the United States where B remains for the rest of 1981. B qualifies under the physical presence test of § 5b.913-2 (a) (2) for the period during which B is in country Y. B receives \$50,000 in each of the years 1980 and 1981 as current compensation for services performed in country Y during the portions of those years during which B is in country Y. B receives no other compensation. The amounts of excluded income earned in taxable years 1980 and 1981 are computed as follows: of the income earned in 1980, \$13,716 ($\$20,000 \times 251/366$); and of the income earned in 1981, \$16,274 ($\$20,000 \times 297/365$).

§ 5b.911-4 Treatment of community income.

(a) *General rule.* This paragraph applies to married taxpayers with community income other than taxpayers described in paragraph (b) of this section. The amount of excluded earned income is first determined separately for each spouse under the rules of §§ 5b.911-1 through 5b.911-3 on the basis of the income attributable to that spouse's services. The sum of the amounts of excluded earned income so determined for each spouse is the aggregate amount excluded on a joint return. If the couple files separate returns, one-half of the aggregate amount which would be excluded on a joint return constitutes the exclusion on the separate return of each spouse.

(b) *Special rules applicable to married taxpayers to whom section 879 applies.* The following special rules regarding the treatment of community income apply to any U.S. citizen or resident married to a nonresident alien for whom an election under section 6013 (g) or (h) is not in effect to have the nonresident alien spouse treated as a U.S. resident. Section 879 (applicable to taxable years beginning after December 31, 1976) provides that earned income of such couples which is community income under the applicable community property law is treated as the income of the spouse who rendered the services for which the earned income was paid or accrued. The amount of earned income excluded under section 911 from the gross income of the spouse who is a U.S. citizen or resident is thus computed on the basis of the earned income attributed to that spouse under section 879. Any portion of such earned income that is not excluded is taxable to that spouse. The non-resident alien spouse does not compute an excluded amount with respect to any income attributed to that spouse under section 879 since, among other things, nonresident aliens do not qualify for the section 911 exclusion.

(c) *Illustrations.* This section is illustrated by the following examples:

Example (1). B, a U.S. citizen and cash-basis taxpayer, is a *bona fide* resident of foreign country S and resides in a camp in a hardship area during the entire 1981 taxable year. During 1981, B receives \$40,000 compensation for services performed during that year in country S. C, B's spouse and a U.S. citizen, is a resident of the United States during 1981 and receives no compensation during 1981. B's salary is considered community income under the law of state X, the marital domicile. If the income were not community income \$20,000 of the \$40,000 received by B would be excluded from B's gross income. As a result, whether B files a joint or a separate return, the aggregate amount excluded from B's gross income is \$20,000.

Example (2). The facts are the same as in example (1), except that C is a *bona fide* resident of country S and resides in a camp in a hardship area during the entire 1981 taxable year. In addition, C receives \$10,000 during the 1981 taxable year for services performed in country S during that year. If all compensation received during 1981 were not community income, \$20,000 of the \$40,000 received by B would be excluded from B's gross income and the entire \$10,000 received by C would be excluded from C's gross income. As a result, whether B and C file separate returns or a joint return, the aggregate amount excluded from their combined gross income is \$30,000.

Example (3). B, a U.S. citizen and cash-basis taxpayer, is a *bona fide* resident of foreign country X and resides in a camp in a hardship area during the entire 1981 taxable year. During 1981, B receives \$40,000 compensation for services performed in country X during that year. C, B's spouse and a citizen of country X, is a resident of country X during 1981. C receives \$10,000 compensation for services performed during that year in country X. Under the law of country X, the marital domicile, one-half of B's earnings (or \$20,000) belong to C and one-half of C's earnings (or \$5,000) belong to B. An election under section 6013 (g) or (h) is not in effect to have C, a nonresident alien, treated as a resident of the United States. As a result, the \$40,000 income received by B is treated as the earned income of B under section 879 and is subject to U.S. tax if not otherwise excluded. The amount of earned income excluded by B from gross income is \$20,000. The remaining \$20,000 received by B is included in B's gross income for 1981. The \$10,000 received by C is treated as the earned income of C and is not subject to tax since it is derived by a nonresident alien from sources outside the United States.

§ 5b.911-5 Disallowance of deductions and the foreign tax credit.

(a) *Deductions.* No deduction is allowed for any expenses (other than moving expenses), losses, or other otherwise deductible items that are definitely related (within the meaning of § 1.861-8) to earned income excluded from gross income under section 911. If

earned income qualifying for the exclusion (determined under § 5b.911-2) exceeds the earned income actually excluded under section 911, the amount not allowed as a deduction is determined by multiplying the deductions definitely related to qualifying earned income by the following formula:

Excluded earned income .

Qualifying earned income

Thus, if the taxpayer earns \$60,000 of qualifying earned income during the taxable year, incurs \$3,000 of otherwise deductible business expenses attributable to that income, and excludes \$20,000 of that income, \$1,000 of the business expenses ($\$3,000 \times \$20,000 / \$60,000$) are not deductible, because they are allocable to the excluded \$20,000. Deductions which are not definitely related to qualifying earned income are deductible to the extent allowed by chapter 1 of the Code. Examples of deductions that are not definitely related are personal and family medical expenses, real estate taxes and mortgage interest on a personal residence, charitable contributions, and deductions for personal exemptions.

(b) *Foreign tax credit.* The amount of foreign taxes for which a credit may be claimed is reduced by the portion of foreign taxes allocable to excluded earned income. The reduction is made prior to the application of the limitation of section 904. For purposes of this paragraph, the portion of taxes imposed by a foreign country that is allocable to excluded earned income is determined by multiplying the amount of the foreign taxes by a fraction. The numerator of the fraction equals—

(1) The U.S. tax (less general tax credit, if any) on the sum of (i) the taxpayer's taxable income (or tax table income if the taxpayer uses the tax tables in computing tax) plus (ii) the excluded earned income (reduced by allocable deductions other than moving expenses) less

(2) The U.S. tax (less general tax credit, if any) on the taxpayer's taxable income (or tax table income).

The denominator of the fraction is the numerator plus the limitation imposed for the taxable year by section 904.

§ 5b.911-6 Procedural rules.

(a) *Election not to exclude earned income.* A taxpayer who is entitled to the benefit of section 911 may elect under section 911 (d) not to exclude earned income as provided in section 911. This election shall be made on Form 2555, which must be filed either with the

income tax return or with an amended return. The election is effective only for the taxable year for which the return is filed. The election may be revoked by filing a new Form 2555 with an amended return. An election not to exclude earned income as provided in section 911 enables a qualifying taxpayer, and in certain cases the taxpayer's spouse, to claim the benefits of section 913 (see § 5b.913-2 (a)). In addition, taxpayers who elect not to exclude income are not subject to the rules of § 5b.911-5 relating to the disallowance of deductions and of the foreign tax credit.

(b) *Returns and extensions—(1) In general.* Any return filed before completion of the period necessary to qualify a taxpayer for the exclusion under section 911 or the deduction under section 913 shall be filed without regard to the exclusion or deduction provided in those sections. A claim for a credit or refund of any overpayment of tax may be filed, however, if the taxpayer subsequently qualifies for the exclusion or deduction. See section 6012 (c) and § 1.6012-1 (a) (3), relating to returns to be filed and information to be furnished by taxpayers who qualify for the exclusion under section 911.

(2) *Extensions.* A taxpayer desiring an extension of time (in addition to the automatic extension of time granted by § 1.6081-2) for filing a return until after the completion of the qualifying period described in § 5b.913-2 (a) (1) or (2) for claiming either the exclusion under section 911 or the deduction under section 913 may apply for an extension on Form 2350, Application for Extension of Time for Filing United States Income Tax Return. The application must be filed with the Director, Internal Revenue Service Center, Philadelphia, Pennsylvania 19255. The application must set forth the facts relied upon to justify the extension of time requested and must include a statement as to the earliest date the taxpayer expects to be entitled to the exclusion or deduction.

(c) *Declaration of Estimated Tax.* In estimating gross income for the purpose of determining whether a declaration of estimated tax must be made for any taxable year, a taxpayer is not required to take into account income which the taxpayer believes will be excluded from gross income under the provisions of section 911. In computing estimated tax, however, the taxpayer must take into account, among other things, the denial of the foreign tax credit for foreign taxes allocable to the excluded income (see § 5b.911-5 (b)).

§ 5b.911-7 Effective date of §§ 5b.911-1 through 5b.911-6.

Sections 5b.911-1 through 5b.911-6 apply to taxable years beginning after December 31, 1978. Those sections also apply to the taxable year beginning during 1978 of taxpayers who do not make an election pursuant to section 209(c) of the Foreign Earned Income Act of 1978 (Pub. L. 95-615, 92 Stat. 3109) to have prior law apply to that taxable year. Prior law is section 911 as amended by section 1011 (a), (b), and (c) of the Tax Reform Act of 1976 (Pub. L. 94-455, 90 Stat. 1610) and by section 701(u)(10) of the Revenue Act of 1978 (Pub. L. 95-600, 92 Stat. 2917). For the rules applicable to earlier taxable years, see 26 C.F.R. §§ 1.911-1 and 1.911-2 (1978).

Par. 2. The following §§ 5b.913-1 through 5b.913-13 are adopted.

§ 5b.913-1 Deduction for certain expenses of living abroad.

(a) *In general.* Section 913 allows to qualifying taxpayers a deduction which consists of the following amounts:

- (1) The cost-of-living differential described in § 5b.913-5;
- (2) Qualified housing expenses described in § 5b.913-6;
- (3) Qualified school expenses described in § 5b.913-7;
- (4) Qualified home leave transportation expenses described in § 5b.913-8; and
- (5) The hardship area amount described in § 5b.913-9.

The section 913 deduction is a deduction from gross income and is limited to the amount of the foreign source earned income limitation described in § 5b.913-4. In addition, special rules in § 5b.913-10 apply to married couples, both spouses of which qualify for the section 913 deduction.

(b) *Relation to the foreign tax credit.* The amount of foreign taxes for which a credit may be claimed, determined prior to the application of the limitation of section 904, is not reduced as a result of claiming the benefits of section 913. The section 913 deduction, however, is allocable to income from sources without the United States for purposes of computing the foreign tax credit limitation under section 904.

§ 5b.913-2 Taxpayers qualifying for the deduction.

(a) *In general.* A taxpayer qualifies for the section 913 deduction if the taxpayer either—

(1) Is a citizen of the United States and establishes to the satisfaction of the Commissioner that the taxpayer has been a *bona fide* resident of a foreign

country or countries for an uninterrupted period which includes an entire taxable year; or

(2) Is a citizen or resident individual of the United States and has been present in a foreign country or countries for at least 510 full calendar days of any period of 18 consecutive months.

A taxpayer does not qualify for the section 913 deduction during a taxable year, however, if the taxpayer excludes from gross income under section 911 any earned income attributable to services performed during that taxable year. In addition, a taxpayer does not qualify for the section 913 deduction for any period during which the taxpayer's spouse derives earned income which is excluded from gross income under section 911 unless the taxpayer's spouse maintains a separate abode which is not within a reasonable commuting distance of the taxpayer's abode, and each spouse has a different tax home which is not within a reasonable commuting distance of the other spouse's tax home.

(b) *Determination of bona fide residence.* Whether a taxpayer is a *bona fide* resident of a foreign country shall be determined by applying, to the extent possible, the principles of section 871 and the regulations thereunder for determining the residence of aliens. Though the period of *bona fide* residence must be uninterrupted, if *bona fide* residence in a foreign country or countries is established, temporary visits to the United States or elsewhere on vacation or business during the taxpayer's period of residence will not necessarily nullify the taxpayer's status as a *bona fide* resident of a foreign country. A taxpayer with earned income from sources within a foreign country is not a *bona fide* resident of that country if—

(1) The taxpayer makes a statement to the authorities of the foreign country claiming to be a nonresident of that country and

(2) The taxpayer is held not subject as a resident of the foreign country to the income tax imposed by that country on such income.

If a taxpayer has made a statement of nonresidence to the authorities of a foreign country which is pending as of any date a determination of the

taxpayer's *bona fide* residence is being made, the taxpayer is not considered a *bona fide* resident of the foreign country as of that date.

(c) *The 510-day/18-month requirement—(1) In general.* For purposes of paragraph (a) (2) of this section, the term "18 consecutive months" means any period of 18 months duration. The 18-month period may begin with any day of the calendar month. The period ends with the day before the corresponding calendar day in the 18th succeeding month or, if there is no corresponding calendar day, with the last day of the 18th succeeding month. The 18-month period may commence before or after the taxpayer's arrival in a foreign country and may terminate before or after the taxpayer's departure. The 510 full days need not be consecutive, but may be interrupted by periods during which the taxpayer is not present in a foreign country. A taxpayer who has been present in a foreign country and then travels over areas not within any country for less than 24 hours shall not be deemed outside the foreign country during the period of travel, so long as the individual does not travel within the United States. Time spent in a foreign country in the employment of the U.S. government or an agency or instrumentality of the U.S. government counts toward satisfaction of the 510-day requirement. In addition, time spent in a foreign country prior to January 1, 1978, counts toward satisfaction of the 510-day requirement, even though no deduction is allowed under section 913 for that time.

(2) *Illustrations of the 510-day rule.* The 510-day rule is illustrated by the following examples:

Example (1). B, a U.S. citizen, arrives in Venezuela from New York at 12 noon on April 24, 1980. B remains in Venezuela until 2 p.m. on October 25, 1981, at which time B departs for the United States where B remains for the rest of 1981. B is in a foreign country an aggregate of 510 full days during each of the following two 18-month periods: March 17, 1980, through September 16, 1981; and June 2, 1980, through December 1, 1981.

Example (2). C, a resident alien of the United States, travels extensively from the time C leaves the United States on March 6, 1980, until the time C departs England on January 1, 1982, to return to the United States permanently. The schedule of C's travel and the number of full days at each location are listed below:

Country	Time and date of arrival	Time and date of departure	Full days in foreign country
United States	9 a.m., Mar. 6, 1980	10 p.m. (by air) Mar. 5, 1980	
England	9 a.m., Mar. 6, 1980	10 p.m. (by ship) June 25, 1980	110
United States	11 a.m., June 30, 1980	1 p.m. (by ship) July 19, 1980	0
France	3 p.m., July 24, 1980	11 a.m. (by air) Aug. 22, 1981	393
United States	4 p.m., Aug. 22, 1981	8 p.m. (by air) Sept. 4, 1981	0
England	9 a.m., Sept. 5, 1981	9 a.m. (by air) Jan. 1, 1982	117
United States	1 p.m., Jan. 1, 1982		

C is not present in a foreign country or countries an aggregate of 510 full days during the 18-month period beginning March 7, 1980 (C's first full day in a foreign country). However, C is present in a foreign country or countries an aggregate of 510 full days during the following 18-month periods: July 1, 1980, through December 31, 1981; and July 25, 1980, through January 24, 1982. The computation with respect to each period may be illustrated as follows:

	Full days in foreign country
First 18-month period (Mar. 7, 1980, through Sept. 6, 1981):	
Mar. 7, 1980, through June 24, 1980	110
June 25, 1980, through July 24, 1980	0
July 25, 1980, through Aug. 21, 1981	393
Aug. 22, 1981, through Sept. 5, 1981	0
Sept. 6, 1981	1
Total full days	504
Second 18-month period (July 1, 1980, through Dec. 31, 1981):	
July 1, 1980, through July 24, 1980	0
July 25, 1980, through Aug. 21, 1981	393
Aug. 22, 1981, through Sept. 5, 1981	0
Sept. 6, 1981, through Dec. 31, 1981	117
Total full days	510
Third 18-month period (July 25, 1980, through Jan. 24, 1982):	
July 25, 1980, through Aug. 21, 1981	393
Aug. 22, 1981, through Sept. 5, 1981	0
Sept. 6, 1981, through Dec. 31, 1981	117
Jan. 1, 1982, through Jan. 24, 1982	0
Total full days	510

Example (3). The facts are the same as in example (2), except that C arrives in England on February 25, 1980, instead of March 6, 1980. As a result, C is present in a foreign country or countries an aggregate of 510 full days during the 18-month period February 19, 1980, through August 18, 1981, as well as during the latter two of the three periods listed in example (2). The computation with respect to the period commencing February 19, 1980, is illustrated below:

	Full days in foreign country
Feb. 19, 1980, through Feb. 25, 1980	0
Feb. 26, 1980, through June 24, 1980	120
June 25, 1980, through July 24, 1980	0
July 25, 1980, through Aug. 18, 1981	390
Total full days	510

Because the 18-month periods commencing February 19, 1980, and July 25, 1980 (the third 18-month period in example (2)), fully overlap the 18-month period commencing July 1, 1980 (the second 18-month period in example (2)), that latter period need not be considered in determining whether C qualifies under the 510-day rule for the days covered by that period.

§ 5b.913-3 General definitions.

(a) **Tax home.** For purposes of section 913 and the regulations thereunder, the

term "tax home" has the same meaning which it has for purposes of section 162(a)(2), except that a taxpayer shall not be considered to have a tax home in a foreign country for any period during which the taxpayer's abode is in the United States. Temporary presence of the taxpayer in the United States does not necessarily mean that the taxpayer's abode is in the United States during that time. If the taxpayer is present in the United States for an extended period of time, however, the taxpayer's abode will generally be considered to be in the United States during that time. As an illustration, the abode of a taxpayer who is abroad during an entire taxable year except for a 2-week vacation in the United States is not considered to be in the United States during that 2-week vacation. The abode of a taxpayer who spends 2 consecutive months in the United States is considered, however, to be in the United States during that 2-month period in the absence of unusual circumstances.

(b) **Qualified second household.—(1) In general.** A qualified second household is a separate household maintained by a taxpayer for the taxpayer's spouse or dependents who, if minors, are in the taxpayer's legal custody or the joint custody of the taxpayer and spouse. In order to be a qualified second household, the separate household must be maintained in a foreign country at a place other than the tax home of the taxpayer and must be provided because of adverse living conditions at the taxpayer's tax home. The taxpayer's tax home need not be in a hardship area (defined in paragraph (e) of this section) in order for the separate household to be a qualified second household. In no circumstances is a taxpayer considered to maintain more than one qualified second household at the same time.

(2) **Adverse living conditions.** Adverse living conditions are living conditions which are dangerous, unhealthy, or otherwise adverse. Adverse living conditions include a state of warfare or civil insurrection in the general area of the taxpayer's tax home. In addition, adverse living conditions exist if the taxpayer's abode is on the business premises of the employer for the convenience of the employer and, because of the nature of the business premises (for example, a construction site or drilling rig), it is not feasible to provide family housing. The criteria

used by the U.S. Department of State in granting a separate maintenance allowance are relevant but not determinative for purposes of determining whether a separate household is provided because of adverse living conditions. Whether the taxpayer's tax home is in a hardship area (defined in paragraph (e) of this section) also is relevant but not determinative.

(c) **United States.** The term "United States" when used in a geographical sense includes the possessions of the United States and the areas set forth in section 638(1). It also includes areas described in section 638(2) to the extent that they relate to U.S. possessions.

(d) **Foreign country.** The term "foreign country" means any territory under the sovereignty of a government other than that of the United States. It includes the air space over any such territory. It does not include a possession or territory of the United States.

(e) **Hardship area.** A hardship area is any place in a foreign country (defined in paragraph (d) of this section) which is designated by the Secretary of State as a place where living conditions are extraordinarily difficult or notably unhealthy, or where excessive physical hardships exist, and for which a post differential of 15 percent or more would be provided under section 5925 of Title 5 of the U.S. Code to any officer or employee of the U.S. Government present at that place.

(f) **Reasonable commuting distance.** For purposes of sections 911 and 913, a reasonable commuting distance is a distance which is capable of being traveled by automobile or available water transportation in 1 hour.

§ 5b.913-4 Foreign source earned income limitation.

(a) **In general.** The deduction allowed under section 913 may not exceed foreign source earned income reduced by the portion of definitely related deductions (within the meaning of § 1.861-8), other than the deduction allowed by section 913, that is allocable to such income.

(b) **Foreign source earned income.** For purposes of the regulations under section 913, foreign source earned income is the earned income (defined in § 5b.911-2 (b)) which—

(1) Is derived by the taxpayer and, if the taxpayer's spouse shares the taxpayer's abode, by the taxpayer's spouse;

(2) Is attributable to services performed outside the United States during portions of the taxable year during which the taxpayer's tax home is in a foreign country and the taxpayer qualifies under § 5b.913-2(a) for the section 913 deduction;

(3) Is not excluded from gross income under section 119; and

(4) Satisfies the requirements of § 5b.911-2(a) (2), (3), and (4).

For purposes of paragraph (b)(2) of this section, the place of receipt of income is immaterial in determining whether income is attributable to services performed outside the United States.

§ 5b.913-5 Cost-of-living differential.

(a) *In general.* The cost-of-living differential is the amount specified in tables issued annually by the Internal Revenue Service for the taxpayer's tax home and family size multiplied by the following fraction:

$$\frac{\text{Number of qualifying days}}{\text{Number of days in the taxable year}}$$

(b) *Qualifying days.* The number of qualifying days is the total number of calendar days in the taxable year during which all of the following requirements are satisfied:

(1) The taxpayer's tax home is in a foreign country;

(2) The taxpayer qualifies under § 5b.913-2 (a) for the section 913 deduction;

(3) The value of the taxpayer's meals and lodging is not excluded from gross income under section 119; and

(4) Neither the taxpayer nor the taxpayer's spouse is compensated in whole or in part for the cost-of-living of the taxpayer's household (or of a qualified second household) by means of an allowance which is excluded from gross income under section 912.

(c) *Change of foreign tax home—(1) In general.* If during the taxable year the taxpayer has more than one foreign tax home, the taxpayer must determine the qualifying days with respect to each foreign tax home and compute a separate cost-of-living amount for each pursuant to the rules of this section. The aggregate of those amounts constitutes the taxpayer's cost-of-living differential for the year.

(2) *Illustration.* If the taxpayer's tax home is West Berlin, West Germany, for 200 qualifying days and Paris, France, for 165 qualifying days during the taxable year, the taxpayer must compute two cost-of-living amounts. The

first equals the full year's cost-of-living differential specified in the cost-of-living table for West Berlin multiplied by 200/365. The second equals the full year's cost-of-living differential specified for Paris multiplied by 165/365. The sum of the two amounts so computed constitutes the taxpayer's cost-of-living differential for the taxable year.

(d) *Family size—(1) In general.* In determining family size, the family includes only the taxpayer and any spouse and dependents who share the taxpayer's abode. A dependent is not considered to share the taxpayer's abode while boarding at a school. In addition, no person is considered to share the taxpayer's abode during any days for which the value of that person's meals and lodging is excluded from gross income under section 119. If family size varies during any period within the taxable year during which the taxpayer has a particular foreign tax home, a separate cost-of-living amount must be computed for each portion of that period during which the family size is different. Those amounts must then be aggregated to determine the cost-of-living differential for the taxable year.

(2) *Illustration.* If all of the days of a taxable year are qualifying days with respect to one foreign tax home and an unmarried taxpayer's only dependent attends a secondary level boarding school for 274 days of the year and lives with the taxpayer during the remaining 91 days, the taxpayer must compute two cost-of-living amounts. The first equals the full year's cost-of-living differential specified in the cost-of-living table for the taxpayer's tax home for a family size of one multiplied by 274/365. The second equals the full year's cost-of-living differential specified for the taxpayer's tax home for a family of two multiplied by 91/365. The sum of the two amounts so computed constitutes the taxpayer's cost-of-living differential for the taxable year.

(e) *Special rules for qualified second households—(1) In general.* The cost-of-living differential for the portion of the taxable year during which the taxpayer maintains a qualified second household (defined in § 5b.913-3(b)) is determined on the basis of the amount specified for the location of the taxpayer's qualified second household. No cost-of-living differential is determined for the taxpayer's tax home for any period during which the taxpayer maintains a qualified second household.

(2) *Qualifying days.* In determining under paragraph (b) of this section the number of qualifying days during which the taxpayer maintains a qualified second household, paragraph (b)(3) of

this section does not apply. Thus, the number of qualifying days is not reduced by days during which the value of the taxpayer's meals and lodging is excluded from gross income under section 119.

(3) *Family size.* Family size is determined as provided in paragraph (d) of this section, except that the family includes only the spouse and any dependents whose abode is the qualified second household. In addition, the taxpayer is considered a family member during days for which the value of the taxpayer's meals and lodging is not excluded under section 119, regardless of whether the taxpayer is actually present in the qualified second household.

§ 5b.913-6 Qualified housing expenses.

(a) *In general.* The amount of qualified housing expenses equals the reasonable housing expenses incurred by or on behalf of the taxpayer for housing in a foreign country for the taxpayer and any spouse and dependents who share the taxpayer's abode less the taxpayer's base housing amount.

(b) *Housing expenses—(1) In general.* Housing expenses include rent, utilities (other than telephone service), real property insurance, and repairs. Housing expenses do not include—

(i) The cost of house purchase, improvements, and other costs which are capital expenditures;

(ii) The cost of furniture or accessories (whether purchased or leased), parking, or domestic labor (maids, gardeners, etc.);

(iii) Amortized payments of principal with respect to an evidence of indebtedness secured by a mortgage on the taxpayer's housing;

(iv) Depreciation of housing owned by the taxpayer, or amortization or depreciation of capital improvements made to housing which is leased by the taxpayer; or

(v) Interest and taxes deductible under section 163 or 164 or other amounts deductible under section 216 (a).

(2) *Limitation.* Housing expenses are taken into account for purposes of this section only to the extent that they are attributable to housing for portions of the taxable year during which—

(i) The taxpayer's tax home is in a foreign country;

(ii) The value of the taxpayer's housing is not excluded under section 119;

(iii) Neither the taxpayer nor the taxpayer's spouse is compensated in whole or in part for the expenses of housing located within a reasonable

commuting distance of the taxpayer's tax home by means of an allowance which is excluded from gross income under section 912; and

(iv) The taxpayer qualifies under § 5b.913-2(a) for the section 913 deduction.

In addition, except as provided in paragraph (d) (1) of this section relating to qualified second households, if the taxpayer maintains more than one foreign abode at the same time, housing expenses are to be taken into account only to the extent that they are incurred with respect to the abode which bears the closest relationship (not necessarily geographic) to the taxpayer's tax home.

(3) *Reasonableness.* An amount paid for housing is reasonable for purposes of paragraph (a) of this section only to the extent that it does not exceed an amount which would be paid for housing which is not lavish or extravagant under the circumstances.

(c) *Base housing amount—(1) In general.* The base housing amount equals 20 percent of the excess of the taxpayer's worldwide earned income over the sum of the following amounts—

(i) The portion of definitely related deductions (within the meaning of § 1.861-8), other than the deduction allowed under section 913, which is allocable to worldwide earned income;

(ii) The cost-of-living differential (determined under § 5b.913-5);

(iii) The qualified school expenses (determined under § 5b.913-7);

(iv) The qualified home leave transportation expenses (determined under § 5b.913-8);

(v) The hardship area amount (determined under § 5b.913-9); and

(vi) Housing expenses (defined in paragraphs (a) and (b) of this section).

(2) *Worldwide earned income.* Worldwide earned income is earned income (defined in § 5b.911-2 (b)), whether or not from sources outside the United States, which—

(i) Is derived by the taxpayer and, if the taxpayer's spouse shares the taxpayer's abode, by the taxpayer's spouse;

(ii) Satisfies the requirements of § 5b.911-2 (a) (2), (3), and (4); and

(iii) Is attributable to services performed during portions of the taxable year during which—

(A) The taxpayer's tax home is in a foreign country;

(B) The value of the taxpayer's housing is not excluded under section 119; and

(C) The taxpayer qualifies under § 5b.913-2 (a) for the section 913 deduction.

(d) *Special rules for qualified second households—(1) In general.* Qualified housing expenses may be claimed for housing expenses relating to the taxpayer's tax home and for housing expenses relating to a qualified second household. Qualified housing expenses are computed separately with respect to each.

(2) *Qualified housing expenses for the tax home.* In the case of a taxpayer who maintains a qualified second household, the qualified housing expenses for housing at the taxpayer's tax home are determined as provided in paragraphs (a), (b), and (c) of this section, except that, if the taxpayer's tax home is in a hardship area (defined in § 5b.913-3 (e)), the base housing amount with respect to the tax home equals zero rather than the amount determined as provided in paragraph (c) of this section. In determining under paragraph (c) of this section the base housing amount of a taxpayer whose tax home is not in a hardship area, housing expenses in paragraph (c) (1) (vi) of this section do not include the housing expenses incurred with respect to the qualified second household.

(3) *Qualified housing expenses for the qualified second household—(i) Expenses.* In determining under paragraph (b) of this section the housing expenses relating to the qualified second household, the limitation of paragraph (b) (2) (ii) of this section does not apply, so that housing expenses may include those incurred for housing during portions of the taxable year during which the value of the taxpayer's housing at the taxpayer's tax home is excluded under section 119. In addition, the words "qualified second household" are substituted for "taxpayer's tax home" in paragraph (b) (2) (iii) of this section. Thus, housing expenses may include those incurred for housing during portions of the taxable year during which either the taxpayer or the taxpayer's spouse is compensated by means of an allowance which is excluded under section 912 for the expenses of housing located at the taxpayer's tax home, but do not include expenses incurred for housing during portions of the year during which either spouse is so compensated for the expenses of housing at the location of the qualified second household.

(ii) *Base housing amount.* In determining under paragraph (c) of this section the base housing amount relating to the qualified second household—

(A) Housing expenses in paragraph (c) (1) (vi) of this section include those relating both to the qualified second

household and to housing at the taxpayer's tax home;

(B) Paragraph (c) (2) (iii) (B) of this section does not apply, so that, subject to the other criteria of paragraph (c) (2) of this section, earned income used in computing the base housing amount includes income attributable to services performed during periods during which the value of the taxpayer's housing is excluded under section 119; and

(C) Worldwide earned income as defined in paragraph (c) (2) of this section does not include income attributable to services performed during any period during which the taxpayer does not maintain a qualified second household.

(e) *Illustrations.* This section is illustrated by the following examples:

Example (1). All of the following facts relate to the entire 1980 taxable year. B qualifies for the section 913 deduction under § 5b.913-2 (a). B's tax home is in town X, located in foreign country F. Town X is not located in a hardship area. B's spouse and their 1-year old child live in a qualified second household in city Y in foreign country Z. B receives a \$40,000 salary from B's corporate employer for services performed in country F and incurs no business expenses. B's employer also pays B a cost-of-living allowance of \$4,000 and furnishes housing with a local fair market value of \$10,000, for which the employer charges B \$6,000. The value of the housing furnished by B's employer is not excluded from gross income under section 119. B's total earned income is, therefore, \$48,000. B's spouse has no earned income. The cost-of-living differential specified in the 1980 cost-of-living table for country Z, the location of the qualified second household, is \$3,000. B pays \$15,000 for housing for B's spouse and child. Neither B nor B's spouse incurs any qualified school or home leave transportation expenses.

(a) The qualified housing expenses relating to the housing at B's tax home are computed by subtracting from \$10,000 (the full value of B's housing) the base housing amount for the housing at B's tax home. The base housing amount for the housing at B's tax home is \$7,000—20 percent of \$35,000 (\$48,000 worldwide earned income less the \$3,000 cost-of-living differential and the \$10,000 of housing expenses). Thus, the amount of qualified housing expenses relating to the housing at B's tax home equals \$3,000.

(b) The qualified housing expenses relating to the qualified second household are computed by subtracting from \$15,000 (the housing expenses relating to the qualified second household) the base housing amount for the qualified second household. The base housing amount for the qualified second household is \$4,000—20 percent of \$20,000 (\$48,000 worldwide earned income less the \$3,000 cost-of-living differential, the \$10,000 of housing expenses relating to the housing at B's tax home, and the \$15,000 of housing expenses incurred with respect to the qualified second household). Thus, the amount of qualified housing expenses

relating to the qualified second household equals \$11,000.

(c) B's qualified housing expenses equal \$14,000, which is the sum of the \$3,000 qualified housing expenses relating to the housing at B's tax home and the \$11,000 of qualified housing expenses relating to the qualified second household.

Example (2). The facts are the same as in example (1), except that town X is located in a hardship area. The qualified housing expenses relating to the housing at B's tax home equal \$10,000, which is the full value of B's housing. The amount of qualified housing expenses relating to the qualified second household equals \$11,000 and is computed in the same manner as in paragraph (b) of example (1). Thus, B's qualified housing expenses equal \$21,000.

Example (3). The facts are the same as in example (1), except that there is no qualified second household, the cost-of-living differential specified in the 1980 cost-of-living table for country F (the location of B's tax home) is \$3,000, and town X is located in a hardship area. The amount of B's qualified housing expenses equals \$3,000 and is computed in the same manner as in paragraph (a) of example (1). Although B's tax home is located in a hardship area, B cannot claim as qualified housing expenses the full value of the housing provided at B's tax home, since B does not maintain a qualified second household.

§ 5b.913-7 Qualified school expenses.

(a) *Qualified school expenses.* Qualified school expenses are reasonable school expenses incurred by or on behalf of the taxpayer for the education of a dependent of the taxpayer at levels equivalent to grades kindergarten through 12.

(b) *School expenses—(1) In general.* School expenses include tuition, fees, the cost of books, other amounts required by the school, and the cost of local transportation. Optional expenses, such as the cost of optional field trips and the cost of extracurricular activities, are not school expenses. If an adequate U.S.-type school is not available within a reasonable commuting distance (defined in § 5b.913-3(f)) of the taxpayer's tax home, the expenses of room and board for the dependent and the cost of transportation between the school and the taxpayer's tax home at the beginning and end of the school year and during vacation periods are also school expenses. The cost of transportation does not include amounts paid for meals or lodging in route or after arrival.

(2) *Limitation—(i) In general.* School expenses are qualified school expenses only to the extent that—

(A) They are not expenses for which a credit is claimed pursuant to section 44A (relating to child care) or for which a

deduction is claimed pursuant to section 213 (relating to medical expenses);

(B) They are not attributable to the education of a dependent during any period during which the taxpayer or the taxpayer's spouse is compensated in whole or in part for any education expenses relating to that dependent by means of an allowance which is excluded from gross income under section 912;

(C) They are attributable to education for portions of the taxable year during which the taxpayer's tax home is in a foreign country and the taxpayer qualifies under § 5b.913-2(a) for the section 913 deduction; and

(D) They are attributable to education for portions of the taxable year during which the dependent lives either with the taxpayer (that is, shares the taxpayer's abode) at the taxpayer's tax home or in a qualified second household.

(ii) *Illustrative discussion.* Under paragraph (b) (2) (i) (C) of this section, in the case of a tuition payment that is made in September 1980 for the school term beginning during that month and ending in June 1981, only that portion of the payment attributable to the number of school days in 1980 may be claimed as a qualified school expense in 1980. The remainder may be claimed as a qualified school expense in 1981, provided the expense otherwise would be a qualified school expense. For purposes of paragraph (b) (2) (i) (D) of this section, a dependent is considered to live with the taxpayer at the taxpayer's tax home (or in the qualified second household) during the portions of the school term during which the dependent lives at school, provided the dependent's residence during the year is the taxpayer's household (or the qualified second household). For example, a dependent who during the 2 years prior to the current taxable year spent all school vacations with the parent-taxpayer in the taxpayer's household may be considered a resident of the taxpayer's household even though during the current year the dependent spends summer vacation in a summer camp. In contrast, a dependent who remained in the United States when the taxpayer moved abroad and visits the taxpayer at the taxpayer's foreign household only on an occasional basis will not be considered to be a resident of the taxpayer's household.

(c) *Reasonable expenses.* If an adequate U.S.-type school is available within a reasonable commuting distance (as defined in § 5b.913-3 (f)) of the taxpayer's tax home, the taxpayer's dependents may attend school

elsewhere, but tuition is considered reasonable only to the extent that it does not exceed the amount which would be incurred with respect to the school which is within commuting distance. If two or more adequate U.S.-type schools are available within a reasonable commuting distance of the taxpayer's tax home, tuition is considered reasonable only to the extent that it does not exceed the amount which would be incurred with respect to the least expensive of those schools. Round-trip transportation expenses are reasonable only to the extent that they do not exceed the lowest reserved coach or economy rate which is offered without advance booking on the day and at the time of day that the dependent travels. First class fares are considered reasonable only if no coach or economy accommodations are provided to any passengers on the particular flight or if the dependent is required to use first class accommodations because of physical impairment. In addition, the cost of transportation by modes other than air (including ship, rail, and automobile) is not considered reasonable to the extent that the cost of transportation by such other modes exceeds the cost of transportation by air.

(d) *Availability and adequacy.* A school is not considered available under paragraphs (b) and (c) of this section if the school will not accept the taxpayer's dependents for enrollment. A school is not adequate if, because of physical impairment or learning disabilities, the dependent is in need of special educational facilities or training which the school does not provide. In addition, a school is not adequate if the dependent desires a college preparatory curriculum and the school does not offer such a curriculum.

(e) *U.S.-type school.* A U.S.-type school is any school which offers a curriculum which—

(1) Is taught in English;

(2) Is comparable to that offered by accredited schools in the United States; and

(3) Would qualify the student for graduation if the student were to transfer to a U.S. school.

(f) *Special rules for qualified second households.* If the taxpayer maintains a qualified second household (defined in § 5b.913-3 (b)), the location of the taxpayer's qualified second household rather than the taxpayer's tax home is to be used to determine what constitutes school expenses under paragraph (b) (1) of this section and whether school expenses are reasonable under paragraph (c) of this section.

§ 5b.913-8 Qualified home leave transportation expenses.

(a) *In general.* Qualified home leave transportation expenses are the reasonable expenses incurred by or on behalf of the taxpayer for the transportation during the taxable year of the taxpayer or of the taxpayer's spouse or dependents. The expenses must be incurred for round-trip transportation from the location of the taxpayer's tax home (or, with respect to the spouse and dependents, from a qualified second household) to the taxpayer's present or most recent principal residence (whether owned or rented) in the United States or to the port of entry in the continental United States (excluding Alaska) which is nearest to the taxpayer's tax home (or qualified second household). Qualified transportation expenses do not include amounts paid for meals or lodging in route or after arrival in the United States.

(b) *Limitations—(1) One trip during each 12-month period abroad—(i) In general.* Qualified transportation expenses include the cost of no more than one round trip per person during each period of 12 consecutive months during which—

(A) The taxpayer's tax home is in a foreign country; and

(B) The taxpayer qualifies under § 5b.913-2 (a) for the section 913 deduction.

The trip can occur before completion of a 12-month period. In addition, two trips may be taken within a 12-month interval. In such case, however, each trip must occur during separate 12-month periods which do not overlap.

(ii) *Illustration of paragraph (b) (1) (i).* A taxpayer acquires a tax home and first qualifies under § 5b.913-2(a) for the section 913 deduction on January 1, 1979. The taxpayer claims as a home leave transportation expense the cost of the taxpayer's first trip since arrival between the taxpayer's foreign tax home and last U.S. residence, which occurs from December 15 through December 31, 1981. The taxpayer can claim as a home leave transportation expense the transportation cost of a second trip occurring in February 1982 only if the taxpayer continues through December 31, 1982, to have a foreign tax home and to qualify under § 5b.913-2(a).

(2) *Spouse and dependents.* Home leave transportation expenses may be claimed for the transportation of a spouse or dependent only if, at the time of the transportation, the spouse or dependent lives either with the taxpayer (that is, shares the taxpayer's abode) at the taxpayer's tax home or in a qualified second household. A dependent is considered to live with the taxpayer at

the taxpayer's tax home (or in the qualified second household) during the portions of the school term during which the dependent lives at school, provided the dependent's residence during the year is the taxpayer's household (or the qualified second household). (See § 5b.913-7(b)(2)(ii).)

(3) *Double benefits denied—(i) In general.* The taxpayer may not claim as a qualified transportation expense the cost of any trip occurring during the 12-month period described in paragraph (b)(1)(i) if during that period the person for whom the transportation expense is incurred takes another trip the cost of which—

(A) Is claimed as a qualified transportation expense by a person other than the taxpayer; or

(B) Is compensated for in whole or in part by means of an allowance which is granted to the taxpayer or the taxpayer's spouse for purposes of home leave transportation and which is excluded from gross income under section 912.

(ii) *Illustration of paragraph (b)(3)(i).* A taxpayer has a foreign tax home and qualifies under § 5b.913-2(a) for the section 913 deduction from January 1, 1980, through June 30, 1981. In August 1980, the taxpayer's dependent child takes a 2-week trip the cost of which is claimed as a qualified transportation expense by the taxpayer's spouse. The child takes another trip in November 1980. Regardless of whether the 12-month period described in paragraph (b)(1)(i) of this section for the November trip is considered to be January 1, 1980, through December 31, 1980, July 1, 1980, through June 30, 1981, or some intermediate period, the dependent's August trip occurs during the 12-month period for the November trip. Because the cost of the August trip is claimed as a qualified transportation expense by the taxpayer's spouse, the taxpayer may not claim as a qualified transportation expense the cost of the trip occurring in November. The result would be the same if the cost of the August trip were not claimed as a qualified transportation expense by the spouse, but, instead, the cost of that trip were compensated for by an allowance which is granted to the taxpayer or to the taxpayer's spouse and which is excluded from gross income under section 912.

(c) *Reasonableness.* In determining whether transportation expenses are reasonable, the rules of § 5b.913-7(c) (qualified school expenses) as they relate to transportation apply.

§ 5b.913-9 Hardship area amount.

(a) *Hardship area amount.* The hardship area amount equals \$5,000 multiplied by the following fraction:

The number of qualifying days

The total number of days in the taxable year.

(b) *Qualifying days.* The number of qualifying days is the total number of calendar days in the taxable year during which the following requirements are satisfied:

(1) The taxpayer's tax home is located in a hardship area (defined in § 5b.913-3(e)); and

(2) The taxpayer qualifies under § 5b.913-2(a) for the section 913 deduction.

A taxpayer's tax home is not considered to be located in a hardship area during any day for which the area where the taxpayer's tax home is located is not designated as a hardship area. To determine the number of days during which the taxpayer's tax home is located in an area designated as a hardship area, see the hardship area list. (The hardship area list is contained in the instructions to Form 2555 or may be obtained from the Director of International Operations, CP:OIO: 8, Internal Revenue Service, Washington, D.C. 20225.)

§ 5b.913-10 Married couples with two qualifying spouses.

(a) *In general.* Subject to the rules of this section, in the case of a married couple both spouses of which qualify for the deduction provided in section 913, both spouses may claim the benefit of the deduction. If both spouses claim the benefit of section 913 directly as qualifying taxpayers, however, neither may claim any benefits of section 913 relating to a qualified second household maintained for the other spouse. If one spouse foregoes the benefits which that spouse, as a qualifying taxpayer, could claim under section 913, the other spouse may claim the benefits of section 913 relating to a qualified second household maintained for the first spouse. In such case, the earned income of both spouses is considered in computing the foreign earned income limitation under § 5b.913-4 and base housing amount under § 5b.913-6(c) of the spouse who claims the benefits of section 913. The rules in paragraphs (b) through (g) of this section apply only to married couples both spouses of which qualify for the deduction provided in section 913 and neither spouse of which claims any benefits relating to a qualified second household maintained for the other spouse.

(b) *Foreign source earned income limitation.* If separate returns are filed and both spouses claim the section 913 deduction, the foreign source earned income limitation for purposes of the separate return of each spouse is computed as provided in § 5b.913-4, except that it is to be computed solely

on the basis of the earned income derived by that spouse (without regard to community income laws). Otherwise, the limitation is computed as provided in § 5b.913-4—that is, on the basis of the combined earned income of both spouses unless they maintain separate abodes.

(c) *Cost-of-living differential.* Except as provided in paragraph (g) of this section, only one cost-of-living differential is permitted for the couple. If separate returns are filed, each spouse's cost-of-living differential equals one-half of the differential computed for the couple.

(d) *Qualified housing expenses—(1) Expenses.* Except as provided in paragraph (g) of this section, a married couple may claim qualified housing expenses with respect to only one abode.

(2) *Base housing amount.* If separate returns are filed and both spouses claim the section 913 deduction, the base housing amount for purposes of the separate return of each spouse is computed as provided in § 5b.913-6(c), except that it is to be computed solely on the basis of the earned income derived by that spouse (without regard to community income laws). The aggregate of the qualified housing expenses which may be claimed on separate returns may not exceed, however, the amount which would be computed for the couple if a joint return were filed. If separate returns are not filed or if both spouses do not claim the section 913 deduction, the base housing amount is computed as provided in § 5b.913-6(c)—that is, on the basis of the combined earned income of both spouses unless they maintain separate abodes.

(e) *Qualified home leave transportation expenses.* Pursuant to § 5b.913-8(b)(3), a married couple may not include as qualified home leave transportation expenses the cost of more than one round trip for each spouse or dependent during each period of 12 consecutive months during which the couple's tax home is in a foreign country, even though both spouses independently qualify under § 5b.913-2 (a) for the section 913 deduction.

(f) *Hardship area amount and joint returns.* Subject to the rules of § 5b.913-9, each spouse may claim a hardship area amount. If joint returns are filed, however, the hardship area amount determined for each spouse may not exceed the foreign earned income limitation computed as provided in § 5b.913-4, except that it is to be computed solely on the basis of the earned income derived by that spouse

(without regard to community income laws).

(g) *Separate tax homes—(1) In general.* A married couple that maintains separate abodes may claim a cost-of-living differential and qualified housing expenses with respect to each abode if—

(i) The abodes are not within a reasonable commuting distance of each other; and

(ii) The spouses have different tax homes which are not within a reasonable commuting distance of each other.

(2) *Joint returns.* If under paragraph (g) (1) a cost-of-living differential or qualified housing expenses are claimed with respect to the separate abode of each spouse and a joint return is filed, the aggregate of the following amounts may not exceed the foreign earned income limitation computed as provided in § 5b.913-4 solely on the basis of the earned income derived by each spouse (without regard to community income laws):

(i) The cost-of-living differential determined as provided in § 5b.913-5 with respect to that spouse's tax home;

(ii) The qualified housing expenses incurred with respect to that spouse's abode determined by using a base housing amount computed as provided in § 5b.913-6 (c) solely on the basis of the earned income derived by that spouse (without regard to community income laws); and

(iii) The hardship area amount for that spouse.

§ 5b.913-11 Married couples with community income.

(a) *Joint return.* Married couples with community earned income who file a joint return must compute their section 913 deduction under the rules of §§ 5b.913-1 through 5b.913-10. Where relevant, those rules instruct taxpayers with community income to disregard community income laws and treat the income earned by each spouse solely as that spouse's income.

(b) *Separate returns.* Married couples with community earned income (other than taxpayers to whom section 879 applies) who file separate returns must first compute the section 913 deduction as if they filed a joint return. One-half of that amount is the section 913 deduction to be claimed by each spouse on a separate return.

§ 5b.913-12 Returns and extensions.

See § 5b.911-6 (b) relating to returns and extensions for taxpayers qualifying for the section 913 deduction.

§ 5b.913-13 Effective date.

Sections 5b.913-1 through 5b.913-12 apply to taxable years beginning after December 31, 1978. Those sections also apply to the taxable year beginning during 1978 of taxpayers who do not make an election pursuant to section 209 (c) of the Foreign Earned Income Act of 1978 (Pub. L. No. 95-615, 92 Stat. 3109) to have section 911 under prior law apply to that taxable year.

There is need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impracticable to issue it with notice and public procedure under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805) and, in part, under the authority contained in section 913(m) of the Code (92 Stat. 3106; 26 U.S.C. 913(m)).

Jerome Kurtz,

Commissioner of Internal Revenue.

Approved: May 2, 1979.

Donald C. Labick,

Assistant Secretary of the Treasury.

[T.D. 7617]

[FR Doc. 79-14400 Filed 5-4-79; 12:33 pm]

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26 CFR Part 38

Employment Taxes; Temporary Employment Tax Regulations Under the Revenue Act of 1978; Advance Payments of Earned Income Credit

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains Temporary Employment Tax Regulations relating to the advance payment by employers of the earned income credit and relating to earned income credit advance payment certificates, as provided by section 3507 of the Internal Revenue Code of 1954. Changes to the applicable tax law were made by the Revenue Act of 1978. The regulations would provide employees eligible for advance payments of earned income credit and their employers with the guidance needed to comply with the net law. The rules contained in the temporary regulations set forth in this document also serve as a notice of proposed rulemaking by which the rules contained therein are proposed to be prescribed as final regulations.

DATES: These temporary regulations are effective with respect to wages paid after June 30, 1979. Written comments and requests for a public hearing must be delivered or mailed on or before July 9, 1979.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-188-78), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Eileen Murphy of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3297).

SUPPLEMENTARY INFORMATION:

Background

This document contains temporary regulations under section 3507 of the Internal Revenue Code of 1954, as added by section 105 (b) of the Revenue Act of 1978 (Pub. L. 95-600), which are necessary to conform the regulations.

The regulations promulgated in this document are also proposed to be prescribed as final Employment Tax Regulations (26 CFR Part 38) under section 3507 of the Internal Revenue Code of 1954.

Advance Payments of Earned Income Credit

Prior to enactment of section 105(b) of the Revenue Act of 1978, section 43 of the Internal Revenue Code of 1954 provided an earned income credit which could only be claimed and received by an eligible individual as a credit on an income tax return. Section 105(b) of the Act (which added section 3507 to the Code) changed the manner by which an eligible individual may receive the amount of the earned income credit. Although the eligible individual must still file a tax return for the year in which the credit is claimed, the new provisions allow an eligible individual to receive at the end of each payroll period during the year a ratable portion (the "advance earned income credit amount") of the earned income credit for the year. The temporary regulations provide rules for determination and payment by employers of advance earned income credit amounts. Every employer paying wages after June 30, 1979, to an employee with respect to whom an earned income credit advance payment certificate is in effect must, at the time of paying the wages, also pay the employee the earned income advance amount of that employee. For eligible employees subject to income tax withholding, the advance payment is

based on the amount of wages subject to withholding; for employees not subject to withholding, but subject to FICA taxes, the payment is based on the amount of wages subject to FICA taxes. The advance earned income credit amount is determined by reference to prescribed advance amount tables. Payment of the advance earned income credit amount by the employer is credited on a dollar-for-dollar basis against the employer's liability for income tax withholding and FICA taxes. If advance amounts paid exceed this liability for the payroll period, the employer may either ratably reduce each advance amount paid or elect to pay the full advance amounts, with the excess amount treated as an advance payment of the employer's liability for income tax withholding, employee FICA taxes, and employer FICA taxes, in that order of priority. The employer takes any earned income advance amounts into account on the employer's Form 941, 941E, 942, or 943.

Earned Income Credit Advance Payment Certificates

The temporary regulations also provide rules prescribing the form and contents of the earned income credit advance payment certificate, rules relating to the employee's furnishing the certificate to the employer, and the period for which the certificate is effective. Form W-5 is the prescribed form for the earned income credit advance payment certificate. This form includes instructions to aid employees in determining whether they are eligible for advance earned income credit payments from their employers. The period for which a certificate first becomes (or ceases to be) effective depends on whether a previous certificate is or has been in effect with the employer for that employee for the calendar year. Rules are also provided for the revocation of a certificate and for the furnishing of a new certificate, necessitated by a change in the circumstances of the employee.

Waiver of Procedural Requirements of Treasury Directive

There is need for expeditious adoption of the provisions contained in this document because of the need for immediate guidance to employers and employees to whom section 3507 applies in ascertaining the proper amounts to be paid employees eligible for the advance payment of earned income credit. For this reason, Jerome Kurtz, Commissioner of Internal Revenue, has determined that the provisions of paragraphs 8 through 14 of the Treasury Department directive

implementing Executive Order 12044 must be waived.

Comments and Requests for a Public Hearing

Before adoption of the final regulations proposed in this document, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the Federal Register.

Drafting Information

The principal author of these regulations is Eileen Murphy of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation both on matters of substance and style.

Adoption of Amendments to the Regulations

Accordingly, a new Part 38, Temporary Employment Tax Regulations under the Revenue Act of 1978, is added to Title 26 of the Code of Federal Regulations and the following temporary regulations are adopted.

§ 38.3507-1 Advance payments of earned income credit.

(a) *General rule*—(1) *In general.* Every employer paying wages after June 30, 1979, to an employee with respect to whom an earned income credit advance payment certificate is in effect must, at the time of paying the wages, also pay the employee the advance earned income credit amount of that employee. For the purposes of applying this section and § 38.3507-2—

(i) In the case of an individual who receives wages which are subject to income tax withholding, the term "employee" has the same meaning as set forth in section 3401(c) and the regulations thereunder, and the term "wages" has the same meaning as set forth in sections 3401(a) and 3402(e) and the regulations under those sections; and

(ii) In the case of an individual who does not receive wages which are subject to income tax withholding, but who receives wages which are subject to employee FICA taxes, the term

"employee" has the same meaning as set forth in section 3121(d) and the regulations thereunder and the term "wages" has the same meaning as set forth in section 3121(a) and the regulations thereunder.

An individual not having wages subject to either income tax withholding or employee FICA taxes is not entitled to advance payments of earned income credit.

(2) *Cross references.* For determination of the advance earned income credit amount of an employee, see paragraph (b) of this section. For rules relating to the treatment of the payment of an employee's advance earned income credit amount as equivalent to payment by the employer of withholding and FICA taxes, see paragraph (c) of this section. For rules describing the earned income credit advance payment certificate, see § 38.3507-2 (a) and (b). For rules relating to the employee's furnishing of the earned income credit advance payment certificate and the payroll periods for which the certificate is effective, see § 38.3507-2 (c) and (d).

(b) *Advance earned income credit amount.* The advance earned income credit amount of an employee is determined, with respect to any payroll period, on the basis of the employee's wages from the employer for the period and in accordance with the advance amount tables prescribed by the Commissioner of Internal Revenue and then in effect for the payroll period. See, however, paragraph (c) (2) of this section. The advance amount paid is reflected on the employee's W-2 form as a separate item (and neither as a reduction of withholding nor an increase in compensation). For purposes of applying this section and § 38.3507-2, the term "payroll period" has the meaning set forth in section 3401 (b) and the regulations thereunder. As required by section 3507(c)(2)(A), these advance amount tables must be similar in form to, and coordinated with, the tables prescribed under section 3402 (relating to income tax collected at the source). Sections 3507(c)(2)(B) and 3507(c)(2)(C) provide, respectively, separate rules for the treatment in the advance amount tables of the advance earned income credit of the following two separate classes of employees:

(1) Employees who are not married (within the meaning of section 143), or employees whose spouses do not have an earned income credit advance payment certificate in effect; and

(2) Employees whose spouses have an earned income credit advance payment certificate in effect.

(c) *Payment of advance earned income credit amount as payment of withholding and FICA taxes—(1) In general.* (i) The provisions of this paragraph (c) apply for all purposes of the Internal Revenue Code of 1954. Payments of advance earned income credit amounts pursuant to paragraph (a)(1) of this section do not constitute the payment of compensation. These payments by the employer are treated as made—

(A) First, from the aggregate amount, with respect to all employees, required to be deducted and withheld for the payroll period under section 3401 (relating to income tax withholding);

(B) Second, from the aggregate amount, with respect to all employees, required to be deducted for the payroll period under section 3102 (relating to employee FICA taxes); and

(C) Third, from the aggregate amount of the taxes imposed for the payroll period under section 3111 (relating to employer FICA taxes).

For purposes of the requirements of sections 3401, 3102, and 3111, as the case may be, and 6302, amounts equal to the advance earned income credit amounts paid to employees are treated as if paid to the Treasury Department on the day on which the wages (and advance amounts) are paid to the employees. The employer must report the payment and treatment of the advance amounts on the employer's Form 941, 941E, 942, or 943, as the case may be, in accordance with the applicable instructions.

(ii) The provisions of paragraph (c)(1)(i) of this section may be illustrated by the following example:

Example. Employer X has ten employees, each of whom is entitled to advance earned income credit payment of \$10. The total of advance amounts paid by the employer to the ten employees for the payroll period is \$100. The total of income tax withholding for the payroll period is \$90. The total of employee FICA taxes for the payroll period is \$61.30, and the total of employer FICA taxes for the payroll period is also \$61.30. Under the rules of paragraph (c)(1)(i) of this section, the total of advance amounts paid to employees is treated as if X had paid the Treasury Department on the day X paid the employees' wages: first, the \$90 aggregate amount of income tax withholding; and second, \$10 of the aggregate amount of employee FICA tax. X remains liable only for \$112.60 of the aggregate FICA tax [\$51.30 + \$61.30 = \$112.60].

(2) *Advance payments exceeding taxes due.* (i) If, for any payroll period, the aggregate amount of advance earned income credit amounts required to be paid by an employer under paragraph

(a)(1) of this section exceeds the sum of the amounts for the payroll period referred to in paragraphs (c)(1)(i) (A) through (C) of this section, the employer reduces each advance amount paid for the payroll period by an amount which bears the same ratio to the excess of the advance amounts as the subject advance amount bears to the aggregate of advance amounts for the payroll period. However, this paragraph (c)(2) does not apply if the employer makes the election provided by paragraph (c)(3) of this section.

(ii) The provisions of paragraph (c)(2) of this section may be illustrated by the following example.

Example. Assume the same facts as the example in paragraph (c)(1)(ii) of this section, except that the employer is a state government which does not pay FICA taxes. Under these facts, the advance amounts would be \$10 greater than the \$90 total of income tax withholding for the payroll period. Assume 10 employees each receiving \$10 in advance payments. Under the rule of this paragraph (c)(2), the employer X reduces the amount of the advance amount paid to each employee by $\frac{1}{10}$, computed as follows: $\$10/\$100 = \frac{1}{10}$. This is the same result as would be obtained by reducing the advance payment of \$10 for each of the ten employees by one-tenth $10/100$ of the \$10 excess or \$1.00.

(3) *Election to treat excess amounts as advance tax payment.* In lieu of reducing advance payments under paragraph (c)(2) of this section, an employer may elect under this paragraph (c)(3) to pay in full all advance earned income credit amounts. However, if no election is made, the employer is required to reduce advance amounts paid in accordance with paragraph (c)(2) of this section. The election, if made, applies to all advance earned income credit amounts required to be paid for the payroll period. The employer reflects the election on the employer's Form 941, 941E, 942, or 943 as the case may be, and must specify (with supporting computations) the amount of the excess of advance amounts paid and the payroll period to which the excess relates. Separate elections may be made for separate payroll periods. The excess of advance amounts paid is treated as an advance payment by the employer of employment taxes described in subdivisions (i) through (iii) of this paragraph (c)(3) and due for the period reported on the Form 941, 941E, 942, or 943 which includes the payroll period during which the excess amounts were paid. The amount of the excess advance payment is applied to the amounts of the employer's liability—

(i) First, for income tax withholding due under section 3401 for the reporting period in which the payment is made;

(ii) Second, for employee FICA taxes due under section 3102 for the reporting period in which the payment is made; and

(iii) Third, for employer FICA taxes due under section 3111 for the reporting period in which the payment is made.

If the amount of the employment taxes (as described) for which the employer remains liable for the reporting period in which the excess payment is made is less than the excess payment, the employer may claim a refund of that portion of the excess amount paid which exceeds the employer's remaining liability for these taxes for the reporting period. This refund may be claimed, in the same manner as a refund of wage withholding taxes paid by the employer under section 3401, on the employer's Form 941, 941E, 942, or 943, as the case may be, for the reporting period. In the absence of a claim for refund, that portion of the excess amount will be applied by the Internal Revenue Service against the employer's liability for employment taxes reported on the employer's Form 941, 941E, 942, or 943, as the case may be, filed for the next reporting period.

(4) *Failure to make advance payments.* The failure to pay an employee, at the time required by paragraph (a)(1) of this section, all or any part of an advance earned income credit amount as required by this section is treated, for all purposes including penalties, as a failure by the employer as of that time to deduct and withhold under chapter 24 of the Internal Revenue Code of 1954 an amount equal to the advance amount (or part thereof) not paid. This treatment applies to the failure to pay an advance amount to an eligible employee without regard to whether—

(i) The employer is required, under section 3401 or 3102, to deduct any amounts from wages of the employee for the payroll period;

(ii) The employer paid the advance amount to the district director or deposited the advance amount with a duly designated depository of the United States and did not pay the advance amount to the employee as required by this section; or

(iii) The employee is ultimately not entitled to claim the earned income credit (in full or in part) on a return for the year, so long as the employee had a valid earned income credit advance payment certificate in effect with the

employer at the time when the wages were paid.

If an employer fails to pay an advance earned income credit amount as required under this section, the advance amount will not be collected by the Internal Revenue Service from the employer. However, the employer is liable for any penalties or additions to tax otherwise applicable in respect of the failure to pay the advance amount.

§ 38.3507-2 Earned income credit advance payment certificates.

(a) *Definition.* For the purposes of this section and § 38.3507-1, an earned income credit advance payment certificate is a statement furnished by an employee to the employer which—

(1) Certifies that the employee reasonably expects to be eligible to receive the earned income credit provided by section 43 for the employee's last taxable year under subtitle A of the Internal Revenue Code of 1954 which begins in the calendar year in which the wages are paid;

(2) Certifies that the employee does not have an earned income credit advance payment certificate in effect for the calendar year (in which the wages are paid) with respect to the payment of wages by another employer; and

(3) States if the employee's spouse has an earned income credit advance payment certificate in effect with any employer. For the rule for determining if an employee's spouse has a certificate in effect, see paragraph (c)(3) of this section.

(b) *Form and content of earned income credit advance payment certificate—(1) In general.* Form W-5 (Earned Income Credit Advance Payment Certificate) is the prescribed form for the earned income credit advance payment certificate. The Form W-5 must be prepared in accordance with the instructions applicable thereto and must set forth fully and clearly the data therein called for. In lieu of the prescribed form, a form the provisions of which are identical with those of the prescribed form may be used.

(2) *Invalid certificates.* A Form W-5 does not meet the requirements of section 3507 or this section and is invalid if it is not completed or signed or contains an alteration or unauthorized addition (as defined in § 31.3402(f)(5)-1 (b) (1) and (2)). Any earned income credit advance payment certificate which the employee clearly indicates to be false by oral statement or written statement to the employer must be treated by the employer as a certificate which is invalid as of the date of the employee's statement. For purposes of

the preceding sentence, the term "employer" includes any individual authorized by the employer to receive earned income credit advance payment certificates or to make payroll distributions. If an employer receives from an employee an invalid certificate, the employer must consider it a nullity with respect to all payments of wages thereafter to the employee and must inform the employee of the certificate's invalidity. The employer is not required to ascertain whether any completed and signed earned income credit advance payment certificate is correct. However, the employer should inform the district director if the employer has reason to believe that the certificate contains any incorrect statement.

(c) *When earned income credit advance payment certificate takes effect—(1) No previous certificate.* An earned income credit advance payment certificate furnished the employer where no previous certificate is or has been in effect with the employer for that employee for the calendar year takes effect with—

(i) The date of the beginning of the first payroll period ending on or after the date on which the certificate is received by the employer;

(ii) the date of the first payment of wages made without regard to a payroll period on or after the date on which the certificate is received by the employer; or

(iii) The first day of the calendar year for which the certificate is furnished, if that day is later than the otherwise applicable effective date specified in subdivision (i) or (ii) of this paragraph (c)(1).

(2) *Previous certificate.* Except as otherwise provided in this paragraph (c) (2), and earned income credit advance payment certificate furnished the employer where a previous certificate is or has been in effect with the employer for that employee for the calendar year takes effect on the date of the first payment of wages made on or after the first status determination date (as defined in paragraph (c)(4) of this section) occurring at least thirty days after the date on which the certificate is received by the employer. However, if the employer so chooses, the employer may treat the certificate as effective on the date of any payment of wages made on or after the date on which the certificate is received by the employer (without regard to any status determination date).

(3) *Certificate of spouse.* For the sole purpose of applying paragraph (a)(3) of this section, in determining if a certificate is in effect with respect to an

employee's spouse, the spouse's certificate is treated as then in effect if the spouse's certificate will be or is reasonably expected to be in effect on the first status determination date following the date on which the employer receives the employee's certificate.

(4) *Status determination date.* For the purposes of this section, the term "status determination date" means January 1, May 1, July 1, and October 1 of each year.

(d) *Period during which certificate remains in effect; change of status—(1) Period certificate remains in effect.* An earned income credit advance payment certificate which takes effect during a calendar year continues in effect with respect to the employee only during that calendar year and until revoked by the employee or until another certificate takes effect. See paragraphs (d)(2) and (c)(2) of this section.

(2) *Change of status—(i) Revocation of certificate.* If, after an employee has furnished an earned income credit advance payment certificate—

(A) The employee no longer wishes to receive advance earned income credit payments; or

(B) There has been a change of circumstances which has the effect of either making the employee ineligible for the earned income credit for the taxable year or causing a certificate to be in effect for the employee's spouse, then the employee must revoke the certificate previously furnished by furnishing the employer a new certificate (Form W-5 or identical form) in revocation of the earlier certificate. Depending upon the nature of the change of circumstances, the employer may be required, pursuant to the new certificate, to pay further advance earned income credit amounts to the employee (but in different amounts than previously paid to the employee). The Form W-5 (or identical form) must be prepared in accordance with the instructions applicable thereto and must set forth fully and clearly the data therein called for. In the case of revocation due to change of circumstances, the new certificate in revocation must be delivered to the employer within ten days after the employee first learns of the change of circumstances. The new certificate is effective under the rules provided in paragraph (c)(2) of this section for later certificates. A new certificate furnished by an employee which is invalid within the meaning of paragraph (b)(2) of this section nevertheless operates to revoke the earlier certificate but is otherwise considered a nullity with respect to all payments of wages thereafter to the

employee. The employer is not required to ascertain whether any employee has experienced a change of circumstances described in subdivision (i)(B) of this paragraph which necessitates the employee's furnishing a new certificate. However, the employer should inform the district director if the employer has reason to believe that an employee has experienced a change of circumstances as described if the employee does not deliver a new certificate to the employer within the ten day period.

(ii) *Change in spouse's certificate.* If, after an employee has furnished an earned income credit advance payment certificate stating that a certificate is in effect for the spouse of the employee, the certificate of the spouse is no longer in effect, the employee may furnish the employer with a new certificate which reflects this change of circumstances.

§ 38.6302-1 *Use of Government depositories in connection with taxes under Federal Insurance Contributions Act and income tax withheld.*

The periods within which FICA taxes and withheld income taxes must be deposited under § 31.6302-1 are determined, in the case of employers paying advance earned income credit amounts, by reference to the amount of taxes required to be deposited after reduction for advance amounts paid to employees.

There is a need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impracticable to issue it with notice and public procedure under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Jerome Kurtz,
Commissioner of Internal Revenue.
Approved: April 27, 1979.

Donald C. Lubick,
Assistant Secretary of the Treasury.

[T.D. 7619]
[FR Doc. 79-14493 Filed 5-4-79; 4:57 pm]
BILLING CODE 4830-01-M

Bureau of Alcohol, Tobacco, and Firearms

27 CFR Part 71

Requests or Demands for Disclosure

AGENCY: Bureau of Alcohol, Tobacco and Firearms.

ACTION: Final rule.

SUMMARY: This Treasury decision adds a new section to the Statement of Procedural Rules and makes conforming changes. The new section deals with Bureau procedure for handling requests or demands for disclosure of ATF information.

EFFECTIVE DATE: May 9, 1979.

FOR FURTHER INFORMATION CONTACT: Steven C. Simon, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226; 202-566-7626.

SUPPLEMENTARY INFORMATION:

Currently, the regulations governing requests or demands for disclosure of ATF information (other than disclosure procedures for Freedom of Information and Privacy Act requests, which are covered by 27 CFR Part 71) are found in 26 CFR § 301.9000-1. This section deals primarily with the Internal Revenue Service, and is couched in terms of internal revenue records and authority of the Commissioner in testimony matters. These terms are often found to be cumbersome and confusing to State courts and others. Consequently, it is considered advisable to add regulations to 27 CFR Part 71, which will be identical in substance with the current regulations in § 301.9000-1, but will have altered terminology to reflect their application to the Bureau of Alcohol, Tobacco and Firearms. Non-substantive conforming changes, required by addition of the new regulations, are also being made at this time.

Because these regulations relate to agency management and personnel within the meaning of 5 U.S.C. 553(a), the Bureau finds that the requirements of 5 U.S.C. 553(b) and (d), dealing with notice of proposed rulemaking and effective date limitation, are not applicable. Accordingly, the regulations shall become effective on the date of publication of this Treasury decision in the Federal Register.

The drafter of this document was Steven C. Simon of the Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms. However, supervisors and reviewers from both the Bureau and the Department of the Treasury exercised control over the development of the regulations, both as to matters of substance and style.

This Treasury decision is issued under the authority contained in 5 U.S.C. 301.

Accordingly, the Statement of Procedural Rules, 27 CFR Part 71, is amended as follows:

§ 71.26 [Amended]

Paragraph A. Section 71.26 is amended as follows:

1. Paragraph (g) is deleted.

2. Paragraph (h) is re-designated as paragraph (g).

Par. B. Section 71.27 is amended to read as follows:

§ 71.27 Requests or demands for disclosure in testimony and in related matters.

(a) *Authority.* The provisions of this section are prescribed under the authority of 5 U.S.C. 301; section 2 of Reorganization Plan No. 26 of 1950 (64 Stat. 1280); 12 U.S.C. 3412; 18 U.S.C. 1905; section 2(g) of the Federal Alcohol Administration Act (27 U.S.C. 202(c)); and sections 5274, 6103, 7213, 7803 and 7805 of the Internal Revenue Code of 1954 (26 U.S.C. 5274, 6103, 7213, 7803 and 7805).

(b) *Definitions.* The following definitions apply whenever the defined terms appear in this section.

(1) *ATF officer or employee.* The terms "ATF officer" and "ATF employee" mean all officers and employees of the United States, engaged in the administration and enforcement of laws administered by the Bureau of Alcohol, Tobacco and Firearms, and appointed or employed by, or subject to the directions, instructions or orders of, the Secretary of the Treasury or his delegate.

(2) *ATF records or information.* The terms "ATF records" and "ATF information" mean any records (including copies thereof) or information, made or obtained by, furnished to, or coming to the knowledge of, any ATF officer or employee while acting in his official capacity, or because of his official status, with respect to the administration of laws administered by or concerning the Bureau of Alcohol, Tobacco and Firearms.

(3) *Demand.* The term "demand" means any subpoena, notice of deposition either upon oral examination or written interrogatory, or other order, of any court, administrative agency, or other authority.

(c) *Disclosure of ATF records or information prohibited without prior approval of the Director.* The disclosure, including the production, of ATF records or information to any person outside the Department of the Treasury or to any court, administrative agency, or other authority, in response to any request or demand for the disclosure of such records or information shall be made only with the prior approval of the Director. However, nothing in this section shall restrict the disclosure of ATF records or information which the Director has determined is authorized under any provision of statute,

Executive order, or regulations, or for which a procedure has been established by the Director. For example, this section does not restrict the disclosure of ATF records or information under § 71.22, nor does it restrict the disclosure of ATF records or information which is requested by U.S. attorneys or attorneys of the Department of Justice for use in cases which arise under the laws administered by or concerning the Bureau of Alcohol, Tobacco and Firearms and which are referred by the Department of the Treasury to the Department of Justice for prosecution or defense.

(d) *Delegation to Director of authority to determine disclosure and establish procedures.* The Director is hereby authorized to determine whether or not ATF officers and employees will be permitted to disclose ATF records or information in response to—

(1) A request by any court, administrative agency, or other authority, or by any person, for the disclosure of such records or information; or

(2) A demand for the disclosure of such records or information.

The Director is also authorized to establish such other procedures as he may deem necessary with respect to the disclosure of ATF records or information by ATF officers and employees. Any determination by the Director as to whether ATF records or information will be disclosed, or any procedure established by him in connection therewith, shall be made in accordance with applicable statutes, Executive orders, regulations, and any instructions that may be issued by the Secretary or his delegate. Notwithstanding the preceding provisions of this paragraph, the Director shall, where either he or the Secretary deems it appropriate, refer the opposing of a request or demand for disclosure of ATF records or information to the Secretary.

(e) *Procedure in the event of a request or demand for ATF records or information.* (1) *Request procedure.* Any ATF officer or employee who receives a request for ATF records or information, the disposition of which is not covered by a procedure established by the Director, shall promptly communicate the contents of the request to the Director through the appropriate supervisor for the district or region in which he serves. The officer or employee shall await instructions from the Director concerning the response to the request. For the procedure to be followed in the event a person making a request seeks to obtain a court order or

other demand requiring the production of ATF records or information, see paragraph (e)(2) of this section (immediately below).

(2) *Demand procedure.* Any ATF officer or employee who is served with a demand for ATF records or information, the disposition of which is not covered by a procedure established by the Director, shall promptly, and without awaiting appearance before the court, administrative agency, or other authority, communicate the contents of the demand to the Director through the appropriate supervisor for the district or region in which he serves. The officer or employee shall await instructions from the Director concerning the response to the demand. If it is determined by the Director that the demand should be opposed, the U.S. attorney, his assistant, or other appropriate legal representative shall be requested to respectfully inform the court, administrative agency, or other authority that the Director has instructed the officer or employee to refuse to disclose the ATF records or information sought. If instructions have not been received from the Director at the time when the officer or employee is required to appear before the court, administrative agency, or other authority in response to the demand, the U.S. attorney, his assistant, or other appropriate legal representative shall be requested to appear with the officer or employee upon whom the demand has been served and request additional time in which to receive such instructions. In the event the court, administrative agency, or other authority rules adversely with respect to the refusal to disclose the records or information pursuant to the instructions of the Director, or declines to defer a ruling until instructions from the Director have been received, the officer or employee upon whom the demand has been served shall, pursuant to this section, respectfully decline to disclose the ATF records or information sought.

(f) *State cases.* Regional regulatory administrators, special agents in charge, chiefs of field laboratories, and regional administrative officers, may, in the interest of Federal and State law enforcement, upon receipt of demands or requests of State authorities, and at the expense of the State, authorize employees under their supervision to attend trials and administrative hearings in liquor, tobacco, firearms, or explosives cases in which the State is a party or on behalf of the State in any criminal case, to produce records, and to testify as to facts coming to their knowledge in their official capacities. However, in cases where a defendant in

a criminal case requests or demands testimony or the production of ATF records or information, authorization from the Director is required. Production or testimony may not divulge information contrary to 26 U.S.C. 6103 and 7213, or 12 U.S.C. 3412. See also 18 U.S.C. 1905.

(g) *Penalties.* Any ATF officer or employee who disobeys the provisions of this section will be subject to dismissal and may incur criminal liability.

Signed: April 16, 1979.

G. R. Dickerson,
Director.

Approved: April 23, 1979.

Richard J. Davis,
Assistant Secretary.
[T.D. ATF-57]
[FR Doc. 79-14382 Filed 5-8-79; 8:45 am]
BILLING CODE 4810-31-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 252

Department of Defense Offshore Military Activities Program¹

AGENCY: Office of the Secretary of Defense.

ACTION: Final rule.

SUMMARY: This rule updates procedures regarding Department of Defense's use of offshore areas, and serves as the basis for a comprehensive offshore military activities program. It states DoD policy and assigns responsibilities. The purpose of the program is to limit use of offshore areas to that considered essential for military purposes.

EFFECTIVE DATE: March 22, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. F. B. Roche, Office of the Deputy Assistant Secretary of Defense (Installation and Housing), The Pentagon, Washington, D.C. 20301, Telephone 202-697-7227.

SUPPLEMENTARY INFORMATION: In FR Doc. 63-12512, appearing in the Federal Register (28 FR 12868) on December 4, 1963, the Office of the Secretary of Defense published Part 252 to establish DoD policy regarding the use of public domain lands for military purposes. On June 29, 1968, the Department of Defense revised Part 252 and published the revisions in FR Doc. 68-14280, appearing in the Federal Register (33 FR 17784), on

¹ Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA. 19120 Attention: Code 301.

November 28, 1968. This revision of Part 252 outlines procedures to implement current statutes, such as the Submerged Lands Act (43 U.S.C. 1301 *et seq.*); Pub. L. 85-337; Outer Continental Shelf Lands Act (43 U.S.C. 1331 *et seq.*); Marine Resources and Engineering Development Act of 1966 (33 U.S.C. 1101 *et seq.*); and the River and Harbor Act of 1899 (33 U.S.C. 401 *et seq.*).

Accordingly, 32 CFR Chapter I is amended by revising Part 252, reading as follows:

PART 252—DEPARTMENT OF DEFENSE OFFSHORE MILITARY ACTIVITIES PROGRAM

- Sec.
252.1 Purpose.
252.2 Applicability and Scope.
252.3 Definitions.
252.4 Policy.
252.5 Responsibilities.

Authority: The provisions of this Part 252 issued under 5 U.S.C. 301.

§ 252.1 Purpose.

This Part updates established policies and procedures for the utilization of offshore areas by the Department of Defense. This Part will serve as the basis for a comprehensive Offshore Military Activities Program.

§ 252.2 Applicability and scope.

The provisions of this Part apply to the Office of the Secretary of Defense, the Military Departments, and the Defense Agencies (hereafter referred to as "DoD Components") and concern utilization for military purposes of the offshore areas.

§ 252.3 Definitions.

(a) *Outer Continental Shelf.* All submerged lands lying seaward and outside of the area of lands beneath navigable waters as defined in section 2 of the Submerged Lands Act (ch. 65, 67 Stat. 29 (1953), codified at 43 U.S.C. 1301 *et seq.* (1970)) and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control.

(b) *State-Owned Offshore Submerged Lands.* Coastal portions of lands beneath navigable waters, as defined in section 2 of the Submerged Lands Act.

(c) *Offshore Areas.* The water surface area and the submerged land areas over which the United States exercises jurisdiction and control.

(d) *Offshore Military Activities Program.* The program established here to implement DoD policies and procedures for those activities, operations, and installations that require an offshore environment.

§ 252.4 Policy.

The Department of Defense supports the basic principle that lands comprising the Outer Continental Shelf and State owned offshore areas should be utilized in the highest national interest. The Department of Defense policy, therefore, is that its use of offshore areas will be limited to that considered essential for military purposes, and that such use will be shared with non-military interests to the maximum extent feasible.

(a) Upon determination by the Department of the Interior, or the coastal States, that the mineral potential of certain offshore areas presently being or proposed to be used for military purposes must be explored or exploited, the Department of Defense will endeavor to accommodate to the maximum feasible extent the joint military and commercial utilization of these areas.

(b) If it is determined that non-military interests cannot be accommodated without degradation of military programs, and alternatives are neither available nor economically or militarily feasible, the Department of Defense will attempt to reach agreement with the Department of the Interior or the coastal States, as applicable, to exclude conflict areas from leasing programs.

§ 252.5 Responsibilities.

(a) *The Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) (ASD (MRA&L)),* or designee, in meeting the objectives of the policies here established, shall:

- (1) Develop and maintain a comprehensive program for the military use of the offshore environment; and provide direction and guidance to the Military Departments, as appropriate.
- (2) Review and direct Military Departments' offshore activities.

(3) Negotiate, in coordination with the appropriate Military Departments, and enter into such administrative arrangements and agreements with the Department of the Interior and the States as may be necessary to ensure that the Department of the Interior's or States' leasing plans and programs are compatible with the Department of Defense missions.

(4) Represent the Department of Defense on the Secretary of the Interior's Outer Continental Shelf Advisory Board.

(5) Conduct continuing liaison with the Department of the Interior and appropriate coastal States to ensure compatibility between each other's programs.

(6) Inform concerned Military Departments of new developments in

the Department of the Interior's, States' and significant industry mineral leasing plans that may affect present or potential military interests in offshore areas.

(b) Under the general direction of the ASD(MRA&L), the *Military Departments* shall:

(1) Review proposed Department of the Interior's and States' mineral leasing maps and alert the ASD(MRA&L) of proposed lease areas that could be incompatible with the military missions. Where joint use is feasible, recommend conditions and stipulations that should be imposed in leases to ensure the integrity of military missions, and otherwise protect the interests of the United States against claims arising out of damage to property or injury to non-Government personnel.

(2) Establish and maintain lines of communications and coordination to ensure that each Military Department is fully cognizant of plans, programs, and negotiations of the other Military Departments regarding offshore areas.

(3) Review notices referred to in § 252.5(d)—and provide comments to the Chief of Engineers (Department of the Army) regarding the compatibility of proposed actions with offshore military activities.

(4) Inform the Chief of Engineers, Department of the Army, of any change in the status of offshore ranges, restricted areas or operation areas.

(5) Develop legislation, when requested by the General Counsel, DoD, pursuant to the Engle Act, (Pub. L. No. 85-337, 72 Stat. 28 (1958), codified at 43 U.S.C. 155 et seq. (1070)), to restrict specified areas from operation of the mineral leasing provisions of the Outer Continental Shelf Lands Act, (ch. 345, 67 Stat. 462 (1953); codified at 43 U.S.C. 1331 et seq. (1970 and Supp. V. 1975) as amended by Outer Continental Shelf Lands Act Amendments of 1978, Pub. L. No. 95-372, 92 Stat. 629).

(6) Conduct other activities related to the offshore environment as requested by the ASD(MRA&L).

(c) This Part does not limit the responsibilities of the Secretary of the Navy assigned under the provisions of the Marine Resources and Engineering Development Act of 1966, (Pub. L. No. 89-454, 80 Stat. 203, codified at 33 U.S.C. 1101 et seq. (1976)). Moreover, the *Secretary of the Navy* shall:

(1) Represent the Department of Defense on matters for which the Secretary is assigned responsibility pursuant to the Marine Resources and Engineering Development Act of 1966.

(2) Inform the ASD(MRA&L) of programs planned or developed, and

actions taken to ensure that marine resources and the Offshore Military Activities Programs are consistent.

(d) The *Secretary of the Army* will provide notices to the ASD(MRA&L), to affected military installations and activities and to the Director, Defense Mapping Agency (Hydrographic Center), of potential obstructions and hazards to navigation pursuant to the River and Harbor Act of 1899 (ch. 425, 30 Stat. 1151, codified at 33 U.S.C. 401 et seq. (1976)), and proposed permits for obstructions to be located on the Outer Continental Shelf pursuant to section 4(e) of the Outer Continental Shelf Lands Act to ensure compatibility with the Offshore Military Activities Program.

H. E. Lofdale,

Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

May 4, 1979.

[DOD Directive 3100.5]

[FR Doc. 79-14505 Filed 5-8-79; 8:45 am]

BILLING CODE 3810-70-M

DEFENSE LOGISTICS AGENCY

32 CFR Parts 1201, 1203, 1212, 1214, 1216, 1220, 1221, and 1250

Defense Logistics Procurement Regulation

AGENCY: Defense Logistics Agency (DLA).

ACTION: Final rule.

SUMMARY: The Defense Logistics Agency (DLA) is revising its Defense Logistics Procurement Regulation (DLPR) issued by authority of the Director. It implements the Defense Acquisitions Regulation (DAR) and other Department of Defense publications and, pursuant to DAR 1-108, establishes for DLA procedures relating to the acquisition of supplies and services under the authority of Chapter 137, Title 10 of the United States Code, or other statutory authority.

EFFECTIVE DATE: As specified in the rule.

FOR FURTHER INFORMATION CONTACT: Mr. G. Dean Fogle, Commercial, AC 202-274-6431, Autovon, 284-6433

By order of the Director.

I. J. McAleer, Jr.,

Colonel, USA, Staff Director, Administration.

The provisions of this subchapter A are issued under 5 U.S.C. 301; 10 U.S.C. 125, 133, 2202, 2301-2314; DoD Directive 5101.22, June 8, 1978.

Miscellaneous Amendments to Subchapter

Chapter XII of Title 32 of the Code of Federal Regulations is amended as follows:

PART 1201—GENERAL PROVISIONS

Subpart A—Introduction

1. Sections 1201.104-51, 1201.105-50, 1201.107(b) are revised to read as follows:

§ 1201.104-51 Procurement letters.

Numbered procurement letters (PROCLTRs) are issued by the DLA Directorate of Procurement, DLA-P, to provide information and procedural guidance to DLA purchasing personnel to re-emphasize existing policy, or to transmit new or changed policy promulgated by OSD or higher authority. PROCLTRs are not an authorized medium for changes to DLA contracting policy or procedures. PROCLTRs shall expire no later than one year from date of issue.

§ 1201.105-50 DLPR changes.

Numbered DLPR changes are issued periodically by the Directorate of Procurement DLA-P, for distribution to all recipients of this regulation for the purpose of revising or supplementing the DLPR.

§ 1201.107 Dissemination and effective date of the regulation (including appendices, revisions, supplements and manuals).

(b) Compliance with the DLPR, including any revision to the DLPR, shall be permissive effective with the date of issuance thereof (as indicated by the page revision date) and shall be mandatory effective 60 days thereafter, unless otherwise provided in such revision.

Subpart C—General Policies

2. Section 1201.307-50 is amended; section 1201.312 is added; and section 1201.314(f) is revised to read as follows:

§ 1201.307-50 Notice to bidders.

The following notice shall be included in master solicitations or bid packages distributed to industry for procurement action:

§ 1201.312 Voluntary refunds.

(b) *Solicited refunds.* (1) If overpricing is suspected after contract award or issuance of a purchase order, the contractor may be asked, before any action under DAR 1-312(b), if the

offered price is erroneous. If an error is confirmed, the purchase order or contract may be modified or the purchase order may be cancelled as appropriate.

(2) Documentation supporting a decision to solicit a voluntary refund under DAR 1-312(b) shall be forwarded to HQ DLA, ATTN: DLA-PPP.

§ 1201.314 Disputes and appeals.

(f) If, after review of a Board decision on contracts of his procuring activity, Counsel for the activity is of the opinion that the decision is erroneous, a Motion for Reconsideration should be filed.

3. Section 1201.332-6 is added to read as follows:

§ 1201.332-6 Responsibility for reviewing the minority business enterprise subcontracting programs.

When contracts containing the MBE subcontracting clause are retained by the buying activity for contract administration, the procedures in 1220.703-53 apply.

Subpart D—Procurement Responsibility and Authority

4. In § 1201.452-2, paragraph (a)(5) is revised to read as follows:

§ 1201.452-2 Actions requiring HQDLA review and approval prior to award.

(a) * * *
(1) through (4) * * *

(5) All negotiated actions amounting to \$100,000 or more, including orders issued under Basic Ordering Agreements, when award is proposed to a sole offeror;

§ 1201.452-3 [Amended]

5. Section 1201.452-3 is amended by deleting sentence beginning with "A carbon copy * * *" and substituting therefor "A HQ DLA retention file shall be prepared in accordance with the instructions set forth in 1216.851-2, block No. 17."

6. In § 1201.452-9, subparagraphs (5) and (6) are redesignated (c) and (d) and revised to read as follows:

§ 1201.452-9 Letter contracts.

(c) A copy of the signed letter contract or modification shall be forwarded to HQDLA, ATTN: DLA-PC, within one week after its execution;

(d) Any anticipated or actual slippage in the definitization schedule or the additional milestones must be reported in writing to DLA-PC. The reasons for

the slippage and the revised schedule or milestone dates shall also be provided;

7. In § 1201.452-10, paragraph (c) is amended by adding paragraph (8) to read as follows:

§ 1201.452-10 Requests for waiver of HQ DLA preaward review and approval.

(c) * * *
(1) through (7) * * *
(8) A statement as to whether a pre-award review has been performed by the Center.

§ 1201.452-12 [Amended]

8. Section 1201.452-12, line 2 is amended by deleting "DD" from Reports Control Symbol.

Subpart G—Small Business Concerns

9. In § 1201.705-5, paragraph (c)(1)(iii)(B)(7) is added to read as follows:

§ 1201.705-5 Contracting with the Small Business Administration.

(c) * * *
(1) * * *
(iii) * * *
(B) * * *
(7) In each instance where a requirement previously committed for Section 8(a) contracting is withdrawn and subsequently purchased by regular acquisition methods, purchasing offices shall, within 30 days after award, provide a written report to DLA-PS on each item stating (1) the DLA estimated current fair market price, (2) the SBA final offered price excluding business development expense, and (3) the final contract price paid. Reports Control Symbol DLA (AR)2201 (P) applies. This reporting requirement expires 1 June 1980 unless sooner rescinded or extended.

10. Section 1201.707-4 is added to read as follows:

§ 1201.707-4 Responsibility for reviewing the subcontracting program.

When contracts containing the Small Business Subcontracting clause are retained by the buying activity for contract administration, the procedures in § 1220.703-53 apply.

11. Subpart H is added to read as follows:

Subpart H—Labor Surplus Area Concerns

Sec. 1201.805 Subcontracting with Labor Surplus Area Concerns.

1201.805-4 Responsibility for reviewing the Subcontracting Program.

Subpart H—Labor Surplus Area Concerns

§ 1201.805 Subcontracting with labor surplus area concerns.

§ 1201.805-4 Responsibility for reviewing the subcontracting program.

When contracts containing the Labor Surplus Area Subcontracting clause are retained by the buying activity for contract administration, the procedures in § 1220.703-53 apply.

Subpart I—Responsible Prospective Contractors

12. Section 1201.903 is added to read as follows:

§ 1201.903 Minimum standards for responsible prospective contractors.

1201.903-1 (iii) *DoD policy is that DoD components shall assure contracts are not awarded to suppliers with a history of providing products or services of an unsatisfactory quality.* This necessitates the maintenance of contractor quality history and development of criteria for its use. Occasional deficiencies in contractor performance may be unavoidable, but if the defects are of a critical or repetitive nature and the contractor is not amenable, such information may be used as a basis for not awarding future contracts. Contractor records will not be limited to product quality deficiencies, but will include also discrepancies due to inadequate packaging, improper or missing documentation, overages, shortages, misdirected or damaged shipments, and similar discrepancies. Individual and summary records of actions taken will be maintained for review by management. If there are overriding reasons for awarding a contract to a supplier who has an unsatisfactory quality history, the contract file will be documented accordingly, and DLA Form 970, Special Inspection Requirements, shall be submitted to the Government inspection activity (see § 1216.850-3).

PART 1203—PROCUREMENT BY NEGOTIATION

13. Section 1203.604-52 is added to read as follows:

§ 1203.604-52 Small purchase price review program.

(a) Defense Supply Centers shall perform a monthly post-award price analysis of randomly selected small purchases from the total universe of the previous month's central small purchases (excluding purchases by secondary and tertiary field activities).

The purpose of this program is to determine the incidence of unreasonably priced actions in the sample, and from that information, to determine what if any, corrective action may be required. Unreasonably priced actions are those for which, in the judgment of the analyst, a fair and reasonable price cannot be determined pursuant to the pricing techniques of DAR/DLPR 3-604 and ASPM No. 2. If field assistance is necessary to verify the reasonableness of unsubstantiated minimum charges, set-up charges, etc., assistance should be requested from the cognizant AGO. The review shall be performed by the DSC Cost and Price Analysis Element or the Contract Review Office at the discretion of the Center. The sample size shall be 13 line items from separate awards. (When multiple line item awards are included in the sample, the line item to be reviewed shall be

selected on a random basis.) When an unreasonable price is indicated, appropriate action to resolve the overpricing shall be taken, including, where appropriate, action pursuant to DLPR 1-312. Other appropriate action, such as initiating action for competitive procurement of previously sole source items and initiating action to revise specifications will be accomplished. A summary record of post-award price analysis results shall be maintained by the Center. A quarterly report of analysis results, in the format cited below, shall be submitted to this Headquarters, ATTN: DLA-PPP, within 45 days following the end of the quarter. RCS DLA(Q) 2207(P), assigned to this reporting requirement, expires 15 July 1980.

(b) The quarterly report of analysis results established in (a) above shall be submitted substantially under the following format:

Post-Award Price Review Program
 Defense _____ Supply Center

Report for the (1st, 2nd, 3rd, 4th) Quarter 19__

	SASPS I	SASPS II	MANUAL
Total Small Purchase Line Items Awarded During Report Quarter (excluding local purchases and purchases by DSC field activities)			
No. of Line Items Against Which Analysis Has Been Completed During Report Period			
A. Competitive			
B. Non-Competitive			
No. of Unreasonably Priced Line Items			
A. Competitive			
B. Non-Competitive			
Corrective Action			
A. Price Reduction (No. of line items and total dollar value of reductions)			
B. Cancellation (No. of line items and total dollar value of cancellations)			
C. Other (No. of line items) (e.g., Action initiated for competitive acquisitions, commercial alternate found, action initiated to revise specifications, etc.)			

Subpart H—Price Negotiation Policies

14. In § 1203.807-2, paragraph (b)(5) is added to read as follows:

§ 1203.807-2 Requirements for price or cost analysis.

- (a) * * *
- (b) * * *
- (1) thru (4) * * *

(5) The cost/price analysis element shall perform a cost/price analysis against acquisitions selected for such analysis under the DLA Quality Audit Program (DLAM 4155.2). When an unreasonable price is indicated, the cost/price analysis element shall take appropriate action to resolve the overpricing, including, where

appropriate, action pursuant to § 1201.312. The Quality Audit Monitor shall be advised of the results of the cost/price analysis and any action taken as a result thereof.

15. Section 1203.807-6 is renumbered 1203.807-5 and revised, and section 1203.807-7 is added to read as follows:

§ 1203.807-5 Refusal to provide cost or pricing data.

Prior to referral to HQ DLA, the Commander or in his absence, the Acting Commander shall make a determination whether or not to personally negotiate with the contractor involved and attempt to obtain the necessary cost or pricing data. If the contractor refuses to furnish cost or pricing data, attempts will be made to obtain this refusal in writing. In those cases where it is determined that the Commander should not personally conduct negotiations, a detailed memorandum setting forth the rationale shall be forwarded with the referral to HQ DLA, ATTN: DLA-PC.

§ 1203.807-7 Adequate price competition, catalog or market prices and prices set by law or regulation.

(b)(5) One copy of each exemption shall be provided to HQ DLA, ATTN: DLA-PPP.

Subpart L—Cost Accounting Standards

16. Section 1203.1201 is added; §§ 1203.1204 and 1203.1210 are revised to read as follows:

§ 1203.1201 General.

(a) Interest Rate Applicable to the Adjustment Provisions of CASB Regulations and Applicable Cost Accounting Standards. (See 1203.1300-3(c).)

§ 1203.1204 Contract clauses.

(a)(i) The analysis of the information furnished by the offeror in support of his claim for exemption from the requirements of the Cost Accounting Standards Clause must demonstrate that the criteria of DAR 3.807(b)(2) have been met. The results of such an analysis shall be separately documented in the contract file. In addition, when a determination is made that a catalog or market price exemption applies, the contract file documentation pertaining to the pricing aspects of the procurement (i.e., the price analysis, the prenegotiation briefing memorandum and the PNM) shall indicate that pricing is based on adequate price competition. (See 1221.126, Item 18.)

§ 1203.1210 Cost Accounting Standards Board report.

(a) Recommendations requested in DAR 3.1210(b)(2)(f) should be provided to HQ DLA, ATTN: DLA-PP, within 40 days following the end of each calendar year. Negative reports are not required. RCS DD-DR & E(A) 1222 applies.

Subchapter M—Facilities Capital Employed

17. Section 1203.1300-3 is added to read as follows:

§ 1203.1300-3 Estimating business unit facilities capital and cost of money.

(c) Interest Rate: The interest rate established by the Secretary of the Treasury is published in the Federal Register every six months, normally the third week of December and June. The current rate may also be obtained from the Office of Comptroller, Accounting and Finance Division at each DLA Supply Center or activity.

PART 1212—CONTRACTOR INDUSTRIAL LABOR RELATIONS

Subpart A—Basic Labor Policies

§ 1212.101-3 [Amended]

18. Section 1212.101-3 is amended by deleting "DDI&L" and substituting therefor "DD-DR & E".

§ 1212.107 [Amended]

19. Section 1212.107 is amended by deleting the term "ASPR 12-107" and substituting therefor "DAR 12-107"; deleting the phrase "(31 December and 30 June)" and substituting therefor "(31 March and 30 September)".

PART 1214—PROCUREMENT QUALITY ASSURANCE

20. Part 1214 is revised by adding subpart A; subpart C, §§ 1214.305-1 and 1214.305-2(b)(5).

Subpart A—General

Sec.
1214.101-5 Criteria for applying contract quality requirements.

Subpart A—General

§ 1214.101-5 Criteria for applying contract quality requirements.

(a)(1)(i) *No Specific Contract Quality Requirement.* This type of quality requirement in DAR 14.101.5(a)(i)(A) shall not be used in DLA contracts. Contractors shall be held responsible for the quality of products and services by means of:

(A) Contract provisions that place responsibility on contractors; and

(B) Warranty clauses, when appropriate.

(d) *When a commercial item is purchased to satisfy a military need, contract quality requirements shall be tailored with the concurrence of the Engineering Support Activity to:*

(1) Eliminate or minimize special Government testing, quality control and inspection requirements consistent with the need and cost objectives, in consideration of the reliability established in the commercial market;

(2) Maximize use of the Certificate of Conformance (COC);

(3) Provide for examination and acceptance at the most economical point of delivery (source or destination); and

(4) Facilitate the exercise of any warranty rights.

Subpart C—Contract Provisions

§ 1214.305 Places of performance of government procurement quality assurance actions.

§ 1214.305-1 General.

In addition to DAR 14-305.1, contracts and purchase orders will be assigned for source inspection only when absolutely necessary. In general, source inspection may be necessary when there are requirements for technical inspection; e.g., first article inspection, in-process inspection, and/or requirements for special testing or detailed inspection. Purchases should be assigned for destination inspection if verification as to type and kind, quantity and condition is sufficient.

§ 1214.305-2 Government procurement quality assurance at source.

(b)(5) *With reference to DAR 3-606.2, purchases of items for direct shipment overseas may be assigned for destination using the Fast Payment procedure if there are no requirements for technical inspection.* The Fast Payment procedure applies to small purchases of \$10,000 or less and without dollar limitation to brand name commissary resale subsistence and commercial-type medical supplies. Other purchases for direct shipment overseas shall be assigned for source inspection, unless the Contracting Officer determines that inspection can be performed overseas. Contracts for the latter shall include the CoC clause whenever practical.

21. Section 1214.306 is amended by revising (c)(1) to read, as set forth below and by amending subparagraph (c)(2) by deleting the words "shipped directly to bases in CONUS and overseas." and substituting therefor "when there is

satisfactory quality history for the item/contractor"

* * * * *

§ 1214.306 Acceptance of supplies or services.

(c) Based upon criteria contained in DAR 14-306(c), maximum use will be made of contractor's CoC to reduce Government inspection for acceptance of supplies. Whenever practical, all DLA contracts, except those for bulk fuel, assigned for source inspection to the DCASRs shall include the CoC clause given below. If a sole source or existing contractor refuses to accept the CoC clause; i.e., execute the CoC, there is little we can do. Also, the use of the CoC clause may not be appropriate for purchases of surplus materiel. Principal Contracting Officers shall document the contract file giving the reason why the optional CoC clause is not included in a particular contract. Each Defense Supply Center will monitor supplies accepted on contractor's CoC through the DLA Quality Audit or through special inspections of receipts at the Depots.

(1) A clause worded as follows will be inserted in the contract:

Certificate of Conformance (DLA 1979 FEB)

Unless required otherwise in the contract or by the Contract Administration Office, the Contractor is required to deliver the supplies to be furnished hereunder with a "Certificate of Conformance." In no case shall the Government's right to inspect supplies under the inspection provisions of this contract be prejudiced. The Contractor signed certificate shall be attached to or included on the top copy of the DD 250 or 1155 copies distributed to the payment office. When acceptance is at destination, a copy of the signed certificates shall also be attached to or entered on copies of the DD 250, DD 1155, or other appropriate documents accompanying the shipment. This certificate shall read as follows:

* * * * *

PART 1216—PROCUREMENT FORMS

Subpart H—Miscellaneous Forms

22. Part 1216, subpart H is amended by revising §§ 1216.850-2 and 1216.850-3 to read as follows:

§ 1216.850-2 Conditions for use.

The Special Quality Assurance Instruction Form, (DLA Form 970), Special Inspection Requirements, is to be used on all procurements of critical items and whenever there is

unfavorable quality history for the item or the contractor.

§ 1216.850-3 Procedures.

When there is unfavorable quality history for the items or contractor or the items that have been identified as having a critical application in accordance with DLAR 3200.3, Identification, Processing and Procurement of Items With Critical Applications, are to be procured, the appropriate Defense Contract Administration Services (DCAS) field activities or other agencies having inspection cognizance shall be alerted through use of DLA Form 970, regardless of the dollar value of the item or contract. Two copies of the completed form will be forwarded to the appropriate DCAS field activity as shown in DoD 4105.59-H, Directory of Contract Administration Services Components. The copies will be sent to the cognizant CAO quality assurance staff or attached to DCASR copies of the contracts at the time of contract distribution.

PART 1220—ADMINISTRATIVE MATTERS

Subpart G—Assignment of Contract Administration

23. Section 1220.703-50 is revised; §§1220.703-51, 1220.703-52, 1220.703-53, 1220.704 are added to read as follows:

§ 1220.703-50 Criteria for evaluating the need for field contract administration services.

Although the need for quality source inspection is the predominant reason DLA contracts and orders are assigned for field contract administration services (CAS), Contracting Officers shall also consider the existence of the following criteria when determining the need for field assignment of new awards:

(a) Complexity of Procurement. When unique or special contract clauses apply in the instant procurement and it may be expected that significant post-award involvement will occur. Some examples are: MIL SPECS, FED SPECS, First Article, Premium Pay, Economic Price Adjustments, Liquidated Damages, FMS/Export Requirements, Canadian firms, etc.

(b) Supply Criticality. When the urgency of a requirement is classified as a UMMIPS priority 01 through 06, or when the item(s) being procured significantly impact the DSCs' supply availability rate. These conditions would indicate that intensified contract management can be anticipated.

(c) Pre-Award Surveys (PAS). When a PAS indicates possible problem areas; e.g., financial, production, capacity, or technical capability.

(d) Previous Contractor Performance. When data provided by the F-42, Contractor Performance Summary Report, F-38, Contract Delinquency Report, or other internal information indicates potential delivery or quality problems are likely to cause a need for intensified post-award contract management.

(e) Low Dollar Value Commercial Item Exception. Contracting Officers normally will not assign orders for field administration if they are for commercial items and are under \$100 in total value.

§ 1220.703-51 Need for extraordinary contracting officer communication to field CAS activities.

When, in the Contracting Officer's judgment, a contract or order requires special attention by a field CAS activity that cannot be adequately conveyed by a criticality designator, this need will be communicated in writing. Drawing the attention of field CAS activities to special Contracting Officer area(s) of concern should normally be accomplished during this assignment process or as soon as possible thereafter.

§ 1220.703-52 Assignment of contracts or orders originally retained.

If the Contracting Officer retains administration of a contract or order and a need subsequently arises to delegate any aspect of contract administration to a CAO, the contract or order shall be assigned for performance of all contract administration functions, when the need is recognized.

§ 1220.703-53 DCAS support for subcontracting programs when administration is retained by the buying activity.

"When contracts containing the small business, labor surplus area, or disadvantaged small business subcontracting clauses are retained for contract administration by the buying activity, the PCO will request support from the appropriate DCAS office to administer the programs imposed by these clauses. Section C of these contracts will contain a statement substantially as follows: "The Small Business, Labor Surplus Area, and Minority Business Enterprise Subcontracting Program clauses in this contract will be administered by the cognizant Defense Contract Administration Services Office." (Note: Assignment for supporting

administration will be made to the DCAS office cognizant of the geographical area in which the contractor is located). Three copies of the contract shall be forwarded to the appropriate DCAS office with a request for supporting contract administration of these clauses in accordance with DAR 20-703.2. The DCAS office will monitor the prime contractor's small business, labor surplus area, and minority business enterprise subcontracting programs and accomplish the periodic reviews required by DAR 1-406(c)(1).

§ 1220.704 Delegation of optional contract administration functions.

When assignments are made to a field Contract Administration Office (CAO) under provisions of 20-703.50 of either contracts and orders subject to a Master Solicitation Agreement or of large purchase awards, which are not subject to a Master Solicitation Agreement, the following additional, optional functions should be delegated:

Administrative Changes—Modification for minor corrections (e.g., typographical errors, incorrect name and address, wrong computations not requiring additional funds, errors/omissions pertaining to Accounting Classification Reference Number (ACRN), Facility Codes, or DoD Activity Address Directory (DoDAAD) Codes).

Cancellations—Modifications to cancel CLINs not shipped, when requested by the PCO.

Diversions—Modifications effecting diversion when notice from the PCO provides new shipping instructions.

Excusable Delays (e.g., strikes, floods, etc.)—Modifications to extend delivery date when delinquencies will result because of excusable delays.

Nonexcusable Delays—Modifications, to revise delivery time up to 90 days, issued for consideration.

PART 1221—PROCUREMENT MANAGEMENT REPORTING SYSTEM

Subpart B—Monthly Procurement Summary (DD Form 1057)

§ 1221.201 [Amended]

24. Section 1221.201 is amended by adding at the end of paragraph "RCS DD-DRE(M) 1015 applies."

PART 1250—SUPPLEMENTAL PROCEDURES

Subpart G—The DLA Master Solicitation Program

§ 1250.705-1 [Amended]

25. Section 1250.705-1(a) is amended by deleting the fourth sentence and

substituting therefor "The schedule of individually numbered solicitations shall reflect any revised clauses or solicitation provisions pending revision and reissuance of the entire master solicitation."

Appendix E—DLA Contract Financing Regulations

26. Subpart F is revised to read as follows:

Subpart F—Contract Debts—Interest—Deferred Payments

E-600.50 Follow directions contained in DLAM 7000.1, Chapter 12, Sections I and II and Figures 12-1, 12-2 and 12-11.

E-620 Contract Clause—Interest. (See 3-1300.3(c)).

[DLAR 4105.1]
[FR Doc. 79-14508 Filed 5-8-79; 8:45 am]
BILLING CODE 3620-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 65

Delayed Compliance Order for American Materials Corp.

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: By this rule, the Administrator of U.S. EPA approves a Delayed Compliance Order to American Materials Corporation. The Order requires the Company to bring air emissions from its crushed slag processing plant at Middletown, Ohio, into compliance with certain regulations contained in the federally approved Ohio State Implementation Plan (SIP). American Materials Corporation's compliance with the Order will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act (Act) for violations of the SIP regulations covered in the Order.

DATES: This rule takes effect May 9, 1979.

FOR FURTHER INFORMATION CONTACT: Cynthia Colantoni, United States Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, Telephone (312) 353-2082.

SUPPLEMENTARY INFORMATION: On February 20, 1979 the Acting Regional Administrator of U.S. EPA's Region V Office published in the Federal Register (44 FR 10403) a notice setting out the

provisions of a proposed State Delayed Compliance Order for American Materials Corporation. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed Order.

No public comments and no requests for a public hearing were received in response to the notice.

Therefore, a Delayed Compliance Order effective this date is approved to American Materials Corporation by the Administrator of U.S. EPA pursuant to the authority of Section 113(d)(2) of the Act, 42 U.S.C. 7413(d)(2). The Order places American Materials Corporation on a schedule to bring its crushed slag processing plant at Middletown, Ohio into compliance as expeditiously as practicable with Regulations OAC 3745-17-07 and OAC 3745-17-11, a part of the federally approved Ohio State Implementation Plan. American Materials Corporation is unable to immediately comply with these regulations. The Order also imposes interim requirements which meet Sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the Order are met, it will permit American Materials Corporation to delay compliance with the SIP regulations covered by the Order until July 1, 1979.

Compliance with the Order by American Materials Corporation will preclude Federal enforcement action under Section 113 of the Act of violations of the SIP regulations covered by the Order. Citizen suits under Section 304 of the Act to enforce against the source are similarly precluded. Enforcement may be initiated, however, for violations of the terms of the Order, and for violations of the regulations covered by the Order which occurred

before the Order was issued by U.S. EPA or after the Order is terminated. If the Administrator determines that American Materials Corporation is in violation of a requirement contained in the Order, one or more of the actions required by Section 113(d)(9) of the Act will be initiated. Publication of this notice of final rulemaking constitutes final Agency action for the purpose of judicial review under Section 307(b) of the Act.

U.S. EPA has determined that the Order shall be effective upon publication of this notice because of the need to immediately place American Materials Corporation on a schedule for compliance with the Ohio State Implementation Plan.

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

Dated: May 3, 1979.

Douglas M. Costle,
Administrator.

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

PART 65—DELAYED COMPLIANCE ORDERS

By adding the following entry to the table in 65.401:

§ 65.401 U.S. EPA approval of State delayed compliance orders issued to major stationary sources.

The State Order identified below has been approved by the Administrator in accordance with Section 113(d)(2) of the Act and with this Part. With regard to the Order the Administrator has made all the determinations and findings which are necessary for approval of the Order under section 113(d) of the Act.

Source	Location	Order number	Date of FR proposal	SIP regulation involved	Final compliance date
American Materials Corporation	Middletown, Ohio	None	2/20/79	OAC 3745-17-07, OAC 3745-17-11.	7/1/79

[FRL 1217-6]
[FR Doc. 79-14520 Filed 5-8-79; 8:45 am]
BILLING CODE 6560-01-M

40 CFR Part 65

Delayed Compliance Order for Amoco Oil Co.

AGENCY: United States Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: By this rule, the Administrator of U.S. EPA issues a Delayed Compliance Order to Amoco Oil Company (Amoco). The Order requires the Company to bring air emissions from its volatile organic materials loading rack at Whiting, Indiana, into compliance with certain regulations contained in the federally approved Indiana State Implementation Plan (SIP). Amoco's compliance with the Order will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act (Act) for violations of the SIP regulations covered in the Order.

DATES: This rule takes effect May 9, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Roger M. Grimes, Attorney, United States Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, Telephone (312) 353-2082.

SUPPLEMENTARY INFORMATION: On February 9, 1979, the Regional Administrator of U.S. EPA's Region V Office published in the Federal Register (44 FR 8311) a notice setting out the provisions of a proposed Federal Delayed Compliance Order for Amoco. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed Order.

No public comments and no request for a public hearing were received in response to the notice.

Therefore, a Delayed Compliance Order effective this date is issued to Amoco by the Administrator of U.S. EPA pursuant to the authority of Section 113(d)(1) of the Act, 42 U.S.C. 7413(d)(1). The Order places Amoco on a schedule to bring its volatile organic materials loading rack at Whiting, Indiana, into compliance as expeditiously as practicable with Regulation APC-15, Section 4, a part of the federally approved Indiana State Implementation Plan. Amoco is unable to immediately comply with this regulation. The Order also imposes interim requirements which meet Sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the Order are met, it will permit Amoco to delay compliance

with the SIP regulation covered by the Order until July 1, 1979.

Compliance with the Order by Amoco will preclude Federal enforcement action under Section 113 of the Act for violations of the SIP regulations covered by the Order. Citizen suits under Section 304 of the Act to enforce against the source are similarly precluded. Enforcement may be initiated, however, for violations of the terms of the Order, and for violations of the regulation covered by the Order which occurred before the Order was issued by U.S. EPA or after the Order is terminated. If the Administrator determines that Amoco is in violation of a requirement contained in the Order, one or more of the actions required by Section 113(d)(9) of the Act will be initiated. Publication of this notice of final rulemaking constitutes final Agency action for the purposes of judicial review under Section 307(b) of the Act.

U.S. EPA has determined that the Order shall be effective upon publication of this notice because of the need to immediately place Amoco on a schedule for compliance with the Indiana State Implementation Plan.

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

Dated: May 2, 1979.

Douglas M. Costle,
Administrator.

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

PART 65—DELAYED COMPLIANCE ORDERS

By adding the following entry to the table in § 65.190:

§ 65.190 Federal Delayed Compliance Order Issued under Section 113(d) (1), (3), and (4) of the Act.

Source	Location	Order No.	Date of FR proposal	SIP regulation involved	Final compliance date
Amoco Oil Company	Whiting, Ind	EPA-5-79-A-23	2-9-79	APC-15, Section 4.	7-1-79

[FRL 1206-2]

[FR Doc. 79-14518 Filed 5-9-79; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 65

Delayed Compliance Order for Dayton Power & Light

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: By this rule, the Administrator of U.S. EPA approves a Delayed Compliance Order to Dayton Power and Light Company. The Order requires the Company to bring air emissions from its Boilers #1 and #2 at the Longworth Street Station and Boilers #1A and #2A at the Third Street Station at Dayton, Ohio, into compliance with certain regulations contained in the federally approved Ohio State Implementation Plan (SIP). Dayton Power and Light Company's compliance with the Order will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act (Act) for

violations of the SIP regulations covered in the Order.

DATES: This rule takes effect upon publication May 9, 1979.

FOR FURTHER INFORMATION CONTACT: Cynthia Colantoni, United States Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, Telephone (312) 353-2082.

SUPPLEMENTARY INFORMATION: On February 20, 1979 the Regional Administrator of the U.S. EPA's Region V Office published in the Federal Register (44 FR 10401) a notice setting out the provisions of a proposed State Delayed Compliance Order for Dayton Power and Light. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed Order.

No public comments and no request for a public hearing were received in response to the notice.

Therefore, a Delayed Compliance Order effective this date is approved to Dayton Power and Light by the Administrator of U.S. EPA pursuant to the authority of Section 113(d)(2) of the Act, 42 U.S.C. 7413(d)(2). The Order places Dayton Power and Light on a schedule to bring its Boilers #1 and #2 at the Longworth Street Station and Boilers #1A and #2A at the Third Street Station at Dayton, Ohio, into compliance as expeditiously as practicable with Regulations OAC-3745-17-07 and OAC-3745-17-10, a part of the federally approved Ohio State Implementation Plan. Dayton Power and Light is unable to immediately comply with these regulations. The Order also imposes interim requirements which meet Sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the Order are met, it will permit Dayton Power and Light to delay compliance with the SIP regulations covered by the Order until June 30, 1979.

Compliance with the Order by Dayton Power and Light will preclude Federal enforcement action under Section 113 of the Act for violations of the SIP regulations covered by the Order. Citizen suits under Section 304 of the Act to enforce against the source are similarly precluded. Enforcement may be initiated, however, for violations of the terms of the Order, and for violations of the regulations covered by the Order which occurred before the Order was issued by U.S. EPA or after the Order is terminated. If the

Administrator determines that Dayton Power and Light is in violation of a requirement contained in the Order, one or more of the actions required by Section 113(d)(9) of the Act will be initiated. Publication of this notice of final rulemaking constitutes final Agency action for the purposes of judicial review under Section 307(b) of the Act.

U.S. EPA has determined that the Order shall be effective upon publication of this notice because of the need to immediately place Dayton Power and Light on a schedule for compliance with the Ohio State Implementation Plan..

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

Dated: May 2, 1979.

Douglas M. Costle,
Administrator.

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

PART 65—DELAYED COMPLIANCE ORDERS

By adding the following entry to the table in § 65.401:

§ 65.401 U.S. EPA approval of State delayed compliance orders issued to major stationary sources.

The State Order identified below has been approved by the Administrator in accordance with Section 113(d)(2) of the Act and with this Part. With regard to this Order, the Administrator has made all the determinations and findings which are necessary for approval of the Order under Section 113(d) of the Act.

Ohio, and its Muskingum River Generating Station at Beverly, Ohio, into compliance with certain regulations contained in the federally approved Ohio State Implementation Plan (SIP). Ohio Power Company's compliance with the Orders will preclude suits under the Federal enforcement and citizen suits provisions of the Clean Air Act (Act) for violations of the SIP regulations covered in the Orders.

DATES: This rule takes effect May 9, 1979.

FOR FURTHER INFORMATION CONTACT: Ms. Linda M. Buell, Attorney, United States Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604. Telephone (312) 353-2082.

SUPPLEMENTARY INFORMATION: On December 21, 1978, the Regional Administrator of U.S. EPA's Region V Office published in the Federal Register (43 FR 59527) two notices setting out the provisions of two proposed Federal Delayed Compliance Orders for Ohio Power Company. The notices asked for public comments and offered the opportunity to request a public hearing on the proposed Orders. No public comments and no request for a public hearing were received in response to the notices.

Therefore, two Delayed Compliance Orders effective this date are issued to Ohio Power Company by the Administrator of U.S. EPA pursuant to the authority of Section 113(d)(1) of the Act, 42 U.S.C. 7413(d)(1). The Orders place Ohio Power Company on schedules to bring its Cardinal Generating Station at Brilliant, Ohio, and its Muskingum River Generating Station at Beverly, Ohio, into compliance as expeditiously as practicable with Regulations AP-3-07 and AP-3-11, part of the federally approved Ohio State Implementation Plan. Ohio Power Company is unable to immediately comply with these regulations. The Orders also impose interim requirements which meet Sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the Orders are met, it will permit Ohio Power Company to delay compliance with the SIP regulations

Source	Location	Date FR proposal	SIP regulation involved	Final compliance date
Dayton Power and Light Company	Dayton, Ohio	2-20-79	OAC-3745-17-07 OAC-3745-17-10	6-30-79

[FRL 1201-8]
[FR Doc. 79-14514 Filed 5-8-79; 8:45 am]
BILLING CODE 6560-01-M

40 CFR Part 65

Delayed Compliance Orders for Ohio Power Co., Cardinal Generating Station and Muskingum River Generating Station

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: By this rule, the Administrator of U.S. EPA issues two Delayed Compliance Orders to Ohio Power Company. The Orders require the Company to bring air emissions from its Cardinal Generating Station at Brilliant,

covered by the Orders until April 15, 1980.

Compliance with the Orders by Ohio Power Company will preclude Federal enforcement action under Section 113 of the Act for violations of the SIP regulations covered by the Orders. Citizen suits under Section 304 of the Act to enforce against the source are similarly precluded. Enforcement may be initiated, however, for violations of the terms of the Orders, and for violations of the regulations covered by the Orders which occurred before the Orders were issued by U.S. EPA or after the Orders are terminated. If the Administrator determines that Ohio Power Company is in violation of a requirement contained in the Orders, one or more of the actions required by Section 113(d)(9) of the Act will be initiated. Publication of this notice of final rulemaking constitutes final Agency action for the purposes of judicial review under Section 307(b) of the Act.

U.S. EPA has determined that the Orders shall be effective upon publication of this notice because of the need to immediately place Ohio Power Company on a schedule for compliance with the Ohio State Implementation Plan.

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

Dated: May 3, 1979.

Douglas M. Costle,
Administrator.

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

PART 65—DELAYED COMPLIANCE ORDERS

By adding the following entry to the table in § 65.400:

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

113(d)(2) of the Act, 42 U.S.C. 7413(d)(2). The Order places Sorg on a schedule to bring its coal-fired boilers at Middletown, Ohio, into compliance as expeditiously as practicable with Regulations OAC-3745-17-07 and OAC-3745-17-10, a part of the federally approved Ohio State Implementation Plan. Sorg is unable to immediately comply with these regulations. The Order also imposes interim requirements which meet Sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the Order are met, it will permit Sorg to delay compliance with the SIP regulations covered by the Order until July 1, 1979.

Compliance with the Order by Sorg will preclude Federal enforcement action under Section 113 of the Act for violations of the SIP regulations covered by the Order. Citizen suits under Section 304 of the Act to enforce against the source are similarly precluded. Enforcement may be initiated, however, for violations of the terms of the Order, and for violations of the regulations covered by the Order which occurred before the Order was issued by U.S. EPA or after the Order is terminated. If the Administrator determines that Sorg is in violation of a requirement contained in the Order, one or more of the actions required by Section 113(d)(9) of the Act will be initiated. Publication of this notice of final rulemaking constitutes final Agency action for the purposes of judicial review under Section 307(b) of the Act.

U.S. EPA has determined that the Order shall be effective upon publication of this notice because of the need to immediately place Sorg Paper Company on a schedule for compliance with the Ohio State Implementation Plan.

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

Dated: May 3, 1979.

Douglas M. Costle,
Administrator.

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

PART 65—DELAYED COMPLIANCE ORDERS

By adding the following entry to the table in § 65.401:

Source	Location	Order No.	Date of FR proposal	SIP regulation involved	Final compliance date
Ohio Power Company, Cardinal Generating Station.	Brilliant, OH.....	EPA-5-79-A-30.....	12/21/78.....	AP-3-07, AP-3-11.	4/15/80
Muskingum River Generating Station.	Beverly, OH.....	EPA-5-79-A-31.....	12/21/78.....	AP-3-07, AP-3-11.	4/15/80

[FRL 1202-3]
[FR Doc. 79-14516 Filed 5-9-79; 8:45 am]
BILLING CODE 6560-01-M

40 CFR Part 65

Delayed Compliance Order for Sorg Paper Co.

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: By this rule, the Administrator of U.S. EPA approves a Delayed Compliance Order to Sorg Paper Company (Sorg). The Order requires the Company to bring air emissions from its coal-fired boilers at Middletown, Ohio, into compliance with certain regulations contained in the federally approved Ohio State Implementation Plan (SIP). Sorg's compliance with the Order will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act (Act) for violations of the SIP regulations covered in the Order.

DATE: This rule takes effect May 9, 1979.

FOR FURTHER INFORMATION, CONTACT: Cythia Colantoni, United States Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, Telephone (312) 353-2082.

SUPPLEMENTARY INFORMATION: On February 1, 1979 the Regional Administrator of the U.S. EPA's Region V Office published in the Federal Register (44 FR 6469) a notice setting out the provisions of a proposed State Delayed Compliance Order for Sorg. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed Order.

No public comments and no request for a public hearing were received in response to the notice.

Therefore, a Delayed Compliance Order effective this date is approved to Sorg by the Administrator of U.S. EPA pursuant to the authority of Section

§ 65.401 U.S. EPA approval of State delayed compliance orders issued to major stationary sources.

The State Order identified below has been approved by the Administrator in accordance with Section 113(d)(2) of the

Act and with this Part. With regard to this Order, the Administrator has made all the determinations and findings which are necessary for approval of the Order under Section 113(d) of the Act.

regulations covered by the Order until July 1, 1979.

Compliance with the Order by Triangle Refineries, Inc., will preclude Federal enforcement action under Section 113 of the Act for violations of the SIP regulation covered by the Order. Citizen suits under Section 304 of the Act to enforce against the source are similarly precluded. Enforcement may be initiated, however, for violations of the terms of the Order, and for violations of the regulation covered by the Order which occurred before the Order was issued by U.S. EPA or after the Order is terminated. If the Administrator determines that Triangle Refineries, Inc. is in violation of a requirement contained in the Order, one or more of the actions required by Section 113(d)(9) of the Act will be initiated. Publication of this notice of final rulemaking constitutes final Agency action for the purposes of judicial review under Section 307(b) of the Act.

U.S. EPA has determined that the Order shall be effective upon publication of this notice because of the need to immediately place Triangle Refineries, Inc. on a schedule for compliance with the Indiana State Implementation Plan.

Dated: May 2, 1979.

Douglas M. Costle,
Administrator.

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

PART 65—DELAYED COMPLIANCE ORDERS

1. By adding the following entry to the table in § 65.190:

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

Source	Location	Date FR proposal	SIP regulation involved	Final compliance date
Sorg Paper Company	Middletown, Ohio	2-1-79	OAC-3745-17-07 OAC-3745-17-10	7-1-79

[FRL 1202-5]
[FR Doc. 79-14517 Filed 5-9-79; 8:45 am]
BILLING CODE 6550-01-M

40 CFR Part 65

Delayed Compliance Order for Triangle Refineries, Inc.

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: By this rule, the Administrator of U.S. EPA issues a Delayed Compliance Order to Triangle Refineries, Inc. The Order requires the Company to bring air emissions from its gasoline loading facility at Clermont, Indiana, into compliance with certain regulations contained in the federally approved Indiana State Implementation Plan (SIP). Triangle Refineries, Inc.'s compliance with the Order will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act (Act) for violations of the SIP regulations covered in the Order.

DATES: This rule takes effect May 9, 1979.

FOR FURTHER INFORMATION CONTACT: Arthur E. Smith, Jr., Attorney, United States Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, Telephone (312) 353-2082.

SUPPLEMENTARY INFORMATION: On December 27, 1978, the Regional Administrator of U.S. EPA's Region V Office published in the Federal Register (43 FR 60306) a notice setting out the provisions of a proposed Federal Delayed Compliance Order for Triangle Refineries, Inc. The notice asked for

public comments and offered the opportunity to request a public hearing on the proposed Order.

No public comments and no request for a public hearing were received in response to the notice.

Therefore, a Delayed Compliance Order effective this date is issued to Triangle Refineries by the Administrator of U.S. EPA pursuant to the authority of Section 113(d)(1) of the Act, 42 U.S.C. 7413(d)(1). The Order places Triangle Refineries, Inc. on a schedule to bring its gasoline loading rack at Clermont, Indiana, into compliance as expeditiously as practicable with Regulations APC-15, Section 4, a part of the federally approved Indiana State Implementation Plan. Triangle Refineries, Inc. is unable to immediately comply with this regulation. The Order also imposes interim requirements which meet Section 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the Order are met, it will permit Triangle Refineries, Inc. to delay compliance with the SIP

Source	Location	Order No.	Date of FR proposal	SIP regulation involved	Final compliance date
Triangle Refineries	Clermont, Ind.	EPA-5-79-A-22	12/27/78	APC-15, Section 4.	7/1/79

[FRL 1215-4]
[FR Doc. 79-14519 Filed 5-9-79; 8:45 am]
BILLING CODE 6550-01-M

40 CFR Part 65

Delayed Compliance Order for Sunmark Industries, a Division of Sun Oil Co. of Pennsylvania

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: By this rule, the Administrator of U.S. EPA issues a Delayed Compliance Order to Sunmark Industries, a Division of Sun Oil Company of Pennsylvania (Sun Oil). The Order requires the Company to bring air emissions from its gasoline loading facility at Clermont, Indiana, into compliance with certain regulations contained in the federally approved Indiana State Implementation Plan (SIP). Sun Oil's compliance with the Order will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act (Act) for violations of the SIP regulations covered in the Order.

DATES: This rule takes effect May 9, 1979.

FOR FURTHER INFORMATION CONTACT: Arthur E. Smith, Jr., Attorney, United States Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, Telephone (312) 353-2082.

SUPPLEMENTARY INFORMATION: On December 22, 1978, the Regional Administrator of U.S. EPA's Region V Office published in the Federal Register (43 FR 59852) a notice setting out the provisions of a proposed Federal Delayed Compliance Order for Sun Oil. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed Order.

No public comments and no request for a public hearing were received in response to the notice.

Therefore, a Delayed Compliance Order effective this date is issued to Sun Oil by the Administrator of U.S. EPA pursuant to the authority of Section 113(d)(1) of the Act, 42 U.S.C. 7413(d)(1). The Order places Sun Oil on a schedule to bring its gasoline loading facility at Clermont, Indiana, into compliance as expeditiously as practicable with

Regulation APC-15 Section 4, a part of the federally approved Indiana State Implementation Plan. Sun Oil is unable to immediately comply with this regulation. The Order also imposes interim requirements which meet Sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the Order are met, it will permit Sun Oil to delay compliance with the SIP regulation covered by the Order until July 1, 1979.

Compliance with the Order by Sun Oil will preclude Federal enforcement action under Section 113 of the Act for violations of the SIP regulation covered by the Order. Citizen suits under Section 304 of the Act to enforce against the source are similarly precluded. Enforcement may be initiated, however, for violations of the terms of the Order, and for violations of the regulation covered by the Order which occurred before the Order was issued by U.S. EPA or after the Order is terminated. If the Administrator determines that Sun Oil is in violation of a requirement contained in the Order, one or more of the actions required by Section 113(d)(9) of the Act will be initiated. Publication of this notice of final rulemaking constitutes final Agency action for the purposes of judicial review under Section 307(b) of the Act.

U.S. EPA has determined that the Order shall be effective upon publication of this notice because of the need to immediately place Sun Oil on a schedule for compliance with the Indiana State Implementation Plan.

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

Dated: May 3, 1979.

Douglas M. Costle,
Administrator.

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

PART 65—DELAYED COMPLIANCE ORDERS

By adding the following entry to the table in § 65.190:

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

Source	Location	Order No.	Date of FR proposal	SIP regulation involved	Final compliance date
Sunmark Industries, a Division of Sun Oil of Pennsylvania.	Clermont, Ind.	EPA-5-79-A-22	12/22/78	APC-15, Section 4.	7/1/79

Proposed Rules

Federal Register

Vol. 44, No. 91

Wednesday, May 9, 1979

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

[7 CFR Part 402]

Proposed Raisin Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The proposed rule prescribes procedures for insuring raisin crops effective with the 1979 crop year. This rule combines provisions from previous regulations for insuring raisins in a shorter, clearer, and more simplified document which will make the program more effective administratively. This rule is promulgated under the authority contained in the Federal Crop Insurance Act, as amended.

DATE: Written comments, data, and opinions must be submitted not later than May 30, 1979, to be assured of consideration.

ADDRESS: Written comments on this proposed rule should be sent to James D. Deal, Manager, Federal Crop Insurance Corporation, Room 4096 South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-3325.

SUPPLEMENTARY INFORMATION: Under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), it is proposed that the Raisin Crop Insurance Regulations for the 1977 and Succeeding Crop Years as found in 7 CFR Part 402 (42 FR 31427, June 21, 1977) be revised and reissued effective for the 1979 and succeeding crop years. The previous regulations applicable to insuring raisin crops as found in 7 CFR Part 402 are not applicable to 1979 and succeeding raisin crops but remain in effect for FCIC

raisin insurance policies issued for the crop years prior to 1979.

It has been determined that combining provisions from previous regulations for insuring raisin crops into one shortened, simplified, and clearer regulation would be more effective administratively. In addition, proposed 7 CFR Part 402 would provide that (1) any premium not paid by the termination date for indebtedness will be increased by a 9 percent service fee with a 9 percent simple interest charge applying to any unpaid balances at the end of each subsequent 12-month period thereafter; (2) eliminate the 30-day period for filing a claim; (3) make available higher amounts of insurance coverage at \$325, \$400, and \$500 per ton; (4) provide that the insurable varieties of grapes will be shown on the actuarial table rather than on the policy; (5) provide that the insured tonnage will be determined from actual marketing records in no loss years and from tray count and Corporation determination in loss years by estimation which was the previous method; (6) provide that the maximum allowance for any one reconditioning of raisins as a result of rainfall be shown on the actuarial table; (7) provide that a minimum value of \$75.00 per ton instead of the previous \$25.00 per ton be counted for any raisins not removed from the vineyard; (8) allow the Corporation to waive, by prior written agreement, the right to acquire all of the right, title, and share of the insured in any raisins damaged by rainfall; (9) allow the Corporation to determine by units the insured tonnage and share or declare the insured tonnage on any unit to be "zero" if the insured does not file a tonnage report on or before a date on file in the office for the county; and (10) replace the previous premium discount provisions with a premium adjustment table which provides premium discounts of up to 50 percent for good insuring experience as well as premium increases for unfavorable insuring experience on an individual contract basis.

The proposed Raisin Crop Insurance Regulations provide a June 30 cancellation date in order to be effective for the crop year. These regulations and any amendments thereto, are to be placed on file in the Corporation's office for the county by not later than 15 days prior to June 30. Executive Order No. 12044 requires that the public be

afforded 60 days during which to comment on proposed regulations. However, where an emergency exists, as here, less time for public comments may be allowed. Accordingly, the public shall have 21 days to comment on this proposal. The Corporation has determined that in view of the necessary administrative details to be implemented before the June 15 filing date, including notifying all present policyholders, and printing and distribution of revised application and policy forms, and to afford the farmers an opportunity to examine them before the cancellation date of June 30, 1979, there would not be enough time to allow the full 60 days for public comment in accordance with the provisions of Executive Order No. 12044.

All written submissions made pursuant to this notice will be available for public inspection at the office of the Manager during regular business hours 8:15 a.m. to 4:45 p.m., Monday through Friday.

Proposed rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby proposes to revise and reissue Part 402 of Chapter IV in Title 7 of the Code of Federal Regulations (7 CFR Part 402), to read as follows:

PART 402—RAISIN CROP INSURANCE

Subpart—Regulations for the 1979 and Succeeding Crop Years

Sec.

- 402.1 Availability of raisin insurance.
- 402.2 Premium rates and amounts of insurance.
- 402.3 Public notice of indemnities paid.
- 402.4 Creditors.
- 402.5 Good faith reliance on misrepresentation.
- 402.6 The contract.
- 402.7 The application and policy.

Authority: Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended (7 U.S.C. 1506, 1516).

Subpart—Regulations for the 1979 and Succeeding Crop Year

§ 402.1 Availability of raisin insurance.

Insurance shall be offered under the provisions of this subpart on raisins in counties within limits prescribed by and in accordance with the provisions of the

Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation. Before insurance is offered in any county, there shall be published by appendix to this chapter the names of the counties in which raisin insurance will be offered.

§ 402.2 Premium rates and amounts of insurance.

(a) The Manager shall establish premium rates, production guarantees, coverage levels, amounts of insurance and prices at which indemnities shall be computed for raisins which shall be shown on the county actuarial table on file in the office for the county and may be changed from year to year.

(b) At the time the application for insurance is made, the applicant shall elect an amount of insurance per ton from among those amounts shown on the actuarial table for the crop year.

§ 402.3 Public notice of indemnities paid.

The Corporation shall provide for posting annually in each county at each county courthouse a listing of the indemnities paid in the county.

§ 402.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, or an involuntary transfer shall not entitle the holder of the interest to any benefit under the insurance contract except as provided in the policy.

§ 402.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the raisin insurance contract, whenever, (a) an insured person under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation, (1) is indebted to the Corporation for additional premiums, or (2) has suffered a loss to a crop which is not insured, or for which the insured person is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured person believed to be insured, or believed the terms of the insurance contract to have been complied with or waived, and (b) the Board of Directors of the Corporation, or the Manager in cases involving not more than \$20,000, finds (1) that an agent or employee of the Corporation did in fact make such misrepresentation or take other

erroneous action or give erroneous advice, (2) that said insured person relied thereon in good faith, and (3) that to require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured person shall be granted relief the same as if otherwise entitled thereto.

§ 402.6 The contract.

(a) The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. Such acceptance shall be effective upon the date the notice of acceptance is mailed to the applicant. The contract shall cover the raisin crop as provided in the policy. The contract shall consist of the application, the policy, the attached appendix, and the provisions of the county actuarial table showing the premium rates, amounts of insurance, varieties, reconditioning allowances, and applicable dates when necessary. Any changes made in the contract shall not affect its continuity from year to year. Copies of forms referred to in the contract are available at the office for the county.

§ 402.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation may be made by any person to cover such person's insurable share in the raisin crop as landlord, owner-operator, or tenant. The application shall be submitted to the Corporation at the office for the county on or before the applicable closing date on file in the office for the county.

(b) The Corporation reserves the right to discontinue the acceptance of applications in any county upon its determination that the insurance risk involved is excessive, and also, for the same reason, to reject any individual application. The Manager of the Corporation is authorized in any crop year to extend the closing date for submitting applications or contract changes in any county, by placing the extended date on file in the office for the county and publishing a notice in the Federal Register upon the Manager's determination that no adverse selectivity will result during the period of such extension: *Provided, however*, That if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of application.

(c) In accordance with the provisions governing changes in the contract

contained in policies issued under FCIC regulations for 1969 and succeeding crop years, a contract in the form provided for under this subpart will come into effect as a continuation of a raisin contract issued under such prior regulations, without the filing of a new application.

(d) The provisions of the application and Raisin Insurance Policy for the 1979 and Succeeding Crop Years, and the Appendix to the Raisin Insurance Policy are as follows:

United States Department of Agriculture

Federal Crop Insurance Corporation

Application for 19 — and Succeeding Crop Years

Raisin Crop Insurance Contract

Contract No. _____
 Identification No. _____
 Name and address _____
 Zip Code _____
 County _____
 State _____

A. The applicant, subject to the provisions of the regulations of the Federal Crop Insurance Corporation (herein called "Corporation"), hereby applies to the Corporation for insurance on the applicant's share in the raisins produced in the above-stated county. The applicant elects from the actuarial table the amount of insurance per ton. The premium rates and amounts of insurance shall be those shown on the applicable county actuarial table filed in the office for the county each crop year.

Amount of insurance per ton election _____
 Example: For the 19 — crop year only (100% share)
 Location/farm No. _____
 Amount of Insurance per ton* _____
 Premium per ton _____
 Practice _____

B. When notice of acceptance of this application is mailed to the applicant by the corporation, the contract shall be in effect for the first crop year specified above, unless the time for submitting applications has passed at the time this application is filed, and shall continue for each succeeding crop year until cancelled or terminated as provided in the contract. This accepted application, the following raisin insurance policy, the attached appendix, and the provisions of the county actuarial table showing the premium rates, amounts of insurance, and applicable dates shall constitute the contract. Additional information regarding contract provisions can be found in the county regulations folder on file in the office for the county. No term or condition of the contract shall be waived or changed except in writing by the Corporation.

Code No./witness to signature _____
 Signature of applicant _____
 Date _____
 Address of office for county: _____

Phone _____

* Your amount of insurance will be based on the limit (tonnage X amount of insurance per ton elected).

*Raisin Crop Insurance Policy**Terms and conditions*

Subject to the provisions in the attached appendix:

1. *Cause of loss.* (a) Cause of loss insured against. The insurance provided is against unavoidable loss resulting from rainfall on the raisins while in the vineyards, on trays, or in rolls for drying and occurring within the insurance period subject to any exceptions, exclusions or limitations shown on the actuarial table.

(b) Causes of loss not insured against. The contract shall not cover any loss or damage due to (1) the neglect or malfeasance of the insured, any member of the insured's household, the insured's tenants, or the insured's employees, (2) failure to follow recognized good raisin management practices, taking into consideration the environmental conditions and the respective cultural practices for the area as determined by the Corporation, (3) damage resulting from the backing up of water by any governmental or public utilities dam or reservoir project, or (4) any cause other than rainfall.

2. *Crop and tonnage insured.* (a) The crop insured shall be raisins of the grape varieties for which the actuarial table shows a production guarantee and premium rate per ton, and shall be produced by the insured on the unit: *Provided*, That insurance shall not attach in any crop year to raisins which are first placed on trays after September 20 for those raisins drying in east/west rows, or an earlier date if specified on the actuarial table for those raisins drying in north/south rows, as determined by the Corporation.

(b) The tonnage of raisins insured for each crop year shall be the raisin tonnage in which the insured has a share as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect.

3. *Responsibility of insured to report tray count, tonnage and share.* (a) If there is no damage to the insured crop, the insured shall submit to the Corporation a report of the net tons of all raisins delivered and the insured's share therein as soon as delivery records are available.

(b) In the event of rain damage, the insured shall submit to the Corporation on a form prescribed by the Corporation, a report showing by variety (1) the name of the variety, (2) the location of the vineyard(s), (3) the number of trays upon which the raisins have been placed for drying, and (4) the insured's share.

4. *Amount of insurance.* (a) In a crop year in which there is no damage to the crop, the amount of insurance shall be determined by multiplying the insured tonnage of raisins times the applicable amount of insurance per ton times the insured's share.

(b) In a crop year in which rain damage is reported by the insured, the number of trays upon which raisins have been placed for drying shall be multiplied by the average tray weight, as determined by the Corporation, and such product and actual market records shall be the basis used to determine the insured tonnage. The amount of insurance for any unit in such crop year shall be determined by multiplying such insured

tonnage times the applicable amount of insurance per ton times the insured's share.

5. *Annual premium.* (a) The annual premium for each unit is earned and payable at the time insurance attaches and shall be determined by multiplying the insured's tonnage times the applicable premium rate times the insured's share at the time insurance attaches, times the premium adjustment percentage in subsection (c) of this section.

(b) For premium adjustment purposes, only the years during which premiums were earned subsequent to the 1978 crop year shall be considered.

(c) The premium shall be adjusted as shown in the following table:

BILLING CODE 3410-08-M

% ADJUSTMENTS FOR FAVORABLE CONTINUOUS INSURANCE EXPERIENCE:

Loss Ratio 1/ Through Previous Crop Year	Number of Years Continuous Experience Through Previous Year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
.00 - .20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
.21 - .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41 - .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61 - .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
.81 - 1.09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

% ADJUSTMENTS FOR UNFAVORABLE INSURANCE EXPERIENCE:

Loss Ratio 1/ Through Previous Crop Year	Number of Loss Years Through Previous Year*															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
1.10 - 1.19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	124	126
1.20 - 1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1.40 - 1.69	100	100	100	108	116	124	132	140	148	156	164	172	180	188	196	204
1.70 - 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00 - 2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248	260
2.50 - 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25 - 3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00 - 4.99	100	100	110	128	146	164	182	200	218	236	254	272	290	300	300	300
5.00 - 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6.00 - Up	100	100	120	136	158	180	202	224	246	268	290	300	300	300	300	300

*Only the most recent 15 crop years will be used to determine the number of "Loss Years"
 (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year)

1/ Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.

(d) Any amount of premium for an insured crop which is unpaid on the day following the termination date for indebtedness for such crop shall be increased by a 9 percent service fee, which increased amount shall be the premium balance, and thereafter, at the end of each 12-month period, 9 percent simple interest shall attach to any amount of the premium balance which is unpaid: *Provided*, That, when notice of loss has been timely filed by the insured as provided in section 7 of this policy, the service fee will not be charged and the contract will remain in force if the premium is paid in full within 30 days after the date of approval or denial of the claim for indemnity; however, if any premium remains unpaid after such date, the contract will terminate and the amount of premium outstanding shall be increased by a 9 percent service fee, which increased amount shall be the premium balance. If such premium balance is not paid within 12 months immediately following the termination date, 9 percent per annum simple interest shall apply from the termination date to any unpaid premium balance.

(e) Any unpaid amount due the Corporation may be deducted from any indemnity payable to the insured by the Corporation or from any loan or payment to the insured under any Act of Congress or program administered by the U.S. Department of Agriculture, when not prohibited by law.

6. *Insurance period.* For each crop year, insurance attaches at the time the raisins are placed on trays for drying, as provided in section 2 above, and ceases upon the earlier of October 25, or the date the raisins are boxed or removed from the vineyard.

7. *Notice of damage or loss.* Any notice of damage or loss shall be given promptly in writing by the insured to the Corporation at the office for the county after such damage to the raisins from rainfall becomes apparent, giving the date(s) of such damage. If not so reported within 7 days, the Corporation reserves the right to reject any claim resulting from such damage on the unit.

8. *Claim for indemnity.* (a) It shall be a condition precedent to the payment of any indemnity that the insured shall furnish any information required by the Corporation regarding the production, weight and handling of the insured raisins and the manner and extent of loss, and authorize the Corporation in writing to examine and obtain any records pertaining to the production and/or marketing of the insured raisins under this contract from the raisin packer, raisin reconditioner, and/or the Raisin Administrative Committee established under orders issued by the U.S. Department of Agriculture.

(b) Indemnities shall be determined separately for each unit. The amount of indemnity for any unit shall be determined by multiplying the insured tonnage of raisins times the applicable amount of insurance per ton times the insured share in the raisins and subtracting therefrom the insured(s) share in the value, as determined by the Corporation, of the damaged and undamaged raisins produced on the unit: *Provided*, That if the premium computed on the insured tonnage

and share is more than the premium on the reported tonnage and share, the amount of indemnity shall be computed on the insured tonnage and share and then reduced proportionately.

(c) Undamaged raisins or raisins damaged solely by uninsured causes shall be valued at the current market value or the amount of insurance, whichever is higher.

(d) Raisins damaged partially by rainfall and partially by uninsured causes shall be valued at the highest prices obtainable, subject to an adjustment for any reduction in value due to uninsured causes.

(e) Raisins damaged by rainfall, but which are reconditioned and can be marketed as undamaged raisins, shall be valued at the current market price or the amount of insurance, whichever is higher, except that an allowance for reconditioning shall be deducted from such value. The maximum allowance for any one reconditioning as a result of rainfall shall be as shown on the county actuarial table, but such reconditioning allowance, or the aggregate thereof, shall not exceed the value of the raisins after reconditioning as determined by the Corporation.

(f) The Corporation shall have the right to require the insurance to recondition a representative sample(s) of not in excess of 10 tons of raisins damaged by rainfall to determine whether or not they may be marketed as undamaged raisins. On the basis of determinations made by the Corporation from such sample(s), the Corporation shall have the right to require the insured to recondition all such raisins or to recondition no more than the representative sample(s). If the reconditioned raisins of the representative sample(s) cannot be marketed as undamaged raisins, the cost of reconditioning such sample(s) shall be deducted from the total value of the raisins for the unit.

(g) In determining the value of raisins produced on the unit, a *minimum* value of \$75.00 per ton shall be counted for any raisins not removed from the vineyard as determined by the Corporation. The insured shall be responsible to box and deliver any raisins that can be removed from the vineyard as determined by the Corporation.

(h) Notwithstanding any other provisions hereof, the Corporation shall have the right, unless waived by prior written agreement, to acquire all of the right, title, and share of the insured in any raisins damaged by rainfall. In such event, the raisins shall be valued at "zero" in determining the amount of loss and the Corporation's representative and employees shall have the right of ingress or egress on the insured's farm to the extent necessary to take possession of, care for, and remove such raisins from the farm.

(i) Raisins destroyed without inspection shall be valued at the applicable amount of insurance per ton.

9. *Misrepresentation and fraud.* The Corporation may void the contract without affecting the insured's liability for premiums or waiving any right, including the right to collect any unpaid premiums if, at any time, the insured has concealed or misrepresented any material fact or committed any fraud

relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred.

10. *Transfer of insured share.* If the insured transfers any part of the insured share during the crop year, protection will continue to be provided according to the provisions of the contract to the transferee for such crop year on the transferred share, and the transferee shall have the same rights and responsibilities under the contract as the original insured for the current crop year. Any transfer shall be made on an approved form.

11. *Records and access to farm.* The insured shall keep or cause to be kept for two years after the time of loss, separate records of the production, storage, shipments, sale or other disposition of all raisins produced on each unit. Any persons designated by the Corporation shall have access to such records and the farm for purposes related to the contract.

12. *Life of contract: Cancellation and termination.* (a) The contract shall be in effect for the first crop year specified on the application and may not be canceled for such crop year. Thereafter, either party may cancel the insurance for any subsequent crop year by giving a signed notice to the other on or before the June 30 immediately preceding such crop year. In the absence of such notice to cancel, and subject to the provisions of subsection (b) of this section and section 7 of the Appendix, the contract shall continue in force for each succeeding crop year.

(b) Except as provided in section 5(d) of this policy, the contract will terminate as to any crop year if any amount due the Corporation under this contract is not paid on or before the July 31 preceding such crop year: *Provided*, That the date of payment for premium, (1) if deducted from an indemnity claim, shall be the date the insured signs such claim or, (2) if deducted from payment under another program administered by the U.S. Department of Agriculture, shall be the date such payment was approved.

13. *Other insurance.* If the insured in any crop year obtains any other insurance on any unit(s) against rainfall damage or loss while the raisins are on the trays for drying, this contract shall be voided for the current crop year on such unit(s) if such other insurance is obtained before insurance attaches under this contract.

Appendix

(Additional Terms & Conditions)

1. *Meaning of Terms*

For the purposes of raisin crop insurance:

(a) "Actuarial table" means the forms and related material for the crop year approved by the Corporation which are on file for public inspection in the office for the county, and which show the amounts of insurance per ton, premium rates, varieties, reconditioning allowances, and related information regarding raisin insurance in the county.

(b) "Contiguous land" means land which is touching at any point, except that land which is separated by only a public or private right of way shall be considered contiguous.

(c) "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown on the actuarial table.

(d) "Crop year" means the calendar year in which the raisins are placed on trays for drying.

(e) "Insured" means the person who submitted the application accepted by the Corporation.

(f) "Office for the county" means the Corporation's office serving the county shown on the application for insurance or such office as may be designated by the Corporation.

(g) "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

(h) "Raisin tonnage report" means the form prescribed by the Corporation for annually reporting all of the insured's share and tonnage of raisins in the county.

(i) "Share" means the interest of the insured as landlord, owner-operator, or tenant in the insured raisins as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect, and no other share shall be deemed to be insured: *Provided*, That the share insured shall be the share of the insured at the time damage becomes apparent as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect.

(j) "Tenant" means a person who rents land from another person for a share of the raisin crop or proceeds therefrom.

(k) "Ton" means 2,000 pounds of raisins on the trays. When deemed appropriate, the Corporation may determine raisin tonnage computed on the basis of one ton of raisins insured for every four and a half tons of fresh grapes when first placed on trays for drying.

(l) "Unit" as to each insured variety of grapes means all acreage in the county of that variety located on contiguous land, on the date insurance attaches for the crop year, (1) in which the insured has a 100 percent share; (2) which is owned by one person and operated by the insured as a tenant; or (3) which is owned by the insured and rented to one tenant. Land rented for cash, a fixed commodity payment, or any consideration other than a share in the crop on such land only shall be considered as owned by the lessee. Land which would otherwise be one unit may be divided into two or more units by written agreement between the Corporation and the insured. The Corporation shall determine units as herein defined when adjusting a loss, notwithstanding what is shown on the raisin tonnage report, and has the right to consider any tonnage and share reported by or for the insured's spouse or child or any member of the insured's household to be the bona fide share of the insured or any other person having the bona fide share.

2. Raisins Insured

If the insured does not submit a tonnage report on or before the March 31 immediately following the insurance period, the

Corporation may elect to determine by units the insured tonnage and share or declare the insured tonnage on any unit(s) to be "zero". If the insured does not have a share in any insured raisins in the county for any year, the insured shall submit a report so indicating. Any tonnage report or tray count report submitted by the insured may be revised only upon approval of the Corporation.

3. Annual Premium

(a) If there is no break in the continuity of participation, any premium adjustment applicable under section 5 of the policy shall be transferred to (1) the contract of the insured's estate or surviving spouse in case of death of the insured, (2) the contract of the person who the insured if such person had previously participated in the vineyard operation, or (3) the contract of the same insured who stops operating a vineyard in one county and starts operating a vineyard in another county.

(b) If there is a break in the continuity of participation, any reduction in premium earned under section 5 of the policy shall not thereafter apply; however, any previous unfavorable insurance experience shall be considered in premium computation following a break in continuity.

4. Claim for and Payment of Indemnity

(a) Any claim for indemnity on a unit shall be submitted to the Corporation on a form prescribed by the Corporation.

(b) In determining the total production to be counted for each unit, production from units on which the production has been commingled will be allocated to such units in proportion to the liability on each unit.

(c) There shall be no abandonment to the Corporation of any insured raisins.

(d) In the event that any claim for indemnity under the provisions of the contract is denied by the Corporation, an action on such claim may be brought against the Corporation under the provisions of 7 U.S.C. 1508(c): *Provided*, That the same is brought within one year after the date notice of denial of the claim is mailed to and received by the insured.

(e) Any indemnity will be payable within 30 days after a claim for indemnity is approved by the Corporation. However, in no event shall the Corporation be liable for interest or damages in connection with any claim for indemnity whether such claim be approved or disapproved by the Corporation.

(f) If the insured is an individual who dies, disappears, or is judicially declared incompetent, or the insured is an entity other than an individual and such entity is dissolved after insurance attaches for any crop year, any indemnity will be paid to the person(s) the Corporation determines to be beneficially entitled thereto.

(g) The Corporation reserves the right to reject any claim for indemnity if any of the requirements of this section are not met and the Corporation determines that the amount of loss cannot be satisfactorily determined.

5. Subrogation

The insured (including any assignee or transferee) assigns to the Corporation all rights of recovery against any person for loss or damage to the extent that payment

hereunder is made by the Corporation. The Corporation thereafter shall execute all papers required and take appropriate action as may be necessary to secure such rights.

6. Termination of the Contract

(a) The contract shall terminate if no premium is earned for five consecutive years.

(b) If the insured is an individual who dies or is judicially declared incompetent, or the insured entity is other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution; however, if such event occurs after insurance attaches for any crop year, the contract shall continue in force through such crop year and terminate at the end thereof. Death of a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons shall dissolve the joint entity.

7. Amount of Insurance—Coverage Level and Price Election

(a) If the insured has not elected on the application an amount of insurance per ton from among those shown on the actuarial table, the amount of insurance per ton which shall be applicable under the contract, and which the insured shall be deemed to have elected, shall be as provided on the actuarial table for such purpose.

(b) The insured may, with the consent of the Corporation, change the amount of insurance per ton for any crop year on or before the closing date for submitting applications for that crop year.

8. Assignment of Indemnity

Upon approval of a form prescribed by the Corporation, the insured may assign to another party the right to an indemnity for the crop year and such assignee shall have the right to submit the loss notices and forms as required by the contract.

9. Contract Changes

The Corporation reserves the right to change any terms and provisions of the contract from year to year. Any changes shall be mailed to the insured or placed on file and made available for public inspection in the office for the county at least 15 days prior to the cancellation date preceding the crop year for which the changes are to become effective, and such mailing or filing shall constitute notice to the insured. Acceptance of any changes will be conclusively presumed in the absence of any notice from the insured to cancel the contract as provided in section 12 of the policy.

Note.—The reporting requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942, and OMB Circular No. A-40.

Note.—These regulations have been determined nonsignificant under the USDA criteria implementing Executive Order 12044. A draft impact analysis is available from Peter F. Cole, Secretary, Federal Crop Insurance Corporation, Room 4096, U.S. Department of Agriculture, Washington, D.C. 20250.

Approved by the Board of Directors on April 6, 1979.

Dated: April 30, 1979.

Peter F. Cole,
Secretary, Federal Crop Insurance Corporation.
(FR Doc. 79-14381 Filed 5-8-79; 8:45 am)
BILLING CODE 3410-09-M

[7 CFR Part 417]

Proposed Sugarcane Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule prescribes procedures for insuring sugarcane crops effective with the 1980 crop year. This rule revises and reissues provisions from previous regulations for insuring sugarcane in a clearer and more simplified document which will make the program more effective administratively. This rule is promulgated under the authority contained in the Federal Crop Insurance Act, as amended.

DATE: Written comments, data, and opinions must be submitted not later than June 8, 1979, to be assured of consideration.

ADDRESS: Written comments on this proposed rule should be sent to James D. Deal, Manager, Federal Crop Insurance Corporation, Room 4096 South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-3325.

SUPPLEMENTARY INFORMATION: Under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), it is proposed that the Sugarcane Crop Insurance Regulations for the 1979 and Succeeding Crop Years as found in 7 CFR Part 417 (43 FR 36423, August 17, 1978) be revised and reissued effective with the 1980 and succeeding crop years. The previous regulations applicable to insuring sugarcane crops as presently found in 7 CFR Part 417 remain in effect for sugarcane insurance policies issued for the crop years prior to 1980.

It has been determined that combining provisions from previous documents and regulations for insurance sugarcane crops into one simplified and clearer regulation would be more effective administratively. In addition, the proposed regulations would: (a) Add a 9 percent service charge to any premium

not paid by the termination date for indebtedness and thereafter a 9 percent per annum simple interest to any unpaid premium balance, (b) contain a premium adjustment table to provide for maximum premium discounts for good insuring experience up to 50 percent and premium increases for unfavorable insuring experience on an individual contract basis, (c) extend the time period for submitting a notice of damage or loss from 15 days to 30 days, (d) eliminate the 60-day period for filing a claim for loss, and (e) offer three levels of coverage in each county.

The proposed regulations provide a July 31 cancellation date for all counties. These regulations and any amendments thereto, must be placed on file in the Corporation's office for each particular county in which the insurance is available by not later than 15 days prior to July 31.

Executive Order No. 12044 requires that the public be afforded 60 days during which to comment on proposed regulations. However, where an emergency exists, as here, less time for public comment may be allowed. Accordingly, the public shall have 30 days to comment on this proposal because certain sugarcane crops will be planted shortly and the final regulations and policies covering these crops must be published and be available in the FCIC county offices not later than July 15, 1979, to afford the farmers an opportunity to examine them before the cancellation date of July 31, 1979. All written submissions made pursuant to this notice will be available for public inspection at the office of the Manager during regular business hours, 8:15 a.m. to 4:45 p.m., Monday through Friday.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to revise 7 CFR Part 417, but these provisions shall remain in effect for FCIC insurance policies issued for crop years prior to 1980. The Corporation also proposes to reissue Part 417 in Chapter IV of Title 7 of the Code of Federal Regulations effective with the 1980 and subsequent crops of sugarcane to read as follows:

PART 417—SUGARCANE CROP INSURANCE

Subpart—Regulations for the 1980 and Succeeding Crop Years

Sec.

417.1 Availability of sugarcane insurance.

- 417.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.
- 417.3 Public notice of indemnities paid.
- 417.4 Creditors.
- 417.5 Good faith reliance on misrepresentation.
- 417.6 The contract.
- 417.7 The application and policy.

Authority: Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended (7 U.S.C. 1506, 1516)

Subpart—Regulations for the 1980 and Succeeding Crop Years

§ 417.1 Availability of sugarcane insurance.

Insurance shall be offered under the provisions of this subpart on sugarcane in counties within limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation. Before insurance is offered in any county, there shall be published by appendix to this chapter the names of the counties in which sugarcane insurance will be offered.

§ 417.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.

(a) The Manager shall establish premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed for sugarcane which shall be shown on the county actuarial table on file in the office for the county and may be changed from year to year.

(b) At the time the application for insurance is made, the applicant shall elect a coverage level and price at which indemnities shall be computed from among those levels and prices shown on the actuarial table for the crop year.

§ 417.3 Public notice of indemnities paid.

The Corporation shall provide for posting annually in each county at each county courthouse a listing of the indemnities paid in the county.

§ 417.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, or an involuntary transfer shall not entitle the holder of the interest to any benefit under the insurance contract except as provided in the policy.

§ 417.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the sugarcane insurance contract, whenever (a) an insured person under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation, (1) is indebted to the Corporation for additional premiums, or (2) has suffered a loss to a crop which is not insured, or for which the insured person is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured person believed to be insured, or believed the terms of the insurance contract to have been complied with or waived, and (b) the Board of Directors of the Corporation, or the Manager in cases involving not more than \$20,000, finds (1) that an agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice, (2) that said insured person relied thereon in good faith, and (3) that to require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured person shall be granted relief the same as if otherwise entitled thereto.

§ 417.6 The contract.

(a) The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. Such acceptance shall be effective upon the date the notice of acceptance is mailed to the applicant. The contract shall cover the sugarcane crop as provided in the policy. The contract shall consist of the application, the policy, the attached appendix, and the provisions of the county actuarial table showing the production guarantees, coverage levels, premium rates, prices for computing indemnities, insurable and uninsurable acreage, and applicable dates when necessary. Any changes made in the contract shall not affect its continuity from year to year. Copies of forms referred to in the contract are available at the office for the county.

§ 417.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation may be made by any person to cover such person's insurable share in the sugarcane crop as landlord, owner-operator, or tenant. The application shall be submitted to the Corporation at the

office for the county on or before the applicable closing date on file in the office for the county.

(b) The Corporation reserves the right to discontinue the acceptance of applications in any county upon its determination that the insurance risk involved is excessive, and also, for the same reason, to reject any individual application. The Manager of the Corporation is authorized in any crop year to extend the closing date for submitting applications or contract changes in any county, by placing the extended date on file in the office for the county and publishing a notice in the Federal Register upon the Manager's determination that no adverse selectivity will result during the period of such extension: *Provided, however,* That if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

(c) In accordance with the provisions governing changes in the contract contained in policies issued under FCIC regulations for 1969 and succeeding crop years, a contract in the form provided for under this subpart, as a continuation of a sugarcane contract issued under such prior regulations, shall come into effect without the filing of a new application.

(d) The provisions of the application and Sugarcane Insurance Policy for the 1980 and succeeding crop years, and the Appendix to the Sugarcane Insurance Policy are as follows:

United States Department of Agriculture
 Federal Crop Insurance Corporation
 Application for 19— and Succeeding Crop Years
 Sugarcane Crop Insurance Contract
 Contract No. _____
 Identification No. _____
 Name and address _____
 Zip Code _____
 County _____
 State _____
 Type of entity _____
 Applicant is over 18— Yes No

A. The applicant, subject to the provisions of the regulations of the Federal Crop Insurance Corporation (herein called "Corporation"), hereby applies to the Corporation for insurance on the applicant's share in the sugarcane grown on insurable acreage as shown on the county actuarial table for the above-stated county. The applicant elects from the actuarial table the coverage level and price at which indemnities shall be computed. The premium rates and production guarantees shall be those shown on the applicable county actuarial table filed in the office for the county for each crop year.
 Level election _____

Price election _____
 Example: For the 19— Crop year only (100% share)
 Location/farm No. _____
 Guarantee per acre* _____
 Premium per acre _____
 Practice _____

B. When notice of acceptance of this application is mailed to the applicant by the corporation, the contract shall be in effect for the first crop year specified above, unless the time for submitting applications has passed at the time this application is filed, and shall continue for each succeeding crop year until cancelled or terminated as provided in the contract. This accepted application, the following sugarcane insurance policy, the attached appendix, and the provisions of the county actuarial table showing the production guarantees, coverage levels, premium rates, prices for computing indemnities, insurable and uninsurable acreage, and applicable dates, shall constitute the contract. Additional information regarding contract provisions can be found in the county regulations folder on file in the office for the county. No term or condition of the contract shall be waived or changed except in writing by the Corporation. (Code No./witness to signature) _____
 Signature of applicant _____
 (Date) _____
 Address of office for county: _____

Phone _____
 Location of farm headquarters: _____
 Phone _____

Sugarcane Crop Insurance Policy
Terms and conditions

Subject to the provisions in the attached appendix:
 1. *Causes of loss.* (a) Causes of loss insured against. The insurance provided is against unavoidable loss of production resulting from adverse weather conditions, insects, plant disease, wildlife, earthquake or fire occurring within the insurance period, subject to any exceptions, exclusions or limitations with respect to causes of loss shown on the actuarial table.
 (b) Causes of loss not insured against. The contract shall not cover any loss of production due to (1) the neglect or malfeasance of the insured, any member of the insured's household, the insured's tenants, or the insured's employees, (2) failure to follow recognized good farming practices, (3) damage resulting from the backing up of water by any governmental or public utilities dam or reservoir project, or (4) any cause not specified as an insured cause in this policy as limited by the actuarial table.
 2. *Crop and acreage insured.* (a) The crop insured shall be sugarcane grown for processing for sugar and for which the actuarial table shows a guarantee and premium rate per acre, and which is grown on insured acreage.
 (b) The acreage insured for sugarcane for each crop year shall be that acreage in the county in which the insured has a share, of
 *Your guarantee will be based on the unit (acres X per acre guarantee).

plant and stubble cane on insurable acreage as shown on the actuarial table and as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect: *Provided*, That insurance shall not attach or be considered to have attached as determined by the Corporation to any acreage of sugarcane (1) planted with another crop, (2) cut for seed, (3) where premium rates are established by farming practices on the actuarial table, and the farming practices carried out on any acreage are not among those for which a premium rate has been established, (4) which is destroyed and after such destruction it was practical to replant to sugarcane and such acreage was not replanted, (5) initially planted after the date established by the Corporation and such date placed on file for public inspection by the insureds in the office for the county, as being too late to initially plant and expect a normal crop to be produced, or (6) planted to a type or variety of sugarcane not established as adapted to the area or shown as noninsurable on the actuarial table.

(c) Insurance may attach only by written agreement with the Corporation on sugarcane which is planted for the development or production of hybrid sugarcane or for experimental purposes.

3. *Responsibility of insured to report acreage and share.* The insured shall submit to the Corporation on a form prescribed by the Corporation, a report showing (1) all acreage of sugarcane in the county (including a designation of any acreage to which insurance does not attach) in which the insured has a share and (2) the insured's share therein at the time insurance attaches. Such report shall be submitted each year not later than May 31.

4. *Production guarantees, coverage levels, and prices for computing indemnities.* (a) For each crop year of the contract, the production guarantees, coverage levels, and prices at which indemnities shall be computed shall be those shown on the actuarial table.

(b) The production guarantee per acre shall be reduced 20 percent for any unharvested acreage.

5. *Annual premium.* (a) The annual premium is earned and payable at the time insurance attaches and the amount thereof shall be determined by multiplying the insured acreage times the applicable premium per acre, times the insured's share at the time insurance attaches, times the premium adjustment percentage in subsection (c) of this section.

(b) For premium adjustment purposes, only the years during which premiums were earned shall be considered.

(c) The premium shall be adjusted as shown in the following table:

BILLING CODE 3410-08-M

% ADJUSTMENTS FOR FAVORABLE CONTINUOUS INSURANCE EXPERIENCE:

Loss Ratio 1/ Through Previous Crop Year	Number of Years Continuous Experience Through Previous Year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
.00 - .20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
.21 - .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41 - .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61 - .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
.81 - 1.09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

% ADJUSTMENTS FOR UNFAVORABLE INSURANCE EXPERIENCE:

Loss Ratio 1/ Through Previous Crop Year	Number of Loss Years Through Previous Year*															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
1.10 - 1.19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	124	126
1.20 - 1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1.40 - 1.69	100	100	100	108	116	124	132	140	148	156	164	172	180	188	196	204
1.70 - 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00 - 2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248	260
2.50 - 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25 - 3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00 - 4.99	100	100	110	128	146	164	182	200	218	236	254	272	290	300	300	300
5.00 - 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6.00 - Up	100	100	120	136	158	180	202	224	246	268	290	300	300	300	300	300

*Only the most recent 15 crop years will be used to determine the number of "Loss Years"
(A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year)

1/ Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.

(d) Any amount of premium for an insured crop which is unpaid on the day following the termination date for indebtedness for such crop shall be increased by a 9 percent service fee, which increased amount shall be the premium balance, and thereafter, at the end of each 12-month period, 9 percent simple interest shall attach to any amount of the premium balance which is unpaid: *Provided*, When notice of loss has been timely filed by the insured as provided in section 7 of this policy, the service fee will not be charged and the contract will remain in force if the premium is paid in full within 30 days after the date of approval or denial of the claim for indemnity; however, if any premium remains unpaid after such date, the contract will terminate and the amount of premium outstanding shall be increased by a 9 percent service fee, which increased amount shall be the premium balance. If such premium balance is not paid within 12 months immediately following the termination date, 9 percent per annum simple interest shall apply from the termination date to any unpaid premium balance.

(e) Any unpaid amount due the Corporation may be deducted from any indemnity payable to the insured by the Corporation or from any loan or payment to the insured under any Act of Congress or program administered by the U.S. Department of Agriculture, when not prohibited by law.

6. *Insurance period.* Insurance on insured acreage of *plant* cane shall attach at the time of planting and insurance for *stubble* cane shall attach on the later of the April 15 following normal harvest or 30 days after harvest. The insurance period shall cease upon the earliest of (a) final adjustment of a loss, (b) harvest, (c) total destruction of the insured sugarcane crop, or (d) the following applicable date of the calendar year immediately following the normal commencing of harvest in the county:

Louisiana—January 31.

All other States—April 30.

7. *Notice of damage or loss.* (a) Any notice of damage or loss shall be given promptly in writing by the insured to the Corporation at the office for the county.

(b) Notice shall be given promptly if, during the period before harvest, the sugarcane on any unit is damaged to the extent that the insured does not expect to further care for the crop or harvest any part of it, or if the insured wants the consent of the Corporation to put the acreage to another use. No insured acreage shall be put to another use until the Corporation has made an appraisal of the potential production of such acreage and consents in writing to such other use. Such consent shall not be given for *plant* cane until it is too late or impractical to replant to sugarcane. Notice shall also be given when such acreage has been put to another use.

(c) In addition to the notices required in subsection (b) of this section, if a loss is to be claimed on any unit, the insured shall give written notice thereof to the Corporation at the office for the county not later than 30 Days after the earliest of (1) the date harvest is completed on the unit, (2) the calendar date for the end of the insurance period, or (3) the

date the entire sugarcane crop on the unit is destroyed, as determined by the Corporation. The Corporation reserves the right to provide additional time if it determines there are extenuating circumstances.

(d) If a loss is to be claimed on any unit, the stalks on unharvested acreage and the stubble remaining on harvested acreage shall be left intact until inspected by the Corporation.

(e) The Corporation may reject any claim for indemnity if any of the requirements of this section are not met.

8. *Claim for indemnity.* (a) It shall be a condition precedent to the payment of any indemnity that the insured (1) establish the total production of sugarcane on the unit and that any loss of production was directly caused by one or more of the insured causes during the insurance period for the crop year for which the indemnity is claimed and (2) furnish any other information regarding the manner and extent of loss as may be required by the Corporation.

(b) Indemnities shall be determined separately for each unit. The amount of indemnity for any unit shall be determined by (1) multiplying the insured acreage of sugarcane on the unit by the applicable production guarantee per acre, which product shall be the production guarantee for the unit, (2) subtracting therefrom the total production of sugarcane to be counted for the unit, (3) multiplying the remainder by the applicable price for computing indemnities, and (4) multiplying the result obtained in step (3) by the insured share: *Provided*, That if the premium computed on the insured acreage and share is more than the premium computed on the reported acreage and share, the amount of indemnity shall be computed on the insured acreage and share and then reduced proportionately.

(c) The total production to be counted for a unit shall be determined by the Corporation and shall include all harvested and appraised production from acreage reported for harvest as sugarcane.

(1) The production to be counted for a unit of any sugarcane damaged by freezes occurring within the insurance period to the extent that processing of such cane adversely affects boiling house operations, as determined by the Corporation, shall be adjusted by the factor obtained by dividing the value of such damaged sugarcane by the value of undamaged standard sugarcane, as determined by the Corporation.

(2) Appraised production to be counted for a unit shall include: (i) Any appraisal on *stubble* acreage with insufficient stand at the time of inspection as provided in subsection (d) of this section, (ii) the greater of the appraised production or 50 percent of the applicable guarantee for any acreage which, with the consent of the Corporation, is planted before sugarcane harvest becomes general in the current crop year to any other crop insurable on such acreage (excluding small grains maturing for harvest in the following calendar year), (iii) any appraisal by the Corporation for potential production on harvested acreage and for uninsured causes and poor farming practices, (iv) not less than the applicable guarantee for any

acreage which is abandoned or put to another use without prior written consent of the Corporation or damaged solely by an uninsured cause, and (v) only the appraisal in excess of 20 percent of the production guarantee for all other unharvested acreage. Any appraisals made by the Corporation and any harvested production not processed for sugar shall be in net tons and considered as standard sugarcane.

(d) An appraisal for inadequate stand shall be made on any *stubble* acreage of sugarcane when the stand at the time of inspection is less than 1,000 plants for each ton of harvested guarantee. The per acre appraisal shall be the number of tons by which the harvested guarantee per acre exceeds the number of tons determined by converting the plant population per acre to tons at the rate of 1,000 plants per ton.

(3) The appraised potential production for acreage for which consent has been given to be put to another use shall be counted as production in determining the amount of loss under the contract. However, if consent is given to put acreage to another use and the Corporation determines that any such acreage (1) is not put to another use before harvest of sugarcane becomes general in the county, (2) is harvested, or (3) is further damaged by an insured cause before the acreage is put to another use, the indemnity for the unit shall be determined without regard to such appraisal and consent.

9. *Misrepresentation and fraud.* The Corporation may void the contract without affecting the insured's liability for premiums or waiving any right, including the right to collect any unpaid premiums if, at any time, the insured has concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred.

10. *Transfer of insured share.* If the insured transfers any part of the insured share during the crop year, protection will continue to be provided according to the provisions of the contract to the transferee for such crop year on the transferred share, and the transferee shall have the same rights and responsibilities under the contract as the original insured for the current crop year. Any transfer shall be made on an approved form.

11. *Records and access to farm.* The insured shall keep or cause to be kept for two years after the time of loss, records of the harvesting, storage, shipments, sale or other disposition of all sugarcane produced on each unit including separate records showing the same information for production from any uninsured acreage. Any persons designated by the Corporation shall have access to such records and the farm for purposes related to the contract.

12. *Life of contract: Cancellation and termination.* (a) The contract shall be in effect for the first crop year specified on the application and may not be cancelled for such crop year. Thereafter, either party may cancel insurance for any subsequent crop year by giving a signed notice to the other on

or before the cancellation date preceding such crop year.

(b) Except as provided in section 5(d) of this policy, the contract will terminate as to any crop year if any amount due the Corporation under this contract is not paid on or before the termination date for indebtedness preceding such crop year. *Provided*, That the date of payment for premium (1), if deducted from an indemnity claim shall be the date the insured signs such claim or (2), if deducted from payment under another program administered by the U.S. Department of Agriculture, shall be the date such payment was approved.

(c) For each crop year of the contract, the cancellation date shall be the July 31 preceding the beginning of the crop year. The termination date for indebtedness shall be the August 31 of the next succeeding calendar year.

(d) In the absence of a notice from the insured to cancel, and subject to the provisions of subsections (a), (b), and (c) of this section and section 7 of the Appendix, the contract shall continue in force for each succeeding crop year.

Appendix

(Additional Terms and Conditions)

1. Meaning of Terms

For the purposes of sugarcane crop insurance:

(a) "Actuarial table" means the forms and related material for the crop year approved by the Corporation which are on file for public inspection in the office for the county, and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, insurable and uninsurable acreage, and related information regarding sugarcane insurance in the county.

(b) "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown on the actuarial table.

(c) "Crop year" means the period from planting for *plant* cane and from the later of April 15 or 30 days after harvest for *stubble* cane, until the end of the insurance period for the applicable crop year. It shall be designated by the calendar year in which harvest normally begins in the county.

(d) "Harvest" means cutting and removing the sugarcane from the field.

(e) "Insurable acreage" means the land classified as insurable by the Corporation and shown as such on the county actuarial table.

(f) "Insured" means the person who submitted the application accepted by the Corporation.

(g) "Office of the county" means the Corporation's office serving the county shown on the application for insurance or such office as may be designated by the Corporation.

(h) "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

(i) "Share" means the interest of the insured as landlord, owner-operator, or tenant in the insured sugarcane crop at the time insurance attaches as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect, and no other share shall be deemed to be insured: *Provided*, That for the purpose of determining the amount of indemnity, the insured share shall not exceed the insured's share at the earliest of (1) the date of beginning of harvest on the unit, (2) the calendar date for the end of the insurance period, or (3) the date the entire crop on the unit is destroyed, as determined by the Corporation.

(j) "Sugarcane" means either (1) sugarcane the initial year planted (herein called "plant" cane) or (2) sugarcane which has previously been harvested and the stubble from the stalks left for the purpose of producing another crop (herein called "stubble" cane).

(k) "Standard sugarcane" means net sugarcane containing the percent sucrose in the normal juice or in the cane and, where applicable, the purity factor as shown on the actuarial table.

(l) "Tenant" means a person who rents land from another person for a share of the sugarcane crop or proceeds therefrom.

(m) "Unit" means all insurable acreage of sugarcane in the county on the date insurance attaches for the crop year (1) in which the insured has a 100 percent share, or (2) which is owned by one entity and operated by another entity on a share basis. Land rented for cash, a fixed commodity payment, or any consideration other than a share in the sugarcane crop on such land shall be considered as owned by the lessee. Land which would otherwise be one unit may be divided into two or more units according to applicable guidelines on file in the office for the county or by written agreement between the Corporation and the insured. The Corporation shall determine units as herein defined when adjusting a loss, notwithstanding what is shown on the acreage report, and has the right to consider any acreage and share reported by or for the insured's spouse or child or any member of the insured's household to be the bona fide share of the insured or any other person having the bona fide share.

2. Acreage Insured

(a) The Corporation reserves the right to limit the insured acreage of sugarcane to any acreage limitations established under any Act of Congress: *Provided*, The insured is so notified in writing prior to the time insurance attaches on the sugarcane.

(b) If the insured does not submit an acreage report on or before May 31, the Corporation may elect to determine by units the insured acreage and share or declare the insured acreage on any unit(s) to be "zero". If the insured does not have a share in any insured acreage in the county for any year, the insured shall submit a report so indicating. Any acreage report submitted by the insured may be revised only upon approval by the Corporation.

3. Irrigated Acreage

(a) Where the actuarial table provides for insurance on an irrigated practice, the

insured shall report as irrigated only the acreage for which the insured has adequate facilities and water to carry out a good irrigation practice at the time of seeding.

(b) Where irrigated acreage is insurable, any loss of production caused by failure to carry out a good irrigation practice, except failure of the water supply from an unavoidable cause occurring after the beginning of seeding as determined by the Corporation, shall be considered as due to an uninsured cause. The failure or breakdown of irrigation equipment or facilities shall not be considered as a failure of the water supply from an unavoidable cause.

4. Annual Premium

(a) If there is no break in the continuity of participation, any premium adjustment applicable under section 5 of the policy shall be transferred to (1) the contract of the insured's estate or surviving spouse in case of death of the insured, (2) the contract of the person who succeeds the insured if such person had previously participated in the farming operation, or (3) the contract of the same insured who stops farming in one county and starts farming in another county.

(b) If there is a break in the continuity of participation, any reduction in premium earned under section 5 of the policy shall not thereafter apply; however, any previous unfavorable insurance experience shall be considered in premium computation following a break in continuity.

5. Claim for and Payment of Indemnity

(a) Any claim for indemnity on a unit shall be submitted to the Corporation on a form prescribed by the Corporation.

(b) In determining the total production to be counted for each unit, production from units on which the production has been commingled will be allocated to such units in proportion to the liability on each unit.

(c) There shall be no abandonment to the Corporation of any insured sugarcane acreage.

(d) In the event that any claim for indemnity under the provisions of the contract is denied by the Corporation, an action on such claim may be brought against the Corporation under the provisions of 7 U.S.C. 1508(c): *Provided*, That, the same is brought within one year after the date notice of denial of the claim is mailed to and received by the insured.

(e) Any indemnity will be payable within 30 days after a claim for indemnity is approved by the Corporation. However, in no event shall the Corporation be liable for interest or damages in connection with any claim for indemnity whether such claim be approved or disapproved by the Corporation.

(f) If the insured is an individual who dies, disappears, or is judicially declared incompetent, or the insured is an entity other than an individual and such entity is dissolved after the sugarcane is planted for any crop year, any indemnity will be paid to the person(s) the Corporation determines to be beneficially entitled thereto.

(g) The Corporation reserves the right to reject any claim for indemnity if any of the requirements of this section are not met and

the Corporation determines that the amount of loss cannot be satisfactorily determined.

6. Subrogation

The insured (including any assignee or transferee) assigns to the Corporation all rights of recovery against any person for loss or damage to the extent that payment hereunder is made by the Corporation. The Corporation thereafter shall execute all papers required and take appropriate action as may be necessary to secure such rights.

7. Termination of the Contract

(a) The contract shall terminate if no premium is earned for five consecutive years.

(b) If the insured is an individual who dies or is judicially declared incompetent, or the insured entity is other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution; however, if such event occurs after insurance attaches for any crop year, the contract shall continue in force through such crop year and terminate at the end thereof. Death of a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons shall dissolve the joint entity.

8. Coverage Level and Price Election

(a) If the insured has not elected on the application a coverage level and price at which indemnities shall be computed from among those shown on the actuarial table, the coverage level and price election which shall be applicable under the contract, and which the insured shall be deemed to have elected, shall be as provided on the actuarial table for such purposes.

(b) The insured may, with the consent of the Corporation, change the coverage level and/or price election for any crop year on or before the closing date for submitting applications for that crop year.

9. Assignment of Indemnity

Upon approval of a form prescribed by the Corporation, the insured may assign to another party the right to an indemnity for the crop year and such assignee shall have the right to submit the loss notices and forms as required by the contract.

10. Contract Changes

The Corporation reserves the right to change any terms and provisions of the contract from year to year. Any changes shall be mailed to the insured or placed on file and made available for public inspection in the office for the county at least 15 days prior to the cancellation date preceding the crop year for which the changes are to become effective, and such mailing or filing shall constitute notice to the insured. Acceptance of any changes will be conclusively presumed in the absence of any notice from the insured to cancel the contract as provided in section 12 of the policy.

Note.—The reporting requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942, and OMB Circular No. A-40.

Note.—These proposed regulations have been determined non-significant under the

USDA criteria implementing Executive Order No. 12044. A draft impact analysis is available from Peter F. Cole, Secretary, Federal Crop Insurance Corporation, Room 4096, U.S. Department of Agriculture, Washington, D.C. 20250.

Approved by the Board of Directors on April 6, 1979.

Peter F. Cole,

Secretary.

Federal Crop Insurance Corporation.

[FR Doc. 79-14380 Filed 5-8-79; 8:45 am]

BILLING CODE 3410-08-M

[7 CFR Part 430]

Proposed Sugar Beet Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The proposed rule prescribes procedures for insuring sugar beet crops effective with the 1980 crop year. The rule combines provisions from previous regulations for insuring sugar beets into a shorter, clearer and more simplified document which will make the program more effective administratively. This rule is promulgated under the authority contained in the Federal Crop Insurance Act, as amended.

DATE: Written comments, data, and opinions must be submitted not later than June 8, 1979, to be assured of consideration.

ADDRESS: Written comments on this proposed rule should be sent to James D. Deal, Manager, Federal Crop Insurance Corporation, Room 4096 South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-3325.

SUPPLEMENTARY INFORMATION: Under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), it is proposed that there be hereby established a new Part 430 of Chapter IV in Title 7 of the Code of Federal Regulations to be known as 7 CFR Part 430, Sugar Beet Crop Insurance. This part prescribes procedures for insuring sugar beet crops effective with the 1980 crop year.

All previous regulations applicable to insuring sugar beet crops as found in 7 CFR 401.101-401.111, 401.140, and 401.149 will not be applicable to 1980 and succeeding sugar beet crops but will remain in effect for FCIC sugar beet insurance policies issued for the crop years prior to 1980.

It has been determined that combining all previous regulations for insuring sugar beet crops into one shortened, simplified, and clearer regulation would be more effective administratively. In addition, the proposed Part 430 would contain a premium adjustment table to provide maximum individual premium discounts for good insuring experience of up to 50 percent and premium increases for unfavorable insuring experience. The good experience discounts provided under the previous sugar beet crop insurance policies have been discontinued; however, the proposed premium adjustment table will result in more premium discounts for good experience than were formerly provided under the good experience discounts in the previous policy. Further, the proposed Part 430 would (1) provide that any premium balance not paid by the termination date will be increased by a 9 percent service fee with a 9 percent per annum simple interest charge applying to any unpaid premium balance at the end of each subsequent 12-month period, (2) extend the 15-day period for submitting a notice of damage or loss to 30 days and eliminate the 60-day period for filing a claim for loss, (3) provide 3 levels of insurance coverage on each sugar beet crop in each county, and (4) increase the limitation from \$5,000 to \$20,000 in those cases involving good faith reliance on misrepresentation (as found in 7 CFR Part 430.5 of the proposed regulations) wherein the Manager of the Corporation is authorized to take action to grant relief.

The proposed Sugar Beet Crop Insurance Regulations provide a July 15 cancellation date for other Arizona and California, and December 31 for all other States. These regulations and any amendments there to, will be placed on file in the Corporation's office for each particular county in which the insurance is available not later than 15 days prior to the applicable cancellation date.

Executive Order No. 12044 required that the public be afforded 60 days during which to comment on proposed regulations. However, where an emergency exists, as here, less time for public comment may be allowed. Accordingly, the public shall have 30 days to comment on this proposal because certain sugar beet crops will be planted shortly and the final regulations and policies covering these crops must be published and be available in the FCIC county offices not later than June 30, 1979, to afford the farmers an opportunity to examine them before the cancellation date of July 15, 1979.

All written submissions made pursuant to this notice will be available

for public inspection at the Office of the Manager during regular business hours, 8:15 a.m. to 4:45 p.m., Monday through Friday.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to delete and reserve 7 CFR 401.140 and 401.149, but these provisions shall remain in effect for FCIC insurance policies issued for crop years prior to 1980. The Corporation also proposes to issue a new Part 430 in Chapter IV of Title 7 of the Code of Federal Regulations effective with the 1980 and subsequent crops of sugar beet to read as follows:

PART 430—SUGAR BEET CROP INSURANCE

Subpart—Regulations for the 1980 and Succeeding Crop Years

Sec.

- 430.1 Availability of sugar beet insurance.
- 430.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.
- 430.3 Public notice of indemnities paid.
- 430.4 Creditors.
- 430.5 Good faith reliance on misrepresentation.
- 430.6 The contract.
- 430.7 The application and policy.

Authority: Secs. 506, 516, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

Subpart—Regulations for the 1980 and Succeeding Crop Years

§ 430.1 Availability of sugar beet insurance.

Insurance shall be offered under the provisions of this subpart on sugar beets in counties within limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation. Before insurance is offered in any county, there shall be published by appendix to this chapter the names of the counties in which sugar beet insurance will be offered.

§ 430.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.

(a) The Manager shall establish premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed for sugar beets which shall be shown on the county actuarial table on file in the

office for the county and may be changed from year to year.

(b) At the time the application for insurance is made, the applicant shall elect a coverage level and price at which indemnities shall be computed from among those levels and prices shown on the actuarial table for the crop year.

§ 430.3 Public notice of indemnities paid.

The Corporation shall provide for posting annually in each county at each county courthouse a listing of the indemnities paid in the county.

§ 430.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, or an involuntary transfer shall not entitle the holder of the interest to any benefit under the insurance contract except as provided in the policy.

§ 430.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the sugar beet insurance contract, whenever (a) an insured person under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation, (1) is indebted to the Corporation for additional premiums, or (2) has suffered a loss to a crop which is not insured or for which the insured person is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured person believed to be insured, or believed the terms of the insurance contract to have been complied with or waived, and (b) the Board of Directors of the Corporation, or the Manager in cases involving not more than \$20,000, finds (1) that an agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice, (2) that said insured person relied thereon in good faith, and (3) that to require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured person shall be granted relief the same as if otherwise entitled thereto.

§ 430.6 The contract.

(a) The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. Such acceptance shall be effective upon the date the notice of acceptance is mailed

to the applicant. The contract shall cover the sugar beet crop as provided in the policy. The contract shall consist of the application, the policy, the attached appendix, and the provisions of the county actuarial table showing the production guarantees, coverage levels, premium rates, prices for computing indemnities, insurable and uninsurable acreage, and applicable dates when necessary. Any changes made in the contract shall not affect its continuity from year to year. Copies of forms referred to in the contract are available at the office for the county.

§ 430.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation may be made by any person to cover such person's insurable share in the sugar beet crop as landlord, owner-operator, or tenant. The application shall be submitted to the Corporation at the office for the county and, where applicable, on or before the closing date on file in the office for the county.

(b) The Corporation reserves the right to discontinue the acceptance of applications in any county upon its determination that the insurance risk involved is excessive, and also, for the same reason, to reject any individual application. The Manager of the Corporation is authorized in any crop year to extend the closing date for acceptance of applications or contract changes in any county, by placing the extended date on file in the office for the county and publishing a notice in the Federal Register upon the manager's determination that no adverse selectivity will result during the period of such extension: *Provided, however*, That if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

(c) In accordance with the provisions governing changes in the contract contained in policies issued under FCIC regulations for 1969 and succeeding crop years, a contract in the form provided for under this subpart, as a continuation of a sugar beet contract issued under such prior regulations, shall come into effect without the filing of a new application.

(d) The provisions of the application and Sugar Beet Insurance Policy for the 1980 and succeeding crop years, and the appendix to the Policy are as follows:

United States Department of Agriculture

Federal Crop Insurance Corporation

Application for 19— and Succeeding Crop Years

Sugar Beet Crop Insurance Contract

Contract No. _____
 Identification No. _____
 Name and address _____
 Zip Code _____
 County _____
 State _____
 Type of entity _____
 Applicant is over 18—Yes No

A. The applicant, subject to the provisions of the regulations of the Federal Crop Insurance Corporation (herein called "Corporation"), hereby applies to the Corporation for insurance on the applicant's share in the sugar beets planted on insurable acreage as shown on the county actuarial table for the above-stated county. The applicant elects from the actuarial table the coverage level and price at which indemnities shall be computed. The premium rates and production guarantees shall be those shown on the applicable county actuarial table filed in the office for the county for each crop year.

Level election _____
 Price election _____
 Example: For the 19— crop year only (100% share)
 Location/farm No. _____
 Guarantee per acre* _____
 Premium per acre _____
 Practice _____

B. When notice of acceptance of this application is mailed to the applicant by the corporation, the contract shall be in effect for the first crop year specified above, unless the time for submitting applications has passed at the time this application is filed, and shall continue for each succeeding crop year until cancelled or terminated as provided in the contract. This accepted application, the following sugar beet insurance policy, the attached appendix, and the provisions of the county actuarial table showing the production guarantees, coverage levels, premium rates, prices for computing indemnities, insurable and uninsurable acreage, and applicable dates shall constitute the contract. Additional information regarding contract provisions can be found in the county regulations folder on file in the office for the county. No term or condition of the contract shall be waived or changed except in writing by the Corporation.

Code No. witness to signature _____
 Signature of applicant _____
 Date _____
 Address of office for county: _____

Phone _____
 Location of farm headquarters: _____

Phone _____

Sugar Beet Crop Insurance Policy

Terms and conditions

Subject to the provisions in the attached appendix:

1. *Causes of loss.* (a) Causes of loss insured against. The insurance provided is against _____

*Your guarantee will be based on the unit (acres x per acre guarantee)

unavoidable loss of production resulting from adverse weather conditions, insects, plant disease, wildlife, earthquake or fire occurring within the insurance period subject to any exceptions, exclusions or limitations with respect to causes of loss shown on the actuarial table.

(b) Causes of loss not insured against. The contract shall not cover any loss of production due to (1) the neglect or malfeasance of the insured, any member of the insured's household, the insured's tenants, or the insured's employees, (2) failure to follow recognized good farming practices, (3) damage resulting from the backing up of water by any governmental or public utilities dam or reservoir project, or (4) any cause not specified as an insured cause in this policy as limited by the actuarial table.

2. *Crop and acreage insured.* (a) Upon acceptance of an application for insurance, the crop insured shall be sugar beets grown under a contract with a processor for processing as sugar, for which the actuarial table shows a guarantee and premium rate per acre.

(b) The acreage insured for sugar beets for each crop year shall be that acreage in which the insured has a share planted to sugar beets on insurable acreage, as shown on the actuarial table and as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect. *Provided,* That insurance shall not attach or be considered to have attached as determined by the Corporation to any acreage (1) where premium rates are established by farming practices on the actuarial table, and the farming practices carried out on any acreage are not among those for which a premium rate has been established, (2) excluded from the processor contract for, or during, the crop year, (3) which is destroyed and after such destruction it was practical to replant to sugar beets and such acreage was not replanted, (4) initially planted after the date established by the Corporation and such date placed on file for public inspection by the insureds in the office for the county as being too late to initially plant and expect a normal crop to be produced, (5) planted to sugar beets the preceding crop year in Michigan, Minnesota, North Dakota and Ohio or the two preceding crop years in all other States unless otherwise provided on the county actuarial table, (6) planted to a type or variety of sugar beets not established as adapted to the area or shown as non-insurable on the actuarial table, or (7) in California other than Imperial County, planted before the filing of the application or reinstatement request if such acreage is not inspected for the crop year and approved in writing by the Corporation after a normal stand is obtained.

(c) Insurance may attach only by written agreement with Corporation on acreage which is planted for the development or production of hybrid seed or for experimental purposes.

3. *Responsibility of insured to report acreage and share.* The insured shall submit to the Corporation on a form prescribed by the Corporation, a report showing (1) all acreage of sugar beets planted in the county

(including a designation of any acreage to which insurance does not attach) in which the insured has a share and (2) the insured's share therein at the time of planting. Such report shall be submitted promptly after completion of planting each year not later than the acreage reporting date on file in the office for the county for such purpose.

4. *Production guarantees, coverage levels and prices for computing indemnities.* (a) For each crop year of the contract, the production guarantees, coverage levels and prices at which indemnities shall be computed shall be those shown on the actuarial table.

(b) The production guarantee per acre shall be progressive as follows:

(1) *First Stage*—from planting until July 1 (except in California and Arizona it shall be the earlier of thinning or 90 days after planting; and to any acreage that the Corporation determines was damaged in this stage to the extent that growers in the area usually would not further care for the crop.

(2) *Second Stage*—from the end of first stage until at least 15 percent of the production guarantee per acre for the third stage has been harvested.

(3) *Third Stage*—after harvest of at least 15 percent of the production guarantee per acre for any acreage.

The production guarantee applicable to any acreage within a unit shall be that established for the stage reached by the crop on such acreage as determined by the Corporation.

5. *Annual premium.* (a) The annual premium is earned and payable at the time of planting and the amounts thereof shall be determined by multiplying the insured acreage times the applicable premium per acre, times the insured's share at the time of planting, times the premium adjustment percentage in subsection (c) of this section.

(b) For premium adjustment purposes, only the years during which premiums were earned shall be considered.

(c) The premium shall be adjusted as shown in the following table:

BILLING CODE 3410-06-M

% ADJUSTMENTS FOR FAVORABLE CONTINUOUS INSURANCE EXPERIENCE:

Loss Ratio 1/ Through Previous Crop Year	Number of Years Continuous Experience Through Previous Year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
.00 - .20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
.21 - .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41 - .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61 - .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
.81 - 1.09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

% ADJUSTMENTS FOR UNFAVORABLE INSURANCE EXPERIENCE:

Loss Ratio 1/ Through Previous Crop Year	Number of Loss Years Through Previous Year*															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
1.10 - 1.19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	124	126
1.20 - 1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1.40 - 1.69	100	100	100	108	116	124	132	140	148	156	164	172	180	188	196	204
1.70 - 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00 - 2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248	260
2.50 - 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25 - 3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00 - 4.99	100	100	110	128	146	164	182	200	218	236	254	272	290	300	300	300
5.00 - 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6.00 - Up	100	100	120	136	158	180	202	224	246	268	290	300	300	300	300	300

*Only the most recent 15 crop years will be used to determine the number of "Loss Years"

(A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year)

1/ Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.

(d) Any amount of premium for an insured crop which is unpaid on the day following the termination date for indebtedness for such crop shall be increased by a 9 percent service fee, which increased amount shall be the premium balance, and thereafter, at the end of each 12 month period, 9 percent simple interest shall attach to any amount of the premium balance which is unpaid: *Provided*, When notice of loss has been timely filed by the insured as provided in section 7 of this policy, the service fee will not be charged and the contract will remain in force if the premium is paid in full within 30 days after the date of approval or denial of the claim for indemnity; however, if any premium remains unpaid after such date, the contract will terminate and the amount of premium outstanding shall be increased by a 9 percent service fee, which increased amount shall be the premium balance. If such premium balance is not paid within 12 months immediately following the termination date, 9 percent per annum simple interest shall apply from the termination date to any unpaid premium balance.

(e) Any unpaid amount due the Corporation may be deducted from any indemnity payable to the insured by the Corporation or from any loan or payment to the insured under any Act of Congress or program administered by the U.S. Department of Agriculture, when not prohibited by law.

6. *Insurance period.* Insurance on insured acreage shall attach at the time the sugar beets are planted and shall cease upon the earliest of (a) final adjustment of a loss, (b) harvesting, (c) total destruction of the insured sugar beet crop, (d) the applicable date of the calendar year in which the sugar beets are normally harvested as follows: (1) July 15 for Arizona and Imperial County, California (2) the last day of the 12th calendar month after planting of the acreage for all other California counties, unless a written request from the insured for an extension of the insurance period is received prior to such date and is approved by the Corporation, (3) November 25 in Ohio, or (4) November 15 in all other States.

7. *Notice of damage or loss.* (a) Any notice of damage or loss shall be given promptly in writing by the insured to the Corporation at the office for the county.

(b) Notice shall be given promptly if, during the period before harvest, the sugar beets on any unit are damaged to the extent that the insured does not expect to further care for the crop or harvest any part of it, or if the insured wants the consent of the Corporation to put the acreage to another use. No insured acreage shall be put to another use until the Corporation has made an appraisal of the potential production of such acreage and consents in writing to such other use. Such consent shall not be given until it is too late or impractical to replant to sugar beets. Notice shall also be given when such acreage has been put to another use.

(c) In addition to the notice required in subsection (b) of this section, if an indemnity is to be claimed on any unit, the insured shall give written notice thereof to the Corporation at the office for the county not later than 30

DAYS after the earliest of (1) the date harvest is completed on the unit, (2) the calendar date for the end of the insurance period, or (3) the date the entire sugar beet crop on the unit is destroyed, as determined by the Corporation. The Corporation reserves the right to provide additional time if it determines there are extenuating circumstances.

(d) Any insured acreage which is not to be harvested and upon which an indemnity is to be claimed shall be left intact until inspected by the Corporation.

(e) The Corporation may reject any claim for indemnity if any of the requirements of this section are not met.

8. *Claim for indemnity.* (a) It shall be a condition precedent to the payment of any indemnity that the insured (1) establish the total production of sugar beets on the unit and that any loss of production was directly caused by one or more of the insured causes during the insurance period for the crop year for which the indemnity is claimed and (2) furnish any other information regarding the manner and extent of loss as may be required by the Corporation.

(b) Indemnities shall be determined separately for each unit. The amount of indemnity for any unit shall be determined by (1) multiplying the insured acreage of sugar beets on the unit by the applicable production guarantee per acre, which product shall be the production guarantee for the unit, (2) subtracting therefrom the total production of sugar beets to be counted for the unit, (3) multiplying the remainder by the applicable price for computing indemnities, and (4) multiplying the result obtained in step (3) by the insured share: *Provided*, That if the premium computed on the insured acreage and share is more than the premium computed on the reported acreage and share, the amount of indemnity shall be computed on the insured acreage and share and then reduced proportionately.

(c) The total production to be counted for a unit shall be determined by the Corporation and shall include all harvested and appraised production: *Provided*, That for acreage not qualifying for the third stage production in excess of the difference between the third stage production guarantee and the production guarantee applicable to such acreage shall be counted except that for acreage abandoned, put to another use without prior written consent of the Corporation, or damage solely by an uninsured cause not less than the applicable production guarantee shall be counted.

(1) Any harvested production of sugar beets shall be adjusted by the factor (rounded to three decimal places) obtained by dividing the average percentage of sugar in the sugar beets, as determined from individual tests made at the time of delivery to the processor, by the percentage of sugar shown on the actuarial table: *Provided*, however, That if individual tests of sugar content are not made by the processor at the time of delivery of the sugar beets, the factor to be used shall be 1.000; *Provided*, further, That for harvested sugar beets which are not acceptable under the contract with a processor due to an insurable cause of loss occurring within the insurance period, the

Corporation will determine the production to be counted by (a) dividing the value of the beets, as determined by the Corporation by the value of undamaged beets containing the percentage of sugar shown on the actuarial table and (b) multiplying the result obtained by the tons of beets harvested: *Provided*, further, That any Corporation appraisals shall be the tons appraised with no adjustment for quality.

(2) Appraised production to be counted for a unit shall include: (i) Any appraisals by the Corporation for unharvested or potential production, poor farming practices, or uninsured causes of loss and (ii) not less than the applicable guarantee for any acreage which is abandoned or put to another use without prior written consent of the Corporation or damaged solely by an uninsured cause.

(d) The appraised potential production for acreage for which consent has been given to be put to another use shall be counted as production in determining the amount of loss under the contract. However, if consent is given to put acreage to another use and the Corporation determines that any such acreage (1) is harvested, or (2) is further damaged by an insured cause before the acreage is put to another use, the indemnity for the unit shall be determined without regard to such appraisal and consent.

9. *Misrepresentation and fraud.* The Corporation may void the contract without affecting the insured's liability for premiums or waiving any right, including the right to collect any unpaid premiums if, at any time the insured has concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred.

10. *Transfer of insured share.* If the insured transfers any part of the insured share during the crop year, protection will continue to be provided according to the provisions of the contract to the transferee for such crop year on the transferred share, and the transferee shall have the same rights and responsibilities under the contract as the original insured for the current crop year. Any transfer shall be made on an approved form.

11. *Records and access to farm.* The insured shall keep or cause to be kept for two years, after the time of loss, records of the harvesting, storage, shipments, sale or other disposition of all sugar beets produced on each unit including separate records showing the same information for production from any uninsured acreage. Any persons designated by the Corporation shall have access to such records and the farm for purposes related to the contract.

12. *Life of contract: Cancellation and termination.* (a) The contract shall be in effect for the first crop year specified on the application and may not be cancelled for such crop year. Thereafter, either party may cancel insurance for any subsequent crop year by giving a signed notice to the other on or before the cancellation date preceding such crop year.

(b) Except as provided in section 5(d) of this policy, the contract will terminate as to any crop year if any amount due the Corporation under this contract is not paid on or before the termination date for indebtedness preceding such crop year: *Provided*, That the date of payment for premium (1), if deducted from an indemnity claim, shall be the date the insured signs such claim or (2), if deducted from payment under another program administered by the U.S. Department of Agriculture, shall be the date such payment was approved.

(c) Following are the cancellation and termination dates:

State and county	Cancellation date	Termination date for indebtedness
Arizona, and Imperial County, Calif.	July 15	August 31.
All other California counties.	July 15	(1)
All other States.....	December 31 ...	March 31.

¹The termination date for indebtedness for all California counties other than Imperial County shall be the date the insured begins planting for the next crop year unless prior to such date the insured has made arrangements satisfactory to the Corporation for payment of the premium owed the Corporation.

(d) In the absence of a notice from the insured to cancel, and subject to the provisions of subsections (a), (b), and (c) of this section and section 7 of the Appendix, the contract shall continue in force for each succeeding crop year.

**Appendix
(Additional Terms and Conditions)**

1. Meaning of Terms

For the purpose of sugar beet crop insurance:

(a) "Actuarial table" means the forms and related material for the crop year approved by the Corporation which are on file for public inspection in the office for the county, and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, insurable and uninsurable acreage, and related information regarding sugar beet insurance in the county.

(b) "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown on the actuarial table.

(c) "Crop year" means the period within which the sugar beet crop is normally grown and shall be designated by the calendar year in which the sugar beet crop is normally harvested except that in California and Arizona it shall be the period from planting until the applicable date for the end of the insurance period and shall be designated by reference to the calendar year in which planted if planted by July 15, and if planted after July 15, by reference to the next calendar year.

(d) "Harvest" means the lifting and topping of the sugar beets for the purpose of delivery to a processor.

(e) "Insurable acreage" means the land classified as insurable by the Corporation and shown as such on the county actuarial table.

(f) "Insured" means the person who submitted the application accepted by the Corporation.

(g) "Office for the county" means the Corporation's office serving the county shown on the application for insurance or such office as may be designated by the Corporation.

(h) "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

(i) "Share" means the interest of the insured as landlord, owner-operator, or tenant in the insured sugar beet crop at the time of planting as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect, and no other share shall be deemed to be insured: *Provided*, That for the purpose of determining the amount of indemnity, the insured share shall not exceed the insured's share at the earliest of (1) the date of beginning of harvest on the unit; (2) the calendar date for the end of the insurance period; or (3) the date the entire crop on the unit is destroyed, as determined by the Corporation.

(j) "Tenant" means a person who rents land from another person for a share of the sugar beet crop or proceeds therefrom.

(k) "Unit" means all insurable acreage of sugar beets in the county on the date of planting for the crop year (1) in which the insured has a 100 percent share, or (2) which is owned by one entity and operated by another entity on a share basis. Land rented for cash, a fixed commodity payment, or any consideration other than a share in the sugar beet crop on such land shall be considered as owned by the lessee. Land which would otherwise be one unit may be divided into two or more units according to applicable guidelines on file in the office for the county or by written agreement between the Corporation and the insured. The Corporation shall determine units as herein defined when adjusting a loss, notwithstanding what is shown on the acreage report, and has the right to consider any acreage and share reported by or for the insured's spouse or child or any member of the insured's household to be the bona fide share of the insured or any other person having the bona fide share.

2. Acreage Insured

(a) The Corporation reserves the right to limit the insured acreage of sugar beets to any acreage limitations established under any Act of Congress, provided the insured is so notified in writing prior to the planting of sugar beets.

(b) If the insured does not submit an acreage report as provided in section 3 of the policy, the Corporation may elect to determine by units the insured acreage and share or declare the insured acreage on any unit(s) to be "zero". If the insured does not have a share in any insured acreage in the county for any year, the insured shall submit

a report so indicating. Any acreage report submitted by the insured may be revised only upon approval of the Corporation.

3. Irrigated Acreage

(a) Where the actuarial table provides for insurance on an irrigated practice, the insured shall report as irrigated only the acreage for which the insured has adequate facilities and water to carry out a good irrigation practice at the time of planting.

(b) Where irrigated acreage is insurable, any loss of production caused by failure to carry out a good irrigation practice, except failure of the water supply from an unavoidable cause occurring after the beginning of planting as determined by the Corporation, shall be considered as due to an uninsured cause. The failure or breakdown of irrigation equipment or facilities shall not be considered as a failure of the water supply from an unavoidable cause.

4. Annual Premium

(a) If there is no break in the continuity of participation, any premium adjustment applicable under section 5 of the policy shall be transferred to (1) the contract of the insured's estate or surviving spouse in case of death of the insured, (2) the contract of the person who succeeds the insured if such person had previously participated in the farming operation, or (3) the contract of the same insured who stops farming in one county and starts farming in another county.

(b) If there is a break in the continuity of participation, any reduction in premium earned under section 5 of the policy shall not thereafter apply; however, any previous unfavorable insurance experience shall be considered in premium computation following a break in continuity.

5. Claim for and Payment of Indemnity

(a) Any claim for indemnity on a unit shall be submitted to the Corporation on a form prescribed by the Corporation.

(b) In determining the total production to be counted for each unit, production from units on which the production has been commingled will be allocated to such units in proportion to the liability on each unit.

(c) There shall be no abandonment to the Corporation of any insured sugar beet acreage.

(d) In the event that any claim for indemnity under the provisions of the contract is denied by the Corporation, an action on such claim may be brought against the Corporation under the provisions of 7 U.S.C. 1508(c): *Provided*, That the same is brought within one year after the date notice of denial of the claim is mailed to and received by the insured.

(e) Any indemnity will be payable within 30 days after a claim for indemnity is approved by the Corporation. *However*, in no event shall the Corporation be liable for interest or damages in connection with any claim for indemnity whether such claim be approved or disapproved by the Corporation.

(f) If the insured is an individual who dies, disappears, or is judicially declared incompetent, or the insured is an entity other than an individual and such entity is dissolved after the sugar beets are planted, for any crop year, any indemnity will be paid

to the person(s) the Corporation determines to be beneficially entitled thereto.

(g) The Corporation reserves the right to reject any claim for indemnity if any of the requirements of this section are not met and the Corporation determines that the amount of loss cannot be satisfactorily determined.

6. Subrogation

The insured (including any assignee or transferee) assigns to the Corporation all rights of recovery against any person for loss or damage to the extent that payment hereunder is made by the Corporation. The Corporation thereafter shall execute all papers required and take appropriate action as may be necessary to secure such rights.

7. Termination of the Contract

(a) The contract shall terminate if no premium is earned for five consecutive years.

(b) If the insured is an individual who dies or is judicially declared incompetent, or the insured entity is other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution; however, if such event occurs after insurance attaches for any crop year, the contract shall continue in force through such crop year and terminate at the end thereof. Death of a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons shall dissolve the joint entity.

8. Coverage Level and Price Election

(a) If the insured has not elected on the application a coverage level and price at which indemnities shall be computed from among those shown on the actuarial table, the coverage level and price election which shall be applicable under the contract, and which the insured shall be deemed to have elected, shall be as provided on the actuarial table for such purposes.

(b) The insured may, with the consent of the Corporation, change the coverage level and/or price election for any crop year on or before the closing date for submitting applications for that crop year.

9. Assignment of Indemnity

Upon approval of a form prescribed by the Corporation, the insured may assign to another party the right to an indemnity for the crop year and such assignee shall have the right to submit the loss notices and forms as required by the contract.

10. Contract Changes

The Corporation reserves the right to change any terms and provisions of the contract from year to year. Any changes shall be mailed to the insured or placed on file and made available for public inspection in the office for the county at least 15 days prior to the cancellation date preceding the crop year for which the changes are to become effective, and such mailing or filing shall constitute notice to the insured. Acceptance of any changes will be conclusively presumed in the absence of any notice from the insured to cancel the contract as provided in section 12 of the policy.

Note.—The reporting requirements contained herein have been approved by the

Bureau of the Budget in accordance with the Federal Reports Act of 1942, and OMB Circular No. A-40.

Note.—These proposed regulations have been determined non significant under the USDA criteria implementing Executive Order No. 12044. A draft impact analysis is available from Peter F. Cole, Secretary, Federal Crop Insurance Corporation, Room 4096, U.S. Department of Agriculture, Washington, D.C. 20250.

Approved by the Board of Directors on April 6, 1979.

Dated: April 30, 1979,

Peter F. Cole,
Secretary, Federal Crop Insurance Corporation.
[FR Doc. 79-14379 Filed 5-8-79; 8:45 am]

BILLING CODE 3410-06-M

Commodity Credit Corporation

[7 CFR Part 1435]

Price Support for 1979 Crop Sugarbeets and Sugarcane

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Secretary of Agriculture gives notice that he is considering a proposal to support prices to domestic producers of 1979 crop sugarbeets and sugarcane through nonrecourse loans made by the Commodity Credit Corporation (CCC) to sugar processors.

The Food and Agriculture Act of 1977 amended the Agricultural Act of 1949 to direct the Secretary to support the price of the 1977 and 1978 crops of sugarbeets and sugarcane through loans with respect to the processed products thereof. Under various legislative proposals now being considered by the Congress, the Secretary would be directed to implement a loan program wherein loan rates would be established at a specified percentage of the stated market price objective for sugar. These proposals are strongly endorsed by the Department of Agriculture, and the early enactment of substantive sugar legislation is a matter of vital importance in the view of the Department. Such legislation, however, would not become effective before October 1, 1979, at the earliest. By that time, substantial quantities of the 1979 sugarbeet and sugarcane crops will have been harvested. Sugar processed from these crops is ineligible for coverage under the 1978 crop price support loan program and would not be available for coverage under the proposed legislation now being considered. Some domestic producers would thus be deprived of the price support protection and interim financing that would be made available

to producers in areas where the 1979 crop harvest begins after October 1, 1979.

The proposed loan program for 1979 crop sugar would be implemented under existing statutory authorities to provide continuity of price support coverage for sugarbeet and sugarcane producers which would not otherwise exist.

DATE: Comments on the proposed action must be received on or before May 21, 1979, to be assured of receiving consideration.

ADDRESS: Mail comments to Sugar Branch, Procurement and Sales Division, ASCS-USDA, Room 5741-South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Laurence E. Ackland, Sugar Branch, 202-447-5647.

SUPPLEMENTARY INFORMATION: The effective date of price support under proposed sugar legislation now before Congress would be October 1, 1979—the beginning of the 1979 sugar supply year. Timing of the initiation of the sugar supply year concept would include, under current crop year concepts, most of the 1979 crop with notable exceptions. Puerto Rican producers and processors will have completed, long before October 1, 1979, harvesting and processing of their 1979 sugarcane crop. A major part of the Hawaiian sugarcane crop and substantial quantities of sugarbeets in California and Arizona will have also been harvested and processed. Such sugar will not, therefore, be covered by new legislation. If it is determined that price support coverage should be provided for this portion of the 1979 crop, or for the entire 1979 crop if new legislation should fail to be enacted, the Secretary of Agriculture may make such support available under the discretionary authority contained in Section 301 of the Agricultural Act of 1949, as amended (7 U.S.C. 1447).

Section 401(b) of the Act (7 U.S.C. 1421(b)) requires, in the case of any commodity for which price support is discretionary, that the following factors be taken into consideration in determining whether a price support operation shall be undertaken and the level of such support:

(1) *The supply of the commodity in relation to the demand therefor.* World stocks are at record levels and another large world sugar crop is expected. Estimated production from the 1978-1979 crop will total 90 million metric tons (raw value)—1 to 2 million metric tons below the previous year's record of 92 million metric tons. World production

is thus expected to exceed world consumption, projected at 89 million metric tons, by 1 to 2 million tons. When added to 1977-1978 year-end stocks, over one-third of global consumption requirements will be carried over into the new crop year. This stock-to-consumption ratio would be the highest at any time during the past 25 years. A ratio of about 25 percent is considered normal, i.e., when supply and consumption is more or less in balance, resulting in stable prices.

Current prospects are for 1979 world sugar prices to increase moderately from the 1978 average of 7.81 cents per pound, provided U.S. support of the International Sugar Agreement (ISA), is forthcoming. The longer-term outlook is for a leveling off of production associated with annual global consumption increases of 2 to 3 million tons per year. As world consumption rises above production, world stocks will begin to decline. Until world stocks approach pipeline levels of near 25 percent or less, world sugar prices are expected to remain below domestic costs of production which are estimated, on the basis of available data, to total about 16.3 cents per pound on a national weighted average basis for the 1979 crop.

A functioning ISA is indispensable in efforts to stabilize world sugar prices within the range of 11 to 21 cents per pound called for in the agreement, and thereby bring greater stability to the domestic market. However, additional authority is needed to fully implement the ISA. The United States, which was instrumental in shaping the agreement, has not yet ratified the agreement nor enacted statutory authority for full participation. If the U.S. does not participate in the ISA, the already depressed world sugar market will face increasing pressure as world stocks, which have been held off the market in compliance with ISA quota provisions, are tendered. Lower world sugar prices would not only affect the 50 nations which have already signed the agreement—particularly developing countries in Latin America—but would create serious domestic industry needs and price support problems.

While the domestic market price objective for raw sugar has been 15 cents since January 1979, the derived market price did not reach or exceed 15 cents until February. Excess supplies have kept current import duties and fees from assuring the price objective.

With low world market prices in 1977 and 1978 together with Congressionally-mandated minimum loan levels and Commodity Credit Corporation (CCC)

interest charges of 6 percent for the 1977 crop and 7 percent for the 1978 crop, processors placed significant quantities of sugar under loan. Some 1977 crop sugar has been forfeited. The CCC now owns nearly 200,000 tons of 1977-crop sugar worth over \$53 million, and this total is expected to rise to about \$55 million. Loans on 1978 crop sugar are expected to total nearly \$800 million—some of which will be forfeited unless domestic market prices rise. Quantities of 1978 crop sugar now under loan represent approximately 40 percent of the 1978 crop.

To force 1979 crop sugar processed prior to October 1979 onto the market would add to the complexities of providing support for the 1978 crop still being processed in some areas. Increased quantities of 1978 crop sugar would likely be placed under loan and increased forfeitures would likely result. Further, difficulties would likely be encountered in moving gradually from the current market price objective of 15 cents per pound, raw value, to the 1979 sugar supply year market price objective of 15.8 cents per pound proposed in new legislation.

In crop years 1977 and 1978, imported sugar was used while domestic sugar was placed in the loan program. Similarly, since support is not now available for 1979 crop sugar now being processed, it will be marketed while significant quantities of 1978 crop sugar under loan move into CCC inventories and sugar yet eligible is placed under loan. When CCC inventories are sold, an economic dislocation will again result.

(2) *The price levels at which other commodities are being supported.* While price support for sugarbeets and sugarcane for the 1978 crop has been at levels equivalent to 52.5 percent of parity—the statutory minimum—price support is not now provided for the 1979 and later crops. The 1978 support level for sugarbeets and sugarcane is 2.5 percentage points higher than the loan level for soybeans, 0.2 point higher than the loan level for oats, and more than 8 points below the support levels for barley, peanuts, corn, wheat, rice, and tobacco. When compared to estimated production costs, the support levels for sugarbeets and sugarcane in 1978 were 94 and 95 percent, respectively, of their estimated total costs of production. Support levels for corn, peanuts, wheat, rice and milk on a total production cost basis were also above 90 percent. Barley, sorghum, cotton and burley tobacco were supported at levels ranging from 80 to 90 percent of their estimated total costs of production.

Assuming that the market price objective for the 1979 sugar supply year is 15.8 cents per pound, raw value, as proposed in legislation now before Congress, and that import constraints allow that objective to be achieved in the market, it is estimated that prices actually attained by producers for 1979 crop sugarbeets and sugarcane will be near the 1978 crop support level of 52.5 percent of parity. However, if market prices should remain at levels near the current 15-cent objective, the return to producers would be equal to about 51 percent of parity. If the basic loan rates under a 1979 crop loan program were established at levels sufficiently below anticipated market prices so as to encourage loan redemption and movement of sugar to market when those prices are reached, such loan rates would provide an estimated minimum level of support to producers of 44 to 48 percent of estimated July 1979 parity. On a total production cost basis, the minimum support would range from 80 to 90 percent.

(3) *The availability of funds.* Funds necessary to provide a loan program for 1979 crop sugar would be available under the statutory borrowing authority of CCC. Currently, the borrowing authority of CCC may not exceed \$20 billion. At the present time about \$5 billion of this authority remains available.

(4) *The perishability of the commodity.* Considerations associated with this statutory factor would not preclude the use of a loan program for 1979 crop sugar. It is believed that sugar can be stored, under proper storage conditions, for up to 18 months with little or no deterioration in quality. Should any loss in quality occur during the first 11 to 12 months while the sugar is under loan, the losses are sustained by the processor. CCC's risk on sugar going out of condition does not begin until sugar is forfeited. On sugar which has been forfeited, the risks increase the longer inventories are held. It is anticipated that some sugar now in CCC inventories will go out of condition this year and be sold at a discount. By not forcing 1979 crop sugar immediately onto the market, the volume of 1978 crop redemptions would be expected to be larger, and the anticipated need for CCC discounts on older 1977 and 1978 crop sugar reduced.

(5) *The importance of the commodity to agriculture and the national economy.* The United States—the third largest producer of sugar in the world (following the EEC and USSR)—produced an average of 6.4 million tons of sugar per year during the period 1970-

1978, or about 8 percent of world production. Production in the United States dropped as low as 5.7 million tons in 1974, while reaching a high of 7.25 million tons a year later. Early acreage estimates indicate the 1979 crop will total about 5.8 million tons.

During the period 1970-78, domestic consumption averaged about 11 million tons per year. The United States has, therefore, relied on imports for about 42 percent or 4.6 million tons of its annual sugar requirements. The importation of this quantity of sugar from a "world free market," wherein total quantities traded totaled about 16 million tons, makes the United States the largest importer of sugar from a much smaller market than suggested by production statistics. Prices in the domestic market, while supported in 1978, are subject to fluctuations in prices in the "world free market." Without a domestic price support program, domestic prices would be totally dependent upon world supply and demand conditions.

While the 1979 domestic sugarbeet and sugarcane crops were processed in 100 factories, the number of processing facilities is expected to decline to near 90 in 1979. Farms producing sugarbeets and sugarcane will total between 12,000 and 16,000. In addition, 22 refineries will be processing domestic and foreign raw cane sugar. Without support being indicated for 1979 and beyond, a more severe decline in processing facilities, farms, and refineries may be observed.

(6) *The ability to dispose of stocks acquired through a price-support operation.* If a price support program for 1979 crop sugarbeets and sugarcane were to be implemented in such a manner as to provide for the accumulation of sugar in CCC inventories, the subsequent disposal of that sugar would disrupt the market which the program was designed to support. However, if loan rates for sugar were set at levels consistent with anticipated market prices—thereby being sufficiently lower than such prices so that loan redemption would be encouraged—the program would be used by processors principally for financing purposes, yet producers would still be provided with price support at a specified level.

(7) *The need for offsetting temporary losses of export markets.* The United States consumes about 42 percent more sugar than it produces, and is therefore a net importer of sugar. That small quantity which is exported is generally refined sugars of specialized applications not available elsewhere.

(8) *The ability and willingness of producers to keep supplies in line with*

demand. As noted above, the United States consumes more sugar than it produces. Although the total market for sweeteners continues to grow due to population increases, the consumption of sugar has remained near 11 million tons since 1970. The proportion supplied annually by the domestic industry has averaged near 58 percent since 1970. Domestic production fluctuated between 5.7 and 7.2 million tons during the same period. Acreage estimates suggest that the 1979 crop will total about 5.8 million tons.

Based on the above considerations of the required statutory factors, it is the intent of the Secretary of Agriculture to establish a price support loan program with respect to 1979 crop sugarbeets and sugarcane. A principal objective of the proposed program would be to establish loan rates and associated support prices which would permit loan redemption and movement of 1979 crop sugar to market without financial loss to producers and processors. This objective would be accomplished by setting the basic loan rates for sugar at appropriate levels below anticipated market prices. Such prices indicate that the basic loan rate for raw cane sugar should be established at a level in the range of 13 to 14.25 cents per pound, raw value. A loan rate in that range for raw cane sugar would indicate a basic loan rate for refined beet sugar in the range of 15.15 to 16.52 cents per pound.

The proposed 1979 crop loan program would be generally patterned after the current 1978 crop nonrecourse loan program and would include the following major provisions:

(1) The basic loan rate established for refined beet sugar would reflect the long-term relationship (1.10 to 1.00) between refined beet sugar net selling prices and raw cane sugar prices. After adjustment to reflect the proper price relationship, the estimate average 1979 crop fixed marketing costs (which are incurred by beet processors regardless of the disposition of a loan) would be added to make up the loan rate for refined beet sugar.

(2) Regional loan rates and specified minimum support prices for sugarbeets and sugarcane would apply to the sugarbeet and sugarcane processing regions as established for the 1978 crop. Differential loan rates would be based on the estimated average costs of transporting 1979 crop sugar from the processing region to destination.

(3) Since Section 301 of the Agricultural Act of 1949, as amended, does not authorize the establishment of minimum wage rates for sugar fieldworkers, minimum wage

determinations and provisions such as those mandated by the Food and Agriculture Act of 1977 and 1978 sugar crops would not apply to the operations of the proposed program.

(4) Payment to producers of less than the specified minimum support price per ton of sugarbeets or sugarcane because of an existing marketing custom or practice would not be permitted.

(5) Loans would be made and serviced by State and county ASCS offices.

(6) The 1979 crop of sugarbeets and sugarcane would be defined according to normal harvesting periods. However, loans under the proposed program would be allowed only for that sugar processed from the 1979 crop harvest that is placed under loan prior to the effective date of any superseding loan program authorized by new legislation.

In the interest of obtaining information which will assist the Secretary in establishing the provisions of a price support program for 1979 crop sugarbeets and sugarcane, it is requested that respondents to this invitation for comments give careful consideration to all of the matters discussed above and to the general provisions of the proposed rule following below. Although the proposed rule does not contain specific loan rates and support prices for each processing region, the minimum and maximum loan rates and support price which would be indicated for the proposed range of basic loan rates discussed earlier are contained in the draft impact analysis prepared in conjunction with this proposal. An approved Draft Impact Analysis on the proposed action is available from Laurence E. Ackland, Room 5761—South Building, USDA, Washington, D.C. 20250.

This regulation has been determined significant under the USDA criteria implementing Executive Order 12044.

I have determined that it would be impracticable and contrary to the public interest to comply with the Department's requirement that 60 days be allowed for public comment on this proposal. The proposed action, if implemented, should not unduly delay the availability of loans to those producing areas where harvest and processing of the 1979 crop has already started. Therefore, the closing date for comments is May 21, 1979.

Prior to adopting the proposed action, the Department of Agriculture will give consideration to comments submitted in writing within the comment period. All written submissions made pursuant to this notice will be made available for inspection from 8:15 a.m. to 4:45 p.m., Monday through Friday, in Room 5761—

South Building, 14th Street and Independence Avenue, S.W., Washington, D.C. (7 CFR 1.27(b)).

In consideration of the foregoing, it is proposed to amend 7 CFR Part 1435 by adding a new Subpart—Price Support Loan Program for 1979 Crop Sugarbeets and Sugarcane—to read as follows:

Subpart—Price Support Loan Program for 1979 Crop Sugarbeets and Sugarcane

- Sec.
- 1435.55 General statement.
- 1435.56 Administration.
- 1435.57 Definitions.
- 1435.58 Level and method of support and loan rates.
- 1435.59 Eligibility requirements.
- 1435.60 Availability, disbursement, and maturity of loan.
- 1435.61 Quantity for loan.
- 1435.62 Loan maintenance and liquidation.
- 1435.63 Processor storage agreement.
- 1435.64 Miscellaneous provisions.
- 1435.65 Applicable forms.

Authority: Secs. 301-303 and 401 et seq. of the Agricultural Act of 1949, as amended (7 U.S.C. 1447 et seq., 1421 et seq.).

Subpart—Price Support Loan Program for 1979 Crop Sugarbeets and Sugarcane

§ 1435.55 General statement.

This subpart contains the regulations which set forth the requirements with respect to price support for the 1979 crop of sugarbeets and sugarcane. The Commodity Credit Corporation (CCC) will offer to eligible processors nonrecourse loans which must be evidenced by notes and security agreements and secured by the pledge of eligible sugar in eligible storage.

§ 1435.56 Administration.

(a) The Procurement and Sales Division, Agricultural Stabilization and Conservation Service (referred to as "ASCS"), will administer this subpart under the general direction and supervision of the Deputy Administrator, Commodity Operations.

(b) In the field, this subpart will be administered by the Kansas City Commodity Office and the Management Field Office (referred to as KCCO and MFO respectively) and designated Agricultural Stabilization and Conservation State and county committees (referred to as State and county committees).

§ 1435.57 Definitions.

(a) "1979 crop" means domestic sugarbeets and sugarcane, the substantial portion of which is harvested in the areas indicated below during the following periods:

Sugar Producing Area and Harvesting Period

Sugarbeets:

- All States, excluding California and Arizona, September through November, 1979.
- California, excluding southern area, July 1979 through June 1980.
- Southern California, ¹March through September 1979.
- Arizona-lowland area, April through August 1979.
- Arizona-upland area, September 1979 through January 1980.

Sugarcane:

- Florida, October 1979 through May 1980.
- Louisiana, October 1979 through January 1980.
- Texas, October 1979 through May 1980.
- Hawaii, calendar year 1979.
- Puerto Rico, calendar year 1979.

(b) "Eligible producer" means the owner of a portion or all of the sugarbeets or sugarcane, including share rent landowners, at the time of harvest and delivery to the processor.

(c) "Sugar" means refined beet sugar or raw cane sugar, cane syrup or edible molasses which is processed from domestically produced sugarbeets and sugarcane, which is not contaminated and does not contain chemicals or other substances poisonous to man or animals.

(d) "Processor" means a person who commercially processes sugarbeets into refined sugar or sugarcane into raw sugar, cane syrup or edible molasses.

(e) "Raw value" of any quantity of sugar means its equivalent in terms of ordinary commercial raw sugar testing ninety-six degrees by the polariscope.

(f) "Sugarbeets of average quality" means sugarbeets containing 15.44 percent sucrose.

(g) "Sugarcane of average quality" means (1) for Florida, sugarcane containing 13.97 percent sucrose in normal juice; and (2) for Louisiana, sugarcane containing 12.79 percent sucrose in normal juice of 78.69 percent purity.

(h) "Secretary" means the Secretary of Agriculture or an official who has been designated to act on his behalf.

§ 1435.58 Level and method of support and loan rates.

(a) *Level of support.* Prices to domestic producers of 1979 crop sugarbeets and sugarcane will be supported at average levels estimated to be equivalent to — percent of the parity prices for sugarbeets and sugarcane as of July 1979. The general support prices for sugarbeets and

sugarcane are as specified in § 1435.59(b).

(b) *Method of support.* The support to domestic producers of 1979 crop sugarbeets and sugarcane will be made available through nonrecourse loans to eligible processors.

(c) *Loan rates.* The basic (weighted average) loan rates for the 1979 crop shall be — cents per pound for refined beet sugar and — cents per pound for cane sugar, raw value, including the cane sugar, raw value, equivalent contained in cane syrup and edible molasses.

(d) *Locational differentials.* (1) The loan rate applicable to eligible sugar shall be the rate specified in subparagraphs (2) and (3) of this paragraph for the region in which such sugar was processed: *Provided*, That in the case of refined or specialty sugar made from raw cane sugar which would otherwise be eligible for loan except that it is no longer in its raw form, the loan rate shall be the appropriate regional loan rate applied to the cane sugar, raw value, equivalent of the refined or specialty sugar. Such sugar must have been manufactured by a cane sugar refining facility that is cooperatively owned by its raw cane sugar processors or by a processor of sugarcane who is also a refiner.

(2) The processing regions and applicable loan rates for refined beet sugar shall be as listed below:

Region number and description	Cents per pound
1—Michigan and Ohio.....
2—Minnesota and the eastern half of North Dakota.....
3—Northeastern quarter of Colorado; northwest- ern quarter of Kansas; Nebraska; and the southwestern quarter of Wyoming.....
4—Southeastern quarter of Colorado; and Texas
5—Montana and the northwestern quarter of Wyoming.....
6—That part of Idaho east of the eastern boundary of Owyhee county and of such boundary extended northward; and Utah.....
7—That part of Idaho west of the eastern boundary of Owyhee County and of such boundary extended northward; Oregon; and Washington.....
Arizona and California.....

(3) The processing regions and applicable loan rates for cane sugar, raw value, shall be as listed below, except that for such sugar processed in Hawaii or Puerto Rico but placed under loan on the mainland of the United States the applicable loan rate shall be — cents per pound:

Region	Cents per pound
Florida.....
Louisiana.....
Texas.....
Hawaii.....
Puerto Rico.....

¹ Southern California includes the counties of Imperial, San Diego, Riverside, Orange, San Bernardino, and that part of Los Angeles lying south of the San Gabriel Mountains.

§ 1435.59 Eligibility requirements.

(a) The quantity of sugar which is eligible to be placed under the 1979 Price Support Loan Program is that quantity which is equivalent to that quantity processed from that part of the 1979 crop grown by eligible producers, such sugar must be processed and owned by the eligible processor (or jointly owned by eligible processor and eligible producer) tendering the sugar as collateral for loan, and must be in eligible storage.

(b) Eligible processors for the 1979 crop are those who pay to all eligible producers who deliver to them for processing sugarbeets and sugarcane of average quality in the following locations, not less than:

(1) For sugarbeets in the regions described in paragraph (d)(2) of § 1435.58, the following rates per net ton:

- Region 1, —.
- Region 2, —.
- Region 3, —.
- Region 4, —.
- Region 5, —.
- Region 6, —.
- Region 7, —.
- Region 8, —.

(2) For sugarcane in Florida, \$ — per net ton;

(3) For sugarcane in Louisiana, \$ — per net ton;

(4) For sugarcane in Texas, the amount determined by multiplying — cents times the average pounds of cane sugar, raw value, recovered per ton from the sugarcane delivered to the processor by all producers, as adjusted by the processor to reflect the quality of the juice (normal juice sucrose and normal juice purity) extracted from the individual producer's sugarcane;

(5) For sugarcane in Hawaii, where the delivery point is at the mill, the amount determined by multiplying — cents times the total pounds of cane sugar, raw value, recovered per ton from the sugarcane delivered to the processor by the individual producer; and

(6) For sugarcane in Puerto Rico, that price determined in accordance with the provisions of Puerto Rico Law No. 426—also known as the Puerto Rico Sugar Law—and the rules issued thereunder by the Sugar Board of Puerto Rico;

Provided, however, That the foregoing prices may be adjusted for sugarbeets or sugarcane of nonaverage quality on the method agreed upon by the producer and processor.

(c) Eligible storage shall consist of a storage structure or space which is determined by the State committee to be committed to the storage of such

quantity of the processor's eligible sugar as is offered for loan or maintained under loan and which is safe for storage of the product.

§1435.60 Availability, disbursement, and maturity of loan.

(a) *Obtaining price support.* To obtain price support on eligible sugar, and eligible processor must file a request for a loan with the State committee of the State where he is headquartered; and must execute a note, security agreement, and storage agreement as prescribed by CCC. Such request must be filed no later than 90 calendar days after the processor completes processing the 1979 crop: *Provided,* That loans can be made under this subpart only if disbursed prior to the effective date of any superseding loan program.

(b) *Redeemed loan collateral.* A processor may not reoffer as security or repledge to CCC as collateral any sugar that has been redeemed from CCC loan.

(c) *Disbursement of loans.* Disbursement will be made by means of sight drafts drawn on CCC.

(d) *Maturity of loans.* Loans will mature on the last day of the eleventh calendar month following the month in which the loan was disbursed. Whenever the final date falls on a weekend or Federal holiday, the date shall be extended to the next workday.

§ 1435.60 Quantity for loan.

Loans shall not be made on more than the quantity which an eligible processor certifies is eligible, available, and properly stored, and for which processor's weight and polarization records, or such other records satisfactory to CCC, are furnished. Sugar pledged as collateral for a loan is not required to be stored identity preserved; however, a processor's outstanding loan quantity may not exceed his total eligible storage capacity less ineligible sugar in storage.

§ 1435.62 Loan maintenance and liquidation.

(a) *Maintenance of the commodity under loan.* A processor shall maintain in eligible storage eligible sugar of sufficient quality and quantity to cover the loan except that, if prior permission is obtained from the loan-making office, the processor may substitute other sugar of the same or a subsequent crop year which is located at a different storage facility: *Provided,* That such sugar is of at least equal quantity and quality as the sugar which was originally put under loan: *Provided, further,* That the processor may request and obtain prior written approval of the loan-making

office on a form prescribed by CCC to remove a specified quantity for the purpose of delivering it to a buyer prior to repayment of the loan. The loan-making office shall not approve a request unless the buyer of the sugar agrees to pay to CCC an amount, not in excess of the purchase price, necessary to satisfy the processor's loan indebtedness on the sugar purchased. Any such approval shall not constitute a release of CCC's security interest in the sugar or release the processor from liability for any amounts due on his loan indebtedness if full payment of such amounts is not received by the loan-making office.

(b) *Loan liquidation.* (1) CCC may at any time accelerate the time for repayment of price support loan indebtedness. In the event of any such acceleration, CCC will give the processor notice of such acceleration at least 10 days in advance of the accelerated loan maturity date. Upon maturity of the loan, the processor is required to pay off his loan or deliver to CCC a quantity of eligible sugar equivalent to that pledged as collateral for loan, title to which shall, without a sale thereof, immediately vest in CCC. If the processor wishes to deliver the commodity to CCC he must, on or before maturity, give the State committee notice in writing of his intention to do so. Notwithstanding any of the provisions of this section, the State committee may on request of the processor authorize delivery prior to maturity if the processor loses control of the storage structure or if there is insect infestation that cannot be controlled, danger of flood, damage to the storage structure, or deterioration of the quality of the stored commodity beyond the control of the processor or for any other reason deemed sufficient by the Deputy Administrator, Commodity Operations.

(2) At his option, a processor may, at any time prior to maturity, redeem all or any part of his loan.

(3) The interest rate until loan maturity for each 1979 crop sugar loan shall be the 1979 crop CCC price support interest rate in effect at the time the loan is disbursed.

(c) *Storage costs.* Storage costs through the loan maturity date shall be borne by the borrower.

(d) *Processor incorrect certification or unauthorized removal.* If CCC determines, by actual measurement or otherwise, that the actual quantity serving as collateral for loan is less than the loan quantity, then CCC may call the loan. If CCC feels the seriousness of the matter so justifies it, CCC may call other outstanding loans of the processor and

may deny further loans for one year or more.

(e) *Loss or damage.* The processor is responsible for any loss in quantity or quality of sugar under loan, except that CCC will bear its pro rata share of any loss in the case of sugar stored on a commingled basis, less any insurance proceeds and salvage value of the sugar to which CCC may be entitled, if the processor establishes to the satisfaction of CCC each of the following conditions: (1) The loss or damage occurred without fault or negligence on the part of the processor; (2) the loss resulted solely from an external cause (other than insect infestation, vermin, or animals) such as theft, fire, lightning, explosion, windstorm, cyclone, tornado, flood, or other act of God; (3) the processor gave the State committee immediate notice of such loss or damage; and (4) the processor made no fraudulent representation in the loan documents or in obtaining the loan.

(f) *Settlement of loan.* If the loan rate value of the sugar delivered to CCC, plus loss assumed by CCC according to paragraph (e) of this section, is equal to or greater than the outstanding loan balance, the loan shall be considered as fully satisfied. The loan rate value of the collateral delivered to CCC in excess of that required to satisfy the loan will be paid to the processor.

(g) *Foreclosure.* If the loan indebtedness is not satisfied in accordance with provisions of this section, CCC may, upon notice, with or without removing the collateral from storage, sell it at either a public or private sale. CCC may become the purchaser. If the net proceeds are less than the amount due on the loan the borrower shall pay the difference to CCC.

§ 1435.63 Processor storage agreement.

(a) The borrower shall: (1) Maintain the loan collateral in eligible storage while it is under loan in accordance with the provisions of § 1435.62(a) and, as deemed necessary by CCC, after maturity of the unredeemed loan, and (2) remove and physically deliver loan collateral in accordance with written instructions by CCC.

(b) CCC shall make monthly storage payments to the processor for the time he stores the commodity for CCC after the maturity date of the unredeemed loan. The storage payment rate shall not exceed \$.0005 per pound, per month.

§ 1435.64 Miscellaneous provisions.

(a) *Insurance.* CCC will not require the processor to insure the sugar pledged as collateral; however, if the

processor insures such sugar and an indemnity is paid thereon, such indemnity shall inure to the benefit of CCC to the extent of its interest, after first satisfying the processor's equity in the sugar involved in the loss.

(b) *Subterfuge.* The processor shall not reduce returns to the producer below those determined in accordance with the requirements of this subpart through any subterfuge or device whatsoever.

(c) *Processor indebtedness.* The regulations issued by the Secretary governing setoffs and withholding, Part 13 of this title, shall be applicable to the program.

(d) *Liens.* Waivers of liens or encumbrances on the sugar tendered as collateral for loans must be obtained which will fully protect the interest of CCC. A lienholder, in lieu of waiving his prior lien on sugar tendered as collateral for a loan, may execute a Lienholder's Subordination Agreement (Form CCC-864) with CCC in which he subordinates his security interest to the rights of CCC. No liens or encumbrances shall be placed on the sugar pledged as collateral after the loan is approved.

(e) *Appeals.* A producer or processor may obtain reconsideration and review of determinations made under this subpart in accordance with the regulations in Part 780 of this title.

(f) *Records and inspection thereof.* ASCS shall reserve the right to have access to the premises of the processor, in order to inspect, examine, and make copies of the books, records, accounts, and other written data as are deemed necessary by ASCS to determine compliance with the requirements of this subpart. Such books, records, accounts and other written data shall be retained by the processor for not less than 3 years.

(g) *False certifications.* Any false certification, which is made for the purpose of enabling a processor to obtain any loan to which he is not entitled, will subject the person making such certification to liability under applicable Federal, civil and criminal statutes.

(h) *Handling payments and collections not exceeding three dollars.* In order to avoid administrative costs of making small payments and handling small accounts, amounts of \$3 or less which are due the processor will be paid only upon his request. Deficiencies of \$3 or less, including interest, may be disregarded unless demand for payment is made by CCC.

(i) *Death, incompetency, or disappearance.* In case of the death, incompetency, or disappearance of any

processor who is entitled to the payment of any sum in settlement of a loan payment shall, upon proper application to the State committee, be made to the persons who would be entitled to such processor's payment under the regulations contained in Part 707 of this title—Payment Due Persons Who Have Died, Disappeared, or Have Been Declared Incompetent.

§ 1435.65 Applicable forms.

The CCC forms for use in connection with this program will be made available by the State committee.

Signed at Washington, D.C., on May 4, 1979.

Bob Bergland,
Secretary.

[FR Doc. 79-14487 Filed 5-4-79; 4:08 pm]
BILLING CODE 3410-05-M

Farmers Home Administration

[7 CFR Parts 1822, 1944]

Amendment, Consolidation and Redesignation

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Farmers Home Administration (FmHA) proposes to revise and redesignate its regulations pertaining to Farm Labor Housing Loans and Grants. The intended effect of this action is to combine the loan and the grant regulations into one Subpart; expand the eligibility requirements for Labor Housing loans to family partnerships and corporations provide nationwide program clarity and consistency, incorporate provisions of the Housing and Community Development Act of 1978, and simplify program regulations.

DATES: Comments must be received on or before July 9, 1979.

ADDRESSES: Submit written comments to the office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6346, Washington, DC 20250. All written comments made pursuant to this notice will be available for public inspection at the address given above.

FOR FURTHER INFORMATION CONTACT: Russell Gibler (202) 447-7207.

SUPPLEMENTARY INFORMATION: FmHA proposes to amend, consolidate, and redesignate Subpart C and E of Part 1822, Chapter XVIII, Title 7, Code of Federal Regulations into a new Subpart D of Part 1944, Chapter XVIII, Title 7,

Code of Federal Regulations. Subparts C and E of Part 1822 will be deleted.

This change will combine the present labor housing loan and grant regulations into one regulation. Included with this combination is an expansion of the eligibility requirements to include Federally recognized Indian Tribes and family sized farming partnerships and corporations. The test for other credit will not be required for individuals seeking assistance to provide housing for their domestic migrant farm laborers as long as the individual farmer will pay the market rate of interest for the loan. It also provides for a statement of previous participation in other Federally funded housing projects by the applicant. Nonprofit organizations and public bodies will be eligible to request financial assistance for initial operating capital. The local FmHA official responsible for the administration of the labor housing program will be the District Director rather than the present County Supervisor.

As proposed, Subpart D of Part 1944 reads as follows:

PART 1822—RURAL HOUSING LOANS AND GRANTS

§§ 1822.61-1822.77 (Subpart C)
[Deleted]

§§ 1822.201-1822.222 (Subpart E)
[Deleted]

PART 1944—HOUSING

SUBCHAPTER H—PROGRAM REGULATIONS

PART 1944—HOUSING

Subpart D—Farm Labor Housing Loan and Grant Policies, Procedures and Authorizations

Sec.

- 1944.151 Purpose.
- 1944.152 Objective.
- 1944.153 Definitions.
- 1944.154-1944.156 (Reserved)
- 1944.157 Eligibility requirements.
- 1944.158 Loan and grant purposes.
- 1944.159 Rates and terms.
- 1944.160-1944.162 [Reserved]
- 1944.163 Conditions under which an LH grant may be made.
- 1944.164 Limitations and conditions.
- 1944.165-1944.167 (Reserved)
- 1944.168 Security requirements.
- 1944.169 Technical, legal, and other services.
- 1944.170 Processing preapplications.
- 1944.171 Preparation of completed loan and/or grant docket.
- 1944.172 [Reserved]
- 1944.173 Loan and grant approval—delegation of authority.
- 1944.174 Distribution of loan and/or grant approval documents.

1944.175 Actions subsequent to loan and/or grant approval.

1944.176 Loan and/or grant closing.

1944.177 Coding loans and grants as to initial or subsequent.

1944.178 Complaints regarding discrimination in use and occupancy of LH.

1944.179-1944.180 [Reserved]

1944.181 Loan servicing.

1944.182 Rental assistance.

1944.183-1944.200 [Reserved]

Exhibit A—Labor Housing Loan and Grant Application Handbook

Exhibit A-1—Information to be Submitted with Preapplication for Labor Housing Loan or Grant

Exhibit A-2—Information to be Submitted with Application for Federal Assistance (Short Form)

Exhibit A-3—Labor Housing Construction Guidelines

Exhibit A-4—Survey of Existing Labor Housing

Exhibit A-5—Statement of Budget, Income, and Expense

Exhibit B—Management Plans

Exhibit C—Loan Resolution

Exhibit D—Loan Agreement

Exhibit E—Loan and Grant Resolution

Exhibit F—Labor Housing Grant Agreement

Exhibit G—Legal Service Agreement

Exhibit H—Information Pertaining to Preparation of Notes or Bonds and Bond Transcript Documents for Public Body Applicants

Exhibit I—Guide Letter for Use in Informing Private Lender of FmHA's Commitment

PART 1944—HOUSING

Subpart D—Farm Labor Housing Loan and Grant Policies, Procedures and Authorizations

§ 1944.151 Purpose.

This subpart sets forth the policies and procedures and delegates authority for making initial and subsequent insured loans under Section 514 and grants under Section 516 of the Housing Act of 1949, to provide housing and related facilities for domestic farm labor.

§ 1944.152 Objective.

The basic objective of the Farmers Home Administration (FmHA) in making domestic Farm Labor Housing (LH) loans is to provide decent, safe, and sanitary housing and related facilities for domestic farm labor to be located in areas where a need exists and in making LH grants when there is a pressing need for such facilities in the area and there is reasonable doubt that the housing can be provided without the grant assistance.

§ 1944.153 Definitions.

As used in this subpart:

(a) *Domestic farm laborer*. Means persons who receive a substantial portion of their income as laborers on farms in the United States, Puerto Rico, or the Virgin Islands and either (1) are citizens of the United States, or (2) reside in the United States, Puerto Rico, or the Virgin Islands after being legally admitted for permanent residence, and may include the immediate families of such persons. Laborers on farms may include laborers engaged in handling agricultural commodities while in the unprocessed stage, provided the place of employment, such as a packing shed, is on or near the farm where the commodity is produced. Laborers performing farming functions off the farm must be employed by the producer of the agricultural commodity. Domestic farm labor also includes persons working in aquaculture operations as defined in Subpart C of Part 1904 of this Chapter.

(b) *Housing*. Means new or existing structures which are or will be suitable for decent, safe, and sanitary dwelling use by domestic farm labor. "Housing" may include household furnishings and related facilities where appropriate.

(c) *Household furnishings*. Consists of such basic durable items as stoves, refrigerators, tables, chairs, dressers, and beds. Items such as bedding, linens, dishes, silverware, and cooking utensils are not included in this definition.

(d) *Related facilities*. Include community rooms or buildings, cafeterias, dining halls, infirmaries, child care facilities, assembly halls, and other essential service facilities such as central heating, sewerage, lighting systems, clothes washing facilities, and safe domestic water supply. All related facilities must be reasonably necessary for proper use of the housing as dwellings for domestic farm labor occupants.

(e) *Farmowner*. Farmowner means a natural person or persons who are the "owners" of a "farm" as these two terms are further defined in Subpart A of Part 1822 (FmHA Instruction 444.1).

(f) *Family farm corporation or partnership*. Means a private corporation or partnership in which at least 90% of the stock or interest is owned and controlled by members of the same family whose adult members are actually engaged in the day-to-day onsite farming operations. Members of the same family are those persons occupying one household or who live on the farm in a separate household who are related by blood or law and provide joint operation of the land. However, if more than two separate households are involved, the family farm corporation or

partnership, shall not be eligible for assistance. The family farm corporation or partnership must be (1) legally organized and authorized to own and operate a farm business within the State, (2) legally able to carry out the purposes of the loan, and (3) prohibited from the sale or transfer of 90% of the stock or interest to other than family members by either the articles of incorporation, bylaws or by agreement between the stockholders or partners and the corporation or partnership.

(g) *Organization*. Means an association of farmers, a broad-based nonprofit organization, a nonprofit organization of farmworkers, federally recognized Indian Tribe, or an agency or political subdivision of State or local government.

(h) *Association of farmers*. Means three or more farmers (farmowners or leaseholders) acting as a single legal entity whose members are individuals devoting a substantial part of their time to personal participation in the conduct of farming operations, and the majority of whose members reside in the area where the housing will be located. Members may include the individual members of farming partnerships or corporations provided such individuals are actually involved in the day-to-day onsite farming operations.

(i) *Broad-based nonprofit organization*. Means an organization, public or private, which (1) is incorporated within the State, Puerto Rico, Virgin Islands, or a Federally recognized Indian Tribe, (2) is organized and operated on a nonprofit basis, and (3) is legally precluded from distributing any profits or dividends to its members, (4) is not grower oriented (majority of board must be nonfarmers) (5) pledges to administer the housing as a community service in the interest of the whole community, and (6) has at least 25 members for projects with a total development cost of up to \$100,000 and additional members for projects costing more than \$100,000. The membership must reflect a variety of interests of the area where the housing will be located. Organizations operating in more than one local area will have local representation within its membership from each area where its housing projects are located.

(j) *Nonprofit organization of farmworkers*. Means a nonprofit organization which is incorporated within the State, Puerto Rico, or the Virgin Islands, has local representation in the membership, and whose membership is primarily made up of individuals who receive a substantial portion of their income from farm work.

(k) *Construct or repair*. Means to construct new structures or facilities, or to acquire, relocate, or repair or improve existing structures or facilities.

(l) *Members and membership*. Include stockholders and stock when appropriate.

(m) *Board and directors*. Includes the governing body and members of the governing body of an organization.

(n) *Promissory note*. May include a bond or other evidence of indebtedness.

(o) *Mortgage*. May include any appropriate form of security instrument.

(p) *Development cost*. Includes the cost of constructing, purchasing, improving, altering, or repairing new or existing housing and related facilities, buying household furnishings, and purchasing or improving the necessary land. It includes necessary architectural, engineering, legal fees and charges and other appropriate technical and professional fees and charges. It does not include fees, charges, or commissions such as payments to brokers, negotiators, or other persons for the referral of prospective applicants or solicitations of loans. For all types of LH applicants, other than the individual farmowners, family farm corporation and partnerships, and an association of farmers, the development cost may include initial operating expenses of up to 2 percent of the aforementioned costs.

(q) *Individual*. Means a natural person. In the case of married persons, it may include the spouse.

(r) *Applicant*. Means the applicant for or the recipient of an LH loan or grant.

(s) *LH fund(s)*. May include either loan or grant monies or both in this subpart.

(t) *Subsequent LH loan or grant*. Is a loan or grant to an applicant or borrower to complete the units planned with the initial loan or grant.

(u) *Migrant*. A domestic farmworker who works in any given local area on a seasonal basis and relocates his or her primary place of residence as farmwork is followed during the year.

§§ 1944.154-1944.156 [Reserved]

§ 1944.157 Eligibility requirements.

(a) *Eligibility of applicant for an LH loan*. To be eligible for an LH loan the applicant must:

(1) Be an individual farmowner, family farm corporation or partnership, or an organization, as these terms are defined in § 1944.153, which will own the housing and operate it on a nonprofit basis.

(2) Except for a State and local public agencies, or a political subdivision thereof be unable to provide the

necessary housing from their own resources and be unable to obtain the necessary credit from any other source upon terms and conditions they could reasonably be expected to fulfill. If an association of farmers or family farm corporation or partnership, the individual members, individually and jointly, must be unable to provide the necessary housing by utilizing their own resources and be unable, by pledging their personal liability, to obtain other credit. That would enable them to provide housing for farm workers at rental rates they can afford to pay except, The State Director may make an exception to the requirement that an individual farm owner, family farm corporation, family farm partnership or an association be unable to obtain the necessary credit elsewhere when all of the following conditions exist:

(i) There is a need in the area for housing for domestic farmworkers who are migrants and the applicant will provide such housing.

(ii) There are no qualified State or political subdivisions, public or private nonprofit organizations currently available or likely to become available within a reasonable period of time that are willing and able to provide the housing.

(iii) The rates and terms of such loans will be in accordance with § 1810.1 of Subpart A Part 1810 (FmHA Instruction 440.1).

(3) Have sufficient initial operating capital. LH loans made to nonprofit organizations and to State or local public agencies or political subdivisions thereof, may include up to 2 percent of the development cost for initial operating expenses. The initial operating capital should be sufficient to pay such costs as property and liability insurance premiums, fidelity bond premiums if required, utility hookup deposits, maintenance equipment, moveable furnishings and equipment, printing lease forms, and other initial expenses.

(4) After the loan is made, have income sufficient to pay operating expenses, make necessary capital replacements, make the payments on the loan and other authorized debts, and accumulate reasonable reserves as required.

(5) Possess the legal capacity, character, ability, and experience to carry out the undertakings and obligations required for the loan, including the obligation to maintain and operate the housing and related facilities for the purpose for which the loan is made. Organizations operating in more than one local area will be required to indicate their ability to

provide local management and supervision of the day-to-day operation of the housing project.

(6) If an individual farmowner, family farm corporation or partnership, or an association of farmers, use the housing for labor to be used in the farming operations of the applicant, or farming operations of its members.

(7) Own the housing and related land or become the owner when the loan is closed. An owner may include, in addition to the owner of full marketable title, a lessee of a tract of land owned by a State, political subdivision, public body or public agency, or Indian tribal lands which are not available for purchase. It may also include land when the State Director determines that long-term leasing of sites by nonpublic bodies is a well established practice and such leaseholds are fully marketable in the area, provided:

(i) The applicant is unable to obtain fee title to the property.

(ii) A recorded mortgage constituting a valid and enforceable lien on the applicant's leasehold will be given as security.

(iii) The amount of the LH loan against the property will not exceed the maximum security value determined in accordance with Subparts A and B of Part 1809 of this Chapter (FmHA Instructions 422.2 or 422.3) as appropriate.

(iv) The unexpired term of the lease on the date of loan approval is at least 25 percent longer than the repayment period of the loan and rental charged for the lease should not exceed the rate being paid for similar leases in the area.

(v) The borrower's interest may not be subject to summary foreclosure or cancellation.

(vi) The lease must:

(A) Not restrict the right to foreclose the RRH Mortgage or to transfer the lease.

(B) Permit FmHA to bid at foreclosure sale or to accept voluntary conveyance of the security in lieu of foreclosure.

(C) Permit FmHA after acquiring the leasehold through foreclosure, or voluntary conveyance in lieu of foreclosure, or in event of abandonment by the borrower, to occupy the property, or to sublet the property and to sell the leasehold for cash or credit.

(D) Permit the borrower, in the event of default or inability to continue with the lease and the LH loan, to transfer the leasehold, subject to the LH mortgage, to a transferee with assumption of the LH debt and grant obligation.

(vii) The advice of OGC will be obtained as to legal sufficiency of the

lease. When the State Director is uncertain as to whether a loan can be made on a leasehold, the request should be submitted to the National Office for evaluation and instructions.

(8) If it is a private broad-based nonprofit organization or a nonprofit organization of farmworkers, meet the following additional requirements:

(i) Be legally precluded from distributing any dividends or net earnings to its members or any private individual during its corporate lifetime.

(ii) In the event of its dissolution, be legally bound to transfer its net assets to a nonprofit organization of a similar type or a public body for use for domestic farm labor housing or other public purposes if the need for farm labor housing no longer exists.

(iii) Responsibility for management of the housing must be vested in the applicant's board of directors.

(A) A broad-based nonprofit organization must be governed by a board of directors of not less than five members who are experienced in such fields as real estate management, finance, or related businesses and who will be not be users of the labor housed in the project.

(B) A nonprofit organization of farmworkers must have representation on the board from the area where the housing is located. Directors may be elected who are not members of the organization but are experienced in such fields as real estate management, finance, or related businesses provided member directors represent a majority of the board.

(iv) Be prohibited from requiring or preventing employment on any particular farm or farms as a condition of occupancy.

(v) Except for an organization of farmworkers, be certified as exempt from Federal income taxation.

(9) Individual farmowner applicants who are citizens of the United States, the Commonwealth of Puerto Rico, the Virgin Islands, the territories and possessions of the United States, or the trust territory of the Pacific Islands or residents in one of the foregoing areas after being legally admitted for permanent residence or on indefinite parole. If the applicant is an organization, other than a State or political subdivision, the majority of the members and controlling interests must be individuals who meet the citizenship requirements for individual farm owners as stated above.

(b) *Eligibility of applicant for an LH grant.* To be eligible for an LH grant the applicant must meet the applicable requirements in § 1944.157 (a) and;

(1) Be an organization, as defined in § 1944.153(g) other than an association of farmers, with an assured life over a period of years sufficient to carry out the purpose of providing low-rent housing for domestic farm labor. This should not be less than the anticipated useful life of the project as suitable housing for domestic farm labor, assuming proper maintenance and repair of the property. Ordinarily, this should not be less than 50 years.

(2) When the grant is closed, be the owner (as defined in this subpart) of the housing and related facilities, including the site.

(3) Be unable to provide the necessary housing from its own resources, including any power to levy taxes, assessments, or charges, and be unable to obtain terms and conditions the applicant could reasonably be expected to fulfill.

(4) Possess the legal and actual capacity, ability, and experience to incur and carry out the undertakings and obligations required, including the obligations to maintain and operate the housing and related facilities for the purpose for which the grant is made.

(5) Legally obligate itself not to divert income from the housing to any other business, enterprise, or purpose.

(c) *Authorized representative of applicant.* FmHA will deal only with the applicant or its bona fide representative and technical advisers. The authorized representative of the applicant must be a person who has no pecuniary interest in the award of the architectural or construction contracts, the purchase of equipment, or the purchase of land for the housing site.

§ 1944.158 Loan and grant purpose.

LH loans and grants may be made to qualified applicants to:

(a) Build, buy, improve or repair housing as defined in § 1944.153(b).

(b) Purchase and improve the necessary land on which the housing will be located. (1) The cost of land purchased with loan or grant funds may not exceed its present market value in its present condition. Present market value will be determined by a current appraisal in accordance with applicable FmHA regulations.

(2) Loan or grant funds will not be used to buy land from a number of an applicant-organization, or from another organization in which any member of the applicant-organization has an interest, without prior approval of the State Director. In granting this approval the State Director should be sure that the present market value is at least equal to the purchase price.

(3) Loan or grant funds may be used to acquire land in excess of that needed for the housing, including related facilities, except when the applicant cannot acquire only the needed land at a fair price, can justify the acquisition, agrees to sell the excess land as soon as practicable and apply proceeds on the loan, and has legal authority to acquire and administer the land.

(c) Develop and install water supply, sewage disposal, streets, heat and light systems necessary in connection with the housing. If the facilities are located offsite, the following requirements must be met:

(1) The applicant will hold the title to the facility or have a legally assured adequate right to use of the facility for at least the life of the loan or grant and such title or right can be transferred to any subsequent owner of the site.

(2) The facilities are provided for the exclusive use of the LH project or funds are limited to the prorated part of the total cost of the facility according to the use and benefit to the project. The applicant will agree in writing to the application as extra payments on the LH loan of any subsequent collection by the borrower from other users or beneficiaries of the facility.

(3) Adequate security can be obtained with or without a mortgage based on the offsite facilities.

(d) Develop other related facilities in connection with the housing such as:

(1) Maintenance workshop and storage facilities.

(2) Recreation center including lounge if the project is large enough to justify such a facility.

(3) Central cooking and dining facilities when the project is large enough to justify such services.

(4) Small infirmary for emergency care only when justified.

(5) Laundry room and equipment if not provided in the individual units.

(6) Appropriate recreational facilities and other facilities to meet essential needs.

(e) Construct office and living quarters for the resident manager and other operating personnel in projects consisting of 10 or more units, if such facilities would be advantageous to the project and the Government.

(f) Construct maintenance equipment or similar structures.

(g) Purchase and install ranges, refrigerators, clothes washers, and clothes dryers. Clothes washers and clothes dryers may be installed in individual rental units only if the inclusion of such items in individual units is customary in the area for the type of housing involved and consistent

with the requirement that the construction involved be undertaken in an economical manner and not constitute elaborate or extravagant items. Otherwise, the clothes washers and clothes dryers must be installed in a central laundry room. Wherever, practical, this equipment should be attached to the real in a manner to prevent easy removal.

(h) Purchase and install essential equipment which upon installation becomes a part of the real estate.

(i) Provide landscaping, foundation planting, seeding or sodding of lawns, or other necessary facilities related to buildings such as walks, yards, fences, parking areas, and driveways.

(j) Pay related costs such as fees and charges for legal, architectural, engineering, and other appropriate technical and required services. Ordinarily, FmHA will furnish the needed guidance for the development of the LH loan docket and project. However, the State Director may authorize the use of loan funds to enable a nonprofit corporation to pay a qualified consulting organization or foundation, operating on a nonprofit basis, charges for necessary services, provided the State Director determines that:

(1) Either (a) the applicant, with available FmHA assistance, cannot meet all requirements for a sound loan or grant without the services, or (b) the services would permit significant financial savings to the Government, either directly or by lightening the workload involved in processing applications, and

(2) The charges are reasonable in amount, considering (a) the amount and the purpose of the loan or grant; (b) the payment ability of the borrower, and (c) the cost of similar services in the same or similar rural areas.

(k) Pay interest which will accrue during the estimated construction period.

(l) Pay normal charges necessary to obtain interim financing.

(m) Pay initial operating expenses up to 2 percent of the development cost for any type applicant except an individual farmowner, family farm corporation, partnership or an association of farmers.

§ 1944.159 Rates and terms.

(a) *Amortization period.* Each loan will be scheduled for payment in installments within a period, not to exceed 33 years, as may be necessary to assure that the loan will be adequately secured, taking into account the probable depreciation of the security.

(b) *Interest rate.* LH loans will be made at interest rates specified in FmHA instruction 440.1, Exhibit B which is available in any FmHA office.

(c) *Rental Assistance.* This may be granted to LH projects in accordance with the provisions of Exhibit R of Subpart of Part 1822 of this Chapter (FmHA Instruction 444.5, Exhibit R).

§§ 1944.160—1944.162 [Reserved]

§ 1944.163 Conditions under which an LH grant may be made.

A grant may be made to an eligible applicant only when all of the following requirements can be met:

(a) The applicant will contribute at least one-tenth of the total development cost, obtained from its own resources, including any power to levy taxes, assessments, or charges, with credit from other sources, or with an LH loan. The applicant's contribution must be available at the time of grant closing. If an LH Loan is needed, the applicant will file an application for a combination loan and grant at the same time.

(b) The housing and related facilities will fulfill a pressing need in the area in which the housing is or will be located and there is reasonable doubt that such housing can be provided without the grant.

(1) The applicant will furnish FmHA factual evidence of fulfilling a pressing need, showing:

(i) Number of domestic farm laborers currently being used in the area.

(ii) Kind of labor performed.

(iii) Outlook for future need for domestic farm labor in the area.

(iv) Kind, condition, and adequacy of housing presently used by domestic farm laborers.

(v) Ownership of presently occupied housing.

(vi) Customary rental terms and conditions.

(vii) Reasons why needed housing cannot be financed with funds from other sources including an LH loan.

(2) When appropriate, the District Director may check with such sources as the State Department of Labor, Bureau of Employment Security, and other reliable sources to verify the information submitted.

(3) If, after evaluating the information furnished by the applicant and additional information that may be provided, the District Director determines that the housing will fulfill a pressing need and that a reasonable doubt exists that the housing can be provided without the grant, the District Director will prepare a narrative statement to support these conclusions.

(c) The housing to be provided is the most practicable type, giving due consideration to the purposes to be served and the needs of the occupants. Housing for families will be constructed in accordance with Department of Housing and Urban Development (HUD) Minimum Property Standards. Dormitory type housing for individual seasonal workers, when justified, may be constructed in accordance with Department of Labor (DOL) Occupational Safety and Health Administration (OSHA) standards.

(d) The housing will be constructed in an economical manner and will not be of elaborate or extravagant design or material.

(e) The housing must be durable and suitable for year-round use unless the need for such housing is seasonal and year-round occupancy is not practical and will not be needed.

§ 1944.164 Limitations and conditions.

(a) *Limitations on use of loan and grant funds.* Among the purposes for which loan and grant funds will not be used are the following:

(1) Providing housing for the members of the immediate family of the applicant when the applicant is an individual farmowner, family farm corporation, partnership or an association of farmers.

(2) Housing, related facilities or household furnishings which are elaborate or extravagant in design or material.

(3) Refinancing debts of the applicant.

(4) Moveable-type furnishings or equipment except household furnishings as defined in § 1944.153(c).

(5) Payment of any fees, charges, or commissions to any broker, negotiator, or other person for the referral of a prospective applicant or solicitation of the loan.

(6) Payment of any fee, salary, commission, profit, or compensation to an applicant, or any officer, director, trustee, stockholder, member, or agent of the applicant, except as provided in § 1944.158 (j).

(b) *Priority in use of grant funds and maximum amount of grant.* (1) *Priority in use of grant funds.* Projects will be authorized for funding by the National and State Offices based on priority being given to:

(i) Applications which best demonstrate management ability and experience in the operation of rental housing, particularly farm labor housing.

(ii) Locations where a long range and pressing need exists for farm labor housing because of labor intensive agricultural crop production and a lack of suitable housing.

(iii) Whenever possible, consistent with the foregoing limitations and conditions, project occupancy consisting of domestic migratory farm labor.

(iv) Projects where occupants will derive the highest portion of their income from on farm agricultural work.

(2) *Maximum amount of grant.* The amount of any grant may not exceed the lessor of:

(i) Ninety percent of the total development cost, or

(ii) That portion of the total cash development cost which exceeds the sum of any amount the applicant can provide from its own resources plus the amount of a loan which the applicant will probably be able to repay, with interest, from income from rentals within the financial reach of low-income farmworker families. The availability of rental assistance and HUD section 8 subsidies will be considered in determining the rentals that farm workers will pay.

(c) *Advance of grant funds.* The times for requesting Treasury Checks representing LH grant funds and depositing such checks in the applicant's supervised bank account will be determined in accordance with § 1944.175. When other funds to help finance the labor housing are being supplied by the applicant from its own resources or from a loan, such other funds will be used before a grant check is requested from the Treasury or deposited in or disbursed from the supervised bank account, as appropriate to comply with §§ 1944.175.

(d) *Obligations incurred before loan or grant closing.* When the applicant files an application for a loan or grant, the District Director will advise the applicant that construction must not be started and obligations for work materials, or land must not be incurred or made before the loan or grant is closed, and that it is the policy of the FmHA not to permit loan or grant funds to be used to pay such obligations or reimburse the applicant for such payments for such purposes before the loan or grant is closed, the State Director may authorize the use of loan or grant funds to pay such debts or reimburse the applicant only when the State Director finds that all the following conditions exist:

(1) The debts were incurred: (a) after the applicant filed a written application for a loan with FmHA; or (b) before the date of application as part of a predevelopment loan specifically intended as interim financing from a public agency or non-profit organization and prior concurrence of the National Office is obtained; or (c) before the date

of application as part of a development loan made to a State or local public agency specifically intended as temporary financing and prior concurrence of the National Office is obtained.

(2) The applicant is unable to pay such debt from its own resources or from credit from other sources, and failure to authorize the use of loan or grant funds to pay such debts or reimburse the applicant would impair the applicant's financial position.

(3) The debts were incurred or payments were made for authorized loan and grant purposes.

(4) Contracts, materials, construction and any land purchase meet FmHA standards.

(5) Payment of the debts will remove any liens which have attached and any basis for liens that may attach to the property on account of such debts.

(e) *Grant resolution.* A resolution will be adopted by the applicant's Board of Directors and a certified copy included in the grant docket before a grant is approved.

(1) For a grant accompanied by an LH loan, the form of resolution attached as Exhibit E to this subpart will be used with any necessary changes required or approved by the Office of the General Counsel (OGC). For a grant not accompanied by an LH loan, the form of resolution will be provided or approved by the National Office following Exhibit E as closely as feasible.

(2) The form of resolution to be adopted by the applicant will contain policy and procedural requirements which should be read and be fully understood by the applicant's Board of Directors and officers. Included in the resolution will be provisions authorizing FmHA to prescribe requirements regarding the operation of the housing and related facilities and other provisions including the following:

(i) The rentals charged domestic farm labor will not exceed such amounts as are approved by FmHA after considering the income of the occupants and the necessary costs of operation, debt service, and adequate maintenance of the housing.

(ii) The housing will be maintained at all times in a safe and sanitary condition in accordance with standards prescribed by State and local law, and as required by FmHA.

(iii) In granting occupancy of the housing an absolute priority will be given at all times to domestic farm labor.

(3) The resolution will also authorize the appropriate officers of the applicant to execute a "Labor Housing Grant

Agreement," in the format of Exhibit F of this subpart. If changes are required in Exhibit F they must be approved by OGC.

(f) *Conditional obligations to repay grants.* The obligations incurred by the applicants as a condition of the grant will be in accordance with Exhibit F of this Subpart.

(g) *Loan resolution or loan agreement.* An applicant-organization will have its Board of Directors adopt a loan resolution and furnish a certified copy for the loan docket before loan approval. The resolution will be substantially in the format of Exhibit C of this subpart. Any necessary changes must be approved by the OGC. An individual farmowner applicant, will execute a loan agreement in substantial the same format as Exhibit D of this subpart. Any necessary changes must be approved by OGC. The provisions of the resolution or agreement should be read and fully understood by the applicant. They will be binding on the applicant as part of the loan contract.

(h) *Restrictions on conditions of occupancy.* No organization borrower other than an association of farmers, or family farm corporation or partnership will be permitted to require that an occupant work on any particular farm or for any particular owner or interest as a condition of occupancy of the housing. Tenant selection should be in accordance with Exhibit B of this subpart. No borrower or grantee will discriminate, or permit discrimination by any agent, lessee, or other operator in the use of occupancy of the housing or related facilities because of race, color, religion, sex, national origin, age, marital status, physical or mental handicap (must possess capacity to enter into legal contract). Each borrower or grantee will comply with Subpart E of Part 1901 of this Chapter (FmHA Instruction 1901-E).

(i) *Supervisory assistance.* Supervision will be provided borrowers to the extent necessary to achieve the objectives of the loan and to protect the interests of the Government. The provision of Subpart G of Part 182 of this Chapter (FmHA Instruction 430.2) will be followed.

(j) *Nondiscrimination in use and occupancy.* The borrower will not discriminate nor permit discrimination or segregation by any agent, lessee, or other operator in the use of occupancy of the housing or related facilities because of race, color, religion, sex, age, marital status, physical or mental handicap (must possess the capacity to enter into a legal contract) national

origin, and will comply with Subpart E of Part 1901 of this Chapter.

(k) *Location of housing.* (1) Except for a loan to an individual farmowner, family farm corporation or partnership, or an association of farmers, all housing must be located:

- (i) In or as a part of an established community.
- (ii) Near essential community facilities such as shopping, schools, and other essential services.
- (iii) On a public all-weather road.
- (iv) In an area where the property would be readily saleable.
- (v) In an area where existing LH will not be adversely affected. Exhibit A-4 of this subpart may be used to identify possible projects affected.

(2) LH loans may be made to associations of farmers to finance housing that is not located within or as a part of an established community only when the State Director determines that the following conditions will be met: (i) All the LH dwelling units will be located on contiguous plotted lots within the same subdivision which has been properly accepted by the proper local bodies and duly recorded.

- (ii) The housing site is located on a paved road.
- (iii) The housing consists of single family individual detached houses and the sites are residential in character.
- (iv) The housing sites are in an area which will have a continuing demand for rental housing.
- (v) The housing sites will be served by a central water and sewer system unless not economically feasible.

(1) *Implementation of OMB Circular A-95 concerning formulation, evaluation, and review of federal programs and projects having significant impact on area and community development.* Except for Indian tribes, when projects exceed 10 individual detached units or 25 or more multiple units, the provisions of Subpart H of Part 1901 of this Chapter apply.

(m) *Guidelines for preparing environmental assessment and environmental impact statements.* All projects shall comply with Subpart G of Part 1901 of this Chapter.

(n) *National flood insurance.* The provisions of the National Flood Insurance Act of 1968 as amended by the Flood Disaster Protection Act of 1973 apply to FmHA authorities permitting financing of LH now located in or to be located in special flood or mudslide prone areas as designated by the Federal Insurance Administration (FIA) of HUD. Subpart B of Part 1806 of this Chapter (FmHA Instruction 426.2) applies.

(o) *Implementation of Part 1980 C of this Chapter [Administration Letter 843(440)].* The taking of mortgages on land offered for security, which is located on any of the Reclamation Projects listed in Part 1890 C of this Chapter [Administration Letter 843(440)], dated May 17 1965, must meet its requirements. This Administrative Letter is available at the local FmHA Office.

(p) *LH loans to Indians secured by trust or restricted land.* Loans to individuals will be secured by a mortgage on the leasehold interest held by the applicant. The leasehold interest must meet the conditions of § 1822.7 (j) of Subpart A of Part 1822 of this Chapter (FmHA Instruction 444.1 VII J). Loans to tribes or tribal corporations will be secured in accordance with §§ 1823.409 and 1823.414 of Subpart N of Part 1823 of this Chapter (FmHA Instruction 442.11 IX and XIV A).

(q) *Refinancing LH Loans.* Each borrower, except public bodies, will be required to agree to refinance the unpaid balance of the borrower's LH loan at the request of FmHA, whenever it appears to FmHA that the borrower is able to obtain a loan from responsible cooperative or private credit sources at reasonable rates and terms.

§§ 1944.165-1944.167 [Reserved]

§ 1944.168 Security requirements.

(a) *General.* Each loan will be secured so as to adequately protect the financial interest of the Government in the loan during its repayment period. The amount of the loan may not exceed the value of the security for the loan as determined by an appraisal, less the unpaid principal balance, plus past due interest of any prior or junior liens that will or will likely to exist against the security after the loan is closed. If the State Director determines it necessary or advisable to encumber household furnishings purchased with loan funds, the State Director will, with the advice of OGC, issue appropriate instructions setting forth the manner in which household furnishings will be secured.

(b) *Loan to an individual farmowner or family farm corporation or partnership.* For every loan to an individual farmowner or family farm corporation or partnership, a real estate mortgage will be taken on the farm in accordance with Part 1807 of this Chapter (FmHA Instruction 427.1). If requested by the applicant, a mortgage may be taken on a part of the farm to be improved with the LH loan which contains at least enough land to clearly provide adequate security for the loan

as determined by an appraisal. In such cases, the loan must meet the following conditions:

(1) In cases involving single-detached houses, the tract to be mortgaged must not include or be close to farm service buildings, must be in a good residential location, and must be otherwise suitable as a residential type of nonfarm tract and the housing must be of such quality that it would meet the requirements for a section 502 Rural Housing (RH) loan,

(2) In cases including multiunit structures, the location requirements of § 1944.164 (1) (l) must be met.

(3) If the tract to be mortgaged is covered by a prior lien which also applies to other land, the tract to be given as security must either:

(i) Be released from the prior lien or subordinated to permit a first lien for the LH loan, or

(ii) Provide adequate security for the entire prior lien debt and the LH loan and comply with § 1822.10 (b) (2) of Subpart A of Part 1822 of this Chapter (paragraph X B 2 of FmHA Instruction 444.1).

(4) All other requirements for a sound loan must be met.

(5) Personal liability will be required of the stockholders or partners of a family farm corporation or partnership.

(c) *Loan to an organization.* (1) A loan to an organization which can give a real estate mortgage will be secured by a mortgage on good and marketable title to the real estate including the housing, the related facilities, and the site, subject to any exceptions that may be waived as provided in Section 1807.2 (d) of Part 1807 of this Chapter (paragraph II D of FmHA Instruction 427.1).

(2) If a first mortgage cannot be obtained, a junior mortgage may be taken provided:

(i) The prior mortgage as affected by the State law does not contain such provisions for future advances, payment schedules, forfeiture or cancellation, foreclosure without adequate notice to junior lienholders, or other matters which may jeopardize FmHA's security position or the borrower's ability to pay the loan; or

(ii) Such provisions are satisfactorily limited, modified, waived, or subordinated.

(3) If it is impossible for an applicant which is a public or quasipublic organization to give a real estate mortgage, the security to be taken will be determined by the National Office upon the recommendation of the State Director. The State Director should consult OGC as to whether the proposed security is legally permissible.

(4) In individual cases, additional security may be advisable to ensure that the loan objectives will be carried out. For example, when the applicant or its members do not have proven ability to manage and operate the housing successfully, one or more of the following types of security may be required.

(i) A mortgage or other security interest in other real estate or personal property owned by the applicant or by the members of the applicant-organization.

(ii) A pledge, assignment, mortgage or other security interest in income from the housing.

(iii) A cosigner on the promissory note, letter of credit, endorsements, assessments, user agreements, personal liability agreements, or membership subscription agreements.

(5) As a general policy, personal liability will be required of the members of an association of farmers.

§ 1944.169 Technical, legal and other services.

(a) *Appraisals.* (1) When real estate is taken as security, the property will be appraised by an FmHA employee authorized to make real estate appraisals. Form FmHA 426-1, "Valuation of Buildings," will be completed to show the depreciated replacement value of all the buildings existing or to be constructed on the property to be taken as security. When the security being offered is:

(i) *A farm* and involves not more than two rental units, the appraisal will be made in accordance with Subpart A of Part 1809 of this Chapter (FmHA Instruction 422.1).

(ii) *Other than a farm*, and involves not more than two rental units, the appraisal will be made in accordance with Subpart A of Part 1809 of this Chapter (FmHA Instruction 422.3).

(iii) *Farm or nonfarm*, and involves more than two rental units or dormitory-type housing, the appraisal will be made in accordance with Subpart B of Part 1809 of this Chapter (FmHA Instruction 422.2).

(2) If the loan includes funds for purchasing household furnishings or equipment which will not become part of the real estate, a narrative type appraisal, identifying the items, will be prepared by the employee preparing the real estate appraisal. The value placed on such furnishings will be based on comparable selling prices in area.

(b) *Architectural and engineering services.* Housing and related facilities will be planned and designed to meet the needs of the type of occupants who

will likely occupy it. A written contract for architectural or engineering services will be required as outlined in Subpart A of Part 1804 of this chapter (FmHA Instruction 424.1).

(c) *Construction and development policies.* (1) *Planning and construction.* Housing will be planned in accordance with Subpart A of Part 1804 of this Chapter (FmHA Instruction 424.1) and Exhibit A-3 of this subpart. Construction and development will be performed in accordance with Subpart A of Part 1804 of this Chapter (FmHA Instruction 424.1).

(2) *Davis-Bacon Act.* Construction financed with the assistance of an LH grant will be subject to Subpart D of Part 1901 of this Chapter regarding the Davis-Bacon Act and related requirements.

(3) *Compliance with local codes and regulations.* Planning construction, zoning, and operation of housing financed with the LH loan or grant will conform with all applicable Federal, State and local laws, ordinances, codes, and regulations governing such matters as construction, heating, plumbing, electrical installation, fire prevention, health and safety and sanitation. If there are no local or State codes and regulations governing these matters, the State Director will issue appropriate guidelines to insure that the facilities meet all FmHA requirements.

(4) *Land use objectives.* Location of projects shall be such, to the extent practicable, that they result in the preservation of Important Farmlands and Forestlands, Prime Rangeland and Wetlands. State Directors will assure that FmHA actions, investments, and programs on non-Federal lands are consistent with State and local land use plans and programs to the extent practicable. In carrying this out, State Directors will:

(i) Attempt to integrate departmental and State and local land use policies and programs.

(ii) Identify and minimize to the extent practicable adverse environmental, economic, and social effects of FmHA projects and programs.

(iii) Provide landholders and other concerned people information about the alternatives to, and the associated environmental, social, and economic implications of proposed actions.

(iv) Refrain from enabling others to irreversibly convert these lands or encroaching or enabling other encroachments on flood plains unless there are no practicable alternatives.

(v) In unusual circumstances when the State Director is unable to make a determination regarding land

classification, the State Director will request assistance from the Administrator of the Soil Conservation Service in Washington, D.C.

(d) *Optioning of land.* If a loan or grant includes funds to purchase real estate, the applicable provisions of Subpart C of Part 1904 of this Chapter regarding options will be followed. After the loan is approved, the District Director will have Form FmHA 440-35, "Acceptance of Option," or other appropriate form of acceptance, completed, signed, and mailed to the seller.

(e) *Insurance.* The State Director will determine the minimum amounts and types of insurance the applicant will carry. (1) Fire and extended coverage will be required on all buildings included in the security for the loan in accordance with Subpart A of Part 1806 of this Chapter (FmHA Instruction 426.1).

(2) Suitable Workman's Compensation Insurance will be carried by the applicant for all its employees.

(3) The applicant will be advised of the possibility of incurring liability and encouraged, or may be required when appropriate, to obtain liability insurance.

(f) *Title clearance and legal services.* When the applicant is an organization, or has special title or loan closing problems, title clearance and legal services will be obtained in accordance with instructions from the OGC. In other cases, the provisions of Part 1807 of this Chapter (FmHA Instruction 427.1) regarding title clearance and legal services will apply.

(g) *Use of and accountability for loan and grant funds.* Loan and grant funds and any funds furnished by the borrower will be deposited and handled in accordance with Part 1803 of this Chapter (FmHA Instruction 402.1). (1) Funds furnished by the borrower for the purchase of special equipment and furnishings to be used in connection with the project, for which loan or grant funds could not be used, should not be deposited in the supervised bank account with loan or grant funds.

(2) For all organizations collateral will be pledged by the depository bank for any loan or grant funds or borrower contribution in accordance with Section 1803.4 of Part 1803 of this Chapter (Paragraph IV of FmHA Instruction 402.1).

(3) Funds may be disbursed from the supervised bank account only for authorized loan or grant purposes.

(h) *Bond counsel.* All tax exempt public bodies offering bonds as security for the LH loan are required to obtain the services of recognized bond counsel

in the preparation of evidence of indebtedness in accordance with with § 1942.19 of Subpart A of Part 1942 of this Chapter except as provided in paragraph 1 of Exhibit H of this subpart.

(i) *Bonding.* (1) The provisions of Subpart A of Part 1804 of this Chapter (FmHA Instruction 424.1) pertaining to surety bonds are applicable to LH loans and grants.

(2) If the applicant is an organization, it will provide fidelity bond coverage for the official(s) entrusted with the receipt, custody, and disbursement of its funds and the custody of any other negotiable or readily saleable personal property. The amount of the bond will be at least equal to the maximum amount of money that the applicant will have on hand at any one time exclusive of loan or grant funds deposited in a supervised bank account. The United States will be named co-obligee in the bond if not prohibited by State law. Form FmHA 440-24, "Position Fidelity Schedule Bond," may be used if permitted by State law.

(j) *Contracts for legal services.* On projects requiring extensive legal services, the applicant will be required to have a written contract for these services. All such contracts will be subject to review and approval by the FmHA and, therefore, should be submitted to the FmHA before execution by the applicant. Contracts will provide for the types of service to be performed and the amount of the fees to be paid, either in lump-sum on the completion of all services or in installments as services are performed. Legal Service Agreement, Exhibit G, may be used.

§ 1944.170 Processing preapplications.

(a) *Preapplication.* Form AD-621, "Preapplication for Federal Assistance," with the additional information outlined in Exhibit A-1 will be submitted to the District Director. This information is used to determine the applicant's eligibility and eliminate any proposals which have little or no chance for funding. The applicant should be instructed not to prepare an application until notified to proceed.

(b) *Actions by District Director.* The preapplication, with attachments, will be reviewed by the District Director. The District Director will inspect the site and consider its desirability if it appears that the applicant is eligible. The preapplication, including the comments and recommendations of the District Director and any additional material considered necessary, will be forwarded to the State Director.

(c) *Actions by State Director.* (1) If the applicant is an organization adopting

without change the "Articles and Bylaws" prescribed by State supplements, the preapplication need not be submitted to OGC.

(2) In all other cases involving loans or grants to organizations, the docket, with any questions or comments of the State Director will be submitted to the OGC for a preliminary opinion as to whether the applicant and the proposed loan meet or can meet the requirements of State law and this subpart.

(3) Determining amount of grant.

(i) *General.* The State Director will determine the amount the applicant can obtain from other sources, including an LH loan, and the amount of the grant to be made, within the limits set forth in § 1944.164 (c)(2). The State Director will make this determination after thoroughly analyzing the information the docket.

(ii) *Method of determining amount of grant.*

(A) The State Director will examine the income of the project based on the estimated rental charges and operating costs of the housing when in full operation to determine the soundness of the operations. When there is any doubt as to the probable soundness due to unrealistic planning of income or operating expenses, or for other reasons, the housing project and its operation will be discussed with the applicant to determine changes which can be made to correct the deficiencies.

(B) When a sound plan of operation has been agreed upon, the State Director will determine the amount of funds that can be expected to be available from other sources, including an LH loan. The State Director will also determine the amount of income available for loan repayments after allowing for reasonable and necessary maintenance costs, payments on debts of the applicant, and the orderly accumulation of an adequate reserve.

(C) The amount of the grant will be the difference between the amount of funds to be provided in accordance with paragraph (c) (3) (ii) (B) of this section, plus any funds available from the applicant's own resources and the total development cost of the project. In no case, however, may the amount of the grant exceed 90 percent of the total development cost.

(4) When the State Director considers it necessary, any preapplication may be sent to the National Office for evaluation and instructions.

(5) The State Director, after completing review of the preapplication material and determining the amount of grant, will notify the District Director of the State Director's determination and

authorize the District Director to prepare and execute Form AD-622, "Notice of Preapplication Review Action." The District Director will forward the original to the applicant, a copy to the State Director, and a copy to the case file.

§ 1944.171 Preparation of completed loan and/or grant docket.

(a) *Information needed.* If the applicant has been requested to file an application, Form AD-625, "Applicant for Federal Assistance (Short Form)," the additional information as outlined in Exhibit A-2 will be submitted to the District Director.

(b) *District Director's responsibility.* As the information for the loan docket is being developed, the District Director will work closely with the applicant. The District Director will review and verify the information furnished for correctness, adequacy, and completeness. The District Director will

determine that the market survey is adequate and that the market survey report is accurate. The District Director will evaluate the manner in which the applicant plans to conduct its business and financial affairs and comment on the adequacy of the management.

(c) *County Committee certification.* County Committees will not be used to review LH loan and/or grant applications.

(d) *Assembly, review, and distribution of complete loan and/or grant docket items.* When all items required for the complete loan and/or grant docket have been furnished, they will be examined thoroughly by the FmHA official who will approve the loan and/or grant to make sure they are properly and accurately prepared and are complete in all aspects, including dates and signatures. The loan and/or grant docket items will be assembled in the following order for distribution after approval:

(e) *Submission of docket to State Office.* The loan and/or grant docket, including comments and recommendations by the District Director, will be submitted to the State Office. The State Director will prepare, with the advice of OGC and include in the docket a memorandum to the County Supervisor which will either require additional information if the material submitted is inadequate, or will set forth the conditions of loan approval. If the State Director determines that the loan and/or grant should be approved, the State Director will approve the loan and sign the memorandum to the County Supervisor.

(f) *Submission of docket to National Office.* The final loan and/or grant docket need not be submitted to the National Office unless required by an authorizing memorandum resulting from compliance with § 1944.164.

(g) *Press release.* When it is determined that a loan and/or grant can be approved, a press release will be prepared in accordance with FmHA Instruction 2015-C which is available in the FmHA State and National Offices.

Form No.	Name of form or document	Total number of copies	Signed by borrower	Number for docket	Copy for borrower
AD-621	Preapplication for Federal Assistance	3	1	2-0&1C	1-C
Exhibit A-1	Information to be Submitted with Preapplication for Labor Housing (LH) Loan or Grant.	2	0	1-0	1-C
	Memorandum from the National Office authorizing development of loan docket and loan or grant approval if required by § 1944.164(a).	1		1-0	
AD-622	Notice of Preapplication Review Action	3		2-C	1-0
AD-625	Application for Federal Assistance (Short Form)	3	1	2-0&1C	1-C
Exhibit A-2	Information to be Submitted with Application for Federal Assistance (Short Form).	2	0	1-0	1-C
FmHA 444-5	Multiple Family Housing Fund Analysis	4		4-0&3C	
FmHA 440-1	Request for Obligation of Funds	4	2-0&1C	3-0&2C	1
FmHA 400-4	Nondiscrimination Agreement (Under Title VI, Civil Rights Act of 1964).	2	2-0&1C	1-0	1-C
FmHA 400-1	Equal Opportunity Agreement	2		1-0	1-C
**FmHA 400-3	Notice to Contractors and Applicants	3		2-0&1C	1-C
FmHA 400-4	Nondiscrimination Agreement	2	1	1	1
**FmHA 400-6	Compliance Statement (when applicable)	3		2-0&1C	1-C
	**Evidence of Legal Authority (copies or citation of specific provisions of State constitution and statutory authority).	2	1	1-0	1-C
	Appraisal report with attachments	1		1-0	1-C
FmHA 426-1	Valuation of Buildings	1		1-0	
FmHA 440-9	Supplementary Payment Agreement	2	1	1-0	1-C
Other Loan Docket Items. Preliminary Title Opinion and a Final Title Opinion or a title insurance binder, a mortgage title insurance policy and a copy of deed, purchase contract, or other instrument of ownership.					
	*Proof of Organization (certified copy of charter or articles of incorporation).	2	1	1-0	1-C
	*Certified copies of bylaws or regulations	2	1	1-0	1-C
	*List of names and addresses of officers, directors, and members, and membership interest held by each.	2	1	1-0	1-C
	*Certified copy of Loan Resolution	1	1	1-0	
	Loan Agreement, if applicable	2	1	1-0	1-C
	**Survey of land given as security, plans, specifications, costs estimates, and proposed manner of construction.	3	1	1-0	1-C
Exhibit A-5	Statement of Budget, Income and Expenses	2	1	1-0	1-C

When applicable, include copy of lease or occupancy agreement to be used, report of lien search, option or foreclosure notice agreement, and items of information concerning prior mortgage(s).

*When applicant is an organization.
**One copy for contractor.

§ 1944.172 [Reserved]

§ 1944.173 Loan and Grant Approval—Delegation of authority.

The State Director is authorized to approve loans and/or grants in accordance with this Subpart and Subpart A of part 1901 of this Chapter. The State Director may delegate loan or grant approval in writing to State Office employees other than District Directors. No LH grant may be approved by the State Director without the prior consent of the National Office.

(a) *Action before to loan or grant approval.* The loan or grant approval official is responsible for reviewing the docket to determine that the proposed loan and/or grant complies with all pertinent regulations, instructions, and directives. In making this review, the approval official will determine that:

- (1) The applicant is eligible.
- (2) The funds are requested for authorized purposes.
- (3) The proposed loan or grant is sound.
- (4) The security is adequate for the loan.
- (5) All preapproval requirements have been met.

(6) All other requirements will be met.

(b) *Approval of a loan or grant.* When a loan and/or grant is approved:

(1) The approval official will prepare and sign form FmHA 440-1 in an original and two copies. The State Director or a designee will telephone the Finance Office Check Request Station and request that loan and/or grant funds for a particular project be obligated.

(2) Immediately after contacting the Finance Office, the requesting official will furnish the requesting office's security identification code. Failure to furnish the security code will result in the rejection of the request for obligation. After the security code is furnished, all information contained on Form FmHA 440-1 will be furnished the Finance Office. Upon receipt of the telephone request for obligation of funds, the Finance Office will record all information necessary to process the request for obligation in addition to the date and time of the request.

(3) The individual making the request will record the date and time of the request and sign form FmHA 440-1 in section 37.

(4) The Finance Office will terminally process telephone obligation requests. Those requests for obligation received before 2:30 p.m. Central Time will be processed on the date of the request. Requests received after 2:30 p.m. Central Time, to the extent possible, will be processed on the date received; however, there may be instances in which a request will be processed on the next working day.

(5) Each working day the Finance Office will notify the State Office by telephone of all projects for which funds were reserved during the previous night's processing cycle and the date of obligation. If funds cannot be reserved for a project, the Finance Office will notify the State Office that funds are not available within the State allocation. The obligation date will be 6 working days from the date the request for obligation is processed in the Finance Office. The Finance Office will mail to the State Offices Form FmHA 440-57, "Acknowledgement of Obligated Funds/Check Request," confirming the reservation of funds with the obligation date inserted as required by item no. 9 on the Forms Manual Insert (FMI) for Form FmHA 440-57. Form FmHA 440-57 will be prepared and distributed in accordance with the FMI.

(6) After notification by the Finance Office that the funds have been reserved, the Original only of Form FmHA 444-5 accompanied by a copy of any National Office memorandum authorizing approval, will be mailed to

the Finance Office and a copy to the National Office. Forms FmHA 440-1 for those obligations requested by telephone will not be mailed to the Finance Office. Immediately after notification by telephone of the reservation of funds for not-for-profit organizations and public bodies, the State Director will call the Information Division in the National Office as required by FmHA Instruction 2015-C. Notice of approval to the applicant will be accomplished by mailing the applicant's signed copy of Form FmHA 440-1 on the obligation date. The State Director or a designee will record the actual date of applicant notification on the original of Form FmHA 440-1 and include the original of the form as a permanent part of the District Office project file with a copy in the State Office file.

(7) Determine the maximum rental rates to be charged domestic farm labor for occupancy of the housing, and advise the applicant, by memorandum, of these maximum rates. In determining the maximum rental rates due consideration must be given to the income and earning capacity of the prospective occupants of the housing and the cost of operating and maintaining such housing. As a general guide, the rental charges should not exceed 25 percent of the occupant families' estimated adjusted annual income.

(c) *Disapproval of a loan or grant.* When a loan and/or grant is disapproved after the docket has been developed, the reasons for such action will be shown on the original Form FmHA 440-1. Form FmHA 440-1 will be initialed and dated. The District Director will notify the applicant in writing of the disapproval of the loan and the reasons therefore and advise them of their right to appeal in accordance with Subpart B of Part 1900 of this Chapter (FmHA Instruction 1900-B). The disapproved docket will then be handled in accordance with applicable FmHA regulations (Part 2033 of this Chapter). Any appeals as a result of disapproval will be handled in accordance with Subpart B of Part 1900 of this Chapter (FmHA Instruction 1900-B).

§ 1944.174 Distribution of loan and/or grant approval documents.

(a) *OGC.* For a loan to an organization, or in special cases, the approved loan or grant docket, including any title evidence, will be sent to OGC for preparation of closing instructions and any special legal documents required for closing. A certified copy of the required loan and grant resolution,

grant agreement or the original executed, witnessed loan and grant agreement must be supplied by the applicant in time to be included in the loan or grant docket. No docket will be considered which fails to include such a required resolution or agreement. OGC will route the docket, including closing instructions and any such legal documents, to the District Office through the State Office for review and for inclusion of any further instructions needed in closing the loan.

(b) *State Central Information Reception Agency (SCIRA).* Standard Form 424, "Federal Assistance," will be prepared by the State Director within 7 days after approval of an initial or subsequent grant or after a change in the amount of purpose of a grant in accordance with Subpart J of Part 1901 of this Chapter.

§ 1944.175 Actions subsequent to loan and/or grant approval.

(a) *Interim financing from commercial sources.* Interim financing should be used when a loan and/or grant exceeds \$50,000 provided funds can be borrowed at reasonable interest rates from commercial sources for the construction period. When interim commercial financing is used:

(1) The docket will be processed to the stage where the FmHA loan and/or grant would normally be closed. FmHA loan and/or grant funds will be obligated before the applicant proceeds with the final arrangements for interim commercial financing.

(2) The State Director or District Director may deliver a copy of Form FmHA 440-57 as evidence of the FmHA commitment, if necessary, or a letter stating that funds in specified amounts have been obligated and will be available to retire the interim financing if the applicant complies with the approval conditions. See Exhibit I for a sample letter that may be used.

(3) FmHA will undertake similar functions as if FmHA funds had been advanced from the standpoint of approving construction contracts and the monitoring of construction.

(4) The supervised bank account will normally not be used for funds obtained through interim commercial financing. However, the District Director will approve Form FmHA 424-18, "Partial Payment Estimate," to insure that funds are used for authorized purposes.

(5) When the interim financing funds have been expended, the FmHA loan and/or grant will be closed and permanent instruments will be issued to evidence the FmHA indebtedness. The FmHA loan and/or grant proceeds will

be used to retire the interim commercial indebtedness.

(6) Before the FmHA loan and/or grant is closed, the applicant will be required to provide the District Director with statements from the contractor(s), engineer, and attorney that they have been paid in full in accordance with their contracts or other agreements and that there are no unpaid obligations outstanding in connection with the construction of the project.

(b) *Multiple advances of LH loan and grant funds.* In the event interim commercial financing is not available, multiple advances will be used for all loans and/or grants in excess of \$50,000 subject to the following:

(1) When relatively large amounts of funds are to be expended for purchases of real estate or for other reasons at the time of closing, separate checks for such purposes may be ordered and endorsed by the borrower to the seller or other appropriate party. This will preclude the necessity for depositing such funds in the supervised bank account and reduce the amount of required collateral.

(2) Except as indicated in paragraph (b)(1) of this subpart, advances will be made only as needed to cover disbursements required by the borrower for a 30-day period. Normally, the advances should not exceed 24 in number or extend longer than 2 years beyond loan closing. The retained percentage withheld from the contract or to assure that construction will be completed in accordance with the contract documents will ordinarily be included in the last advance. Advances will be requested in sufficient amounts to insure that ample funds will be on hand to pay costs of construction, land purchase, legal, engineering, or architectural costs, interest, and other expenses, as needed. The borrower will prepare Form FmHA 440-11, "Estimate of Funds Needed for 30-day Period Commencing _____," modified as needed, to show the amount of funds required during the 30-day period. This form will be approved by the District Director. After the District Director determines that the estimate prepared by the borrower is adequate, the District Director will request the advance by indicating the amount on Form FmHA 440-57 in accordance with the FMI and forwarding it to the Finance Office, St. Louis, Missouri. As an example, for a loan and/or grant of \$100,000, the advances may be made as follows: Assuming that the loan and/or grant will be closed on July 1, the borrower will complete Form FmHA 440-11 in sufficient time so that the funds will be available on the day of loan closing. The

estimates should be broken down for the first advance in a manner similar to the following:

Construction	\$30,000
Land acquisition	5,000
Architectural	4,000
Legal	1,000
Total	40,000

An advance in the amount of \$40,000 would then be available on July 1, the date of loan closing. The second advance will also be based on the borrower's estimate prepared on Form FmHA 440-11, and will be prepared in sufficient time so that the estimated amount of funds will be available on August 1. This estimate of funds might be broken down as follows:

Construction	\$20,000
Architectural	1,000
Total	21,000

A copy of Form FmHA 440-57 specifying the amount then will be forwarded to the Finance Office. The same routine will be followed for each advance until the project is completed.

(3) Any deviation from the multiple advance procedure must have the prior approval of the National Office.

(c) *Requesting check.* When loan approval conditions can be met, including any real estate lien required, and a date for loan closing has been agreed upon, the District Director will determine the amount of funds needed in accordance with either paragraph (a) or (b) of this section. The District Director or the District Director's delegate will then order the loan and/or grant check so that it will be available on or just before the date set for loan closing.

(d) *Increase or decrease in the amount of the loan.* If it becomes necessary for the amount of the loan and/or grant to be increased or decreased before loan closing, the loan approval official or District Director will request that all distributed docket forms be returned to the District Office. The loan docket will be revised accordingly and reprocessed.

(e) *Cancellation of loan.* Loans and/or grants may be canceled after approval and before loan closing as follows:

(1) The District Director will prepare Form FmHA 440-10, "Cancellation of Loan or Grant Check and/or Obligation," in an original and two copies (3 copies if the check is received in the District Office from the Regional Disbursing Office). The original and copies will be sent to the State Director with the reasons for requesting cancellation. If the State Director approves the request for cancellation,

the State Director will forward the original request to the Finance Office after making appropriate adjustments in the records to control loan allocations. A copy of Form FmHA 440-10 will be sent to the National Office and the District Office.

(2) If the loan or grant check is received in the District Office the District Director will return it to the Disbursing Center, U.S. Treasury Department, Post Office Box 3329, Kansas City, Kansas 66103, with a copy of Form FmHA 440-10.

(3) All interested parties will be notified of the cancellation as provided in Part 1807 of this Chapter (FmHA Instruction 427.1).

(f) *Handling the loan or grant check.* The loan or grant check will be handled in accordance with paragraph IV of FmHA Instruction 102.1 which is available in any FmHA Office and Part 1803 of this Chapter (FmHA Instruction 402.1).

(g) *Property insurance.* Buildings will be insured in accordance with Subpart A of Part 1806 of this Chapter (FmHA Instruction 426.1).

§ 1944.176 Loan and/or grant closing.

(a) *Applicable instructions.* LH loans and/or grants will be closed in accordance with applicable provisions of Part 1807 of this Chapter (FmHA Instruction 427.1) and State supplements. Loan dockets for an organization and loan dockets for an individual in special cases will be sent to OGC for additional closing instructions. A family farm corporation, partnership, or an association of farmers applicant may use its attorney to close the loan in accordance with applicable loan closing instructions provided the attorney is not a member, officer, director, trustee, stockholder or partner of the applicant entity. Nonprofit organizations may use an attorney who is a member of their organization. The cost incurred by the organization for legal services must be reasonable and competitive for the area.

(b) *LH grant agreement.* A LH grant agreement, prepared and authorized as provided in § 1944.164 (f) (3) of this subpart, will be dated and executed by the applicant on the date of grant closing. The executed agreement will be filed with the mortgage or other security instrument in the County Office case file.

(c) *Mortgage.* Unless the OGC determines the form to be inappropriate, real estate mortgage Form FmHA 427-1 (State), "Real Estate Mortgage for _____," will be used. For loans and/or grants to organizations, Form

FmHA 427-1 will be modified as prescribed by or with the advice of the OGC with respect to the name, address, and other identification of the borrower, style of execution, acknowledgment, and any other provisions.

(1) The mortgage or other instrument will contain the following covenant:

The property described herein was obtained or improved through Federal financial assistance. This property is subject to the provisions of Title VI of the Civil Rights Act of 1964 and the regulations issued pursuant thereto for so long as the property continues to be used for the same or similar purpose for which financial assistance was extended or for so long as the purchaser owns it, whichever is longer.

(2) When a loan resolution or loan agreement is used, an additional paragraph will be included in the mortgage to read as follows:

This instrument also secures the obligations and covenants of Borrower set forth in Borrower's Loan Resolution (Loan Agreement) of (Date), which is hereby incorporated herein by reference.

(3) When the borrower is not an individual farmowner, or an association of farmers, the mortgage will include the following provision:

Borrower will not require any occupant of the housing or related facilities, as a condition of occupancy, to work or be employed on any particular farm or other place, or work for or be employed by any particular person, firm, or interest.

(4) For a grant made at the same time as an LH loan, the mortgage securing the loan will contain a provision making it also secure the applicant's obligations under the LH grant agreement. For a grant not made at the same time as an LH loan, the type of security instrument will be determined by the National Office based upon the State Director's recommendation and the advice of OGC.

(d) *Promissory Note.* (1) The total amount to be shown on the note will be shown on Form FmHA 440-1. The note will be dated the date of loan closing as authorized in Part 1807 of this Chapter (paragraph II F 8 of FmHA Instruction 427.1).

(2) Form FmHA 440-16, "Promissory Note" will be used for all LH loans. Payments on LH loans will be scheduled on an annual basis and in accordance with the FMI. Form FmHA 440-9 will be used to schedule payments on a monthly, quarterly, or semi-annual basis in accordance with the expected schedule of income from the project.

(3) Deferred principal payments may be permitted up to 2 years when determined to be necessary and

advisable. Accrued interest must be paid annually; however, smaller than regular payments of principal or no payments of principal may be provided for the first and second installments after loan closing.

(4) The note(s) will be signed in accordance with Part 1807 of this Chapter (FmHA Instruction 427.1) and any supplemental instructions from OGC.

(5) Immediately after loan closing the original notes and copies will be distributed in accordance with the FMI.

(6) For a loan to a public body the forms of obligation will be determined in accordance with § 1942.19 of Subpart A of Part 1942 of this Chapter.

(e) *Recorded mortgage.* When the real estate mortgage is returned by the recording official, the District Director will retain the original in the borrower's case folder. If the original is retained by the recording official for the county records, a conformed copy including the recording data showing the date and place of recordation and book and page number will be prepared and filed in the borrower's case folder. A copy of the mortgage, conformed as to all matters except the recording date, will be delivered to the borrower.

(f) *Date of closing—establishment of account.* (1) An LH loan and/or grant is considered closed when the security instrument is filed of record, or, if no security instrument is filed of record, when the loan or grant funds are deposited in the supervised bank account or otherwise made available to the borrower after the borrower executes and delivers the note and any other required instruments.

(2) After the loan and/or grant is closed, the account and case folder will be established in accordance with applicable FmHA regulations (FmHA Instructions 405.1 which is available in any FmHA Office, and 2033-B which is available in the FmHA State and National Office.

§ 1944.177 Coding loans and grants as to initial or subsequent.

A borrower may obtain financing for more than one project. Each project will be coded as an initial loan or grant when the total number of units are built or purchased at one place at one time. A subsequent loan or grant will be so coded when an additional loan or grant is necessary to complete the units planned with the initial loan or grant. As an example, the borrower may obtain initial loans or grants for more than one project in the same district, in different counties under the same District Office jurisdiction, or in more than one District

Office jurisdiction. Codes to be used will be in accordance with the FMI for Forms FmHA 440-1, FmHA 440-57, and FmHA 444.5

§ 1944.178 Complaints regarding discrimination in use and occupancy of LH.

Any occupant or applicant for occupancy or use of such LH housing or related facilities who believe they have been discriminated against because of race, color, religion, sex, national origin, age, marital status, physical or mental handicap (must possess capacity to enter into legal contract) may file a complaint with the District Director or State Director. Any such complaint will be referred through the State Director to the National Office.

(a) The complaint must be in writing and signed by the complainant and contain the following information (the County Supervisor will provide assistance as needed in preparing the complaint).

(1) The name and address (including telephone number) of the complainant.

(2) The name and address of the person committing the alleged discrimination.

(3) Date and place of the alleged discrimination.

(4) Any other pertinent information that will assist in the investigation and resolution of the complaint.

(b) The District Director or State Director will acknowledge receipt of the complaint and promptly forward it to the National Office.

(c) Attached to the written complaint should be a statement from the District Director or State Director as to whether the security instrument or other document executed by the borrower contains a nondiscrimination agreement. The statement also should include any other information which the State Director or District Director has pertaining to the complaint. The District Director or State Director should delay a comprehensive investigation of any complaint until requested to conduct the investigation by the National Office.

(d) The National Office will determine whether discrimination did in fact occur. If necessary, appropriate steps will be taken to ascertain the essential facts.

(e) If it is found that the borrower's nondiscrimination agreement in the security instrument or elsewhere was violated, FmHA will inform the parties of such finding and advise the violator to take the action necessary to correct the violation and to give appropriate assurance of future compliance.

(f) If it is found that the complaint is without substance, the parties concerned will be so notified.

(g) If the borrower fails to take such corrective action and assure future compliance, the Administrator may take further appropriate action.

§§1944.179-1944.180 [Reserved]

§ 1944.181 Loan servicing.

LH loans and grants will be serviced in accordance with Subpart B of Part 1924 of this Chapter and Subpart G of Part 1802 of this Chapter (FmHA Instruction 430.2). Requests for rent increases will be processed in accordance with Exhibit F of Subpart G of Part 1802 of this Chapter (FmHA Instruction 430.2, Exhibit F).

§ 1944.182 Rental Assistance.

Rental assistance may be provided to eligible tenants in LH projects in accordance with Exhibit R of Subpart D of Part 1822 of this Chapter (Exhibit R of FmHA Instruction 444.5).

§§ 1944.183-1944.200 [Reserved]

Attachments as a part hereof: Exhibits A, A-1, A-2, A-3, A-4, A-5, B, C, D, E, F, G, H, I

Exhibit A—Labor Housing Loan and Grant Application Handbook

Introduction

Development of a proposal for Labor Housing (LH) loan and grant can be an expensive proposition and the Farmers Home Administration (FmHA), therefore, encourages applicants to develop applications in two phases which are termed preapplication phase and application phase. In development of the items required for the preapplication phase, applicants should understand that the Government is in no way obligated to commit loan or grant funds to the proposed project and therefore, they should not, at this stage, incur expenses for the optioning of land, architectural services, engineering services, or other purposes unless they will be able to use their own funds to pay these expenses. In addition, before the development of a preapplication, applicants should meet with the local FmHA District Director to gain a basic understanding of the eligibility and other requirements of the LH loan and grant program.

Exhibit A-1—Information to be Submitted with Preapplication for Labor Housing Loan or Grant

The following information should be submitted with Form AD-821, "Preapplication for Federal Assistance":

1. *Eligibility:* a. Financial Statement—A current, dated, and signed financial statement showing assets and liabilities with information on the repayment schedule and status of all debts. If the applicant is an association of farmers, a current financial statement will also be required from each member. The applicant must have or be able to obtain initial operating capital of at least 2 percent of the total development cost of the project. A statement should, therefore, be

included explaining how such funds will be provided. Loan or grant funds may be used to provide the required initial operating capital for nonprofit and State or local public agencies.

b. All applicants, except State and local public agencies, must provide evidence that they are unable to obtain credit from other sources. Letters from credit institutions who normally provide real estate loans in the area should be obtained and these letters should indicate the rates and terms upon which a loan might be provided.

c. If a Labor Housing (LH) grant is requested, a statement explaining why the housing cannot be provided without a grant. This statement should provide preliminary estimates of the rents required without a grant, and the rents with the proposed grant.

d. A statement of the applicant's experience in operating LH or other rental housing. If the applicant's experience is limited, additional information should be provided to indicate how the applicant plans to compensate for this limited experience. (i.e., obtaining assistance and advice of a management firm, non-profit group, public agency, or other organization on a continuous basis).

e. A brief statement explaining the applicant's proposed method of operation and management. This does not have to be a full-fledged management plan, as outlined by Exhibit B, however, it should generally explain how the applicant proposes to operate the facility. (i.e., onsite manager, contracting for management services, etc.).

f. Organization-type applicants must provide a copy of or an accurate citation to the special provisions of State law under which the applicant is or is to be organized, a copy of the applicant's charter, Articles of Incorporation, bylaws, and other basic authorizing documents; names and addresses of the applicant's members, directors, and officers; and, if a member or subsidiary of another organization, its name, address, and principal business.

g. Statement of Personal History—A Form FmHA 449-4 which discloses previous participation in any FmHA, FHA or HUD housing program is required of each member of a family farm corporation, family farm partnership or association of farmers, and each officer and director of other organization applicants. Items 1, 4, and 13 of Form FmHA 449-4 must be completed by each applicant that is a nonprofit corporation, a State agency, or a political subdivision or agency of State or local Government; however, a Form FmHA 449-4 is not required of any elected or appointed official in conjunction with an application from any public organization.

2. *Need and demand:* A preliminary survey should be conducted to identify the supply and demand for LH in the area. This survey should address or include the following items:

a. The annual income level of farmworker families in the area and the probable income of those farm workers who are most apt to occupy the proposed unit.

b. A realistic estimate of the number of farmworkers who are home-based in the area

and the number of farmworkers who normally migrate into the area. Information on migratory workers should indicate the average number of months the migrants reside in the area and an indication of what type of family groups are represented by the migrants (i.e., single individuals as opposed to families). Much of this information may be available from the local office of the Rural Manpower Services section of the Department of Employment Services.

c. General information concerning the type of labor intensive crops grown in the area and prospects for continued demand for farm laborers (i.e., prospects for mechanization etc.). Information may be available from the local U.S. Department of Agriculture (USDA) Extension Service office or from the Agricultural Stabilization and Conservation Service.

d. The overall occupancy rate for comparable rental units in the area and rents charged and customary rental practices for these units (i.e., will they rent to large families, do they require annual leases, etc.). This information may be available from census data, local planning organizations, or local housing authorities.

e. The number, condition, adequacy, ownership, and rental rates for units currently used or available to farmworkers. This information may be available from local farmworker advocacy groups, Rural Manpower Services, or social service agencies.

f. A general description of the units proposed, including number, type, and size and an estimate of the total development cost and amount of contribution by the applicant.

Note.—The market survey is one of the most important determinates of the overall feasibility of the proposed project. Therefore, the applicant may wish to do a more detailed study of the market in accordance with item 9 of Exhibit A-2.

3. *Additional information:* The following items should be provided only if they are readily available:

a. A map of the proposed site showing the location of the site and supporting information on the neighborhood and available facilities, such as distance to shopping, churches, schools, available transportation, drainage, sanitation facilities, water supply, and access to other services such as doctors, dentists, and hospitals.

b. Any available sketches or schematics of the proposed housing including plot plans, building layouts, and construction types.

The information required by the preapplication will be carefully reviewed for eligibility and feasibility by appropriate Farmers Home Administration (FmHA) officials. As soon as a decision is reached, the applicant will be advised of the availability of funds for the project, via Form AD-822, "Notice of Preapplication Review Action."

Upon receipt of Form AD-822 indicating favorable action by FmHA, the applicant, if proposing more than 10 single detached units, or 25 multifamily type units, should submit Form AD-821, "Preapplication for Federal Assistance," with required information to the appropriate State and/or area-wide

clearinghouses so that required A-95 reviews can be conducted and comments received from appropriate State agencies before the final application is submitted. Local FmHA District or State Offices can provide names and addresses of appropriate clearinghouses and details on the information which must be submitted.

Exhibit A-2—Information to be Submitted with "Application for Federal Assistance (Short Form)"

After the applicant has received the signed Form AD-622, "Notice of Preapplication Review Action," authorizing the applicant to proceed to develop a final application, the applicant and the applicant's architect should meet with the Farmers Home Administration (FmHA) architect/engineer and other officials responsible for loan processing. During this preprocessing meeting, FmHA will discuss the services which the applicant's architect will be expected to provide and will also explain the items needed to complete the final application.

If after the preprocessing meeting the applicant believes that the Labor Housing (LH) project can be developed within the guidelines required by FmHA, the following information should be submitted with Form AD-625, "Application for Federal Assistance (Short Form)":

1. If applicable, evidence that Form AD-621, "Preapplication for Federal Assistance," has been filed with the appropriate State or local clearinghouses for A-95 review along with any comments received from the clearinghouses.

2. Proposed contracts for architectural, engineering, and legal services as applicable. (Standard forms provided by the appropriate professional organization can normally be used if prior approval is obtained from the FmHA State Office.

3. A plot plan and detailed preliminary drawings and specifications prepared in accordance with Subpart A of Part 1804 of this Chapter (FmHA Instruction 424.1). Exhibit A-3 provides FmHA's general philosophy and standards concerning the construction of LH facilities.

4. A detailed cost breakdown of the project for items such as land purchase, right-of-ways, building construction, equipment, utility connections, on-site improvements, architectural and/or engineering services, and legal services. The costs breakdown should itemize labor and material unit costs. If a LH grant is proposed, construction will be subject to the provisions of the Davis-Bacon Act. LH grant applications should, therefore, obtain a copy of Subpart D of Part 1901 of this Chapter which explains the Davis-Bacon requirements.

5. Satisfactory evidence of review and approval of the proposed housing, including compliance with zoning requirements by State and local officials, as required by applicable State or local laws, ordinances, or regulations.

6. If not already provided in the preapplication submittal, a map of the proposed site showing the location of the site in relation to available facilities such as schools, shopping, churches, hospitals, etc. In

addition, supporting information should be provided indicating that essential utilities such as sewer, water, electricity, etc., will be available to the project. (See Exhibit A-3 for FmHA's general requirements for location of LH facilities).

7. Form FmHA 440-46, "Environmental Impact Assessment," for all projects involving more than 25 individual detached or 50 multi-family units. This is not a request for an Environmental Impact statement. Parts I, II and III should be completed by the applicant. The remainder will be completed by FmHA.

8. A description of and justification for any related facilities such as community or multi-purpose type buildings, cafeterias, dining halls, infirmaries, child care facilities, etc. To be included for funding by FmHA, the facilities should not be of extravagant design and their size must be commensurate with the needs of the farm workers who will occupy the housing facility. Any long-term agreements which are contemplated with other agencies for services such as manpower training, migrant health services, child care, and education programs should be explained and included as justification for the related facilities.

9. A detailed market analysis addressing in detail the items required under item 2 of the preapplication submittal should be conducted in accordance with the following:

a. The market area (i.e., the area from which tenants can reasonably be drawn for the project) should be clearly identified.

b. Existing units which are currently available or which could become available should be surveyed and information obtained in accordance with Exhibit A-4.

c. The number of farmworkers home-based in the area and the number of workers migrating into the area by month should be realistically estimated. Additional information should also be obtained concerning the farmworker family or household composition (i.e., family size, number of children, number of adults, and number of adults who work outside the home). Complete information may not be readily available, however, the best possible statistics should be provided so a realistic estimate of occupancy of the proposed project can be made.

d. Income levels of the general farmworker population and incomes of those most likely to occupy the project.

e. Individual farmworkers and farmworker groups should be contacted and their ideas obtained concerning the type of housing which would gain the greatest acceptance. (This information may not seem important at the outset of the loan if there is a pressing need for LH, however, to assure a long-term demand for the project consideration should be given to the views of the prospective tenants).

f. The above items should then be correlated to arrive at a realistic estimate of the total need for units, type of units, estimated occupancy, and maximum rental rates which can be charged for the units, and the type of amenities or related facilities which should be provided.

10. Proposed, detailed operating budgets for: (a) the first year of operation, and (b) a typical year's operation. The overall percentage of occupancy should be based upon the data collected in the market analysis. Operating costs should be realistic and should reflect somewhat higher than normal maintenance costs and an allowance for the establishment of a reserve as required by the loan agreement. The budget should be prepared in the format of Exhibit A-5.

11. A management plan which includes the applicable items of Exhibit B.

12. When the loan is to be secured by a junior real estate lien, certain agreements will be required from prior lien holders. The local or State FmHA official will provide the applicable agreements.

When the final application is assembled it should be submitted to the local FmHA District Office for review and submission to the State Office. As soon as a final decision to approve the loan is reached, the applicant will be notified and advised to proceed with the preparation of final plans and specifications, contract documents, and other items needed to close the loan. *The applicant should not proceed with bid advertisement or contract awards until advised to proceed by FmHA.*

Exhibit A-3—Labor Housing Construction Guidelines

I. Introduction: This Exhibit provides the Farmers Home Administration's (FmHA's) general guidelines and policies concerning the planning, location, and construction of housing for farmworkers. The type of housing should be in accordance with the needs of the prospective tenants. Multi-family type units are encouraged whenever possible; however, when planning units for farmworker families, lower density building design and layout is normally desirable. Housing should be designed in such a manner that it will be decent, safe, sanitary, and modest in size and cost. Actual plans, specifications and contract documents should be prepared in accordance with Subpart A of Part 1804 of this Chapter (FmHA Instruction 424.1).

II. Types of housing and appropriate standards: a. Single-family type housing is defined as an individual or a group of single family dwelling units, detached or attached. These type units should meet the following standards:

1. All sites shall be planned and constructed in accordance with Subpart D of Part 1804 of this Chapter (FmHA Instruction 424.5).

2. All planning and construction shall be in conformance with the Minimum Property Standards (MPS) and applicable State and local codes.

b. Multi-family type housing is defined as a project or a number of projects encompassing buildings containing more than one dwelling and may include mixtures of single-family and multi-family structures in a single project. These type units should meet the following standards:

1. All housing should be planned in substantial compliance with the MPS to facilitate easy conversion to conventional

rental type housing. Items which must comply with the MPS are:

- a. Room sizes.
- b. Storage spaces.
- c. Light and ventilation.
- d. Insulation.
- e. Plumbing installation.
- f. Heating systems.
- g. Electrical installation.
- h. Room arrangements.
- i. Fire protection.

2. All planning and construction should be in conformance with applicable State and local codes.

BILLING CODE 3410-07-M

Exhibit A-5

STATEMENT OF BUDGET, INCOME, AND EXPENSE. (Excluding Depreciation)

Name of Borrower _____
 Address _____
 Project Location _____
 Kind of Loan _____ Term of Loan _____ Interest Rate _____ Amount \$ _____

No. & Kind	Per Month	1st Year	Typical Year	Typical Yr w/ Grant	Typical Yr w/o Grant
		Beg. _____ End _____ (1)	Beg. _____ End _____ (2)	Beg. _____ End _____ (3)	Beg. _____ End _____ (4)
<u>Income from Rent</u>					
1	_____ units @ _____	_____	_____	_____	_____
2	_____ units @ _____	_____	_____	_____	_____
3	_____ units @ _____	_____	_____	_____	_____
4	_____ units @ _____	_____	_____	_____	_____
5	Less Allowance for Vacancy and Contingencies	_____	_____	_____	_____
	as authorized by FmHA	()	()	()	()
6	Total Income from Rent	_____	_____	_____	_____
<u>Other Income</u>					
7	Laundry	_____	_____	_____	_____
8	Interest Income	_____	_____	_____	_____
9	Other (specify)	_____	_____	_____	_____
10	Total Other Income (Add Lines 7 through 9)	_____	_____	_____	_____
11	Total Income (Add Lines 6 through 10)	_____	_____	_____	_____
12	Total Operation, Maintenance and other Expenses	_____	_____	_____	_____
13	Net Income (Loss) (Line 11 less Line 12)	_____	_____	_____	_____
<u>Other Deductions</u>					
14	FmHA Payment (Principal)	_____	_____	_____	_____
15	Transfer to Reserve	_____	_____	_____	_____
16	Authorized Capital Imp.	_____	_____	_____	_____
17	Other Authorized Debt Payments	_____	_____	_____	_____
18	Other (specify)	_____	_____	_____	_____
19	Total Other Deductions (Add Lines 14 thru 18)	_____	_____	_____	_____
20	Excess (Deficit) (Line 13 less Line 19)	_____	_____	_____	_____

Certified Correct

_____ by _____
 (date) Applicant's Signature

Exhibit A-5

OPERATION AND MAINTENANCE EXPENSES:

	(1)	(2)	(3)	(4)
1. Salaries and Wages	\$ _____	\$ _____	\$ _____	\$ _____
Caretaker	\$ _____	\$ _____	\$ _____	\$ _____
Manager	\$ _____	\$ _____	\$ _____	\$ _____
2. Utilities	\$ _____	\$ _____	\$ _____	\$ _____
Water	\$ _____	\$ _____	\$ _____	\$ _____
Sewer	\$ _____	\$ _____	\$ _____	\$ _____
Gas	\$ _____	\$ _____	\$ _____	\$ _____
Electricity	\$ _____	\$ _____	\$ _____	\$ _____
Heating	\$ _____	\$ _____	\$ _____	\$ _____
Garbage and Trash Removal	\$ _____	\$ _____	\$ _____	\$ _____
Telephone	\$ _____	\$ _____	\$ _____	\$ _____
Other	\$ _____	\$ _____	\$ _____	\$ _____
3. Maintenance	\$ _____	\$ _____	\$ _____	\$ _____
Janitor's Supplies	\$ _____	\$ _____	\$ _____	\$ _____
Repairs	\$ _____	\$ _____	\$ _____	\$ _____
Building Equipment Repairs	\$ _____	\$ _____	\$ _____	\$ _____
Exterminating	\$ _____	\$ _____	\$ _____	\$ _____
Decorating	\$ _____	\$ _____	\$ _____	\$ _____
Grounds Maintenance	\$ _____	\$ _____	\$ _____	\$ _____
Furniture & Furnishing	\$ _____	\$ _____	\$ _____	\$ _____
Replacements	\$ _____	\$ _____	\$ _____	\$ _____
Other	\$ _____	\$ _____	\$ _____	\$ _____
4. Insurance	\$ _____	\$ _____	\$ _____	\$ _____
Fire and Extended Coverage	\$ _____	\$ _____	\$ _____	\$ _____
Liability	\$ _____	\$ _____	\$ _____	\$ _____
Compensation	\$ _____	\$ _____	\$ _____	\$ _____
Other	\$ _____	\$ _____	\$ _____	\$ _____
5. Taxes	\$ _____	\$ _____	\$ _____	\$ _____
Real Estate	\$ _____	\$ _____	\$ _____	\$ _____
Social Security	\$ _____	\$ _____	\$ _____	\$ _____
Special Assessments	\$ _____	\$ _____	\$ _____	\$ _____
Income	\$ _____	\$ _____	\$ _____	\$ _____
Other	\$ _____	\$ _____	\$ _____	\$ _____
6. Other Expenses	\$ _____	\$ _____	\$ _____	\$ _____
Accounting	\$ _____	\$ _____	\$ _____	\$ _____
Legal	\$ _____	\$ _____	\$ _____	\$ _____
Advertising	\$ _____	\$ _____	\$ _____	\$ _____
Interest (FmHA)	\$ _____	\$ _____	\$ _____	\$ _____
Other Interest	\$ _____	\$ _____	\$ _____	\$ _____
7. Total Operation and Maintenance Expenses (Add Section 1 thru 6) (Total to Line 12 Front Side)	\$ _____	\$ _____	\$ _____	\$ _____

Exhibit B—Management Plans

The management of a rental project, regardless of the type of tenants, is one of the most, if not the most, important determinants of the success or failure of a proposed project.

The management plan, therefore, as the primary management charter should constitute a comprehensive description of the detailed policies and procedures to be followed in managing the project and should as a minimum address the following items:

1. *Staffing.* The number, qualifications required, and duties of all personnel who will be hired to operate the project. Equal employment opportunity should be provided and special consideration should be given to hiring Spanish-speaking person if warranted by the expected occupancy.

2. *Marketing.* The marketing efforts of techniques which will be used to obtain initial rent ups and occupancy of future vacancies (i.e. advertisement, contacts with social service agencies, local farmers, etc.).

3. *Tenant selection.* Domestic farm workers must be given absolute priority in renting available units. Other selection criteria should be specifically outlined in the management plan. Arbitrary restrictions as to family sized, age of children, or other similar items are prohibited, however, the size of unit assigned to a family should be commensurate with its needs. Rejected tenant applications should be maintained for a minimum of 1 year and applicants must be advised of the reasons for rejection.

4. *Ineligible tenants.* Units can be rented to other than farm workers when they are not needed by farm workers (i.e., during the off season), however, the leases must be on a short-term basis, normally not exceeding 30 days, and ineligible tenants must be advised that they will have to vacate the units if an eligible farm worker becomes available. To avoid future problems, occupancy by ineligibles should be avoided if at all possible.

5. *Lease or occupancy agreement.* A copy of any proposed lease or occupancy agreement should clearly outline the responsibilities of the tenant and landlord.

6. *Counseling services.* Pre- and post-occupancy counseling services, which will be provided to tenants by borrowers to acquaint them with the project or otherwise assist them, should be thoroughly explained.

7. *Collection of rent:* The system which will be used in the collection of rent must be outlined including proper provisions for the internal control and security of cash collections, followup on overdue accounts, persons responsible for collections, recordkeeping, and conditions for the return of security deposits, if required.

8. *Evictions:* The plan should spell out the specific reasons which warrant eviction and the steps which will be taken to resolve problems before eviction, including provisions for appeal. Voluntary compliance with the lease or occupancy agreement should be emphasized and every effort should be made to utilize the benefits available through local social service agencies and other community organizations.

9. *Maintenance and repairs:* A schedule for preventive maintenance and the procedure for handling service requests from individual tenants, including procedures for the handling of emergency repairs on a 24-hour basis should be outlined.

10. *Records and reports:* The type of recordkeeping system which will be established and the person or persons who will be responsible for keeping records and submitting required reports to FmHA. Subpart G of Part 1602 of this Chapter (FmHA Instruction 430.2) outlines the reports required and the formats for these reports. This Instruction is available from the local District Office.

11. *Fidelity bonds:* Bonding should be provided for all persons entrusted with the receipt, custody, and disbursement of funds and custody of other negotiable or readily salable personal property. The amount of the bond should be at least equal to the maximum amount of money or property which the individual will have control of at any one time.

12. *Tenant councils:* Tenant councils should be encouraged and should be given an input into proposed changes in lease agreements, staff selection, eviction, and in some cases tenant selection and other management decisions which have a bearing on the tenant's overall situation. Provisions should also be outlined for the democratic election of tenant councils.

13. *Rent increases:* Requested or proposed rent increases should be handled in accordance with Exhibit F of Subpart G of Part 1602 of this Chapter. (FmHA Instruction 430.2, Exhibit F).

14. *Non-discrimination:* The plan should address the policy of non-discrimination in tenant selection and employee hiring in accordance with Form FmHA 400-4, "Non-Discrimination Agreement," and the affirmative action planned in the recruitment of employees and tenants.

15. *Other items:* Any other items which have a bearing on the operation and management of the project.

16. The management plan must be signed and dated by the borrower or the borrower's authorized representative.

Exhibit C—Loan Resolution

(LH Insured Loan to Nonprofit Corporation)

LOAN RESOLUTION OF _____

_____, 19____.

RESOLUTION OF THE BOARD OF DIRECTORS OF _____ PROVIDING FOR BORROWING \$_____ TO FINANCE HOUSING AND RELATED FACILITIES FOR DOMESTIC FARM LABOR, THE COLLECTION, HANDLING, AND DISPOSITION OF INCOME, THE ISSUANCE OF INSTALLMENT PROMISSORY NOTE AND REAL ESTATE SECURITY INSTRUMENT, AND RELATED MATTERS.

Whereas _____ (herein referred to as "Corporation") is a nonprofit corporation duly organized and operating under _____ (authorizing State statute) _____;

The Board of Directors of the Corporation (herein referred to as the "board") has

decided to provide certain housing and related facilities for domestic farm labor:

The board has determined that the Corporation is unable to provide such housing and facilities with its own resources or to obtain from other sources for such purpose sufficient credit upon terms and conditions which the Corporation could reasonably be expected to fulfill;

BE IT RESOLVED:

1. *Applicable for Loan.* The Corporation shall apply for and obtain a domestic farm labor housing loan (herein called "the loan") of \$_____ through the facilities of the United States of America acting through the Farmers Home Administration, United States Department of Agriculture (herein called "the Government") pursuant to title V of the Housing Act of 1949. The loan shall be used solely for the specific eligible purposes for which it is approved by the Government, in order to provide housing and related facilities for domestic farm labor. Such housing and facilities and the land constituting the site are herein called "the housing."

2. *Execution of Loan Instruments.* To evidence the loan the Corporation shall issue a promissory note (herein referred to as "the note"), signed by its President and attested by its Secretary, with its corporate seal affixed thereto, for the amount of the loan, payable in installments over a period of _____ years, bearing interest at the rate of 1 percent per annum, and containing other terms and conditions prescribed by the Government. To secure the note or any indemnity or other agreement required by the Government, the President and Secretary are hereby authorized to execute a real estate security instrument giving a lien upon the housing and upon such other real property of the Corporation as the Government shall require, including an assignment or security interest in the rents and profits as collateral security to be enforceable in the event of any default by the Corporation, and containing other terms and conditions prescribed by the Government. The President and Secretary are further authorized to execute any other security instruments and other instruments and documents required by the Government in connection with the making or insuring of the loan. The indebtedness and other obligations of the Corporation under the note, the related security instruments, and any related agreements are herein called the "loan obligations." (Revised 6-16-71—PN 281).

3. *Equal Opportunity and Nondiscrimination Provisions.* The borrower will comply with (a) any undertakings and agreements required by the Government pursuant to Executive Order 11063 regarding nondiscrimination in the use and occupancy of housing, (b) Farmers Home Administration Form FmHA 400-1 entitled "Equal Opportunity Agreement," including an "Equal Opportunity Clause," to be incorporated in or attached as a rider to each construction contract the amount of which exceeds \$10,000 and any part of which is paid for with funds from the loan, (c) Farmers Home Administration Form FmHA 400-4, entitled "Nondiscrimination Agreement (Under Title VI, Civil Rights Act of 1964)," a copy of which

is attached hereto and made a part hereof, and any other undertakings and agreements required by the Government pursuant to lawful authority.

4. *Supervised Bank Account.* The proceeds of the note and the amount of \$_____ to be contributed by the Corporation from its own funds and used for eligible loan purposes shall be deposited in a "supervised bank account" as required by the Government.¹ Amounts in the supervised bank account exceeding \$40,000 shall be secured by the depository bank in advance in accordance with the U.S. Treasury Department Circular No. 176. As provided by the terms of the agreement creating the supervised bank account, all funds therein shall, until duly expended, collaterally secure the loan obligations. Withdrawals from the supervised bank account by the Corporation shall be made only on checks signed by the _____ of the Corporation and countersigned by the County Supervisor of the Farmers Home Administration, and only for the specific loan purposes approved in writing by the Government. The Corporation's share of any liquidated damages or other monies paid by defaulting contractors or their sureties shall be deposited in the supervised bank account to assure completion of the project. When all approved items eligible for payment with loan funds are paid in full, any balance remaining in the supervised bank account shall be applied on the note as an "extra payment" as defined in the regulations of the Farmers Home Administration, and the supervised bank account shall be closed. (Revised 12-15-71—PN 287.)

5. *Accounts for Housing Operations and Loan Servicing.* The Corporation shall establish on its books the following accounts, which shall be maintained so long as the loan obligations remain unsatisfied: A General Fund Account, an Operation and Maintenance Account, a Debt Service Account, and a Reserve Account. Funds in said accounts shall be deposited in a bank or banks insured by the Federal Deposit Insurance Corporation, except for any portion invested in readily marketable obligations of the United States as authorized by section 9.

The Treasurer of the Corporation shall execute a fidelity bond, with a surety company approved by the Government, in an amount not less than the estimated maximum amount of such funds to be held in said accounts at any one time. The United States of America shall be named as co-obligee, and the amount of the bond shall not be reduced without the prior written consent of the Government. The Corporation in its discretion may at any time establish and utilize additional accounts to handle any funds not covered by the provisions of this resolution.

6. *General Fund Account.* By the time the loan is closed the Corporation shall from its own funds deposit in the General Fund Account the amount of \$_____. All income and revenue from the housing shall upon receipt be immediately deposited in the

General Fund Account. The Corporation may also in its discretion at any time deposit therein other funds, not otherwise provided for by this resolution, to be used for any of the purposes authorized in section 7, 8, or 9. Funds in the General Fund Account shall be used only as authorized in said sections and, until so used, shall be held by the Corporation in trust for the Government as security for the loan obligations.

7. *Operation and Maintenance Account.* Not later than the 15th of each month, out of the General Fund Account shall be transferred to the Operation and Maintenance Account, sufficient amounts to enable the Corporation to pay from the Operation and Maintenance Account the actual, reasonable, and necessary current expenses, for the current month and the ensuing month, of operating and maintaining the housing not otherwise provided for. Current expenses may include, in addition to expenses occurring or becoming due monthly, monthly accumulations of proportionate amounts for the payment of items which may become due either annually or at irregular intervals, such as taxes and insurance, normal repair and replacement of furnishings and equipment reasonably necessary for operation of the housing. Current expenses may also include initial purchase and installation of such furnishings and equipment with any funds deposited in and transferred from the General Fund Account which are not proceeds of the loan or income or revenue from the housing.

8. *Debt Service Account.* Each month, immediately after the transfer to the Operation and Maintenance Account provided for in section 7, or after it is determined that no such transfer is called for, any balance remaining in the General Fund Account, or so much thereof as may be necessary, shall be transferred to the Debt Service Account until the amount in the Debt Service Account equals the amount of the next installment due on the loan. Funds in the Debt Service Account shall be used only for payments on the loan obligations and, until so used, shall be held by the Corporation in trust for the Government as security therefor.

9. *Reserve Account.* (a) Immediately after each transfer to the Debt Service Account as provided in section 8, any balance in the General Fund Account shall be transferred to the Reserve Account. Funds in the Reserve Account may be used only as authorized in this resolution and until so used shall be held by the Corporation in trust as security for the loan obligations. Transfers at a rate not less than \$_____² annually shall be made to the Reserve Account until the amount in the Reserve Account reaches the sum of \$_____³ and shall be resumed at any time when necessary, because of disbursements from the Reserve Account, to restore it to said sum. Of such sum, at least 50 percent shall be maintained on a cash basis, referred to herein as the "cash reserve." After

²In most cases this figure should be one-tenth of the aggregate sum specified later in the sentence, and indicated by footnote 3.

³The amount to be inserted will usually be about 10 percent of the value of the buildings and related facilities financed wholly or partially with the loan.

the cash reserve reaches the required 50 percent of said sum, all or any portion of the balance of said sum may, at the option of the Corporation, consist of an amount, referred to herein as the "prepayment reserve," by which the Corporation is "ahead of schedule" as defined in the regulations of the Farmers Home Administration. Funds in the cash reserve shall be deposited in a separate bank account or accounts insured by the Federal Deposit Insurance Corporation or invested in readily marketable obligations of the United States, the earnings on which shall accrue to the Reserve Account.

(b) With the prior consent of the Government, funds in the Reserve account may be used by the Corporation—

(1) To meet payments due on the loan obligations in the event the amount in the Debt Service Account is not sufficient for the purpose.

(2) To pay costs of repairs or replacements to the housing caused by catastrophe or long-range depreciation which are not current expenses under section 7.

(3) To make improvements or extensions to the housing.

(4) For other purposes desired by the Corporation which in the judgment of the Government likely will promote the loan purposes without jeopardizing collectibility of the loan or impairing the adequacy of the security, or will strengthen the security, or will facilitate, improve, or maintain the orderly collectibility of the loan.

(c) Any amount in the Reserve Account which exceeds the aggregate sum specified in subsection (a) and is not agreed between the Corporation and the Government to be used for purposes authorized in subsection 9(b) shall be applied promptly on the loan obligations.

10. *Regulatory Covenants.* So long as the loan obligations remain unsatisfied, the Corporation shall—

Impose and collect such fees, assessments, rents, and charges that the income of the Corporation will be sufficient at all times for operation and maintenance of the housing, payments on the loan obligations, and maintenance of the accounts herein provided for.

(b) Maintain complete books and records relating to the Corporation's financial affairs, cause such books and records to be audited at the end of each fiscal year, promptly furnish the Government without request a copy of each audit report, and permit the Government to inspect such books and records at all reasonable times.

If required or permitted by the Government, revise the accounts herein provided for, or establish new accounts, to cover handling and disposition of income from and payment of expenses attributable to the housing or to any other property securing the loan obligations, and submit to the Government regular and special reports concerning the housing or the Corporation's financial affairs.

(d) Unless the Government gives prior consent—

(1) Not use or permit use of the housing for any purpose other than as housing and related facilities for domestic farm labor.

¹Only loan funds, and borrower's funds to be used for an eligible loan purpose, may be deposited in the supervised bank account.

(2) Not enter into any contract or agreement for improvements or extensions to the housing or other property securing the loan obligations.

(3) Not cause or permit voluntary dissolution of the Corporation, nor merge or consolidate with any other organization, nor cause or permit any transfer or encumbrance of title to the housing or any part thereof or interest therein, by sale, mortgage, lease, or otherwise, nor engage in any other new business, enterprise, or venture than operation of the housing.

(4) Not cause or permit the issuance or transfer of any stock, borrow any money, nor incur any liability aside from current expenses as defined in section 7.

(e) Submit the following to the Government for prior review and approval not less than _____ days before the effective dates, unless approval is waived by the Government:

(1) Annual budgets and operating plans.

(2) Statements of management policy and practice, including eligibility criteria and implementing rules for occupancy of the housing.

(3) Proposed rents and charges and other terms of rental agreements.

(4) Rates of Compensation to officers and employees of the Corporation payable from or chargeable to any account provided for in this resolution.

(f) If required by the Government, modify and adjust any matters covered by clause (e) of this section.

(g) Comply with all its agreements and obligations in or under the note, security instrument, and any related agreement executed by the Corporation in connection with the loan.

(h) Not alter, amend, or repeal without the Government's consent this resolution or the bylaws or articles of incorporation of the Corporation, which shall constitute parts of the total contract between the Corporation and the Government relating to the loan obligations.

(i) Do other things as may be required by the Government in connection with the operation of the housing, or with any of the Corporation's operations or affairs which may affect the housing, the loan obligations, or the security.

11. *Refinancing of Loan.* If at any time it appears to the Government that the corporation is able to obtain a loan upon reasonable terms and conditions to refinance the loan obligations then outstanding, upon request from the Government the Corporation will apply for, take all necessary actions to obtain, and accept such refinancing loan and will use the proceeds for said purpose.

12. *General provisions.* (a) It is expressly understood and agreed that any loan made will be administered subject to the limitations of the authorizing act of Congress and related regulations, and that any rights granted to the Government herein or elsewhere may be exercised by it in its sole discretion to carry out the purposes of the loan, enforce such limitations, and protect the Government's financial interest in the loan and the security.

(b) The provisions of this resolution are representations to the Government to induce

the Government to make a loan to the Corporation as aforesaid. If the Corporation should fail to comply with or perform any provisions of this resolution or any requirement made by the Government pursuant to this resolution, such failure shall constitute default as fully as default in payment of amounts due on the loan obligations. In the event of such failure, the Government at its option may declare the entire amount of the loan obligations immediately due and payable, and, if such entire amount is not paid forthwith, may take possession of and operate the housing and proceed to foreclose its security and enforce all other available remedies.

(c) Upon request by the Government the Corporation will permit representatives of the Government to inspect and make copies of any of the records of the Corporation pertaining to this loan. Such inspection and copying may be made during regular office hours of the Corporation, or any other time the Corporation and the Government finds convenient.

(d) Any provisions of this resolution may be waived by the Government in its sole discretion, or changed by agreement between the Government and the Corporation, after this resolution becomes contractually binding, to any extent such provisions could legally have been foregone, or agreed to in amended form, by the Government initially.

(e) Any notice, consent, approval, waiver, or agreement must be in writing.

(f) This resolution may be cited in the security instrument and any other instrument or agreements as the "Loan Resolution of (date of this resolution) _____ 19____."

Certificate

The undersigned, _____, the Secretary of the Corporation identified in the foregoing Loan Resolution, hereby certifies that the foregoing is a true copy of a resolution duly adopted by the board of directors on _____ 19____, which has not been altered, amended, or repealed.

(Date)

(Secretary)
(SEAL)

Exhibit D—Loan Agreement

(LH Insured Loan to Individual)

1. *Parties and Terms Defined.* This agreement dated _____ of the Undersigned _____, herein called "Borrower" whether one or more, whose post office address is _____, with the United States of America acting through the Farmers Home Administration, United States Department of Agriculture, herein called "the Government," is made in consideration of a loan, herein called "the loan," to Borrower in the amount of \$_____ made or insured, or to be made or insured by the Government pursuant to title V of the Housing Act of the 1949 to provide housing and related facilities for domestic farm laborers. Such housing and

related facilities, together with the site, may be referred to herein as "the housing." The indebtedness and other obligations of Borrower under the note evidencing the loan, the related security instrument, and any related agreement are herein called the "loan obligations."

2. *Equal Opportunity and Nondiscrimination Provisions.* The borrower will comply with (a) any undertakings and agreements required by the Government pursuant to Executive Order 11063 regarding nondiscrimination in the use and occupancy of housing, (b) Farmers Home Administration Form FmHA 400-1 entitled "Equal Opportunity Agreement," including an "Equal Opportunity Clause" to be incorporated in or attached as a rider to each construction contract the amount of which exceeds \$10,000 and any part of which is paid for with funds from the loan, (c) Farmers Home Administration Form FmHA 400-4, entitled "Nondiscrimination Agreement (Under Title VI, Civil rights Act of 1964)," a copy of which is attached hereto and made a part hereof, and any other undertakings and agreements required by the Government pursuant to lawful authority.

3. *Supervised Bank Account.* The proceeds of the note and the amount of \$_____ to be contributed by the Corporation from its own funds and used for eligible loan purposes shall be deposited in a "supervised bank account" as required by the Government.¹ Amounts in the supervised bank account exceeding \$40,000 shall be secured by the depository bank in advance in accordance with U.S. Treasury Department Circular No. 176. As provided therein shall, until duly expended, collaterally secure the loan obligations. Withdrawals from the supervised bank account by the Corporation shall be made only on checks signed by _____ of the Corporation and countersigned by the County Supervisor of the Farmers Home Administration, and only for the specific loan purposes approved in writing by the Government. The Corporation's share of any liquidated damages or other monies paid by defaulting contractors or their sureties shall be deposited in the supervised bank account to assure completion of the project. When all approved items eligible for payment with loan funds are paid in full, any balance remaining in the supervised bank account shall be applied on the note as an "extra payment" as defined in the regulations of the Farmers Home Administration, and the supervised bank account shall be closed.

4. *Accounts for Housing Operations and Loan Servicing.* Borrower shall establish on his books the following accounts, which shall be maintained so long as the loan obligations remain unsatisfied: A General Fund Account, an operation and Maintenance Account, A Debt Service Account, and a Reserve Account. Funds in said accounts shall be deposited in a bank or banks insured by the Federal Deposit Insurance Corporation, except for any portion invested in readily marketable obligations of the United States as authorized by section 8 (a).

¹ In most cases this figure should be one-tenth of the aggregate sum specified later in the sentence as indicated by footnote.²

5. *General Fund Account.* By the time the loan is closed Borrower shall from his own funds deposit in the General Fund Account the amount of \$_____. All income and revenue from the housing shall upon receipt be immediately deposited in the General Fund Account. Borrower may also in his discretion at any time deposit therein other funds, not otherwise provided for by this agreement, to be used for any of the purposes authorized in section 6, 7, or 8. Funds in the General Fund Account shall be used only as authorized in said sections and, until so used, shall be held by Borrower in trust for the Government as security for the loan obligations.

6. *Operation and Maintenance Account.* Not later than the 15th of each month out of the General Fund Account shall be transferred to the Operation and Maintenance Account sufficient amounts to enable Borrower to pay from the Operation and Maintenance Account the actual, reasonable, and necessary current expenses, for the current month and the ensuing month, of operating and maintaining the housing not otherwise provided for. Current expenses may include, in addition to expenses occurring or becoming due monthly, monthly accumulations of proportionate amounts for the payment of items, which may become due either annually or at irregular intervals, such as taxes, insurance, and normal repair and replacement of furnishings and equipment reasonably necessary for operation of the housing. Current expenses may also include initial purchase and installation of such furnishings and equipment with any funds deposited in and transferred from the General Fund Account which are not proceeds of the loan or income or revenue from the housing.

7. *Debt Service Account.* Each month, immediately after the transfer to the Operation and Maintenance Account provided for in section 6, or after it is determined that no such transfer is called for, any balance remaining in the General Fund Account, or so much thereof as may be necessary, shall be transferred to the Debt Service account until the amount in the Debt Service Account equals the amount of the next installment due on the loan. Funds in the Debt Service Account shall be used only for payments on the loan obligations and, until so used, shall be held by Borrower in trust for the Government as security therefor.

8. *Reserve Account.* (a) Immediately after each transfer to the Debt Service Account as provided in section 7, any balance in the General Fund Account shall be transferred to the Reserve Account. Funds in the Reserve Account may be used only as authorized in this agreement and until so used shall be held by the Borrower in trust as security for the loan obligations. Transfers at a rate less than \$_____ annually shall be made to the Reserve Account until the amount in the Reserve Account reaches the sum of \$_____ and shall be resumed at any time when necessary, because of disbursements from the Reserve Account, to

restore it to, said sum. Of such sum, at least 50 percent shall be maintained on a cash basis, referred to herein as the "cash reserve." After the cash reserve reaches the required 50 percent of said sum, all or any portion of the balance of said sum may, at the option of Borrower, consist of an amount, referred to as the "prepayment reserve," by which Borrower is "ahead of schedule" as defined in the regulations of the Farmers Home Administration. Funds in the cash reserve shall be deposited in a separate bank account or accounts insured by the Federal Deposit Insurance Corporation or invested in readily marketable obligations of the United States, the earnings on which shall accrue to the Reserve Account.

(b) With the prior consent of the Government, funds in the Reserve account may be used by Borrower—

(1) To meet payments due on the loan obligations in the event the amount in the Debt Service Account is not sufficient for the purpose.

(2) To pay costs of repairs or replacements to the housing caused by catastrophe or long-range depreciation which are not current expenses under section 6.

(3) To make improvements or extensions to the housing.

(4) For other purposes desired by Borrower which in the judgment of the Government likely will promote the loan purposes without jeopardizing collectibility of the loan or impairing the adequacy of the security, or will strengthen the security, or will facilitate, improve, or maintain the orderly collectibility of the loan.

(5) For any purpose desired by Borrower, provided Borrower determines that after such disbursement (a) the amount in the Reserve Account will be not less than that required by subsection 8(a) to be accumulated by that time, and (b) during the next 12 months the amount in the Reserve Account will likely not fall below that required to be accumulated by the end of such period.

(c) Any amount in the Reserve Account which exceeds the aggregate sum specified in subsection 8(a) and is not agreed between the Corporation and the Government to be used for purposes authorized in subsection 8(a) shall be applied promptly on the loan obligations.

9. *Regulatory Covenants.* So long as the loan obligations remain unsatisfied, Borrower shall—

(a) Impose and collect such fees, assessments, rents, and charges that his income will be sufficient at all times for operation and maintenance of the housing, payments on the loan obligations, and maintenance of the accounts herein provided for.

(b) Maintain complete books and records relating to his financial affairs, cause such books and records to be audited at the end of each fiscal year, promptly furnish the Government without request a copy of each audit report, and permit the Government to inspect such books and records at all reasonable times.

(c) If required by the Government, revise the accounts herein provided for, or establish new accounts, to cover handling and

disposition of income from and payment of expenses attributable to the housing or to any other property securing the loan obligations, and submit regular and special reports concerning the housing or Borrower's financial affairs.

(d) Unless the Government gives prior consent—

(1) Not use the housing for any purpose other than as labor housing and related facilities for domestic farm laborers.

(2) Not enter into any contract or agreement for improvements or extensions to the housing or other property securing the loan obligations.

(3) Not cause or permit the transfer or encumbrance of title to the housing or any part thereof or interest therein, by sale, mortgage, lease, or otherwise.

(e) Submit the following to the Government for prior review and approval not less than _____ days before the effective dates.

(1) Annual budgets and operating plans, including proposed rents and charges and other terms of rental agreements for occupancy and compensation to employees chargeable as operating expenses of the housing.

(2) Statements of management policy and practice, including eligibility criteria and implementing rules for occupancy of the housing.

(f) If required by the Government, modify and adjust any matters covered by clause (e) of this section.

(h) Do other things as may be required by the Government in connection with the operation of the housing or with any of Borrower's operations or affairs which may affect the housing, the loan obligations, or the security.

10 *Refinancing of Loan.* If at any time it appears to the Government that Borrower is able to obtain a loan upon reasonable terms and conditions to refinance the loan obligations then outstanding, upon request from the Government, Borrower will apply for, take all necessary actions to obtain, and accept such refinancing loan and will use the proceeds for said purpose.

11 *General Provisions.*

(a) It is understood and agreed by Borrower that any loan made or insured will be administered subject to the limitations of the authorizing act of Congress and related regulations, and that any rights granted to the Government herein or elsewhere may be exercised by it in its sole discretion to carry out the purposes of the loan, enforce such limitations and protect the Government's financial interest in the loan and the security.

(b) Borrower shall also comply with all covenants and agreements set forth in the note, security instrument, and any related agreements executed by Borrower in connection with the loan.

(c) The provisions of this agreement are representations to the Government to induce the Government to make or insure a loan to Borrower as aforesaid. If Borrower should fail to comply with or perform any provision of this agreement or any requirement made by the Government pursuant hereto, such failure shall constitute default as fully as default in payment of amounts due on the

²The amount to be inserted will usually be about 10 percent of the value of the buildings and related facilities financed wholly or partially with the loan.

loan. In the event of such failure, the Government at its option may declare the entire amount of the loan obligations immediately due and payable and, if such entire amount is not paid forthwith, may take possession of and operate the housing and proceed to foreclose its security and enforce all other available remedies.

(d) Upon request by the Government the Borrower will permit representatives of the Government to inspect and make copies of any of the records of the Borrower pertaining to this loan. Such inspection and copying may be made during regular office hours of the Borrower, or any other time the Borrower and the Government finds convenient.

(e) Any provisions of this agreement may be waived by the Government, or changed by agreement between the Government and Borrower to any extent such provisions could legally have been foregone, or agreed to in any amended form, by the Government initially. Any notice, consent, approval, waiver, or agreement must be in writing.

(f) This agreement may be cited in the security instrument and other instruments or agreements as the "Loan Agreement of (date of this agreement) 19____."

Witness _____
Borrower _____
Witness _____
Borrower _____

Exhibit E—Loan and Grant Resolution

(Labor Housing Loan and Grant to a Nonprofit Corporation)

Loan and Grant Resolution of _____,
19____.

Resolution of the Board of Directors of _____ Providing for Obtaining Financial Assistance in the Amount \$_____ To aid in Financing Federally defined Low-Rent Housing and Related Facilities for Low-Income Domestic Farm Labor, and Related Matters.

Whereas _____ (herein referred to as the "Corporation") is organized and operating under _____ (authorizing State statute) and the board of directors of the Corporation has determined that—

(a) The Corporation should provide low-rent housing and related facilities for low-income domestic farm labor, as defined in title V of the Housing Act of 1949.

(b) The estimated total cash development cost of such housing and facilities amounts to \$_____.

(c) For such purpose the Corporation is able to furnish from its own resources \$_____.

(d) The Corporation will need financial assistance in the amount of \$_____ which the Corporation is unable to obtain from other sources for such purpose upon terms and conditions which the Corporation could reasonably be expected to fulfill.

(e) Of such amount of needed financial assistance the Corporation will be able to repay, with interest at 1% per annum, the amount of \$_____ over a repayment period of _____ years, if the balance of \$_____ is made available to the Corporation as an grant.

(f) The housing and related facilities will fulfill a pressing need in the area in which they are or will be located.

(g) The housing and facilities cannot be provided without the aid of a grant in the amount stated above:

Therefore be it Resolved:

1. *Application for Loan and Grant.* The Corporation shall apply to the United States of America, acting through the Farmers Home Administration, United States Department of Agriculture (herein called "the Government") for a loan of \$_____ and a grant of \$_____, pursuant to Title V of the Housing Act of 1949. Such loan may be insured by the Government. The loan and the grant shall be used only for the specific eligible purposes approved by the Government, in order to provide low-rent housing and related facilities for low-income domestic farm labor. Such housing and facilities and the land constituting the site may be referred to herein as the "housing."

2. *Execution of Loan and Grant Instruments.* To evidence the loan the Corporation shall issue a promissory note (herein referred to as "the Note"), signed by its President and attested by its Secretary, with its corporate seal affixed thereto, for the amount of the loan, payable in installments over a period of _____ years, bearing interest at a rate not to exceed _____ percent per annum, and containing other terms and conditions prescribed by the Government. To evidence the obligations of the grant, the Corporation shall execute an instrument in the form attached hereto entitled "Labor Housing Grant Agreement" and referred to herein as the "Grant Agreement," evidencing terms and conditions upon which the grant is made by the Government and the obligations of the Corporation with respect thereto. To secure the note and/or all other obligations and agreements of the Corporation with respect to the loan and the grant, as required by the Government, the President and the Secretary are hereby authorized to execute a security instrument giving a lien upon or security interest in the housing and such other property as the Government shall require, including an assignment of or security interest in the rents and profits as collateral security to be enforceable in the event of any default by the Corporation. The President and the Secretary are further authorized to execute any other security and other instruments, agreements, and documents required by the Government for the loan or grant. The indebtedness and other obligations of the Corporation under the note, Grant Agreement, this resolution, the security instrument, and any other instruments and agreements related to the loan or grant are herein called the "loan and grant obligations."

3. *Equal Employment Opportunity under Construction Contracts and Nondiscrimination in the Use of Occupancy and Housing and in Any Other Benefits of the Loan or Grant.* The President and the Secretary are hereby authorized and directed to execute on behalf of the Corporation (a) any undertakings and agreements required by the Government regarding nondiscrimination in the use and occupancy of housing, (b)

Farmers Home Administration Form FmHA 400-1, "Equal Opportunity Agreement," involving an Equal Opportunity Clause to be incorporated in or attached as a rider to each construction contract which exceeds \$10,000 in amount and is paid for in whole or in part with loan or grant funds, and (c) Farmers Home Administration Form FmHA 400-4, "Nondiscrimination Agreement (Under Title VI, Civil Rights Act of 1964)," a copy of which is attached hereto and made a part hereof.

4. *Supervised Bank Account.* The proceeds of the loan and grant and the amount of \$_____ to be contributed by the Corporation from its own funds and used for approved eligible purposes shall be deposited in a "supervised bank account" as required by the Government. Amounts in the supervised bank account exceeding \$10,000 shall be secured by the depository bank in advance in accordance with U. S. Treasury Department Circular No. 176. As provided by the terms of the agreement creating the supervised bank account, all funds therein shall, until duly expended, collaterally secure the loan and grant obligations. Withdrawals from the supervised bank account by the Corporation shall be made only on checks signed by the _____ of the Corporation and countersigned by the County Supervisor or other authorized official of the Farmers Home Administration, and only for the specific eligible purposes approved in writing by the Government. The Corporation's share of any liquidated damages or other monies paid by defaulting contractors of their sureties shall be deposited in the supervised bank account to assure completion of the project. When all approved items eligible for payment with loan or grant funds are paid in full, any balance remaining in the supervised bank account shall be treated as a refund of loan and grant funds in the same ratio as that between the amounts of the loan and grant and the supervised bank account shall be closed.

5. *Accounts for Housing Operations and Loan Servicing.* The Corporation shall establish on its books the following accounts, which shall be maintained so long as the loan or grant obligations continue: A General Fund Account, an Operation and Maintenance Account, a Debt Service Account, and a Reserve Account. Funds in said accounts shall be deposited in a bank or banks insured by the Federal Deposit Insurance Corporation, except for any portion invested in readily marketable obligations of the United States as authorized by section 9. The Treasurer of the Corporation shall execute a fidelity bond, with a surety company approved by the Government, in an amount not less than the estimated maximum amount of such funds to be held in said accounts at any one time. The United States of America shall be named as co-obligee, and the amount of the bond shall not be reduced without the prior written consent of the Government. The Corporation in its discretion may at any time establish and utilize additional accounts to handle any funds not covered by the provisions of this resolution.

¹ Only loan or grant funds, and borrower's funds to be used for an eligible loan or grant purpose, may be deposited in the supervised bank account.

6. General Fund Account. By the time the loan and grant are closed the Corporation shall from its own funds deposit in the General Fund Account the amount of \$_____. All income and revenue from the housing shall upon receipt be immediately deposited in the General Fund Account. The Corporation may also in its discretion at any time deposit therein other funds, not otherwise provided for by this resolution, to be used for any of the purposes authorized in section 7, 8, or 9. Funds in the General Fund Account shall be used only as authorized in said sections and, until so used, shall be held by the Corporation in trust for the Government as security for the loan and grant obligations.

7. Operation and Maintenance Account. Not later than the 15th of each month, out of the General Fund Account shall be transferred to the Operation and Maintenance Account, sufficient amounts to enable the Corporation to pay from the Operation and Maintenance Account the actual, reasonable, and necessary current expenses, for the current month and the ensuing month, of operating and maintaining the housing not otherwise provided for. Current expenses may include, in addition to expenses occurring or becoming due monthly, monthly accumulations of proportionate amounts for the payment of items which may become due either annually or at irregular intervals, such as taxes and insurance and normal repair and replacement of furnishings and equipment reasonably necessary for operation of the housing. Current expenses may also include initial purchase and installation of such furnishings and equipment with any funds deposited in and transferred from the General Fund Account which are not proceeds of the loan and, unless the Government gives prior written consent, are not income or revenue from the housing.

8. Debt Service Account. Each month, immediately after the transfer to the Operation and Maintenance Account provided for in section 7, or after it is determined that no such transfer is called for, any balance remaining in the General Fund Account, or so much thereof as may be necessary, shall be transferred to the Debt Service Account until the amount in the Debt Service Account equals the amount of the next installment due on the loan. Funds in the Debt Service Account shall be used only for payments on the loan obligations while they continue and, until so used, shall be held by the Corporation in trust for the Government as security for the loan and grant obligations.

9. Reserve Account. (a) Immediately after each transfer to the Debt Service Account as provided in section 8, any balance in the General Fund Account shall be transferred to the Reserve Account. Funds in the Reserve Account may be used only as authorized in this resolution and until so used shall be held by the Corporation in trust as security for the loan and grant obligations. Transfers at a rate not less than \$_____ annually shall be made to the Reserve Account until the

amount in the Reserve Account reaches the sum of \$_____ and shall be resumed at any time when necessary, because of disbursements from the Reserve Account, to restore it to said sum. Of such sum, at least 50 percent shall be maintained on a cash basis, referred to herein as the "cash reserve." After the cash reserve reaches the required 50 percent of said sum, all or any portion of the balance of said sum may, at the option of the Corporation, consist of an amount, referred to herein as the "prepayment reserve," by which the Corporation is "ahead of schedule" as defined in the regulations of the Farmers Home Administration. Funds in the cash reserve shall be deposited in a separate bank account or accounts insured by the Federal Deposit Insurance Corporation or invested in readily marketable obligations of the United States, the earnings on which shall accrue to the Reserve Account.

(b) With the prior consent of the Government, funds in the Reserve Account may be used by the Corporation—

(1) To meet payments due on the loan obligations in the event the amount in the Debt Service Account is not sufficient for the purpose.

(2) To pay costs of repairs or replacements to the housing caused by catastrophe or long-range depreciation which are not current expenses under section 7.

(3) To make improvements or extensions to the housing.

(4) For other purposes desired by the Corporation which in the judgment of the Government likely will promote the loan or grant purposes without jeopardizing collectibility of the loan or impairing the adequacy of the security, or will strengthen the security, or will facilitate, improve, or maintain the orderly collectibility of the loan.

(c) Any amount in the Reserve Account which exceeds the sum specified in subsection (a), and is not agreed between the Corporation and the Government to be used for purposes authorized in subsection (b) shall be applied promptly on the loan obligations.

10. Regulatory Covenants. So long as the loan or grant obligations continue, the Corporation shall—

(a) Impose and collect such fees, assessments, rents, and charges that the income of the Corporation will be sufficient at all times for operation and maintenance of the housing payments on the loan obligations, and maintenance of the accounts herein provided for.

(b) Maintain complete books and records relating to the Corporation's financial affairs, cause such books and records to be audited at the end of each fiscal year, promptly furnish the Government without request a copy of each audit report, and permit the Government to inspect such books and records at all reasonable times.

(c) If required or permitted by the Government, revise the accounts herein provided for, or establish new accounts, to cover handling and disposition of income

from and payment of expenses attributable to the housing or to any other property securing the loan or grant obligations, and submit to the Government regular and special reports concerning the housing or the Corporation's financial affairs, including any information required by the Government regarding income of the occupants of the housing.

(d) Unless the Government gives prior consent—

(1) Not use or permit use of the housing for any purpose other than as low-rent housing and related facilities for low-income domestic farm labor, as those terms are defined by the Government.

(2) Not enter into any contract or agreement for improvements or extensions to the housing or other property securing the loan or grant obligations.

(3) Not cause or permit voluntary dissolution of the Corporation, nor merge or consolidate with any other organization, nor transfer or encumber title, to the housing or any part thereof or interest therein, by sale, mortgage, lease, or other conveyance or encumbrance, nor engage in any other new business, enterprise, or venture than operation of the housing.

(4) Not borrow any money, nor incur any liability aside from current expenses as defined in section 7.

(e) Submit the following to the Government for prior review not less than _____ days before the effective dates:

(1) Annual budgets and operating plans.
(2) Statements of management policy and practice including eligibility criteria and implementing rules for occupancy of the housing.

(3) Proposed rents and charges and other terms of rental agreements for occupancy of the housing.

(4) Rates of compensation to officers and employees of the Corporation payable from or chargeable to any account provided for in this resolution.

(f) If required by the Government, modify and adjust any matters covered by clause (e) of this section.

(g) Comply with all its agreements and obligations in or under this resolution, the note, Grant Agreement, security instrument, and any related agreement executed by the Corporation in connection with the loan or grant.

(h) Not alter, amend, or repeal without the government's consent this resolution or the bylaws or articles of incorporation of the Corporation, which shall constitute parts of the total contract between the Corporation and the Government relating to the loan and grant obligations.

(i) Do other things as may be required by the Government in connection with the operation of the housing, or with any of the Corporation's operations or affairs which may affect the housing, the loan or grant obligations, or the security.

11 Refinancing of Loan. If at any time it appears to the Government that the Corporation is able to obtain a loan upon reasonable terms and conditions to refinance the loan obligations then outstanding, upon request from the Government, the Corporation will apply for, take all necessary

²In most cases this figure should be one-tenth of the aggregate sum specified later in the sentence as the total amount of the Reserve Account.

³The amount to be inserted will usually be about 10 percent of the value of the buildings and related facilities financed wholly or partially with the loan and grant. (Revised 7-3-74—PN 42-)

actions to obtain, and accept such refinancing loan and will use the proceeds for said purpose.

12. General Provisions.

(a) It is understood and agreed by the Corporation that any loan or grant will be administered subject to the limitations of the authorizing act of Congress and related regulations, and that any rights granted to the Government herein or elsewhere may be exercised by it in its sole discretion to carry out the purpose of the loan and grant, enforce such limitations, and protect the Government's Financial interest in the loan and grant and the security.

(b) The provisions of this resolution are representations of the Corporation to induce the Government to make or insure a loan or make a grant to the Corporation as aforesaid. If the Corporation should fail to comply with or perform any of its loan or grant obligations, such failure shall constitute default as fully as default in payment of amounts due on the loan obligations. In the event of default, the Government at its option may declare the entire amount of the loan and grant obligations immediately due and payable and, if such entire amount is not paid forthwith, may take possession of and operate the housing and proceed to foreclose its security and enforce all other available remedies.

(c) Upon request by the Government the corporation will permit representatives of the Government to inspect and make copies of any of the records of the corporation pertaining to the financial assistance. Such inspection and copying may be made during regular office hours of the corporation, or any other time the corporation and the Government finds convenient.

(d) Any provisions of this resolution may be waived by the Government in its sole discretion, or changed by agreement between the Government and the Corporation, after this resolution becomes contractually binding, to any extent such provisions could legally have been foregone, or agreed to in amended form, by the Government initially.

(e) Any notice, consent, approval, waiver, or agreement must be in writing.

(f) This resolution may be cited in the security instrument and elsewhere as the "Loan and Grant Resolution of (date of this resolution) _____ 19____."

Certificate

The undersigned, _____, the Secretary of the corporation identified in the foregoing resolution, hereby certifies that the foregoing is a true copy of a resolution duly adopted by the board of directors on _____ 19____, which has not been altered, amended or repealed.

(Date) _____
(Secretary) _____
(SEAL)

Exhibit F—Labor Housing Grant Agreement

This Agreement dated _____, 19____, between _____, which is organized and operating under (Authorizing Statute) _____ herein called "Grantee," and the United States of America acting through the Farmers

Home Administration, Department of Agriculture, herein called "Grantor," Witnesseth:

Whereas: Grantee has determined to undertake a project of acquisition, construction, enlargement and/or capital improvement of a Labor Housing Project to serve domestic farm laborers at an estimated cost of \$ _____ and has duly authorized the undertaking of such project.

Grantee is able to finance not more than \$ _____ of the development costs through revenues, charges, taxes or assessments, or funds otherwise available to Grantee resulting in a reasonable rental rate.

Said sum of \$ _____ has been committed to and by Grantee for such project' development costs.

Grantor has agreed to grant the Grantee a sum not to exceed \$ _____ subject to the terms and conditions established by the Grantor. Provided, however, that the proportionate share of any grant funds actually advanced and not needed for grant purposes shall be returned immediately to the Grantor. The Grantor may terminate the grant in whole, or in part, at any time before the date of completion, whenever it is determined that the Grantee has failed to comply with the conditions of the grant.

Now, Therefore, In consideration of said grant by Grantor to Grantee, to be made pursuant to Section 516 of the Housing Act of 1949 for the purpose only of defraying a part not to exceed _____ percent of the development costs, as defined by applicable Farmers Home Administration instructions.

Grantee Agrees That Grantee Will:

A. Cause said project to be constructed within the total sums available to it, including said grant, in accordance with the project plans and specifications and any modifications thereof prepared by Grantee and approved by Grantor.

B. Permit periodic inspection of the construction by a representative of Grantor during construction.

C. Manage, operate and maintain the project, including these units if less than the whole of said project, continuously in an efficient and economic manner.

D. Make the services of said project available within its capacity to all domestic farm laborers in Grantee's service area without discrimination as to race, color, religion, sex, national origin, age, marital status, or physical or mental handicap (possess capacity to enter into legal contract for services) at reasonable rental rates, whether for one or more types of units, adopted by resolution date _____ 19____, as may be modified from time to time by Grantee. The initial rental rates must be approved by Grantor. Thereafter, Grantee may not make modifications to the rental rate structure without prior authorization from the Grantor.

E. Adjusts its operating costs and service charges from time to time to provide for adequate operation and maintenance, emergency repair reserves, obsolescence reserves, debt service and debt service reserves.

F. Provide Grantor with such periodic reports as it may require and permit periodic

inspection of its operations by a representative of the Grantor.

G. To execute Form FmHA 400-1, "Equal Opportunity Agreement," and to execute Form FmHA 400-4, "Nondiscrimination Agreement," and to execute any other agreements required by Grantor which Grantee is legally authorized to execute. If any such form has been executed by Grantee as a result of a loan being made to Grantee by Grantor contemporaneously with the making of this grant, another form of the same type need not be executed in connection with this grant.

H. Upon any default under its representations or agreements set forth in this instrument, Grantee, at the option and demand of Grantor, will repay to Grantor forthwith the original principal amount of the grant stated hereinabove, with the interest at the rate of 5 per centum per annum from the date of the default. Default of the Grantee with constituted termination of the grant thereby causing cancellation of Federal assistance under the grant. The Provisions of this Grant agreement may be enforced by Grantor, at its option and without regard to prior waivers by it of previous defaults of Grantee, by judicial proceedings to require specific performance of the terms of this Grantee Agreements or by such other proceedings in law or equity, in either Federal or State courts, as may be deemed necessary by Grantor to assure compliance with the provisions of this Grant Agreement and the laws and regulations under which this grant is made.

I. Return immediately to Grantor, as required by the regulations of Grantor, any grant funds actually advanced and not needed by Grantee for approved purposes.

J. Use the real property including land, land improvements, structures, and appurtenances thereto, for authorized purposes of the grant as long as needed.

1. Title to real property shall invest in the recipient subject to the condition that the Grantee shall use the real property for the authorized purpose of the original grant as long as needed.

2. The Grantee shall obtain approval by the Grantor agency for the use of the real property in other projects when the Grantee determines that the property is no longer needed for the original grant purposes. Use in other projects shall be limited to those under other Federal grant programs or programs that have purposes consistent with those authorized for support by the Grantor.

3. When the real property is no longer needed as provided in 1 and 2 above, the Grantee shall request disposition instructions from the Grantor agency or its successor Federal agency. The Grantor agency shall observe the following rules in the disposition instructions.

(a) The Grantee may be permitted to retain title after it compensates the Federal Government in an amount computed by applying the Federal percentage of participation in the cost of the original project to the fair market value of the property.

(b) The Grantee may be directed to sell the property under guidelines provided by the Grantor agency and pay the Federal

Government an amount computed by applying the Federal percentage of participation in the cost of the original project to the proceeds from sale (after deducting actual and reasonable selling and fix-up expenses, if any, from the sales proceeds). When the Grantee is authorized or required to sell the property, proper sales procedures shall be established that provide for competition to the extent practicable and result in the highest possible return.

(c) The Grantee may be directed to transfer title to the property to the Federal Government provided that in such cases the Grantee shall be entitled to compensation computed by applying the Grantee's percentage of participation in the cost of the program or project to the current fair market value of the property.

This Grant Agreement covers the following described real property (use continuation sheets as necessary).

K. Abide by the following conditions pertaining to nonexpendable personal property which is furnished by the Grantor or acquired wholly or in part with grant funds. Nonexpendable personal property means tangible personal property having a useful life of more than one year and an acquisition cost of \$300 or more per unit. A Grantee may use its own definition of nonexpendable personal property provided that such definition would at least include all tangible personal property as defined above.

1. Use of nonexpendable property.

(a) The Grantee shall use the property in the project for which it was acquired as long as needed. When no longer needed for the original project, the Grantee shall use the property in connection with its other Federally sponsored activities, if any, in the following order of priority:

- (1) Activities sponsored by the FmHA.
- (2) Activities sponsored by other Federal agencies.

(b) During the time that nonexpendable personal property is held for use on the project for which it was acquired, the Grantee shall make it available for use on other projects if such other use will not interfere with the work on the project for which the property was originally acquired. First preference for such other use shall be given to FmHA sponsored projects. Second preference will be given to other Federally sponsored projects.

2. Disposition of nonexpendable property. When the Grantee no longer needs the property as provided in paragraph (a) above, the property may be used for other activities in accordance with the following standards:

(a) Nonexpendable property with a unit acquisition cost of \$1,000. The Grantee may use the property for other activities without reimbursement to the Federal Government or sell the property and retain the proceeds.

(b) Nonexpendable personal property with a unit acquisition cost of \$1,000 or more. The Grantee may retain the property for other uses provided that compensation is made to the original Grantor agency or its successor. The amount of compensation shall be computed by applying the percentage of Federal participation in the cost of the original project or program to the current fair

market value of the property. If the Grantee has no need for the property and the property has further use value, the Grantee shall request disposition instructions from the original grantor agency.

The Grantor agency shall determine whether the property can be used to meet the agency's requirements. If no requirement exists within the agency, the availability of the property shall be reported, in accordance with the guidelines of the Federal Property Management Regulations (FPMR), to the General Services Administration by the Grantor agency to determine whether a requirement for the property exists in other Federal agencies. The Grantor agency shall issue instructions to the Grantee no later than 120 days after the Grantee request and the following procedures shall govern:

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

(2) If the Grantee is instructed to ship the property elsewhere the Grantee shall be reimbursed by the benefitting Federal agency with an amount which is computed by applying the percentage of the Grantee participation in the cost of the original grant project or program to the current fair market value of the property, plus any reasonable shipping or interim storage costs incurred.

(3) If the Grantee is instructed to otherwise dispose of the property, the Grantee shall be reimbursed by the Grantor agency for such costs incurred in its disposition.

3. The Grantee's property management standards for nonexpendable personal property shall also include:

(a) Property records which accurately provide for: a description of the property; manufacturer's serial number or other identification number; acquisition date and cost; source of the property; percentage (at the end of budget year) of Federal participation in the cost of the project for which the property was acquired; location, use and condition of the property and the date the information was reported; and ultimate disposition data including sales price or the method used to determine current fair market value if the Grantee reimburse the Grantor for its share.

(b) A physical inventory of property shall be taken and the results reconciled with the property records at least once every two years to verify the existence, current utilization, and continued need for the property.

(c) A control system shall be in effect to insure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft of nonexpendable property shall be investigated and fully documented.

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

(e) Proper sales procedures shall be established for unneeded property which would provide for competition to the extent practicable and result in the highest possible return.

This Grant Agreement covers the following described nonexpendable property (use continuation sheets as necessary).

L. Provide Financial Management Systems which will include:

1. Accurate, current, and complete disclosure of the financial results of each grant. Financial reporting will be on an accrual basis.

2. Records which identify adequately the source and application of funds for grant-supporting activities. Those records shall contain information pertaining to grant awards and authorization, obligations, unobligated balances, assets, liabilities, outlays, and income.

3. Effective control over and accountability for all funds, property and other assets. Grantees shall adequately safeguard all such assets and shall assure that they are used solely for authorized purposes.

4. Accounting records supported by source documentation.

M. Retain financial records, supporting documents, statistical records, and all other records pertinent to the grant for a period of at least three years after grant closing except that the records shall be retained beyond the three-year period if audit findings have not been resolved. Microfilm copies may be substituted in lieu of original records. The Grantor and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the Grantee's government which are pertinent to the specific grant program for the purpose of making audits, examinations, excerpts and transcripts.

N. Provide information as requested by the Grantor to determine the need for and complete any necessary Environmental Impact Statements.

O. Provide an audit report prepared in sufficient detail to allow the Grantor to determine that funds have been used in compliance with the proposal, any applicable laws and regulations and this Agreement.

P. Agree to account for and to return to Grantor interest earned on grant funds pending their disbursement for program purposes when the Grantee is a unit of local government. States and agencies or instrumentalities of states shall not be held accountable for interest earned on grant funds pending their disbursement.

Q. Not encumber, transfer or dispose of the property or any part thereof, furnished by the Grantor or acquired wholly or in part with Grantor funds without the written consent of the Grantor except as provided in item J above.

R. To include in all contracts for construction or repair a provision for compliance with the Copeland "Anti-Kick Back" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR,

Part 3). The Grantee shall report all suspected or reported violations to the Grantor.

S. Pay all laborers and mechanics employed by contractors and subcontractors wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C 276a-276a-5).

T. In construction contracts in excess of \$2,000 and in other contracts in excess of \$2,500 which involve the employment of mechanics or laborers, to include a provision for compliance with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR, Part 5).

U. To include in all contracts in excess of \$100,000 a provision that the contractor agrees to comply with all the requirements of Section 114 of the Clean Air Act (42 U.S.C. § 1875C-9) and Section 308 of the Water Pollution Control Act specified in Section 114 of the Clean Air Act and Section 308 of the Water Pollution Control Act and all regulations and guidelines issued thereunder after the award of the contract. Such regulations and guidelines can be found in 40 CFR 15.4 and 40 FR 17126 dated April 16, 1975. In so doing the Contractor further agrees:

1. As condition for the award of contract to notify the Owner of the receipt of any communication from the Environmental Protection Agency (EPA) indicating that a facility to be utilized in the performance of the contract is under consideration to be listed on the EPA list of Violating Facilities. Prompt notification is required prior to contract award.

2. To certify that any facility to be utilized in the performance of any nonexempt contractor subcontract is not listed on the EPA list of Violating Facilities. Prompt notification is required prior to contract award.

3. To include or cause to be included the above criteria and the requirements in every nonexempt subcontract and that the Contractor will take such action as the Government may direct as a means of enforcing such provisions.

As used in these paragraphs the term "facility" means any building, plan, installation, structure, mine, vessel or other floating craft, location, or site of operations, owned, leased, or supervised by a Grantee, cooperator, contractor, or subcontractor, to be utilized in the performance of a grant, agreement, contract, subgrant, or subcontract. Where a location or site of operation contains or includes more than one building, plant, installation, or structure, the entire location shall be deemed to be a facility except where the Director, Office of Federal Activities, Environmental Protection Agency, determines that independent facilities are co-located in one geographical area.

GRANTOR AGREES THAT IT:

A. Will make available to Grantee for the purpose of this Agreement not to exceed \$_____ which it will advance to Grantee to meet not to exceed _____ percent of the development costs of the project in

accordance with the actual needs of Grantee as determined by Grantor.

B. Will assist Grantee, within available appropriations, with such technical assistance as Grantor deems appropriate in planning the project and coordinating the plan with local official comprehensive plans and with any State or area plans for the area in which the project is located.

C. At its sole discretion and at any time may give any consent, deferment, subordination, release, satisfaction, or termination of any or all of Grantee's grant obligations, with or without available consideration, upon such terms and conditions as Grantor may determine to be (1) advisable to further the purpose of the grant or to protect Grantor's financial interest therein and (2) consistent with the statutory purposes of the grant and the limitations of the statutory under which it is made.

TERMINATION OF THIS AGREEMENT.

This agreement may be terminated for cause in the event of default on the part of the Grantee as provided in paragraph I above or for convenience of the Grantor and Grantee prior to the date of completion of the grant purpose. Termination for convenience will occur when both the Grantee and Grantor agree that the continuation of the project will not produce beneficial results commensurate with the further expenditure of funds.

IN WITNESS WHEREOF Grantee on the date first above written has caused these presence to be executed by its duly authorized _____ and attested and its incorporated seal affixed by its duly authorized _____

ATTEST:

By _____
By _____

(Title) _____

(Title) _____

UNITED STATES OF AMERICA FARMERS HOME ADMINISTRATION
By _____

(Title) _____

Exhibit G—Legal Service Agreement

Agreement made this _____ day of _____, 19 _____ between the _____, hereinafter called the owners, and _____, hereinafter called the attorney, witnesseth:

Whereas the owners intent to form a corporation, hereinafter called the corporation, to construct and operate a labor housing project in

(Town) _____
(County) _____
(State) _____

and to obtain a loan from the Farmers Home Administration to finance the construction, and the attorney agrees to perform all legal services necessary to incorporate the Corporation, and to perform all other

customary legal services necessary to the organization, financing, construction, and initial operation of the proposed rural rental housing project, such services to include but not to be restricted to the following:

1. Prepare the file necessary incorporating papers and supervise and assist in taking other necessary or incidental actions to create the Corporation and authorize it to finance, construct, and operate the proposed housing project.

2. Prepare for, and furnish advice and assistance to the owners, and to the Board of Directors and officers of the Corporation, in connection with (a) notices and conduct of meetings; (b) preparation of minutes of meetings; (c) preparation and adoption of necessary resolutions in connection with the authorization, financing, construction, and initial operation of a rural rental housing project; (d) necessary construction contracts; (e) preparation of adoption of bylaws and related documents; (f) any other action necessary for organizing the Corporation or financing, constructing, and initially operating the proposed housing project.

3. Review of construction contract, bid-letting procedure, and surety and performance bonds.

4. Examination of real estate titles and preparation, review, and recording of deeds and any other instruments.

5. Cooperation with the architect employed by the owners or the Corporation in connection with preparation of survey sheets, easements, and any other necessary title documents, construction contracts, and other instruments.

6. Rendering of legal opinions as required by the owners or the Corporation or the Farmers Home Administration, United States Department of Agriculture.

7. Owners agree to pay to the attorney for professional services in accordance with this agreement, as follows:

The fees to be payable in the following manner and at the following times:

The attorney states and agrees that of the above total fees, _____ represents fees for services in connection with the organization and incorporation of the Corporation.

The owners and the attorney further covenant and agree that, if upon organization and incorporation the Corporation fails or refuses to adopt and ratify this Agreement by appropriate resolution within _____ days, this Agreement shall terminate and owners shall be liable only for payment for legal services rendered in connection with such organization and incorporation.

Signed this _____ day of _____, 19 _____,
Attorney: _____
Owners: _____

Exhibit H—Information Pertaining to Preparation of Notes or Bonds and Bond Transcript Documents for Public Body Applicants.

(a) This section includes information for use by public body applicants in the preparation and issuance of evidences of debt ("bonds" or "debt instruments"). This information is made available to applicants as appropriate for application processing and loan docket preparation.

(1) *Policies.* (i) This section outlines the policies of the FmHA with respect to preparation and issuance of evidences of debt (hereinafter sometimes referred to as "bonds" or "debt instruments") by applicants whose obligations bear interest that is not subject to Federal income tax.

(ii) Preparation of the bonds and the bond transcript documents will be the responsibility of the applicant. Tax exempt public body applicants will obtain the services and opinion of recognized Bond Counsel with respect to the validity of a bond issue. The applicant normally will be represented by a local attorney who will obtain the assistance of a recognized Bond Counsel firm which has had experience in municipal financing with such investors as investment dealers, banks and insurance companies.

(iii) At the option of the applicant for issues of \$250,000 or less, Bond Counsel may be used for the issuance of a final opinion only and not for the preparation of the other documents and of the bond docket when the applicant, FmHA, and Bond Counsel have agreed in advance as to the method of preparation of the bond transcript documents. Under such circumstances the applicant will be responsible for the preparing of the bond transcript documents.

(iv) At the option of the applicant and with the prior approval from the National Office of FmHA, for issues of \$50,000 or less, the applicant need not use Bond Counsel if:

(A) The amount of the issue does not exceed \$50,000 and the applicant recognizes and accepts the fact that processing the application may require additional legal and administrative time.

(B) There is a significant cost saving to the applicant particularly with reference to total legal fees after determining what Bond Counsel would charge as compared with what the local attorney will charge without Bond Counsel.

(C) The local attorney is able and experienced in handling this type of legal work.

(D) The applicant understands that, if it is required by FmHA to refinance its loan pursuant to the Statutory refinancing requirements, it will probably have to obtain at its expense a Bond Counsel's opinion at that time.

(E) All bonds will be prepared in accordance with this regulation and will conform as nearly as possible to accepted methods of preparation of similar bonds in the area.

(F) Many matters necessary to comply with FmHA requirements such as land rights,

easements, and organizational documents will be handled by the applicant's local attorney. Specific closing instructions in addition to any requirements of Bond Counsel will be issued by the Office of the General Counsel of the U.S. Department of Agriculture for the guidance of FmHA.

(2) *Bond transcript documents.* Any questions with respect to FmHA requirements should be discussed with local FmHA representatives. Bond Counsel is required to furnish at least two complete sets of the following to the applicant, who will furnish one complete set to FmHA:

(i) Copies of all organizational documents.

(ii) Copies of general incumbency certificate.

(iii) Certified copies of minutes or excerpts therefrom of all meetings of the applicant's governing body at which action was taken in connection with the authorization and issuance of the bonds.

(iv) Certified copies of documents evidencing that the applicant has complied fully with all statutory requirements incident to calling and holding of a favorable bond election, if such an election is necessary in connection with bond issuance.

(v) Certified copies of the resolutions or ordinances or other documents, such as the bond authorizing resolution or ordinance and any resolution establishing rates and regulating the use of the improvement, if such documents are not included in the minutes furnished.

(vi) Copies of official Notice of Sale and affidavit of publication of Notice of Sale where a public sale is required by State statute.

(vii) Specimen bond, with any attached coupons.

(viii) Attorney's no-litigation certificate.

(ix) Certified copies of resolutions or other documents pertaining to the bond award.

(x) Any additional or supporting documents required by Bond Counsel.

(xi) For loans involving multiple advances of FmHA loan funds, a preliminary approving opinion of Bond Counsel if a final unqualified opinion cannot be obtained until all funds are advanced. The preliminary opinion for the entire issue shall be delivered on or before the first advance of loan funds and state that the applicant has the legal authority to issue the bonds, construct, operate and maintain the facility, and repay the loan subject only to changes during the advance of funds such as litigation resulting from the failure to advance loan funds, and receipt of closing certificates.

(xii) Preliminary approving opinion, if any, and final unqualified approving opinion of recognized Bond Counsel including opinion regarding interest on bonds being exempt from Federal and any State income taxes. On approval of the Administrator, a final opinion may be qualified to the extent that litigation is pending relating to Indian claims that may affect title to land or validity of the obligation.

(3) *Interim financing from commercial sources during construction period for loans of \$50,000 or more.* In all cases where it is possible for funds to be borrowed at reasonable interest rates on an interim basis

from commercial sources, such interim financing will be obtained so as to preclude the necessity for multiple advances of FmHA funds.

(4) *Permanent instruments for FmHA loans to repay interim commercial financing.* Such loans will be evidenced by one of the types of instruments in the order of preference shown in paragraph (a)(5) of this section.

(5) *Multiple advances of FmHA funds using permanent instruments.* Where interim financing from commercial sources is not available, FmHA loan proceeds will be disbursed on an "as needed by borrower" basis in amounts not to exceed the amount needed during 30-day periods. FmHA loans will be evidenced by the following types of instruments chosen in accordance with the following order of preference:

(i) *First preference—Form FmHA 440-22.* If legally permissible, use Form FmHA 440-22, "Promissory Note Association or Organization," for insured loans.

(ii) *Second preference—single instruments with amortized installments.* If Form FmHA 440-22 is not legally permissible, use a single instrument showing on the face the full amount of the loan and providing for amortized installments with provision for entering the date and amount of each FmHA advance on the reverse there of or on an attachment to the instrument. Form FmHA 440-22 should be followed to the extent possible. Where interest-only payments are scheduled for the first installment due dates, no attempt should be made to compute in dollar terms the amount of interest due on such dates. Rather the instrument should provide that "interest only" is due on these dates. Thereafter, regular amortized installments of a specified dollar amount will be due on each installment date.

(iii) *Third preference—single instrument with installments of principal plus interest.* If a single amortized installment instrument is not legally permissible, use a single instrument providing for specified installments of principal plus accrued interest. The principal should be in an amount best adapted to making principal retirement and interest payments which closely approximate equal installments of combined interest and principal as required by the first two preferences.

(A) The repayment terms described in paragraph (a)(5)(ii) of this section "Second preference" apply.

(B) The instruments shall contain in substance the following provisions:

(1) A statement of principal maturities and due dates.

(2) Payments made on indebtedness evidenced by this instrument, regardless of when made, shall be applied first to interest due through the date of payment and next to principal except that payments made from security depleting sources shall, after payment of interest to the payment date, be applied to the principal last to become due under the instrument and shall not affect the obligation of the borrower to pay the remaining installments as scheduled.

(iv) *Fourth preference.* If instruments described under the first, second, and third preferences are not legally permissible, use

serial bonds with a bond or bonds delivered in the amount of each advance. Bonds will be delivered in the order of their numbers. Such bonds will conform with the minimum requirements of paragraph (a)(7) of this section. Rules for application of payments on serial bonds will be the same as those for principal installment single bonds as set out in the preceding paragraph (a)(5)(iii) of this section.

(6) *Multiple advances of FmHA funds using temporary debt instrument.* When none of the instruments described in paragraph (a)(5) of this section are legally permissible or practical, a bond anticipation note or similar temporary debt instrument may be used. The debt instrument will provide for multiple advance of FmHA loan funds and will be for the full amount of the FmHA loan. The instrument will be prepared by Bond Counsel and approved by the State Director and OGC. At the same time FmHA delivers the last advance, the borrower will deliver the permanent bond instrument to FmHA to replace the temporary debt instrument and the canceled temporary instrument will be delivered to the borrower. The approved debt instrument will show at least the following:

(i) The date from which each advance will bear interest.

(ii) The interest rate.

(iii) A payment schedule providing for interest on outstanding principal at least annually.

(iv) A maturity date which shall be no earlier than the anticipated issuance date of the permanent instrument(s).

(7) *Minimum bond specifications.* The provisions of paragraph (a)(7) are of this section minimum specifications only, and must be followed to the extent legally permissible.

(i) *Type and denominations.* Bond resolutions or ordinances will provide that the instrument(s) be either a bond representing the total amount of the indebtedness or Serial bonds in denominations customarily accepted in municipal financing (ordinarily in multiples of not less than \$1,000). Single bonds may provide for either repayment of principal plus interest or amortized installments; amortized installments are preferable from the standpoint of FmHA. Coupon bonds will not be used unless required by statute.

(ii) *Bond registration.* Bonds will contain provisions permitting registration as to both principal and interest. Bonds purchased by FmHA will be registered in the name of "United States of America, Farmers Home Administration," and will remain so registered at all times while the bonds are held or insured by the United States. The address of FmHA for registration purposes will be that of the FmHA Finance Office.

(iii) *Size and quality.* Size of bonds and coupons should conform to standard practice. Paper must be of sufficient quality to prevent deterioration through ordinary handling over the life of the loan.

(iv) *Date of bonds.* Bonds will be dated as of the day of delivery.

(v) *Payment date.* Insofar as loan payments are consistent with income availability, applicable State statutes, and commercial

customs in the preparation of bonds or other evidence of indebtedness, they should be scheduled on a monthly basis either in the bond or other evidence of indebtedness or through the use of a supplemental agreement. Such requirements will be accomplished not later than the time of loan closing. When monthly payments are required, such payments will be scheduled beginning one full month following the date of loan closing or the end of any approved deferment period. Subsequent monthly payments will be scheduled each full month thereafter. In those cases where evidence of indebtedness calls for annual or semiannual payments, they will be scheduled beginning six or twelve full months, respectively following the date of loan closing or the end of any approved deferment period. Subsequent payments will be scheduled each sixth or twelfth full month respectively, thereafter. When the evidence of indebtedness is dated the 29th, 30th, or 31st day of a month, the payment date will be scheduled the 28th day of the month. Borrowers scheduled to make monthly payments will be given a monthly payment card jacket at the time of loan closing. These borrowers will submit payment directly to the Finance Office.

(vi) *Place of payment.* Payment on bonds purchased by FmHA should be submitted to the FmHA Finance Office by the borrower.

(vii) *Redemptions.* Bonds should contain customary redemption provisions, subject, however, to unlimited right of redemption without premium of any bonds held by FmHA except to the extent limited by the provisions under the "Third Preference" and "Fourth Preference" in paragraph (a)(5) of this section.

(viii) *Additional revenue bonds.* Parity bonds may be issued to complete the project. Otherwise, parity bonds may not be issued unless the net revenues (that is, unless otherwise defined by the State statute, gross revenues less essential operation and maintenance expense) for the fiscal year preceding the year in which such parity bonds are to be issued, were 120 percent of the average annual debt service requirements on all bonds then outstanding and those to be issued; provided, that this limitation may be waived or modified by the written consent of bondholders representing 75 percent of the then outstanding principal indebtedness. Junior and subordinate bonds may be issued without restriction.

(ix) *Scheduling of FmHA payments when joint financing is involved.* In all cases in which FmHA is participating with another lender in the joint financing of the project to supply funds required by one applicant, the FmHA payments of principal and interest should approximate amortized installments.

(x) *Precautions.* The following types of provisions in debt instruments should be avoided.

(A) Provisions for the holder to manually post each payment to the instrument.

(B) Provisions for returning the permanent or temporary debt instrument to the borrower in order that it, rather than FmHA, may post the date and amount of each advance or repayment on the instrument.

(8) *Bidding by FmHA.* Where a public bond sale is required by State statutes, FmHA will not normally submit a bid at the advertised sale unless State statutes require a bid to be submitted. Preferably, FmHA will negotiate the purchase with the applicant subsequent to the advertised sale if no acceptable bid is received. In those cases where FmHA is required to bid, the bid will be made at the applicable FmHA interest rate.

Exhibit I—Guide Letter for Use in Informing Private Lender of FmHA's Commitment
(Name and Address of Private Lender)

Dear Mr. _____:
(For Organizations)

Reference is made to a request from the (Smith Housing Assoc.) through (John Smith) its President, for interim financing from your firm to construct a rental housing facility at the interest rate and terms and conditions agreed upon as reflected in the attached letter.

(For Individuals)

Reference is made to a request from (John Jones) for interim financing from your firm to construct a rental housing facility at the interest rate and terms and conditions agreed upon as reflected in the attached letter.

This letter is to confirm certain understandings on behalf of the Farmers Home Administration (FmHA).

Final drawings, specifications, and all other contracts documents have been prepared and approved, and the applicant is prepared to commence construction. It has been determined by the applicant and the Farmers Home Administration that the conditions of loan closing can be met. Funds have been obligated for the project, as evidenced by the attached copy of Form FmHA 440-57, "Acknowledgement of Obligated Funds/Check Request."

The applicant has been required by FmHA to deposit \$_____ with your firm to be utilized prior to any interim loan funds. The applicant has proposed and FmHA has agreed that you may first advance any applicant funds on deposit, and then advance the proceeds of the interim loan in accordance with the terms and conditions stated in your attached letter, as needed to pay for construction and other authorized and legally eligible expenses incurred by the applicant. It is understood, however, that advances of both the applicant's funds and the interim loan funds will be made only upon presentation of proper statements and partial payment estimates prepared by the builder, and approved for payment by the consulting architect, the applicant, and the FmHA District Director.

We have scheduled the Farmers Home Administration loan to be closed when construction to be financed with loan funds is substantially complete in accordance with the FmHA approved contract documents, drawings and specifications (except for minor punch list items), and the applicant provides evidence indicating that there are no unpaid obligations outstanding in connection with the project. At that time, funds not exceeding

the FmHA loan amount will be available to pay off the amount of loan advances your lending institution has made for authorized approved purposes, including accrued interest to the date of closing.

FmHA cannot provide you with an unconditional letter of commitment guaranteeing FmHA loan closing. Factors such as noncompletion, default, unacceptable workmanship, and marked deviation from approved drawings and specifications could prevent the FmHA loan from being closed.

These problems can be minimized by making a thorough review of the [contract documents,]* drawings and specifications, evaluating the qualifications and past performance of the builder, and obtaining an adequate corporate surety bond guaranteeing both payment and performance.

The following are additional safeguards to help assure FmHA loan closing:

1. We invite you or your representatives to accompany FmHA personnel during construction inspections so that at least 3 or 4 joint inspections at critical points during construction (including the final inspection), can be made to help assure that construction is proceeding in accordance with the FmHA approved drawings and specifications.

2. FmHA will maintain its commitment in the amount of the obligated loan funds for a reasonable period of time after the expiration of any specified completion dates, provided work on the project is progressing satisfactorily and any identified problems have been resolved.

3. FmHA will not arbitrarily abandon your lending institution in the event of default. Should the contractor default, FmHA will attempt to provide financial assistance to the applicant in accordance with our administrative procedures and lending requirements, provided a new contractor can complete the project for a total cost within the security value of the project. If this is not possible, or should the FmHA loan applicant become unable or unwilling to continue with the project, FmHA also will attempt to provide financial assistance to any eligible applicant (subject to the availability of funds, our administrative procedures, and our lending requirements), to purchase the completed project from your lending institution.

4. FmHA is aware that circumstances, such as subsurface ground conditions and change orders necessitated by required changes in the work to be performed, may cause cost increases after FmHA loan approval and the obligation of FmHA loan funds. It is a general practice for FmHA to make subsequent loans when necessary to help cover these eligible costs, provided additional loan funds are available, the change orders were approved by FmHA, the increased costs are legitimate and are for authorized loan purposes, and the total cost of the project is within its security value.

Your assistance to the applicant is appreciated.

Sincerely,

State Director.

This regulation has not been determined significant under the USDA

criteria implementing Executive Order 12044. A copy of the Impact Statement prepared according to these criteria is available from the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6346, Washington, DC., 20250.

This document has been reviewed in accordance with FmHA Instruction 1901-G, "Environmental Impact Statements." It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, Public Law 91-190, an Environmental Impact Statement is not required.

(42 U.S.C. 1480; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70.)

Dated: April 30, 1979.

James E. Thornton,
Associate Administrator Farmers Home Administration.
[FR Doc. 79-14303 Filed 5-8-79; 8:45 am]
BILLING CODE 3410-07-M

CIVIL AERONAUTICS BOARD

[14 CFR Ch. II]

Currency Exchange Conditions; Termination of Rulemaking

AGENCY: Civil Aeronautics Board.

ACTION: Termination of rulemaking proceeding.

SUMMARY: The Civil Aeronautics Board is terminating a rulemaking begun in response to a petition by the Air Transport Association, a trade association of various U.S. scheduled air carriers. The petition asked the Civil Aeronautics Board to adopt rules to alleviate currency exchange problems of U.S. flag carriers in foreign countries. The Board has decided that the problem is better handled through case-by-case proceedings than by rulemaking.

FOR FURTHER INFORMATION CONTACT: Mark W. Frisbie, Office of General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, Washington, D.C. 20428. 202/673-5442.

SUPPLEMENTARY INFORMATION: In February 1977, the Air Transport Association of America (ATA)¹ filed a petition for rulemaking directed at the

¹ATA acted on behalf of Alaska Airlines, Aloha Airlines, Braniff Airways, Delta Air Lines, Eastern Air Lines, The Flying Tiger Line, National Airlines, Northwest Airlines, Pan American World Airways, Trans World Airlines, Western Air Lines, Wien Air Alaska, and North Central Airlines.

problem of certain foreign currency exchange prices affecting U.S. flag carriers in various countries. ATA cited two major problems: restrictions on sales by U.S. carriers in a foreign country, and governmentally-imposed restrictions and delays in converting or remitting foreign currency revenues. ATA proposed that the Board should, subject to presidential approval, require foreign air carriers operating in the United States to establish escrow accounts in dollars in the United States when U.S. carriers encounter foreign currency problems in the home countries of particular carriers. The escrow account would contain funds of the foreign air carrier equivalent to the unremitted funds of U.S. air carriers held by the foreign country. ATA also suggested that escrow funds could be transferred to affected U.S. carriers, in return for which the foreign air carrier would be credited with the U.S. carriers' claims to foreign funds, thereby forcing an informal currency exchange. ATA recommended that the rule include reciprocal restriction on ticket sales by foreign carriers in the United States whenever U.S. carriers are restricted in the foreign land.

On May 31, 1977, in response to ATA's petition, the Board issued an Advance Notice of Proposed Rulemaking (EDR-327, 42 FR 28898, June 6, 1977) asking for more detailed information on the problem and on ATA's proposal. Seaboard World Airways, Mr. Robert T. Murphy, and ATA filed comments favoring some regulatory action by the Board, and Czechoslovak Airlines, VARIG (Brazilian Airlines), and China Airlines opposed any such action.

Comments supporting the ATA petition argued that bilateral negotiations have proven ineffective in practice to cure the currency exchange problems. Mr. Murphy, a former Member of the CAB, stated that diplomatic efforts to solve these problems have been so consistently unproductive that remedial action is warranted. ATA maintained that diplomatic and commercial negotiations are too time-consuming, given the sums of money at stake, to be worthwhile, even if they are ultimately successful. In addition, ATA reiterated its claim that the Board is obligated by the International Air Transportation Fair Competitive Practices Act of 1974 (88 Stat. 2102, 49 U.S.C. 1159) to take action to eliminate the discriminatory and unfair competitive practices alleged. ATA advocated a rulemaking that would allow faster action than under existing case-by-case procedures. It suggested as

guidelines for the Board procedures that would take about 1 month in all. Individual permit amendment procedures ordinarily take at least 5 months.

Comments opposing the suggested rulemaking argued that currency exchange problems are best handled on an individual basis, and they questioned the Board's authority to make private foreign air carriers responsible for the actions of their governments. Czechoslovak Airlines argued that no actionable discrimination exists where all foreign carriers are treated the same, if the disparate treatment for domestic carriers is based on established policy or legislation of the home country. It intimated that action directed against those policies, without any further showing of discrimination, could provoke retaliation in turn against air carriers of the country taking the action. VARIG asserted that under the *International Air Transportation Policy of the United States* (September 1976) unilateral action should be used only as a last resort, and that unilateral action in this case would violate a bilateral agreement between the United States and Brazil. It also maintained that the Board has no statutory authority to hold or transfer the funds of one private airline for the benefit of another, and that the suggested escrow arrangement would be a taking of private property without compensation in violation of the Fifth Amendment.

The Board recognizes that foreign currency difficulties are a significant problem for U.S. flag carriers, but we have decided that they are best handled on a case-by-case basis, not by the more summary procedure contemplated in this rulemaking. Any conditions that could be imposed on foreign air carriers under a rule such as proposed by ATA can also be imposed through individual permit amendment proceedings. The conditions could be imposed more quickly under a rule than by permit amendment, but we do not think that quick action is usually necessary or judicious in these matters.

Foreign currency exchange problems for U.S. carriers, while significant, are rarely so acute as to cause complete cessation of operation. A carrier that cannot withdraw money from a foreign country, or that experiences unusual delay in withdrawal, can obtain working capital from financial institutions. A carrier's expenses may temporarily increase pending permit amendment proceedings, or it may suffer from devaluation, but it will not be prevented from operating. Hence, immediate action on behalf of U.S. carriers is not so urgent

in currency exchange matters as where actual operating rights have been limited or denied. Moreover, although currency restrictions do not affect the flag carrier of a country as they do other carriers, and thus may be considered discriminatory, the carriers representing financially troubled countries are usually in weak financial condition themselves, and therefore do not enjoy a superior competitive position relative to the U.S. carriers.

As we noted in EDR-327, foreign currency exchange practices present complex issues that transcend aviation considerations alone. These problems do not lend themselves to solution through standardized, summary proceedings. The Board has limited expertise in the banking procedures and economic policies prevailing for each country where there are currency exchange problems. Individual permit amendment proceedings would allow thorough investigations, resulting in solutions tailored to the circumstances of each case, and they would allow consultation with agencies having greater expertise.

Because the issues in foreign currency exchange matters are so complicated, but seldom critical to the provision of air transportation, we have decided that a rulemaking is not the right vehicle for dealing with them. The opportunity for thorough study and individually tailored solutions in a case-by-case approach is more important than the ability to act more quickly under a rule. Accordingly, the Civil Aeronautics Board is terminating this rulemaking proceeding.

(Secs. 204, 402, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 757; (49 U.S.C. 1324, 1372).)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,
Secretary.

[EDR-327 B, Docket No. 30460]
[FR Doc. 79-14437 Filed 5-8-79; 8:45 am]
BILLING CODE 6320-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[14 CFR Parts 1204 and 1216]

Policy on Environmental Quality and Control; Procedures for Implementing the National Environmental Policy Act (NEPA)

AGENCY: National Aeronautics and Space Administration.

ACTION: Proposed rule.

SUMMARY: NASA proposes to adopt procedures for implementing the provisions of the National Environmental

Policy Act (NEPA) in accordance with the latest regulations of the Council on Environmental Quality (CEQ), 43 FR 55978 (1978) (to be codified in 40 CFR 1500 et seq.).

DATE: Comments or suggestions should be submitted in writing on or before June 8, 1979.

ADDRESS: Comments should be addressed to Mr. Nathaniel B. Cohen, Director, Management Support Office (External Relations), Code LB-4, National Aeronautics and Space Administration, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Nathaniel B. Cohen, 202-755-8383.

SUPPLEMENTARY INFORMATION: Section 102 of the NEPA directs Federal agencies to interpret and administer the policies, regulations, and public laws of the United States in accordance with the environmental policies established in Section 101 of the Act. Section 102(2) contains "action-forcing" provisions to make sure that Federal agencies act according to the letter and spirit of the Act. The CEQ has issued implementing regulations to provide Federal agencies with "efficient, uniform procedures for translating the law (NEPA) into practical action." These regulations provide "uniform standards applicable throughout the Federal government for conducting environmental reviews."

The CEQ regulations require that each agency develop its own procedures for their implementation. The agency procedures are required to supplement the CEQ regulations and to confine themselves to implementing procedures; they should not merely paraphrase the CEQ regulations. The regulations that follow provide for the required NASA implementing procedures for compliance with the NEPA. They are designed to:

a. Integrate the NEPA process with other planning at the earliest possible time.

b. Ensure that decisions are made in accordance with the policies and purposes of NEPA.

c. Involve the public in the NEPA process in an appropriate, responsible manner.

These procedures cover the NASA decision processes and the substantive consideration of environmental factors, the procedural requirements for environmental documentation in the decision processes, criteria to assist in determining the need for environmental impact assessments and statements, and the required contents of these assessments and statements. CEQ Regulations require that these procedures be effective July 30, 1979.

PART 1216—ENVIRONMENTAL QUALITY

1. In 14 CFR Chapter V, Subpart 1204.11 is redesignated as Subparts 1216.1 and 1216.3 and revised to read as follows:

Subpart 1216.1—Policy on Environmental Quality and Control

Sec.

- 1216.100 Scope.
- 1216.101 Applicability.
- 1216.102 Policy.
- 1216.103 Responsibilities of NASA officials.

Subpart 1216.3—Procedures for Implementing the National Environmental Policy Act (NEPA)

- 1216.300 Scope.
- 1216.301 Applicability.
- 1216.302 Definition of key terms.
- 1216.303 Responsibilities of NASA officials.

Agency Procedures

- 1216.304 Major decision points.
- 1216.305 Criteria for actions requiring environmental assessments.
- 1216.306 Preparation of environmental assessments.
- 1216.307 Scoping.
- 1216.308 Preparation of draft statements.
- 1216.309 Public involvement.
- 1216.310 Preparation of final statements.
- 1216.311 Record of the decision.
- 1216.312 Timing.
- 1216.313 Implementing and monitoring the decision.
- 1216.314 Tiering.
- 1216.315 Processing legislative environmental impact statements.
- 1216.316 Cooperating with other agencies and individuals.
- 1216.317 Classified information.
- 1216.318 Deviations.

Other Requirements

- 1216.319 Environmental resources document.
- 1216.320 Environmental review and consultation requirements.
- 1216.321 Environmental effects abroad of major Federal actions.

Authority.—The National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 2451 et seq.); the National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 et seq.); the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 et seq.); Section 309 of the Clean Air Act, as amended (42 U.S.C. 7609); Executive Order 11514, Protection and Enhancement of Environmental Quality (March 5, 1970, as amended by Executive Order 11991, May 24, 1977); the Council on Environmental Quality NEPA Regulations (43 FR 55978); and Executive Order 12114, Environmental Effects Abroad of Major Federal Actions, January 4, 1979 (44 FR 1957).

Subpart 1216.1—Policy on Environmental Quality and Control**§ 1216.100 Scope.**

This Subpart sets forth NASA policy on environmental quality and control and the responsibilities of NASA officials in carrying out these policies.

§ 1216.101 Applicability.

This Subpart is applicable to NASA Headquarters and field installations.

§ 1216.102 Policy.

NASA policy is to:

(a) Use all practicable means, consistent with NASA's statutory authority, available resources, and the national policy, to protect and enhance the quality of the environment;

(b) Provide for proper attention to and ensure that environmental amenities and values are given appropriate consideration in all NASA actions, including those performed under contract, grant, lease, or permit;

(c) Recognize the worldwide and long-range character of environmental concerns and, when consistent with the foreign policy of the United States and its own responsibilities, lend appropriate support to initiatives, resolutions, and programs designed to maximize international cooperation in anticipating and preventing a decline in the quality of the world environment;

(d) Use systematic and timely approaches which will ensure the integrated use of the natural and social sciences and environmental design arts in planning and decisionmaking for actions which may have an impact on the human environment;

(e) Pursue research and development, within the scope of NASA's authority or in response to authorized agencies, for application of technologies useful in the protection and enhancement of environmental quality;

(f) Initiate and utilize ecological and other environmental information in the planning and development of resource-oriented projects; and

(g) Invite cooperation, where appropriate, from Federal, State, local, and regional authorities and the public in NASA planning and decisionmaking processes.

§ 1216.103 Responsibilities of NASA officials.

(a) The Associate Administrator for External Relations or designee shall:

(1) Coordinate the formulation and revision of NASA policies and positions on matters pertaining to environmental protection and enhancement;

(2) Represent NASA in working with other governmental agencies and interagency organizations to formulate, revise, and achieve uniform understanding and application of governmentwide policies relating to the environment;

(3) Develop and ensure the implementation of agencywide standards, procedures, and working relationships for protection and enhancement of environmental quality and compliance with applicable laws and regulations;

(4) Develop, as an integral part of NASA's basic decision processes, procedures to ensure that environmental factors are properly considered in all proposals and decisions;

(5) Establish and maintain working relationships with the Council on Environmental Quality, Environmental Protection Agency, and other national, state, and local governmental agencies concerned with environmental matters;

(6) Acquire information for and ensure the preparation of appropriate NASA reports on environmental matters.

(b) Officials-in-Charge of Headquarters Offices and NASA Field Installation Directors are responsible for:

(1) Identifying matters under their cognizance which may affect protection and enhancement of environmental quality and for employing the proper procedures to ensure that necessary actions are taken to meet the requirements of applicable laws and regulations;

(2) Coordinating environmental quality-related activities under their cognizance with the Associate Administrator for External Relations; and

(3) Supporting and assisting the Associate Administrator for External Relations on request.

(c) Officials-in-Charge of Headquarters Offices are additionally responsible for:

(1) Giving high priority, in the pursuit of program objectives, to the identification, analysis, and proposal of research and development which, if conducted by NASA or other agencies, may contribute to the achievement of beneficial environmental objectives; and

(2) In coordination with the Associate Administrator for External Relations, making available to other parties, both governmental and nongovernmental, advice and information useful in protecting and enhancing the quality of the environment.

(d) NASA Field Installation Directors are additionally responsible for:

(1) Implementing the NASA policies, standards and procedures for the protection and enhancement of environmental quality and supplementing them as appropriate in local circumstances;

(2) Specifically assigning responsibilities for environmental activities under the installation's cognizance to appropriate subordinates, while providing for the coordination of all such activities; and

(3) Establishing and maintaining working relationships with national, state, regional and governmental agencies responsible for environmental regulations in localities in which the field installations conduct their activities.

Subpart 1216.3—Procedures for Implementing the National Environmental Policy Act (NEPA)

§ 1216.300 Scope.

This Subpart sets forth NASA procedures implementing the provisions of Section 102(2) of the National Environmental Policy Act (NEPA). The NASA procedures of this Subpart supplement the regulations of the Council on Environmental Quality (43 FR 55978) which establish uniform procedures for implementing those provisions of NEPA.

§ 1216.301 Applicability.

(a) This Subpart is applicable to NASA Headquarters and field installations.

(b) The procedures established by this Subpart apply to all NASA actions which may have an impact on the quality of the environment. These actions may fall within any of the three NASA budget categories: Research and Development (R&D), Construction of Facilities (CofF), and Research and Program Management (R&PM), or, if not involving budget authority or other Congressional approval, may be separate from the categories.

§ 1216.302 Definition of key terms.

The definitions contained within Part 1508, *Terminology and Index*, CEQ Regulations, 43 FR 55978, apply to Subpart 1216.3. Additional definitions, necessary for the purpose of this Subpart, are as follows:

(a) *Budget Line Items*. The individual items in the annual NASA authorization legislation which are used here to classify the range of NASA actions. The three main budget line items are:

(1) *Research and Development (R&D)*. Those activities directed towards attaining the objectives of a specific

mission, project, or program. All NASA's aeronautics and space program elements are categorized within the R&D program categories. R&D funds are expended chiefly for contracted research and development and for research grants. Some R&D funds are also expended in support of in-house research (e.g., equipment purchases and other research support, but *not* civil service salaries).

(2) *Research and Program Management (R&PM)*. Those activities directed towards the general support of the NASA institution charged with the conduct of the aeronautics and space program. R&PM funds are expended for the NASA civil service work force (both for performing in-house R&D and for planning, managing, and supporting contractor and grantee R&D), and for other general supporting functions.

(3) *Construction of Facilities (C of F)*. Those activities directed towards construction of new facilities; repair, rehabilitation, and modification of existing facilities; acquisition of related facility equipment; design of facilities projects; and advance planning related to future facilities needs.

(b) *Construction of Facilities Project*. The consolidation of applicable specific individual types of facility work, including related collateral equipment, which is required to fully reflect all of the needs, generally relating to one facility, which have been or may be generated by the same set of events or circumstances which are required to be accomplished at one time in order to provide for the planned initial operational use of the facility or a discrete portion thereof. Facility projects are subject to the NASA decision processes of § 1216.304.

(c) *Environmental Analysis*. The analysis of the environmental effects of proposed actions, including alternative proposals. The analyses are carried out from the very earliest of planning studies for the action in question, and are the materials from which the more formal environmental assessments, environmental impact statements, and public record of decisions are made.

(d) *Institutional Action*. An action to establish, change, or terminate an aspect of the NASA institution, defined as the total NASA resource (plant, employees, skills).

(e) *R&D Project*. A discrete research and development activity, with a scheduled beginning and ending, which normally involves one of the following primary purposes:

(1) The design, development, and demonstration of major advanced technology hardware items;

(2) The design, construction, and operation of a new launch vehicle (and associated ground support) during its research and development phase; and

(3) The construction and operation of one or more aeronautics or space vehicles (and necessary ground support) in order to accomplish a scientific or technical objective. R&D projects are each subelements in the NASA R&D budget line item. R&D projects are subject to the decision processes of § 1216.304.

§ 1216.303 Responsibilities of NASA officials.

(a) The Associate Administrator for External Relations or designee, who is responsible for developing the procedures of this Subpart and for ensuring that environmental factors are properly considered in all NASA planning and decisionmaking, shall:

(1) Monitor these processes to ensure that the agency procedures are achieving their purposes;

(2) Advise line management and inform NASA employees of technical and management requirements of environmental analysis, of appropriate expertise available in and out of NASA, and—with the assistance of the NASA General Counsel—of relevant legal developments; and

(3) Consolidate and transmit to the appropriate parties NASA comments on environmental impact statements and other environmental reports prepared by other agencies.

(b) Officials-in-Charge of Headquarters Offices (hereafter termed "Headquarters officials") are responsible for implementing the procedures established by these regulations for the consideration and documentation of the environmental aspects of the decision processes in their respective areas of responsibility.

(c) The Director, Office of Legislative Affairs, is responsible for ensuring that legislative environmental impact statements accompany NASA legislative proposals or reports on legislation submitted to the Congress. The Associate Administrator for External Relations, the Comptroller, and General Counsel will provide guidance as required.

Agency Procedures

§ 1216.304 Major decision points.

The possible environmental effects of a proposed action must be considered, along with technical, economic, and other factors, in the earliest planning. At that stage, the responsible Headquarters official shall begin the necessary steps to comply with all the requirements of

Section 102(2) of the National Environmental Policy Act of 1969. Major NASA activities, particularly R&D and facility projects, generally have four distinct phases: The conceptual study phase; the detailed planning/definition phase; the development/construction phase; and the operation phase. (Other NASA activities have fewer, less well-defined phases, but can still be characterized by phases representing general or feasibility study, detailed planning or definition, and implementation.) Environmental documentation shall be linked to major decision points as follows:

(a) Completion of an environmental assessment and the determination as to whether an environmental impact statement is required must be made prior to the decision to proceed from the conceptual study phase to the detailed planning/definition phase of the proposed action. For example, this determination must be concurrent with:

- (1) Proposal of an R&D project for detailed planning and project definition;
- (2) Proposal of a major Construction of Facilities project for detailed planning and project definition;

(3) Proposal of an institutional action (other than a facility project) for detailed planning and definition; and

(4) Proposal of a plan to define changes in an approved project.

(b) The final environmental impact statement (EIS) should be completed and circulated prior to the decision to proceed from the detailed planning/definition phase to the development/construction (or implementation) phase of the proposed action. For example, the EIS should be completed by, and incorporated with:

- (1) Proposal of an R&D project for development/construction;
- (2) Proposal of a major Construction of Facilities project for development/construction;
- (3) Proposal to undertake a significant institutional action (other than a facility project); and
- (4) Proposal to implement a program change.

§ 1216.305 Criteria for actions requiring environmental assessments.

(a) Whether a proposed NASA action within the meaning of the CEQ Regulations (43 FR 55978) requires the preparation of an environmental assessment, an environmental impact statement, both, or neither, will depend upon the scope of the action and the context and intensity of any environmental effects expected to result. A NASA action shall require the preparation of an environmental

assessment (§§ 1501.3 and 1508.9 of the CEQ Regulations) provided the action is not one normally requiring an environmental impact statement (paragraph (c)) or it is not categorically excluded from the requirement for an environmental assessment and an environmental impact statement (paragraph (d)).

(b) Specific NASA actions normally requiring an environmental assessment are:

(1) Specific spacecraft development and flight projects in space science.

(2) Specific spacecraft development and flight projects in space and terrestrial applications.

(3) Specific experimental projects in aeronautics and space technology and specific energy technology applications.

(4) Development and operation of new space transportation systems and advanced development of new space transportation and spacecraft systems.

(5) Reimbursable launches of non-NASA spacecraft or payloads.

(6) Major Construction of Facilities projects.

(7) Actions to alter ongoing operations at a NASA installation which could lead, either directly or indirectly, to natural or physical environmental effects.

(c) NASA actions expected to have a significant effect upon the quality of the human environment shall require an environmental impact statement. For these actions an environmental assessment is not required. Criteria to be used in determining significance are given in § 1508.27 of the CEQ Regulations (43 FR 55978). Specific NASA actions requiring environmental impact statements, all in the R&D budget category, are as follows:

(1) Development and operation of new launch vehicles.

(2) Development and operation of space vehicles likely to release substantial amounts of foreign materials into the earth's atmosphere, or into space.

(3) Development and operation of nuclear systems, including reactors and thermal devices used for propulsion and/or power generation. Excluded are devices with millicurie quantities or less of radioactive materials used as instrument detectors and small radioisotope heaters used for local thermal control, provided they are properly contained and shielded.

(d) NASA actions categorically excluded from the requirements to prepare either an environmental assessment or an EIS (§ 1508.4 of the CEQ Regulations) fit the following criteria: They are each sub-elements of

an approved broadbased level-of-effort NASA science and technology program (basic research, applied research, development of technology, ongoing mission operations), facility program, or institutional program; and they are each managed relatively independently of other related sub-elements by means of separate task orders, Research and Technology Operating Plans, etc. Specific NASA actions fitting these criteria and thus categorically excluded from the requirements for environmental assessments and environmental impact statements are:

(1) R&D activities in space science (e.g., Physics and Astronomy Research and Analysis, Planetary Exploration Mission Operations and Data Analysis) other than specific spacecraft development and flight projects.

(2) R&D activities in space and terrestrial applications (e.g., Resource Observations Applied Research and Data Analysis, Technology Utilization) other than specific spacecraft development and flight projects.

(3) R&D activities in aeronautics and space technology (e.g., Research and Technology Base, Systems Technology Programs) other than experimental projects and energy technology applications.

(4) R&D activities in space transportation systems engineering and scientific and technical support operations, routine transportation operations, and advanced studies.

(5) R&D activities in space tracking and data systems.

(6) Facility planning and design.

(7) Minor construction of new facilities including rehabilitation, modification, and repair.

(8) Continuing operations of a NASA installation at a level of effort, or altered operations, provided the alterations induce only social and/or economic effects but no natural or physical environmental effects.

(e) Even though an action may be categorically excluded from the need for a formal environmental assessment or environmental impact statement, it is not excluded from the requirement for an environmental analysis conducted during the earliest planning phases. If that analysis shows that the action deviates from the criteria for exclusion and it is concluded that there may be significant environmental effects, an environmental assessment must be carried out. Based upon that assessment, a determination must then be made whether or not to prepare an environmental impact statement.

§ 1216.306 Preparation of environmental assessments.

(a) For each NASA action meeting the criteria of § 1216.305(b), and for other actions as required, the responsible Headquarters official shall prepare an environmental assessment (§§ 1501.3 and 1508.9 of the CEQ Regulations) and, on the basis of that assessment, determine if an EIS is required.

(b) If the determination is that no environmental impact statement is required, the Headquarters official shall, in coordination with the Associate Administrator for External Relations, prepare a "Finding of No Significant Impact." (See § 1508.13 of the CEQ Regulations.) The "Finding of No Significant Impact" shall be made available to the affected public through direct distribution and publication in the Federal Register.

(c) If the determination is that an environmental impact statement is required, the Headquarters official shall proceed with the "notice of intent to prepare an EIS" (see § 1508.22 of the CEQ Regulations). The Headquarters official shall transmit this notice to the Associate Administrator for External Relations for review and subsequent publication in the Federal Register (see section 1507.3(e) of the CEQ Regulations). The Headquarters official shall then apply procedures set forth in § 1216.307 to determine the scope of the EIS and proceed to prepare and release the environmental statement in accordance with the CEQ Regulations and the procedures of this Subpart.

(d) Environmental assessments may be prepared for any actions, even those which meet the criteria for environmental impact statements (§ 1216.305(c)) or for categorical exclusion (§ 1216.305(d)), if the responsible Headquarters official believes that the action may be an exception or that an assessment will assist in planning or decisionmaking.

§ 1216.307 Scoping.

The responsible Headquarters official shall conduct an early and open process for determining the scope of issues to be addressed in environmental impact statements and for identifying the significant issues related to a proposed action. The elements of the scoping process are defined in § 1501.7 of the CEQ Regulations and the process must include considerations of the range of actions, alternatives, and impacts discussed in § 1508.25 of the CEQ Regulations. The range of environmental categories to be considered in the scoping process shall include, but not be limited to:

- (a) Air quality;
- (b) Water quality;
- (c) Waste generation, treatment, transportation disposal and storage;
- (d) Noise, sonic boom, and vibration;
- (e) Toxic substances;
- (f) Biotic resources;
- (g) Radioactive materials and non-ionizing radiation;
- (h) Endangered species;
- (i) Historical, archeological, and recreational factors;
- (j) Wetlands and floodplains; and
- (k) Economic, population and employment factors, provided they are interrelated with natural or physical environmental factors.

§ 1216.308 Preparation of draft statements.

(a) The responsible Headquarters official shall prepare the draft environmental impact statement in the manner provided in Part 1502 of the CEQ Regulations and shall submit the draft statement and any attachments to the Associate Administrator for External Relations for NASA review prior to any formal review outside NASA. This submission shall be accompanied by a list of Federal, state, and local officials (Part 1503 of the CEQ Regulations) and a list of other interested parties (§ 1508.6 of the CEQ Regulations) from whom comments should be requested.

(b) After the NASA review is completed, the Associate Administrator for External Relations shall submit the approved draft statement to the Environmental Protection Agency (EPA), Office of Federal Activities, and shall seek the views of appropriate agencies and individuals in accordance with Part 1503 and § 1506.6 of the CEQ Regulations.

(c) Comments received shall be provided to the originating official for consideration in preparing the final statement. To the extent possible, requirements for review and consultation with other agencies on environmental matters established by statutes other than NEPA, such as the review and consultation requirements of the Endangered Species Act of 1973, as amended, should be met prior to or through this review process (§ 1216.320).

§ 1216.309 Public Involvement.

(a) Interested persons can get information on NASA environmental impact statements and other aspects of NASA's NEPA process by contacting the Director, Management Support Office (Code LB), NASA, Washington, DC 20546, 202-755-8383. Pertinent information regarding any aspect of the

NEPA process may also be mailed to the above address.

(b) Responsible Headquarters officials and NASA Field Installation Directors shall identify those persons, community organizations, and environmental interest groups who may be interested or affected by the proposed NASA action and who should be involved in the NEPA process. They shall submit a list of such persons and organizations to the Associate Administrator for External Relations at the same time they submit:

- (1) A recommendation regarding a "Finding of No Significant Impact,"
- (2) A "Notice of Intent to Prepare an EIS,"

(3) A recommendation for public hearings,

(4) A preliminary draft EIS,

(5) A preliminary final EIS,

(6) Other preliminary environmental documents (§ 1216.321(d)).

(c) The Associate Administrator for External Relations may modify such lists referred to in paragraph (b) as appropriate to ensure that NASA shall comply, to the fullest extent practicable, with § 1506.6 of the CEQ Regulations and § 2-4(d) of Executive Order 12114.

(d) The decision whether to hold public hearings shall be made by the Associate Administrator for External Relations in consultation with the General Counsel.

§ 1216.310 Preparation of final statements.

(a) After conclusion of the review process with other Federal, state, and local agencies and the public, the responsible Headquarters official shall consider all suggestions, revise the statement as appropriate, and forward the proposed final statement to the Associate Administrator for External Relations. The Associate Administrator for External Relations shall submit the approved final statement to the EPA Office of Federal Activities, to all parties who commented, and to other interested parties in accordance with CEQ Regulations.

(b) Each draft and final statement, the supporting documentation, and the record of decision shall be available for public review and copying at the office of the responsible Headquarters official, or at the office of a suitable designee. Copies of draft and final environment impact statements shall also be available at the NASA Information Center, 600 Independence Avenue, SW, Washington, DC 20546; at information centers at appropriate NASA field installations; and at appropriate state and local clearinghouses.

§ 1216.311 Record of the decision.

At the time of the decision on the proposed action, the originating Headquarters official shall consult with the Associate Administrator for External Relations and prepare a concise public record of the decision. (See § 1505.2 of the CEQ Regulations.)

§ 1216.312 Timing.

(a) Environmental impact statements are drafted when the Headquarters official has determined that the statement shall be prepared. No decision to proceed to the development/construction (or implementation) phase of the proposed action (the major decision point of § 1216.304(b)) shall be made by NASA until the later of the following dates (§ 1506.10 of the CEQ Regulations);

(1) Ninety days after publication of an EPA notice of a NASA draft EIS.

(2) Thirty days after publication of an EPA notice of a NASA final EIS.

(b) When necessary to comply with other specific statutory requirements, NASA shall consult with and obtain from CEQ time periods other than those specified by the Council for timing of agency action.

§ 1216.313 Implementing and monitoring the decision.

(a) Section 1505.3 of the CEQ Regulations provides for agency monitoring to assure that mitigation measures and other commitments associated with the decision and its implementation and described in the EIS are carried out and have the intended effects.

(b) The responsible Headquarters official shall, as necessary, conduct the required monitoring and shall provide periodic reports as required by the Associate Administrator for External Relations.

If the monitoring activity indicates that resulting environmental effects differ from those described in the current documents, the Headquarters official shall reassess the environmental impact and consult with the Associate Administrator for External Relations to determine the need for additional mitigation measures and whether to prepare a supplement to the EIS (see § 1502.9 of the CEQ Regulations).

§ 1216.314 Tiering.

Actions which are the subject of an environmental impact statement and which represents projects of broad scope may contain within them component actions of narrower scope, perhaps restricted to individual sites of activity or sequential stages of a

mission, and which themselves may require environmental assessments and, where necessary, environmental impact statements. The CEQ Regulations provide that agencies may use "Tiering" (§ 1508.28 of the CEQ Regulations) of environmental impact statements to relate such broad and narrow actions. When employing tiering, Headquarters officials shall, by reference, make maximum use of environmental documentation already available, and avoid repetition.

§ 1216.315 Processing legislative environment impact statements.

(a) Preparation of a legislative environmental impact statement shall conform to the requirements of § 1506.8 of the CEQ Regulations. The responsible Headquarters official, in coordination with the Associate Administrator for External Relations, shall identify those legislative proposals or reports on legislation that would require preparation of environmental impact statements in accordance with criteria set forth in § 1216.305.

(b) For the purposes of this provision, "legislation" not only excludes requests for appropriations (§ 1508.17 of the CEQ Regulations), but also excludes the annual authorization bill submitted to the Congress.

§ 1216.316 Cooperating with other agencies and individuals.

(a) The Associate Administrator for External Relations shall ensure that NASA officials have an opportunity to cooperate with other agencies and individuals. He/she shall keep abreast of the activities of Federal, state, and local agencies, particularly activities in which NASA has expertise or jurisdiction by law (see § 1508.15 of the CEQ Regulations). He/she shall inform the responsible Headquarters official of the need for cooperation as necessary.

(b) At the request of the Associate Administrator for External Relations, Headquarters officials shall initiate discussions with another Federal agency concerning those activities which may be the subject of that agency's EIS on which NASA proposes to comment.

(c) At the request of the Associate Administrator for External Relations, the responsible Headquarters official shall, in the interest of eliminating duplication, prepare joint analyses, assessments, and statements with state and local agencies. These joint environmental documents shall conform with the requirements of these procedures and overall NASA policy.

(d) Because of the uniqueness of NASA's aerospace activities, it is

unlikely that NASA will have the opportunity to "adopt" environmental statements prepared by other agencies (§ 1506.3 of the CEQ Regulations). However, should the responsible NASA official wish to adopt a Federal draft or final environmental impact statement or portion thereof, he/she shall consult with the Associate Administrator for External Relations to determine whether that statement meets NASA requirements.

(e) From time to time, there may be disagreements between NASA and other Federal agencies regarding which agency has primary responsibility to prepare an environmental impact statement in which both parties are involved. The Headquarters official with primary responsibility for the activity in question shall consult with the Associate Administrator for External Relations to resolve such questions in accordance with § 1501.5 of the CEQ Regulations.

(f) Responsibility for the environmental analyses and any necessary environmental assessments and environmental impact statements required by permits, leases, easements, etc., proposed for issuance to non-Federal applicants rests with the Headquarters official responsible for granting of that permit, lease, easement, etc. The responsible Headquarters official shall consult with the Associate Administrator for External Relations for advice on the type of environmental information needed from the applicant and on the extent of the applicant's participation in the necessary environmental studies and their documentation.

§ 1216.317 Classified information.

Environmental assessments and impact statements which contain classified information to be withheld from public release in the interest of national security or foreign policy shall be organized so that the classified portions are appendices to the environmental document itself. The classified portion shall not be made available to the public.

§ 1216.318 Deviations.

From time to time there will arise good and valid reasons for a deviation from these procedures. These procedures are not intended to be a substitute for sound professional judgment. Accordingly, if and as problems arise which justify a deviation, the proposed deviation and supporting rationale shall be forwarded to the Associate Administrator for External Relations. Unless such documentation is received, it will be assumed that each

planning and decisionmaking action is in accordance with these procedures.

§ 1216.319 Environmental resources document.

Each Field Installation Director shall ensure that there exists an environmental resources document which describes the current environment at that field installation, including current information on the effects of NASA operations on the local environment. This document shall include information on the same environmental effects as included in an environmental impact statement (See § 1216.307). This document shall be coordinated with the Associate Administrator for External Relations and shall be published in an appropriate NASA report category for use as a reference document in preparing other environmental documents (e.g., environmental impact statements for proposed actions to be located at the NASA field installation in question). The Director of each NASA field installation shall ensure that existing resource documents are reviewed and updated, if necessary, by December 31, 1980, and at appropriate intervals thereafter.

§ 1216.320 Environmental review and consultation requirements.

(a) Headquarters officials and Field Installation Directors shall, to the maximum extent possible, conduct environmental analyses, assessments, and any impact statement preparation concurrently with environmental reviews required by the laws and regulations listed below:

(1) Section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470(f)) requires identification of National Register properties, eligible properties, or properties which may be eligible for the National Register within the area of the potential impact of a NASA proposed action. Evaluation of the impact of the NASA action on such properties shall be discussed in draft environmental impact statements and transmitted to the Advisory Council on Historic Preservation for comments.

(2) Section 7 of the Endangered Species Act (16 U.S.C. 1531 et seq.) requires identification of and consultation on aspects of the NASA action that may affect listed species or their habitat. A written request for consultation, along with the draft statement, shall be conveyed to the Regional Director of the U.S. Fish and Wildlife Service or the National Marine Fisheries Service, as appropriate, for the

Region where the action will be carried out.

(3) Executive Order 11988 (Floodplains Management) and Executive Order 11990 (Wetlands), as implemented by 14 CFR Subpart 1216.2—Floodplains and Wetlands Management, prescribe procedures to avoid adverse impacts associated with the occupancy and modification of floodplains and wetlands and require identification and evaluation of actions which are proposed for location in or which may affect a floodplain or wetland. A comparative evaluation of such actions shall be discussed in draft environmental impact statements and transmitted to appropriate A-95 clearing-houses for comments.

(b) Other environmental review and consultation requirements peculiar to NASA, if any, shall be identified as a part of a NASA environmental handbook to be prepared.

§ 1216.321 Environmental effects abroad of major Federal actions.

(a) In accordance with these procedures and E.O. 12114, "Environmental Effects Abroad of Major Federal Actions" (44 FR 1957), dated January 4, 1979, the Headquarters official shall analyze actions under his/her cognizance with due regard for the environmental effects abroad of such actions. The Headquarters official shall consider whether such actions involve:

(1) Potential environmental effects on the global commons (i.e., oceans and the upper atmosphere);

(2) Potential environmental effects on a foreign nation not participating with or not otherwise involved in the NASA activity;

(3) The export of products or facilities producing products (or emissions/effluents) which in the U.S. are prohibited or strictly regulated because their effects on the environment create a serious public health risk. The Associate Administrator for External Relations will provide additional guidance regarding the types of chemical, physical, and biological agents involved.

(4) A physical project which, in the U.S., would be prohibited or strictly regulated by Federal law to protect the environment against radioactive substances;

(5) Potential environmental effects on natural and ecological resources of global importance and which the President in the future may designate (or which the Secretary of State designates pursuant to international treaty). A list of any such designations will be available from the Office of the

Associate Administrator for External Relations.

(b) Prior to decisions (§ 1216.304) on any action falling into the categories specified in paragraph (a), the Headquarters official shall make a determination whether such action may have a significant environmental effect abroad.

(c) If the Headquarters official determines that the action *will not have* a significant environmental effect abroad, he/she shall prepare a memorandum for the record which states the reasoning behind such a determination. A copy of the memorandum shall be forwarded to the Associate Administrator for External Relations. Note that these procedures do not allow for categorical exclusions (E.O. 12114, section 2-5(d)).

(d) If the Headquarters official determines that an action *may have* a significant environmental effect abroad, he/she shall consult with the Associate Administrator for External Relations and the Director, International Affairs Division. The Associate Administrator for External Relations, in coordination with the Director, International Affairs Division, shall (as specified in E.O. 12114) make a determination whether the subject action requires:

(1) An environmental impact statement;

(2) Bilateral or multilateral environmental studies; or

(3) Concise reviews of environmental issues.

(e) When informed of the determination of the Associate Administrator for External Relations, the Headquarters official shall proceed to take the necessary actions in accordance with these implementing procedures.

(f) The Associate Administrator for External Relations shall, in coordination with the Director, International Affairs Division, determine when an affected nation shall be informed regarding the availability of documents referred to in paragraph (d) and coordinate with the Department of State all NASA communications with foreign governments concerning environmental matters as related to E.O. 12114 (44 FR 1957).

**PART 1204—ADMINISTRATIVE
AUTHORITY AND POLICY**

Subpart 1204.11 (§§ 1204.1100-1204.1103)
[Reserved]

2. In 14 CFR Chapter V, Subpart
1204.11 is reserved.

Robert A. Frosch,
Administrator.

[FR Doc. 79-14511 Filed 5-8-79; 8:45 am]

BILLING CODE 7510-01-M

DEPARTMENT OF ENERGY**Federal Energy Regulatory
Commission**

[18 CFR Parts 154 and 271]

**Amendment and Clarification of the
Commission's Interim Regulations
Implementing the Natural Gas Policy
Act of 1978 and Regulations Under the
Natural Gas Act**

AGENCY: Federal Energy Regulatory
Commission.

ACTION: Notice of Inquiry.

SUMMARY: The Federal Energy
Regulatory Commission hereby requests
comment on the proper procedure for
handling challenges to contractual
authority to collect maximum lawful
prices under the Natural Gas Policy Act
of 1978.

DATES: Comments should be filed by
May 16, 1979.

ADDRESSES: All filings should reference
Docket No. RM79-22 and should be
addressed to: Office of the Secretary,
Federal Energy Regulatory Commission,
825 North Capitol Street, N.E.,
Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT:
Phil Yates, Federal Energy Regulatory
Commission, 825 North Capitol Street,
N.E., Washington, D.C. 20426, (202) 275-
4212.

SUPPLEMENTARY INFORMATION: On
March 13, 1979, the Commission issued
Order No. 23 in Docket No. RM79-22.
Order No. 23 dealt generally with the
question of contractual authority to
collect maximum lawful prices under
the Natural Gas Policy Act of 1978 (NGPA).¹
Apart from that question was the
procedural issue of how an interested
party could challenge the collection of
an NGPA maximum lawful price if that
interested party asserted that the
applicable contract did not provide the
requisite authority to collect the price.

In Order No. 23 we stated:
[T]he Commission will establish a general
protest procedure in which parties in interest
can petition the Commission for a specific

determination as to whether a particular
contractual clause constitutes the requisite
authority to charge and collect Natural Gas
Policy Act rates.²

By this Notice of Inquiry, the
Commission requests suggestions on the
proper forum in which to deal with
challenges of contractual authority to
collect the maximum lawful prices under
the NGPA and the most expeditious
method of dealing with such challenges.
Suggestions have been made in the
formal pleadings in Docket No. RM79-
22,³ that area rate clauses could be
grouped generically for decisional
purposes and that Purchased Gas
Adjustment (PGA) hearings may be the
appropriate forum for considering
challenges to contractual authority. The
Commission invites comments on these
two suggestions, as well as any other
procedural alternatives to resolve
challenges to contractual authority.
Comments should specifically address
the mechanics of the procedural
approach favored by the commentator.

The Commission wishes to establish a
procedure to handle challenges as
quickly as possible.⁴ Accordingly, we
will consider only those comments
received by May 16, 1979.

Interested persons are invited to
submit written comments on the
proposed regulations to the Office of the
Secretary, Federal Energy Regulatory
Commission, 825 North Capitol Street,
N.E., Washington, D.C. 20426. Comments
should reference Docket No. RM79-22
on the outside of the envelope and on all
documents submitted to the
Commission. Fifteen (15) copies should
be submitted. All comments and related
information received by the Commission
by May 16, 1979, will be considered
prior to the promulgation of final
regulations.

By direction of the Commission.

Kenneth F. Plumb,
Secretary.

[Docket No. RM79-22]

[FR Doc. 79-14510 Filed 5-8-79; 8:45 am]

BILLING CODE 6450-01-M

² Order No. 23, mimeo of 52, Docket No. RM79-22.

³ Application of the Public Service Commission of
the State of New York for Rehearing of Order No.
23; Petition of the State of Michigan and the
Michigan Public Service Commission for Rehearing
of Order No. 23. Both were filed on May 12, 1979, in
Docket No. RM79-22.

⁴ The deadlines for filing protests to blanket
affadavits and interim collection filings were
extended by Commission order from May 1, 1979, to
June 15, 1979, in response to a Request of
Associated Gas Distributors for Clarification, filed
on May 12, 1979, in Docket No. RM79-22.

**FEDERAL EMERGENCY
MANAGEMENT AGENCY**

[24 CFR Part 1917]

**Proposed Flood Elevation
Determinations for the City of Santa
Fe Springs, Los Angeles County, Calif.,
Under the National Flood Insurance
Program**

AGENCY: Office of Federal Insurance and
Hazard Mitigation, FEMA ¹

ACTION: Proposed rule.

SUMMARY: Technical information or
comments are solicited on the proposed
base (100-year) flood elevations listed
below for selected locations in the City
of Santa Fe Springs, Los Angeles
County, California. These base (100-
year) flood elevations are the basis for
the flood plain management measures
that the community is required to either
adopt or show evidence of being already
in effect in order to qualify or remain
qualified for participation in the national
flood insurance program (NFIP).

DATES: The period for comment will be
ninety (90) days following the second
publication of this proposed rule in a
newspaper of local circulation in the
above-named community.

ADDRESSES: Maps and other information
showing the detailed outlines of the
flood-prone areas and the proposed
base (100-year) flood elevations are
available for review at City Hall, 11710
Telegraph Road, Santa Fe Springs,
California. Send comments to: Mr.
Robert Williams, City Manager, City of
Santa Fe Springs, City Hall, 11710
Telegraph Road, P.O. Box 2120, Santa Fe
Springs, California 90670.

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

SUPPLEMENTARY INFORMATION: The
Federal Insurance Administrator gives
notice of the proposed determinations of
base (100-year) flood elevations for the
City of Santa Fe Springs, California, in
accordance with section 110 of the Flood
Disaster Protection Act of 1973 (Pub. L.
93-234), 87 Stat. 980, which added
section 1363 to the National Flood
Insurance Act of 1968 (Title XIII of the
Housing and Urban Development Act of

¹ The functions of the Federal Insurance
Administration, Department of Housing and Urban
Development, were transferred to the newly
established Federal Emergency Management
Agency by Reorganization Plan No. 3 of 1978 (43 FR
41943, September 19, 1978) and Executive Order
12127 (44 FR 19367, April 3, 1979).

¹ Pub. L. 95-621, 92 Stat. 3350.

1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Flowline No. 1	Florence Avenue—50 feet*	118
Ponding Area	200 feet northeast of intersection of North Fork Coyote Creek and Atchison Topeka and Santa Fe Railroad.	84
Ponding Area	100 feet northwest of intersection of Lakeland Road and Atchison Topeka and Santa Fe Railroad.	141
Ponding Area	100 feet northeast of intersection of Lakeland Road and Atchison Topeka and Santa Fe Railroad.	146

*Upstream from centerline.

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

Issued: April 24, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.
[Docket No. FI-5443]
[FR Doc. 79-14069 Filed 5-8-79; 8:45 am]
BILLING CODE 4210-23-M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the City of Willows, Glenn County, Calif., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.¹

¹ The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Willows, Glenn County, California.

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

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, 201 Lassen Street, Willows, California. Send comments to: Mr. Russell Melquist, City Manager, City of Willows, City Hall, 201 Lassen Street, Willows, California 95988.

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

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Willows, California, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the

41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

second layer of insurance on existing buildings and their contents.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
South Fork Willow, Wilson, and Walker Creeks (Shallow Flooding Area).	At the intersection of Laurel Street and Yolo Street.	129
	At the intersection of Willows Street and Ventura Street.	130
	At the intersection of Lassen Street and French Street.	136
South Fork Willow and Wilson Creeks.	At the intersection of French Street and Shasta Street.	136

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

Issued: April 24, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.
[Docket No. FI-5444]
[FR Doc. 79-14069 Filed 5-8-79; 8:45 am]
BILLING CODE 4210-23-M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the Town of Granby, Hartford County, Conn., Under the National Flood Insurance Program

AGENCY: Federal Insurance and Hazard Mitigation, FEMA.¹

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Granby, Hartford County, Connecticut.

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

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the

¹ The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of the 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Granby Town Hall, 15 North Granby Road, Granby, Connecticut.

Send comments to: Mr. William F. Smith, Chief Administrative Officer of Granby, Granby Town Hall, 15 North Granby Road, Granby, Connecticut 06035.

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

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Granby, Hartford County, Connecticut in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Salmon Brook.....	Downstream Corporate Limits.	166
	Confluence of East and West Branches of Salmon Brook.	167
East Branch Salmon Brook.	Upstream of State Route 20..	184
	Upstream of U.S. Route 202 and State Route 10.	187
	Upstream Mechanicsville Road Bridge.	195
	Upstream Wells Rod Bridge..	219
	Upstream of East Street Bridge.	277
West Branch of Salmon Brook.	Downstream U.S. Route 202 and State Route 10.	176

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Upstream of Simsbury Road..	288
	Downstream of Broad Hill Road.	359

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

Issued: April 18, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.
[Docket No. FI-5445]
[FR Doc. 79-14090 Filed 5-8-79; 8:45 am]
BILLING CODE 4210-23-M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the City of New Haven, New Haven County, Conn., Under the National Flood Insurance Program

AGENCY: Federal Insurance and hazard Mitigation, FEMA. ¹

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of New Haven, New Haven County, Connecticut.

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

DATES: The Period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Planning Department; Ninth floor and the City Engineer's Office; Fifth Floor, 157 Church Street, New Haven, Connecticut. Send comments to: Honorable Frank Loge, Mayor of New Haven, New Haven

¹ The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

City Hall, 195 Church Street, New Haven; Connecticut 06510.

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

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of New Haven, New Haven County, Connecticut in accordance with section 1010 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Quinnipiac River	Throughout the community	11
Mill River.....	Throughout the community	11
West River.....	100' downstream of Edgewood Avenue.	11
	Edgewood Avenue Upstream	12
	Whalley Avenue Upstream.....	14
	Blake Street Upstream	16
	Valley Street Upstream.....	31
	East Ramsdell Street Upstream.	72
	Lily Pond Dam Downstream...	75
	Lily Pond Dam Upstream.....	78
	Lily Pond Avenue.....	83
	Upstream Corporate Limits...	83
Wintergreen Brook.....	Blake Street	19
	Wintergreen Avenue.....	28
Beaver Brook.....	Blake Street	18
	Fitch Street.....	23
	Crescent Street.....	20
Morris Creek	Throughout Community.....	11
Tuttle Brook	Throughout Community.....	11

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR

17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 18, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[Docket No. FI-5448]

[FR Doc. 79-14091 Filed 5-8-79; 8:45 am]

BILLING CODE 4210-23-M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the City of Sebastian, Indian River County, Fla., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA ¹

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Sebastian, Indian River County, Florida.

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

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Sebastian, Florida.

Send comments to: Honorable Pat Flood, Jr., Mayor, City of Sebastian, City Hall, P.O. Box 127, Sebastian, Florida 32958.

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

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of

base (100-year) flood elevations for the City of Sebastian, Florida, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Indian River	Intersection of Riverside Avenue and Main Street	8
	Intersection of Riverside Avenue and Harrison Street	8
Drainage Right of Way	1200 feet south of the Intersection of Scroll Street and Roulette Street	5

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

Issued: April 18, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[Docket No. FI-5447]

[FR Doc. 79-14092 Filed 5-8-79; 8:45 am]

BILLING CODE 4210-23-M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the City of Pocatello, Bannock County, Idaho, Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA ¹

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Pocatello, Bannock County, Idaho.

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

DATES: The period for comments will be ninety (90) days following the second publication of this proposed rule in a newspaper or local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, 209 East Lewis, Pocatello, Idaho.

Send comments to: Honorable Ione Horrocks, Mayor, City of Pocatello, City Hall, 209 East Lewis, Pocatello, Idaho 83201.

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

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Pocatello, Idaho, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program

¹ The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

¹ The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Pocatello Creek	Interstate Highway 15—330 feet*	4560
	Interstate Highway 15—260 feet*	4587
	Booth Road—10 feet**	4652
Portnour River	Upstream Corporate Limits	4685
	U.S. Highway 30N (Business) Lower***	4430
	West Carson Street***	4434
	West Clark Street***	4444
	Bannock Highway***	4456
	Cheyenne Avenue***	4464

*Downstream from centerline.
 **Upstream from centerline.
 ***At centerline.

Source of flooding	Location	Depth in Feet above ground
Pocatello Creek	Intersection of Alameda Road and Jefferson Avenue.	2
	Intersection of Cedar Street and Willard Avenue.	2
	Intersection of Cedar Street and McKinley Avenue.	2
	Intersection of Cedar Street and Colorado Avenue.	2
Trail Creek	Intersection of Foothill Road and Ravine Drive.	2
City Creek	Along Hayes Avenue 400 feet west of its intersection with Idaho Street.	2
	Along Grant Avenue 750 feet west from its intersection with Idaho Street.	2
Cusick Creek	Intersection of Lamb Street and Grant Avenue.	2
Johnny Creek	Intersection of Bannock Highway and Shoshoni Trail.	2

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20983).

Issued: April 24, 1979.
 Gloria M. Jimenez,
 Federal Insurance Administrator.
 [Docket No. FI-5448]
 [FR Doc. 79-14093 Filed 5-9-79; 8:45 am]
 BILLING CODE 4210-23-M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the City of Centreville, St. Clair County, Ill., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA ¹

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Centreville, St. Clair County, Illinois. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, 5800 Bond Avenue, Centreville, Illinois 62207. Send comments to: The Honorable Riley Owens, Mayor, City of Centreville, City Hall, 5800 Bond Avenue, Centreville, Illinois 62207.

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

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Centreville, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of

¹The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum	
Platte River	0.19 miles downstream from State Highway 50.	1020	
	1.8 miles upstream from State Highway 50.	1020	
Mill Creek	At mouth with Platte River	1025	
	0.04 miles downstream of Second Street.	1035	
	0.27 miles upstream of Sixth Street.	1045	
	0.72 miles upstream of Sixth Street.	1053	
	0.92 miles upstream of Sixth Street.	1058	
	1.27 miles upstream of Sixth Street.	1066	
	1.36 miles upstream of Sixth Street.	1069	
	Tributary to Mill Creek	At confluence with Mill Creek	1042
		Just downstream of Missouri Pacific Railroad.	1042
		Just upstream of Missouri Pacific Railroad.	1048
At Maple Street		1049	
At Oak Street		1056	
At Elm Street		1061	
0.087 miles upstream from Elm Street.		1070	
0.114 miles upstream from Elm Street.		1076	
0.296 miles upstream from Elm Street.		1083	
0.418 miles upstream from Elm Street.		1093	
	0.019 miles downstream of State Highway 66.	1097	
	Just upstream of State Highway 66.	1113	
	0.085 miles upstream of State Highway 66.	1113	

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20983.)

Issued: April 24, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[Docket No. FI-5449]

[FR Doc. 79-14094 Filed 5-8-79; 8:45 am]

BILLING CODE 4210-23-M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the City of Rossville, Shawnee County, Kans.

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.¹

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Rossville, Shawnee County, Kansas.

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

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Rossville, Kans. Send comments to: The Honorable William L. Smith, Mayor, City of Rossville, City Hall, Rossville, Kansas 66533.

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

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Rossville, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L.

¹The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)].

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Cross Creek	2,100 feet downstream of U.S. Highway 24.	927
	Directly upstream of Pattawatomie Street.	929
	North corporate limit	930

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

Issued: April 18, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[Docket No. FI-5450]

[FR Doc. 79-14095 Filed 5-8-79; 8:45 am]

BILLING CODE 4210-23-M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the Town of Hiram, Oxford County, Maine, Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.¹

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed

¹The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

below for selected locations in the Town of Hiram, Oxford County, Maine.

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

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Planning Office, Hiram, Maine.

SEND COMMENTS TO: Mr. Corliss Sargent, Chairman, Board of Selectmen, Town of Hiram, Town Office, Hiram, Maine 04041.

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

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Hiram, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.4 (a)).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

Source of Flooding	Location	Elevation in feet, national geodetic vertical datum
Saco River	At downstream corporate limits	283
	Just downstream of Hiram Falls Dam	291
	Just upstream of Hiram Falls Dam	352
	Approximately 200 feet upstream of Maine Central Railroad	361
	At upstream corporate limits	366
Ossipee River	At confluence with Saco River	283
	Approximately 400 feet upstream of South Hiram Road	298
	Approximately 1.6 miles upstream of South Hiram Road	310
Hancock Brook	At upstream corporate limits	344
	Mouth at Saco River	362
	Just upstream Sawmill Road	374
	Just upstream Log Crib Dam	397
	Approximately 1,100 feet upstream of Log Crib Dam	383
Ridlon Brook	At confluence with Ossipee River	343
Spectacle Ponds Brook	Just upstream Robbin Mill Road	354
	Just upstream Small Dam	365
	Just upstream of South Hiram Road	369
	At upstream corporate limits	372

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

Issued: April 24, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI-5451]
[FR Doc. 79-14090 Filed 5-8-79; 8:45 am]
BILLING CODE 4210-23-M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the Town of Amesbury, Essex County, Mass., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.¹

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Amesbury, Essex County, Massachusetts.

¹The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

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

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Hall, Friend Street, Amesbury, Massachusetts. Send comments to: Mr. Robert A. Gonthier Jr., Chairman Board of Selectment, Town of Amesbury, Town Hall, Friend Street, Amesbury, Massachusetts 01913.

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

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Amesbury, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.4 (a)).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Merrimack River	Southeastern corporate limit	10
	0.4 mile upstream of Powwow River confluence	12
Powwow River	Southeastern corporate limit	13
	Confluence with Merrimack River	12
	500 feet downstream of Main Street near wooden dam	12
	Just upstream of Main Street near wooden dam	47
	Just downstream of Pond Street	75
	Just downstream of Lake Gardner Dam	78
	Just upstream of Lake Gardner Dam	90
	At corporate limits upstream of West Whitehall Road	93
	Just downstream of North Pond Road near Tuxbury Pond dam	93
	2,500 feet upstream of Tuxbury Pond Dam	100

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

Issued: April 24, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI-5452]
[FR Doc. 79-14097 Filed 5-8-79; 8:45 am]
BILLING CODE 4210-23-M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the Town of Shutesbury, Franklin County, Mass., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.¹

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Shutesbury, Franklin County, Massachusetts.

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

¹The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Hall, Shutesbury, Massachusetts. Send comments to: Mr. John C. Howell, Chairman of the Board of Selectmen, Town of Shutesbury, Town Hall, Shutesbury, Massachusetts 01072.

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

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Shutesbury, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.4 (a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

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

Issued, April 24, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator,
[Docket No. FI-5423
[FR Doc. 79-14098 Filed 5-8-79; 9:45 am]
BILLING CODE 4210-23-M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the Town of Freetown, Bristol County, Mass., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA. ¹

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Freetown, Bristol County, Massachusetts.

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

DATES: The period for comments will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Hall, North Main Street, Assonet, Massachusetts.

Send comments to: Mr. Fredrick Bohler, Chairman, Board of Selectment, Town of Feetown, Town Hall, North Main Street, Assonet, Massachusetts 02702.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program (202) 755-5581 or Toll Free Line (800) 424-8872, Room 5270, 451

¹The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Freetown, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum	
Assonet River	Just downstream of State Route 24	15	
	700 feet upstream of Dam No. 1.	15	
	Just downstream of Locust Street	21	
	Just upstream of Dam No. 2.	33	
	Just downstream of Forge Road.	33	
	Just upstream of Dam No. 3.	42	
	Just downstream of Myricks Street.	45	
	Northern corporate limit	48	
	Fall Brook	Mouth at Long Pond	55
		Just downstream of Dam No. 1.	60
100 feet downstream of County Road.		68	
Just upstream of County Road.		73	
Just upstream of State route 140.		75	
Just upstream of Braley Road.		83	
Just upstream of Conrail		86	
Rattlesnake Brook	Just downstream of Dam No. 3.	89	
	Just downstream of Narrows Road.	15	
	350 feet downstream of South Main Street.	20	
	Just upstream of South Main Street.	28	
	350 feet upstream of State Route 24.	39	

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
LAKE WYOLA	At North Leverett Road	836
	At the Dam (Downstream Limit of Detailed Study).	836

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

Issued April 18, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI-5454]
[FR Doc. 79-14099 Filed 5-8-79; 8:45 am]
BILLING CODE 4210-23-M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the Township of Fraser, Bay County, Mich., Under the National Flood Insurance Program; Correction

AGENCY: Federal Insurance and Hazard Mitigation, FEMA.¹

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 14570 of the Federal Register of March 13, 1979.

EFFECTIVE DATE: March 13, 1979.

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

The following corrections are made: Wherever the county name appears it should be changed to read Bay County.

Comments should be sent to: Mr. Frank Gibala, Supervisor, Township of Fraser, Township Hall, 1471 North Mackinaw, Lynwood, Michigan 48634.

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

Issued: April 24, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[Docket No. FI-5244]
[FR Doc. 79-14100 Filed 5-8-79; 8:45 am]
BILLING CODE 4210-23-M

¹The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the Unincorporated Areas of Coahoma County, Miss. Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the unincorporated areas of Coahoma County, Mississippi.

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

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Coahoma County Engineers Office, Clarksdale, Mississippi. Send comments to: Mr. D. S. Butler, County Engineer, Coahoma County, P.O. Box 57, Clarksdale, Mississippi 38814.

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

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the unincorporated areas of Coahoma County, Mississippi, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

¹The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive order 12127 (44 FR 19367, April 3, 1979).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Mississippi River.....	Bolivar-Coahoma County Boundary.	174
	Coahoma-Tunica Corporate Limit.	197
Big Sunflower River ...	Just upstream Mississippi Highway 322.	163
	Just upstream Frairs Point Road.	160
Little Sunflower River..	Just upstream Lee Drive.....	167
	Extended	167

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

Issued: April 18, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.
[Docket No. FI-5455]
[FR Doc. 79-14101 Filed 5-8-79; 8:45 am]
BILLING CODE 4210-23-M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the Town of Weston, Middlesex County, Mass.; under The National Flood Insurance Program

AGENCY: Federal Insurance and Hazard Mitigation, FEMA.¹

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed

¹The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

base (100-year) flood elevations listed below for selected locations in the Town of Weston, Middlesex County, Massachusetts.

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

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Office, Town Clerk, P.O. Box 378, Weston, Massachusetts. Send comments to: Mr. Harold Hestnes, Chairman Board of Selectmen, Town of Weston, Town Office, P.O. Box 378, Weston, Massachusetts 02193. Attention: J. Ward Carter, Executive Secretary.

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

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Weston, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.4(a)).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

Source of flooding	Location	Elevation in feet, National geodetic vertical datum
Bogle Brook	Southern corporate limits	156
	Just upstream of Sherburn Circle	163
	75 feet downstream of Bogle Street	171
	Just upstream of Bogle Street	174
	At the upstream inlet to Nonesuch Pond	175
	Just downstream of Inkonskate 90	180
	Just upstream of Interstate 90	184
	Just upstream of MDC Aqueduct	193
	About 0.25 mile downstream of Pine Street	197
	About 0.43 mile upstream of Pine Street	199
Tributary No. 4	About 0.54 mile upstream of Pine Street	206
	At the confluence with Bogle Brook	153
	Just upstream of Bogle Street	163
Tributary No. 3	About 2,900 feet upstream of Bogle Street	186
	At confluence with Bogle Brook	189
	About 1,640 feet upstream of the confluence with Bogle Brook	184
Charles River	About 2,490 feet upstream of the confluence with Bogle Brook	185
	At the downstream corporate limits	33
	Just upstream of Park Road	40
Stony Brook	At the upstream corporate limits	42
	At the mouth	33
	Just downstream of South Street	33
	Just upstream of South Street	43
	Just downstream of Stony Brook Reservoir Dam	43
	Just upstream of Stony Brook Dam	72
	At the confluence of Stony Brook with Stony Brook Reservoir	72
	Just downstream of Boston Post Road	87
	About 200 feet upstream of Boston Post Road	92
	About 900 feet downstream of confluence of Hobbs Brook	98
	Just upstream of Church Street	99
	Just downstream of Vies Street	102
	Just upstream of Vies Street	103
	Just downstream of Boston and Maine Railroad (about 300 feet upstream of confluence of Cherry Brook)	110
Just upstream of Boston and Maine Railroad (about 400 feet upstream of confluence of Cherry Brook)	114	
About 1,580 feet downstream of Conant Road	114	
Just upstream of Conant Road	124	
Just upstream of Merriam Street	128	

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR

17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); Executive Order 12127; 44 FR 19367; and, delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: April 24, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

(Docket No. FI-543)

[FR Doc. 79-14102 Filed 5-8-79; 8:45 am]

BILLING CODE 4210-23-M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for Cascade County, Mont., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA¹

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in Cascade County, Montana. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Cascade County Courthouse Annex, Room 108, Great Falls, Montana. Send comments to: Mr. John Montgomery, Associate Planner, Cascade County Planning Board, Cascade County Courthouse Annex, Room 108, Great Falls, Montana 59401.

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

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for

¹The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

Cascade County, Montana, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Missouri River (North of Great Falls).	Black Eagle Dam—100 feet*	3,306
	10th Street North—20 feet*	3,310
Missouri River (South of Great Falls).	U.S. Highway 89 Bypass—100 feet*	3,320
	Limit of Detailed Study upstream from U.S. Highway 89 Bypass**	3,326
Missouri River (Near Ulm).	Most downstream Limit of Detailed Study**	3,332
	Most upstream Limit of Detailed Study**	3,334
Missouri River (Near Hardy).	Most downstream Limit of Detailed Study**	3,364
	Interstate Highway 15—50 feet*	3,394
	U.S. Highway 91—100 feet*	3,407
	Interstate Highway 15 (second crossing)—50 feet*	3,425
Sun River (Near Great Falls).	Burlington Northern Railroad—50 feet*	3,322
Sun River (Near Vaugh).	Central Avenue—80 feet*	3,329
	Manchester Road Bridge—50 feet*	3,338
	Vaugh-Vim County Road—100 feet*	3,353
	County Highway 200 Bridge—100 feet*	3,413
Sun River (Near Simms).	Most downstream Limit of Detailed Study**	3,546
	Simms Asheolut Road Bridge—100 feet*	3,564
Sun River Overflow Area (Near Vaugh).	End of Overflow Area**	3,339
	Beginning of Overflow Area**	3,349
Belt Creek	Most downstream Corporate Limits**	3,499
	Armington Bridge**	3,558
Sand Coulee Creek	Bridge 288 on Federal Aid and Secondary Highway 459—50 feet*	3,331
	Bridge 310 County Road—40 feet*	3,337

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Sand Coulee Creek (South Side of Railroad).	Bridge 311 Fields Road—90 feet*	3,348
	Burlington Northern.....	
	3,358 Railroad—70 feet*.....	
Sand Coulee Creek.....	Road—100 feet*.....	3,368
	Federal and Secondary Highway 227—70 feet***	3,387
	100 feet*.....	3,388
	Bridge 321A on County Road—50 feet*	3,397
	Blaine Street (Tracy)—100 feet**	3,427
	150 feet*.....	3,429
	Burlington Northern Railroad—50 feet*	3,435
	Bridge 323A on Road to Brown—100 feet*	3,440
	Sand Coulee Creek Road Culvert—100 feet*	3,452
	Confluence with Cottonwood Creek**	3,470
Sand Coulee Creek (North Side Railroad).	Bridge on Burlington Northern Railroad in Gibson Flats—150 feet***	3,348
	50 feet*.....	3,350
	Reinforced Concrete Pipe under Gibson Flats and Road—50 feet*	3,357
Sand Coulee Fork.....	Burlington Northern Railroad**	3,425
	Blaine Street—30 feet*.....	3,428
	Sand Coulee Road**.....	3,448
	Bridge 326 between highway and Frontage Road—40 feet***	3,492
	70 feet*.....	3,495
	Bridge 327 between highway and Frontage Road—100 feet***	3,506
Cottonwood Creek.....	Bridge 527 on Frenchman Hill Road—100 feet***	3,470
	100 feet*.....	3,472
	Bridge 332 on Federal Aid Secondary Highway 226—100 feet*	3,522
	Bridge 333 on Griffin Coulee Road—100 feet***	3,527
	130 feet*.....	3,531
	Federal Aid Secondary Highway 227 Culvert—20 feet*	3,544
	Bridge 334A Culvert to Dewey Avenue—60 feet*	3,579
	Reinforced Concrete Pipe under Cottonwood Coulee Road—60 feet*	3,604
Tributary A.....	Unnamed Road—40 feet*.....	3,611
	Reinforced Concrete Pipe under Cottonwood Avenue—100 feet**	3,634
	30 feet*.....	3,641
	Reinforced Concrete Pipe under Federal Aid—Secondary Highway 227—90 feet***	3,666
	At centerline.....	3,674
Gibson Flats.....	Gibson Flats Road—80 feet*	3,351
	Divergence from Coulee Creek**	3,358

*Upstream from centerline.
 **At centerline.
 ***Downstream from centerline.

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

Issued: April 18, 1979.

Gloria M. Jimenez,
 Federal Insurance Administrator.
 [Docket No. FI-6497]
 [FR Doc. 79-14106 Filed 5-8-79; 8:45 am]
 BILLING CODE 4210-23-M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the City of Helena, Lewis and Clark County, Mont.; Under The National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.¹

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Helena, Lewis and Clark County, Montana.

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

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, First and Lewis and Clark Streets, Helena, Montana. Send comments to: Mr. C. R. Hanson, Director of Public Service, City of Helena, City Hall, First and Lewis and Clark Streets, Helena, Montana 59601.

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

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Helena, Montana, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to

¹The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 1979).

the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Last Chance Gulch	Burlington Northern Railroad—60 feet *	3,941
	1st Driveway—25 feet **	4,170
	1st Driveway—35 feet *	4,175
	2nd Driveway—20 feet *	4,181
	3rd Driveway—25 feet *	4,185
Grizzly Gulch	West Main Street—60 feet **	4,215
	West Main Street—15 feet *	4,220
	Corporate Limits >	4,321
Orofino Gulch	Confluence with Last Chance Gulch—15 feet *	4,209
	Corporate Limits ***	4,304

* Upstream from centerline.
 ** Downstream from centerline.
 *** At centerline.

Source of flooding	Location	Depth, feet above ground
Last Chance Gulch	Intersection of Neil Avenue and Front Street.	1
	Intersection of 6th Avenue and Last Chance Gulch.	1

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

Issued: April 24, 1979.

Gloria M. Jimenez,
 Federal Insurance Administrator.

[Docket No. FI-5458]
 [FR Doc. 79-14104 Filed 5-8-79; 8:45 am]
 BILLING CODE 4210-23-M

[24 CFR Part 1917]

Proposed Flood Elevation Determinations for the City of Kalispell, Flathead County, Mont. Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.¹

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Kalispell, Flathead County, Montana.

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

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, 336 2nd Avenue East, Kalispell, Montana. Send comments to: Honorable Norma E. Happ, Mayor, City of Kalispell, City Hall, 336 2nd Avenue, East, P.O. Box 1035, Kalispell, Montana 59901.

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

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Kalispell, Montana, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program

¹The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

Source of flooding	Location	Elevation, in feet, national geodetic vertical datum
Ashley Creek	Culvert at South Main Street—20 feet *.	2923
	Crook Avenue—20 *.	2930
West Spring Creek	Most downstream Corporate Limits *.	2963
	Most upstream Corporate Limits *.	2963
Stuwaizer River	Most downstream Corporate Limits *.	2937
	Most upstream Corporate Limits *.	2948
Flathead River	Limit of Flooding affecting the City of Kalispell *.	2903

* Upstream from centerline.
 ** At centerline.

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

Issued: April 18, 1979.

Gloria M. Jimenez,
 Federal Insurance Administrator.
 [Docket No. FI-5459]
 [FR Doc. 79-14105 Filed 5-8-79; 8:45 am]
 BILLING CODE 4210-23-M

[24 CFR PART 1917]

Proposed Flood Elevation Determinations for the Village of Louisville, Cass County, Nebr., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA¹

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed

¹The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

below for selected locations in the Village of Louisville, Cass County, Nebraska.

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

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Village Hall, Louisville, Nebraska 68037. Send comments to: Mr. Dennis Reznicek, Chairman of the Board of Trustees, Village of Louisville, Village Hall, Louisville, Nebraska 68037.

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

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Village of Louisville, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.4 (a)).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
East Side Levee and Sanitary District Canal.	About 800 feet southwest of Lake Boulevard.	411
	About 340 feet southeast of the terminus of Pershing Boulevard.	411
Harding Ditch	About 400 feet northeast of Church Road.	410
	About 2000 feet northeast of Southern Railway.	410
	About 3900 feet north of Southern Railway crossing over Harding Ditch.	410
Shallow Flooding (Ponding from Rainfall).	Area northwest of intersection of 72nd Street and Dorris Street.	411
	Intersection Dolly Lane and Anne Street.	416
	200 feet northwest of intersection of Anne Street and Church Road.	416
	Intersection of Church Road and 58th Street.	413
	Intersection of 56th Street and Gay Avenue.	413
	Intersection of 54th Street and Church Road.	413
	Intersection of Gay Avenue and Mousette Lane.	413
	Intersection of Cotton Bolt Avenue and Freedom Street.	413
	Intersection of 1st Street and 45th Street.	413
	About 1000 feet northwest of intersection of State Route 157 and Pocket Road.	410
Ponding from Rainfall (deeper than 3 feet).	Area bounded by Lake Boulevard, 55th Street, 51st Street; and northern corporate limits.	411

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

Issued: April 24, 1979.
 Gloria M. Jimenez,
 Federal Insurance Administrator.
 [FR Doc. 79-14106 Filed 5-9-79; 8:45 am]
 BILLING CODE 4210-23-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

Elections Relating to the Puerto Rico and Possession Tax Credit; Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations prescribing rules for making and revoking elections relating to the Puerto Rico and possession tax credit which was enacted by the Tax Reform Act of 1976.

DATES: Written comments and requests for a public hearing must be delivered or mailed by July 9, 1979. The regulations are proposed to apply for taxable years beginning after December 31, 1975.

FOR FURTHER INFORMATION CONTACT: Daniel Horowitz of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224. Attention: CC:LR:T, 202-566-3287, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 936 of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to section 1051(b) of the Tax Reform Act of 1976 (90 Stat. 1643) and are to be issued under the authority contained in sections 7805 and 936(e) of the Internal Revenue Code of 1954 (68A Stat. 917 and 90 Stat. 1644; 26 U.S.C. 7805 and 936(e)).

Explanation of Provisions

Section 1051(b) of the Tax Reform Act of 1976 added section 936 to the Code. A domestic corporation which elects the application of section 936 may qualify for the Puerto Rico and possessions tax credit. Section 936(e) provides that the election shall be made at such time and in such manner as the Secretary may by regulations prescribe. The election shall apply for the first taxable year for which it is made and for which the conditions of section 936(a)(1) (A) and (B), as in effect prior to the enactment of the Revenue Act of 1978, are satisfied. It shall continue to apply for at least the 9 immediately following taxable years unless the Secretary grants consent for earlier revocation. Temporary regulations § 7.0(c)(5) now provides that the election be made by filing Form 5712 within 90 days after the beginning of the first taxable year for which the election is made.

The proposed amendments to the Income Tax Regulations provide that a corporation shall make the election by filing Form 5712 on or before the later of the two following dates. The first date is the date on which such corporation is required to file its Federal income tax return for the first taxable year for which the election is made. The second date is the 60th day following the date on which these proposed amendments to the Income Tax Regulations are published in the Federal Register as a Treasury decision. In addition, any corporation to which an election applies

on the date on which these proposed amendments to the Income Tax Regulations are published in the Federal Register as a Treasury decision is granted the consent of the Secretary to revoke the election for the first taxable year to which the election applied.

The proposed amendments to the Income Tax Regulations do not meet the Treasury Department criteria for a significant regulation because they are essentially procedural.

Drafting Information

The principal author of this regulation is Daniel Horowitz of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Proposed Amendments to the Income Tax Regulations

The proposed amendments to 26 CFR Part 1 are as follows:

Paragraph 1. Section 7.0(c)(5) is deleted and § 7.0(c)(6) is redesignated as § 7.0(c)(5).

Par. 2. Section 1.936-1 is added to read as set forth below.

§ 1.936-1 Elections.

(a) *Making an election.* A domestic corporation shall make an election under section 936(e), for any taxable year beginning after December 31, 1975, by filing Form 5712 on or before the later of—

(1) The date on which such corporation is required, pursuant to sections 6072(b) and 6081, to file its Federal income tax return for the first taxable year for which the election is made; or

(2) The 60th day following the date on which these proposed amendments to the Income Tax Regulations are published in the Federal Register as a Treasury decision.

Form 5712 shall be filed with the Internal Revenue Service Center, 11601 Roosevelt Boulevard, Philadelphia, Pennsylvania 19155 (Philadelphia Center).

(b) *Revoking an election.* Any corporation to which an election under section 936(e) applies on the date on which these proposed amendments to the Income Tax Regulations are published in the Federal Register as a Treasury decision is hereby granted the consent of the Secretary to revoke that election for the first taxable year to which the election applied. (The corporation may make a new election

under § 1.936-1(a) for any subsequent taxable year.) The corporation shall make this revocation by sending to the Philadelphia Center a written statement of revocation before the 61st day following the date on which these proposed amendments to the Income Tax Regulations are published in the Federal Register as a Treasury decision.

Jerome Kurtz,
Commissioner of Internal Revenue.

[LR-139-78]
[FR Doc. 79-14491 Filed 5-9-79; 8:45 am]
BILLING CODE 4830-01-M

[26 CFR Parts 1, 5b]

The Foreign Earned Income Exclusion and the Deduction for Excess Foreign Living Costs

AGENCY: Internal Revenue Service, Treasury.

ACTION: Proposed rulemaking; cross-reference to temporary regulations.

SUMMARY: This document contains proposed regulations relating to the foreign earned income exclusion, the deduction for excess foreign living costs, and certain other provisions. Changes to the applicable tax law were made by the Foreign Earned Income Act of 1978. The proposed regulations relating to the foreign earned income exclusion and the deduction for excess foreign living costs are identical to temporary income tax regulations published in the Rules and Regulations portion of this Federal Register.

DATES: The proposed regulations apply generally to taxable years beginning after December 31, 1977. Written comments must be delivered or mailed by July 30, 1979. A public hearing will be held on August 28, 1979. (See the Notice of Public Hearing in the Proposed Rules portions of this issue of the Federal Register.)

ADDRESS: Written comments should be submitted to Commissioner of Internal Revenue, Attention: CC:LR:T (LR-2-79), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: David K. Dolan of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention: CC:LR:T; 202-556-3289 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 911 of the Internal Revenue

Code of 1954. The amendments are being proposed to conform the regulations under section 911 relating to the foreign earned income exclusion to section 202 of the Foreign Earned Income Act of 1978 (Pub. L. 95-615, 92 Stat. 3098). In addition, amendments to the Income Tax Regulations are being proposed to adopt regulations under new section 913 of the Code, enacted by section 203 of the Foreign Earned Income Act, which provides a deduction for excess foreign living costs. The proposed regulations under sections 911 and 913, effective generally for taxable years beginning after 1977, are identical to the temporary regulations under sections 911 and 913 published in the Rules and Regulations portion of this issue of the Federal Register (FR Doc. 79-14400, T.D. 7617), except that the proposed regulations would amend 26 CFR Part 1. For an explanation of those provisions, see the preamble to the temporary regulations.

This document also contains proposed technical amendments to the regulations under sections 953, 981, 1303, 6073, and 6081 of the Code. The proposed amendments to the regulations under sections 953, 981, and 1303 would merely conform cross-references to provisions formerly contained in the regulations under section 911 which have been relocated. Under the proposed regulations relating to sections 6073 and 6081, U.S. residents living or traveling outside the United States would be granted the same automatic 2-month extensions for filing declarations of estimated tax and for filing tax returns which are currently granted to U.S. citizens who are residing or traveling outside the United States.

Comments and Public Hearing

Before adoption of the regulations proposed by this document, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue and to any testimony that is given at the public hearing to be held on the proposed regulations. All comments and outlines of hearing testimony will be available for public inspection and copying.

Drafting Information

The principal author of these proposed regulations is David K. Dolan of the Legislation and Regulations Divisions of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing

these regulations in matters of both substance and style.

Proposed amendments to the regulations

The proposed amendments to 26 CFR Part 1 are as follows:

§§ 5b.911-1 through 5b.911-7
[Redesignated]

Paragraph 1. Sections 5b.911-1 through 5b.911-7 (T.D. 7617) are redesignated as §§ 1.911-1 through 1.911-7, respectively, with all references to Part 5b of Title 26 changed to Part 1 of Title 26, and are inserted immediately after § 1.905-5.

§§ 5b.913-1 through 5b.913-13
[Redesignated]

Par. 2. Sections 5b.913-1 through 5b.913-13 (T.D. 7617) are redesignated as §§ 1.913-1 through 1.913-13, respectively, with all references to Part 5b of Title 26 changed to Part 1 of Title 26, and are inserted immediately after § 1.912-2.

Par. 3. The sixth sentence of paragraph (d) of § 1.953-2 is amended to read as follows:

§ 1.953-2 Actual United States risks.

(d) *Lives or health of United States residents.* *** In determining the country of residence of an insured, the principles of §§ 1.871-2 to 1.871-5 inclusive and of § 1.913-2 (b), relating to the determination of residence and nonresidence in the United States and of foreign residence, shall apply. ***

Par. 4. Paragraph (a) (3) of § 1.981-1 is amended to read as follows:

§ 1.981-1 Foreign law community income for taxable years beginning after December 31, 1966.

(a) *Election for special treatment.* ***

(3) *Determination of residence.* The principles of paragraphs (a) (2) and (b) (7) of § 1.911-1 (26 CFR § 1.911-1 (1978)) shall apply in order to determine for purposes of this paragraph whether a U.S. citizen is a *bona fide* resident of a foreign country or countries during the entire taxable year. The principles of §§ 1.871-2 through 1.871-5 shall apply in order to determine whether the alien spouse of a U.S. citizen is a nonresident during the entire taxable year.

Par. 5. The second sentence of paragraph (c)(4)(ii) of § 1.1303-1 is amended to read as follows:

§ 1.1303-1 Eligible individuals.

(c) *Individuals receiving support from others.* ***

(4) *Spouse supported by others.* ***

(ii) *** For the definition of the term "earned income," see section 911 (b) and § 1.911-2 (b).

Par. 6. Paragraph (c) of § 1.6073-4 is redesignated as paragraph (d), and a new paragraph (c) is inserted to read as follows:

§ 1.6073-4 Extension of time for filing declarations by individuals.

(c) *Residents outside the United States.* In the case of a U.S. resident living or traveling outside the United States and Puerto Rico on the 15th day of the 4th month of a taxable year beginning after December 31, 1978, an extension of time for filing the declaration of estimated tax otherwise due on or before the 15th day of the 4th month of the taxable year is granted to and including the 15th day of the 6th month of the taxable year.

(d) *Addition to tax applicable.* ***

Par. 7. The caption of § 1.6081-2 is revised and paragraph (a)(6) is inserted before the flush language of paragraph (a) of such section. Section 1.6081-2 as so amended reads as follows:

§ 1.6081-2 Extensions of time in the case of certain partnerships, corporations, and U.S. citizens and residents.

(a) *In general.* ***

(6) U.S. residents living or traveling outside the United States and Puerto Rico, including persons in military or naval service on duty outside the United States and Puerto Rico but only with respect to taxable years beginning after December 31, 1977.

Jerome Kurtz,
Commissioner of Internal Revenue

[LR-2-79]

[FR Doc. 79-14401 Filed 5-4-79; 12:38 am]

BILLING CODE 4830-01-M

[26 CFR Parts 1, 31]

Income Tax; the Foreign Earned Income Exclusion and Deduction for Excess Foreign Living Costs; Employment Tax Withholding on Remuneration of Employees Entitled to the Deduction for Excess Foreign Living Costs; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to the foreign earned income exclusion and the deduction for excess foreign living costs and on proposed regulations relating to withholding on remuneration of employees entitled to the deduction for excess foreign living costs. The 1978 Qualified Cost-of-Living Differential Tables and the 1978 Qualified Hardship Areas List used to calculate the deduction for excess foreign living costs (IR-2089) are not subjects of this hearing and oral comments on these matters may not be presented.

DATES: The public hearing will be held on August 28, 1979, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by July 30, 1979.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, N.W., Washington, D.C. Outlines of comments on the proposed regulations relating to the foreign earned income exclusion and the deduction for excess foreign living costs should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (LR-2-79), Washington, D.C. 20224. Separate outlines of comments on the proposed regulations relating to withholding on remuneration of employees entitled to the deduction for excess foreign costs should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (LR-212-78), Washington, D.C. 20224

FOR FURTHER INFORMATION CONTACT: George Bradley or Charles Hayden of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202-566-3935, not a toll-free call.

SUPPLEMENTARY INFORMATION: The public hearing is being held to receive oral comments on proposed regulations relating to the foreign earned income exclusion under section 911 of the Internal Revenue Code of 1954 and the deduction for excess foreign living costs under section 913 of the Code. These proposed regulations appear in the Proposed Rules portion of this issue of the Federal Register. The text of the proposed regulations under sections 911 and 913 is identical to temporary regulations published in the Rules and Regulations portion of this issue (FR Doc. 79-14400, T.D. 7617). Oral comments may also be presented on proposed regulations relating to withholding on remuneration of

employees entitled to the deduction for excess foreign living costs. These proposed regulations appeared in the Federal Register for Thursday, January 4, 1979 (44 FR 1110).

The purpose of this hearing is to allow the public to voice their opinions in reference to the above mentioned proposed regulations. It is *NOT* intended for speakers to present oral comments on the 1978 Qualified Cost-of-Living Differential Tables or the 1978 Qualified Hardship Areas List used to calculate the deduction provided in section 913. The methodology used in preparing the 1978 Qualified Cost-of-Living Differential Tables may be obtained from the Director, Statistics Division, Attn: PR:S:S, Internal Revenue Service, Washington, D.C. 20224. Written comments regarding those tables may be submitted to the Commissioner of Internal Revenue, Attn: PR:S:S, Washington, D.C. 20224.

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and also desire to present oral comments at the hearing on the proposed regulations should submit an outline of the comments to be presented at the hearing and the time they wish to devote to each subject by July 30, 1979. Each speaker will be limited to 10 minutes for an oral presentation exclusive of time consumed by questions from the panel for the Government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the Federal Register for Wednesday, November 8, 1978.

By direction of the Commissioner of Internal Revenue:

Robert A. Bley,
Director, Legislation and Regulations Division.

[LR-2-79; LR-212-78]

[FR Doc. 79-14402 Filed 5-4-79; 12:30 pm]

BILLING CODE 4830-01-M

[26 CFR Part 31]

Employment Taxes; Applicable on and After January 1, 1955; Advance Payments of Earned Income Credit

AGENCY: Internal Revenue Service, Treasury.

ACTION: Proposed rulemaking cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations portion of this Federal Register, the Internal Revenue is issuing temporary employment tax regulations relating to the advance payment by employers of the earned income credit and relating to earned income credit advance payment certificates as provided by section 3507 of the Internal Revenue Code of 1954. The temporary regulation also serves as a notice of proposed rulemaking for final employment tax regulations.

DATES: The temporary regulations are effective with respect to wages paid after June 30, 1979. The regulations are prescribed under a change to the applicable employment tax law which was made by the Revenue Act of 1978. The proposed regulations are to be effective for the same period. Written comments and requests for a public hearing must be delivered or mailed by July 9, 1979.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-188-78), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Eileen Murphy of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3297).

SUPPLEMENTARY INFORMATION: The temporary regulation in the Rules and Regulations portion of this issue of the Federal Register adds a new 26 CFR Part 38. The final regulations which are proposed to be based on the temporary regulation would amend 26 CFR Part 31.

For the text of the temporary regulation, see FR Doc. 79-14493 (T.D. 7619) published in the Rules and Regulations portion of this issue of the Federal Register.

Jerome Kurtz,

Commissioner of Internal Revenue.

[FR Doc. 79-14492 Filed 5-4-79; 4:56 pm]

BILLING CODE 4830-01-M

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

Availability of Implementation Plan Revisions for Nonattainment Areas in Alabama

AGENCY: Environmental Protection Agency, Region IV.

ACTION: Notice of availability.

SUMMARY: EPA announces today that the Alabama implementation plan revisions for the total suspended particulate and ozone nonattainment areas due for submittal by January 1, 1979, under the Clean Air Act Amendments of 1977 have been received and are available for public inspection.

DATES: The public is invited to submit written comments. A notice of proposed rulemaking describing the revisions will be published in the Federal Register later; the period for the submittal of written comments will extend for 30 days after the publication of the notice of proposed rulemaking.

ADDRESSES: The Alabama submittal may be examined during normal business hours at the following EPA offices:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

Library, Environmental Protection Agency, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30308.

In addition, the Alabama revisions may be examined at the offices of the Alabama Division of Air Pollution Control, Air Pollution Control Commission, 645 South McDonough Street, Montgomery, Alabama, 36104.

Comments should be addressed to the EPA Region IV Air Programs Branch, 345 Courtland St., N.E., Atlanta, Georgia, 30308.

FOR FURTHER INFORMATION CONTACT: Raymond Gregory of EPA's Region IV Air Programs Branch. Mr. Gregory may be reached by telephone at 404/881-2864 (FTS 257-2864).

SUPPLEMENTARY INFORMATION: Section 172 of the Clean Air Act, as amended 1977, requires that States submit revisions in their implementation plans by January 1, 1979, to provide for the attainment of the national ambient air quality standards in areas designated nonattainment. On March 3, 1973, the Administrator designated a number of areas in Alabama as nonattainment for total suspended particulates and ozone (the revisions for the sulfur dioxide nonattainment areas will be submitted

at a later date) (43 FR 8962). This State has responded by preparing implementation plan revisions as required by the Clean Air Act. The purpose of this notice is to call the public's attention to the fact that these have been formally submitted and are available for public inspection. Also, the public is encouraged to submit written comments on them. A description of the revisions will be published in the Federal Register at a later date as part of a notice of proposed rulemaking.

(Sections 110 and 172 of the Clean Air Act (42 U.S.C. 7410 and 7502))

Dated: May 2, 1979.

John C. White,
Regional Administrator.

[FRL 1220-8]
[FR Doc. 79-14529 Filed 5-8-79; 8:45 am]
BILLING CODE 6560-01-M

[40 CFR Part 52]

Approval and Promulgation of Implementation Plans; Georgia; Proposed 1979 Plan Revisions

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

ACTION: Proposed rule.

SUMMARY: EPA today proposes approval action on the State Implementation Plan (SIP) revisions which the Georgia Environmental Protection Division submitted pursuant to requirements of Part D of the Clean Air Act Amendments (CAAA) of 1977 with regard to nonattainment areas. The SIP contains regulations entitled "Amendments, Additions, Partial Repeals and Revisions of the Rules and Regulations of the Department of Natural Resources Relating to the Environmental Protection Division, Air Quality Control, Chapter 391-3-1." EPA has found all portions of the nonattainment revisions to be approvable except for certain portions of the transportation control plans which have not been submitted and which are needed to attain the air quality standards for carbon monoxide (CO) in Atlanta. With respect to the CO sections of the SIP, EPA intends to propose approval if the deficiencies noted are corrected. If these deficiencies are not corrected, EPA will disapprove this portion of the SIP.

The public is invited to submit written comments on these proposed actions.

DATES: To be considered, comments must be submitted on or before June 8, 1979. A thirty-day comment period is being used to enable publication of final action on the SIP revisions before the July 1, 1979, statutory deadline in section

172 of the CAAA. Availability of the SIP revision was first announced in the Federal Register on February 13, 1979. Therefore, the public has had greater than 60 days to study the proposal. Additionally, the issues contained in the SIP are straightforward and do not warrant a longer comment period.

ADDRESSES: Written comments should be addressed to Harriet Smith of EPA Region IV's Air Programs Branch (See EPA Region IV address below). Copies of the materials submitted by Georgia may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

Library, Environmental Protection Agency, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30308.

Air Protection Branch, Environmental Protection Division, Georgia Department of Natural Resources, 270 Washington Street, S.W., Atlanta, Georgia 30334.

FOR FURTHER INFORMATION CONTACT: Harriet Smith of EPA Region IV's Air Programs Branch, 345 Courtland Street, N.E., Atlanta, Georgia 30308. Telephone 404/881-3286 (FTS-257-3286).

SUPPLEMENTAL INFORMATION:

Background

In the March 3, 1978, Federal Register (43 CFR 8962 at 8981) a number of areas within the State of Georgia were designated as not attaining certain national ambient air quality standards. The areas designated nonattainment for the primary and secondary standards for total suspended particulate matter (TSP) are:

A. That portion of Fulton County within the northwest section of Atlanta (primary standard).

B. That portion of Chatham County within the north central section of Savannah (primary standard).

C. That portion of the northern part of Walker County which includes Rossville (primary standard).

D. That portion of Washington County within the southern section of Sandersville (secondary standard).

The area designated nonattainment for carbon monoxide (CO) is:

Atlanta Area—those portions of Clayton, DeKalb, and Fulton Counties within perimeter highway I-285.

The areas designated nonattainment for photochemical oxidants (ozone) are:

A. Atlanta area—Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Fulton, Gwinnett, Henry, Paulding and Rockdale Counties.

B. Muscogee County (Columbus).

Implementation plan revisions under Part D of the CAAA were developed by the State for all the foregoing areas except Sandersville. These revisions were submitted for EPA's approval on January 17, 1979; additional information requested by EPA was submitted on March 9, 16, and 20, 1979. In the materials submitted, the State asserted that no violations of the secondary particulate standard have occurred in Sandersville since June 1977, and requested that the area be redesignated attainment. This request will be dealt with in a separate Federal Register notice.

Receipt of the Georgia revisions was first announced in the Federal Register of February 13, 1979 (44 FR 9424). The Georgia revisions have been reviewed by EPA in light of the CAAA of 1977, EPA regulations, and additional guidance materials. The criteria utilized in this review were detailed in the Federal Register on April 4, 1979 (44 FR 20372) and need not be repeated in detail here.

General Discussion

Section 172(b) of the CAAA of 1977 contains the requirements for nonattainment State Implementation Plans. The following is a listing of these requirements accompanied by a discussion of the contents and adequacies of the Georgia submittals.

(1) SIP provisions shall be adopted by the State (or promulgated by the Administrator under section 110(c)) after reasonable notice and public hearing:

-A public hearing was held in Atlanta, Georgia, on December 20, 1978, following 30 days public notice. These SIP provisions were adopted by the State on February 23, 1979.

(2) SIP provisions shall provide for the implementation of all reasonably available control measures as expeditiously as practicable;

For discussion of reasonably available control measures including Reasonable Available Control Technology (RACT) see number 3.

(3) SIP provisions shall require, in the interim, reasonable further progress (as defined in section 171 (1)) including such reduction in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology;

Reasonable further progress (RFP) graphs and calculations accompany each explanation of progress toward attainment for each nonattainment area. The SIP calls for meeting national ambient air quality standards in all areas by the end of 1982 except for

carbon monoxide in Atlanta. The State has requested an extension to the end of 1987 for meeting the carbon monoxide standard. Each area is discussed below.

Savannah (TSP)—The State maintains that RACT has been applied to all industrial/stationary sources. EPA is reviewing sources in the area before making a final determination that RACT is in place where needed. The State intends to conduct a fugitive road dust study and then implement the resultant necessary measures to reduce dust in the nonattainment area. If EPA confirms that RACT has been applied where necessary, the road dust study is approvable as a feasible approach to achieving reasonable further progress. The nonattainment area in Savannah is located around two monitoring sites. The State has requested that EPA designate the area around one of the monitors as attainment. This will be dealt with in a separate Federal Register notice.

Atlanta (TSP)—The State maintains that RACT has been applied to all industrial/stationary sources. EPA is reviewing sources in the area before making a final determination that RACT is in place where needed. The State intends to conduct a fugitive road dust study and then implement the necessary measures to reduce dust in the nonattainment area. If EPA confirms that RACT has been applied where necessary, the road dust study is approvable as a feasible approach to achieving reasonable further progress.

Following completion of the fugitive dust study in Atlanta and Savannah, the State will submit a SIP revision to EPA which will include adopted tactics, commitments to implement them, and amendments to the control strategy.

Sandersville (TSP)—There has been no TPS air quality violation in Sandersville since June 1977. The State has requested that EPA redesignate the area as attainment. It is not the policy of EPA to designate an area as attainment without at least two years of data with no violations. For the purpose of new source review the area is to be treated as attainment since present data indicates that it is. EPA will propose to redesignate this area as unclassifiable in a separate Federal Register notice.

Rossville (TSP)—According to information in the State submittal, violations of the standard result from fugitive dust from a quarrying site and dust emissions from stockpiles and in-plant roads. The State proposes control of these emissions along with better maintenance and application of existing control devices on the quarrying operation and an asphalt plant.

Columbus (Ozone)—The State has calculated that a 13% reduction in hydrocarbon emissions is needed to meet the ozone standard. Reductions will be obtained through the Federal Motor Vehicle Control Program and statewide regulations for volatile organic compounds (VOC) emitted by large sources—those with potential emissions equal to or in excess of 100 tons per year. The State projects that a 19% reduction will occur by 1982. Therefore, the area should become attainment by early 1981.

Atlanta (Ozone)—The State has calculated that a 23% reduction in hydrocarbon emissions is needed to meet the ozone standard. Reductions are to be obtained through the Federal Motor Vehicle Control Program statewide and VOC regulations for sources with potential emissions of 100 tons per year or greater. The State projects that a 31% reduction will occur by 1982. Therefore, the area should become attainment by late 1981. EPA concurs with the emission reduction figures calculated by the State.

Atlanta (CO)—The State has calculated, and EPA concurs, that a 47% reduction in CO is necessary to achieve the 10 mg/m³ 8-hour ambient standard. Since 98% of the CO emissions are attributed to motor vehicles, all emission reduction measures are directed toward this source category through use of the Federal Motor Vehicle Control Program. The State is unable to meet the CO ambient standard by the end of 1982. Therefore, an extension has been requested to 1987 and the State must implement a mandatory inspection and maintenance program for motor vehicles, transportation control measures, and a new source review program consistent with the requirements of item 11(A).

The Georgia Legislature has passed the necessary statutes for a mandatory Inspection and Maintenance Program. The bill was signed into law April 16, 1979.

The I/M Program is a private garage system in which mandatory inspection will begin April 1, 1981 with mandatory repair to begin April 1, 1982. The program will be integrated with the current safety inspection program under the Commissioner of Public Safety at an additional cost of \$3.00 per vehicle. Technical assistance in air quality areas are under the powers and duties of the Board of Natural Resources.

EPA's review of the Atlanta transportation control plan has revealed a number of deficiencies. These deficiencies include:

(A) A memorandum of agreement between the State and the metropolitan planning organization, which delineates responsibilities under the transportation control program, is not included in the SIP.

(B) The current 1979 TIP/AE must be reviewed for projects that have a positive air quality impact. Measures that are found to have been benefits and are feasible must be submitted with implementation dates. The implementation dates should correspond to the dates shown in the TIP/AE. Those measures selected from the 1979 TIP/AE for incorporating into the State Implementation Plan must also include a commitment to the implementation and enforcement of such measures by the responsible agencies.

(C) Section 108(f) requires EPA to publish and make available information documents on transportation control measures that are reasonably available for implementation in order to reduce emissions from transportation sources. EPA considers all Section 108(f) measures to be reasonably available. However, if through analysis some measures are found to be infeasible, EPA will allow these measures to be withdrawn. The submittal does not contain the schedule for analysis of packages of 108(f) measures with a commitment to implement expeditiously the measures that are found feasible for implementation.

(D) The submittal does not identify the financial and manpower allocations to accomplish the tasks required under Section 108(e) of the CAAA and other transportation system management elements and air quality related projects which are or will be incorporated into the Unified Planning Work Program (UPWP) and the Transportation Improvement Program/Annual Element (TIP/AE). The UPWP must also be modified to include provisions for progress reporting as required by the "Transportation/Air Quality Guidelines", issued pursuant to Section 108(e) of the CAAA. The SIP must contain only those measures from the modified UPWP and TIP/AE that are related to transportation air quality planning under Section 108(e) of the CAAA.

(E) The CAAA of 1977, Section 110(a)(3)(D), requires that a SIP which provides for attainment later than December 31, 1982, pursuant to Section 172(a)(2), shall be revised to include comprehensive measures and requirements referred to in subsection 110(c)(5)(B). The measures should: "establish, expand, or improve public transportation measures to meet basic transportation needs as expeditiously as practicable; and implement transportation control measures to attain and maintain national ambient air quality standards." EPA will accept a commitment to comply with this requirement. A commitment is included in the Georgia SIP in a letter dated December 20, 1978, from the Atlanta Regional Commission to the State Department of Natural Resources. EPA is soliciting comments on the approvability of Georgia's SIP with regard to this commitment.

The State has indicated that deficiencies will be corrected in later submittals. The transportation control

plan is not approvable without these additions.

(4) SIP provisions shall include a comprehensive, accurate, current inventory of actual emissions from all sources (as provided by rule of the Administrator) of each such pollutant for each such area which is revised and resubmitted as frequently as may be necessary to assure that the requirements of paragraph (3) are met and to assess the need for additional reductions to assure attainment of each standard by the date required under subsection (a);

Appropriate emissions inventories for TSP, ozone (the inventory is for hydrocarbons which react with sunlight to form ozone), and CO have been submitted. Future reporting requirements for updating inventories are included.

(5) SIP provisions shall expressly identify and quantify the emissions, if any, of any such pollutant which will be allowed to result from the construction and operation of major new or modified stationary sources for each such area;

There is no identification and quantification of emissions from major new or modified sources. Therefore, offsets under Section 173 of the CAAA will be required for these new sources. The State expects to be able to satisfy the offset requirement through emissions reductions in excess of the reductions needed to provide for Reasonable Further Progress. The mechanism for tracking these reductions as they occur is provided in the Georgia Permit Regulation (Georgia Rule 391-3-1-.03).

(6) SIP provisions shall require permits for the construction and operation of new or modified stationary sources in accordance with Section 173 (relating to permit requirements);

The State requires permits for the construction and operation of new or modified major stationary sources in accordance with Section 173 (Georgia Rule 391-3-1-.03[c][5]).

(7) SIP provisions shall identify and commit the financial and manpower resources necessary to carry out the plan provisions required by this subsection;

With the exception of the CO plan cited above, the State has identified and committed adequate financial and manpower resources necessary to carry out the provisions of this SIP revision. The State is committed to an FY-79 budget of \$2,039,972 and 80 workyears.

(8) SIP provisions shall contain emission limitations, schedules of compliance and other such measures as may be necessary to meet the requirements of this section;

This revision package does not contain emission limitations or schedules of compliance for TSP sources

because the State maintains that all such sources are in compliance with the requirement that RACT be applied. A vigorous enforcement program for fugitive emissions has been identified as a strategy for Rossville (see number 3).

With respect to Volatile Organic Compound (VOC) regulations, the State has adopted statewide regulations pertaining to those emission limitations and process and equipment specifications necessary to meet the requirement that RACT be applied to these sources. Categorical compliance schedules are included. These regulations are for sources in nine categories which equal or exceed 100 tons of emissions per year.

Categories of sources controlled by presently adopted regulations include: (1) surface coating including (a) auto and light duty truck manufacturing, (b) can coating, (c) coil coating, (d) paper coating, (e) fabric and vinyl coating; (2) metal furniture coating; (3) large appliance surface coating; (4) wire coating; (5) petroleum liquid storage; (6) bulk gasoline terminals; (7) cutback asphalt; (8) petroleum refinery; and (9) solvent metal cleaning (Georgia Rule 391-3-1-.02[2][t] through [ff]).

In addition the State is committed to adopt VOC regulations for additional RACT categories annually as they are developed by EPA.

The Inspection and Maintenance legislation, as signed by Governor Busbee on April 16, 1979 establishes legal authority for a mandatory program in counties with a vehicle registration of 200,000 or greater. In the Metro Atlanta area, these are DeKalb, Cobb, and Fulton counties. The duties and powers of the Commissioner of Public Safety and the Board of Natural Resources with respect to the I/M legislation are outlined in Section 10, page 20 and Section 8, page 14 respectively, of the bill. The program is to begin on April 1, 1981 (Ref. Section 7, page 10 of the bill) with mandatory repair of failed vehicles to begin April 1, 1982 (Ref. Section 9, page 18 of the bill).

A schedule outlining other milestones for the program and a commitment by the responsible agencies to implement the I/M program according to the schedule is to be submitted to EPA, Region IV, in the near future. These milestones include measures such as establishing standards, cutpoints, and notification of garages. With respect to the implementation of an Inspection and Maintenance program, the SIP commits to attainment of the CO standard by December 31, 1987. This commitment appears to assure implementation of a program which will achieve EPA's

required 25% reduction in light duty vehicle CO emissions by December 31, 1987. The review of the material submitted relative to the above satisfies the requirements of the CAAA. (See Item 11)

(9) SIP provisions shall contain evidence of public, local government, and State legislative involvement and consultation in accordance with Section 174 (relating to planning procedures) and include (A) an identification and analysis of the air quality, health, welfare, economic, energy, and social effects of the plan provisions required by this subsection and of the alternatives considered by the State, and (B) a summary of the public comment on such analysis;

Consultation with the public, local governments and State legislative involvement is evidenced by a listing of correspondence in the SIP. The State's analysis of the air quality, health, and welfare effects determine that the impact of the SIP will be beneficial. The portion of the analysis that addressed the economic, energy, and social effects has been completed through an EPA contract. The State has received no public comments on any of the above aspects of the analysis.

(10) SIP provisions shall include written evidence that the State, the general purpose local government or governments, or a regional agency designated by general purpose local governments for such purpose, have adopted by statute, regulation, ordinance, or other legally enforceable documents, the necessary requirements and schedules and timetables for compliance, and are committed to implement and enforce the appropriate elements of the plan;

In the State of Georgia the Environmental Protection Division of the Department of Natural Resources has full statutory authority for enforcing the SIP revisions. The Board of Natural Resources adopted on February 23, 1979, the necessary regulatory portion of the SIP. Timetables for compliance are addressed in number 8. There are portions of the transportation plan which will be carried out by the Georgia Department of Transportation under full statutory authority. The bill will be submitted as part of the SIP.

(11) SIP provisions shall, in the case of plans which make a demonstration pursuant to paragraph (2) of subsection (a).

(A) establish a program which requires, prior to issuance of any permit for construction or modification of a major emitting facility, an analysis of alternative sites, sizes, production processes, and environmental control techniques for such proposed source which demonstrates that benefits of the proposed source significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification;

(B) establish a specific schedule for implementation of a vehicle emission control inspection and maintenance program; and

(C) identify other measures necessary to provide for attainment of the applicable national ambient air quality standard not later than December 31, 1987.

Paragraph 11 of subsection 172 (b) applies only to the Atlanta nonattainment area for carbon monoxide.

The alternatives analysis for new sources required by subparagraph (A) above has been submitted in the SIP as a revision to the State's permitting regulation (Georgia Rule 391-3-1-.03 (8)(c)(4)).

The schedule for the implementation of inspection and maintenance (I/M) program included in the SIP has been determined to be inadequate. The State will have to modify the SIP schedule to reflect the final implementation dates and to include specific interim compliance dates for this aspect of the SIP to be approvable.

As noted above the State has indicated that it will submit additional control measures to attain the CO standard by 1987. (See Number 3)

In addition to the implementation plan for the nonattainment areas under Part D of the CAAA the SIP revisions contain changes applicable to other portions of the CAAA, including changes to the Georgia ambient air quality standards, regulations concerning prevention of significant deterioration, other emission standards, source monitoring, permits and permit fees, exceptions, exemptions, and enforcement. These topics will be dealt with in a separate Federal Register.

Proposed Action

Based on the foregoing, EPA is proposing to approve fully the SIP under Part D of the CAAA, as it relates to the attainment of ozone standards in Atlanta and Columbus. It is the agency's intent to propose approval of the CO plan for Atlanta if the State corrects the deficiencies noted. EPA is also proposing to approve the TSP plans for Savannah, Atlanta, and Rossville.

(Section 110 and 172 of the Clean Air Act (42 U.S.C. 7410 and 7502))

Dated: April 27, 1979.

John A. Little,
Acting Regional Administrator.

[FRL 1220-2]

[FRL Doc. 79-14526 Filed 5-8-79; 8:45 am]

BILLING CODE 6560-01-M

[40 CFR Part 52]

Approval and Promulgation of State Implementation Plans; Montana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This action proposes to approve revisions to the Montana State Implementation Plan (SIP) submitted by the Governor of Montana on January 26, 1978. These revisions included a stipulation between the Montana Department of Health and Environmental Sciences (DHES) and the Farmers Union Central Exchange (CENEX), relating to reductions in ambient concentrations of sulfur dioxide in the vicinity of the CENEX refinery. Approval has been withheld pending an EPA analysis of the sulfur dioxide control measures proposed by CENEX in the stipulation. This analysis has been completed and it indicates that the National Ambient Air Quality Standards for sulfur dioxide will be met in the existing non-attainment area, if the control measures proposed by CENEX are implemented.

DATES: Comments must be received on or before June 8, 1979.

ADDRESSES: The proposed Montana revisions are available for public inspections at the offices of the Montana Department of Health and Environmental Sciences, Bureau of Air Quality, Cogswell Building, Helena, Montana, 59601. Copies of the proposed revisions are available at the Environmental Protection Agency offices listed below: Environmental Protection Agency, Federal Office Building, Drawer 10096, 301 South Park, Helena, Montana 59601. Environmental Protection Agency, Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street, S.W., Washington, D.C. 20460.

Interested persons are encouraged to submit written comments on the proposed revisions. Comments should be addressed to the Environmental Protection Agency, Montana Office, Federal Office Building, Drawer 10096, 301 South Park, Helena, Montana 59601. All comments will be available for public inspection during business hours at the Montana Office.

FOR FURTHER INFORMATION CONTACT: Ivan W. Dodson, Director, EPA Montana Office, Federal Office Building, Drawer 10096, 301 South Park, Helena, Montana 59601.

SUPPLEMENTARY INFORMATION: The stipulation between DHES and CENEX

requires CENEX to install the following facilities:

Project	Scheduled completion date	Status
FCC heat exchange	Dec. 1978	Complete.
Asphalt loading heater	Aug. 1978	Complete.
Continuous O ₂ analyzers.	May 1978	Complete.
Insulation of asphalt tanks.	Dec. 1978	Complete.
FCC gas compressor electrification.	Dec. 1980	To be completed approximately May 1979.
Crude main air preheat system.	Dec. 1979	To be completed approximately May 1979.
Spare sulfur reactor system and stack.	Dec. 1979	Complete.

In addition CENEX agreed to raise the existing sulfur plant reaction system stack from its existing height of approximately 100 feet to a new height of 199 feet, said stack to service both the existing sulfur plant and the new sulfur plant. CENEX further agreed to eliminate the two 50 foot high stacks on part of the crude main heater preheat system and install a single stack of 199 feet in their stead.

The DHES stipulation raises a question as to the compatibility of the emission limitations for the CENEX plant facilities with Section 123 of the Clean Air Act Amendments. The statute places a limit on the creditable stack height that can be used in control strategy demonstrations. EPA's analysis on which the approvability of this revision is based, relies upon the existing facility stack heights which are less than good engineering practice (GEP) as defined by Section 123. Thus the evaluation is conservative in that the emission limitations for the CENEX facilities are at least as stringent as would be required if determined by modeling of the facilities with GEP stack heights.

Other companies named in the stipulation are as follows:

Exxon Company U.S.A., a division of Exxon Corporation; the Continental Oil Company, Billings Refinery; The Montana Power Company, Billings, Montana; the Great Western Sugar Company, Billings, Montana; and the Montana Sulphur and Chemical Company, Billings, Montana. These companies have agreed to undertake certain activities which are much less extensive, but which will complement the action taken by CENEX.

The requirements for public hearings and plan revisions (40 CFR 51.4 and 51.6) have been met by the proposed revision.

The changes in control strategies are consistent with EPA requirements as defined in 40 CFR 50.13.

The Administrator hereby issues this notice setting forth as proposed rulemaking, pursuant to Section 110 of the Clean Air Act and 40 CFR Part 51, the Montana revisions submitted on July 17, 1978.

(Section 110 of the Clean Air Act as amended (42 U.S.C. 7410); Section 301 as amended (42 U.S.C. 7601).)

Dated: March 14, 1979.

Alan Merson,
Regional Administrator.

[FRL 1220-1]
[FR Doc. 79-14525 Filed 5-8-79; 8:45 am]
BILLING CODE 6550-01-M

[40 CFR Part 52]

Commonwealth of Pennsylvania; State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Commonwealth of Pennsylvania has submitted a proposed revision of its State Implementation Plan (SIP) consisting of changes to the Air Resources Regulations of the Pennsylvania Department of Environmental Resources (DER). The changes primarily involve a relaxation of some sulfur dioxide (SO₂) emission limitations for certain air basins. The proposed revision affects Chapter 121 (relating to general provisions), Chapter 123 (relating to standards for contaminants), and Chapter 139 (relating to sampling and testing) of DER's rules and regulations. Although the proposed regulation changes would affect sources of SO₂ throughout the Commonwealth, EPA is now proposing only the application of the new regulations to sources located in Erie County. A demonstration submitted by DER shows that the relaxations will not violate either the National Ambient Air Quality Standards (NAAQS) or the Prevention of Significant Deterioration (PSD) increments for SO₂.

DATE: Comments must be submitted on or before June 8, 1979.

ADDRESSES: Copies of the proposed SIP revision and the accompanying support documents are available for inspection during normal business hours at the following offices:

U.S. Environmental Protection Agency, Air Programs Branch, Curtis Building, 6th & Walnut Sts., Philadelphia, PA 19106. ATTN: Mark E. Garrison.

Pennsylvania Department of Environmental Resources, Bureau of Air Quality & Noise Control, 200 North 3rd Street, Harrisburg, PA 17120. ATTN: Mr. James K. Hambright.

Public Information Reference Unit, Room 2922—EPA Library, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

All comments on the proposed revision submitted on or before June 8, 1979 will be considered and should be directed to:

Mr. Howard Heim, Chief, Air Programs Branch (3AH10), Air & Hazardous Materials Division, U.S. Environmental Protection Agency, Region III, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106. ATTN: AH018PA.

FOR FURTHER INFORMATION CONTACT:

Mr. Mark E. Garrison (3AH13) Air Programs Branch, U.S. Environmental Protection Agency, Curtis Building, Tenth Floor, Sixth & Walnut Streets, Philadelphia, Pennsylvania 19106; phone 215/597-2745.

SUPPLEMENTARY INFORMATION: On April 24, 1979, Governor Dick Thornburgh of the Commonwealth of Pennsylvania submitted proposed amendments to DER's air pollution regulations. In his letter, the governor certified that the amended regulations meet the public hearing and notice requirements of 40 CFR Part 51.4 and meet all relevant State procedural requirements. EPA was also asked to consider the amended regulations as a revision of the Pennsylvania SIP. EPA is today proposing the regulations only as they apply in the Erie air basin.

Geographically, this air basin is the same as Erie County; therefore, references hereinafter to Erie County also refer to the Erie air basin. Proposed rulemaking on the regulations as applied to the rest of the Commonwealth will be published in the near future.

The Erie air basin is currently classified as attaining the NAAQS for SO₂. Because of this designation, a SIP revision is not required to be submitted to EPA under Section 172 of the Clean Air Act (42 U.S.C. § 7672). The following is a summary of the key provisions of the new regulations that affect Erie County:

General provision—The SO₂ emission limit for combustion units changes from a sliding scale of 1.8 to 3.0 lbs SO₂ per million Btu (MMBtu) heat input for units whose sizes range downward from 2,000 MMBtu to 50 MMBtu heat input per hour, to 4 lbs SO₂ per MMBtu heat input for all size units. Operators of large, solid fossil fuel-fired units may petition DER for application of an optional SO₂ emission limitation depending on averaging time, as follows:

30-day running average: 3.7 lb/MMBtu.

Daily average, not to be exceeded more than twice in any 30-day period: 4.0 lb/MMBtu.

Daily average, not to be exceeded at any time: 4.8 lb/MMBtu.

(2) **Commercial fuels—**A requirement is added to limit the sulfur content of commercial fuel to 2.8% (Grade Nos. 4, 5, and 6 fuel oil) and .3% (Grade No. 2 fuel oil). An equivalency provision allows the burning of higher sulfur fuel oil if equipment or processes are used to remove SO₂ to an extent such that the emission rate would not exceed the rate that would result from burning fuel oil that complies with the sulfur-in-fuel limitations.

(3) **Monitoring requirements; test methods and procedures—**All sources who petition DER for application of the emission averaging provisions must install continuous in-stack monitoring devices for SO₂ which meet the requirements set forth in the amended regulations. These requirements are contained in Section 123.25 and in Subchapter C of Chapter 139. In addition to these monitoring requirements, the proposed amendments make several changes to the testing procedures in Chapter 139. The changes consist primarily of clarifications in language and in the addition of requirements for sampling and testing sulfur-in-fuel.

Since the proposed revision relaxes an existing SIP in an attainment area for SO₂ DER submitted an air quality demonstration to show first, that the NAAQS for SO₂ will not be violated and second, that the applicable PSD increments for SO₂ will not be exceeded. The demonstration included diffusion modeling performed for DER by a consultant. The model used to assess the impact of the proposed revision on annual average SO₂ concentrations in Erie was EPA's Air Quality Display Model (AQDM). Short-term (3-hour and 24-hour) impacts were assessed using Larsen's statistical technique and APMAX, a Gaussian diffusion model developed by the consultant. The results of the diffusion modeling were evaluated by DER. For the Erie air basin, DER stated that the modeling study underpredicted the expected values. Consequently, DER has estimated that the actual impact of the proposed revision on ambient air quality will be greater than the modeling prediction and that by 1985, SO₂ concentrations in Erie County will be 80% of the NAAQS, and that a maximum of 11% of the applicable PSD increments will be consumed.

Based on the foregoing, it is the tentative decision of the Administrator to approve the proposed revision of the

Pennsylvania State Implementation Plan for Erie County.

The public is invited to submit to the address stated above, comments on whether the proposed changes to the regulations should be approved as a revision of the Pennsylvania State Implementation Plan.

The Administrator's decision to approve or disapprove the proposed revision will be based on the comments received and on a determination whether the amendments meet the requirements of Section 110(a)(2) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of State Implementation Plans.

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.

(42 U.S.C. 7401)

Dated: May 2, 1979.

Jack J. Schramm,
Regional Administrator.

[FRL 1220-6]
[FR Doc. 79-14513 Filed 5-8-79; 8:45 am]
BILLING CODE 6560-01-M

[40 CFR Part 62]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants; Negative Declarations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: Section 111(d) of the Clean Air Act requires States to submit to EPA plans to control emissions for designated facilities and pollutants. Section 62.06 of Part 62 provides for submission of a "negative declaration" from states certifying that no such facilities exist within its boundaries. The purpose of this notice is to propose approval of negative declarations of fluoride emissions from phosphate fertilizer plants received from the States of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont, and negative declarations for sulfuric acid mist emissions from sulfuric acid production units for the states of Connecticut, New Hampshire, Rhode Island, and Vermont.

DATES: Comments must be received on or before June 8, 1979.

ADDRESSES: Comments should be submitted to William R. Adams, Jr., Regional Administrator, Region I, Environmental Protection Agency, J.F.K. Federal Bldg., Boston, Massachusetts 02203.

Copies of the letters received are available for public inspection at the following locations:

EPA, Region 1, Air Branch, Room 1903, J.F.K. Federal Building, Boston, Massachusetts 02203.

EPA, Public Information, Reference Unit, 401 M Street, S.W., Washington, DC 20460.

Air Compliance Unit, Department of Environmental Protection, State Office Building, 165 Capitol Avenue, Hartford, Connecticut 06115.

Air Pollution Control Agency, Division of Public Health Services, Health and Welfare Building, Hazen Drive, Concord, New Hampshire 03301.

Division of Air Resources, Department of Environmental Management, Cannon Building, Room 204, 75 Davis Street, Providence, Rhode Island 02908.

Division of Air and Hazardous Materials, Department of Environmental Quality Engineering, 600 Washington Street, Boston, Massachusetts 02111.

Bureau of Air Quality Control, Department of Environmental Protection, State House, Augusta, Maine 04330.

Air and Solid Waste Programs, Division of Environmental Engineering, State Office Building, Montpelier, Vermont 05602.

FOR FURTHER INFORMATION CONTACT: John Courcier, Environmental Protection Agency, Air Branch, Region I, Room 1903, JFK Federal Building, Boston, Massachusetts 02203, (617) 223-4448.

SUPPLEMENTARY INFORMATION: Section 111(d) of the Clean Air Act requires states to submit to EPA plans to control emissions for designated facilities and pollutants for which standards of performance for new sources have been established under Section 111(b) of the Act. EPA promulgated Part 62 of the Code of Federal Regulations (43 FR 51393) which provides a procedural framework for submission of these plans. Section 62.06 of Part 62 provides that when no such designated facility exists within a state, it may submit a letter certifying that such is the case. The negative declaration is in lieu of a plan. The States of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont have submitted letters of negative declaration in lieu of a control plan, stating that no phosphate fertilizer plants exist in their respective states. In addition, the States of Connecticut, New Hampshire, Rhode Island and Vermont, have also included

negative declaration for sulfuric acid production units. Approval of the proposed negative declarations will be based on a determination by the Administrator that they meet the requirements of Section 111(d) of the Act, and the provisions of Part 60 of this chapter.

All interested persons are invited to submit written comments on the proposed regulatory action set forth.

Authority: Section 111 and 301(a) of the Clean Air Act as amended (42 U.S.C. 7413 and 7601).

Dated: May 1, 1979.

William R. Adams, Jr.,
Regional Administrator, Region I.

EPA proposes to amend Part 62 of Chapter I, Subchapter C, Title 40 of the Code of Federal Regulations as follows:

PART 62

* * * * *

Subpart H—Connecticut

Fluoride Emissions From Phosphate Fertilizer Plants

§ 62.1600 Identification of plan—Negative declaration.

The State Department of Environmental Protection submitted on November 30, 1977, a letter certifying that there are no existing phosphate fertilizer plants in the state subject to Part 60, Subpart B of this chapter.

Sulfuric Acid Mist Emissions From Sulfuric Acid Production Units

§ 62.1625 Identification of plan—Negative declaration.

The State Department of Environmental Protection submitted on November 30, 1977, a letter certifying that there are no existing sulfuric acid plants in the state subject to Part 60, Subpart B of this chapter.

* * * * *

Subpart U—Maine

Fluoride Emissions From Phosphate Fertilizer Plants

§ 62.4850 Identification of plan—Negative declaration.

The State Department of Environmental Protection submitted on April 19, 1978, a letter certifying that there are no existing phosphate fertilizer plants in the state subject to Part 60, Subpart B of this chapter.

* * * * *

Subpart W—Massachusetts*Fluoride Emissions From Phosphate Fertilizer Plants***§ 62.5350 Identification of plan—Negative declaration.**

The State Department of Environmental Quality Engineering submitted on April 12, 1978, a letter certifying that there are no existing phosphate fertilizer plants in the state subject to Part 60, Subpart B of this chapter.

* * * *

Subpart EE—New Hampshire*Fluoride Emissions From Phosphate Fertilizer Plants.***§ 62.7350 Identification of Plan—Negative declaration.**

The State Air Pollution Control Agency submitted on November 29, 1978, a letter certifying that there are no existing phosphate fertilizer plants in the state subject to Part 60, Subpart B of this chapter.

*Sulfuric Acid Mist Emissions From Sulfuric Acid Production Units***§ 62.7375 Identification of plan—Negative declaration.**

The State Air Pollution Control Agency submitted on November 29, 1978, a letter certifying that there are no existing sulfuric acid plants in the state subject to Part 60, Subpart B of this chapter.

* * * *

Subpart OO—Rhode Island*Fluoride Emissions From Phosphate Fertilizer Plants.***§ 62.9850 Identification of plan—Negative declaration.**

The State Department of Environmental Management submitted on November 14, 1977, a letter certifying that there are no existing phosphate fertilizer plants in the state subject to Part 60, Subpart B of this chapter.

*Sulfuric Acid Mist Emissions From Sulfuric Acid Production Units***§ 62.9875 Identification of plan—Negative declaration.**

The State Department of Environmental Management submitted on November 14, 1977, a letter certifying that there are no existing sulfuric acid plants in the state subject to Part 60, Subpart B of this chapter.

* * * *

Subpart UU—Vermont*Fluoride Emissions From Phosphate Fertilizer Plants***§ 62.11350 Identification of plan—Negative declaration.**

The State Agency of Environmental Conservation submitted on April 11, 1978, a letter certifying that there are no existing phosphate fertilizer plants in the state subject to Part 60, Subpart B of this chapter.

*Sulfuric Acid Mist Emissions From Sulfuric Acid Production Units***§ 62.11375 Identification of plan—Negative declaration.**

The State Agency of Environmental Conservation submitted on April 11, 1978, a letter certifying that there are no existing sulfuric acid plants in the state subject to Part 60, Subpart B of this chapter.

[FRL 1220-7].
[FR Doc. 79-14512 Filed 5-8-79; 8:45 am]
BILLING CODE 6560-01-M

DEPARTMENT OF THE INTERIOR**Fish and Wildlife Service****[50 CFR Part 17]****Reclassification of the American Alligator; Reopening of the Comment Period; Public Hearings**

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Reopening of the comment period; notice of public hearings.

SUMMARY: The public comment period on the Service's proposal to reclassify the American alligator to Threatened (Similarity of Appearance) in nine parishes in Louisiana, and proposals to simplify buyers', tanners', and fabricators' licenses, and to allow the sale of alligator meat is hereby reopened between May 10, 1979 and June 5, 1979. In addition, the reopening of the comment period will allow public hearings to be held on the proposal. These hearings will be held May 25, 1979, at 1 p.m., at Morgan City, Louisiana in the Civic Center and May 29, 1979, at 1 p.m., at Tallahassee, Florida in Hayden Burns Building (Florida Department of Transportation Auditorium).

DATES: The Service will consider all comments received between May 10, 1979 and June 5, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Harold J. O'Connor, Acting Associate Director—Federal Assistance,

Fish and Wildlife Service, Washington, D.C. 20240. Phone 202/343-4640.

SUPPLEMENTARY INFORMATION: In the Federal Register of October 2, 1978 (43 FR 45513-45517), the Service proposed a series of changes in both the classification and special rules pertaining to the American alligator, *Alligator mississippiensis*. Briefly, these include a proposal to reclassify the American alligator to Threatened (Similarity of Appearance) in nine parishes of southern Louisiana, a proposal to simplify buyers', tanners', and fabricators' licenses, and to allow the sale of alligator meat from legally taken alligators. Details of these proposals may be obtained by consulting the Federal Register cited above and the November 1978, *Endangered Species Technical Bulletin*.

In the Federal Register of October 2, 1978 (43 FR 45513-45517), the Service stated its intention to hold public hearings on the proposal.

However, because of the delay in the reauthorization of the Endangered Species Act, these hearings were never held. The Service now announces public hearings on these proposals will be held May 25, 1979, at 1 p.m., at Morgan City, Louisiana in the Civic Center and May 29, 1979, at 1 p.m., at Tallahassee, Florida in Hayden Burns Building (Florida Department of Transportation Auditorium).

Further, the comment period on the Service's proposals of October 2, 1978 (43 FR 45513-45517) regarding the American alligator is hereby opened between May 10, 1979 and June 5, 1979. All comments and statements presented at this hearing will be made part of the public record on this species and will be considered before any final decisions are made concerning the October 2 proposals. The Service also announces that it will propose regulations within 30 days (1) establishing a permit procedure under the special rule for action relating to the species, including its exportation and importation, (2) modifying the determination of "American Alligator" within the special rule to include alligators in captivity, and (3) licensing the activities of foreign buyers, tanners, and fabricators to insure control over trade in the species.

Dated: May 3, 1979.

Robert S. Cook,
Acting Director, Fish and Wildlife Service,
[FR Doc. 79-14438 Filed 5-8-79; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF ENERGY**Office of Energy Conservation and Solar Applications****[10 CFR Part 430]****Energy Conservation Program for Consumer Products; Test Procedures for Water Heaters; Public Hearing**

AGENCY: Department of Energy.

ACTION: Proposed rule.

SUMMARY: The Department of Energy hereby proposes to amend its test procedures for water heaters. These test procedures are a 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, which requires that standard methods of testing be prescribed for covered products.

DATES: Written comments in response to this notice by July 9, 1979; requests to speak at the public hearing by June 14, 1979; statements by June 22, 1979; public hearing to be held on June 27, 1979, 9:30 a.m.

ADDRESSES: Written comments, requests to speak at the public hearing, and statements to: Margaret W. Sibley, U.S. Department of Energy, Office of Conservation and Solar Applications, Docket #CAS-rm-79-105, Mail Stop 2221C, 20 Massachusetts Avenue, NW., Washington, D.C. 20585.

PUBLIC HEARING TO BE HELD AT: Department of Energy, Room 3000A, Federal Building, 12th Street and Pennsylvania Avenue, NW., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT: James A. Smith, U.S. Department of Energy, Office of Conservation and Solar Applications, Division of Buildings and Community Systems, Consumer Products Efficiency Branch, Room 2248, 20 Massachusetts Avenue, NW., Washington, D.C. 20585, (202) 376-4814.

Margaret W. Sibley (Hearing Procedures), U.S. Department of Energy, Office of Conservation and Solar Applications, 20 Massachusetts Avenue, NW., Mail Stop 2221C, Washington, D.C. 20585, (202) 376-1651.

Robert M. Mussler, U.S. Department of Energy, Office of General Counsel, 20 Massachusetts Avenue, NW., Room 3224, Washington, D.C. 20585, (202) 376-4100.

SUPPLEMENTARY INFORMATION:**A. Background**

Title III, Part B of the Energy Policy and Conservation Act (Act) (Pub. L. 94-163) established an energy conservation program for consumer products. As part

of this program, section 323 (42 U.S.C. 6293) of the Act requires that standard methods of testing to determine estimated annual operating cost and at least one other useful measure of energy consumption be prescribed for certain products, including water heaters.

Test procedures for water heaters were proposed by notice issued April 21, 1977 (42 FR 21576, April 27, 1977). Final test procedures for water heaters were prescribed on September 27, 1977 (42 FR 54110, October 4, 1977). DOE amended the test procedures for water heaters by notice issued October 13, 1978 (43 FR 48986, October 19, 1978) in order to specify a new method of determining the measure of efficiency of water heaters.

DOE is today proposing to amend the test procedures for water heaters, specifically Appendix E to Subpart B of Part 430, Code of Federal Regulations, in order to specify two new measures, first hour rating and recovery rate.

B. Discussion

When originally proposed on April 21, 1977, the test procedures for water heaters included the measures of hot water supply rating and recovery rate. Hot water supply rating was a measure of the maximum amount of hot water that a water heater could provide in one hour. Recovery rate was a measure of the rate at which a water heater could heat water. Both of these measures were included in the original proposed test procedures because they were likely to assist consumers in making purchasing decisions.

At the public hearing on the original proposed water heater test procedures, members of the water heater industry argued that the test procedures as proposed were unduly burdensome for the testing of electric water heaters with immersed heating elements due to the large number of models that would have to be tested and the attendant high cost of testing.

After reviewing those comments, a decision was made to revise the definition of a water heater basic model for the final test procedures to exclude immersed heating elements from consideration as a distinguishing feature of a basic model. This change was made only after a very careful evaluation led to acceptance of the commenters' claim that, for the purposes of the test procedures, the electrical characteristics of an electric water heater with immersed heating elements have only a minimal effect on its efficiency and hence its energy consumption. Since these characteristics did, however, have a significant effect on the proposed measures, hot water supply rating and

recovery rate for electric water heaters, this revision of the definition of a water heater basic model made the proposed method for the determination of these measures unworkable.

Since hot water supply rating was a useful measure of the capacity of a water heater, members of the water heater industry expressed concern over the possible loss of this measure. They commented that the hot water supply rating of an electric water heater with immersed heating elements could be predicted by calculation; however, they had no such prediction scheme to present at the time. Neither did they submit any data from which a hot water supply rating prediction scheme might be developed.

While the development of a scheme for predicting the hot water supply rating of such a water heater was considered feasible, it was found that, lacking a proven hot water supply rating prediction scheme and lacking test data from which to attempt to develop such a scheme, the proposed measure, hot water supply rating, had to be deleted from the final test procedures for water heaters. However, a statement was included in the notice of the final rule on test procedures to the effect that further investigations into schemes for the prediction of hot water supply rating or for the determination of some other measure of hot water delivery performance for water heaters would be made. It was further stated that the water heater industry and other interested parties were invited to provide input concerning these investigations.

No comments on the original proposed test procedures for water heaters addressed the measure of recovery rate. This measure, sometimes referred to as "recovery capacity," accounted for the combined effect of a water heater's power input and recovery efficiency on the rate at which the water heater could heat water. In the proposed test procedures, recovery rate was to be determined independently of hot water supply rating and was intended to serve as a useful measure of the rate at which a water heater could recover from a large hot water draw. The higher the recovery rate, the more quickly the water heater could replenish its stored volume of hot water subsequent to a large water draw.

Revising the definition of a water heater basic model also made the proposed method for the determination of recovery rate unworkable. Again, lacking a proven recovery rate prediction scheme and the test data from which to attempt to develop such a

scheme, this proposed measure, like hot water supply rating, had to be deleted from the final test procedures.

The investigation into schemes for the prediction of hot water supply rating or for the determination of some other measure of hot water delivery performance for water heaters was concluded by DOE at about the same time that two events occurred which reaffirmed the need for such measures to be included in the test procedures for water heaters. The first of these events was the release of the Federal Trade Commission's (FTC) final staff report on FTC's proposed rule concerning disclosure of energy cost and consumption information in labeling and advertising of consumer products. This report was released on February 12, 1979. In it, FTC made the following statement in the section dealing with the determination of the capacity of consumer products covered by the proposed rule:

"Historically, gas and oil water heater sales are based on recovery capacity, while electric water heater comparisons are based on storage capacity. Some participants [in the public hearing and written comments process] argued that the traditional methods of comparing water heaters are unsatisfactory. A system that reflects the energy needed both to store and to replace consumed hot water is more informative than one that measures only storage or recovery. The Recommended Rule reservedly bases capacity on tank storage, in accordance with current DOE test procedures. If the Department of Energy prescribes methods of measuring first hour recovery rates or hot water supply ratings before the Commission issues the final labeling rule, staff recommends that the final rule reflect the DOE procedure for measuring capacity in effect at that time."

The second event was the series of six public meetings held on DOE's advanced notice of proposed rulemaking regarding energy efficiency standards for nine types of consumer products. These public meetings were held over the period January 26 to February 8, 1979. Four of the participants in these public meetings, all representatives of the water heater industry, made statements to the effect that DOE should use the measure, first hour rating, as the measure of the capacity of a water heater and issue minimum energy efficiency standards which are a function of this capacity measure. (As it is used here, first hour rating can be considered to be equivalent to hot water supply rating.) These commenters claimed that the establishment of minimum energy efficiency standards as a function of tank volume, the present measure of the capacity of a water

heater, would impose a more stringent requirement on water heaters with large tank volumes than those with small tank volumes. Such an approach would discriminate against water heaters with large tank volumes. It was pointed out that water heaters with large tank volumes provide a utility which cannot always be matched by those with smaller tank volumes, particularly in the case of electric water heaters. Commenters argued that consumers need water heaters with large tank volumes to satisfy their hot water needs in order to take advantage of off-peak or time-of-day electric utility rates to reduce their water heating energy bill.

In an effort to develop a more useful measure of water heater capacity, DOE is proposing to amend the test procedures for water heaters to incorporate two new measures, recovery rate and first hour rating.

Recovery rate as proposed in this notice is the same as it appeared in the original proposed test procedures except that a new method of determining the power input of an electric water heater with immersed heating elements is specified. Also, as proposed in this notice, recovery rate is used in the determination of first hour rating. After reviewing the rationale behind the decision to delete this measure from the original proposed test procedures for water heaters, DOE has determined that the measure should now be reconsidered. DOE finds that while the method for the determination of power input for electric water heaters with immersed heating elements may introduce some error into the determination of recovery rate, such error may not be of such a magnitude as to be unacceptable. The benefits of this measure, both with regard to its usefulness to consumers, discussed earlier, and its contribution toward the determination of first hour rating, may outweigh concerns over any slight inaccuracy in the measure.

While first hour rating as herein proposed is equivalent to hot water supply rating as it appeared in the original proposed test procedures for water heaters, the different name for the measure has been chosen for two reasons: to eliminate possible confusion between the two versions of the measure since the methods for their determination differ and to eliminate the subjective term "hot" from the title. Consumers of differing sensibilities are likely to differ in their interpretation of what constitutes "hot" water. Since it is not DOE's intent to define "hot" water, the use of this term could be misleading to consumers. The new title "first hour

rating" is a more appropriate title since it both identifies the time base of the measure, and hour, and, by use of the term "first", implies that the measure is only indicative of the performance of the water heater during its "first" hour of operation. While the consumer will not know the conditions for the determination of this measure, it is sufficient that the term will discourage the interpretation of the measure as a rate of hot water delivery performance which the water heater can maintain hour after hour.

The test for first hour rating proposed here is significantly less burdensome than the test for hot water supply rating previously proposed. Not only are fewer tests required for electric water heaters with immersed heating elements, but the test itself is a simpler, less time-consuming one than the hot water supply rating test previously proposed. Just as with the hot water supply rating test, the first hour rating test can be conducted right before or after a standby loss test. The only additional test instruments required will be a weighing container and a scale for weighing the water drawn from the water heater during the test or a water flow meter for determining directly the amount of water drawn from the water heater during the test.

The determination of the measure, first hour rating, is based partly on test results and partly on calculation. The test portion is intended to account for the influence of tank capacity, tank geometry, and water inlet/dip tube design. The calculation portion is intended to account for the influence of input power and recovery efficiency. This method of determining first hour rating overcomes the problem associated with the determination of hot water supply rating in that the influence of the electrical characteristics of an electric water heater with immersed heating elements on the first hour rating is determined by calculation rather than by test.

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 to Margaret Sibley at the address indicated at the beginning of this preamble.

Comments should be identified on the outside of the envelope and on documents submitted to DOE with the designation "Water Heaters—Proposed Amendments (Docket No. CAS-RM-79-

105).³ If possible, fifteen copies should be submitted. All comments received by July 9, 1979 and all other relevant information, will be considered by DOE before final action is taken on the proposed regulation. Late comments will be considered to the extent that time permits.

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 with regard to any claim that information submitted be exempt from public disclosure.

2. Public Hearing

a. *Request procedures.* The time and place of the public hearing are indicated at the beginning of this preamble. The hearing will be continued, if necessary, on June 28, 1979.

DOE invites any person who has an interest in the proposed amendment issued today, or who is a representative of a group or class of persons that has an interest in today's proposed amendment, 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 before June 14, 1979. A request may be hand delivered to such address, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. A request should be labeled both on the document and on the envelope "Water Heaters— Proposed Amendments (Docket No. CAS-RM-79-105)."

The person making the request should briefly describe the interest concerned; if appropriate, state why he or she is a proper representative of a group or class of persons that has such an interest, and give a concise summary of the proposed oral presentation and a telephone number where he or she may be contacted.

DOE will notify, before 4:30 p.m., June 18, 1979, each person selected to appear at the hearing. Each person selected to be heard must submit 15 copies of his or her 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 Margaret W. Sibley in advance of the hearing by so indicating in the letter

requesting an oral presentation or by calling (202) 376-1651.

b. *Conduct of hearings.* DOE reserves the right to select the persons to be heard at this 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 the 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 person who wishes to ask a question at the hearing may submit the question, in writing, to the presiding officer. The presiding officer will determine whether the question is relevant and whether the time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by DOE and made available for inspection at the DOE Freedom of Information Reading Room, Room GA152, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. For information concerning the availability of records at the Freedom of Information Reading Room, call 202-252-5969. In addition, any person may purchase a copy of the transcript from the reporter.

D. Environmental and Inflationary Review

Pursuant to section 7(c)(2) 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. The Administrator has no comments.

The National Environmental Policy Act of 1969 requires DOE to assess the environmental impacts of any proposal issued by the Department for "major Federal actions significantly affecting the quality of the human environment." Since test procedures under the energy conservation program for consumer products will be used only to standardize the measurement of energy usage and will not affect the quality or distribution of energy usage, DOE has determined that the action of prescribing test procedures, by itself, will not result in any environmental impacts. On this basis, DOE has determined that, with respect to prescribing test procedures under the energy conservation program for appliances, no environmental impact statement is required.

The proposed rule has been reviewed in accordance with Executive Order 12044 and DOE Order 2030. From the regulatory analysis performed, it was determined that the proposal was significant in nature but did not have major impacts to manufacturers and consumers (imposing annual economic costs of \$100 million or more).

(Energy Policy and Conservation Act, Pub. L. 94-163, 89 Stat. 871, 42 U.S.C. 6201 as amended by Pub. L. 95-619, 92 Stat. 3281; Department of Energy Organization Act, Pub. L. 95-91, 91 Stat. 565, 42 U.S.C. 7101).

In consideration of the foregoing, it is proposed to amend Part 430 of Chapter II of Title 10, Code of Federal Regulations, as set forth below.

Issued in Washington, D.C., May 3, 1979.

Maxine Savitz,
Deputy Assistant Secretary, Conservation and Solar Applications.

Appendix E to Subpart E—[Amended]

1. Appendix E to Subpart B of Part 430 is amended by adding a new section 3.7 to read as follows:

- * * * * *
- 3.7 *First hour rating test.*
- 3.7.1 *First hour rating test for gas and oil water heaters and electric water heaters with other than immersed heating elements.* Establish normal water heater operation with the maximum mean tank temperature within the range specified in section 2.6 and with all air eliminated from the tank. Begin the first hour rating test immediately after a cutout by recording the time and withdrawing water from the water heater at a rate of 5.0 ± 0.25 gallons per minute. All water withdrawn from the water heater during this test shall be collected in a weighing container for the purpose of determining

its weight. Alternatively, a water flow meter may be used to measure the volume of water withdrawn from the water heater directly. Continuously monitor the outlet water temperature from the start of the waterdraw and record the maximum value measured. For the purposes of this test, this recorded temperature shall be referred to as the initial outlet water temperature. Continue the withdrawal of water until the outlet water temperature drops to a value 40° F below the initial outlet water temperature, at which time terminate the withdrawal, record the time duration, t_r , of the test, in hours measured with an error no greater than 2 percent, and record the weight of the water withdrawn, W , in pounds, measured with an error no greater than 2 percent, or the volume of the water withdrawn, G , in gallons, measured with an error no greater than 2 percent. If the outlet water temperature does not drop 40° F after one hour, the test is to be terminated and the first hour rating expressed as greater than 300 gallons.

3.7.2 First hour rating test for electric water heaters with immersed heating elements. Except as provided in this section, all electric water heaters with an immersed heating element shall be tested with an immersed heating element that has a design power rating of 4.5 kilowatts. If 4.5 kilowatts exceeds the maximum design power rating specified by the manufacturer for the water heater to be tested, the first hour rating test shall be conducted with the water heater equipped with an immersed heating element of a design power rating equal to the manufacturer's specified maximum design power rating. All water heaters designed to operate with dual immersed heating elements shall be tested with dual immersed heating elements of equal design power rating in accordance with the provisions specified in this section. Tests shall be conducted in accordance with the same procedures as those specified in section 3.7.1.

2. Appendix E to Subpart B of Part 430 is amended by adding a new section 4.7 to read as follows:

4.7 Recovery rate.

4.7.1 Recovery rate for gas and oil water heaters. For a gas or oil water heater, calculate the recovery rate, R , expressed in gallons per hour and defined as:

$$R = \frac{P \times E_r}{k \times \Delta T_s}$$

Where:

k is as defined in section 4.1.1.

ΔT_s is as defined in section 4.3

E_r is as calculated in section 4.1.1.

P = power input to the burner, determined in accordance with section 3.2.1, expressed in Btu per hour.

4.7.2 Recovery rate for electric water heaters. For an electric water heater, calculate the recovery rate, R , expressed in gallons per hour defined as:

$$R = \frac{P^* \times E_r \times 3.412 \text{ Btu/kWh}}{k \times \Delta T_s}$$

Where:

k is as defined in section 4.1.1.

ΔT_s is as defined in section 4.3.

E_r is as calculated in section 4.1.2 for electric water heaters with other than immersed heating elements, or section 4.1.3 for electric water heaters with immersed heating elements.

P^* = P (power input to the heating elements, expressed in kilowatts, as determined in accordance with section 3.2.1 for electric water heaters with other than immersed heating elements or section 3.2.2 for electric water heaters with immersed heating elements) with the following exception: For electric water heaters with dual immersed heating elements which, in characteristic operation of the water heater, are not energized simultaneously at any time, P^* shall be taken as the design power rating of the heating element in closest proximity to the hot water outlet of the water heater, expressed in kilowatts.

Appendix E to Subpart B [Amended]

3. Appendix E to Subpart B of Part 430 is amended by adding a new section 4.8 to read as follows:

4.8 First hour rating. Calculate the first hour rating, F , expressed in gallons and defined as:

$$F = \frac{W}{d} + [R \times (1 - t_f)], \text{ or}$$

$$F = G + [R \times (1 - t_f)]$$

Where—

R is as calculated in section 4.7.1 for gas and oil water heaters, or section 4.7.2 for electric water heaters.

W = weight of the water withdrawn from the water heater during the first hour rating test, determined in accordance with section 3.7.1 for gas and oil water heaters and electric water heaters with other than immersed heating elements, or section 3.7.2 for electric water heaters with immersed heating elements, expressed in pounds.

d = 8.25 pounds per gallon, the nominal density of water.

G = volume of water withdrawn from the water heater during the first hour rating test, determined in accordance with section 3.7.1 for gas and oil water heaters and electric water heaters with other

than immersed heating elements, or section 3.7.2 for electric water heaters with immersed heating elements, expressed in gallons.

t_f = duration of the water draw in the first hour rating test, determined in accordance with section 3.7.1 for gas and oil water heaters and electric water heaters with other than immersed heating elements, or section 3.7.2 for electric water heaters with immersed heating elements, expressed in hours.

[Docket No. GAS-RM-79-105]

[FR Doc. 79-14489 Filed 5-4-79; 4:38 pm]

BILLING CODE 6450-01-M

[10 CFR Part 436]

Federal Photovoltaic Utilization Program; Public Hearing

AGENCY: Department of Energy.

ACTION: Proposed rule.

SUMMARY: The Department of Energy today proposes rules for the monitoring and assessment requirements of the Federal Photovoltaic Utilization Act, Title V, Part 4 of the National Energy Conservation Policy Act. The program implementing this legislation is referred to as the Federal Photovoltaic Utilization Program, and is summarized in the following preamble. Under this program, Federal agencies will receive funds from the Department of Energy for the installation of photovoltaic solar electric systems at Federal facilities. Today's proposed rules relate only to requirements for monitoring and assessing the performance and operation of systems installed as a part of the program.

DATES: Written comments must be submitted by July 9, 1979. Public hearings will be held on June 14, 1979, beginning at 9:30 a.m. Requests to testify at the hearing must be submitted by June 4, 1979.

ADDRESSES: Send written comments and requests to speak to Margaret W. Sibley, Office of Conservation and Solar Applications, Room 2221C, 20 Massachusetts Avenue, N.W., Washington, D.C. 20545. Hearing will be held at Room 3000A, 12th and Pennsylvania Avenue, Washington, D.C. Documents for public inspection or copying may be found at the DOE Reading Room, GA-152, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT:

Elaine Smith, Federal Photovoltaic Utilization Program Manager, Office of Conservation and Solar Applications, Department of Energy, Room 1210, 20 Massachusetts Avenue, N.W., Washington, D.C. 20545 (202) 376-5931.

Margaret W. Sibley, Office of Conservation and Solar Applications, Department of Energy, Room 2221C, 20 Massachusetts Avenue, N.W., Washington, D.C. 20545 (202) 376-1651.

William J. Dennison, Office of General Counsel, Department of Energy, Room 3228, 20 Massachusetts Ave., N.W., Washington, D.C. (202) 376-4100.

SUPPLEMENTARY INFORMATION:

- I. Introduction and Background
- II. Statutory Provisions
- III. Description of the Federal Photovoltaic Utilization Program
 - A. The Accelerated Growth of a Commercially Viable and Competitive Industry to Make Photovoltaic Solar Electric Systems Available to the General Public as an Option
 - B. The Reduction of Fossil Fuel Costs to the Federal Government
 - C. The Stimulation of the General Use Within the Federal Government of Methods for the Minimization of Life Cycle Costs
 - D. The Development of Data on Performance and Operation Through Monitoring and Assessment of Photovoltaic Solar Electric Equipment for Which Assistance was Provided
 - E. The Installation of the Most Advanced and Reliable Photovoltaic Solar Electric Technologies
- IV. Issues
 - § 436.92 Monitoring Requirements
 - a. Installation Data
 - b. Operational Data.
 - § 436.93 Assessment Requirements
 - a. Agency Assessment
 - b. DOE Assessment
 - § 436.94 Additional Data Options
- V. Environmental Review
- VI. Comment Period and Hearing Procedures
- VII. Determinations Under Executive Order 12044

I. Introduction and Background

Title V, Part 4 of the National Energy Conservation Policy Act (NECPA) (Pub.L. 95-619) establishes the Federal Photovoltaic Utilization Program (FPUP) to be administered by the Department of Energy (DOE). The Act authorizes the appropriation of \$98,000,000 through the fiscal year ending September 30, 1981, and calls for the installation of photovoltaic solar electric systems in Federal facilities. Photovoltaic solar electric systems directly convert sunlight into electricity. Congress intends this program to stimulate the use of low-cost production techniques by the domestic photovoltaic industry.

The FPUP is part of continuing Federal support for the development of

solar energy in general, and photovoltaics in particular. Some of the technologies that will be used as a part of FPUP have been developed under the Solar Energy Research, Development and Demonstration Act of 1974 (Pub.L. 93-473). The DOE expects FPUP to assist in accelerating the commercialization of photovoltaic technology. As an ancillary benefit, the DOE anticipates that experience in using this technology will provide important feedback for continuing research and development efforts directed toward improved products.

The FPUP also continued the work started by Section 208 of the Department of Energy Act of 1978 (Pub.L. 95-238) which established a program to purchase photovoltaic solar electric systems for use by Federal agencies in life cycle cost effective applications. The Section 208 program is described in the Department of Energy Final Report, "Application and System Design Study for Cost-Effective Solar Photovoltaic Systems at Federal Installations", February 1979.

The DOE intends to implement the FPUP in rounds as funds are appropriated by Congress. Within each round there will be 2 phases: Phase I provides for selection of projects and their installation. Phase II involves monitoring and assessing the performance and operation of the photovoltaic solar electric systems funded through the FPUP for a period of three years. Applications may be submitted to the DOE by any Federal agency desiring to install photovoltaic solar electric equipment at a Federal facility. The application for project assistance shall include information concerning: the funds required for the acquisition and installation of photovoltaic solar electric equipment on the specified facility; the proposed implementation schedule; the extent to which the public, private, or commercial sector utilizes facilities of the type for which project assistance is applied; the extent to which the agency intends to participate in a permanent Federal market for photovoltaics; and a determination of the life cycle cost effectiveness.

Applications for fiscal year 1979 have been based on the life cycle costing methodology developed for use in the Section 208 program and contained in "Application and System Design Study for Cost-Effective Solar Photovoltaic Systems at Federal Installations," Final Report, February 1979. Currently the DOE is coordinating the formulation of more sophisticated life cycle costing methodologies.

The proposed rules set forth at the end of this preamble cover only one aspect of the FPUP: the specific requirements for monitoring and assessing the performance and operation of the FPUP solar electric systems. This preamble summarizes the entire program, including the monitoring and assessment requirements, and also discusses alternatives to the proposed rules.

II. Statutory Provisions

Section 563 of the NECPA establishes the Federal Photovoltaic Utilization Program (FPUP) which requires the DOE to develop and carry out a program to stimulate photovoltaic energy commercialization through accelerated procurement and installation of photovoltaic solar electric systems in Federal facilities. To this end, section 565 authorizes the DOE to make acquisitions of photovoltaic solar electric systems. Acquisitions may occur through the use of multiyear contracts. Section 566(1) requires the DOE to consult with the Department of Defense to insure that the installation and purchase of FPUP photovoltaic solar electric systems does not interfere with defense-related activities. Section 566(2) requires the DOE to prescribe rules and regulations to monitor and assess the performance and operation of photovoltaic electric systems installed pursuant to the FPUP. Section 566(3) requires the DOE to report annually to the Congress on the status of the program. Section 567(a) limits the DOE to procuring not more than 30 megawatts of photovoltaic solar electric systems through fiscal year ending September 30, 1981, for purposes of the FPUP.

Section 567(b) provides that Federal agencies may directly procure photovoltaic solar electric systems, in lieu of purchases of photovoltaic solar electric systems under FPUP. However, such agencies are required by section 567(b) to consult with the DOE before procuring such systems. Section 569 authorizes the appropriation of funds to the DOE for the purpose of this program not to exceed \$98,000,000 through the fiscal year ending September 30, 1981.

III. Description of the Federal Photovoltaic Utilization Program

The program policies discussed in this section are intended to provide for the accomplishment of the program purposes within the framework of the legislation. In this section, a purpose of the FPUP is set forth, and then the program policies are discussed in order

to illustrate the way in which that purpose will be accomplished.

A. The Accelerated Growth of a Commercially Viable and Competitive Industry To Make Photovoltaic Solar Electric Systems Available to the General Public as an Option

A purpose of the legislation is to accelerate the growth of a commercially viable and competitive industry in order to make photovoltaic solar electric systems available to the general public as an option. The DOE plans to schedule procurement of photovoltaic solar electric systems in a manner which will stimulate the use of low-cost production techniques by suppliers of such systems. By participating with the other Federal agencies in the selection of photovoltaic electric system applications and suppliers, the DOE intends to create a Federal market for photovoltaic solar electric systems. The increased annual sales to this Federal market are expected to stimulate the use of low-cost mass production processes by the photovoltaic solar electric industry.

B. The Reduction of Fossil Fuel Costs to the Federal Government

Another purpose of the legislation is to reduce fossil fuel costs to the Federal Government. The DOE intends to fund photovoltaic solar electric systems under the FPUP only if their installation would result in the reduction of current use of fossil fuels or reduction in the rate of growth of fossil fuel use.

C. The Stimulation of the General Use Within the Federal Government of Methods for the Minimization of Life Cycle Costs

The DOE intends to establish guidelines to stimulate the general use within the Federal Government of methods for the minimization of life cycle costs. The DOE will require each participating agency to submit and explain information regarding all of the costs to be incurred and all of the savings to be accrued over the total lifetime of the photovoltaic system. Because the savings are assumed to be in the form of reduced conventional energy demand, the savings can be quantified by the value of the amount of fuel saved due to the use of photovoltaic solar energy equipment to meet some of the energy demand of the facility.

Applications for FY 1979 have been based on the life cycle costing methodology developed for use in the Section 208 program and contained in "Application and System Design Study for Cost-Effective Solar Photovoltaic Systems at Federal Installations," Final

Report, February 1979. Currently the DOE is coordinating the formulation of more sophisticated life cycle costing methodologies. Such methodologies will be utilized by the DOE and participating agencies to determine the life cycle cost effectiveness of future installation under the FPUP. The new methodologies will be available from the DOE and comments on their validity will be welcome.

D. The Development of Data on Performance and Operation Through Monitoring and Assessment of Photovoltaic Solar Electric Equipment for Which Assistance Was Provided

Section 566(2) of the FPUP legislation requires that the DOE establish rules to monitor and assess the photovoltaic solar electric equipment for which assistance was provided under the FPUP. The rules proposed today define and outline the specific information required to be reported and the reporting schedule. The information collected from the installations will provide one substitute for private and commercial experience in the use of photovoltaics.

The DOE recognizes the problems of Federal agencies in meeting reporting requirements. Therefore, to the extent possible, the DOE will minimize the burden of the data gathering activities to be required by this program. In a few selected sites, DOE may feel that a project design warrants additional specific data gathering. The DOE and the participating agency will make any necessary contractual arrangements when a site is selected for additional data gathering. A discussion of the proposed monitoring and assessment rules is presented in Section IV below.

E. The Installation of the Most Advanced and Reliable Photovoltaic Solar Electric Technologies

One objective of the legislation is installation, to the maximum extent practicable, of the most advanced and reliable technologies. In order to assure, monitor, and maintain control over the completeness and reasonableness of the system design, and to insure that such systems reflect the most advanced and reliable technologies, the DOE will provide assistance in a two-step process—proposals will be reviewed and initial selections made, after which the system design will be reviewed. If the system design is technically adequate, assistance will be provided through interagency agreement. If the system design is technically inadequate, then the DOE will attempt to assist the applicant make its proposal design

acceptable. The DOE will not provide assistance in connection with cost overruns. The DOE will not provide any assistance in connection with operation and maintenance of the photovoltaic solar electric system, or the management and operation of the facility.

IV. Issues

In the process of formulating the proposed rules, the DOE considered alternatives to the rules as proposed. This section discusses those alternatives and explains why the option that appears in the proposed rules was chosen. The numbering below corresponds to the numbering in the proposed rules to make cross-referencing easier.

§ 436.92 Monitoring requirements.

(a) *Installation Data.* The proposed rules require the participating agency to keep background data on file for each installation. The information required includes the system design and installation drawings, acceptance test plan and data, records of design reviews, and an operation and maintenance manual. The DOE considered requiring the submission of all this data to the DOE as part of the Installation Report. Installation Reports are required to be submitted within 60 days of project completion. The DOE chose, however, not to require the submission of the background information in order to minimize the reporting burdens on the participating agencies.

The Installation Report may be submitted for a group of systems (systems group) having substantially similar systems characteristics, as defined in the definitions section of the proposed rules. The DOE elected this approach instead of an absolute requirement of submitting an Installation Report for each installation. Such systems groups are to be identified in cooperation between the participating agency and the DOE. The systems group reporting approach was chosen in order to minimize agency reporting requirements. It is further anticipated that information classified by systems group will be of greater value to future Federal initiatives and private sector programs.

(b) *Operational Data.* The proposed rule requires the participating agency to submit semiannual Operational Reports for a period of three years. A question considered by the DOE was the length of time an agency would be required to submit the Operational Reports. The DOE feels that uniform operational data

is required in order to integrate the FPUP data with future programs. As a result, the DOE elected to propose a requirement that the agencies submit operational data for a period of three years on all installations and/or systems groups.

§ 436.93 Assessment requirements.

(a) *Agency Assessment.* The DOE is proposing to require each participating agency to submit a summary of its experience with the FPUP solar systems, in order to learn more about attitudes that result from user experience with photovoltaics. User attitudes are important to the photovoltaic industry and to Congress in their attempts to stimulate a photovoltaics market.

(b) *DOE Assessment.* The DOE is proposing to assess the performance and operation of systems along with the participating agencies. The DOE assessment will appear in the annual report to Congress required by Section 566(3). An alternative would be to prepare a separate report. Because the public, photovoltaics industry, and others would have access to the annual report to Congress, a separate report would result in unnecessary duplication.

§ 436.94 Additional data options.

Many of the systems to be installed under the FPUP can yield important technical information. Requiring extensive reporting on all systems, however, would be time consuming and expensive. As a result, the DOE has reserved the right to choose individual systems for intensive monitoring. For systems so chosen, the DOE will arrange for the provision of technical, financial, and personnel assistance for the participating agency. As a result, the participating agency will not be burdened with additional reporting or financial requirements.

V. Environmental Review

DOE is preparing an environmental assessment of the Federal Photovoltaic Utilization Program pursuant to the National Environmental Policy Act of 1969, as amended (NEPA) (42 U.S.C. 4321 *et seq.*). If on the basis of this environmental assessment, it is concluded that the impacts of the program are environmentally significant, an environmental impact statement will be prepared. This NEPA review will be completed and considered prior to the promulgation of a rule in this matter.

VI. Comment Period and Hearing Procedure

A. Written Comments

Interested persons are invited to submit written comments with respect to the proposed regulation to Margaret Sibley at the address specified at the beginning of this preamble. Comments should be identified on the outside of the envelope with the designation "Federal Photovoltaic Utilization Program (Docket No. CAS-RM-79-402)." Five copies must be submitted. All comments received by July 9, 1979, before 4:30 p.m., and all relevant information, will be considered by the DOE before final action is taken on the proposed regulations.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. The DOE reserves the right to determine the confidential status of the information or data and to treat such information or data according to its determination.

B. Public Hearings

1. *Request Procedure.* The time and place for the hearing are indicated at the beginning of this preamble. If necessary to present all oral statements, the hearing will be continued at 9:30 a.m. on June 15, 1979.

Any person who has an interest in the proposed regulations issued today, or who is a representative of a group or class or persons with such an interest, may make a written request for an opportunity to make an oral presentation. Such a request should be delivered to the DOE at the address stated at the beginning of this preamble, and must be received before 4:30 p.m., on June 4, 1979. Such a request may be hand delivered to Room 2221C, 20 Massachusetts Avenue, N.W., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except for holidays. The person making the request should be prepared to describe the interest concerned; to state, if appropriate, why he or she is a proper representative of a group or class of persons that has such an interest; and to give a concise summary of the proposed oral presentation and a phone number where he or she may be contacted through June 14, 1979.

Each person selected to be heard will be notified by the DOE before 4:30 p.m., on June 6, 1979, and must submit 15 copies of his or her statement to Margaret W. Sibley, Room 2221C, 20 Massachusetts Avenue, N.W., Washington, D.C. 20545 by June 11, 1979.

2. *Conduct of the Hearing.* The 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 the DOE with respect to the subject matter of the hearing will be based on all information available to the 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 persons may submit questions, to be asked of any person making a statement at the hearings, to Margaret Sibley before 4:30 p.m., June 13, 1979. Any person who wishes to ask a question at the hearing may submit the question, in writing, to the presiding officer. The DOE, or the presiding officer if the question is submitted at the hearing, 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 hearings will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by the DOE and made available for inspection at the Freedom of Information Office, Room GA-152, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8 a.m., and 4:30 p.m., Monday through Friday.

In the event that it becomes necessary for the DOE to cancel a hearing, DOE will make every effort to publish advance notice in the Federal Register of such cancellation. Moreover, DOE will notify all persons scheduled to testify at the hearings. However, it is not possible for DOE to give actual notice of cancellations or changes to persons not identified to DOE as participants. Accordingly, persons desiring to attend a hearing are advised to contact DOE on the last working day preceding the date of the hearing to confirm that it will be held as scheduled.

VII. Determinations Under Executive Order 12044

Today's proposed rule was reviewed under Executive Order 12044, 43 FR 12681, and is deemed to be significant because of the impact on Federal agencies of the Executive Branch. This is not deemed a major rulemaking because the rules when finalized will not have the kind of effects which call for a regulatory analysis.

(National Energy Conservation Policy Act, Pub. L. 95-619; Department of Energy Organization Act, Pub. L. 95-91.)

In consideration of the foregoing, it is proposed to amend Chapter II of Title 10, Code of Federal Regulations, by establishing Subpart E or Part 436 as set forth below.

Issued in Washington, D.C., May 2, 1979.

Maxine Savitz,
Deputy Assistant Secretary, Conservation and Solar Applications.

PART 436—FEDERAL ENERGY MANAGEMENT AND PLANNING PROGRAMS

Subpart E—Federal Photovoltaic Utilization Program

- Sec.
- 436.90 Purpose and scope.
 - 436.91 Definitions.
 - 436.92 Monitoring requirements.
 - 436.93 Assessment requirements.
 - 436.94 Additional data reporting options.

Authority: Sec. 566(2), National Energy Conservation Policy Act, (Pub. L. 95-619, 92 Stat. 3281).

Subpart E—Federal Photovoltaic Utilization Program

§ 436.90 Purpose and scope.

This subpart provides the rules that the Department of Energy is required to promulgate for monitoring and assessing the performance and operation of photovoltaic systems under the Federal Photovoltaic Utilization Act, Title V, Part 4 of the National Energy Conservation Policy Act of 1978 (Pub. L. 95-619). The program implementing this legislation is known as the Federal Photovoltaic Utilization Program. The legislation authorizes the Department of Energy to fund the installation of photovoltaic solar electric systems in Federal facilities. The regulations set forth monitoring and assessment requirements applicable to the Department of Energy and the Federal agencies that install photovoltaic solar electric systems using project assistance provided under the Federal Photovoltaic Utilization Program.

§ 436.91 Definitions.

As used in this part:

"Acceptance Test Costs" means the costs associated with executing an acceptance test plan and collecting acceptance test data.

"Acceptance Test Data" means that data collected as a result of the execution of an acceptance test plan.

"Acceptance Test Plan" means a test procedure for assuring that a photovoltaic solar electric system will meet its designed reliability and power output requirements after installation and prior to acceptance by a Federal agency.

"Agency" means an Executive agency as defined in Section 105 of Title 5, United States Code.

"Construction Costs" means the cost of site preparation, including the cost of materials and labor related to site preparation, prior to installation of a photovoltaic solar electric system.

"Design Review" means a meeting or series of meetings held by an agency with the designer of a photovoltaic solar electric system to assess and document the adequacy and accuracy of the mechanical, electric, and control portions of the system and to insure that estimates of acquisition, construction, and installation costs are correct.

"DOE" means the Office of Conservation and Solar Applications of the Department of Energy.

"Engineering Design Costs" means the cost of preparing specifications and drawings for the procurement, construction, and installation of photovoltaic solar electric systems.

"Facility" means any structure or fixture which uses electrical energy.

"Federal Facility" means any building, structure, or fixture or part thereof which is owned by the United States or any Federal agency, or which is held by the United States or any Federal agency under a lease-acquisition agreement under which the United States or Federal agency will receive fee simple title under the terms of such agreement without further negotiation.

"Installation Costs" means the cost of installing a photovoltaic solar electric system on a prepared site, but does not include photovoltaic structure costs.

"Normal Operation" means the operation of the photovoltaic solar electric system, where after installation, the system meets designed reliability and power output requirements.

"Operations and Maintenance Costs" means those costs incurred after commencement of normal operation and associated with maintaining a photovoltaic solar electric system so that it continues to perform satisfactorily over its design lifetime.

"Operations and Maintenance Manual" means a technical document prepared by the manufacturer or the installer of a photovoltaic solar electric system, describing how the system functions and specifying the procedures to be followed so that normal operation of the system is maintained.

"Photovoltaic Array" means that portion of a photovoltaic solar electric system which directly converts incident sunlight to electricity by means of photovoltaic effect.

"Photovoltaic Array Costs" means the cost of a photovoltaic array.

"Photovoltaic Effect" means the physical phenomenon exhibited under certain circumstances by some materials in which a portion of the light energy striking the material is directly converted to electrical energy.

"Photovoltaic Outage" means an interruption of normal operation due to a failure within the photovoltaic solar electric system.

"Photovoltaic Solar Electric System" means a system consisting of a photovoltaic array and all other components, including energy storage devices where appropriate, necessary to provide electricity.

"Photovoltaic Structure Costs" means the cost of the structure necessary to support the photovoltaic array, but does not include installation costs.

"Program" means the Federal Photovoltaic Utilization Program which implements the Federal Photovoltaic Utilization Act.

"Project" means specific actions to accomplish the design, acquisition, construction, and installation of photovoltaic solar electric equipment in a single facility.

"Sub-Assemblies Costs" means the cost of the components of a photovoltaic solar electric system such as batteries, regulators, inverters, and cabling.

"Systems Group" means a grouping of photovoltaic solar electric systems which have similar design and operating characteristics, which are operated by the same agency, and which have been specifically designated as a systems group by the DOE. Factors considered in designating a systems group include, but are not limited to: Design, location, method of installation, facility type, technology, operations and maintenance schedules, size, costs, and projected costs in future markets.

§ 436.92 Monitoring requirements.

(a) *Installation data.* (1) Each agency participating in the program shall maintain for each project records regarding the information described below. Upon reasonable notice of

request, the participating agency shall make such records available to DOE for inspection. Four copies of the information shall be submitted to the DOE upon request. The information may also be submitted to the DOE in the same form and at the same time as it is received or generated by an agency. The records required to be maintained under this paragraph include:

(i) Current photovoltaic solar electric system design and installation drawings;

(ii) A written record of the project design review;

(iii) Acceptance test plan and acceptance test data; and

(iv) The Project Operation and Maintenance Manual.

(2) Within sixty days of commencement of normal operation, each participating agency shall submit one Installation Report for each completed project. *Provided, however,* That if any participating agency installs multiple projects with substantially similar systems characteristics, the agency may request, and the DOE may then allow the agency, to submit a single report for such systems group. The DOE may require each Installation Report to assume the format of a standard form to be supplied to participating agencies by the DOE. Each Installation Report shall state:

(i) Actual and planned project completion date;

(ii) Total funds expended;

(iii) Actual and planned breakdown of:

(A) Photovoltaic array costs;

(B) Photovoltaic structure costs;

(C) Subassemblies costs;

(D) Construction costs;

(E) Engineering design costs;

(F) Installation costs;

(G) Acceptance test costs; and

(H) Any other costs;

(iv) Names of manufacturers and/or installers;

(v) Significant problems encountered; and

(vi) Comments and recommendations.

(b) *Operational data.* Within sixty days of commencement of normal operation, each agency shall submit a Systems Operational Report containing the following operating and maintenance information for each project. The agency shall continue to submit such reports on a semiannual basis thereafter for three years, unless otherwise stipulated in the interagency agreement by which the DOE agreed to fund the project. The DOE may require each Systems Operational Report to assume the format of a standard form to be supplied to participating agencies by the DOE. Each Systems Operational

Report shall describe for the reporting period:

(1) All photovoltaic or other scheduled outages;

(i) Reasons for all scheduled outages;

(ii) Corrective actions taken; and

(2) Operations and maintenance cost.

(c) *Unscheduled outages.* All unscheduled outages shall be reported to the DOE within thirty days of the completion of corrective action, and each unscheduled outage report shall describe:

(1) Unscheduled outage length;

(2) Reasons for unscheduled outage; and

(3) Corrective action taken.

(d) In the event that any participating agency experiences logistic hardships that make semiannual reports impractical, the agency may request in writing, on or before sixty days from the due date of the report, that the DOE allow reports to be submitted on an annual basis, upon a showing of good cause by the agency. The request shall be signed by a senior policy making official of the participating agency such as an Assistant Secretary or an Assistant Administrator.

(e) If the DOE has allowed the reporting of installation data by systems group under paragraph (a)(2) of this section, operational data required under this section may also be submitted by systems group.

§ 436.93 Assessment requirements.

(a) *Assessment by Participating Agencies.* (1) Within three years of commencement of normal operation, each agency participating in the FPUP shall provide to the DOE a Final Report on the installation and operation of each photovoltaic solar electric system. Copies of the Final Report shall be transmitted to the manufacturers and installers of the systems. This report shall be for a systems group where such group has been identified by the DOE. Each Final Report shall identify:

(i) Design characteristics of the project or system group;

(ii) Manufacturers and installers of the project;

(iii) Methods which were used to achieve cost, reliability, and designed power production goals;

(iv) Data that were or would have been helpful to the participating agency in advance of system design and implementation;

(v) Technical problems and failures;

(vi) Problems in system development and installation arising from technical, regulatory, and/or institutional interfaces; and

(vii) The extent to which the participating agency intends to rely in the future upon photovoltaic solar electric systems to supply its energy needs.

(b) *Assessment by the DOE.* (1) The DOE shall assess, in Annual Reports to the Congress, the performance and operation of the systems installed pursuant to the program. Each report shall be based on the monitoring and assessment data submitted by the participating agencies under the requirements of this Subpart, as well as other information available to the DOE. Each Annual Report will address issues relating to:

(i) Energy savings in current and future markets;

(ii) Carry-over to other applications categories and systems groups;

(iii) Potential for standardization of components;

(iv) Potential for modular use and installation of components;

(v) Optimal design approaches to achieve cost and performance goals;

(vi) Down time attributable to unscheduled outages;

(vii) Cost of repairing unscheduled outages;

(viii) Suggested resolution of regulatory issues; and

(ix) Life cycle cost data.

§ 436.94 Additional data reporting options.

(a) The DOE will retain the option to select projects in which a participating agency will be required to:

(1) Install instrumentation and provide other services required for the collection of instrumented performance data for a period not to exceed three years from date of photovoltaic solar energy system operation, and

(2) Submit additional design disclosure, component, and facility energy load data, or such other data as may be required to evaluate photovoltaic solar electric systems for a period not to exceed three years from the date of project operation.

(b) Participating agencies selected under paragraph (a) of this section will be notified in writing by the DOE regarding their selection and of any specific instructions under that paragraph.

(c) For any project selected by the DOE under paragraph (a) of this section, the agency will be funded by the DOE to cover the costs of instrumentation and the related activities which are to be performed in accordance with the instructions provided by the DOE.

(d) The DOE may provide instrumentation, sensors, junction box.

data recording system, installation and other related data gathering services by support contractors if necessary to:

(1) Minimize cost to the Government; or

(2) Assure the acquisition of accurate and uniform information.

[Docket No. CAS-RM-79-402]

[FR Doc. 79-14494 Filed 5-4-79; 4:38 pm]

BILLING CODE 6450-01-M

[10 CFR Part 456]

Residential Conservation Service Program; Proposed Rulemaking and Public Hearing Correction Notice

AGENCY: Department of Energy.

ACTION: Correction to Notice of Proposed Rulemaking and extension of public comment period.

SUMMARY: The following are changes to the proposed rule issued in FR Doc. 79-7797 in the Monday, March 19, 1979 issue of the Federal Register, Vol. 44, No. 54, Book 2, pp. 16543-16877. These changes are issued in order to correct clerical, grammatical or typographical errors in the March 19, 1979 publication and do not reflect policy changes of the Department.

DATES: The comment period on the proposed rule is extended to June 11, 1979.

Comments on the Draft Regulatory Analysis, the draft environmental assessment, and the urban and community impact analysis must be received by July 9, 1979.

ADDRESS: Send comments to: Margaret W. Sibley, Office of Conservation and Solar Applications, U.S. Department of Energy, 20 Massachusetts Avenue, NW., Washington, D.C. 20545, (202) 376-4802.

FOR FURTHER INFORMATION CONTACT: James R. Tanck, Director, Residential Conservation Service Program, Office of Conservation and Solar Applications, U.S. Department of Energy, 20 Massachusetts Avenue, NW., Washington, D.C. 20545, (202) 376-4708.

Margaret W. Sibley, Office of Conservation and Solar Applications, U.S. Department of Energy, 20 Massachusetts Avenue, NW., Washington, D.C. 20545, (202) 376-4802.

Issued in Washington, D.C., on May 2, 1979.

Maxine Savitz,

Deputy Assistant Secretary, Conservation and Solar Applications.

1. On page 16546, column three, the paragraph entitled "DATES" should read as follows:

"Written comments on the proposed rule must be received by June 11, 1979, 4:30 p.m., e.d.t., in order to assure their consideration. Written comments on the Draft Regulatory Analysis, the draft environmental assessment, and the urban and community impact analysis must be received by July 9, 1979, 4:30 p.m., e.d.t., in order to ensure their consideration.

Hearings will be held at the places and on the dates indicated below in the proposed rule. A special hearing will be held late in June in Washington, D.C., to hear oral comments on the Draft Regulatory Analysis, the draft environmental assessment, and the draft urban and community impact analysis. The exact date, time, and place of this hearing will be published in the Federal Register at a later time.

2. On page 16546, column three, in the paragraph entitled "HEARINGS", delete the word "seven" and insert in lieu thereof: "eight".

3. On page 16546, third column, immediately before "SUPPLEMENTARY INFORMATION," insert: "William Funk, Deputy Assistant General Counsel for Legal Counsel, U.S. Department of Energy, Room 6144, 12th & Pennsylvania Avenue, N.W., Washington, D.C. 20461, (202) 633-9296."

4. On page 16569, second column, the third full paragraph should read as follows:

"The standards being proposed apply to the following materials and products or components thereof."

5. On page 16569, third column, the sixth bullet ("Heat absorbing and heat-reflective glazing") should be deleted.

6. On page 16569, third column, under the heading "Technical Issues," after the eighth bullet, add a bullet which reads as follows:

"• HH-I-558—Federal Specification for Mineral Fiber Batts and Blankets—Industrial Type."

7. On page 16571, second column, the second full sentence should read as follows:

"The other requirements for loose-fill cellulosic insulation (thermal resistance, and resistance to odor emission, moisture absorption, and fungi) contained in this proposed rule will be unaffected by the CPSC actions."

8. On page 16571, third column, the fourth full paragraph should read as follows:

"The ASTM E 84-77 flame spread test method should be the basis for evaluating surface burning characteristics. This test method is recommended for polystyrene, polyurethane, and polyisocyanurate insulation board."

9. On page 16571, third column, after the last bullet, add two bullets which read as follows:

• Weatherstripping

• Energy Usage Display Meters"

10. On page 16572, first column, the first full paragraph, the third sentence should read as follows:

"An Underwriter's Laboratory standard is proposed for heat pumps and a proposed Underwriter's Laboratory standard is proposed for vent dampers on oil-fired appliances."

11. On page 16572, first column, the third full paragraph should read as follows:

"With respect to weatherstripping, glazing compounds, and heat absorbing and heat-reflective glazing materials, DOE has determined that no standard is necessary for the RCS program as commercially available materials are suitable."

12. On page 16573, second column, the third full sentence should read as follows:

"Exceptions to the 3-inch air space requirement with respect to flues and chimneys are made for mineral fiber loose-fill and unfaced batts and blankets and mineral cellular loosefill provided the materials are noncombustible when tested in accordance with ASTM E-136."

13. Page 16575, third column, the fourth full paragraph should read as follows:

"This Summary of the Draft Regulatory Analysis is published concurrently with the publication of the proposed rules for the RCS Program. A copy of the complete Draft Regulatory Analysis is available for public inspection in the DOE Reading Room, Room GA-152, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. A copy may be purchased at the cost of reproduction by contacting:

Mr. James Tanck, Director, Residential Conservation Service Program, Office of Assistant Secretary for Conservation and Solar Applications, U.S. Department of Energy, 20 Massachusetts Avenue, N.W., Washington, D.C. 20545 (202) 376-4708.

Persons who received not fully typed copies of the Draft Regulatory Analysis may receive a fully typed and edited copy without cost by contacting Mr. Tanck."

14. On page 16585, third column, the section entitled "XII. ENVIRONMENTAL AND URBAN IMPACT ANALYSIS" should read as follows:

"In accordance with the requirements of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 431 *et seq.*, DOE is undertaking an environmental assessment of the Residential Energy Conservation Program. DOE has been unable to complete the assessment by the time of NECPA's statutory deadline for the publication of these proposed rules. The assessment is scheduled to be available for public comment by June 8, 1979. Its result and availability will be published in the Federal Register.

DOE has determined that the proposed rules are a major policy and program initiative which requires formal urban and community impact analysis pursuant to OMB Circular A-116. Because of NECPA's statutory deadline for publication of these proposed rules, DOE has been unable to complete this analysis by the time of the publication of the proposed rules. The draft urban and community impact analysis is scheduled to be available for public comment by June 8, 1979. Its availability will be published in the Federal Register.

To enable full opportunity for interested persons to comment on the draft environmental assessment and the draft urban and community impact analysis, DOE is establishing a special comment period which will run through July 9, 1979, 4:30 p.m., e.d.t., dedicated to comments on these documents, as well as the Draft Regulatory Analysis. Moreover, a special hearing in Washington, D.C., will be held on these matters in late June. The exact time, date, and place will be published in the Federal Register at a later date.

15. On page 16586, first column, under "A. WRITTEN COMMENTS":

(a) Delete the last sentence in the first paragraph and insert in lieu thereof: "All written comments on the proposed rules must be received by June 11, 1979, 4:30 p.m., e.d.t. to ensure their consideration."

All written comments on the Draft Regulatory Analysis, the draft environmental assessment, and the draft urban and community impact analysis must be received by July 9, 1979, 4:30 p.m., e.d.t., to ensure their consideration."

(b) in the second paragraph, delete "June 15" and insert in lieu thereof: "July 2".

16. On page 16586, second column, under "B. HEARING PROCEDURES":

(a) In the first paragraph, insert after the first sentence: "In addition, there will be a special hearing late in June in Washington, D.C. devoted to oral comments on the Draft Regulatory Analysis, the draft environmental assessment, and the draft urban and

community impact analysis. The exact date, time, and place of that hearing will be published, in the Federal Register at a later date."

(b) In the first paragraph delete "May 3 for Salt Lake City Hearing" and insert in lieu thereof: "May 2 for Denver Hearing, May 4 for Seattle Hearing."

(c) In the last full paragraph, delete "May 7 for Salt Lake City Hearing" and insert in lieu thereof: "May 7 for Denver Hearing, "May 9 for Seattle Hearing."

§ 456.102 [Amended]

17. On page 16588, first column, paragraph (c) of § 456.102, first sentence, the following should be omitted: ", in consultation with the Administrator of the Economic Regulatory Administration."

§ 456.205 [Amended]

18. On page 16591, second column, paragraph (d) of § 456.205, the word "disapproved" should be "disapprove".

19. On page 16593, first column, paragraph (a)(4) of § 456.305 should read:

§ 456.305 Scope of benefits.

(a) . . .

(4) Billing of costs and repayment of services as described in § 456.311; and

§ 456.306 [Amended]

20. On page 16593, second column, paragraph (a)(7) of § 456.306 should read as follows:

(a) . . .

"(7) Include the following disclosure or its equivalent:

Energy savings depend on many factors. The estimates contained in this program announcement are based on simulations of typical houses. Your savings will be different if your house is a different size or type, if your family is a different size, or if your energy using habits are different from those we assumed. The energy audit which we offer will provide more specific estimates for your home."

§ 456.306 [Amended]

21. On page 16593, third column, paragraph (b)(3) of § 456.306 should read as follows:

(b) . . .

"(3) For active solar space heating systems, and for combined active solar space heating and solar domestic hot water systems, there are nine categories, which are "gas space heating", "oil space heating", "electric space heating",

with respect to the following building types:"

§ 456.307 [Amended]

22. On page 16594, third column, subdivision (v)(D)(3) of paragraph (c)(1) of § 456.307 should read as follows:

(c) . . .

(1) . . .

(v) . . .

(D) . . .

"(3) Braking:"

§ 456.307 [Amended]

23. On page 16594, third column, subdivision (v)(D)(9) of paragraph (c)(1) of § 456.307 should read as follows:

(c) . . .

(1) . . .

(v) . . .

(D) . . .

"(9) The disclosure provided in subdivision (v)(B)(5) of this subparagraph."

§ 456.307 [Amended]

24. On page 16594, third column, subdivision (iii) of paragraph (d)(1) of § 456.307 should read as follows:

(d) . . .

(1) . . .

"(iii) Provide clear indication to the eligible customer, through sample calculation or disclosure, that the total energy cost savings from the installation of several suggested measures will be less than the sum of the energy cost savings of such measures installed individually."

25. On page 16596, second column, subdivision (ii)(B) of paragraph (b)(3) of § 456.310 should read as follows:

§ 456.310 Accounting and payment of costs.

(b) . . .

(3) . . .

(ii) . . .

"(B) Arranging for a lender to make a loan to an eligible customer to finance the purchase and installation costs of energy conservation and renewable resource measures, including the cost of arranging repayment of the principal and interest of a loan as part of the periodic bill."

§ 456.311 [Amended]

26. On page 16596, third column, paragraph (b)(4) of § 456.311 should read as follows:

§ 456.311 Billing of costs, repayment of loans, and termination of service.

(b) (4) In the case of any loan for purchase and installation of suggested measures made by a covered utility or a participating home heating supplier under the Residential Conservation Service Program, or, under the circumstances described in the State Plan pursuant to § 456.305, by a lender other than a covered utility or participating home heating supplier:"

§ 456.505 [Amended]

27. On page 16602, third column, paragraph (a) of § 456.505, the following should be omitted:

"in consultation with the Administrator of the Economic Regulatory Administration,"

28. On page 16608, first column, paragraph (d)(3) of § 456.803 should read as follows:

§ 456.803 -Standards for loose-fill cellulosic or wood fiber insulation.

(d) (3) Test procedures for critical radiant flux. Critical radiant flux shall be determined in accordance with the following test procedure: Prepare the insulation to be tested by following the test method for settled density at paragraph (d)(1) of this section."

29. On page 16634, first column, paragraph (c)(3) of § 456.811 should read as follows:

§ 456.811 Standards for aluminum foil reflective thermal insulation.

(c) (3) Kraft paper. Kraft paper used in aluminum foil insulation shall meet the requirements of ASTM D585."

30. On page 16634, third column, paragraph (a)(2) of § 456.812 should read as follows:

§ 456.812 Standards for storm windows, storm and thermal doors, caulks and sealants, clock thermostats, water heater and heating/air conditioning duct insulation.

(a) (2) Storm and thermal doors (aluminum, wood, or rigid vinyl frame.)"

§ 456.812 [Amended]

31. On pages 16634-16635, third and first columns respectively, subdivision (iii) of paragraph (c)(1) of § 456.812 should read as follows:

(c) (1) (iii) Rigid vinyl frame storm and thermal windows shall be constructed with vinyl profile extrusions which conform to NBS/VPS26-70, Rigid Polyvinyl-Chloride Profile Extrusions."

§ 456.814 [Amended]

32. On page 16635, third column, paragraph (a)(2) of § 456.814 should read as follows:

(a) (2) Replacement oil-fired central furnaces."

§ 456.814 [Amended]

33. On page 16635, third column, paragraph (b)(1) of § 456.814 should read as follows:

(b) Product standards.—(1) Standards for replacement gas-fired central furnaces and boilers. Gas-fired central furnaces and boilers shall conform to ANSI Z21.47-1978, entitled "American National Standard for Gas-Fired Central Furnaces and Boilers," ANSI Z21.13-1977, entitled "Gas-Fired, Low Pressure Steam and Hot Water Heating Boilers," or ANSI Z21.59-1974, "Gas-Fired High Pressure Steam and Hot Water Heating Boilers."

§ 456.814 [Amended]

34. On page 16636, first column, after paragraph (b)(8) of § 456.814 add the following subparagraphs:

(b) (9) Standard for Replacement Oil-Fired Central Furnaces. * Oil-fired central furnaces shall conform to ANSI Z96.1, entitled "American National Standard for Oil-Fired Central Furnaces" and to UL 727, entitled "Standard for Safety, Oil-Fired Central Furnaces."

(10) Standard for Safety, Boiler Assemblies. * Boiler assemblies shall conform to ANSI Z96.3, entitled "American National Standard for Boiler Assemblies" and to UL 726, entitled "Standard for Safety, Boiler Assemblies."

(11) Standard for Direct Vent Furnaces. * Direct Vent Furnaces shall

conform to ANSI Z21.64, entitled "Direct Vent Furnaces"."

35. On page 16642, third column, paragraph (a)(7) of § 456.906 should read as follows:

§ 456.906 Standard practice for the installation of organic cellular rigid board thermal installation.

(a) (7) This practice covers the installation of the rigid board but does not include in detail the installation of exterior siding and roofing required to protect rigid board insulation from the effects of weather or the installation of interior fire protective coverings even though the protective coverings are required."

§ 456.911 [Amended]

36. On page 16654, first column, paragraph (a)(5) of § 456.911, first sentence, replace "insulation" with "clock thermostat".

Appendix I(A) to Part 456 [Amended]

37. On page 16687, paragraph (b)(3) of Appendix I(A) to Part 456 should read as follows:

(3) Replacement Furnaces or Boilers. Replacement furnaces or boilers are suggested measures for all categories of buildings in all States and climate zones."

Appendix I(B) to Part 456 [Amended]

38. On page 16723, paragraph (a) of Appendix I(B) Part 456 should read as follows:

- (a) The symbols for each measure are: D: Solar Domestic Hot Water Systems S: Active Solar Space Heating Systems D/S: Combined Active Solar Space Heating and Solar Domestic Hot Water Systems P: Passive Solar Space Heating and Cooling Systems W: Wind Energy Systems H: Replacement Solar Swimming Pool Heaters."

Appendix I(B) to Part 456 [Amended]

39. On page 16723, paragraph (b)(2) of Appendix I(B) Part 456 should read as follows:

(b) (2) The tables indicate the building type for which these two measures are suggested."

40. Page 16724 through page 16741 should read as follows:

2	Alachua Baker Bradford Columbia Glades Highlands Lake	Marion Okeechobee Orange Osceola Polk Sumter Union	Washington Webster White Wilcox	Wilkes Wilkinson Worth	McHenry Mercer Ogle Rock Island	Stephenson Whiteside Will Winnebago	
3	Brevard Broward Charlotte Citrus Clay Collier Dade DeSoto Dixie Duval Flagler Gilchrist Hardee Hendry Hernando Hillsborough Indian River	Lafayette Lee Levy Manatee Martin Monroe Nassau Palm Beach Pasco Pinellas Putnam St. Johns St. Lucie Sarasota Suwannee Volusia	3 Appling Atkinson Bacon Baker Berrien Brantley Brooks Bryan Bulloch Camden Candler Chatham Charlton Clinch Coffee Colquitt Cook Decatur Early Echols Effingham Emanuel Evans Glynn	Grady Irwin Jeff Davis Jenkins Lanier Liberty Long Lowndes McIntosh Miller Mitchell Montgomery Pierce Seminole Screven Tattnall Telfair Thomas Tift Toombs Treulien Ware Wayne Wheeler	2 Champaign Clark Coles Crawford Cumberland DeWitt Douglas Edgar Ford Grundy Henderson Iroquois Kankakee Knox LaSalle	Livingston Logan Macon Marshall McLean Moultrie Peoria Platt Putnam Shelby Stark Tazewell Vermillion Warren Woodford	
Georgia							
1	Bartow Chattooga Cherokee Cobb Dawson Douglas Fannin Floyd Forsyth Gilmer Gordon	Haralson Lumpkin Murray Paulding Pickens Polk Rabun Union Walker Whitfield	Hawaii 1 Hawaii 2 Honolulu Maui 3 Kauai		3 Adams Pond Brown Calhoun Cass Christian Clinton Fulton Greene Hancock Jersey Macoupin Madison 4 Alexander Clay Edwards Effingham Fayette Franklin Gallatin Hamilton Hardin Jackson Jasper Jefferson Johnson 5 Massac Pulaski	Mason McDonough Menard Monroe Montgomery Morgan Pike Randolph Sangamon Schuyler Scott ST. Clair	
2	Baldwin Banks Barrow Ben Hill Bibb Bleckley Burke Butts Calhoun Carroll Chattahoochee Clarke Clay Clayton Columbia Coweta Crawford Crisp Dodge Dooly Dougherty Elbert Fayette Franklin Fulton Glascock Greene Gwinnett Habersham Hall Hancock Harris Hart Heard Henry Houston Jackson Jasper Jefferson	Johnson Jones Lamar Laurens Lee Lincoln Macon Madison Marion McDuffie Meriwether Monroe Morgan Newton Oconee Oglethorpe Peach Pike Pulaski Putnam Quitman Randolph Richmond Rockdale Schley Spalding Stephens Stewart Sumter Talbot Taliaferro Taylor Terrell Troup Turner Twiggs Upson Walton Warren	Idaho 1 Benewah Bonner Boundary Clearwater Kootenai 2 Ada Adams Boise Canyon Clark Custer Elmore 3 Bannock Bingham Blaine Bonnevillie Butte Camas Cassia Fort Hall Fremont Gooding 4 Bear Lake Caribou	Latah Lewis Nez Perce Shoshone Gem Idaho Lemhi Payette Valley Washington Jefferson Jerome Lincoln Madison Minidoka Owyhee Power Teton Twin Falls Franklin Oneida	4 Hawaii 2 Honolulu Maui 3 Kauai Idaho 1 Benewah Bonner Boundary Clearwater Kootenai 2 Ada Adams Boise Canyon Clark Custer Elmore 3 Bannock Bingham Blaine Bonnevillie Butte Camas Cassia Fort Hall Fremont Gooding 4 Bear Lake Caribou	4 Alexander Clay Edwards Effingham Fayette Franklin Gallatin Hamilton Hardin Jackson Jasper Jefferson Johnson 5 Massac Pulaski Indiana 1 DeKalb Elkhart Lagrange Lake La Porte Marshall 2 Adams Allen Bartholomew Benton Blackford Boone Brown Carroll Cass Clark Clay Clinton Daviess Dearborn Decatur Delaware Fayette Floyd	Lawrence Marion Perry Pope Richland Saline Union Wabash Washington Wayne White Williamson Noble Porter St Joseph Stake Steuben Indiana Fountain Franklin Fulton Grant Greene Hamilton Hancock Harrison Hendricks Henry Howard Huntington Jackson Jasper Jay Jefferson Jennings Johnson
			Illinois 1 Boone Bureau Carroll Cook DeKalb DuPage	Henry Jo Daviess Kane Kendall Lake Lee			

Knox	Putaski	Graham	Cloud
Kosciusko	Putnam	Grant	Cowley
Lawrence	Randolph	Gray	Dickinson
Madison	Ripley	Greeley	Elis
Marion	Rush	Hamilton	Elisworth
Martin	Scott	Haskell	Harper
Miami	Shelby	Hodgeman	Harvey
Monroe	Sullivan	Kearny	Jewell
Montgomery	Switzerland	Kiowa	Kingman
Morgan	Tippecanoe	Lane	Lincoln
Newton	Tipton	Logan	Marion
Ohio	Union	Meade	McPherson
Orange	Vermillion	Ness	Mitchell
Owen	Vigo	Pawnee	Norton
Parke		Rawlins	Osborne
Wabash	Wells	Rush	Ottawa
Warren	White	Scott	Phillips
Washington	Whitley	Seward	Pratt
Wayne		Sheridan	Reno
3		Sherman	Republic
Crawford	Posey	Stanton	Rice
Dubois	Spencer	Stevens	Rooks
Gibson	Vanderburgh	Thomas	Russell
Perry	Warrick	Trego	Sanna
Pike		Wallace	Sedgwick
		Wichita	Smith
<i>Iowa</i>		Barber	Stafford
1		Barton	Sumner
Adair	Johnson	Butler	
Adams	Keokuk	3	Labetto
Appanoose	Kossuth	Allen	Leavenworth
Audubon	Louisa	Aderson	Linn
Benton	Lucas	Atchison	Lyon
Black Hawk	Madison	Bourbon	Marshall
Boone	Mahaska	Brown	Miami
Bremer	Marion	Chase	Montgomery
Buena Vista	Marshall	Cherokee	Morris
Butler	Mills	Clay	Nemaha
Calhoun	Monona	Coffey	Neosho
Cass	Monroe	Crawford	Osage
Carroll	O'Brien	Doniphan	Pottawatomie
Cerro Gordo	Osceola	Douglas	Riley
Cherokee	Page	Elk	Shawnee
Clark	Palo Alto	Franklin	Wabaunsee
Clay	Polk	Geary	Washington
Crawford	Plymouth	Greenwood	Wilson
Dallas	Pocahontas	Jackson	Woodson
Davis	ottawattamie	Jefferson	Wyandotte
Decatur	Poweshiek	Johnson	
Dickinson	Ringgold	4	
Emmett	Shelby	Morton	
Floyd	Sioux	5	
Franklin	Story	Chautaugua	
Fremont	Tama		
Greene	Taylor	<i>Kentucky</i>	
Grundy ⊕	Union	1	
Guthrie	Wapello	Anderson	Jefferson
Hamilton	Warren	Boone	Jessamine
Hancock	Washington	Bourbon	Kenton
Hardin	Wayne	Boyle	Lincoln
Harrison ⊕	Webster	Bracken	Marion
Henry	Winnebago	Bullit	Nicholas
Humboldt	Woodbury	Campbell	Oldham
Ida	Worth	Carroll	Owen
Iowa	Wright	Casey	Pendleton
Jasper		Fayette	Robertson
Jefferson,		Franklin	Scott
2		Gallatin	Shelby
Allamakee	Howard	Garrard	Spencer
Buchanan	Jackson	Grant	Taylor
Cedar	Jones	Harrison	Trimble
Chickasaw	Linn	Henry	Woodford
Clayton	Mitchell	2	
Clinton	Muscatine	Adair	Green
Delaware	Scott	Allen	Hancock
Dubuque	Winneschiek	Barren	Hardin
Fayette		Breckinridge	Hart
		Butler	Henderson
<i>Kansas</i>		Crittendon	Hopkins
1		Cumberland	Larue
Cheyenne	Edwards	Daviess	Livingston
Clark	Finney	Edmonson	McLean
Comanche	Ford	Grayson	
Decatur	Gove		

Meade	Russell	Knox	Waldo	Minnesota	
Metcalfe	Union	Lincoln	Washington	1	
Monroe	Warren	Sagadahoc	York	Becker	Mahnomen
Muhlenberg	Webster			Beltrami	Marshall
Ohio		Maryland		Big Stone	Norman
3		1		Cass	Otter Tail
Bath	Lawrence	Allegany		Chippewa	Pennington
Boyd	Lee	Garrett		Clay	Polk
Breathitt	Lewis			Clearwater	Pope
Carter	Madison	2		Crow Wing	Red Lake
Clark	Magoffin	Washington		Douglas	Roseau
Clay	McCreary			Grant	Stevens
Clinton	Menifee	3		Hubbard	Swift
Elliott	Morgan	Anne Arundel	Frederick	Itasca	Todd
Estill	Owsley	Baltimore	Hartford	Kittson	Traverse
Fleming	Pulaski	Calvert	Howard	Koochiching	Wadena
Greenup	Rockcastle	Caroline	Kent	Lac qui Parle	Wilkin
Jackson	Rowan	Carroll	Montgomery	Lake of the Woods	
Johnson	Wayne	Cecil	Prince Georges	2	
Laurel	Wolfe	Charles	Queen Annes	Aitkin	Kandiyohi
4		Dorchester	Talbot	Anoka	Meeker
Ballard	Logan	4		Benton	Mill Lake
Caldwell	Lyon	St. Marys	Wicomico	Carlton	Morrison
Calloway	Marshall	Somerset	Worcester	Chisago	Pine
Carlisle	McCracken			Cook	St. Louis
Christian	Simpson	Massachusetts		Hennepin	Sherburne
Fulton	Todd	1		Isanti	Stearns
Graves	Trigg	Berkshire	Hampden	Lake	Washington
Hickman		Franklin		Kanabec	Wright
5		2		3	
Bell	Letcher	Barnstable	Nantucket	Blue Earth	
Floyd	Martin	Bristol	Norfolk	Brown	
Harlan	Perry	Dukes	Plymouth	Carver	
Knott	Pike	Essex	Suffolk	Dakota	
Knox	Whitley	Middlesex	Worcester	Dodge	
Leslie				Faribault	
				Fillmore	
				Freeborn	
Louisiana		Michigan		4	
1		1		Cottonwood	Nobles
Avoyelles	Madison	Alger	Iron	Jackson	Pipestone
Bienville	Morehouse	Baraga	Luce	Lincoln	Rock
Bossier	Natchitoches	Chippewa	Mackinac	Martin	
Caddo	Ouachita	Dickinson	Delta	Murray	
Caldwell	Rapides	Gogebic	Menominee		
Catahoula	Red River	Houghton	Ontonagon	Mississippi	
Claiborne	Richland	2	Schoolcraft	1	
Concordia	Sabine	Alcona		Alcorn	Tate
DeSoto	Tensas	Alleghan	Lapeer	Benton	Tippah
East Carroll	Union	Alpena	Leelanau	DeSoto	Tishomingo
Franklin	Vernon	Antrim	Lenawee	Marshall	Tunica
Grant	Webster	Arenac	Livingston	Prentiss	
Jackson	West Carroll	Barry	Macomb	2	
LaSalle	Winn	Bay	Manistee	Attala	Madison
Lincoln		Benzie	Mason	Bolivar	Monroe
2		Berrien	Mecosta	Calhoun	Montgomery
Acadia	Point Coupee	Branch	Midland	Carroll	Nashoba
Allen	St. Bernard	Calhoun	Missaukee	Chickasaw	Newton
Ascension	St. Charles	Cass	Monroe	Choctaw	Noxubee
Assumption	St. Helena	Charlesvoix	Montcalm	Claiborne	Oktibbeha
Beauregard	St. James	Cheboygan	Montmorency	Clarke	Panola
Calcasieu	St. John the Baptist	Clare	Muskegon	Coahoma	Pohtotoc
Cameron	St. Landry	Clinton	Newaygo	Copiah	Quitman
East Baton Rouge	St. Martin	Crawford	Oakland	Granada	Rankin
East Feliciana	St. Mary	Eaton	Oceana	Hinds	Scott
Evangeline	St. Tammany	Emmet	Ogemaw	Holmes	Sharkey
Iberia	Tangipahoa	Genesee	Osceola	Humphreys	Simpson
Iberville	Terrebonne	Gladwin	Oscoda	Issaquena	Smith
Jefferson	Vermilion	Grand Traverse	Otsego	Itawamba	Sunflower
Lafayette	Washington	Gratiot	Ottawa	Jasper	Tallahatchie
Lafourche	West Baton Rouge	Hillsdale	Presque Isle	Kemper	Union
Livingston	West Feliciana	Huron	Roscommon	Lafayette	Warren
Orleans		Ingham	Saginaw	Lauderdale	Washington
Plaquemines		Ionia	St. Clair	Leake	Webster
Maine		Iosco	St. Joseph	Lee	Winston
1		Isabella	Sanilac	LeFlore	Yalobusha
Aroostook	Penobscot	Isabella	Shiawassee	Lowndes	Yazoo
Franklin	Piscataquis	Jackson	Tuscola	3	
Oxford	Somerset	Kalamazoo	Van Buren	Adams	Jefferson Davis
2		Kalkaska	Washtenaw	Amite	Lawrence
Androscoggin	Hancock	Kent	Wayne	Franklin	Lincoln
Cumberland	Kennebec	Lake	Wexford		

Marion Pike 4	Walthall Wilkinson	2 Blaine Cascade Chouteau Daniels Fergus Glacier Hill Liberty McCone 3	Phillips Pondera Richland Roosevelt Shoridan Teton Toole Valley	2 Eureka Lander Pershing 3 Clark Churchill Douglas Esmeralda Lincoln	Washoe White Pine Lyon Mineral Nye Storey	
Covington Forrest George Greene Hancock Harrison Jackson	Jones Lamar Pearl River Perry Stone Wayne	Basin Beaverhead Broadwater Carbon Deer Lodge Gallatin Golden Valley Granite Jefferson Judith Basin 4 Big Horn Yellowstone 5	Lewis and Clark Madison Meagher Ravalli Silver Bow Stillwater Sweet Grass Wheatland Yellowstone National Park	New Hampshire 1 Coos Grafton 2 Belknap Carroll Cheshire Hillsboro	Menimack Rockingham Strafford Sullivan	
Missouri 1 Butler Carter Dunklin Mississippi New Madrid 2 Barry Howell McDonald Newton 3 Barton Camden Cedar Christian Dade Dallas Dent Douglas Greene Hickory Iron Jasper Laclede 4 Adair Andrew Atchison Audrain Bates Benton Bollinger Boone Buchanan Caldwell Callaway Cape Girardeau Carroll Cass Chariton Clark Clay Clinton Cole Cooper Crawford Davies De Kalb Franklin Gasconade Gentry Grundy Harrison Henry Holt Howard Jackson Jefferson Johnson Knox	Oregon Pernisot Ripley Scott Stoddard Ozark Stone Taney Lawrence Madison Miller Phelps Polk Pulaski Reynolds Shannon Texas Wayne Webster Wright	5 Carter Custer Dawson Fallon Garfield Musselshell Nebraska - 1 Cherry Dawes 2 Antelope Blaine Boone Boyd Brown Buffalo Burt Butler Cass Cedar Colfax Cuming Custer Dakota Dawson Dixon Dodge Douglas Garfield Gosper Greeley Hall Hamilton Holt Howard 3 Hitchcock Red Willow 4 Franklin Furnas Harlan 5 Adams Clay Fillmore Gage Jefferson Johnson	Petroleum Powder River Prairie Rosebud Treasure Wibaux Sheridan Keya Paha Knox Lancaster Loup Madison Merrick Nance Otoe Phelps Pierce Platte Polk Rock Sarpy Saunders Seward Sherman Stanton Thurston Valley Washington Wayne Wheeler York	New Jersey 1 Atlantic Bergen Burlington Camden Cape May Cumberland Essex Gloucester Hudson Hunterdon Mercer New Mexico 1 Colfax Harding 2 Chaves Cury DeBaca Eddy Guadalupe Lea 3 Catron Dona Ana Grant Hidalgo 4 San Juan 5 Rio Arriba Bernalillo McKinley Sandoval Santa Fe 6 Mora Taos	Middlesex Monmouth Morris Ocean Passaic Salem Somerset Sussex Union Warren Union Lincoln Quay Roosevelt San Miguel Torrance Luna Otero Sierra New York 1 Canton Erie Franklin Genesee Jefferson Lewis Monroe 2 Essex Saratoga	Warren Washington
Montana 1 Flathead Lake Lincoln Mineral	Missoula Powell Sanders	Nevada 1 Elko Humboldt	Nemaha Pawnee Richardson Saline Thayer	New York 1 Canton Erie Franklin Genesee Jefferson Lewis Monroe 2 Essex Saratoga	Niagara Onondaga Orleans Oswego Saint Lawrence Wayne Warren Washington	

Deschutes	Jefferson	Georgetown	Jasper	Sullivan	Washington
Grant	Wheeler	Hampton	Marion	Union	
5		Horry	Williamsburg	5	
Coos		South Dakota		Bedford	McMinn
Curry		7		Bedford	Meigs
6		Bennett	Lawrence	Bradley	Monroe
Hamey	Lake	Butte	Meado	Cannon	Moore
Klamath	Malheur	Custer	Pennington	Coffee	Polk
Pennsylvania		Fall River	Perkins	De Kalb	Rhea
1		Haakon	Shannon	Franklin	Sequatchie
Crawford		Harding	Washabaugh	Grundy	Van Buren
Erie		Jackson	Ziebach	Hamilton	Warren
2		2		Lincoln	White
Blair	Jefferson	Aurora	Jerauld	Marion	
Bradford	Lawrence	Beadle	Jones	Texas	
Cambria	Lycoming	Bon Homme	Kingsbury	1	
Cameron	McKean	Brookings	Lake	Carson	Ochiltree
Centre	Mercer	Brule	Lincoln	Dallam	Oldham
Clarion	Potter	Buffalo	Lyman	Deaf Smith	Potter
Clearfield	Sullivan	Campbell	McCook	Hansford	Randall
Clinton	Susquehanna	Corson	Mellette	Hartley	Roberts
Elk	Tioga	Charles Mix	Miner	Hutchinson	Sherman
Forest	Venango	Clark	Clark	Moore	
Indiana	Warren	Clay	Moody	2	
3		Davison	Potter	Andrews	
Allegheny	Butler	Dewey	Sanborn	3	
Armstrong	Greene	Douglas	Sping	Cochran	Lynn
Beaver	Washington	Edmunds	Stanley	Crane	Martin
4		Faulk	Sully	Dawson	Midland
Bedford	Somerset	Gregory	Todd	Ector	Parmer
Fayette	Westmoreland	Hamlin	Tripp	Gaines	Terry
5		Hand	Turner	Hockley	Ward
Adams	Mifflin	Hanson	Union	Lamb	Winkler
Carbon	Monroe	Hughes	Walworth	Loving	Yoakum
Columbia	Montour	Hutchinson	Yankton	Lubbock	
Cumberland	Northampton	Hyde		Brewster	Pecos
Dauphin	Northumberland	3	Grant	Culberson	Presidio
Franklin	Perry	Brown	Marshall	El Paso	Reeves
Fulton	Pike	Codrington	McPherson	Hudspeth	Terrell
Huntingdon	Schuylkill	Deuel	Roberts	Jeff Davis	Val Verde
Juniata	Snyder	Day		4	
Lackawanna	Union	Tennessee		Hemphill	
Lehigh	Wayne	1		Lipscomb	
Luzerna	Wyoming	Clay		5	
6		Macon		Archer	Hall
Berks	Lebanon	2	Lauderdale	Armstrong	Hardeman
Bucks	Montgomery	Benton	Lawrence	Baylor	Haskell
Chester	Philadelphia	Carroll	Lewis	Borden	Jack
Delaware	York	Cheatham	Madison	Briscoe	Jones
Lancaster		Chester	Maury	Castro	Kent
Rhode Island		Crockett	McNairy	Childress	King
1		Davidson	Montgomery	Clay	Knox
Bristol	Providence	Decatur	Perry	Coalingworth	Motley
Kent	Washington	Dickson	Robertson	Cottle	Palo Pinto
Newport		Dyer	Rutherford	Crosby	Scumy
South Carolina		Fayette	Shelby	Dickens	Shackelford
1		Gibson	Smith	Donley	Stephens
Abbeville	Lancaster	Giles	Stewart	Fisher	Stonewall
Aiken	Laurens	Hardeman	Sumner	Floyd	Swisher
Anderson	Lee	Hardin	Tipton	Foard	Wheeler
Bamberg	Lexington	Haywood	Trousdale	Garza	Wilbarger
Barnwell	Marlboro	Henderson	Wayne	Gray	Wichita
Calhoun	McCormick	Henry	Weakley	Hale	Young
Cherokee	Newberry	Hickman	Williamson	6	
Chester	Oconee	Houston	Wilson	Atascosa	Hamilton
Chesterfield	Orangeburg	Lake		Bandera	Howard
Darlington	Pickens	3	Hancock	Bexar	Irion
Dillon	Richland	Cumberland	Hawkins	Blanco	Kames
Edgefield	Saluda	Fentress	Pickett	Brown	Kendall
Fairfield	Spartanburg	Jackson	Putnam	Burnet	Kerr
Greenville	Sumter	Overton	Scott	Callahan	Kimble
Greenwood	Union	4	Jefferson	Coleman	Kinney
Kershaw	York	Anderson	Johnson	Coke	Lampasas
2		Blount	Knox	Comanche	LaSalle
Allendale	Clarendon	Campbell	Loudon	Concho	Llano
Beaufort	Colleton	Carter	Morgan	Crockett	Maverick
Berkely	Dorchester	Claiborne	Roano	Dimmitt	Mason
Charleston	Florence	Cocke	Savler	Eastland	McCulloch
		Grainger		Edwards	McMullen
		Greene		Erath	Medina
		Hamblen		Frio	Menard
				Gillespie	Mills
				Glasscock	Mitchell

Nolan	Taylor	3	San Juan	Chelan	Pend Oreillo
Reagan	Tom Green	Emery	Wayne	Ferry	Skamania
Real	Upton	Grand		Kittitas	Stevens
Runnels	Uvalde			Okanogan	
San Saba	Webb	Vermont		4	
Schleicher	Wilson	1	Orange	Adams	Garfield
Sterling	Zapata	Addison	Orleans	Asotin	Grant
Sutton	Zavala	Caledonia	Rutland	Benton	Lincoln
7		Chittenden	Washington	Columbia	Spokane
Anderson	Falls	Exsex	Windsor	Douglas	Walla Walla
Angelina	Fannin	Franklin		Franklin	Whitman
Bastrop	Franklin	Grand Isle			
Bell	Freestone	Lamoille		West Virginia	
Bosque	Gonzales			1	
Brazos	Grayson	2		Brooke	Putnam
Burleson	Gregg	Bennington		Cabell	Ritchie
Caldwell	Grimes	Windham		Doddridge	Roane
Cherokee	Guadalupe			Hancock	Tyler
Collin	Hays	Virginia		Jackson	Wayne
Comal	Henderson	1		Marshall	Wetzel
Cooke	Hill	Alleghany	Page	Mason	Wirt
Coryell	Hood	Augusta	Pulaski	Ohio	Wood
Cottle	Hopkins	Bath	Roanoke	Pleasants	
Dallas	Houston	Bland	Rockbridge	2	
Denton	Hunt	Botetourt	Rockingham	Barbour	McDowell
Ellis	Johnson	Buchanan	Russell	Berkeley	Mercer
Kaufman	Rusk	Clarke	Scott	Boone	Mineral
Lamar	San Jacinto	Craig	Shenandoah	Braxton	Mingo
Lee	Smith	Dickenson	Smyth	Calhoun	Monongalia
Leon	Somervell	Frederick	Tazewell	Clay	Monroe
Limestone	Tarrant	Giles	Warren	Fayette	Morgan
Madison	Titus	Highland	Washington	Gilmer	Nicholas
McLennan	Trinity	Lee	Wise	Grant	Pendleton
Milam	Travis	Montgomery	Wythe	Greenbrier	Pocahontas
Montague	Tyler	2		Hampshire	Preston
Nacogdoches	Upshur	Albermarle	Greene	Hardy	Raleigh
Navarro	Van Zandt	Amelia	Goochland	Harrison	Randolph
Parker	Walker	Amherst	Halifax	Jefferson	Summers
Polk	Washington	Appomattox	Hanover	Kanawha	Taylor
Rains	Williamson	Bedford	Henrico	Lewis	Tucker
Red River	Wise	Brunswick	Henry	Lincoln	Upshur
Robertson	Wood	Buckingham	King George	Logan	Webster
8		Campbell	Louisa	Marion	Wyoming
Bowie	Panola	Caroline	Lunenburg		
Cass	Sabine	Carroll	Madison	Wisconsin	
Harrison	San Augustine	Charlotte	Mecklenburg	1	
Marion	Shelby	Chesterfield	Nelson	Ashland	Lincoln
9		Culpeper	Nottoway	Barron	Marinette
Austin	Jasper	Cumberland	Orange	Bayfield	Oconto
Brazoria	Jefferson	Dinwiddie	Patrick	Burnett	Oneida
Chambers	Lavaca	Fauquier	Pittsylvania	Chippewa	Polk
Colorado	Liberty	Floyd	Powhatan	Douglas	Price
DeWitt	Matagorda	Fluvanna	Prince Edward	Dunn	Rusk
Fayette	Montgomery	Franklin	Rappahannock	Eau Claire	St. Croix
Ft. Bend	Newton	Grayson	Spotsylvania	Florence	Sawyer
Galveston	Orange	Greensville	Stafford	Forest	Taylor
Hardin	Victoria	3		Iron	Vilas
Harris	Waller	Arlington	Loudoun	Langlade	Washburn
Jackson	Wharton	Fairfax	Prince William	2	
10		4		Adams	Iowa
Arkansas	Kenedy	Charles City	New Kent	Brown	Jackson
Bee	Kieburg	Essex	Northumberland	Buffalo	Jefferson
Brooks	Live Oak	Gloucester	Prince George	Calumet	Juneau
Calhoun	Nueces	Isle of Wight	Richmond	Clark	Kenosha
Cameron	Refugio	James City	Southampton	Columbia	Kewaunee
Duval	San Patricio	King and Queen	Surry	Crawford	La Crosse
Goliad	Starr	King William	Sussex	Dane	Lafayette
Hidalgo	Willacy	Lancaster	Westmoreland	Dodge	Manitowoc
Jim Hogg		Mathews	York	Door	Marathon
Utah		Middlesex		Fond du Lac	Marquette
1		Washington		Grant	Menominee
Box Elder	Salt Lake	1		Green	Milwaukee
Cache	Sanpete	Clallam	Mason	Green Lake	Monroe
Carbon	Summit	Grays Harbor	Pacific		
Daggett	Tooele	Jefferson	Wahkiakum		
Davis	Utah	2			
Duchesne	Uintah	Clark			
Juab	Wasatch	3			
Morgan	Weber	Cowlitz	Pierce		
Rich		Island	Skagit		
2		King	Snohamish		
Beaver	Millard	Kitsap	Whatcom		
Garfield	Piute	Lewis			
Iron	Sevier				
Kane	Washington				

Outagamie	Sheboygan
Ozaukee	Trempealeau
Pepin	Vernon
Pierce	Walworth
Portage	Washington
Racine	Waukesha
Richland	Waupaca
Rock	Waushara
Sauk	Winnebago
Shawano	Wood

Wyoming

1
Yellowstone National Park

2
Big Horn Sheridan
Johnson

3
Campbell Niobrara
Crook Weston

4
Carbon Sweetwater
Fremont Teton
Sublette

5
Albany Natrona
Converse Washakie
Hot Springs

6
Goshen Platte
Laramie

7
Lincoln
Uinta

BILLING CODE 6450-01-M

41. Page 16764 should read as follows:

STATE: MARYLAND

REGION	FUEL DISPLACED	SOLAR MEASURE					
		D	S	D/S	P	W	H
1	ELECTRICITY	X			X	X	X
	OIL	X			X		X
	NATURAL GAS	X			X		X
2	ELECTRICITY	X			X	X	X
	OIL	X			X		X
	NATURAL GAS	X			X		X
3	ELECTRICITY	X			X	X	X
	OIL	X			X		X
	NATURAL GAS	X			X		X
4	ELECTRICITY	X			X	X	X
	OIL	X			X		X
	NATURAL GAS	X			X		X
	ELECTRICITY						
	OIL						
	NATURAL GAS						
	ELECTRICITY						
	OIL						
	NATURAL GAS						
	ELECTRICITY						
	OIL						
	NATURAL GAS						

42. Page 16796 should read as follows:

STATE: WYOMING

REGION	FUEL DISPLACED	SOLAR MEASURE					
		D	S	D/S	P	W	H
1	ELECTRICITY				X		X
	OIL				X		X
	NATURAL GAS				X		X
2	ELECTRICITY				X		X
	OIL				X		X
	NATURAL GAS				X		X
3	ELECTRICITY				X		X
	OIL				X		X
	NATURAL GAS				X		X
4	ELECTRICITY				X		X
	OIL				X		X
	NATURAL GAS				X		X
5	ELECTRICITY				X		X
	OIL				X		X
	NATURAL GAS				X		X
6	ELECTRICITY				X		X
	OIL				X		X
	NATURAL GAS				X		X
7	ELECTRICITY				X		X
	OIL				X		X
	NATURAL GAS				X		X
	ELECTRICITY						
	OIL						
	NATURAL GAS						

Notices

Federal Register

Vol. 44, No. 91

Wednesday, May 9, 1979

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Rulemaking and Public Information; Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Committee on Rulemaking and Public Information of the Administrative Conference of the United States, to be held in the Library of the Conference, 2120 L Street, N.W., Suite 500, Washington, D.C. at 3:00 p.m. on Thursday, May 17, 1979.

The purpose of this meeting is to discuss and take action on any amendments that may be suggested by the Council of the Conference in the Committee's recommendations evaluating the Federal Trade Commission's Magnuson-Moss trade regulation rulemakings.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify this office at least two days in advance of the meeting. The Committee Chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the Committee before, during or after the meeting.

For further information concerning this meeting, contact Stephen L. Babcock (202) 254-7085. Minutes of the meeting will be available on request.

Richard K. Berg,
Executive Secretary.

May 4, 1979.

[FR Doc. 79-14475 Filed 5-8-79; 8:45 am]

BILLING CODE 6110-10-M

Airline Tariff Publishers, Inc.; Agreement to Reorganize

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 3rd day of May 1979.

Final Order

By Order 79-2-104, we directed all interested persons to show cause why we should not condition our continued approval of the organizational agreements of the Airline Tariff Publishing Company (ATPCO) on the removal of Section 3 of the ATPCO Tariff Participants' Agreement which allows competing carriers to notify one another about tariff changes before they are filed with the Board.¹ We tentatively concluded that the section was substantially anticompetitive in that it has the capacity to impede price competition, and that it was not necessary to meet a serious transportation need or to secure important public benefits.

Objections to our Show-Cause Order were filed by American Airlines, Inc., and jointly by several Canadian carriers.²

American does not object to our withdrawing approval of Section 3 of the ATPCO agreement. It does contend, however, that without advance exchange of proposed tariff filings on local fares, there will be a lag between the date local fare changes become effective and the effective date of related joint fares. As a solution, American requests that we adopt a policy of allowing changes in joint fares to be filed on short notice so that they may become effective at the same time as the related local fares.

The Canadian carriers object to our proposed action insofar as it would prohibit them from exchanging information on fares and tariff provisions applicable to transportation within Canada and between the U.S. and Canada. The Canadian carriers request that any disapproval of Section 3 of the tariff participants' agreement be limited so that it will not affect

¹ ATPCO, successor of the Airline Tariff Publishers, Inc., operates as a tariff agent for various U.S. and Canadian air carriers which own and control it under agreements approved by the Board. See Orders E-20925, 73-8-119 and 73-10-28.

² A joint response was filed by the Canadian carriers which included Air Canada, Eastern Provincial Airways Ltd., Pacific Western Airlines Ltd., Quebecair, Transair Ltd., and CP Air.

exchanges of information on intra-Canadian fares and tariff provisions.

With respect to the application of our tentative findings and conclusions to U.S.-Canada fares, the Canadian carriers' comments are more general. They argue that Section 3 which permits but does not require advance exchanges of price information is procompetitive because competitors may match the initiating carrier's decrease in fares, or, by refusing to match an increase, force the initiating carrier to withdraw a proposed increase in fares.

Finally, the Canadian carriers urge that Section 3 benefits the public by allowing the Canadian carriers quickly and efficiently to adjust tariff rates, rules, practices, and services. Without this mechanism, the Canadian carriers assert that they will be forced to rely on the mails to learn of tariff changes made by competing or connecting carriers.

We have decided to make final our tentative findings and conclusions as contained in Order 79-2-104, with one minor clarification.

We are not persuaded by the Canadian carriers' arguments that Section 3 of the tariff participants' agreement is procompetitive. They seem to agree with us that the advance notice mechanism can act to stabilize prices. However, they contend that this stabilizing influence sometimes acts to hold prices down and that the mechanism is therefore procompetitive. It is clear, though, that an agreement among competitors that interferes with normal pricing mechanisms is anticompetitive regardless of whether it stabilizes prices at a high, low or intermediate level.³

Turning to the purported public interest justifications for the advance exchanges of tariff information, we agree that the public benefits from the prompt availability of accurate tariff information. We believe, however, that other arrangements can be made to obtain information about tariff filings quickly without having to rely on a mechanism for advance notification of proposed fare changes among competitors. Even if no such arrangement were available, the marginal conveniences gained by a few carriers as a result of this mechanism are overwhelmed by the potential

³ *Albrocht v. Herald Co.*, 390 U.S. 145, 152 (1968); *United States v. Socoony-Vacuum-Oil Co.*, 310 U.S. 150, 221 (1940).

anticompetitive effects which we discussed in our prior order.

Although American does not challenge our tentative conclusions, it requests that we provide a substitute procedure by which carriers can provide for simultaneous effectiveness of their local and joint fare increases. However, the need for such a procedure is certainly not readily apparent. As we stated in Order 79-2-104, participants in joint hauls are already permitted to discuss and reach agreement on joint fares. Moreover, it is the carriers themselves that control the timing of their tariff filings. We are, therefore, not convinced that our disapproval of Section 3 of the ATPCO tariff participants' agreement will either place an undue burden on carriers' ability to implement joint fare changes in a timely manner, or result in any significant lag between the effective dates of local fares and related joint fares. Consequently, we see no need at this time to adopt a general policy permitting filing of joint tariff changes on short notice. If individual carriers perceive a need to make particular filings on short notice, and they can justify their request, they are free to seek permission from us at the time of filing.

We turn finally to the request of the Canadian carriers that we limit our order or disclaim jurisdiction in this case so that we do not affect their activities which involve solely intra-Canadian fares. We are solely concerned with activities which affect competition in transportation within, to and from the United States. With regard to exchanges of information on proposed fares and other tariff revisions which do not affect such competition, and which are not filed or required to be filed with the Board, we disclaim jurisdiction.

Accordingly, 1. We make final the tentative findings and conclusions contained in Order 79-2-104, February 15, 1979;

2. We condition our continued approval of the organizational agreements of ATPCO on the removal of Section 3 from the ATPCO Traffic Participants' Agreement;

3. We direct ATPCO to continue to maintain all records and instructions presently in its possession or received in the future relating to any tariffs, tariff revisions and manuals it publishes or has published and to keep such records and instructions for at least five years after publication of the tariff, tariff revision or manual to which they pertain;

4. We disclaim jurisdiction over exchanges of information on proposed

fares and other tariff revisions which have no effect on commerce in the United States and which are not filed or required to be filed with the Board;

5. This Order will be effective five days after its service date;

6. We will serve this order upon all persons whose names appear on the service list in Docket 25478 and also upon the Department of Justice, the Federal Trade Commission, and the Department of Transportation.

This order shall be published in the Federal Register.

Phyllis T. Kaylor,⁵

Secretary.

[Order 79-5-33; Docket No. 25478; Agreement CAB 23157]

[FR Doc. 79-14433 Filed 5-8-79; 8:45 am]

BILLING CODE 6320-01-M

Former Large Irregular Air Service Investigation; Hearing

A hearing will be held on the application of Land-Air Corp. at 9:30 a.m. on July 13, 1979 in the Federal Office Building and Court House, Room 5417, 200 N.W. 4th Street, Oklahoma City, OK.

Dated at Washington, D.C., May 3, 1979.

Rudolf Sobornhelm,

Administrative Law Judge.

[Docket No. 33363]

[FR Doc. 79-14434 Filed 5-8-79; 8:45 am]

BILLING CODE 6320-01-M

Texas International Airlines' Petition for Reconsideration Regarding Subsidy Rate

AGENCY: Civil Aeronautics Board.

ACTION: Summary of Order 79-5-32 which denies a Texas International Airlines' petition for reconsideration of an earlier Board order which removed Texas International's subsidy effective July 1, 1978, and denies a separate Texas International petition for a new subsidy rate.

SUMMARY: The Board adopted an order denying a Texas International request to reverse the earlier decision to terminate federal subsidy to the carrier. The Board found that Texas International has no need for subsidy even considering the fact that, under the Airline Deregulation Act of 1978, revenues from non-subsidized services cannot be used in establishing a carrier's need during the period October 24, 1978, through December 31, 1982. The adopted order also denies a separate Texas International petition for a new subsidy rate requesting the same relief as the denied petition.

⁵All members concurred.

FOR FURTHER INFORMATION CONTACT: John R. Hokanson or James Craun, Bureau of Pricing and Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C., 20428, 202-673-5132.

The complete text of Order 79-5-32 is available from our Distribution Section, Room 516, 1825 Connecticut Avenue, NW., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 79-5-32 to the Distribution Section, Civil Aeronautics Board, Washington, D.C., 20428.

By the Civil Aeronautics Board, May 3, 1979

Phyllis T. Kaylor,

Secretary.

[Order 79-5-32]

[FR Doc. 79-14433 Filed 5-8-79; 8:45 am]

BILLING CODE 6320-01-M

Texas International Airlines; Awarding of New and Improved Authority Between Points Dallas/Ft. Worth and St. Louis

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause (79-5-31).

SUMMARY: The Board is proposing to award new and improved authority between the points Dallas/Ft. Worth and St. Louis to Texas International Airlines, and any other fit, willing and able applicant whose fitness, willingness and ability can be established by officially noticeable data.

The complete text of this order is available as noted below.

DATES: All interested persons having objections to the Board issuing an order making final the tentative findings and conclusions shall file, by June 7, 1979, a statement of objections, together with a summary of testimony, statistical data, and other material expected to be relied upon to support the stated objections. Such filings shall be served upon all parties listed below.

ADDRESSES: Objections to the issuance of a final order should be filed in the Dockets Section, Civil Aeronautics Board, Washington, D.C., 20428, in Docket 35465.

In addition, copies of such filings should be served on Texas International Airlines.

FOR FURTHER INFORMATION CONTACT: Arthur B. Barnes, Bureau of Pricing and Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673-5198.

SUPPLEMENTARY INFORMATION: In the event no objections are filed, the

Secretary of the Board will enter an order making final the tentative findings and conclusions contained in the show-cause order.

The complete text of Order 79-5-31 is available from the 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 79-5-31 to that address.

By the Civil Aeronautics Board, May 3, 1979.

Phyllis T. Kaylor,
Secretary.

[Order 79-5-31]
[FR Doc. 79-14438 Filed 5-8-79; 8:45 am]
BILLING CODE 6320-01-M

COMMISSION ON CIVIL RIGHTS

New Mexico Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provision of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the New Mexico Advisory Committee (SAC) of the Commission will convene at 1:00 pm and will end at 5:00 pm, on June 6, 1979, at the Airport Mariana (2nd Floor), 2910 Yale Blvd., S.E., Albuquerque, New Mexico 87119.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Southwestern Regional Office of the Commission, Heritage Plaza, 418 South Main, San Antonio, Texas 78204.

The purpose of this meeting is to discuss civil rights issues in New Mexico.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 4, 1979.

John I. Binkley,
Advisory Committee Management Officer.
[FR Doc. 79-14445 Filed 5-8-79; 8:45 am]
BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Industry and Trade Administration

Case Western Reserve University; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the

regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. at 666-11th Street, N.W. (Room 735) Washington, D.C.

Docket No. 78-00454. Applicant: Case Western Reserve University, Department of Pharmacology, 2119 Abington Road, Cleveland, Ohio 44106.

Article: MS-3076 Dual-Beam Mass Spectrometer and Accessories. Manufacturer: AEI Scientific Apparatus, Ltd., United Kingdom. Intended use of article: The article is intended to be used primarily for the study of drug metabolism as part of a comprehensive program for the study of parasitic diseases. Isolation of purified drug metabolites from biological sources will be followed by introduction of minute quantities of material into the source of the mass spectrometer either by direct insertion probe or via gas chromatography. The accurate mass information about the drug molecule, hopefully to determine its chemical structure. In addition, the article will be used to train graduate students pharmacology in utilization of the mass spectrometer data system.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (May 23, 1978).

Reasons: The foreign article provides dual beam operation in a high resolution magnetic sector instrument. The National Bureau of Standards advises in its memorandum dated March 14, 1979 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use which was available at the time the foreign article was ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Richard M. Seppa,
Director, Statutory Import Programs Staff.
[FR Doc. 79-14426 Filed 5-8-79; 8:45 am]
BILLING CODE 3510-25-M

Battelle Memorial Institute, Pacific Northwest Division; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. at 666-11th Street, N.W. (Room 735), Washington, D.C.

Docket No. 79-00082. Applicant: Battelle Memorial Institute, Pacific Northwest Division, P.O. Box 999, Richland, WA 99352. Article: Model 2192DIT Microdiffractometer with attachments for transmission method and accessories. Manufacturer: Rigaku, Japan. Intended use of article: The article is intended to be used to do small area X-ray diffractions which will give structural and microstructural information on geothermal samples, fine crystalline phases, and thin films.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article has a counter tube capable of measuring micro areas of a sample by simultaneous counting of the Debye-Scherrer patterns as a whole. The National Bureau of Standards advises in its memorandum dated March 23, 1979 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Richard M. Seppa,
Director, Statutory Import Programs Staff.
[FR Doc. 79-14430 Filed 5-8-79; 8:45 am]
BILLING CODE 3510-25-M

**East Tennessee State University;
Decision on Application for Duty-Free
Entry of Scientific Article**

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. at 666 11th Street, N.W. (Room 735), Washington, D.C.

Docket No. 79-00057. Applicant: East Tennessee State University, College of Medicine, Box 23320A, Johnson City, TN 37601. Article: *Phywe Model ICP-21 Single Parameter Fluorescence Impulsecytophotometer and Accessories*. Manufacturer: Phywe, West Germany. Intended use of article: The article is intended to be used to allow quantitative cytochemical study of fluorescent dyes bound to specific classes of macromolecules in populations of cells. Specific experiments include studies of relative DNA content in certain mollusc species known to contain multiple sets of chromosomes (polyploidy) in each nucleus; to study cell cycle kinetic, protein and RNA amounts per cell in populations of normal blood cells and leukemias; and to study monocytes and macrophages with respect to total protein (related to size) and the distribution of fluorescent structures with respect to "activation".

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article has a range of excitation-wavelength of 300 to 800 nanometers and a coefficient of variation of less than 29 percent. The Department of Health, Education, and Welfare advises in its memorandum dated March 1, 1979 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article

is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Richard M. Seppa,
Director, Statutory Import Programs Staff.
[FR Doc. 79-14427 Filed 5-8-79; 8:45 am]
BILLING CODE 3510-25-M

**Michigan Technological University;
Decision on Application for Duty-Free
Entry of Scientific Article**

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. at 666-11th Street, N.W. (Room 735) Washington, D.C.

Docket No. 79-00059. Applicant: Michigan Technological University, Dept. of Geol. and Geol. Engrg., Purchasing Department, Houghton, MI 49931. Article: Heating and cooling stage for microscope. Manufacturer: Chaixmeca, France. Intended use of article: The article is intended to be used to study microscopic inclusions in rock specimens, and particularly specimens from mineral deposits. The studies will involve determination of: (1) the temperature of disappearance of vapor bubbles; (2) the temperature of dissolution of solid phases in the fluid inclusions, and (3) the temperature at which the inclusions freeze. These data will provide information on the temperature and pressures at which the fluid inclusions formed and on the concentration of dissolved salts in the trapped fluids. This information will aid in the understanding of the mechanism(s) of formation of mineral deposits, and particularly vein deposits of the base and precious metals. The article will also be used in graduate courses in mineral deposits and, to a lesser extent, petrology, and will be used for research by graduate students and faculty.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides the combination of heating and cooling

at temperatures between -185 and +600 degrees centigrade while viewing a specimen through a microscope. The National Bureau of Standards advises in its memorandum dated March 22, 1979 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Programs No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Richard M. Seppa,
Director, Statutory Import Programs Staff.
[FR Doc. 79-14428 Filed 5-8-79; 8:45 am]
BILLING CODE 3510-25-M

**National Institute of Neurological and
Communicative Disorders and Stroke;
Decision on Application for Duty-Free
Entry of Scientific Article**

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. at 666-11th Street, N.W. (Room 735) Washington, D.C.

Docket No. 78-00322. Applicant: National Institute of Neurological and Communicative Disorders and Stroke, NIH, 9000 Rockville Pike, Building 36, Room 5D-06, Bethesda, Md. 20014. Article: *Finnpipette-9-Analyzer*. Manufacturer: Labsystem Oy division of Finnpipette Ky, Finland. Intended use of Article: The article is intended to be used for experiments involving serological tests for antibody to various viruses which include rubella, rubeola, cytomegalovirus, Herpes Simplex types I and II, as well as many other virus systems. The objective pursued in the course of the investigation is the determination of antibody levels in patients for using the high sensitive ELISA method (enzyme-linked immunosorbent assay) for the detection of small quantities of antibody.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States at the time the foreign article was ordered (February 11, 1977).

Reasons: The foreign article provides semi-automatic large scale analysis (nine samples simultaneously) of samples computer interfaced for analysis in relation to stored data. The National Bureau of Standards advises in its memorandum dated March 6, 1979 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use which was available at the time the foreign article was ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States at the time the foreign article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 79-14425 Filed 5-8-79; 8:45 am]

BILLING CODE 3510-25-M

Southern Illinois University— Edwardsville, et al.; Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, Bureau of Trade Regulation, U.S. Department of Commerce, Washington, D.C. 20230, on or before May 29, 1979.

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 A.M. and 5:00 P.M., Monday through Friday, at 666-11th Street, N.W. (Room 735), Washington, D.C..

Docket No. 79-00208. Applicant: Southern Illinois University—Edwardsville, Edwardsville, IL 62026. **Article:** High Resolution Fourier Transformation Multi-Nuclear Magnetic Resonance Spectrometer System, Model JNM/FX-60Q and Accessories. **Manufacturer:** JEOL Ltd., Japan. **Intended use of article:** The article is intended to be used for research projects which involve the determination of nmr spectra of hydrogen, carbon-13, and fluorine and nitrogen-15 nuclei. The compounds used for these studies include those used in physical, analytical, medicinal chemistry, and environmental chemistry. **Titles of the research projects which this article will be used include the following:**

1. Inorganic and Bioinorganic Binding Mechanisms.
2. Separation Methods.
3. NMR in Analysis of Drugs.
4. Structural and Synthetic Medicinal Chemistry of Fluorine containing compounds.
5. Structure and Chemistry of Platinum Containing Anti-tumor Agents.
6. Rearrangements of Photosensitive Organic Molecules.
7. NMR studies of Pharmaceutical Compounds.
8. The Chemistry of—Chymotrysin.
9. Chemical characteristics of cyanide containing waste water.

Experiments conducted will provide structural information about the materials under study and will help to elucidate the chemical environment of these compounds. The article will also be used to teach undergraduate and graduate students various analytical techniques in the determination of molecular structures and chemical identification of compounds in course entitled "Instrumental Methods of Analysis." Application received by Commissioner of Customs: March 19, 1979.

Docket No. 79-00209. Applicant: National Institute of Environmental Health Sciences, NIH, HEW, P.O. Box 12233, Research Triangle Park, NC 27709. **Article:** LKB 14801-1 CryoKit and LKB 14815 Set of Tools and Accessories. **Manufacturer:** LKB Produkter AB, Sweden. **Intended use of article:** The article is intended to be used to study the ultrastructure of tissues that transport or utilize intracellular ions. Frozen thin-sections of normal lung tissue and lung tissues from animals exposed to a variety of injurious gases and particulates will be prepared for study in the electron microscope with particular attention being given to the existence and location of mineral

inclusions. The general goal of the investigation is to further understand the localization of intracellular minerals (exogenous and endogenous) and the nature of the cellular involvement in elemental translocation. Application received by Commissioner of Customs: March 20, 1979.

Docket No. 79-00210. Applicant: Brookhaven National Laboratory, Upton, New York 11973. **Article:** Rotating Anode X-ray Generator, Model RU-200H with anode housing mount and accessories. **Manufacturer:** Rigaku, Japan. **Intended use of article:** The article is intended to be used by the National Synchrotron Light Source (NSLS) as a source of intense X-rays for the development and testing of mirrors and monochromators to be used on X-ray beam lines at the NSLS. Optical designs, mechanical manipulations, vibration problems, and designs of detectors, goniometers and samples manipulators will be thoroughly checked with this source of radiation. In addition, the Solid State Physics Group at Brookhaven National Laboratory will utilize this new rotating anode facility for X-ray scattering studies, complementary to the current programs of neutron scattering studies. Studies of graphite intercalant systems will be extended to the AsF₆-graphite system. Studies of adsorbed rare gases on grafoil will be made, continuing work on adsorbed Kr and other gases of lower atomic number, Ne for example. Phase transitions in molecular crystals, biphenyl for example, will be studied. Application received by Commissioner of Customs: March 20, 1979.

Docket No. 79-00211. Applicant: Tri-State University, Angola, Indiana 46703. **Article:** Centrifugal Pump Test Set. **Manufacturer:** Plint and Partners, Ltd., United Kingdom. **Intended use of article:** The article is intended to be used for educational purposes in the courses: CE 304 Hydraulic Engineering I—To expose all civil engineering students to basic design concepts in hydraulic engineering including the selection of centrifugal pumps in the design of pipe systems, and

CE 404 Hydraulic Engineering II—Application of hydraulic engineering design concepts of hydrology as applied to drainage systems and the detailed analysis of the operating characteristics of centrifugal pumps and turbines.

Application received by Commissioner of Customs: March 20, 1979.

Docket No. 79-00212. Applicant: National Institute of Environmental Health Sciences (NIEHS), NIH, USPHS, DHEW, P.O. Box 12233, Research

Triangle Park, North Carolina 27709. Article: Electron Microscope, Model EM 400 (HMS) and accessories. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used for the study of ultrastructural morphology of a wide variety of cells from various organs in laboratory animals exposed to chemical compounds and physical factors (microwave, noise, etc.) of interest to Institute research personnel. Application received by Commissioner of Customs: March 20, 1979.

Docket No. 79-00213. Applicant: The University of Texas Health Science Center at San Antonio, 7703 Floyd Curl Drive, San Antonio, Texas 78284. Article: Scanning Electron Microscope, Model PSEM 500A and Accessories. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used for studies of biologic tissues from the heart, blood vessels, kidney, lung, red cells, bone marrow cells and blood cells. Some nonbiologic materials, which are used biologically in prostheses—artificial joints, artificial heart valves, artificial blood vessels, and artificial skin—may be studied in this article. The experiments to be conducted are:

- (a) Tissue culture of primate vascular endothelium and smooth muscle cells.
- (b) To conduct an educational training program for resident physicians, graduate students and for young investigators entering into the field of scanning electron microscopy.
- (c) Identification and localization of specific elements in sections of tissue utilizing the scanning-transmission mode of operation coupled with X-ray analysis.

Application received by Commissioner: February 25, 1979.

Docket No. 79-00214. Applicant: University of Washington, Quaternary Research Center, Seattle, Washington 98195. Article: VG Micromass 903 Triple Collector Isotope Ratio Mass Spectrometer—Siamese and Accessories. Manufacturer: VG Micromass Ltd., United Kingdom. Intended use of article: The article is intended to be used to analyze $^{18}\text{O}/^{16}\text{O}$ ratios in ice cores from Antarctica to provide information about major climatic fluctuations. A study of past climatic variations is critical to understanding and predicting future long-term global climatic changes. The article will also be used to study the $^{13}\text{C}/^{12}\text{C}$ ration in tree rings in research designed to assist in determinations of the proportion of CO_2 in the atmosphere

that results from fossil fuel combustion. In addition, the article will be used to train students in the isotope ratio mass spectrometry techniques.

Application received by Commissioner of Customs: March 22, 1979.

Docket No. 79-00215. Applicant: University of Washington, Quaternary Research Center, Seattle, Washington 98195. Article: Automated Sample Preparation Unit, Model MM5020 and Accessories. Manufacturer: VG Micromass Ltd., United Kingdom. Intended use of article: The article will be used in conjunction with a mass spectrometer that is being used to analyze $^{18}\text{O}/^{16}\text{O}$ ratios in ice cores from Antarctica to provide information about major climatic fluctuations. A study of past climatic variations is critical to understanding and predicting future long-term global climatic changes. The article will also be used to study the $^{13}\text{C}/^{12}\text{C}$ ration in tree rings in research designed to assist in determinations of the proportion of CO_2 in the atmosphere that results from fossil fuel combustion. In addition, the article will be used to train students in the isotope ratio mass spectrometry techniques. Application received by Commissioner of Customs: March 22, 1979.

Docket No. 79-00219. Applicant: VA Wadsworth Medical Center, Wilshire and Sawtelle Blvds., Los Angeles, California 90073. Article: Scanning Electron Microscope, Model HFS-2 and Accessories. Manufacturer: Hitachi, Perkin-Elmer, Japan. Intended use of article: The article is intended to be used for high resolution membrane receptor work being performed during the study of changes membrane molecules undergo with aging. Application received by Commissioner of Customs: March 22, 1979.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Richard M. Seppa,
Director, Statutory Import Programs Staff.
[FR Doc. 79-14424 Filed 5-8-79; 8:45 am]
BILLING CODE 3510-25-M

SRI International; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. at 666-11th Street, N.W. (Room 735) Washington, D.C.

Docket No. 79-00063. Applicant: SRI International, 333 Ravenswood Avenue, Menlo Park, California 94025. Article: Laser, EMG 500. Manufacturer: Lambda, Physik, West Germany. Intended use of article: The article is intended to be used to provide an intense source of ultraviolet coherent radiation during the study of the photo-dissociation and absorption of neutral and ionic molecules, and the lifetimes of excited states of these molecules. The bonding and potential surfaces of these molecules will also be investigated.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides an energy per pulse output of 150 millijoules with a high repetition rate power (40-50 Hertz). The National Bureau of Standards advises in its memorandum dated March 9, 1979 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Richard M. Seppa,
Director, Statutory Import Programs Staff.
[FR Doc. 79-14423 Filed 5-8-79; 8:45 am]
BILLING CODE 3510-25-M

University of Houston, et al.; for Applications Duty-Free Entry of Scientific Articles

The following are notices of the receipts of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value

for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, Bureau of Trade Regulation, U.S. Department of Commerce, Washington, D.C. 20230, on or before May 29, 1979.

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 A.M. and 5:00 P.M., Monday through Friday, at 666-11th Street, N.W. (Room 735), Washington, D.C.

Docket No. 79-00216. Applicant: University of Houston, 4800 Calhoun, Houston, TX 77004. Article: 12kW RU-200 Constant Potential Rotating Anode X-Ray Generator and Accessories. Manufacturer: Rigaku Corp., Japan. Intended use of article: The article is intended to be used for the study of atomic arrangements in metals, semiconductors and insulators in order to understand the relation of structure to properties. The article provides a very high intensity source of x-rays incident upon weakly scattering materials. The article will also be used for individual graduate instruction in x-ray methods. Application received by Commissioner of Customs: April 2, 1979.

Docket No. 79-00217. Applicant: Dept. of Health, Education, and Welfare—National Institutes of Health, National Cancer Institute, Division of Cancer Biology and Diagnosis, Building 31, Room 3A-05, Bethesda, Maryland 20014. Article: Accessories for Small Animal Irradiator consisting of Gammacell-40 Sample Cavity Collimator; Set of 3 Attenuators and Sample Drawer Tray. Manufacturer: Atomic Energy of Canada Ltd., Canada. Intended use of article: The article is intended to be used for investigation of immunologic functions of various types from the administration of relatively low doses (200-300 rads) which permits the transplantation of foreign neoplasms to lethal doses in the 800-900 rad range followed by the transplantation of hematopoietic cells. Since the hematopoietic system is relatively sensitive to ionizing irradiation, animals may be rendered deficient in certain types of cells by exposure to lethal irradiation and replacement of only the desired hematopoietic cell types, e.g., immunologists study various functions of the immune systems by producing T-cell or B-cell deficient animals. Application Received by Commissioner of Customs: April 2, 1979.

Docket No. 79-00218. Applicant: National Aeronautics and Space Administration—Lyndon B. Johnson Space Center, R and T Procurement Branch/BC7, Houston, TX 77058. Article: Monohud Pilots' Display Unit, Video Signals Unit, Electronic Drive Unit, Electronic Unit, and Accessories. Manufacturer: Marconi Avionics Elliott Bros. Ltd., United Kingdom. Intended use of article: The article is intended to be used in the study, in-flight development, and verification of Head-Up Display (HUD) symbology formats and algorithms for the Space Shuttle Orbiter approach and landing. Because of the Shuttle Orbiter's unique flight and landing characteristics, critical touchdown parameters, and no go-around capability, a head-up display has the property of being a pilot aid to Orbiter landing tasks. Application received by Commissioner of Customs: April 2, 1979.

Docket No. 79-00222. Applicant: Stanford University Medical Center, Stanford, California 94305. Article: Electron Microscope, Model JEM-100S with sheet film camera and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used to examine various tissues of the eye. Although most of the material will be derived from experimental and normal animals, it is anticipated that human ocular tissue of a pathological nature will also be studied. Experiments to be conducted will include: (1) Ultrastructure of nerve-epithelial interactions in the cornea, (2) ultrastructure of tissue cultured corneal cells, (3) kinetics of tracer movement into the cornea, (4) corneal pathology, and (5) ultrastructural analysis of corneal transparency. The article will also be used as an educational tool for graduate students, postdoctoral students and visiting scientists. Application received by Commissioner of Customs: April 2, 1979.

Docket No. 79-00223. Applicant: National Radio Astronomy Observatory, Associated Universities, Inc., 2010 N. Forbes Blvds., Suite 100, Tucson, AZ 85705. Article: Repair of Klystron Model VRB2113A30 and Accessories. Manufacturer: Varian Associates of Canada Ltd., Canada. Intended use of article: The article is intended to be used as a phaselocked local oscillator in a millimeter wave radio astronomy receiver. The receiver is used in conjunction with a microwave antenna to measure the intensity, polarization, frequency and direction of cosmic radiation. Application received by Commissioner of Customs: April 2, 1979.

Docket No. 79-00224. Applicant: The Johns Hopkins University, School of Medicine, 725 North Wolfe Street, Baltimore, Maryland 21205. Article MS-50 Ultra High Resolution Mass Spectrometer (MI-015) and Accessories. Manufacturer: AEI/Kratos, United Kingdom. Intended use of article: The article is intended to be used for studies of a wide variety of chemical and biochemical compounds including peptides, polysaccharides, organometallic, multi-conjugated drug metabolites, natural products from terrestrial plants, animals and marine organisms, synthetic products, small polymers, stable isotope-labeled compounds, environmental residues, toxic substances and other. For the most part, the article will be used to elucidate structures of unknown compounds brought to the facility by scientists from all over the country. There will also be a substantial informal educational component in the use of the article described, since scientists are encouraged to bring their samples or send students with the samples and to participate in deciding what measurements to make and in making them. Application received by Commissioner of Customs: March 30, 1979.

Docket No. 79-00225. Applicant: The Buffalo General Hospital, 100 High Street, Buffalo, New York 14203. Article: Heart/Lung pump and Accessories. Manufacturer: Biomedix, United Kingdom. Intended use of article: The article is intended to be used for the study of long term effects on myocardial structure and function after myocardial preservation during open heart surgery with potassium cardioplegia and profound hypothermia. Since aging characteristics of certain inbred strain of rats are well known, rat hearts will be used as the experimental animal. Application received by Commissioner of Customs: March 22, 1979.

Docket No. 79-00226. Applicant: University of California—Los Alamos Scientific Laboratory, P.O. Box 990, Los Alamos, NM 87545. Article: Line Tunable Multigas Laser Model TEA 801A and Accessories. Manufacturer: Lumonics Research Ltd., Canada. Intended use of article: The article is intended to be used for the study of multiple photodissociation of polyatomic molecules. The property to be investigated is photodissociation cross section. The experiment to be conducted is the irradiation of polyatomic molecules with extremely high irradiation fluences. The article is to produce the required extremely high

irfluences. Application received by Commissioner of Customs: April 2, 1979.

Docket No. 79-00227. Applicant: University of California—Los Alamos Scientific Laboratory, P.O. Box 990, Los Alamos, NM 87545. Article: Extended Interaction Oscillator Model VKE 2490G and Accessories. Manufacturer: Varian Associates of Canada, Canada. Intended use of article: The article is intended to be used to cause spin transitions in the electron free radical of cr^v and thereby to induce proton spin polarization in the hydrogen content of the 1,2 propane dial. The development of proton polarization will allow the propane dial to be used as a polarized target in medium energy neutron-proton scattering experiments such as these have not been attempted before at these energies. Application received by Commissioner of Customs: April 2, 1979.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Richard M. Seppa,

Director, Statutory Import Programs Staff,

[FR Doc. 79-14423 Filed 5-8-79; 8:45 am]

BILLING CODE 3510-25-M

University of Illinois at Chicago, et al.; Notice of Consolidated Decision on Applications; for Duty-Free Entry of Scientific Articles

The following is a consolidated decision on applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 A.M. and 5:00 P.M. at 666-11th Street N.W., Washington, D.C.

Decision: Applications denied. Applicants have failed to establish that instruments or apparatus of equivalent scientific value to the foreign articles for such purposes as the foreign articles are intended to be used, are not being manufactured in the United States.

Reasons: Subsection 301.8 of the Regulations provides in pertinent part:

"The applicant shall on or before the 20th day following the date of such notice, inform the Deputy Assistant Secretary whether it intends to resubmit another application for the same article for the same intended purposes to which the denied application relates. The applicant shall then resubmit the new application on or before the 90th day following the date of the notice of denial without prejudice to resubmission, unless an

extension of time is granted by the Deputy Assistant Secretary in writing prior to the expiration of the 90-day period.

* * * If the applicant fails, within the applicable time periods specified above, to either (a) inform the Deputy Assistant Secretary whether it intends to resubmit another application for the same article to which the denial without prejudice to resubmission relates, or (b) resubmit the new application, the prior denial without prejudice to resubmission shall have the effect of a final decision by the Deputy Assistant Secretary on the application within the context of Subsection 301.11." (Emphasis added).

The meaning of the subsection is that should an applicant either fail to notify the Deputy Assistant Secretary of its intent to resubmit another application for the same article to which the denial without prejudice relates *within the 20-day period*, or fails to resubmit a new application *within the 90-day period*, the prior denial without prejudice to resubmission will have the effect of a final denial of the application.

None of the applicants to which this consolidated decision relates has satisfied the requirements set forth above, therefore, the prior denials without prejudice have the effect of a final decision denying their respective applications.

Subsection 301.8 further provides:

"* * * the Deputy Assistant Secretary shall transmit a summary of the prior denial without prejudice to resubmission, of the Federal Register for publication, to the Commissioner of Customs, and to the applicant."

Each of the prior denials without prejudice to resubmission to which this consolidated decision relates was based on the failure of the respective applicants to submit the required documentation, including a completely executed application form, in sufficient detail to allow the issue of "scientific equivalency" to be determined by the Deputy Assistant Secretary.

Docket No. 78-00102. Applicant: University of Illinois at Chicago Circle, P.O. Box 4348, Chicago, Illinois 60607. Article: 80 MHz, Model WP-80 DS Spectrometer. Date of denial without prejudice to resubmission: October 19, 1978.

Docket No. 78-00394. Applicant: University of California—Los Alamos Scientific Laboratory, P.O. Box 990, Los Alamos, NM 87545. Article: 3(Three) each CO₂ Lasers, TEA 103-2 and Accessories. Date of denial without prejudice to resubmission: December 21, 1978.

Docket No. 78-00415. Applicant: Oregon State University, School of

Oceanography, Corvallis, Oregon 97331. Article: Submersible acoustic transponder. Date of denial without prejudice to resubmission: December 21, 1978.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Richard M. Seppa,

Director, Statutory Import Programs Staff,

[FR Doc. 79-14422 Filed 5-8-79; 8:45 am]

BILLING CODE 3510-25-M

University of Rochester; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. at 666-11th Street, N.W. (Room 735) Washington, D.C.

Docket Number 79-00039. Applicant: University of Rochester, University of Rochester Medical Center, 601 Elmwood Avenue, Rochester, New York 14642. Article: Sheath Flow Chamber for Phywe ICP 22. Manufacturer: Phywe AG, West Germany. Intended use of article: The article is intended to be used for the study of cytochemistry of human and other animal cells and chromosomes to develop new techniques for the recognition of abnormal or unusual cells or chromosomes by virtue of their cytochemical properties.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article has a specific sheath flow geometry which allows cells to be brought up through the flow chamber to a point just below (0.4 millimeters) the microscopic objective, then be swept aside at rigid angles out of the field of view. The article also permits measurement of fluorescence with the same optical system that is used to visualize cells in the fluorescence microscope. The Department of Health, Education, and Welfare advises in its memorandum

dated March 1, 1979 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 79-14431 Filed 5-8-79; 8:45 am]

BILLING CODE 3510-25-M

Wayne State University School of Medicine; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. at 666 11th Street, N.W. (Room 735) Washington, D.C.

Docket Number 79-00024. Applicant: Wayne State University School of Medicine, Department of Pathology, 9374 Scott Hall, 540 East Canfield, Detroit, Mich. 48201. Article: Balzers BAF 301 High Vacuum Freeze-Etch System and Accessories. Manufacturer: Balzers High Vacuum Corp. Subsidiary of Balzers Ltd., Switzerland. Intended use of article: The article is intended to be used for varied projects in a research program in morphology. Among the research interests are the following:

(1) Investigation of the relative contributions that elevated wall stress and vasopathogenesis of the microvascular lesions in severe hypertension.

(2) Examination of the characteristics and distribution of the different types of junctions that are located within the complex intracellular space between cardiac muscle cells and to study the effects induced by angiotension II and renal hypertension.

(3) Study of freeze-fracture and etching changes induced by renal hypertension on the arteriosclerosis

prone intercostal orifices of the aorta in man.

(4) Examination of the modifications induced at the level of the tight endothelial junctions by angiotension II and renal hypertension.

(5) Investigation of the role of increased vascular permeability in the development of the cardiomyopathic process.

The article will also be used in a course in experimental cardiovascular pathology to introduce students to the area of experimental pathology and teach them how the investigation of animal models of human disease can lead to a better understanding and improved therapy of disease in man.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides temperature control of the specimen table to 0.1 degree centigrade (°C) in the -80° to -120° C range and a built in microtome. The Department of Health, Education, and Welfare advises in its memorandum dated March 1, 1979 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 79-14432 Filed 5-8-79; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Gulf of Mexico and South Atlantic Fishery Management Council's Coral Advisory Subpanels; Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Gulf of Mexico and South Atlantic Fishery Management Councils were established by the Fishery Conservation and Management Act of 1976 (Public Law 94-265), and the

Councils have established Coral Advisory Subpanels which will meet to review a draft fishery management plan on corals.

DATES: The meeting will convene on Thursday, May 31, 1979, at 8:30 a.m. and will adjourn at 4 p.m. The meeting is open to the public.

ADDRESS: The meeting will take place in Council headquarters, Suite 881, Lincoln Center, 5401 West Kennedy Boulevard, Tampa, Florida.

FOR FURTHER INFORMATION CONTACT: Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Florida 33609, Telephone: (813) 228-2816.

Dated: May 4, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 79-14536 Filed 5-8-79; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing a New Endorsement Stamp for Hong Kong Export Visas

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: A new endorsement stamp showing both the quantity and textile category of the merchandise will be used by the Hong Kong Government on its export visas accompanying certain cotton, wool and man-made fiber apparel products, produced or manufactured in Hong Kong and exported to the United States, effective on June 1, 1979.

SUMMARY: The Hong Kong Government has notified the Government of the United States, that, effective on June 1, 1979, a new endorsement stamp listing the quantity and textile category of the merchandise will be used on all export visas for cotton, wool and man-made fiber apparel products, which are subject to the terms of the bilateral textile agreement between the two governments, except shipments valued under US\$250, which will continue to require the currently authorized exempt certification. Both the category and the quantity must be correctly indicated on the new stamp; otherwise, the merchandise will be denied entry. The only exception will be instances in which the quantity indicated exceeds the actual quantity of the shipment. EFFECTIVE DATE: The Hong Kong Government will begin using the new endorsement stamp on June 1, 1979; however, the merchandise exported

through June 28, 1979, which has the previously authorized stamp on the accompanying export visa shall not be denied entry into the United States for consumption, or withdrawal from warehouse for consumption.

FOR FURTHER INFORMATION CONTACT: Leonard A. Mobley, Director, Trade Analysis Division, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-4212).

SUPPLEMENTARY INFORMATION: On January 5, 1978, there was published in the Federal Register (43 FR 883) a letter dated December 30, 1977 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, establishing an export visa requirement for cotton, wool and man-made fiber apparel products in Categories 330-359, 431-459 and 630-659, produced or manufactured in Hong Kong and exported to the United States after December 31, 1977. The letter published below amends the directive of December 30, 1977 to require, effective on June 1, 1979, that export visas accompanying apparel products in the cited categories from Hong Kong, except appropriately certified shipments valued at less than US\$250, include the new endorsement stamp. A facsimile of the stamp is published as an enclosure to that letter. A list of Hong Kong Government officials authorized to issue the new stamp accompanies this notice.

Robert E. Shepherd,

Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Domestic Business Development.

Hong Kong Government Officials Authorized To Issue Endorsement Stamps for Apparel Products Exported to the United States

Chin Lai-ming
 Chung Yu
 Fung Chan Yan-mui
 HO Siu-lan
 Hoe Chan Chor-wan
 Hon
 Leung Mi-kin
 Lau Ho Wan-chee, Norah
 Law Shuk-ngor, Anita
 Law Yin-hing
 Leung Yuen-fong
 Mak Tse Lai-ching
 Sin Fung-pik
 So Chan Kit-ping, Alice
 So Poon Siu-ying, Betty
 To Dao-wah
 Tsang Miu-wah
 Tse Chui Kam-chee
 Wong Yau Suk-fun
 Yu Mak Kin-ye
 Yuen Chung-jai
 May 3, 1979.

Committee for the Implementation of Textile Agreements
 Commissioner of Customs,

Department of the Treasury, Washington, D.C. 20229.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive of December 30, 1977 from the Chairman of the Committee for the Implementation of Textile Agreements, which established an export visa requirement for certain cotton, wool and man-made fiber apparel products, produced or manufactured in Hong Kong and exported to the United States after December 31, 1977.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 8, 1977, as amended, between the Governments of the United States and Hong Kong; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, the directive of December 30, 1977 is amended to require, that, effective on June 1, 1979, export visas for cotton, wool and man-made fiber apparel products in Categories 330-359, 431-459 and 630-659, produced or manufactured in Hong Kong and exported to the United States, except properly certified shipments of such products valued under US \$250, will include a new endorsement stamp. A facsimile of the new stamp is enclosed.

Both the category and quantity must be correctly indicated on the new stamp; otherwise, the merchandise will be denied entry. The only exception will continue to be those instances in which the quantity indicated exceeds the actual quantity of the shipment.

Merchandise exported through June 28, 1979, which has the previously authorized stamp on the accompanying export visa will not be denied entry into the United States for consumption, or withdrawal from warehouse for consumption.

The actions taken with respect to the Government of Hong Kong and with respect to imports of cotton, wool and man-made fiber apparel products from Hong Kong have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

Robert E. Shepherd,

Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Domestic Business Development.

Enclosure:

Facsimile of Stamp Used by Hong Kong Government on Visas for Cotton, Wool, and Man-Made Fiber Apparel Products Exported to the United States

This licence has been issued in accordance with the terms of the HK/USA Textile Agreement and that the quantity(ies) listed below has been charged to 1979 quantitative limit(s) prescribed for the category(ies) of the

product(s) in question for export to the U.S.A. This copy is for presentation to the competent authorities in the U.S.A.

_____ in Cat. _____
 _____ in Cat. _____
 _____ in Cat. _____

Licensing Officer No. — for Director of Trade Industry and Customs

[FR Doc. 79-14421 Filed 5-9-79; 8:45 am]

BILLING CODE 3518-25-M

DEPARTMENT OF ENERGY

National Petroleum Council, Task Group of the NPC Committee on U.S. Petroleum Inventories and Storage and Transportation Capacities; Meeting

Notice is hereby given that the Coordinating Subcommittee of the Committee on U.S. Petroleum Inventories, and Storage and Transportation Capacities will meet on May 30, 1979. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on U.S. Petroleum Inventories, and Storage and Transportation Capacities will analyze the potential constraints in these areas which may inhibit future production and will report its findings to the National Petroleum Council. Its analysis and findings will be based on information and data to be gathered by the various task groups. The seventh meeting of the Coordinating Subcommittee scheduled for May 24, 1979 is cancelled and is now scheduled for Wednesday, May 30, 1979, starting at 1 p.m., in the Sixth Floor Board Room, Panhandle Eastern Pipeline Company, 3000 Bissonnet Street, Houston, Texas. The tentative agenda for the meeting follows:

1. Introductory remarks by R. Scott Van Dyke, Chairman.
2. Remarks by Mario Cardullo, Government Cochairman.
3. Progress Reports by the Task Group Chairmen.
4. Discussion of timetable of study completion.

5. Discussion of any other matters pertinent to the overall assignment of the Coordinating Subcommittee.

The meeting is open to the public. The chairman of the task group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the task group will be permitted to do so, either before or after the meeting.

Members of the public who wish to make oral statements should inform Mario Cardullo, Office of Resource Applications, 202-633-8828, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room GA-152, Department of Energy, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on May 3, 1979.

George S. McIsaac,
Assistant Secretary for Resource Applications,
May 3, 1979.

[FR Doc. 79-14447 Filed 5-4-79; 8:45 am]
BILLING CODE 6450-01-M

Implementation of the Federal Photovoltaic Utilization Act— Operation of the Federal Photovoltaic Utilization Act Advisory Committee

The Federal Photovoltaic Utilization Act (the Act) (Pub. L. 95-619, Title V, Part 4) established the Federal Photovoltaic Utilization Program Advisory Committee. In carrying out his responsibilities under this Act, the Secretary of Energy has determined that the Committee must be structured and operated and its members must be appointed in accordance with the provisions of the Act, the Department of Energy Organization Act (Pub. L. 95-91), the Federal Advisory Committee Act (Pub. L. 92-463), the OMB Circular A-63 (revised) and other implementing regulations and directives. This Committee is described below.

1. *Name of Advisory Committee:* Federal Photovoltaic Utilization Program Advisory Committee.

2. *Purpose:* The Advisory Committee will assist the Secretary of Energy in the establishment and conduct of a program concerning the purchase of photovoltaic electric systems to be used on Federal Buildings, the early development of a permanent low-cost private photovoltaic industry in the United States, and the stimulation of the private sector market for photovoltaic power systems.

3. *Membership:* As required by the Act, the membership shall include the Secretary of Defense, the Secretary of Housing and Urban Development, the Administrator of the National Aeronautics and Space Administration, the Administrator of the General Services Administration, the Secretary of Transportation, the Administrator of

the Small Business Administration, the Chairman of the Federal Trade Commission, the Postmaster General and such other persons the Secretary of Energy deems necessary to assure that the membership of the Committee will be fairly balanced in terms of the point of view represented and the functions performed by the Committee. All selections will comply with Section 624 of the Department of Energy Organization Act (Pub. L. 95-91). The members other than those officials required to be included by the Act will be recommended for appointment to the Secretary of Energy by the Assistant Secretary of Conservation and Solar Applications in consultation with the Department of Energy Advisory Committee Management Officer and such other DOE officials as are deemed appropriate.

There will be no discrimination based on race, color, creed, national origin, religion, age, or sex.

4. *Operation:* The Federal Photovoltaic Utilization Program Advisory Committee will operate in accordance with the provisions of the Department of Energy Organization Act (Pub. L. 95-91), the Federal Advisory Committee Act (Pub. L. 92-463), OMB Circular A-63 (revised) and other directives and instructions issued in accordance with implementation of Pub. L. 92-463 and the Department of Energy policy and procedures. Advisory Committee meetings will be held approximately three times a year. An agenda for each meeting will be developed cooperatively between the Advisory Committee Chairperson and DOE. The Assistant Secretary for Conservation and Solar Applications will be responsible for effective Advisory Committee operations, which will include providing on a continuous basis all information on DOE policies, procedures, programs, priorities, and issues reasonably required by the Advisory Committee to perform its functions. Staff support will be provided to the Committee by the Office of Conservation and Solar Applications.

5. *Objectivity:* The advice and recommendations of the Advisory Committee will not be inappropriately influenced by the appointing authority or by any special interest; but will instead be the result of the Advisory Committee's independent judgment.

6. *Termination:* The Committee shall terminate on October 1, 1981, pursuant to Pub. L. 95-619.

Dated: April 13, 1979.

James R. Schlesinger,
Secretary of Energy,
[FR Doc. 79-14447 Filed 5-4-79; 3:29 pm]
BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

California Resources Agency; Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

April 30, 1979.

On April 16, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

State of California Resources Agency

FERC Control Number: JD79 5189

API Well Number: 113-20477

Section of NGPA: 103

Operator: Santa Fe Energy Company

Well Name: CWAD-WFL No. 11

Field: Conway Ranch Field

County: Yolo County

Purchaser: Pacific Gas & Electric Co.

Volume: 126.855 MMcf.

FERC Control Number: JD79 5190

API Well Number: 113-20472

Section of NGPA: 103

Operator: Santa Fe Energy Co.

Well Name: CWAD-WFL No. 9A

Field: Conway Ranch Field

County: Yolo

Purchaser: Pacific Gas & Electric Company

Volume: 174.150 MMcf.

FERC Control Number: JD79 5191

API Well Number: 113-20471

Section of NGPA: 103

Operator: Santa Fe Energy Company

Well Name: CWAD-WFL No. 8A

Field: Conway Ranch Field

County: Yolo

Purchaser: Pacific Gas & Electric Co.

Volume: 365.7 MMcf.

FERC Control Number: JD79 5192

API Well Number: 113-20462

Section of NGPA: 103

Operator: Santa Fe Energy Company

Well Name: CWAD-Natomas No. 1A

Field: Conway Ranch Field

County: Yolo

Purchaser: Pacific Gas & Electric Co.

Volume: 158.045 MMcf.

FERC Control Number: JD79 5193

API Well Number: 113-20514

Section of NGPA: 103

Operator: Santa Fe Energy Company

Well Name: CWAD-WFL No. 12A

Field: Conway Ranch Field

County: Yolo

Purchaser: Pacific Gas & Electric Co.

Volume: 94.875 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 objective to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 24, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-14413 Filed 5-8-79; 8:45 am]
BILLING CODE 6450-01-M

Michigan, Department of natural Resources; Notice of Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978.

April 30, 1979.

On April 18, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Department Of Natural Resources (State Of Michigan)

FERC Control Number: JD79-5420

API Well Number: 31851

Section of NCPA: 102

Operator: Miller Brothers

Well Name: Miller Brothers Zimmerman 9A

Field: Mayfield-9-25N-11W

County: Grand Traverse

Purchaser: Consumers Power Company

Volume: 78 MMcf.

FERC Control Number: JD79-5418

API Well Number: 32171

Section of NCPA: 102

Operator: Miller Brothers

Well Name: Miller Brothers Lyke 22A

Field: Cleon-22-24N-13W

County: Maistee

Purchaser: Consumer Power Company

Volume: 200 MMcf.

FERC Control Number: JD79-5419

API Well Number: 31777

Section of NCPA: 102

Operator: Miller Brothers

Well Name: Miller Brothers Lyke-Leik 27

Field: Cleon-27-24N-13W

County: Manistee

Purchaser: Consumers Power Company

Volume: 1.1 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 those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 24, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-14406 Filed 5-10-79; 8:45 am]
BILLING CODE 6450-01-M

Moran Oil Co.; Notice of Petition for Declaratory Order

April 25, 1979.

Take notice that on January 29, 1979, Moran Oil Company, P.O. Box 2549, 300 First Victoria National Bank Bldg., Victoria, Texas 77901, filed a petition for a declaratory order pursuant to Section 1.7(c) of the Commission's Rules of Practice and Procedure in Docket No. RI79-25. Petitioner requests that the Commission issue a declaratory order stating either that an amendment to an interstate contract for deliveries of gas by Petitioner to Lone Star Gas Company (Lone Star) does not violate the Natural Gas Policy Act of 1978 (NGPA) or, alternatively, giving relief under Part 271 Subpart K of the Commission's interim regulations under the NGPA.

In support of its request Petitioner sets forth the chronology of events, covering some five years, which culminated in an agreement between Petitioner and Lone Star to amend the existing contract. Petitioner further states that the agreement amending the contract, prepared by Lone Star, had been signed by Petitioner; and, subsequently, Lone Star refused to sign in fear of possible civil or criminal penalties under the NGPA. Petitioner adopts the position that the amendment is valid, enabling Petitioner to be paid for the subject gas or Petitioner should be allowed to recover its costs under the relief provided by Section 502(c) of the NGPA.

Any person desiring to be heard or to make any protest with reference to said petition should on or before May 17, 1979, file with the Federal Energy Regulatory Commission, 825 North Capitol St. N.E., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the

appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.

[Docket No. RI79-25]
[FR Doc. 79-14403 Filed 5-8-79; 8:45 am]
BILLING CODE 6450-01-M

New Mexico Oil Conservation Division, Notice of Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

April 30, 1979.

On April 18, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

New Mexico Oil Conservation Division

FERC Control Number: JD79 5380

API Well Number: 30-025-25884

Section of NGPA: 103

Operator: Marathon Oil Company

Well Name: McDonald State A/c 2, Well No. 29

Field: Drinkard

County: Lea

Purchaser: Getty Oil Company

Volume: 92.0 MMcf.

FERC Control Number: JD79 5381

API Well Number: 30-105-22040

Section of NGPA: 103

Operator: Marathon Oil Company

Well Name: Amquist Estate Well No. 4

Field: Penasco Draw (San Andres-Yeso) Assoc.

County: Eddy

Purchaser: Transwestern Pipeline Company

Volume: 5.0 MMcf.

FERC Control Number: JD79 5382

API Well Number: 30-025-25933

Section of NGPA: 103

Operator: Marathon Oil Company

Well Name: McDonald State A/c 2, Well No. 32

Field: Drinkard

County: Lea

Purchaser: Getty Oil Company

Volume: 44.0 MMcf.

FERC Control Number: JD79 5383

API Well Number: 30-025-25926

Section of NGPA: 103

Operator: Marathon Oil Company

Well Name: McDonald State A/c 2, Well No. 30

Field: Drinkard

County: Lea

Purchaser: Getty Oil Company

Volume: 84.0 MMcf.

FERC Control Number: JD79 5384

API Well Number: 30-025-25932

Section of NGPA: 103
Operator: Marathon Oil Company
Well Name: McDonald State A/c 2, Well No. 31

Field: Drinkard
County: Lea
Purchaser: Getty Oil Company
Volume: 30.0 MMcf.

FERC Control Number: JD79 5385
API Well Number: 30-025-25684

Section of NGPA: 103
Operator: Marathon Oil Company
Well Name: State K-5796 Well No. 2
Field: Vacuum Abo, North
County: Lea

Purchaser: Phillips Petroleum Company
Volume: 13.0 MMcf.

FERC Control Number: JD79 5386
API Well Number: 30-025-25475

Section of NGPA: 103
Operator: Marathon Oil Company
Well Name: McDonald State A/c 2, Well No. 29

Field: Drinkard
County: Lea
Purchaser: Phillips Petroleum Company
Volume: 20.0 MMcf.

FERC Control Number: JD79 5387
API Well Number: 30-025-25568

Section of NGPA: 103
Operator: Marathon Oil Company
Well Name: Lou Worthan Well No. 18
Field: Wantz Granite Wash
County: Lea

Purchaser: Getty Oil Company
Volume: 136.0 MMcf.

FERC Control Number: JD79 5387
API Well Number: 30-025-25568

Section of NGPA: 103
Operator: Marathon Oil Company
Well Name: Lou Worthan, Well No. 18
Field: Wantz Granite Wash
County: Lea

Purchaser: Getty Oil Company
Volume: 136.0 MMcf.

FERC Control Number: JD79 5388
API Well Number: 30-015-22191

Section of NGPA: 103
Operator: Western Oil Producers, Inc.
Well Name: Bass #1
Field: Carlsbad Wolfcamp East
County: Eddy
Purchaser: Natural Gas Pipeline Company of America
Volume: MMcf N/A.

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 those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 24, 1979. Please reference the FERC Control Number in any

correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.
[FR Doc. 79-14407 Filed 5-8-79; 8:45 am]
BILLING CODE 6450-01-M

**New Mexico Oil Conservation Division;
Notice of Determination by a
Jurisdictional Agency Under the
Natural Gas Policy Act of 1978.**

April 30, 1979.

On April 18, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

New Mexico Oil Conservation Division

FERC Control Number: JD79 5385,
API Well Number: 3003907630000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Rincon Unit #32
Field: Blanco Mesaverde Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 17.5 MMcf.

FERC Control Number: JD79 5366
API Well Number: 30045114570000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Heizer 1
Field: Blanco Mesaverde Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 18.0 MMcf.

FERC Control Number: JD79 5367
API Well Number: 3004513440000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Farmington Com B #1
Field: Basin Dakota Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 19.0 Mcf.

FERC Control Number: JD79 5368
API Well Number: 30045208960000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Callison #1
Field: Aztec Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 20.4 MMcf.

FERC Control Number: JD79 5369
API Well Number: 30045117860000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Flanigan #1
Field: Aztec Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 21.9 MMcf.

FERC Control Number: JD79 5370
API Well Number: 30045106780000
Section of NGPA: 108
Operator: Beta Development Co.
Well Name: Rhoda Abrams #2

Field: Basin Dakota
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 14 MMcf.

FERC Control Number: JD79 5371
API Well Number: N/A
Section of NGPA: 108
Operator: Beta Development Co.
Well Name: Rhoda Abrams #2
Field: Basin Dakota
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 14 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 those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 24, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.
[FR Doc. 79-14408 Filed 5-8-79; 8:45 am]
BILLING CODE 6450-01-M

**New Mexico Oil Conservation Division;
Notice of Determination by a
Jurisdictional Agency Under the
Natural Gas Policy Act of 1978**

April 30, 1979.

On April 18, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

New Mexico Oil Conservation Division

FERC Control Number: JD79 5372
API Well Number: 30-025-06859
Section of NGPA: 108
Operator: Gulf Oil Corporation
Well Name: H.T. Mattern (NCT-C) Well No. 3
Field: Eumont Gas
County: Lea
Purchaser: El Paso Natural Gas Co.
Volume: 13 MMcf.

FERC Control Number: JD79 5373
API Well Number: N/A
Section of NGPA: 108
Operator: Gulf Oil Corporation
Well Name: H.T. Mattern (NCT-C) Com. Well No. 6
Field: Eumont Gas
County: Lea
Purchaser: Northern Natural Gas Company

Volume: 14 MMcf.
 FERC Control Number: JD79 5374
 API Well Number: 30-025-06667
 Section of NGPA: 108
 Operator: Gulf Oil Corporation
 Well Name: Eunice Com. Unit Well No. 1
 Field: Eumont Gas
 County: Lea
 Purchaser: Northern Natural Gas Company
 Volume: 14 MMcf.
 FERC Control Number: JD79 5375
 API Well Number: 30-025-05559
 Section of NGPA: 108
 Operator: Gulf Oil Corporation
 Well Name: J.R. Holt (NGT-C) Com. Well No. 1
 Field: Eumont Gas
 County: Lea
 Purchaser: Northern Natural Gas Company
 Volume: 5.6 MMcf.
 FERC Control Number: JD79 5376
 API Well Number: 30-025-09399
 Section of NGPA: 108
 Operator: Gulf Oil Corporation
 Well Name: J. F. Janda (NGT-G) Well No. 1
 Field: Jalmat Gas
 County: Lea
 Purchaser: Northern Natural Gas Company
 Volume: 11.8 MMcf.
 FERC Control Number: JD79 5377
 API Well Number: N/A
 Section of NGPA: 108
 Operator: Gulf Oil Corporation
 Well Name: Learcy McBuffington Well No. 1
 Field: Langlie Mattix Gas
 County: Lea
 Purchaser: Northern Natural Gas Company
 Volume: 4 MMcf.
 FERC Control Number: JD79 5378
 API Well Number: 30-025-01992
 Section of NGPA: 108
 Operator: Gulf Oil Corporation
 Well Name: Lea "FE" State Well No. 3
 Field: Vacuum Queen Gas
 County: Lea
 Purchaser: Phillips Petroleum Co.
 Volume: 3.3 MMcf.
 FERC Control Number: JD79 5379
 API Well Number: 30-025-24641
 Section of NGPA: 108
 Operator: Tahoe Oil & Cattle Co.
 Well Name: Judy #1
 Field: Langlie-Mattix
 County: N/A
 Purchaser: El Paso Natural Gas Co.
 Volume: 21,444 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 those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 24, 1979. Please reference the FERC Control

Number in any correspondence concerning a determination.

Kenneth F. Fitch,
 Secretary.
 [FR Doc. 79-14409 Filed 5-8-79; 8:45 am]
 BILLING CODE 6450-01-M

**New Mexico Oil Conservation Division;
 Notice of Determination by a
 Jurisdictional Agency Under the
 Natural Gas Policy Act of 1978**

May 1, 1979.

On April 12, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

New Mexico Oil Conservation Division

FERC Control Number: JD79-2774
 API Well Number: 30-039-21416
 Section of NGPA: 103
 Operator: Northwest Pipeline Corporation
 Well Name: San Juan 29-6 #54A
 Field: Blanco Mesa Verde
 County: Rio Arriba
 Purchaser: Northwest Pipeline Corporation
 Volume: 41 MMcf.

FERC Control Number: JD79-2775
 API Well Number: 30-039-21324
 Section of NGPA: 103
 Operator: Northwest Pipeline Corporation
 Well Name: S. J. 29-6 #43-A
 Field: Blanco MV
 County: Rio Arriba
 Purchaser: Northwest Pipeline Corporation
 Volume: 78 MMcf.

FERC Control Number: JD79-2776
 API Well Number: 30-039-21788
 Section of NGPA: 103
 Operator: Northwest Pipeline Corporation
 Well Name: San Juan 29-5 Unit #88
 Field: Basin Dakota
 County: Rio Arriba
 Purchaser: Northwest Pipeline Corporation
 Volume: N/A.

FERC Control Number: JD79-2776
 API Well Number: 30-039-21788
 Section of NGPA: 103
 Operator: Northwest Pipeline Corporation
 Well Name: San Juan 29-5 Unit #88
 Field: Basin Dakota
 County: Rio Arriba
 Purchaser: Northwest Pipeline Corporation
 Volume: N/A.

FERC Control Number: JD79-2777
 API Well Number: 30-039-21325
 Section of NGPA: 103
 Operator: Northwest Pipeline Corporation
 Well Name: San Juan 29-6 #45A
 Field: Blanco MV
 County: Rio Arriba
 Purchaser: Northwest Pipeline Corporation
 Volume: 92 MMcf.

FERC Control Number: JD79-2778
 API Well Number: 30-039-21496
 Section of NGPA: 103
 Operator: Northwest Pipeline Corporation
 Well Name: San Juan 31-6 Unit #29

Field: Blanco MV
 County: Rio Arriba
 Purchaser: Northwest Pipeline Corporation
 Volume: 151 MMcf.

FERC Control Number: JD79-2779
 API Well Number: 30-039-21466
 Section of NGPA: 103
 Operator: Northwest Pipeline Corporation
 Well Name: Gobernador #2
 Field: Gobernador PC
 County: Rio Arriba
 Purchaser: Northwest Pipeline Corporation
 Volume: 45 MMcf.

FERC Control Number: JD79-2780
 API Well Number: 30-039-21224
 Section of NGPA: 103
 Operator: Northwest Pipeline Corporation
 Well Name: S. J. 29-6 #38A
 Field: Blanco MV
 County: Rio Arriba
 Purchaser: Northwest Pipeline Corporation
 Volume: 93 MMcf.

FERC Control Number: JD79-2781
 API Well Number: 30-039-21417
 Section of NGPA: 103
 Operator: Northwest Pipeline Corporation
 Well Name: San Juan 29-6 #59A
 Field: Blanco Mesa Verde
 County: Rio Arriba
 Purchaser: Northwest Pipeline Corporation
 Volume: 255 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 those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 24, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Lois D. Casbell,
 Acting Secretary.
 [FR Doc. 79-14410 Filed 5-8-79; 8:45 am]
 BILLING CODE 6450-01-M

**North Dakota State Industrial
 Commission, Oil and Gas Division;
 Notice of Determination by a
 Jurisdictional Agency Under the
 Natural Gas Policy Act of 1978**

April 30, 1979.

On April 18, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

North Dakota State Industrial Commission,
Oil and Gas Division
FERC Control Number: JD79-5415
API Well Number: 33-053-00767
Section of NGPA: 103
Operator: Energetics, Inc.
Well Name:
Field: Union Center
County: McKenzie County
Purchaser: Cheyenne Light, Fuel & Power Co.,
et al
Volume: 13296 MMcf

FERC Control Number: JD79-5416
API Well Number:
Section of NGPA: 103
Operator: Energetics, Inc.
Well Name: George Wollan 44-14
Field: Union Center
County: McKenzie County
Purchaser: Montana Dakota Utilities Co., et al
Volume: 12,132 MMcf

FERC Control Number: JD79-5417
API Well Number:
Section of NGPA: 103
Operator: Energetics, Inc.
Well Name: Eldred Brenna 13-13
Field: Union Center
County: McKenzie County
Purchaser: Montana Dakota Utilities Co., et al
Volume: 40068 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. 20428.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 24, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-14411 Filed 5-8-79; 8:45 am]

BILLING CODE 6450-01-M

North Dakota Geological Survey; Notice of Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

April 30, 1979.

On April 18, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

The State Of North Dakota Geological Survey
FERC Control Number: JD79-5412
API Well Number: 33-053-00804
Section of NGPA: 102
Operator: Brownlie, Wallace, Armstrong and
Bander
Well Name: Hatter #34-32
Field: MonDak
County: McKenzie
Purchaser: Montana-Dakota Utilities Co.
Volume: 42,000 MMcf.

FERC Control Number: JD79-5413
API Well Number: 33-053-00801
Section of NGPA: 102
Operator: Brownlie, Wallace, Armstrong and
Bander
Well Name: BN #11-21
Field: MonDak
County: McKenzie
Purchaser: Montana-Dakota Utilities
Volume: 5,000

FERC Control Number: JD79-5414
API Well Number: 33-053-00747
Section of NGPA: 102
Operator: Brownlie, Wallace, Armstrong and
Bander
Well Name: Interstate Land & C.C. #2-14
Field: MonDak
County: McKenzie
Purchaser: Montana-Dakota Utilities Inc.
Volume: 37,000

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. 20428.

Persons objecting to any of those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 24, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-14414 Filed 5-8-79; 8:45 am]

BILLING CODE 6450-01-M

Ohio Department of Natural Resources; Notice of Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

April 30, 1979.

On April 18, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Ohio Department of Natural Resources
FERC Control Number: JD79-5430
API Well Number: 3411923943**14
Section of NGPA: 108
Operator: Oxford Oil Company
Well Name: L. E. Crowley #1
Field:
County: Muskingum
Purchaser: National Gas & Oil Corp.
Volume: 18.3 MMcf.

FERC Control Number: JD79-5431
API Well Number: 34-165-2-0765**14
Section of NGPA: 108
Operator: Inland Drilling Co., Inc.
Well Name: Maitino No. 1
Field:
County: Trumbull
Purchaser: East Ohio Gas Company
Volume: 0.210 MMcf.

FERC Control Number: JD79-5432
API Well Number: 341924061**14
Section of NGPA: 108
Operator: Temple Oil & Gas Company
Well Name: Harold Luntz No. 1
Field:
County: Muskingum
Purchaser: National Gas & Oil Corp.
Volume: 4.6 MMcf.

FERC Control Number: JD79-5433
API Well Number: 341120950**14
Section of NGPA: 108
Operator: Nova A. Christman
Well Name: George Christman No. 1
Field:
County: Monroe
Purchaser: Columbia Gas Transmission
Volume: 1.1 MMcf.

FERC Control Number: JD79-5434
API Well Number: 341121001**14
Section of NGPA: 108
Operator: Nova A. Christman
Well Name: Calvert No. 1
Field:
County: Monroe
Purchaser: River Gas Company
Volume: 0.96 MMcf.

FERC Control Number: JD79-5435
API Well Number: 341121196**14
Section of NGPA: 102
Operator: Nova A. Christman
Well Name: Burkhart No. 1
Field:
County: Monroe
Purchaser: Columbia Gas Transmission
Volume: 1 MMcf.

FERC Control Number: JD79-5436
API Well Number: 3411521413**14
Section of NGPA: 108
Operator: Ohio Production Corp.
Well Name: McGonagle McConalgle &
Snyder et al Unit No. 1
Field:
County: Morgan
Purchaser: Columbia Gas Transmission Corp.
Volume: 6 MMcf.

FERC Control Number: JD79-5437
API Well Number: 34-075-2-1410**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Yoder Unit No. 1
Field: Mt Eaton
County: Holmes
Purchaser: Columbia Gas Transmission Corp.

Volume: 2 MMcf.

FERC Control Number: JD79-5438
API Well Number: 34-075-2-1434**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Yoder Unit No. 1-6PH
Field: Winesburg
County: Holmes
Purchaser: Columbia Gas Transmission Corp.
Volume: 2.5 MMcf.

FERC Control Number: JD79-5439
API Well Number: 34-169-2-1682**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: A. P. Yoder No. 1-10
Field: Mt Eaton
County: Wayne
Purchaser: Columbia Gas Transmission Corp.
Volume: 3.9 MMcf.

FERC Control Number: JD79-5440
API Well Number: 34-075-2-1422**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Earl Wisard No. 1
Field: Winesburg
County: Holmes
Purchaser: Columbia Gas Transmission Corp.
Volume: 9 MMcf.

FERC Control Number: JD79-5441
API Well Number: 34-103-2-1868**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: T. Workinger D. Schrock No. 1
Field: Homerville
County: Medina
Purchaser: Columbia Gas Transmission Corp.
Volume: 3.4 MMcf.

FERC Control Number: JD79-5442
API Well Number: 34-075-2-1429**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Edwin Bontrager No. 1
Field: Winesburg
County: Holmes
Purchaser: Columbia Gas Transmission
Volume: 2.8 MMcf.

FERC Control Number: JD79-5443
API Well Number: 34-031-2-2256**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: R. M. Allen No. 1
Field: Tunnel Hill
County: Coshocton
Purchaser: Columbia Gas Transmission Corp.
Volume: 3.0 MMcf.

FERC Control Number: JD79-5444
API Well Number: 34-031-2-2371**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Apple Herbert Unit No. 20070
Field: West Lafayette
County: Coshocton
Purchaser: Columbia Gas Transmission Corp.
Volume: .01

FERC Control Number: JD79-5445
API Well Number: 34-151-2-2394**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Edgar Wright No. 11375
Field: Wilmot
County: Stark
Purchaser: Columbia Gas Transmission Corp.
Volume: 2.9 MMcf.

FERC Control Number: JD79-5446
API Well Number: 34-157-2-2261**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: A. Winkleman & H. Cline No. 20080
Field: Ragersville
County: Tuscarawas
Purchaser: Columbia Gas Transmission Corp.
Volume: 3.1 MMcf.

FERC Control Number: JD79-5447
API Well Number: 34-075-2-1617**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: David C. Wengerd Unit No. 11360
Field: Walnut Creek
County: Holmes
Purchaser: Columbia Gas Transmission
Volume: .6 MMcf.

FERC Control Number: JD-5448
API Well Number: 34-031-2-3070**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: G. J. Burnett, Jr. No. 1
Field: Warsaw
County: Coshocton
Purchaser: Columbia Gas Transmission Corp.
Volume: 3.2 MMcf.

FERC Control Number: JD79-5449
API Well Number: 34-151-2-2356**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Roman Bontrager No. 11277
Field: Wilmot
County: Stark
Purchaser: Columbia Gas Transmission Corp.
Volume: 5.1 MMcf.

FERC Control Number: JD79-5450
API Well Number: 23-103-2-1847**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: L.S. Baker & C. A. Ramey No. 11553
Field: Homerville
County: Medina
Purchaser: Columbia Gas Transmission Corp.
Volume: 3.8 MMcf.

FERC Control Number: JD79-5451
API Well Number: 3407521961**14
Section of NGPA: 108
Operator: Buckeye Oil Producing Company
Well Name: Chupp No. 1
Field:
County: Holmes
Purchaser: Columbia Gas Transmission Corp.
Volume: 18 MMcf.

FERC Control Number: JD79-5452
API Well Number: 3411521394**14
Section of NGPA: 108
Operator: Ohio Production Corporation
Well Name: Beatty Dingey Unit No. 1
Field:
County: Morgan
Purchaser: Columbia Gas Transmission Corp.
Volume: 3 MMcf.

FERC Control Number: JD79-5453
API Well Number: 3411521519**14
Section of NGPA: 108
Operator: Ohio Production Corp.
Well Name: John Palmer No. 1
Field:
County: Morgan
Purchaser: Columbia Gas Transmission Corp.

Volume: 7 MMcf.

FERC Control Number: JD79-5454
API Well Number: 3411923166**14
Section of NGPA: 108
Operator: Perry Development Company.
Well Name: Wendell Derry No. 1
Field:
County: Muskingum
Purchaser: The East Ohio Gas Company
Volume: 11 MMcf.

FERC Control Number: JD79-5455
API Well Number: 34-075-2-1457**4
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: M Yutzy Unit No. 1-13
Field: Winesburg
County: Holmes
Purchaser: Columbia Gas Transmission Corp.
Volume: 1.54 MMcf.

FERC Control Number: JD79-5456
API Well Number: 34-075-2-1570**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Paul W. Yoder No. 1128
Field: Winesburg
County: Holmes
Purchaser: Columbia Gas Transmission Corp.
Volume: 4.1 MMcf.

FERC Control Number: JD79-5457
API Well Number: 34-169-2-1658**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: E. Yoder Unit No. 1-24
Field: Mt. Eaton
County: Wayne
Purchaser: Columbia Gas Transmission Corp.
Volume: 9 MMcf.

FERC Control Number: JD79-5458
API Well Number: 3411521350**14
Section of NGPA: 108
Operator: Ohio Production Corp.
Well Name: McConable & Snyder Reed Unit No. 1
Field:
County: Morgan
Purchaser: Columbia Gas Transmission Corp.
Volume: 10 MMcf.

FERC Control Number: JD79-5459
API Well Number: 34-031-2-2218**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Chester Baumgardner No. 11502
Field: Warsaw
County: Coshocton
Purchaser: Columbia Gas Transmission Corp.
Volume: .08 MMcf.

FERC Control Number: JD79-5460
API Well Number: 34-103-2-1855**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Bishop Jedlicka Unit No. 1
Field: Homerville
County: Medina
Purchaser: Columbia Gas Transmission Corp.
Volume:

FERC Control Number: JD79-5461
API Well Number: 34-031-2-2237
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: J. P. Baird No. 1
Field: West Lafayette
County: Coshocton
Purchaser: Columbia Gas Transmission Corp.

Volume:
 FERC Control Number: JD79-5462
 API Well Number: 34-103-2-1832**14
 Section of NGPA: 108
 Operator: Jerry Moore, Inc.
 Well Name: Skinner Ramey Unit No. 11500
 Field: W/C
 County: Medina
 Purchaser: Columbia Gas Transmission Corp.
 Volume: 8.6 MMcf.

FERC Control Number: JD79-546
 API Well Number: 34-157-2-2263**14
 Section of NGPA: 108
 Operator: Jerry Moore, Inc.
 Well Name: Wm. H. Stauffer No. 20081
 Field: Baltic
 County: Tuscarawas
 Purchaser: Columbia Gas Transmission Corp.
 Volume: 3.8 MMcf.

FERC Control Number: JD79-5464
 API Well Number: 34-031-2-2326
 Section of NGPA: 108
 Operator: Jerry Moore, Inc.
 Well Name: Carrie L. Schlegel No. 1
 Field: Baltic
 County: Coshocton
 Purchaser: East Ohio Gas Company
 Volume: 1 MMcf.

FERC Control Number: JD79-5465
 API Well Number: 34-031-2-2329**14
 Section of NGPA: 108
 Operator: Jerry Moore, Inc.
 Well Name: Arthur E. Schumaker No. 1
 Field: Baltic
 County: Coshocton
 Purchaser: East Ohio Gas Company
 Volume: 5.5 MMcf.

FERC Control Number: JD79-5466
 API Well Number: 34-031-2-2340**14
 Section of NGPA: 108
 Operator: Jerry Moore, Inc.
 Well Name: John C. Stein No. 1
 Field: Baltic
 County: Coshocton
 Purchaser: East Ohio Gas Company
 Volume: 6 MMcf.

FERC Control Number: JD79-5467
 API Well Number: 34-157-2-1902**14
 Section of NGPA: 108
 Operator: Jerry Moore, Inc.
 Well Name: J. E. Baker & G. L. Sigrist No. 11402
 Field: Dundee
 County: Tuscarawas
 Purchaser: Columbia Gas Transmission Corp.
 Volume:

FERC Control Number: JD79-5468
 API Well Number: 34-075-2-1507**14
 Section of NGPA: 108
 Operator: Jerry Moore, Inc.
 Well Name: Weaver Yoder Unit No. 1-36
 Field: WinesburgHolmes
 Purchaser: Columbia Gas Transmission Corp.
 Volume: 6 MMcf.

FERC Control Number: JD79-5469
 API Well Number: 34-075-2-1504**14
 Section of NGPA: 108
 Operator: Jerry Moore, Inc.
 Well Name: V. R. Weaver Unit No. 1-7
 Field: Berlin
 County: Holmes
 Purchaser: Columbia Gas Transmission Corp.
 Volume: 6.7 MMcf.

FERC Control Number: JD79-5470
 API Well Number: 3410521509**14
 Section of NGPA: 108
 Operator: Adams Drilling Company
 Well Name: Proffitt Bush No. 1
 Field:
 County: Meigs
 Purchaser: Columbia Gas Transmission Corp.
 Volume: 2 MMcf.

FERC Control Number: JD79-5471
 API Well Number: 3410520221**14
 Section of NGPA: 108
 Operator: Adams Drilling Company
 Well Name: Edison Hobstetter No. 1
 Field:
 County: Meigs
 Purchaser: Columbia Gas Transmission Corp.
 Volume: 15 MMcf.

FERC Control Number: JD79-5472
 API Well Number: 3410520448**14
 Section of NGPA: 108
 Operator: Adams Drilling Company
 Well Name: Simpson C. Jividen No. 1
 Field:
 County: Meigs
 Purchaser: Columbia Gas Transmission Corp.
 Volume:

FERC Control Number: JD79-5473
 API Well Number: 34-031-2-2339**14
 Section of NGPA: 108
 Operator: Jerry Moore, Inc.
 Well Name: Dent Thomas Lorenz Unit No. 1
 Field: Baltic
 County: Coshocton
 Purchaser: East Ohio Gas Company
 Volume: 6.4 MMcf.

FERC Control Number: JD79-5474
 API Well Number: 34-031-2-2324**14
 Section of NGPA: 108
 Operator: Jerry Moore, Inc.
 Well Name: George H. Lorenz No. 1
 Field: Baltic
 County: Coshocton
 Purchaser: East Ohio Gas Company
 Volume: 4.8 MMcf.

FERC Control Number: JD79-5475
 API Well Number: 34-157-2-2274
 Section of NGPA: 108
 Operator: Jerry Moore, Inc.
 Well Name: Arvid Lund No. 1
 Field: Baltic
 County: Tuscarawas
 Purchaser: East Ohio Gas Company
 Volume: 1.1 MMcf.

FERC Control Number: JD79-5476
 API Well Number: 34-031-2-2343**14
 Section of NGPA: 108
 Operator: Jerry Moore, Inc.
 Well Name: George H. Lorenz No. 2
 Field: Baltic
 County: Coshocton
 Purchaser: East Ohio Gas Company
 Volume: 1.3 MMcf.

FERC Control Number: JD79-5477
 API Well Number: 34-031-2-2605**14
 Section of NGPA: 108
 Operator: Jerry Moore, Inc.
 Well Name: Paul C. Waters No. 20197
 Field: West Lafayette
 County: Coshocton
 Purchaser: Columbia Gas Transmission Corp.
 Volume: .5 MMcf.

FERC Control Number: JD79-5478
 API Well Number: 34-031-2-2393**14
 Section of NGPA: 108
 Operator: Jerry Moore, Inc.
 Well Name: Paul C. Waters No. 20083
 Field: Orange
 County: Coshocton
 Purchaser: Columbia Gas Transmission Corp.
 Volume: 4 MMcf.

FERC Control Number: JD79-5479
 API Well Number: 34-9-2-2057**14
 Section of NGPA: 103
 Operator: Petroleum Sec. FD.-1977 Dr. Program
 Well Name: Lester W. Geisler No. 2
 Field: Smithville Field
 County: Wayne
 Purchaser: Columbia Gas Transmission Corp.
 Volume: 36.50 MMcf.

FERC Control Number: JD79-5480
 API Well Number: 34-169-2-2020**14
 Section of NGPA: 103
 Operator: Petroleum Sec. FD. 1977 Dr. Program
 Well Name: Lois I. Shisler No. 2
 Field: Smithville Field
 County: Wayne
 Purchaser: Columbia Gas Transmission Corp.
 Volume: 91.25 MMcf.

FERC Control Number: JD79-5481
 API Well Number: 34-031-2-2217**14
 Section of NGPA: 108
 Operator: Jerry Moore, Inc.
 Well Name: Ester Taylor No. 11393
 Field: West Lafayette
 County: Coshocton
 Purchaser: Columbia Gas Transmission Corp.
 Volume: .7 MMcf.

FERC Control Number: JD79-5482
 API Well Number: 34-031-2-2342**14
 Section of NGPA: 108
 Operator: Jerry Moore, Inc.
 Well Name: Carl C. Parrillo No. 1
 Field: Baltin
 County: Coshocton
 Purchaser: East Ohio Gas Company
 Volume: 7.7 MMcf.

FERC Control Number: JD79-5483
 API Well Number: 34-031-2-2263**14
 Section of NGPA: 108
 Operator: Jerry Moore, Inc.
 Well Name: Eugene H. Waggoner No. 1
 Field: West Lafayette
 County: Coshocton
 Purchaser: Columbia Gas Transmission Corp.
 Volume: 18 MMcf.

FERC Control Number: JD79-5484
 API Well Number: 34-103-2-1848
 Section of NGPA: 108
 Operator: Jerry Moore, Inc.
 Well Name: Ned E. Walters No. 11554
 Field: Homerville
 County: Medina
 Purchaser: Columbia Gas Transmission Corp.
 Volume: 2 MMcf.

FERC Control Number: JD79-5485
 API Well Number: 34-031-2-2346**14
 Section of NGPA: 108
 Operator: Jerry Moore, Inc.
 Well Name: Thomas Vessels Unit No. 1-20067
 Field: West Lafayette
 County: Coshocton
 Purchaser: Columbia Gas Transmission Corp.
 Volume: 17 MMcf.

FERC Control Number: JD79-5486
 API Well Number: 34-157-2-2275**14
 Section of NGPA: 108
 Operator: Jerry Moore, Inc.
 Well Name: Nora Warren Clyde Toland No. 1
 Field: Baltic
 County: Tuscarawas
 Purchaser: East Ohio Gas Company
 Volume: .8 MMcf.

FERC Control Number: JD79-5487
 API Well Number: 34-157-2-2276**14
 Section of NGPA: 108
 Operator: Jerry Moore, Inc.
 Well Name: Clyde Toland No. 1
 Field: Baltic
 County: Tuscarawas
 Purchaser: East Ohio Gas Company
 Volume: 3 MMcf.

FERC Control Number: JD 79-5488
 API Well Number: 34-157-2-2271**14
 Section of NGPA: 108
 Operator: Jerry Moore, Inc.
 Well Name: Nora M. Warren No. 1
 Field: Baltic
 County: Tuscarawas
 Purchaser: East Ohio Gas Company
 Volume: .7 MMcf.

FERC Control Number: JD79-5489
 API Well Number: 34-031-2-2331**14
 Section of NGPA: 108
 Operator: Jerry Moore, Inc.
 Well Name: W. Wilson & P. Armbrust No. 1
 Field: Baltic
 County: Coshocton
 Purchaser: East Ohio Gas Company
 Volume: .7 MMcf.

FERC Control Number: JD79-5490
 API Well Number: 34-157-2-1372**14
 Section of NGPA: 108
 Operator: Jerry Moore, Inc.
 Well Name: J. Noland Unit No. 1
 Field: Strasburg
 County: Tuscarawas
 Purchaser: East Ohio Gas Company
 Volume: 5 MMcf.

FERC Control Number: JD79-5491
 API Well Number: 34-075-2-1505**14
 Section of NGPA: 108
 Operator: Jerry Moore, Inc.
 Well Name: E. Troyer Unit No. 1-A
 Field: Winesburg
 County: Holmes
 Purchaser: Columbia Gas Transmission Corp
 Volume: 9 MMcf.

FERC Control Number: JD79-5492
 API Well Number: 34-169-2-1607**14
 Section of NGPA: 108
 Operator: Jerry Moore, Inc.
 Well Name: V. J. Wengerd Unit No. 1
 Field: Mt. Eaton
 County: Wayne
 Purchaser: Columbia Gas Transmission Corp.
 Volume: 5.9 MMcf.

FERC Control Number: JD79-5493
 API Well Number: 34-031-2-2264**14
 Section of NGPA: 108
 Operator: Jerry Moore, Inc.
 Well Name: Bluck Hickory Flats No. 1
 Field: West Lafayette
 County: Coshocton
 Purchaser: Columbia Gas Transmission Corp.
 Volume: 1.2 MMcf.

FERC Control Number: JD79-5494

API Well Number: 34-157-2-1479**14
 Section of NGPA: 108
 Operator: Jerry Moore, Inc.
 Well Name: S. Parker Unit No. 1
 Field: Strasburg
 County: Tuscarawas
 Purchaser: East Ohio Gas Company
 Volume: 2.4 MMcf.

FERC Control Number: JD79-5495
 API Well Number: 34-157-2-1203**14
 Section of NGPA: 108
 Operator: Jerry Moore, Inc.
 Well Name: H. D. Rowe No. 1
 Field: Strasburg
 County: Tuscarawas
 Purchaser: East Ohio Gas Company
 Volume: 4.5 MMcf.

FERC Control Number: JD79-5496
 API Well Number: 34-157-2-1958**14
 Section of NGPA: 108
 Operator: Jerry Moore, Inc.
 Well Name: North American Refrac Co. No. 5374
 Field: Strasburg
 County: Tuscarawas
 Purchaser: East Ohio Gas Company
 Volume: 3.8 MMcf.

FERC Control Number: JD79-5497
 API Well Number: 3405320157**14
 Section of NGPA: 102
 Operator: Wray Petroleum Corporation of Ohio
 Well Name: Osborns No. 1
 Field:
 County: Gallia
 Purchaser:
 Volume: 36 MMcf.

FERC Control Number: JD79-5498
 API Well Number: 3405320160**14
 Section of NGPA: 102
 Operator: Wray Petroleum Corporation of Ohio
 Well Name: Campbell No. 1
 Field:
 County: Gallia
 Purchaser:
 Volume: 36 MMcf.

FERC Control Number: JD79-5499
 API Well Number: 3405320166**14
 Section of NGPA: 102
 Operator: Wray Petroleum Corporation of Ohio
 Well Name: Wood No. 1
 Field:
 County: Gallia
 Purchaser:
 Volume:

FERC Control Number: JD79-5500
 API Well Number: 3405320161**14
 Section of NGPA: 102
 Operator: Wray Petroleum Corporation of Ohio
 Well Name: Waugh No. 2
 Field:
 County: Gallia
 Purchaser:
 Volume: 36 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record of 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 those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 24, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
 Secretary,
 [FR Doc. 79-14412 Filed 5-8-79; 9:45 am]
 BILLING CODE 6450-01-M

OXY Petroleum, Inc., et al; Notice of Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 1, 1979.

On April 11, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

FERC Control Number: JD79-2786
 API Well Number: 029-55520
 Section of NGPA: 102
 Operator: OXY Petroleum, Inc.
 Well Name: Chevron Cal Canal 1
 Field: Cal Canal Field
 County: Kern
 Purchaser: Belridge Oil Company
 Volume: 120 MMcf

FERC Control Number: JD79-2787
 API Well Number: 029-57970
 Section of NGPA: 102
 Operator: OXY Petroleum, Inc.
 Well Name: Chevron 33-5
 Field: Cal Canal Field
 County: Kern
 Purchaser: Belridge Oil Company
 Volume: 30 MMcf

FERC Control Number: JD79-2788
 API Well Number: 029-56709
 Section of NGPA: 102
 Operator: OXY Petroleum, Inc.
 Well Name: Chevron 84-31
 Field: Cal Canal Field
 County: Kern
 Purchaser: Belridge Oil Company
 Volume: 264 MMcf

FERC Control Number: JD79-2784
 API Well Number: 029-57841
 Section of NGPA: 102
 Operator: OXY Petroleum, Inc.
 Well Name: Chevron-Nelson 12-32
 Field: Cal Canal Field
 County: Kern
 Purchaser: Belridge Oil Company
 Volume: 72 MMcf

FERC Control Number: JD79-2795
 API Well Number: 029-57063
 Section of NGPA: 102

Operator: OXY Petroleum, Inc.
Well Name: Chevron 43-5
Field: Cal Canal Field
County: Kern
Purchaser: Belridge Oil Company
Volume: 59 MMcf
FERC Control Number: JD79-2789
API Well Number: 029-56221
Section of NGPA: 102
Operator: OXY Petroleum, Inc.
Well Name: Chevron Cal Canal 61-5
Field: Cal Canal Field
County: Kern
Purchaser: Belridge Oil Company
Volume: 360 MMcf
FERC Control Number: JD79-2790
API Well Number: 029-58032
Section of NGPA: 102
Operator: OXY Petroleum, Inc.
Well Name: Chevron 32-31
Field: Cal Canal Field
County: Kern
Purchaser: Belridge Oil Company
Volume: 264 MMcf
FERC Control Number: JD79-2791
API Well Number: 029-57573
Section of NGPA: 102
Operator: OXY Petroleum, Inc.
Well Name: Chevron-Nelson 22-32
Field: Cal Canal Field
County: Kern
Purchaser: Belridge Oil Company
Volume: 60 MMcf
FERC Control Number: JD79-2792
API Well Number: 029-56811
Section of NGPA: 102
Operator: OXY Petroleum, Inc.
Well Name: Chevron 88-31
Field: Cal Canal Field
County: Kern
Purchaser: Belridge Oil Company
Volume: 276 MMcf
FERC Control Number: JD79-2793
API Well Number: 029-57572
Section of NGPA: 102
Operator: OXY Petroleum, Inc.
Well Name: Chevron 42-5
Field: Cal Canal Field
County: Kern
Purchaser: Belridge Oil Company
Volume: 300 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 those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 24, 1979. Please reference the FERC Control Number in any

correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.
[FR Doc. 79-14405 Filed 5-8-79; 8:45 am]
BILLING CODE 6450-01-M

South Columbia Basin Irrigation District; Notice of Application for Preliminary Permit

April 30, 1979.

Take notice that on March 6, 1978, the South Columbia Basin Irrigation District filed an application for preliminary permit [pursuant to the Federal Power Act, 16 USC § 791(a)-825(e)] for a proposed water power project, to be known as the South Columbia Basin Hydroelectric Project, FERC No. 2840, located in Adams, Grant, and Franklin Counties, Washington, on the Potholes East Canal (PEC) and the Eltopia Branch Canal (EBC) of the Bureau of Reclamation's (BOR) Columbia Basin Irrigation Project which convey water diverted from the Columbia River. The proposed project would utilize waters from a navigable waterway and would occupy lands over which the BOR holds an easement. Correspondence with the Applicant should be directed to: Mr. Russell Smith, Secretary-Manager, South Columbia Basin Irrigation District, P.O. Box 1006, Pasco, Washington 99301, and Mr. James Leavy, Leavy, Taber, Schultz, Bergdhal and Sweeney, Attorneys at Law, P.O. Box 891, Pasco, Washington 99301.

Description of Project.—Three of the proposed power plants would develop the head at existing chutes along canals and a fourth power plant would develop the head at BOR's O'Sullivan Dam. The project is more specifically described as follows: (a) the PEC 22.7 Power Plant would have an installed capacity of 5,200 kW and would utilize water diverted from the existing canal, transmitted to the power plant via a short penstock, and returned to an existing stilling basin; (b) the PEC 66.0 Power Plant would have an installed capacity of 2,600 kW and would utilize water diverted from the existing canal, transmitted to the power plant via a 2,700-foot-long penstock, and returned to an existing stilling basin; (c) The EBC 4.6 Power Plant would have an installed capacity of 2,200 kW and would utilize water diverted from the existing canal, transmitted to the power plant via a 1,300-foot-long penstock, and returned to an existing stilling basin; and (d) the PEC Headworks Power Plant would have an installed capacity of 4,500 kW, would be located at the base of

O'Sullivan Dam and would utilize water released for the Potholes East Canal.

The estimated average annual output of the project would be 60 million kWh.

Proposed Scope and Cost of Studies Under Permit.—Applicant has requested a 3-year permit to prepare a definitive project report, including preliminary designs, geological explorations, and collection of environmental data. The cost of the foregoing activities, together with preparation of an environmental impact report or environmental assessment, obtaining agreements with various Federal, State, and local agencies, preparing a license application, final geologic exploration and field surveys, is estimated by Applicant to be about \$150,000.

Proposed Use of Project Power.—Project energy would be utilized by the Applicant in the operation of irrigation facilities with excess energy being marketed to the publicly owned utilities, rural electric cooperatives, municipalities, or investor owned utilities within the State of Washington.

Purpose of Preliminary Permit.—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other necessary information for inclusion in an application for a license.

Agency Comments.—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Protests, Petitions to Intervene, and Agency Comments.—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR, § 1.8 or 1.10 (1978). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely

files a protest does not become a party to the proceeding. To become a party or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules.

Any protest, petition to intervene, or agency comments must be filed on or

before July 16, 1979. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,
Secretary.

Citizens in turn requested of APS to supply them with the same.

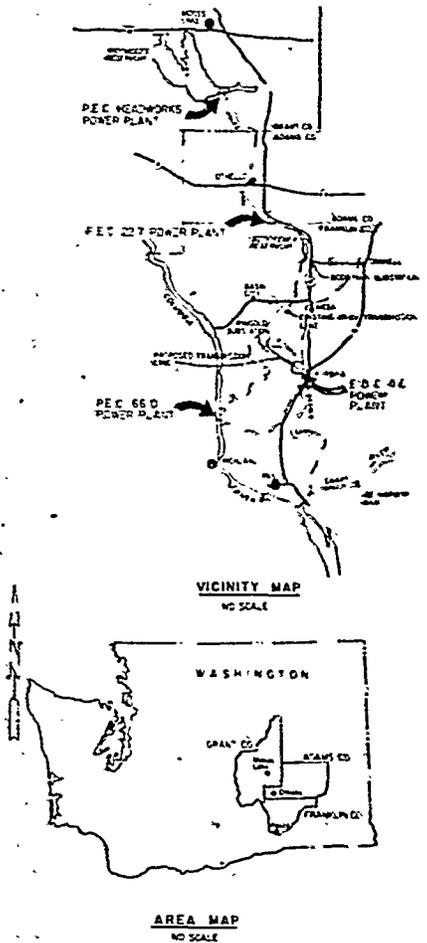
APS states that it furnished Citizens with this emergency power on both December 20 and 21, 1978 at a peak demand over and above the normal billing demand of 5,304 KW which, at the rate of \$3.06 per KW, resulting in a charge of \$16,230.24 for said emergency service. APS indicates that this delivery was outside and not to be considered as being covered by the regular wholesale power agreement between APS and Citizens.

APS requests waiver of the formal requirements of Section 35.13 of the Commission's Regulation.

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, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 25, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket No. ER 79-340]
[FR Doc. 79-14404 Filed 5-8-79; 8:45 am]
BILLING CODE 6450-01-M



SOUTH COLUMBIA BASIN IRRIGATION DISTRICT
PASCO, WASHINGTON
FRANKLIN COUNTY, WASHINGTON
LOCATION OF PRINCIPAL FACILITIES
TUON ENGINEERING COMPANY

[Project No. 2840]
FR Doc. 79-14404 Filed 5-8-79; 8:45 am]
BILLING CODE 6450-01-M

Arizona Public Service Co.; Filing

May 3, 1979.

Take notice that on April 30, 1979, Arizona Public Service Company (APS)

tendered for filing a letter stating that Citizens Utilities Company (Citizens) was requested by Nogales, Senora, Mexico for emergency power and

Arkansas Power & Light Co.; Change in Rates

May 3, 1979.

The filing Company submits the following:

Take notice that Arkansas Power & Light Company (AP&L), on May 1, 1979, tendered for filing proposed changes in its rates and charges to seven municipalities, as reflected in proposed Rate Schedule WM2; two rural electric cooperatives, as reflected in proposed Rate Schedule WC2; and the City Water and Light Department of Jonesboro, Arkansas, as reflected in a proposed amendment to Appendix B of the January 23, 1973 contract between AP&L and Jonesboro. The proposed changes would increase revenues from jurisdictional sales and services to these

customers by \$6,475,144 based on the 12 months period ending June 30, 1979.

AP&L states that the proposed increased rates are necessitated by the fact that it is realizing an unreasonably low rate of return on sales to its affected jurisdictional customers. AP&L's financial condition has deteriorated to the point that it is now precluded from issuing additional first mortgage bonds. The Company states that the proposed rates for service to the municipals and cooperatives have been prepared in accordance with the provisions of the September 16, 1976 Settlement Agreement between the Company and those customers, which was filed in Docket No. ER76-110 and approved by the Commission by Order issued November 15, 1976.

Copies of the proposed rate schedules and statements comparing the sales and revenues therefrom, which pertain to the particular customer, were served on AP&L's jurisdictional customers affected by the filing. Copies were also served on the Arkansas Public Service Commission, the Louisiana Public Service Commission and the Tennessee 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 Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions of protests should be filed on or before May 25, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket No. ER79-339]
[FR Doc. 79-14449 Filed 5-8-79; 8:45 am]
BILLING CODE 6450-01-M

Arkansas Louisiana Gas Co. et al., Compliance Filing

May 3, 1979.

In the matter of Arkansas Louisiana Gas Company [Docket Nos. RP79-53 and RP79-54], Texas Gas Transmission Corp. [Docket No. RP79-31].

Take notice that Arkansas Louisiana Gas Company and Texas Gas Transmission Corporation tendered for filing several revised tariff sheets,

prepared to be effective April 1, 1979. Arkansas Louisiana Gas Company and Texas Gas Transmission Corporation state that these sheets are being filed in compliance with the terms of the Commission's March 30 order in Docket No. RP79-53 *et al.* which conditionally accepted tariff sheets providing for tracking of the State of Louisiana First Use Tax.

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, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 11, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene.

Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket Nos. RP79-53, 54; RP79-31]
[FR Doc. 79-14450 Filed 5-8-79; 8:45 am]
BILLING CODE 6450-01-M

Central Illinois Public Service Co.; Filing

May 3, 1979.

The filing Company submits the following:

Take notice that Central Illinois Public Service Company (CIPS) on April 30, 1979, tendered for filing Fifth Supplemental Agreement to the Interconnection Agreement dated January 31, 1967, with Kentucky Utilities Company (KU). The Commission has previously designated the January 31, 1967 Agreement as CIPS Rate Schedule FERC No. 59, KU Rate Schedule FERC No. 81.

The parties state that Fifth Supplemental Agreement provides for an increase in the demand charge for Short Term Power, proposed to become effective July 1, 1979. The parties also state that, since the use of Short Term service cannot be accurately determined or estimated, it is impossible to determine or estimate the increase in revenues resulting from the increased charges.

Copies of the filing were served upon Kentucky Utilities Company. The Fifth Supplemental Agreement is also being

filed with the Illinois Commerce 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, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 or 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 May 25, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket No. ER 79-337]
[FR Doc. 79-14451 Filed 5-8-79; 8:45 am]
BILLING CODE 6450-01-M

The Connecticut Light & Power Co.; Extension of Time

May 3, 1979.

On April 24, 1979, the Connecticut Light and Power Company (CL&P) filed a motion for additional time to comply with the refund requirements of the Commission's order of February 23, 1979. The motion states that CL&P and its municipal wholesale customers are in disagreement over the amount of refunds due and that an agreement will probably be reached by May 8, 1979.

Upon consideration, notice is hereby given that an extension of time is granted to and including May 8, 1979 for payment of refunds under the February 23, 1979 order. The refund report shall be filed on or before May 23, 1979.

Kenneth F. Plumb,
Secretary.

[Docket No. E-7743]
[FR Doc. 79-14452 Filed 5-8-79; 8:45 am]
BILLING CODE 6450-01-M

Consolidated Gas Supply Corp.; Settlement Conference

May 3, 1979.

Take notice that an informal settlement conference will be convened in the subject gas pipeline rate proceedings at 11:00 A.M. on May 14, 1979, in a hearing room at the office of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.W., Washington, D.C. 20426.

Customers and other interested persons will be permitted to attend, but

if such persons have not previously been permitted to intervene by order of the Commission, attendance at the conference will not be deemed to authorize intervention as a party in the proceeding.

Kenneth F. Plumb,
Secretary.

[Docket Nos. RP 75-91, RP 77-140, RP 78-52, and RP 79-22]

[FR Doc. 79-14453 Filed 5-8-79; 8:45 am]

BILLING CODE 6450-01-M

Consumers Power Co.; Tariff Change

May 3, 1979.

The filing Company submits the following:

Take notice that Consumers Power Company ("Consumers Power") on April 30, 1979, tendered for filing an Operating Agreement among Consumers Power, The Detroit Edison Company ("Detroit Edison") and Northern Indiana Public Service Company ("Northern"), dated May 1, 1979, and a Facilities Agreement between Consumers Power and Northern dated December 1, 1977.

Consumers Power states that the Operating Agreement establishes the rates, charges, terms and conditions of service governing contractual relations, between Consumers Power, Detroit Edison and Northern. The interchange of power and energy between Consumers Power, Detroit Edison and Northern will be by use of certain 138,000 volt transmission facilities interconnecting the systems of Consumers Power and Northern (Barton Lake-Batavia Interconnection Point); and any additional interconnection points that may be constructed. The Operating Agreement is to be effective on the date that the Barton Lake-Batavia Interconnection Point enters service, expected to be on or about May 1, 1979, for an initial period of 35 years and from year-to-year thereafter, until terminated as prescribed in the Operating Agreement.

Consumers Power states the Operating Agreement provides for Emergency Service, Short-Term Capacity and Energy, Economy Energy and Conservation Energy.

Consumers Power states the Facilities Agreement provides that Northern will pay to Consumers Power annual charges comprised of annual carrying charges on the capital cost of certain facilities to be provided and owned by Consumers Power under the terms of the Facilities Agreement, and the annual operation and maintenance expenses of the facilities. The Facilities Agreement further provides for annual redetermination of the annual charge

rate and the annual operation and maintenance expense rate.

Any person desiring to be heard or to protest said agreements 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 May 25, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of the Operating Agreements and the Facilities Agreement are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket No. ER 79-333]

[FR Doc. 79-14454 Filed 5-8-79; 8:45 am]

BILLING CODE 6450-01-M

The Detroit Edison Co.; Tariff Change

May 3, 1979.

The filing Company submits the following:

Take notice that The Detroit Edison Company ("Detroit Edison") on April 30, 1979, tendered for filing a Supplement to the Operating Agreement dated March 1, 1966 among Consumers Power Company, The Detroit Edison Company (together the "Michigan Companies") and Indiana & Michigan Electric Company. The Commission has previously designated the March 1, 1966 Operating Agreement as Detroit Edison Rate Schedule No. 12. The proposed Supplement provides for a 5.0 mill per kilowatt per hour demand charge and an energy charge of 110% of the out-of-pocket cost for all sales of emergency energy from the Michigan Companies under the Agreement. The current rate of the greater of (a) 110% of the out-of-pocket energy cost of supply or (b) 30.0 mills per kilowatthour for all purchases of emergency energy by the Michigan Companies under the Agreement remains unchanged.

The inclusion of a demand charge for emergency energy service is intended to recognize the capacity used to supply such energy and discourage inappropriate reliance by purchasers on the availability of such service for length periods of time.

Copies of the filing were served upon Consumers Power Company, Indiana & Michigan Electric Company, the

Michigan Public Service Commission and the Public Service Commission of Indiana. Detroit Edison has requested a waiver of notice requirement with respect to transactions heretofore concluded.

Any person desiring to be heard or to protest said Supplement should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.W., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protest should be filed on or before May 25, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of the Supplement are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket No. ER79-341]

[FR Doc. 79-14453 Filed 5-8-79; 8:45 am]

BILLING CODE 6450-01-M

Duke Power Co.; Amended Settlement Agreement

May 3, 1979.

Take notice that Duke Power Company (Duke) on April 13, 1979, tendered for filing an Amended Settlement Agreement among Duke, the Municipal intervenors and the Cooperative intervenors. This Amended Settlement Agreement is intended to supersede the Settlement Agreement filed with the Judge on October 18, 1978, certified to the Commission on October 19, 1978, which is still pending before the Commission for its approval.

Any person desiring to be heard or to protest said settlement agreement should file comments with the Federal Energy Regulatory Commission, 825 North Capital Street, NE., Washington, D.C. 20426, on or before May 18, 1979. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket No. ER79-415]

[FR Doc. 79-14453 Filed 5-8-79; 8:45 am]

BILLING CODE 6450-01-M

Kentucky Utilities Co.; Application Pursuant to Section 203 of the Federal Power Act for Authority To Acquire Securities of a Public Utility

May 3, 1979.

Take notice that the Kentucky Utilities Company (KU) on April 11, 1979 tendered for filing an application pursuant to Section 203 of the Federal Power Act to acquire from the Old Dominion Power Company (OD) certain of OD's securities. OD is a wholly-owned subsidiary of KU.

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, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 31, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket No. EL79-15]

[FR Doc. 79-14457 Filed 5-8-79; 8:45 am]

BILLING CODE 6450-01-M

Lawrenceburg Gas Transmission Corp.; Proposed Change in FERC Gas Tariff

May 3, 1979.

Take notice that on May 1, 1979, Lawrenceburg Gas Transmission Corporation (Lawrenceburg) tendered for filing three (3) substitute revised gas tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1, all of which are dated as issued on April 23, 1979, proposed to become effective and identified as follows:

Effective January 1, 1979.—Second Substitute Sixteenth Revised Sheet 4 No. Second Revised Sheet No. 4A.

Effective March 1, 1979.—Third Substitute Seventeenth Revised Sheet No. 4.

Lawrenceburg states that these tariff sheets are being filed in compliance with Article IV of its Stipulation and Agreement at Docket No. RP78-37, as approved by Commission order issued February 26, 1979, in order to track a reduction in the Federal Income Tax rate effective January 1, 1979.

Lawrenceburg proposes to commence billing at the reduced rates contained in the instant filing for volumes delivered on and after April 1, 1979, and to refund amounts overcollected during the January 1, 1979 through March 31, 1979 period through credits to its customers' April, 1979 bills.

Lawrenceburg states that copies of this filing have been served upon its jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 18, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[Docket No. RP78-37]

[FR Doc. 79-14458 Filed 5-8-79; 8:45 am]

BILLING CODE 6450-01-M

Northern Natural Gas Co.; Purchased Gas Cost Adjustment Rate Change

May 3, 1979.

Take notice that on April 26, 1979 Northern Natural Gas Company (Northern) tendered for filing, as part of Northern's F.E.R.C. Gas Tariff, Third Revised Volume No. 1 and Original Volume No. 2, the following tariff sheets to be effective June 27, 1979:

Third Revised Volume No. 1, Nineteenth Revised Sheet No. 4a.

Original Volume No. 2, Nineteenth Revised Sheet No. 1c.

Nineteenth Revised Sheet No. 4a is filed pursuant to Northern's Purchased Gas Adjustment Clause, Subparagraph 18.3(b) of its F.E.R.C. Gas Tariff, Third Revised Volume No. 1. Nineteenth Revised Sheet No. 1c is filed pursuant to Northern's Purchased Gas Adjustment Clause, Subparagraph 1.3(b) applicable to Volume No. 2 sales. This change in Northern's rates reflects the increase in Northern's cost of purchased gas as a result of filings made by natural gas producers pursuant to Part 273 of the Natural Gas Policy Act of 1978 (NGPA). These filings were made by April 1, 1979 with the jurisdictional agencies for

certification to collect the maximum lawful prices pursuant to Sections 102, 103, 107 and 108 of the NGPA. Northern will begin paying essentially all of its producers the higher costs beginning with March, 1979 production, but will not be collecting higher rates until June 27, thus it has also reflected unrecovered gas purchased costs in this filing for the months of March through June, 1979, which it is proposing to collect over the last six months of 1979.

The Company states that copies of the filing have been mailed to each of the Gas Utility customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 21, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspections.

Kenneth F. Plumb,

Secretary.

[Docket Nos. RP 71-107 and RP 72-127]

[FR Doc. 79-14459 Filed 5-8-79; 8:45 am]

BILLING CODE 6450-01-M

North Penn Gas Co.; Proposed Changes in FERC Gas Tariff

May 3, 1979.

Take notice that North Penn Gas Company (North Penn) on April 30, 1979 tendered for filing proposed changes in its FERC Gas Tariff, First Revised Volume No. 1. The proposed changes would increase revenues from jurisdictional sales and service by \$1,974,553, based on a test period consisting of the twelve months ended December 31, 1978, as adjusted.

North Penn states that the increased rates are required to reflect an increase in rate of return to 11.6% and related income taxes, increased plant and increases in the cost of materials, supplies, wages and taxes.

Copies of this filing were served upon North Penn's jurisdictional customers, as well as interested State Commissions.

Any persons 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, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before May 17, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb
Secretary.

[Docket No. RP79-68]
[FR Doc. 79-14460 Filed 5-8-79; 8:45 am]
BILLING CODE 6450-01-M

Ohio Power Co.; Tariff Change

May 3, 1979.

The filing Company submits the following:

Take notice that Ohio Power Company, on April 27, 1979 tendered for filing proposed changes in its FERC Electric Tariff MRS For Municipal Resale Electric Service, Original Volume No. 1. The proposed changes would increase revenues from jurisdictional sales and service by \$1,176,000, based on the 12-month period ending December 31, 1979. Ohio Power Company proposes that the rates and charges and terms and conditions of service revised by this filing become effective June 26, 1979.

Copies of the filing were served upon the affected municipal customers and the Public Utilities Commission of Ohio.

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, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 25, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket No. ER79-333]
[FR Doc. 79-14461 Filed 5-8-79; 8:45 am]
BILLING CODE 6450-01-M

South Texas Natural Gas Gathering Co.; References of Settlement Agreements

May 3, 1979.

Take notice that on March 6, 1979 and on April 6, 1979, Administrative Law Judge Ellis certified to the Commission two settlement agreements proposed in settlement of various issues in the subject proceedings. The first of the proposed settlement agreements would resolve the cost of service issues in Docket No. RP77-59, and is not opposed by any party to that proceeding. The second proposed settlement agreement would, if approved, dispose of a cost allocation issue and of a transportation rate issue presented in both dockets. The transportation rate issue is the subject of separate investigations under Section 5 of the Natural Gas Act in both dockets. The Commission Staff opposes the transportation rate settlement agreement in Docket No. RP78-58. The Staff is the only party which objects to the second proposed settlement agreement.

Any person desiring to be heard or to protest the above-discussed settlement agreements should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before May 18, 1979. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket Nos. 5-RP77-59 and RP78-58 (not consolidated)]
[FR Doc. 79-14462 Filed 5-8-79; 8:45 am]
BILLING CODE 6450-01-M

Southern Natural Gas Co.; Petition for Expedient Modification of Stipulation and Agreement

May 3, 1979.

Take notice that on December 13, 1978, Southern Natural Gas Company (Southern) filed a petition in the subject docket requesting that proceedings in this matter be reopened for the limited purpose of accepting a modification to the stipulation and agreement approved by the Commission herein in Opinion No. 5, *Southern Natural Gas Company, et al.*, Docket Nos. RP74-6, *et al.*

Southern states that the purpose of the modification to the aforesaid stipulation and agreement is to recognize the impact of the introduction of higher Btu regasified LNG on the eastern end of Southern's system and that the stipulation and agreement is a

product of negotiations with its affected customers.

Copies of Southern's petition are on file at the Commission's Office of Public Information.

Any person desiring to comment upon Southern's petition should file a petition to intervene, protest, or answer with the Federal Energy Regulatory Commission, Washington, D.C. 20426, in accordance with Sections 1.8, 1.10, and 1.12 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10, and 1.12). Any person desiring to comment upon Southern's petition should file a protest or answer pursuant to Sections 1.10 or 1.12 of the Commission's regulations, in this docket. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules. All filings are due on or before May 16, 1979.

Kenneth F. Plumb,
Secretary.

[Docket Nos. RP72-74 and RP74-6]
[FR Doc. 79-14463 Filed 5-8-79; 8:45 am]
BILLING CODE 6450-01-M

Union Electric Co.; Proposed Revised Service Schedules

May 3, 1979.

The filing Company submits the following:

Take notice that on May 1, 1979, Union Electric Company (Union) tendered for filing a Second Amendment and Revised Service Schedules C and D to the Interchange Agreement dated July 2, 1976 between Union and Kentucky Utilities Company.

Union indicates that said agreements provide for revisions in certain rates under said Interchange Agreement.

Union proposes an effective date of July 1, 1979.

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, N.E., 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 May 29, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies

of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.
[Docket No. ER79-342].
[FR Doc. 79-14464 Filed 5-8-79; 8:45 am]
BILLING CODE 6450-01-M.

Utah Power & Light Co.; Proposed Settlement Agreement

May 3, 1979.

Take notice that February 8, 1979, Utah Power & Light Company and its wholesale customer in this docket, Idaho Power Company filed for approval by the Commission an executed Settlement Agreement purporting to resolve all issues present in this docket. On February 22, 1979, this Settlement Agreement, as amended at a prehearing conference held February 15, 1979, together with the record in this proceeding, were certified by the Presiding Judge to the Commission for disposition.

Any person desiring to be heard or to protest said settlement proposal should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before May 18, 1979. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this proposal are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.
[Docket No. ER78-216]
[FR Doc. 79-14465 Filed 5-8-79; 8:45 am]
BILLING CODE 6450-01-M

Colorado Interstate Gas Co.; Order Accepting for Filing and Suspending Rate Increase Subject to Conditions and Establishing Procedures

Issued May 1, 1979.

On April 2, 1979, Colorado Interstate Gas Company (CIG) filed revised tariff sheets¹ designed to increase revenues from jurisdictional sales and services by \$17,512,263 annually. CIG proposed May 1, 1979 as the effective date for these revised tariff sheets. The test period is based upon actual costs for the twelve months ended December 31, 1978, as adjusted for known and measurable changes through September 30, 1979. Notice of the proposed increase was issued April 6, 1979.

¹ Fourth Revised Sheet Nos. 7 and 8 to Original Volume No. 1, and Second Revised Sheet Nos. 187, 251 and 330 to Original Volume No. 2 of CIG's FERC Gas Tariff.

The proposed rate increase is based upon claimed increases of virtually all costs of operation, particularly labor expenses, as well as a need for an 11.37 percent overall rate of return. CIG has also included costs associated with the construction and operation of facilities which have not yet been certificated and placed in service. CIG requests waiver of Section 154.63(e)(2)(ii) of Commission Regulations to permit inclusion of these uncertificated facilities in its proposed rates. Additionally, CIG requests waiver of Section 154.22 to allow a one-day reduction of the required 30-day notice period prior to putting the tariff into effect. To comply with the 30-day notice requirement, CIG should have filed on April 1, 1979, but CIG notes that such date fell on a Sunday. CIG points out that it was precluded by Section 154.66 from filing a tariff change prior to April 1, 1979.

In this filing, CIG claims an overall rate of return of 11.37%, which would yield a 15.75% return on common equity. The filing also reflects the current cost of purchased gas included in CIG's latest PGA filing in Docket No. RP72-122 (PGA79-1) to be effective April 1, 1979. In addition, CIG has included credits to its cost of service for natural gas liquids sold to its affiliate Colorado Oil Company.

Further, the Company has included the volumes and cost of service of associated gas reserves, wells, and related production facilities which CIG has sought to reacquire from its affiliate, CIG Exploration, Inc. after the termination of its Gas Search Program on February 28, 1979. The filing reflects repricing of gas produced from old wells² on these old leases³ on a cost of service basis, rather than on an area rate basis. The reacquisition of these properties is at issue in Docket Nos. CP73-184 and CI73-485.

Based upon a review of CIG's filing, the Commission finds that the proposed general rate increase has not been shown to be just and reasonable, and may be unjust, unreasonable and unduly discriminatory, or otherwise unlawful. Accordingly, the Commission shall accept the revised tariff sheets for filing, suspend their use for five months until October 1, 1979, subject to refund and the conditions set forth below, and set the matter for hearing.

Acceptance of the sheets shall be subject to the outcome of proceedings in Docket Nos. CP73-189 and CI73-485. For

² "Old wells" are wells commenced prior to January 1, 1973.

³ "Old leases" are leases owned by a pipeline or its affiliate acquired on or before October 7, 1969.

good cause shown, waiver of Section 154.22 shall be granted to allow a shortened notice period. Waiver of Section 154.63(e)(2)(ii) shall also be granted, on condition that on or before October 1, 1979, CIG file revised tariff sheets to reflect elimination of costs associated with facilities not certificated and in service at the end of the test period. Further, CIG shall file revised sheets to reflect the actual balance of advance payments as of September 30, 1979, provided that the inclusion of a higher advance payments balance shall not be permitted to increase the level of the original suspended rates. CIG 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.

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 increased rates proposed by CIG.

(B) Waiver of 18 CFR 154.22 shall be granted to permit a one-day reduction of the required notice period.

(C) Waiver of 18 CFR 154.63(e)(2)(ii) shall be granted to allow reflection of costs of facilities not yet in service, subject to the conditions of Ordering Paragraph (E).

(D) Pending hearing and decision, and subject to the conditions of Ordering Paragraphs (E) and (F), Fourth Revised Sheet Nos. 7 and 8 to Original Volume No. 1, and Second Revised Sheet Nos. 187, 251 and 330 to Original Volume No. 2 of CIG's FERC Gas Tariff are accepted for filing and suspended for five months until October 1, 1979, when they may become effective subject to refund, in the manner prescribed by the Natural Gas Act.

(E) CIG shall file substitute revised tariff sheets as of October 1, 1979 to reflect (a) the elimination of facilities not in service by September 30, 1979, pursuant to the requirements of 18 CFR 154.63(e)(2)(ii) and (b) the actual balance of advance payments as of September 30, 1979, provided that the inclusion of a higher advance payments balance shall not be permitted to increase the level of the original suspended rates. CIG 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 required by other Commission orders.

(F) Acceptance of these tariff sheets shall be subject to the outcome of proceedings in Docket Nos. CP73-184 and CI73-485.

(G) The Commission Staff shall prepare and serve top sheets on all parties on or before August 6, 1979.

(H) 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. Commissioner Hall voted present.

Lois D. Cashell,
Acting Secretary.

[Docket No. R979-59]
[FR Doc. 79-14468 Filed 5-8-79; 8:45 am]
BILLING CODE 6450-01-M

Exxon Co., U.S.A.; Filing of Petition for Review Under 42 U.S.C. 7194

May 1, 1979.

Take notice that Exxon Company, U.S.A. on April 20, 1979 filed a Petition for Review under 42 U.S.C. § 719(b) (1977 Supp.) from an order of the Secretary of Energy.

Copies of the petition for review have been served on the Secretary, Department of Energy, and all participants in prior proceedings before the Secretary.

Any person desiring to be heard with reference to such filing should on or before May 22, 1979 file a petition to intervene 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). Any person wishing to become a party or to participate as a party must file a petition to intervene. Such petition must also be served on the parties of record in this proceeding and the Secretary of Energy through Gaynell C. Methvin, Deputy General Counsel for Enforcement and Litigation, Department of Energy, 12th and Pennsylvania Ave., NW.,

Washington, D.C. 20461. Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., NE., Washington, D.C. 20426.

Kenneth F. Plumb,
Secretary.
[Docket No. RA 79-24]
[FR Doc. 79-14467 Filed 5-8-79; 8:45 am]
BILLING CODE 6450-01-M

Northwest Pipeline Corp.; Order Accepting for Filing and Suspending Proposed Rate Increase, Granting Waiver and Interventions, and Establishing Procedures

Issued April 30, 1979.

On March 30, 1979, Northwest Pipeline Corporation (Northwest) filed revised tariff sheets (listed in Appendix A of this order) proposing an increase in rates to its jurisdictional customers. On April 10, 1979, Northwest filed corrected copies of the revised tariff sheets to reflect the full use requirement of 2 percent. Northwest states that the proposed increase will compensate it for increased costs which it has incurred and will incur in the future, and will generate an additional \$34,109,239 per year in revenues above those collected under its currently effective rates. Northwest states that this proposed increase represents a percentage increase of 4.7%, and would amount to an average increase of .969¢ per therm over current rates. In addition, Northwest states that this increase would result in an additional \$78,714 in revenues for mainline transportation services under certain other rate schedules.¹ The proposed effective date for these rate changes is May 1, 1979. The proposed rates are based on cost of service for the twelve month period ended December 31, 1978, as adjusted for known and measurable changes through September 30, 1979.

Northwest also proposes certain modifications to Section 16, Purchased Gas Cost Adjustment Provision (PGAC) of its FERC Gas Tariff, Original Volume No. 1, denominated "pro forma tariff sheets to Original Volume No. 1." The purpose of these proposed changes is to permit the periodic adjustment of rates to reflect changes in royalties and production taxes resulting from variations in the volume of leasehold gas and changes in the wellhead value of natural gas. Northwest states that the modifications to its PGAC redefine purchased gas so as to include gas well royalties and related production taxes within the definition of purchased gas.

¹ These are Rate Schedules X-23, X-32, X-34, X-36, X-38 of Original Volume No. 2.

Northwest requests that the Commission consider the proposed PGAC modifications as part of any Section 4 proceedings which might be instituted. The *pro forma* tariff sheets filed by Northwest will be subject for review in this proceeding and any determination by this Commission with respect to the *pro forma* sheets will have prospective effect only.

Public notice of Northwest's filing was issued on April 3, 1979. The notice provided that protests and petitions to intervene must be filed on or before April 18, 1979. The Peoples Natural Gas Division of Northern Natural Gas Company filed a timely petition to intervene. We will permit it to participate in this proceeding, subject to certain conditions noted in Ordering Paragraph (D), below.

Based upon a review of Northwest's filing, we find that the proposed rate increases have not been shown to be just and reasonable, and may be unjust, unreasonable, and unduly discriminatory, or otherwise unlawful. Accordingly, we will accept Northwest's proposed tariff sheets for filing, suspend their use for five months until October 1, 1979, when they will be permitted to take effect subject to refund and to the conditions enumerated below. In addition, we will set this matter for hearing.

We note that Northwest's cost of service contains costs associated with facilities which are not certificated and not in service. Northwest requests waiver of section 154.63(e)(2)(ii) of the Commission's Regulations to permit these costs to be included in this filing. The Commission will grant waiver of this regulation and will accept Northwest's proposed tariff sheets for filing, on condition that on or before September 30, 1979, Northwest file revised tariff sheets eliminating all costs associated with facilities not placed in service by that date. Northwest shall also reflect in those revised tariff sheets adjustments of the estimated balance in Account 166 to the actual balance at the end of the test period, provided that the inclusion of a higher advance payments balance shall not be permitted to increase the level of the original suspended rates. This waiver is granted upon condition that Northwest 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 or required by Commission orders.

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 increased rates proposed by Northwest.

(B) Pending hearing and decision, and subject to the conditions of Ordering Paragraph (C) below, Northwest's tariff sheets listed on Appendix A to this order are accepted for filing and suspended for five months until October 1, 1979, when they may become effective subject to refund, in the manner prescribed by the Natural Gas Act.

(C) Northwest shall file substitute revised tariff sheets on or before October 1, 1979, reflecting the elimination of costs associated with facilities which are not in service by that date, pursuant to the requirements of 18 CFR § 154.63(e)(2)(ii), and subject to condition that Northwest 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 required by other Commission orders. Northwest's substitute revised tariff sheets will reflect the actual balance of advance payments in Account 166 as of September 30, 1979, provided that, the inclusion of a higher advance payment balance will not be permitted to increase the level of the original suspended rates.

(D) The Peoples Natural Gas Division of Northern Natural Gas Company is permitted to intervene in the above-entitled proceeding, subject to the rules and regulations of the Commission; *Provided, however*, that its participation shall be limited to matters affecting asserted rights and interests specifically set forth in its petition for leave to intervene; and *Provided, further*, that its admission in the manner provided shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders entered in this proceeding.

(E) The Commission Staff shall prepare and serve top sheets on all parties on or before August 1, 1979.

(F) 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, N.E., 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.

(G) The *pro forma* tariff sheets filed by Northwest will be subject for review in this proceeding and any determination by this Commission with respect to the *pro forma* sheets will have prospective effect only.

By the Commission.

Lois D. Cashell,
Acting Secretary.

APPENDIX A

Northwest Pipeline Corp. Docket No. RP79-57
Revised Tariff Sheets

Original Volume No. 1

Twenty Third Revised Sheet No. 10
Third Revised Sheet No. 13
Fourth Revised Sheet No. 14
Second Revised Sheet No. 71

Original Volume No. 2

Original Sheet No. 2
Original Sheet No. 3
First Revised Sheet No. 56
Third Revised Sheet No. 195
Fourth Revised Sheet No. 243
Third Revised Sheet No. 283
Third Revised Sheet No. 309

[Docket No RP79-57]

[FR Doc. 79-14468 Filed 5-8-79; 8:45 am]

BILLING CODE 6450-01-M

Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 1, 1979.

On April 10, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

New Mexico Oil Conservation Division

FERC Control Number: JD79-2756
API Well Number: 30-039-21444
Section of NGPA: 103
Operator: Odessa Natural Corporation
Well Name: Shipley No. 1
Field: Chacon Dakota
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 182.5 MMcf.

FERC Control Number: JD79-2757
API Well Number: 3003921657
Section of NGPA: 103
Operator: Odessa Natural Corporation
Well Name: Shipley No. 2
Field: Chacon Dakota
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 292.0 MMcf.

FERC Control Number: JD79-2758
API Well Number: 30-015-22420
Section of NGPA: 103

Operator: Dorchester Exploration, Inc.
Well Name: Liggett, et al. Com. No. 1
Field: W. Four Mile Draw (Morrow)
County: Eddy
Purchaser: Gas Company of New Mexico
Volume: N/A.

FERC Control Number: JD79-2759
API Well Number: 30-015-22728
Section of NGPA: 103
Operator: Yates Petroleum Corporation
Well Name: Gulf "KC" State Com No. 1
Field: Richard Knob Atoka-Morrow
County: Eddy
Purchaser: N/A
Volume: N/A.

FERC Control Number: JD79-2760
API Well Number: 30-015-22689
Section of NGPA: 103
Operator: Yates Petroleum Corporation
Well Name: Lanning "JC" Com No. 1
Field: Eagle Creek Atoka-Morrow, East
County: Eddy
Purchaser: Transwestern Pipeline Company
Volume: N/A.

FERC Control Number: JD79-2761
API Well Number: 30-015-22125
Section of NGPA: 103
Operator: Cities Service Company
Well Name: State CX No. 1
Field: Undesignated Winchester Morrow
County: Eddy
Purchaser: El Paso Natural Gas Co.
Volume: 344.9 MMcf.

FERC Control Number: JD79-2762
API Well Number: N/A
Section of NGPA: 103
Operator: Caulkins Oil Company
Well Name: State C Comm.
Field: South Blanco Pictured Cliffs-Otero
Chacra
County: Rio Arriba
Purchaser: Gas Company of New Mexico
Volume: 47,500 MMcf.

FERC Control Number: JD79-2763
API Well Number: 30-025-26048
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: New Mexico "CV" State, Well
No. 2
Field: Comanche Stateline Tansill-Yates Lou
County: Lea
Purchaser: El Paso Natural Gas Company
Volume: 0.5 MMcf.

FERC Control Number: JD79-2764
API Well Number: 30-025-25953
Section of NGPA: 103
Operator: Exxon Corporation
Well Name: New Mexico "CV" State, Well
No. 1
Field: Comanche Stateline Tansill-Yates
County: Lea
Purchaser: El Paso Natural Gas Company
Volume: 7.0 MMcf.

FERC Control Number: JD79-2765
API Well Number: N/A
Section of NGPA: 103
Operator: HNG Oil Company
Well Name: Ogden 8 Com. No. 1
Field: Malaga West (Morrow)
County: Eddy
Purchaser: El Paso Natural Gas Co.
Volume: 381 MMcf.

FERC Control Number: JD79-2766

API Well Number: N/A
 Section of NGPA: 103
 Operator: HNG Oil Company
 Well Name: Woods 9 Com. No. 2
 Field: Malaga West (Morrow)
 County: Eddy
 Purchaser: El Paso Natural Gas Co.
 Volume: 402 MMcf.
 FERC Control Number: JD79-2767
 API Well Number: N/A
 Section of NGPA: 103
 Operator: HNG Oil Company
 Well Name: Woods 9 Com. No. 1
 Field: Malaga West (Morrow)
 County: Eddy
 Purchaser: El Paso Natural Gas Company
 Volume: 227 MMcf.
 FERC Control Number: JD79-2768
 API Well Number: 30-015-22400
 Section of NGPA: 103
 Operator: Harvey E. Yates Company
 Well Name: Empire South Deep Unit No. 18
 Field: Und. South Empire Morrow
 County: Eddy
 Purchaser: El Paso Natural Gas Company
 Volume: 2,500 MMcf.
 FERC Control Number: JD79-2769
 API Well Number: 30-015-22188
 Section of NGPA: 103
 Operator: Hondo Oil & Gas Company
 Well Name: Hondo 22 State #1
 Field: Eddy Undesignated Atoka
 County: Eddy
 Purchaser: El Paso Natural Gas Company
 Volume: 40 MMcf.
 FERC Control Number: JD79-2770
 API Well Number: 30-015-22317
 Section of NGPA: 103
 Operator: Hondo Oil & Gas Company
 Well Name: State 'BV' No. 1
 Field: Undesignated Empire South, Morrow
 (Gas)
 County: Eddy
 Purchaser: El Paso Natural Gas Company
 Volume: 5000 MMcf.
 FERC Control Number: JD79-2771
 API Well Number: N/A
 Section of NGPA: 103
 Operator: Summit Energy, Inc.
 Well Name: Drinkard Estate No. 6
 Field: Wantz Granite Wash
 County: Lea
 Purchaser: Getty Oil Company
 Volume: 50 MMcf.
 FERC Control Number: JD79-2772
 API Well Number: N/A
 Section of NGPA: 103
 Operator: Summit Energy, Inc.
 Well Name: Drinkard Estate No. 7
 Field: Wantz Granite Wash
 County: Lea
 Purchaser: Getty Oil Company
 Volume: 50 MMcf.
 FERC Control Number: JD79-2782
 API Well Number: 30-045-0078-00
 Section of NGPA: 108
 Operator: Johney M. Myers
 Well Name: N/A
 Field: Fulcher-Kutz
 County: San Juan
 Purchaser: El Paso Natural Gas Company
 Volume: 1917 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 those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 24, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
 Secretary.
 [FR Doc. 79-14469 Filed 5-9-79; 8:05 am]
 BILLING CODE 6450-01-M

Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 1, 1979.

On April 10, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

West Virginia Department of Mines, Oil and Gas Division

FERC Control Number: JD79-2895
 API Well Number: 47039227580000
 Section of NGPA: 103
 Operator: Appalachian Exploration & Devel., Inc.
 Well Name: Cannelton Coal A-9
 Field: Cabin Creek
 County: Kanawha
 Purchaser: Cabot Corporation
 Volume: 63.5 MMcf.
 FERC Control Number: JD79-2896
 API Well Number: 470470738
 Section of NGPA: 103
 Operator: Texas International Petroleum Corp.
 Well Name: Pocahontas Land Corp. A-22
 Field: Elkhorn
 County: McDowell
 Purchaser: Consolidated Gas Supply Corp.
 Volume: 36.5 MMcf.
 FERC Control Number: JD79-2897
 API Well Number: 470470731
 Section of NGPA: 103
 Operator: Texas International Petroleum Corp.
 Well Name: Pocahontas Land Corp. A-26
 Field: North Fork
 County: McDowell
 Purchaser: Consolidated Gas Supply Corp.
 Volume: 28.0 MMcf.
 FERC Control Number: JD79-2898
 API Well Number: 470470728
 Section of NGPA: 103

Operator: Texas International Petroleum Corp.
 Well Name: Pocahontas Land Corp. No. C-11
 Field: North Fork
 County: McDowell
 Purchaser: Consolidated Gas Supply Corp.
 Volume: 29.0 MMcf.
 FERC Control Number: JD79-2899
 API Well Number: 470470724
 Section of NGPA: 103
 Operator: Texas International Petroleum Corp.
 Well Name: Pocahontas Land Corp. No. C-9
 Field: North Fork
 County: McDowell
 Purchaser: Consolidated Gas Supply Corp.
 Volume: 28.0 MMcf.
 FERC Control Number: JD79-2900
 API Well Number: 470470723
 Section of NGPA: 103
 Operator: Texas International Petroleum Corp.
 Well Name: Pocahontas Land Corp. No. C-8
 Field: North Fork
 County: McDowell
 Purchaser: Consolidated Gas Supply Corp.
 Volume: 28.0 MMcf.
 FERC Control Number: JD79-2901
 API Well Number: 470470722
 Section of NGPA: 103
 Operator: Texas International Petroleum Corp.
 Well Name: Pocahontas Land Corp. No. C-7
 Field: North Fork
 County: McDowell
 Purchaser: Consolidated Gas Supply Corp.
 Volume: 28.0 MMcf.
 FERC Control Number: JD79-2902
 API Well Number: 470470721
 Section of NGPA: 103
 Operator: Texas International Petroleum Corp.
 Well Name: Pocahontas Land Corp. No. C-6
 Field: North Fork
 County: McDowell
 Purchaser: Consolidated Gas Supply Corp.
 Volume: 28.0 MMcf.
 FERC Control Number: JD79-2903
 API Well Number: 470470711
 Section of NGPA: 103
 Operator: Texas International Petroleum Corp.
 Well Name: Pocahontas Land Corp. No. C-5
 Field: North Fork
 County: McDowell
 Purchaser: Consolidated Gas Supply Corp.
 Volume: 28.0 MMcf.
 FERC Control Number: JD79-2904
 API Well Number: 470470704
 Section of NGPA: 103
 Operator: Texas International Petroleum Corp.
 Well Name: Pocahontas Land Corp. No. C-2
 Field: North Fork
 County: McDowell
 Purchaser: Consolidated Gas Supply Corp.
 Volume: 28.0 MMcf.
 FERC Control Number: JD79-2905
 API Well Number: 47015212310000
 Section of NGPA: 103
 Operator: Appalachian Exploration & Devel., Inc.
 Well Name: Caldwell-Shelton-Wood No. 1
 Field: Pleasant

County: Clay
 Purchaser: Cabot Corporation
 Volume: 24.6 MMcf.
 FERC Control Number: JD79-2906
 API Well Number: 471090800
 Section of NGPA: 103
 Operator: Texas International Petroleum Corp.
 Well Name: Pocahontas Land Corp. No. A-29
 Field: Barkers Ridge
 County: Wyoming
 Purchaser: Consolidated Gas Supply Corp.
 Volume: 36.5 MMcf.
 FERC Control Number: JD79-2907
 API Well Number: 4710920799
 Section of NGPA: 103
 Operator: Spartan Gas Company
 Well Name: Pocahontas Land Corp. No. 4 4-S-189
 Field: Barkers Ridge
 County: Wyoming
 Purchaser: Consolidated Gas Supply Corp.
 Volume: 12 MMcf.
 FERC Control Number: JD79-2908
 API Well Number: 4710920798
 Section of NGPA: 103
 Operator: Spartan Gas Company
 Well Name: Pocahontas Land Corp. No. 3 3-S-188
 Field: Barkers Ridge
 County: Wyoming
 Purchaser: Consolidated Gas Supply Corp.
 Volume: 100 MMcf.
 FERC Control Number: JD79-2909
 API Well Number: 47047766
 Section of NGPA: 103
 Operator: Energy Development Corporation
 Well Name: EDC No. 11-McD-766
 Field: Big Sandy
 County: McDowell
 Purchaser: Consolidated Gas Supply Corp.
 Volume: 40 MMcf.
 FERC Control Number: JD79-2910
 API Well Number: 47047760
 Section of NGPA: 103
 Operator: Energy Development Corporation
 Well Name: EDC No. 10 McD-760
 Field: Big Sandy
 County: McDowell
 Purchaser: Consolidated Gas Supply Corp.
 Volume: 100 MMcf.
 FERC Control Number: JD79-2911
 API Well Number: 47079208730000
 Section of NGPA: 103
 Operator: Appalachian Exploration & Devel., Inc.
 Well Name: McLean Heirs A-3
 Field: Union
 County: Putnam
 Purchaser: Cabot Corporation
 Volume: 23.2 MMcf.
 FERC Control Number: JD79-2912
 API Well Number: 47079208690000
 Section of NGPA: 103
 Operator: Appalachian Exploration & Devel., Inc.
 Well Name: Putnam Land B-6
 Field: Union
 County: Putnam
 Purchaser: Cabot Corporation
 Volume: 23.7 MMcf.
 FERC Control Number: JD79-2913
 API Well Number: 47079208610000

Section of NGPA: 103
 Operator: Appalachian Exploration & Devel., Inc.
 Well Name: McLean Heirs A-4
 Field: Union
 County: Putnam
 Purchaser: Cabot Corporation
 Volume: 14.1 MMcf.
 FERC Control Number: JD79-2914
 API Well Number: 470212977
 Section of NGPA: 103
 Operator: Waco Oil and Gas Co., Inc.
 Well Name: Timmia Mick #3
 Field: Heaters Fork
 County: Gilmer
 Purchaser: Consolidated Gas Supply Corp.
 Volume: 25 MMcf.
 FERC Control Number: JD79-2915
 API Well Number: 4710920797
 Section of NGPA: 103
 Operator: Spartan Gas Company
 Well Name: Pocahontas Land Corp No. 2 2-S-187
 Field: Barkers Ridge
 County: Wyoming
 Purchaser: Consolidated Gas Supply Corp.
 Volume: 35 MMcf.
 FERC Control Number: JD79-2916
 API Well Number: 47067004680000
 Section of NGPA: 103
 Operator: Cities Service Company
 Well Name: Flynn Coal & Lumber Co. #20
 Field: Gauley
 County: Nicholas
 Purchaser: Equitable Gas Company
 Volume: 49 MMcf.
 FERC Control Number: JD79-2917
 API Well Number: 47067204170000
 Section of NGPA: 103
 Operator: Appalachian Exploration & Devel., Inc.
 Well Name: Secondo Dalporto #1
 Field: Jefferson
 County: Nicholas
 Purchaser: Cabot Corporation
 Volume: 129.8 MMcf.
 FERC Control Number: JD79-2918
 API Well Number: 47067204310000
 Section of NGPA: 103
 Operator: Appalachian Exploration & Devel., Inc.
 Well Name: C & H Corporation B-15
 Field: Jefferson
 County: Nicholas
 Purchaser: Cabot Corporation
 Volume: 19.6 MMcf.
 FERC Control Number: JD79-2919
 API Well Number: 47079208670000
 Section of NGPA: 103
 Operator: Appalachian Exploration & Devel., Inc.
 Well Name: Putnam Land B-4
 Field: Union
 County: Putnam
 Purchaser: Cabot Corporation
 Volume: 16.0 MMcf.
 FERC Control Number: JD79-2920
 API Well Number: 47079208680000
 Section of NGPA: 103
 Operator: Appalachian Exploration & Devel., Inc.
 Well Name: Putnam Land B-5
 Field: Union
 County: Putnam

Purchaser: Cabot Corporation
 Volume: 11.0 MMcf.
 FERC Control Number: JD79-2921
 API Well Number: 47015212690000
 Section of NGPA: 103
 Operator: Appalachian Exploration & Devel., Inc.
 Well Name: J. G. Morton #2
 Field: Pleasant
 County: Clay
 Purchaser: Cabot Corporation
 Volume: 9.4 MMcf.
 FERC Control Number: JD79-2921
 API Well Number: 4710920807
 Section of NGPA: 103
 Operator: Spartan Gas Company
 Well Name: Pocahontas Land Corp No. 0 0-S-194
 Field: Barkers Ridge
 County: Wyoming
 Purchaser: Consolidated Supply Corp.
 Volume: 30 MMcf.
 FERC Control Number: JD79-2922
 API Well Number: 4710920807
 Section of NGPA: 103
 Operator: Spartan Gas Company
 Well Name: Pocahontas Land Corp. No. 0 0-S-194
 Field: Barkers Ridge
 County: Wyoming
 Purchaser: Consolidated Supply Corp.
 Volume: 30 MMcf.
 FERC Control Number: JD79-2923
 API Well Number: 47079208650000
 Section of NGPA: 103
 Operator: Appalachian Exploration & Devel., Inc.
 Well Name: Putnam Land B-3
 Field: Union
 County: Putnam
 Purchaser: Cabot Corporation
 Volume: 11.0 MMcf.
 FERC Control Number: JD79-2924
 API Well Number: 47047753
 Section of NGPA: 103
 Operator: Energy Development Corporation
 Well Name: EDC No. 6-McD 753
 Field: Big Sandy
 County: McDowell
 Purchaser: Consolidated Gas Supply Corp.
 Volume: 25 MMcf.
 FERC Control Number: JD79-2925
 API Well Number: 470670427
 Section of NGPA: 103
 Operator: Texas International Petroleum Corp.
 Well Name: Hestle Schoolcraft No. 1 CC-18
 Field: Grant
 County: Nicholas
 Purchaser: Equitable Gas Company
 Volume: 91.250 MMcf.
 FERC Control Number: JD79-2926
 API Well Number: 47079208740000
 Section of NGPA: 103
 Operator: Appalachian Exploration & Devel., Inc.
 Well Name: Putnam Land B-2
 Field: Union
 County: Putnam
 Purchaser: Cabot Corporation
 Volume: 15.5 MMcf.
 FERC Control Number: JD79-2927
 API Well Number: 470470733

Section of NCPA: 103
 Operator: Texas International Pet. Corp.
 Well Name: Pocahontas Land Corp. A-39
 Field: North Fork
 County: McDowell
 Purchaser: Consolidated Gas Supply Corp.
 Volume: 36.5 MMcf
 FERC Control Number: JD79-2928
 API Well Number: 4710920802
 Section of NCPA: 103
 Operator: Spartan Gas Company
 Well Name: Pocahontas Land Corp. No. 5-5-190
 Field: Barkers Ridge
 County: Wyoming
 Purchaser: Consolidated Gas Corp.
 Volume: 6 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 those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 24, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
 Secretary.

[FR Doc. 79-14470 Filed 5-9-79; 8:45 am]
 BILLING CODE 6450-01-M

Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 1, 1979.

On April 25, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Ohio Department of Natural Resources

FERC Control Number: JD79-3814
 API Well Number: 3415122363-14
 Section of NCPA: 103
 Operator: NUCORP Energy Company
 Well Name: Weaver Well No. 1
 Field: NA
 County: Stark County
 Purchaser: Columbia Gas Company
 Volume: 11,416 MMcf.
 FERC Control Number: JD79-3815
 API Well Number: 3401921114**14
 Section of NCPA: 103
 Operator: L & M Exploration, Inc.
 Well Name: Puskarich No. 3
 Field: NA

County: Carroll
 Purchaser: Bonanza Gas Line
 Volume: 6000 MMcf.
 FERC Control Number: JD79-3816
 API Well Number: 3401921129**14
 Section of NCPA: 103
 Operator: L & M Exploration, Inc.
 Well Name: Puskarich No. 2
 Field: NA
 County: Carroll
 Purchaser: Bonanza Gas Line
 Volume: 6000 MMcf.
 FERC Control Number: JD79-3817
 API Well Number: 3401921111**14
 Section of NCPA: 103
 Operator: L & M Exploration, Inc.
 Well Name: Puskarich No. 1
 Field: NA
 County: Carroll
 Purchaser: Bonanza Gas Line
 Volume: 6000 MMcf.
 FERC Control Number: JD79-3818
 API Well Number: 3401921146**14
 Section of NCPA: 103
 Operator: L & M Exploration, Inc.
 Well Name: Otte No. 3
 Field: NA
 County: Carroll
 Purchaser: Bonanza Gas Line
 Volume: 2000 MMcf.
 FERC Control Number: JD79-3819
 API Well Number: 3401921174**14
 Section of NCPA: 103
 Operator: L & M Exploration, Inc.
 Well Name: McIntosh No. 2
 Field: NA
 County: Carroll
 Purchaser: Bonanza Gas Line
 Volume: 6000 MMcf.
 FERC Control Number: JD79-3820
 API Well Number: 3401921048**14
 Section of NCPA: 103
 Operator: L & M Exploration, Inc.
 Well Name: Korns No. 2
 Field: NA
 County: Carroll
 Purchaser: Bonanza Gas Line
 Volume: 2700 MMcf.
 FERC Control Number: JD79-3821
 API Well Number: 3413321613**14
 Section of NCPA: 103
 Operator: Jud Noble and Associates, Inc.
 Well Name: R. Lange No. 2
 Field: NA
 County: Portage
 Purchaser: East Ohio Gas Company
 Volume: 40 MMcf.
 FERC Control Number: JD79-3822
 API Well Number: 34075220000014
 Section of NCPA: 103
 Operator: Amtex Oil and Gas, Inc.
 Well Name: Flint Stone Farms No. 3
 Field: NA
 County: Holmes
 Purchaser: Columbia Gas Transmission Corp.
 Volume: 25 MMcf.
 FERC Control Number: JD79-3823
 API Well Number: 3411924593**14
 Section of NCPA: 103
 Operator: Hopewell Oil and Gas Development Co.
 Well Name: Swingle Heirs No. 1
 Field: NA

County: Muskingum
 Purchaser: National Gas and Oil Corp.
 Volume: 8 MMcf.
 FERC Control Number: JD79-3824
 API Well Number: 3407522049**14
 Section of NCPA: 103
 Operator: Champion Petroleum Company
 Well Name: 3 Grass baugh
 Field: NA
 County: Holmes
 Purchaser: Columbia Gas Transmission Corp.
 Volume: 18.25 MMcf.
 FERC Control Number: JD79-3825
 API Well Number: 3407522044**14
 Section of NCPA: 103
 Operator: Champion Petroleum Company
 Well Name: 2 Mullen
 Field: NA
 County: Holmes
 Purchaser: Columbia Gas Transmission Corp.
 Volume: 18.25 MMcf.
 FERC Control Number: JD79-3826
 API Well Number: 3412122091**14
 Section of NCPA: 107
 Operator: Tiger Oil, Inc.
 Well Name: Johnson Etals No. 1
 Field: NA
 County: Noble
 Purchaser: NA
 Volume: 2 MMcf.
 FERC Control Number: JD79-3827
 API Well Number: 3418923443**14
 Section of NCPA: 103
 Operator: American Exploration Co.
 Well Name: Rine-Wheeler Unit No. 1
 Field: NA
 County: Licking
 Purchaser: American Energy Services
 Volume: 2400 MMcf.
 FERC Control Number: JD79-3828
 API Well Number: 3411521723**14
 Section of NCPA: 103
 Operator: Guernsey Petroleum Corporation
 Well Name: Grassel-Pistor I ME
 Field: NA
 County: Morgan
 Purchaser: East Ohio Gas Co.
 Volume: 10 MMcf.
 FERC Control Number: JD79-3829
 API Well Number: 3405922390**14
 Section of NCPA: 103
 Operator: Guernsey Petroleum Corporation
 Well Name: Williams Morrow 1 ME
 Field: NA
 County: Guernsey
 Purchaser: East Ohio Gas Co.
 Volume: 5 MMcf.
 FERC Control Number: JD79-3830
 API Well Number: 3405922169**14
 Section of NCPA: 103
 Operator: Guernsey Petroleum Corporation
 Well Name: Hinson No. 1-MD
 Field: NA
 County: Guernsey
 Purchaser: Columbia Gas Transmission Co.
 Volume: 9 MMcf.
 FERC Control Number: JD79-3831
 API Well Number: 3400523143**14
 Section of NCPA: 103
 Operator: Hortin & Huffman
 Well Name: William L. Raubeolt No. 1
 Field: NA
 County: Ashland

Purchaser: Columbia Gas Transmission Corp.
Volume: 2 MMcf.

FERC Control Number: JD79-3832
API Well Number: 3400523152**14
Section of NGPA: 103
Operator: Hortin and Huffman
Well Name: Richard & Thelma Krebs No. 2
Field: NA

County: Ashland
Purchaser: Columbia Gas Transmission Corp.
Volume: 2 MMcf.

FERC Control Number: JD79-3833
API Well Number: 3405922347**14
Section of NGPA: 103
Operator: Green Gas Company
Well Name: Clyde & Jean Roberts No. 1
Field: NA

County: Guernsey
Purchaser: The East Ohio Gas Company
Volume: 29 MMcf.

FERC Control Number: JD79-3834
API Well Number: 3403123360**14
Section of NGPA: 103
Operator: Dale Dugan
Well Name: Vaughn McGrady No. 1
Field: NA

County: Coshocton
Purchaser: National Gas applied for
Volume: 5 MMcf.

FERC Control Number: JD79-3835
API Well Number: 3405320240**14
Section of NGPA: 103
Operator: R. Gene Brasel also dba Brasel & Brasel
Well Name: R.O.J. Corporation B-1
Field: NA

County: Gallis
Purchaser: Columbia Gas Transmission Corporation
Volume: 3 MMcf.

FERC Control Number: JD79-3836
API Well Number: 3403123137**14
Section of NGPA: 103
Operator: Edco Drilling & Producing, Inc.
Well Name: 2-B Jones
Field: NA

County: Coshocton
Purchaser: NA
Volume: 18.25 MMcf.

FERC Control Number: JD79-3837
API Well Number: 3403123354**14
Section of NGPA: 103
Operator: Edco Drilling & Producing, Inc.
Well Name: 2 E Jones
Field: NA

County: Coshocton
Purchaser: National Gas & Oil
Volume: 18.25 MMcf.

FERC Control Number: JD79-3838
API Well Number: 3405922328**14
Section of NGPA: 103
Operator: Enterprise Gas & Oil, Inc.
Well Name: Bonnell No. 1
Field: NA

County: Guernsey
Purchaser: NA
Volume: 25.5 MMcf.

FERC Control Number: JD79-3839
API Well Number: 3405922272**14
Section of NGPA: 103
Operator: Enterprise Gas & Oil, Inc.
Well Name: Dearth No. 1
Field: NA

County: Guernsey
Purchaser: NA
Volume: 14.8 MMcf.

FERC Control Number: JD79-3840
API Well Number: 3401921253**14
Section of NGPA: 103
Operator: Enterprise Gas and Oil, Inc.
Well Name: Gartrell No. 2-A
Field: NA

County: Carroll
Purchaser: NA
Volume: 25.5 MMcf.

FERC Control Number: JD79-3841
API Well Number: 3405922436**14
Section of NGPA: 103
Operator: Enterprise Gas & Oil, Inc.
Well Name: Yerian No. 2
Field: NA

County: Guernsey
Purchaser: NA
Volume: 36.5 MMcf.

FERC Control Number: JD79-3842
FERC Control Number: JD79-3842
API Well Number: 3405921652**14
Section of NGPA: 103
Operator: Enterprise Gas & Oil, Inc.
Well Name: C. Williams, et al. No. 1
Field: NA

County: Guernsey
Purchaser: NA
Volume: 18.2 MMcf.

FERC Control Number: JD79-3843
API Well Number: 3415521060**14
Section of NGPA: 103
Operator: Inland Drilling Co., Inc.
Well Name: Mattino No. 6
Field: NA

County: Trumbull
Purchaser: East Ohio Gas
Volume: 0.210 MMcf.

FERC Control Number: JD79-3844
API Well Number: 3415520740**14
Section of NGPA: 103
Operator: Inland Drilling Co., Inc.
Well Name: Hopkins No. 1
Field: NA

County: Trumbull
Purchaser: East Ohio Gas Co.
Volume: 0.266 MMcf.

FERC Control Number: JD79-3845
API Well Number: 3415122396**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: W. J. Bucher & R. Lash No. 53334
Field: Brewster

County: Stark
Purchaser: East Ohio Gas Co.
Volume: 10 MMcf.

FERC Control Number: JD79-3846
API Well Number: 3415121111**14
Section of NGPA: 108
Operator: K-Vill Oil & Gas
Well Name: Clovis No. 1
Field: NA

County: Stark
Purchaser: East Ohio Gas Company
Volume: 11 MMcf.

FERC Control Number: JD79-3847
API Well Number: 3403122327**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: G. H. Lorenz and Carl Parrillo
No. 1

Field: Baltic
County: Coshocton
Purchaser: East Ohio Gas Company
Volume: .7 MMcf.

FERC Control Number: JD79-3848
API Well Number: 3411920906**14
Section of NGPA: 108
Operator: Quaker State Oil Refining Corp.
Well Name: Ren Lyons No. 1 6950-00
Field: NA

County: Muskingum
Purchaser: National Gas & Oil Corp.
Volume: 3.285 MMcf.

FERC Control Number: JD79-3849
API Well Number: 3415520932**14
Section of NGPA: 103
Operator: Inland Drilling Co., Inc.
Well Name: Miceli No. 1 No. 0932
Field: NA

County: Trumbull
Purchaser: NA
Volume: 6,684 MMcf.

FERC Control Number: JD79-3850
API Well Number: 3413321473**14
Section of NGPA: 103
Operator: Inland Drilling Co., Inc.
Well Name: Ferrara Ferrara No. 2 No. 1473
Field: NA

County: Portage
Purchaser: NA
Volume: 5,023 MMcf.

FERC Control Number: JD79-3851
API Well Number: 3413321306**14
Section of NGPA: 103
Operator: Inland Drilling Co., Inc.
Well Name: Enlow No. 1 No. 1306
Field: NA

County: Portage
Purchaser: No Contract
Volume: 17,376 MMcf.

FERC Control Number: JD79-3852
API Well Number: 3413321472**14
Section of NGPA: 103
Operator: Inland Drilling Co., Inc.
Well Name: Ferrara-Ferrara No. 1
Field: NA

County: Portage
Purchaser: No Contract
Volume: 5,023 MMcf.

FERC Control Number: JD79-3853
API Well Number: 3415520951**14
Section of NGPA: 103
Operator: Inland Drilling Co., Inc.
Well Name: Cover No. 2
Field: NA

County: Trumbull
Purchaser: No Contract
Volume: 6,684 MMcf.

FERC Control Number: JD79-3854
API Well Number: 3413321504**14
Section of NGPA: 103
Operator: Inland Drilling Co., Inc.
Well Name: Pochedly No. 2 No. 1504
Field: NA

County: Portage
Purchaser: No Contract
Volume: 5,023 MMcf.

FERC Control Number: JD79-3855
API Well Number: 3413321528**14
Section of NGPA: 103
Operator: Inland Drilling Co., Inc.
Well Name: Huzvar No. 1 No. 1528
Field: NA

County: Portage
Purchaser: No Contract
Volume: 5,023 MMcf.

FERC Control Number: JD79-3856
API Well Number: 3413321663**14
Section of NGPA: 103
Operator: Jud Noble and Associates, Inc.
Well Name: Ankrom No. 3
Field: NA

County: Portage
Purchaser: East Ohio Gas Company
Volume: 20 MMcf.

FERC Control Number: JD79-3857
API Well Number: 3413321713**14
Section of NGPA: 103

Operator: Jud Noble and Associates, Inc.
Well Name: Ankrom No. 2
Field: NA

County: Portage
Purchaser: East Ohio Gas Company
Volume: 20 MMcf.

FERC Control Number: JD79-3858
API Well Number: 3413321529**14
Section of NGPA: 103

Operator: Jud Noble and Associates, Inc.
Well Name: Ankrom No. 1
Field: NA

County: Portage
Purchaser: East Ohio Gas Company
Volume: 20 MMcf.

FERC Control Number: JD79-3859
API Well Number: 3407521940**14
Section of NGPA: 108

Operator: John C. Mason
Well Name: Daniel & Faye Levers 2
Field: NA

County: Holmes
Purchaser: Columbia Gas Transmission Corp.
Volume: 18 MMcf.

FERC Control Number: JD79-3860
API Well Number: 3410521508**14
Section of NGPA: 108

Operator: Adams Drilling Company
Well Name: Paul Sayre No. 1
Field: NA

County: Meigs
Purchaser: Columbia Gas Transmission Corp.
Volume: 5 MMcf.

FERC Control Number: JD79-3861
API Well Number: 3410521632**14
Section of NGPA: 108

Operator: Adams Drilling Company
Well Name: Goeglein Candy No. 1
Field: NA

County: Meigs
Purchaser: Columbia Gas Transmission Corp.
Volume: 6 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 those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission or or

before May 24, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary:
[FR Doc. 79-14471 Filed 5-8-79; 8:45 am]
BILLING CODE 6450-01-M

Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 1, 1979.

On April 25, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Ohio Department of Natural Resources

FERC Control Number: JD79-3771
API Well Number: 3400921874**14
Section of NGPA: 103

Operator: Quaker State Oil Refining Corp.
Well Name: Poston #4
Field: NA

County: Athens
Purchaser: Columbia Gas Transmission Corp.
Volume: MMcf.

FERC Control Number: JD79-3772
API Well Number: 3407522010**14
Section of NGPA: 103

Operator: W. H. Patton Drilling Co.
Well Name: Robert & Cheryl Evans #1
Field: NA

County: Holmes
Purchaser: American Energy Service Inc.
Volume: 3,250,000 MMcf.

FERC Control Number: JD79-3773
API Well Number: 3407521959**14
Section of NGPA: 103

Operator: W. H. Patton Drilling Co.
Well Name: Harley-Fisher #1
Field: NA

County: Holmes
Purchaser: American Energy Service Inc.
Volume: NA.

FERC Control Number: JD79-3774
API Well Number: 3407522052**14
Section of NGPA: 103

Operator: W. H. Patton Drilling Co.
Well Name: Jerry Strouse #1
Field: NA

County: Holmes
Purchaser: American Energy Service Inc.
Volume: 2,850,000 MMcf.

FERC Control Number: JD79-3775
API Well Number: 3407522098**14
Section of NGPA: 103

Operator: W. H. Patton Drilling Co.
Well Name: Robert Hall—Jerry Strouse #1
Field: NA

County: Holmes
Purchaser: American Energy Service Inc.
Volume: 1,875,000 MMcf.

FERC Control Number: JD79-3776
API Well Number: 3400523158**14
Section of NGPA: 103

Operator: L & M Exploration

Well Name: Kopp #1
Field: NA

County: Ashland
Purchaser: East Ohio Gas Company
Volume: 1500 MMcf.

FERC Control Number: JD79-3777
API Well Number: 3412122042**14
Section of NGPA: 103

Operator: O'Neal Productions, Inc.
Well Name: P. McVay #1
Field: NA

County: Noble
Purchaser: East Ohio Gas Company
Volume: 14 MMcf.

FERC Control Number: JD79-3778
API Well Number: 3407522046**14
Section of NGPA: 103

Operator: Champion Petroleum Company
Well Name: 6 Grassbaugh
Field: NA

County: Holmes
Purchaser: Columbia Gas Transmission
Volume: 18.25 MMcf.

FERC Control Number: JD79-3779
API Well Number: 3408322503**14
Section of NGPA: 103

Operator: Lew Bates, Jr.
Well Name: Taylor #1
Field: NA

County: Knox
Purchaser: Columbia Gas Transmission Corp.
Volume: 30 MMcf.

FERC Control Number: JD79-3780
API Well Number: 3411424220**14
Section of NGPA: 103

Operator: Bates Oil & Gas Inc.
Well Name: Lantz #1
Field: NA

County: Muskingum
Purchaser: Columbia Gas Transmission Corp.
Volume: 1,138 MMcf.

FERC Control Number: JD79-3781
API Well Number: 3401921059**14
Section of NGPA: 103

Operator: L & M Exploration, Inc.
Well Name: Shipley-Warburton #3
Field: NA

County: Carroll
Purchaser: Bonanza Gas Line
Volume: 9000 MMcf.

FERC Control Number: JD79-3782
API Well Number: 3401921073**14
Section of NGPA: 103

Operator: L & M Exploration, Inc.
Well Name: Shipley-Warburton #2
Field: NA

County: Carroll
Purchaser: Bonanza Gas Line
Volume: 9000 MMcf.

FERC Control Number: JD79-3783
API Well Number: 3401921117**14
Section of NGPA: 103

Operator: L & M Exploration, Inc.
Well Name: Carson #1
Field: NA

County: Carroll
Purchaser: Bonanza Gas Line
Volume: 18000 MMcf.

FERC Control Number: JD79-3784
API Well Number: 3401921198**14
Section of NGPA: 103.

Operator: L & M Exploration, Inc.
Well Name: Slutz #2.

Field: NA.
 County: Carroll.
 Purchaser: Bonanza Gas Line.
 Volume: 8000 MMcf.
 FERC Control Number: JD79-3785.
 API Well Number: 3401921083**14.
 Section of NGPA: 103.
 Operator: L & M Exploration, Inc.
 Well Name: Snider #2.
 Field: NA.

County: Carroll.
 Purchaser: Bonanza Gas Line.
 Volume: 15000 MMcf.
 FERC Control Number: JD79-3786.
 API Well Number: 3401921062**14.
 Section of NGPA: 103.
 Operator: L & M Exploration, Inc.
 Well Name: Snider #3.
 Field: NA.

County: Carroll.
 Purchaser: Bonanza Gas Line.
 Volume: 15000 MMcf.
 FERC Control Number: JD79-3787.
 API Well Number: 340192110**14.
 Section of NGPA: 103.
 Operator: L & M Exploration, Inc.
 Well Name: Smith #1.
 Field: NA.

County: Carroll.
 Purchaser: Bonanza Gas Line.
 Volume: 2500 MMcf.
 FERC Control Number: JD78-3788.
 API Well Number: 3401921032**14.
 Section of NGPA: 103.
 Operator: L & M Exploration, Inc.
 Well Name: Scott #1.
 Field: NA.

County: Carroll.
 Purchaser: Bonanza Gas Line.
 Volume: 4500 MMcf.
 FERC Control Number: JD79-3789.
 API Well Number: 3407322125**14.
 Section of NGPA: 103.
 Operator: Reliance Management Co.
 Well Name: Harry Lanning #1.
 Field: NA.

County: Hocking.
 Purchaser: Columbia Gas Transmission Corp.
 Volume: 10 MMcf.
 FERC Control Number: JD79-3790.
 API Well Number: 3415520279**14.
 Section of NGPA: 103.
 Operator: Inland Drilling Co., Inc.
 Well Name: Hopkins #2 0279.
 Field: NA.

County: Trumbull.
 Purchaser: East Ohio Gas Co.
 Volume: 0.266 MMcf.
 FERC Control Number: JD79-3791.
 API Well Number: 3413321316**14.
 Section of NGPA: 103.
 Operator: Inland Drilling Co.
 Well Name: Lappin #1 #1316.
 Field: NA.

County: Portage Co.
 Purchaser: No Contract.
 Volume: 5,023 MMcf.
 FERC Control Number: JD79-3792.
 API Well Number: 3400523136**14.
 Section of NGPA: 103.
 Operator: Hortin and Huffman.
 Well Name: C. & M. Bender #1.
 Field: NA.

County: Ashland.
 Purchaser: Columbia Gas Transmission Corp.
 Volume: 2 MMcf.
 FERC Control Number: JD79-3793.
 API Well Number: 340052314**141.
 Section of NGPA: 103.
 Operator: Hortin and Huffman.
 Well Name: Robert W. & Colleen Stitzlein #1.
 Field: NA.

County: Ashland.
 Purchaser: Columbia Gas Transmission Corp.
 Volume: 2 MMcf.
 FERC Control Number: JD79-3794.
 API Well Number: 3403122921**14.
 Section of NGPA: 103.
 Operator: General Electric Company Haddad and Brooks.
 Well Name: General Electric #1.
 Field: NA.

County: Coshocton.
 Purchaser: Not yet determined.
 Volume: 18 MMcf.
 FERC Control Number: JD79-3795.
 API Well Number: 3408322380**14.
 Section of NGPA: 103.
 Operator: Bates Oil and Gas, Inc.
 Well Name: Hughes #1.
 Field: NA.

County: Knox.
 Purchaser: Columbia Gas Transmission Corp.
 Volume: 200 MMcf.
 FERC Control Number: JD79-3796.
 API Well Number: 3408322512**14.
 Section of NGPA: 103.
 Operator: Lew Bates, Jr.
 Well Name: Britton #1.
 Field: NA.

County: Knox.
 Purchaser: Columbia Gas Transmission Corp.
 Volume: NA.
 FERC Control Number: JD79-3797.
 API Well Number: 3408322575**14.
 Section of NGPA: 103.
 Operator: Bates Oil & Gas, Inc.
 Well Name: Dodrill #2.
 Field: NA.

County: Knox.
 Purchaser: Columbia Gas Transmission Corp.
 Volume: NA.
 FERC Control Number: JD79-3798.
 API Well Number: 3408322462**14.
 Section of NGPA: 103.
 Operator: Bates Oil & Gas, Inc.
 Well Name: Dodrill #1.
 Field: NA.

County: Knox.
 Purchaser: Columbia Gas Transmission Corp.
 Volume: 178 MMcf.
 FERC Control Number: JD79-3799.
 API Well Number: 3408322411**14.
 Section of NGPA: 103.
 Operator: Lew Bates, Jr.
 Well Name: Shannon #4.
 Field: NA.

County: Knox.
 Purchaser: Columbia Gas Transmission Corp.
 Volume: 21 MMcf.
 FERC Control Number: JD79-3800.
 API Well Number: 3401921034**14.
 Section of NGPA: 103.
 Operator: L&M Exploration, Inc.
 Well Name: Scott #2.
 Field: NA.

County: Carroll.
 Purchaser: Bonanza Gas Line.
 Volume: 4500 MMcf.
 FERC Control Number: JD79-3801.
 API Well Number: 3401921035**14.
 Section of NGPA: 103.
 Operator: L&M Exploration, Inc.
 Well Name: Scott #3.
 Field: NA.

County: Carroll.
 Purchaser: Bonanza Gas Line.
 Volume: 4500 MMcf.
 FERC Control Number: JD79-3802.
 API Well Number: 3401921051**14.
 Section of NGPA: 103.
 Operator: L&M Exploration.
 Well Name: Korms #1.
 Field: NA.

County: Carroll.
 Purchaser: Bonanza Gas Line.
 Volume: 2500 MMcf.
 FERC Control Number: JD79-3803.
 API Well Number: 3401921075**14.
 Section of NGPA: 103.
 Operator: L&M Exploration, Inc.
 Well Name: Carroll Recreation 5B.
 Field: NA.

County: Carroll.
 Purchaser: Bonanza Gas Line.
 Volume: 7000 MMcf.
 FERC Control Number: JD79-3804.
 API Well Number: 3401921225**14.
 Section of NGPA: 103.
 Operator: L&M Exploration.
 Well Name: Frace #4.
 Field: NA.

County: Carroll.
 Purchaser: Bonanza Gas Line.
 Volume: 2000 MMcf.
 FERC Control Number: JD79-3805.
 API Well Number: 3401921124**14.
 Section of NGPA: 103.
 Operator: L&M Exploration, Inc.
 Well Name: Carson #4.
 Field: NA.

County: Carroll.
 Purchaser: Bonanza Gas Line.
 Volume: 30000 MMcf.
 FERC Control Number: JD79-3806.
 API Well Number: 3401921123**14.
 Section of NGPA: 103.
 Operator: L&M Exploration.
 Well Name: Carson #3.
 Field: NA.

County: Carroll.
 Purchaser: Bonanza Gas Line.
 Volume: 20000 MMcf.
 FERC Control Number: JD79-3807.
 API Well Number: 3401921060**14.
 Section of NGPA: 103.
 Operator: L&M Exploration, Inc.
 Well Name: Shipley-Warburton #1.
 Field: NA.

County: Carroll.
 Purchaser: Bonanza Gas Line.
 Volume: 9000 MMcf.
 FERC Control Number: JD79-3808.
 API Well Number: 3413320500**14.
 Section of NGPA: 108.
 Operator: Jerry Moore, Inc.
 Well Name: H. Finegan Unit #1.
 Field: Atwater.
 County: Portage.

Purchaser: East Ohio Gas Company
Volume: 4.8 MMcf.

FERC Control Number: JD79-3809
API Well Number: 3413320727**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Andrew B. Englehart #1
Field: Atwater
County: Portage
Purchaser: East Ohio Gas Company
Volume: 11 MMcf.

FERC Control Number: JD79-3810
API Well Number: 3415721220**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: F. H. Andreas Unit #1
Field: Strasburg
County: Tuscarawas
Purchaser: East Ohio Gas Company
Volume: 3.9 MMcf.

FERC Control Number: JD79-3811
API Well Number: 3415122381**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Jacob N. Wise #1-5293
Field: Mt. Eaton
County: Stark
Purchaser: East Ohio Gas Company
Volume: 2.7 MMcf.

FERC Control Number: JD79-3812
API Well Number: 340312233**14
Section of NGPA: 108
Operator: Jerry Moore, Inc.
Well Name: Glenn-Fisher-Smith Unit #1
Field: Baltic
County: Coshocton
Purchaser: East Ohio Gas Company
Volume: .8 MMcf.

FERC Control Number: JD79-3813
API Well Number: 34169021733**14
Section of NGPA: 108
Operator: NUCORP Energy Company
Well Name: Swartzentruber Well #2
Field: NA
County: Wayne
Purchaser: Columbia Gas Company
Volume: 6.771 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 those final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before May 24, 1979. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-14472 Filed 5-8-79; 8:45 am]

BILLING CODE 6450-01-M

Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 3, 1979.

On April 3, 1979, the Federal Energy Regulatory Commission received notice from the Industrial Commission of North Dakota of a determination pursuant to 18 CFR 274.104 and Section 103 of the Natural Gas Policy Act of 1978 applicable to:

FERC Control Number: JD79-5645
API Well Number: 33-053-00768
Operator: Prosper Energy Corporation
Well Name: 27-1 Sherven 6514
Field: Charlson Deep (Silurian)
County: McKenzie
Purchaser: N/A
Volume: 75* MMcf.

The application for determination in this matter together with a copy or description of other materials in the record on which such determination was made is 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 this final determination may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission within fifteen (15) days of the date of publication of this Notice. Please reference the FERC Control Number in any correspondence concerning a determination.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-14473 Filed 5-8-79; 8:45 am]

BILLING CODE 6450-01-M

Determination by a Jurisdictional Agency Under the Natural Gas Policy Act of 1978

May 3, 1979.

On April 27, 1979, the Federal Energy Regulatory Commission received notice from the U.S. Geological Survey of a determination pursuant to 18 CFR 274.104 and Section 103 of the Natural Gas Policy Act of 1978 applicable to:

FERC Control Number: JD79-5647
API Well Number: 30-039-21522
Operator: Consolidated Oil & Gas, Inc.
Well Name: Champlin #2-A
Field: Blanco Mesaverda
County: Rio Arriba
Purchaser: Northwest Pipeline Corporation
Volume: 109.50 MMcf.

The application for determination in this matter together with a copy or description of other materials in the record on which such determination was

made is 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 this final determination may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission within fifteen (15) days of the date of publication of this Notice. Please reference the FERC Control Number in any correspondence concerning a determination.

Lois D. Casball,
Acting Secretary.

[FR Doc. 79-14474 Filed 5-8-79; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

Asbestos in Buildings; Denial of Petition

AGENCY: Environmental Protection Agency.

ACTION: Denial of petition.

SUMMARY: On September 18, 1978, the Honorable Governor Brendan T. Byrne of New Jersey petitioned the Environmental Protection Agency to develop a regulation to control asbestos contamination of buildings under the Toxic Substances Control Act (TSCA) and the Clean Air Act (CAA). EPA denied the petition.

FOR FURTHER INFORMATION CONTACT: Larry E. Longanecker, Control Action Division (TS-794), Office of Toxic Substances, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. Phone: (202) 755-1188.

SUPPLEMENTARY INFORMATION: Following is the text of a letter to Governor Byrne from EPA Administrator Douglas Costle dated February 2, 1979, stating EPA's reasons for denial.

"Thank you for your letter of September 18, 1978 in which you ask that the Environmental Protection Agency (EPA) develop an enforceable Federal regulation which will control asbestos contamination of buildings and structures throughout the country."

"The public health issues raised in your letter have lately been the subject of considerable concern within the Federal government. Secretary Califano's announcement to which you refer is one manifestation of that concern. EPA's continuing investigation of asbestos is another. In addition to the Agency's ongoing activities with respect to air and water asbestos emissions, EPA has devoted

substantial resources over the last six months to assessing the risk posed by asbestos sources that are currently unregulated. EPA's Office of Toxic Substances (OTS) is responsible for leading and coordinating this high priority effort. As part of its activities, OTS has contacted each of the fifty States to find out what is being done on the State level regarding the asbestos-sprayed material problem in schools and has engaged in continuing discussions with the experts in the field about the seriousness of the problem and ways to ameliorate it.

"We are not at this time taking the regulatory action you suggest under our current authority to require the control of asbestos contamination in buildings and structures throughout the country. However, we have been analyzing various regulatory approaches to solve the problem and will continue to do so. Your letter and a petition by the Environmental Defense Fund (EDF) provide useful input into this analysis. As you probably know, the EDF petitioned EPA on December 21, 1978, to control asbestos-sprayed materials in schools under the Toxic Substances Control Act (TSCA). Pursuant to section 21 of TSCA, I am required to respond to this petition. Your comments as well as those of other State Governors and officials with regard to this petition will be shortly requested by my staff. A copy of the petition is enclosed for your advance consideration.

"Although there is considerable general knowledge regarding the toxicity of asbestos, we do not now have sufficient specific knowledge of the exposures associated with asbestos-sprayed materials currently in buildings. Before regulating this asbestos problem under section 6 of TSCA, I must first find that there is a reasonable basis to conclude that the asbestos materials present or will present an unreasonable risk of injury to health or the environment. This standard requires EPA to conduct a thorough assessment of all the ramifications of the problem, including the risk presented, benefits of and substitutes for asbestos, and economic consequences of a rule including its impact on small businesses. At present we do not know enough about the numbers of buildings and persons affected, the levels of exposure, and the costs of abatement to make the statutory findings required by TSCA. Your September 12, 1978 letter acknowledges that 'dealing with the containment and removal of asbestos materials is extremely complex and costly.' The attendant regulatory problems also admit of no easy answers.

"Whether we decide to take regulatory action or not, EPA will initiate a technical assistance program to provide guidance to State and local officials to identify and abate problems from asbestos-sprayed materials in school buildings because we believe that this is the most effective way to address the problem immediately. EPA will disseminate a guidance package to the Governors, State asbestos program authorities, and school districts. It will also be available to anyone who requests it. The package will contain the manual prepared by the Office of Air Quality Planning and Standards (OAQPS) and a manual written for the laymen which OTS is

now preparing. This second manual will supplement the information in the OAQPS document and clarify for the layman the problems concerning asbestos-sprayed materials and explain measures that can be taken to sample, analyze, and determine whether abatement is necessary and what abatement methods can be used. Regional EPA Toxic Substance Coordinators and Department of Health, Education and Welfare Regional personnel will be trained to provide guidance to the States. EPA will recommend quality assurance measures on asbestos samples. Voluntary reporting to EPA by the States will be encouraged so that EPA can maintain a data base on State asbestos programs.

"The purpose of this program will be twofold. By providing technical liaison and guidance, the Agency hopes to encourage States to institute their own programs to abate the asbestos problem in school buildings. New Jersey's program has already established a good model for us. In addition, EPA hopes to obtain further information relating to such matters as exposure and economic impacts in order to assist the Agency in deciding whether or under what circumstances it should initiate a rulemaking proceeding. While I recognize that you may feel that a technical assistance program is inadequate to deal with the asbestos contamination problem, I feel that this program will achieve the most immediate reduction of public exposure to asbestos and is the best way of exhibiting an immediate Federal concern for local problems.

"While the technical program is designed to encourage States to make their own decisions whether and how to take abatement measures for asbestos-sprayed materials in school buildings, I intend to watch the implementation of State programs very closely. The cost of abatement and the availability of funds may prove to be the most significant factor affecting the success of State efforts and may be a key factor in determining whether EPA should pursue the alternative of requesting Congressional assistance. This alternative has not been ruled out for future consideration, although it is not actively being pursued at this time.

"As to your general question regarding indoor air quality, two years ago EPA's Office of Research and Development initiated a study of indoor air quality and factors affecting it. That study has now been completed and a final report is due to be published in the near future. I have asked that a copy be mailed to you. I will want to consider the results of that study in the course of deciding whether EPA should undertake any additional activity related to the quality of indoor air. As to regulatory action under section 112 of the Clean Air Act, we do not believe that provision authorizes control of indoor emissions of asbestos.

"I greatly appreciate your concerns regarding asbestos exposure and look forward to continued contact concerning this problem between EPA and New Jersey. If additional information is needed, please call Mr. Larry C. Dorsey, Control Action Division, Office of Toxic Substances, (202) 755-1188."

Dated: May 1, 1979.

Steven D. Jellinek,
Assistant Administrator for Toxic Substances.

[FRL 1220-3]

[FR Doc. 79-14527 Filed 5-8-79; 8:45 am]

BILLING CODE 6560-01-M

Issuance of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 8730-EUP-5. Herculite Products, Inc., New York, N.Y. 10010. This experimental use permit allows the use of 215.6 pounds of the insecticide n-tetradecyl formate on cotton to evaluate control of tobacco budworm and bollworm. A total of 1,960 acres is involved; the program is authorized only in the States of Arizona, California, and Mississippi. The experimental use permit is effective from April 3, 1979 to April 3, 1980. A temporary exemption from the requirement of a tolerance for residues of the active ingredient in or on cotton has been established. (PM-17, Room: E-229, Telephone: 202/426-9425)

No. 8730-EUP-8. Herculite Products, Inc., New York, N.Y. 10010. This experimental use permit allows the use of 133 pounds of the insecticide (Z)-11-hexadecenal with (Z)-9-tetradecenal on cotton to evaluate control of tobacco budworm and bollworm. A total of 2,010 acres is involved; the program is authorized only in the States of Arizona, California, and Mississippi. The experimental use permit is effective from April 3, 1979 to April 3, 1980. A temporary exemption from the requirement of a tolerance for residues of the active ingredients in or on cotton has been established. (PM-17, Room: E-229, Telephone: 202/426-9425).

No. 8730-EUP-9. Herculite Products, Inc., New York, N.Y. 10010. This experimental use permit allows the use of 22.9 pounds of the insecticide (Z)-9-tetradecen-1-ol formate on cotton to evaluate control of tobacco budworm and bollworm. A total of 260 acres is involved; the program is authorized only in the State of Arizona. The experimental use permit is effective from April 3, 1979 to April 3, 1980. A temporary exemption from the requirement of a tolerance for residues of the active ingredient in or on cotton has been established. (PM-17, Room: E-229, Telephone: 202/426-9425)

Interested parties wishing to review the experimental use permits are

referred to the designated Product Manager (PM), Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Washington, D.C. 20460. The descriptive paragraph for each permit contains a telephone number and room number for information purposes. It is suggested that interested persons call before visiting the EPA Headquarters Office, so that the appropriate permits may be made conveniently available for review purposes. The files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

(Section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).)

Dated: May 2, 1979.

Douglas D. Camp,
Director, Registration Division.

[FRL 1219-6; opp-50423]

[FR Doc. 79-14523 Filed 5-8-79; 8:45 am]

BILLING CODE 6560-01-M

Issuance of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 8340-EUP-1. American Hoechst Corporation, Somerville, New Jersey 08876. This experimental use permit allows the use of 9,300 pounds of the herbicide diclofop-methyl on wheat and barley to evaluate control of volunteer corn and annual grasses. A total of 9,300 acres is involved; the program is authorized only in the States of California, Colorado, Idaho, Minnesota, Montana, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming. The experimental use permit is effective from April 10, 1979 to March 16, 1980. Temporary tolerances for residues of the active ingredient and its metabolites in or on barley grain and wheat grain have been established. (PM-23, Room: E-351, Telephone: 202/755-1397)

No. 8340-EUP-2. American Hoechst Corporation, Somerville, New Jersey 08876. This experimental use permit allows the use of 4,995 pounds of the herbicide diclofop-methyl on soybeans to evaluate control of volunteer corn and annual grasses. A total of 4,995 acres is involved; the program is authorized only in the States of Delaware, Illinois, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Missouri, New Jersey, Ohio,

Virginia, and Wisconsin. The experimental-use permit is effective from April 10, 1979 to March 21, 1980. A temporary tolerance for residues of the active ingredient and its metabolites in or on soybeans (bean only) has been established. (PM-23, Room: E-351, Telephone: 202/755-1397)

No. 3125-EUP-160. Mobay Chemical Corporation, Kansas City, Missouri 64120. This experimental use permit allows the use of 10,000 pounds of the insecticide 1-methylethyl 2-[[ethoxy[[1-methylethyl]amino]phosphinothioyl]oxy] benzoate on turf areas of airport facilities to evaluate control of Japanese beetle larvae. A total of 5,000 acres is involved; the program is authorized only in the States of Kentucky and Pennsylvania. The experimental use permit is effective from March 23, 1979 to March 23, 1980. (PM-16, Room: E-229, Telephone: 202/755-9315)

Interested parties wishing to review the experimental use permits are referred to the designated Product Manager (PM), Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Washington, D.C. 20460. The descriptive paragraph for each permit contains a telephone number and room number for information purposes. It is suggested that interested persons call before visiting the EPA Headquarters Office, so that the appropriate permits may be made conveniently available for review purposes. The files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

(Section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).)

Dated: May 2, 1979.

Douglas D. Camp,
Director, Registration Division.

[FRL 1219-5; OPP-50424]

[FR Doc. 79-14522 Filed 5-8-79; 8:45 am]

BILLING CODE 6560-01-M

Montana Departments of Agriculture and Livestock; Issuance of Specific Exemption To Use Compound 1080 To Control Columbia Ground Squirrels

On December 23, 1977, the Environmental Protection Agency (EPA) announced in the Federal Register (42 FR 64428) receipt of an application for a specific exemption from the Montana Departments of Agriculture and Livestock (hereafter referred to as the "Applicants") to use Compound 1080 (sodium monofluoroacetate) to control Columbian ground squirrel damage in 12 counties of western Montana; public

comment on this application was also solicited.

Comments were received from three environmental groups, all opposed to the granting of the specific exemption. Their concerns and EPA's responses to them will be addressed below.

Background

The Applicants requested permission to use approximately 50,000 pounds of treated bait on irrigated and non-irrigated hay, small grain crops, and pasture and rangeland. The bait would be applied in twelve counties in areas of high infestation. EPA estimated that this quantity of bait could treat 121,000 acres with an assumed average infestation density of 30 burrows per acre.

Although EPA agreed that the Columbian ground squirrels were a problem in Montana, it was determined that the information submitted did not support an emergency exemption to use 1080. In order to gather more information before making a decision, EPA personnel made an inspection of the heavily infested areas, as requested by the Applicants. As result of their observations and subsequent meetings with the Applicants, livestock growers and crop producers, these EPA officials agreed that emergency criteria were met, and that with appropriate restrictions placed on the use of 1080, the risks to humans and the environment would be sufficiently reduced in light of the benefits to warrant an emergency exemption. The Applicants then amended their request and submitted a new one.

Proposed Plan

The amended request more clearly defines the areas to be treated in the same twelve counties. A total of 71,831 acres of grain and hay land would be treated at a dosage rate of 0.22 ounce bait per burrows on an assumed density of 30 burrow per acre. Compound 1080 would be incorporated into a dyed bait consisting of oat groats or crimped oats. A total of 35,415 pounds of prepared bait (354 ounces of technical grade sodium monofluoroacetate) would be hand-placed using a calibrated dipper, under the supervision of a State-certified applicator. Each burrow would be treated once. The twelve counties involved in this program, located in western Montana, are: Broadwater, Flathead, Granite, Lake, Lewis and Clark, Lincoln, Mineral, Missoula, Powell, Ravalli, Sanders, and Silver Bow.

Alternative Means of Control

The Applicants have evaluated other methods of control and have found them to be prohibitively expensive, ineffective, or otherwise unsatisfactory. These methods include: trapping, shooting, exclusion (fencing), flooding, repellents, land use modification, disease introduction, and fumigants. In a field study conducted by Montana, the use of strychnine achieved approximately 64% to 81% control of the Columbian ground squirrel. According to growers and livestock producers in Montana, this level is not sufficient to reduce the following year's squirrel population. The fact that 12,314 acres of land in nine of the twelve counties have already been abandoned because of extensive Columbian ground squirrel infestations suggests that currently available alternatives are neither economically feasible nor otherwise practical.

Economic Impact

Although hard data on yield reduction losses resulting from the use of 1080 are not available, based on total anticipated yield losses supplied by the Applicants, it was roughly estimated that this use might reduce losses by approximately \$1.5 million in 1978. It was anticipated that most of the benefits resulting from the proposed use of 1080 would be realized in 1979 and 1980.

Hazard to the Environment

The Fish and Wildlife Service, U.S. Department of the Interior (USDI), has informed EPA that the use of 1080 to control the Columbian ground squirrel as prescribed in Montana's amended request is not likely to jeopardize the continued existence of the Northern Rocky Mountain wolf, Grizzly Bear, or Bald Eagle, all endangered species. Because only cropland and hay fields and the perimeter around these lands would be treated, it was determined that the normal habitat of the wolf and grizzly bear would not be exposed to 1080. USDI indicated that while secondary poisoning of the bald eagle is possible, it is highly unlikely. The bald eagles are provided an extra margin of safety by the fact that 1080 would not be applied during the winter when bald eagle populations are more likely to be concentrated.

It should be noted that EPA has issued a Rebuttable Presumption Against Registration of 1080 (41 FR 52792) for use as a rodenticide partly on the basis of hazard to non-target species. From studies done in California, it is anticipated that several deaths of

coyotes, foxes, bobcats, skunks, and badgers would occur from the use of 1080. However, the overall impact on non-target species, considering the limited treatment area and the fact that only a single application will be made, should not be significant. It is anticipated that migration, reproduction, and increased survival of the young should soon return the population of affected non-target species to pretreatment levels.

Risks to Humans

1080 is highly toxic to humans and accidental ingestion of this substance has resulted in several human deaths in the past 30 years. There does not appear to be a readily available effective antidote for 1080 poisoning. However, Montana's application for use of 1080 contains several use restrictions designed to safeguard against human exposure. For example, the application provides that all applicators should be properly trained in the handling and use of 1080 baits, 1080 grain bait shall be used only under the on-site supervision of certified government pesticide applicators, all persons authorized to possess and use 1080 grain bait shall store such bait in locked containers, gloves shall be worn by all persons handling 1080 grain bait, as well as other safeguards. If other restrictions are added which require measures to avert exposure during bait preparation and proper storage of 1080 before it is mixed with the baits and if application of treated baits to areas frequented by small children is prohibited to avoid the possibility of endangering small children, then the possibility of human exposure should be negligible.

Comments by Environmental Groups

Three environmental groups commented on the proposed use of 1080, all opposed it. One group offered three reasons: (1) The economic losses vary "wildly" between the original and amended applications; (2) Recent evidence has shown that existing analytical techniques fail to detect sodium monofluoroacetate in tissue samples. Thus monitoring for non-target kills resulting from 1080 poisoning would be impossible by taking tissue samples; and (3) Lack of formal consultation with USDI regarding endangered species. EPA's response to these comments are: (1) The economic losses claimed in the original application were based on a 1973 survey and consisted largely of estimated losses. Additional data were required by EPA, and the final analysis was based on estimated 1977 crop losses. Taking into account inflation and

increasing damage by the squirrels, this increase in losses is not unexpected; (2) Montana will monitor the program not by analyzing tissue of dead animals, but rather, through visual observation of the treated areas for animal carcasses. The proposed single application control program contains sufficient safeguards to insure that no significant lasting impact on populations of non-target species and no impact on populations of endangered species will result; and (3) EPA did request a formal consultation with USDI, and as indicated above, the USDI responded.

Another environmental group expressed concern about 1080's known persistence, lack of a suitable antidote, and the high risk of secondary poisoning which this rodenticide presents, and also stated that zinc phosphide and diphacinone were not evaluated as alternative rodenticides by the Applicants. As has already been noted, no human exposure and only insignificant impact on non-target species is anticipated from the use of 1080 during a limited period of one year if adequate precautions are taken. Furthermore, neither zinc phosphide nor diphacinone can be considered to be alternatives. There are also indications that zinc phosphide may not provide adequate control of some species of ground squirrel. In addition, diphacinone may be impractical to use over large areas, because it must be applied three times over a period of six days using either bait stations or spot treatments around individual mounds.

The third environmental organization pointed out discrepancies in the original application which made unclear whether Montana was expressing a need for 1080 use in certain areas. The State of Montana subsequently clarified the areas in which 1080 was felt to be needed.

The same environmental group also expressed concern about the potential for non-target kills, particularly hawks and badgers. Although not definitive, a study conducted by the Fish and Wildlife Service, USDI, in 1977, suggests that raptors including hawks would not be significantly at risk. It is anticipated that some badger deaths would occur. However, the impact on the local badger population would be small and temporary because the emergency exemption would permit only a single application of 1080 in a geographically restricted area.

After reviewing the application and other available information, EPA has determined (a) a Columbian ground squirrel outbreak has occurred; (b) there is no pesticide presently registered for

use in Montana which is economically feasible to use over large areas and which provides effective control of this pest; (c) significant economic problems may result if the Columbian ground squirrel is not controlled; and (d) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicants have been granted a specific exemption to use the pesticide noted above until August 1, 1979, to the extent and in the manner set forth in the application. This exemption was granted on August 1, 1978. However, this date was too late in the season to permit efficacious use of 1080. Therefore, the State of Montana has not yet used 1080 and will not do so until at least spring of 1979. The specific exemption is subject to the following restrictions in addition to the terms and conditions set forth in the application for use:

1. Up to 35,415 pounds (354 ounces of technical grade 1080) of the 0.05 percent bait prepared in accordance with the formula proposed in the application are authorized;

2. The "Treatment" paragraph which appears under the heading "Physicians Treatment" on the proposed label for 1080 grain bait formulation must be revised to read as follows:

Treatment.—The treatment for sodium monofluoroacetate poisoning is mainly symptomatic. Immediate emesis and gastric lavage followed by oral doses of magnesium sulfate are useful. Complete rest and quiet are indicated.

Barbiturates may be tried to control convulsions, but barbiturates alone are not of value as antidotes.

Monoacetin (glyceryl monoacetate) has been shown to be effective against sodium monofluoroacetate poisoning in monkeys. However, it is not licensed as a drug and is available only as a technical product. Other substances may also have some antidotal effect in laboratory animals. Whether any of these substances should be administered for treatment of sodium monofluoroacetate poisoning is left to the judgment of the local medical community.

Contact immediately, day or night, the closest poisoning treatment center (see list below) for further information.

Poisoning Treatment Centers

Name, Location, Telephone
(provide this information)

3. The "Statement of Practical Treatment" which appears on the proposed label for 1080 grain bait formulation must be revised to read as follows:

Statement of Practical Treatment

If Swallowed—Drink 1 or 2 glasses of water and induce vomiting by touching back of throat with finger.

Do not induce vomiting or give anything by mouth to an unconscious person. Contact a physician immediately.

Also, immediately contact, day or night, the closest poisoning treatment center. (See list of addresses and telephone numbers on left panel).

If on skin, immediately flush with plenty of water.

4. The "Disposal" section of the "Storage and Disposal" statement on the proposed label must be revised to read as follows:

Disposal

Disposal of container, toxic solution/baits, and poisoned animals in a landfill approved by the local health or environmental department.

5. Under this specific exemption, the Compound 1080 grain bait shall be used only to control the Columbian ground squirrel (*Spermophilus columbianus*) in the crop areas of the twelve counties mentioned above. The total acreage treated in each of the counties designated below must not exceed the following: Broadwater—3,816; Flathead—8,099; Granite—6,124; Lake—9,298; Lewis and Clark—6,717; Lincoln—2,592; Mineral—1,419; Missoula—5,511; Powell—22,458; Ravalli—787; Sanders—3,320; and Silver Bow—1,690;

6. The Compound 1080 grain bait is to be scattered around active burrow entrances, not piled or placed in holes, at a rate of no more than 0.22 ounce bait per active entrance, using a calibrated dipper. Each active burrow is to be treated no more than once;

7. Compound 1080 grain bait shall be used only under the on-site supervision of certified pesticide applicators trained by the Montana Department of Livestock and licensed by the Montana Department of Agriculture. Each applicator shall be trained in:

- The biology and ecology of the Columbian ground squirrel;
- Safe handling of the toxic grain baits;
- Proper placement of the bait;
- Consideration of environmental conditions before baiting is begun;
- Necessary record keeping; and
- Other competency standards;

8. Each State-certified pesticide applicator shall keep records dealing with the placement of Compound 1080 grain bait. Such records shall include, but not be limited to:

- The approximate number of acres upon which bait is applied;
- The amount of bait applied;
- The date of each application;
- All accidents or injuries to humans, domestic animals, or non-target species; and

e. The time and location of application, name of product, pest to be controlled, and the name of the applicator;

9. All persons authorized to possess and use Compound 1080 and grain bait treated with this toxicant shall keep such toxicant and treated bait in locked containers during storage and transport;

a. All preparation of baits must be done at a central formulation site; persons preparing the formulation from the dry concentrates must wear gloves and a respirator;

b. Equipment used to handle and mix 1080 must be identified and used only for this purpose; and

c. All containers of 1080 or 1080-treated baits must be clearly labeled. Baits must not take the form of any food normally consumed by humans;

10. All bait removed from locked containers for use shall be carried only in zippered canvas pouches marked in red letters "Poison Grain." The bag shall remain closed at all times except when bait is actually being applied;

11. Gloves shall be worn handling Compound 1080 grain bait;

12. Persons applying the bait shall wash their hands before eating or smoking. Washing facilities shall be made readily available by the supervising State-certified pesticide applicator;

13. Compound 1080 grain bait shall be applied only during seasons when Columbian ground squirrels are accepting grain, and the majority of the population is active above ground. These seasons shall be determined locally by the State-certified pesticide applicator in consultation with the Department of Livestock vertebrate pest control biologists, but in no case shall Compound 1080 be applied during the winter months;

14. Compound 1080 grain bait shall not be used in situations where threatened and endangered species, bald eagle, grizzly bear, and Northern Rocky Mountain Wolf, may be adversely affected. Compound 1080 grain is not to be applied in prairie dog towns or in areas where the black-footed ferret has been sighted;

15. Compound 1080 bait is not to be applied to areas frequented by small children;

16. Field studies should be initiated to determine the effectiveness of

strychnine and zinc phosphide when used as green or fresh forage bait, e.g. cabbage leaves, versus grain bait. These studies should also include comparative efficacy tests with gas cartridges, Compound 1080 grain baits, and zinc phosphide grain baits;

17. A final report on the results of this program and the efficacy tests mentioned in item 16 shall be submitted to the EPA by December 31, 1979. This report should contain, but is not limited to the following information:

- Total number of baits applied;
- Estimated number of burrows treated per acre in each county;
- On representative farms, crop yields, which have been taken both the year before treatment with 1080 is begun, and after;
- An approximation of the time necessary to treat with Compound 1080 grain bait, strychnine baits, and gas cartridges;
- As accurately as possible, a cost estimate of the control program completed under this specific exemption and the economic benefits derived from it; and
- To what extent abandoned fields treated with Compound 1080 were restored to their former production capability and in terms of profit, the economic benefits which were realized from the use of 1080 in these fields.

Because EPA is in the final stages of deciding whether the registration of products containing 1080 will continue or be cancelled for all or some uses, the above information could aid in evaluating the benefits of 1080 and may be requested earlier than December 31, 1979, the date upon which the final report on this specific exemption is due;

18. The Applicants are responsible for insuring that all of the provisions of this specific exemption are adhered to;

19. The EPA shall be immediately informed of any adverse effects resulting from the use of Compound 1080 under this specific exemption;

20. All animal carcasses found above ground must be buried or burned; and

21. Compound 1080 shall not be used on any Federal lands.

Authority.—Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975 and 1978 (92 Stat. 819; 7 U.S.C. 136).

Dated: April 2, 1979.

Edwin L. Johnson,
Deputy Assistant Administrator, for Pesticide Programs.

[FRL 1219-3; DPP-180168A]
[FR Doc. 79-14528 Filed 5-8-79; 8:45 am]
BILLING CODE 6560-01-M

Pesticide Programs; Withdrawal of Pesticide Petition

On September 23, 1974, the Environmental Protection Agency (EPA) gave notice (39 FR 34097) that Ciba-Geigy Corp., Box 11422, Greensboro, NC 27409, had filed a petition (PP 5F1539). This petition proposed establishment of tolerance limitations for residues of the herbicide procyzazine 2-[[4-chloro-6-(cyclopropylamino)-1,3,5-triazin-2-yl] amino]-2-methylpropanenitrile and its hydroxy metabolites, *N*-(4-(cyclopropylamino)-6-hydroxy-1,3,5-triazin-2-yl)-2-methylalanine, *N*-(4-amino-6-hydroxy-1,3,5-triazin-2-yl)-2-methylalanine, and *N*-(4,6-dihydroxy-1,3,5-triazin-2-yl)-2-methylalanine (calculated as procyzazine) in or on the raw agricultural commodities corn fodder and forage at 2 parts per million (ppm); fresh corn including sweet corn (kernels plus cob with husk removed), and corn grain at 0.2 ppm (negligible residue); and eggs, milk, and the meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep at 0.02 ppm (negligible residue).

Ciba-Geigy Corp. has withdrawn this petition without prejudice to future filing in accordance with the regulations (40 CFR 180.8) pertaining to section 408 of the Federal Food, Drug, and Cosmetic Act (21 USC 346a(d)).

Dated: May 3, 1979.

Douglas D. Camp,
Director, Registration Division.

[FRL 1221-2; PW-17]
[FR Doc. 79-14532 Filed 5-8-79; 8:45 am]
BILLING CODE 6560-01-M

Pesticide Programs; Filing of Pesticide/Flood Additive Petitions

Pursuant to sections 408(d)(1) and 409(b)(5) of the Federal Food, Drug, and Cosmetic Act, the Environmental Protection Agency (EPA) gives notice that the following petitions have been submitted to the Agency for consideration.

PP 9F2191. Shell Chemical Co., 1025 Connecticut Ave., NW., Suite 200, Washington, DC 20036. Proposes that 40 CFR 180.362 be amended by establishing tolerance limitations for the combined residues of the insecticide hexakis (2-methyl-2-phenylpropyl) distannoxane and its organotin metabolites calculated as hexakis (2-methyl-2-phenylpropyl) distannoxane in or on the following raw agricultural commodities:

Commodity	Part(s) per million
Milk	0.1
Eggs, meat, liver and kidney of poultry	0.1

Commodity	Part(s) per million
Almonds	0.5
Fat, meat and meat byproducts (excluding liver and kidney) of cattle	0.5
Grapes	5.0
Almond hulls	80.0

The proposed analytical method for determining residues is by thin layer chromatography.

FAP 9H5214. Shell Chemical Co. Proposes that 21 CFR 581.255 be amended by establishing a regulation permitting residues of the above insecticide on the commodities raisin waste at 20.0 ppm and dried grape pomace at 100.0 ppm.

Interested persons are invited to submit written comments on these petitions to the Federal Register Section, Program Support Division (TS-757), Office of Pesticide Programs, EPA, Rm. 401, East Tower, 401 M St., SW., Washington, DC 20460. Inquiries concerning these petitions may be directed to Product Manager (PM) 12, Registration Division (TS-767), Office of Pesticide Programs, at the above address, or by telephone at 202/426-9425. Written comments should bear a notation indicating the petition number to which the comments pertain. Comments may be made at any time while a petition is pending before the Agency. All written comments filed pursuant to this notice will be available for public inspection in the Office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: May 3, 1979.

Douglas D. Camp,
Director, Registration Division.

[FRL 1221-1; PF-129]
[FR Doc. 79-14530 Filed 5-8-79; 8:45 am]
BILLING CODE 6560-01-M

Pesticide Programs; Renewal of Temporary Tolerances; Methyl 2-[4-(2,4-dichlorophenoxy) phenoxy] propanoate

On July 10, 1978, the Environmental Protection Agency (EPA) announced (43 FR 29620) the renewal of temporary tolerances for combined residues of the herbicide methyl 2-[4-(2,4-dichlorophenoxy)phenoxy]propanoate and its metabolites 2-[4-(2,4'-dichlorophenoxy)phenoxy]propionic acid and 2-[4-(2,4'-dichloro-5'-hydroxyphenoxy)phenoxy]propionic acid (all calculated as the parent compound) in or on the raw agricultural commodities barley grain and wheat grain at 0.1 part per million (ppm). These tolerances were established (41 FR 4636) in response to a pesticide petition (PP 6G1664) submitted by American Hoechst

Corp., Agricultural Chemicals Dept., Route 202-206, North Somerville, NJ 08876. This renewal expired March 16, 1979.

American Hoechst Corp. requested a one-year renewal of these temporary tolerances both to permit continued testing to obtain additional data and to permit the marketing of the above raw agricultural commodities when treated in accordance with the provisions of the experimental use permit 83210-EUP-1 that has been renewed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and all other relevant material were evaluated, and it was determined that a renewal of the temporary tolerances would protect the public health. Therefore, the temporary tolerances have been renewed on condition that the pesticide is used in accordance with the experimental use permit with the following provisions:

1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permit.
2. American Hoechst Corp. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm must also keep records of production, distribution, and performance and on requests make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These temporary tolerances expire March 16, 1980. Residues not in excess of 0.1 ppm remaining in or on barley grain and wheat grain after this expiration date will not be considered actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permit and temporary tolerances. These temporary tolerances may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicate such revocation is necessary to protect the public health. Inquiries concerning this notice may be directed to Ms. Willa Garner, Product Manager 23, Registration Division (TS-767), Office of Pesticide Programs, 401 M Street, SW., Washington, D.C. 20460 (202/755-1397).

Authority: Section 408(j) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 346a(j)].

Dated: May 3, 1979.

Douglas D. Campit,
Director, Registration Division.

[FRL 1221-2; PP6G1664/T203]
[FR Doc. 79-14530 Filed 5-8-79; 8:45 am]
BILLING CODE 6560-01-M

Pesticide Programs; Approval of Application to Conditionally Register Pesticide Product Containing New Active Ingredient

On March 10, 1978, notice was given (43 FR 9856) that ICI Americas Inc., Concord Pike & New Murphy Road, Wilmington, DE 19897, has filed an application (EPA File Symbol No. 10182-RI) with the Environmental Protection Agency (EPA) to register the pesticide product AMBUSH INSECTICIDE containing 25.5% of the active ingredient permethrin (3-phenoxyphenyl) methyl (\pm)-cis, trans-3-(2,2-dichloroethyl)-2,2-dimethylcyclopropanecarboxylate) which was not previously registered at the time of submission. Notice of registration is given in accordance with 40 CFR 162.7(d)(2).

This application was approved April 11, 1979, and the product has been assigned the EPA Registration No. 10182-18. AMBUSH INSECTICIDE is classified for restricted use in cotton. A copy of the approved label and list of data references used to support registration are available for public inspection in the office of the Federal Register Section, Program Support Division (TS-757), Office of Pesticide Programs, Rm. 401 East Tower, 401 M St., SW, Washington, DC 20460. The data and other scientific information used to support registration, except for the material specifically protected by Section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136) will be available for public inspection in accordance with Section 3(c)(2) of FIFRA, within 30 days after the registration date of April 11, 1979. Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A-101), EPA, 401 M St., SW, Washington DC 20460. Such requests should: 1) identify the product by name and registration number and 2) specify the data or information desired.

Dated: May 3, 1979.

Edwin L. Johnson,
Deputy Assistant Administrator for Pesticide Programs.

[FRL 1219-7; OFP-C30143A]
[FR Doc. 79-14524 Filed 5-8-79; 8:45 am]
BILLING CODE 6560-01-M

Science Advisory Board; Environmental Measurements Committee; Open Meeting

As required by Pub. L. 92-463, notice is hereby given that a meeting of the Environmental Measurements Advisory Committee of the Science Advisory Board will be held beginning at 1:00 p.m., May 29, Room 5051, HEW North Building, 330 Independence Ave., S.W., Washington, D.C., beginning at 9:00 a.m. May 30 in Room 1101, Waterside Mall, 401 M St., S.W., Washington, D.C.

This is the first meeting of the Environmental Measurements Committee this year. The agenda includes an overview of Agency organization and function for the new appointed members and a discussion of future issues for the possible consideration of the committee. The principal agenda topic will be a review and discussion of current agency information policy.

The meeting is open to the public. Any member of the public wishing to attend, participate, or obtain information should contact Dr. Douglas Seba, Executive Secretary or Ms. Sarah Mills, Staff Assistant, Environmental Measurements Committee (703) 557-7720 by May 22, 1979.

Dated: May 2, 1979.

Richard M. Dowd,
Staff Director, Science Advisory Board.

[FRL 1220-4]
[FR Doc. 79-14521 Filed 5-8-79; 8:45 am]
BILLING CODE 6560-01-M

FEDERAL MARITIME COMMISSION

Transportation Maritime Mexicana, S.A. and Nopal; Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to Section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before May 21, 1979. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon

which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the Commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Agreement Number 110370.

Filing Party: Stanley O. Sher, Esquire, Billig, Sher & Jones, P.C. 2033 K Street NW., Washington, D.C. 20008

SUMMARY: Agreement No. 10370, between Transportacion Maritima Mexicana, S.A. (TMM) and Nopal, a division of Oivind Lorentzen Ltd., is a cooperative working arrangement whereby Nopal agrees to nominate TMM as its managing agent for Nopal's East Coast of South America/United States Gulf services. It is further agreed that TMM shall place suitable tonnage at Nopal's disposal, Nopal as the common carrier to issue its own bill of lading, with a sailing frequency which will enable Nopal to fulfill its pool shares and minimum sailing requirements in any pools to which Nopal is or may become a party/ existing in the trade. TMM shall pay all expenses related to the carriage of Nopal's cargoes and will receive in compensation 97.5 percent of the related gross freight revenue on pool cargoes and 98.5 percent on non-pool cargoes. All over-carrying penalties or under-carrying compensations under the applicable pool agreements are to be for TMM's account during the life of this agreement, which is through December 31, 1980.

The agreement also provides that TMM shall nominate Oivind Lorentzen, Inc. as general agent in the United States for the service described above, as well as for TMM's own, separate services in the United States Gulf/East Coast of South America trade.

By Order of the Federal Maritime Commission.

Dated: May 4, 1979.

Francis C. Hurney,
Secretary.

FEDERAL TRADE COMMISSION

16 CFR Part 803

Early Termination of Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Dalgety Foods, Inc. is granted early termination of the waiting period provided by law and the premerger notification rules with respect to its proposed acquisition of Cedergreen Foods Corp. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by Dalgety Foods, Inc. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: April 27, 1979.

FOR FURTHER INFORMATION CONTACT: Malcolm R. Pfunder, Assistant Director for Evaluation, Bureau of Competition, Room 394, Federal Trade Commission, Washington, D.C. 20580, (202-523-3404).

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by sections 201 and 202 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act and § 803.11 of the rules implementing the Act permit the agencies, in individual cases, to terminate this waiting period prior to its expiration and to publish notice of this action in the Federal Register.

By direction of the Commission.
Carol M. Thomas,
Secretary.

[FR Doc. 79-14498 Filed 5-8-79; 8:45 am]
BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

National Professional Standards Review Council; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), announcement is made of the following Council meeting:

Names: National Professional Standards Review Council.

Date and Time: May 21, 1979 (10:00 a.m. to 5:00 p.m.), May 22, 1979 (9:00 a.m. to 1:00 p.m.).

Place: Auditorium (first floor), HEW North Building, 330 Independence Avenue, S.W., Washington, D.C.

Purpose of Meeting: The Council was established to advise the Secretary of Health, Education, and Welfare on the administration of Professional Standards Review (Title XI, Part B, Social Security Act). Professional Standards Review is the procedure to assure that the services for which payment may be made under the Social Security Act are medically necessary and conform to appropriate professional standards for the provision of quality health care. The Council's agenda will include discussion of a variety of issues relevant to the implementation of the PSRO program. On May 11, 1979 a tentative agenda will be available to the public.

Meeting of the Council is open to the public. Public attendance is limited to space available.

Any member of the public may file a written statement with the Council before, during, or after the meeting. To the extent that time permits, the Council Chairman will allow public presentation of oral statements at the meeting.

All communications regarding this Council should be addressed to Margaret Van Amringe, Staff Director, National Professional Standards Review Council, Health Standards and Quality Bureau, Room 5127-S, Switzer Building, 330 "C" Street, Washington, D.C. 20201, (202) 472-5536.

Dated: May 3, 1979.

Margaret Van Amringe,
Staff Director, National Professional Standards Review Council.

[FR Doc. 79-14371 Filed 5-8-79; 8:45 am]
BILLING CODE 4110-35-M

National Institutes of Health

Meeting of Lipid Metabolism Advisory Committee

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Lipid Metabolism Advisory Committee, National Heart, Lung, and Blood Institute, May 21, 1979, Federal Building, Conference Room B119, National Institutes of Health, Bethesda, Maryland.

This meeting will be open to the public on May 21 from 8:30 a.m. to 12:00 noon to discuss the Lipid Metabolism Branch Program Review. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will closed to the public on May 21 from 1:00 p.m. to adjournment for the review, discussion and evaluation of individual contract projects and programs. These projects and the discussions could

reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the projects, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, NHLBI, National Institutes of Health, Building 31, Room 5A03, Bethesda, Maryland 20205, (301) 496-4236, will provide summaries of the meeting and roster of the committee members. Dr. Basil M. Rifkind, Chief, Lipid Metabolism Branch, NHLBI, Federal Building, Room 401, (301) 496-1681, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, National Institutes of Health)

Dated: April 30, 1979.

Suzanne L. Fremeau,
Committee Management Officer, National Institutes of Health.

[FR Doc. 79-14383 Filed 5-8-79; 8:45 am]

BILLING CODE 4110-08-M

Meetings for the Review of Contract Proposals and Grant Applications

Pursuant to Pub. L. 92-463, notice is hereby given of the meetings of committees advisory to the National Cancer Institute. These meetings will be open to the public to discuss administrative details or other issues relating to committee business as indicated in the notice. Attendance by the public will be limited to space available.

These meetings will be closed to the public as indicated below in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, for the review, discussion and evaluation of individual contract proposals and grant applications, as indicated. These proposals and applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the proposals and applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Marjorie F. Early, Committee Management Officer, NCI, Building 31, Room 4B43, National Institutes of Health, Bethesda, Maryland 20205 (301/496-5708) will furnish summaries of the meetings and rosters of committee members, upon request. Other information pertaining to the meeting can be obtained from the Executive

Secretary indicated. Meetings will be held at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205, unless otherwise stated.

Name of committee: Bladder and Prostatic Cancer Review Committee (Prostatic Subcommittee).

Dates: June 1, 1979.

Place: Roswell Park Research Study Center, 666 Elm Street, Buffalo, New York.

Times: Open: June 1, 8:30 a.m.—9:00 a.m.

Closed: June 1, 9:00 a.m.—adjournment.

Closure reason: To review research grant applications.

Executive Secretary: Dr. Andrew Chiarodo.
Address: Westwood Building Room 853, National Institutes of Health. Phone: 301/496-7194.

(Catalog of Federal Domestic Assistance Number 13.393; 13.394; 13.395 National Institutes of Health)

Name of committee: Bladder and Prostatic Cancer Review Committee (Bladder Subcommittee).

Dates: June 7-8, 1979.

Place: Royal Court Inn, 1750 South Elmhurst Road, Des Plaines, Illinois 60618.

Times: Open: June 7, 8:30 a.m.—10:30 a.m.

Closed: June 7, 10:30 a.m.—5:00 p.m.

Closed: June 8, 8:30 a.m.—adjournment.

Closure reason: To review research grant applications.

Executive Secretary: Dr. William Straile.
Address: Westwood Building Room 853, National Institutes of Health. Phone: 301/496-7194.

(Catalog of Federal Domestic Assistance Number 13.393, 13.394, 13.395 National Institutes of Health)

Name of committee: Large Bowel and Pancreatic Cancer Review Committee (Large Bowel Subcommittee).

Dates: June 7-8, 1979.

Place: Prudential Building 1100 Holcolm Building, Houston, Texas.

Times: Open: June 7, 7:30 p.m.—8:00 p.m.

Closed: June 7, 8:00 p.m.—adjournment.

Closed: June 8, 8:30 a.m.—adjournment.

Closure reason: To review research grant applications.

Executive secretary: Dr. Andrew Chiarodo.
Address: Westwood Building Room 853, National Institutes of Health. Phone: 301/496-7194.

(Catalog of Federal Domestic Assistance Number 13.393; 13.394, 13.395 National Institutes of Health)

Name of committee: Cancer Control Intervention Programs Review Committee

Dates: June 14-15, 1979.

Place: Landow Building, Conference Room A, 7910 Woodmont Avenue Bethesda, Maryland, 20014.

Times: Open: June 14, 8:30 a.m.—9:00 a.m.

Closed: June 14, 9:00 a.m.—5:00 p.m.

Closed: June 15, 8:30 a.m.—adjournment.

Closure reason: To review research contract proposals.

Executive secretary: Dr. Louis M. Ouellette.
Address: Westwood Building Room 806, National Institutes of Health. Phone: 301/496-7413.

(Catalog of Federal Domestic Assistance Number 13.399 National Institutes of Health)

Name of committee: Cancer Clinical Investigation Review Committee.

Dates: June 25-27, 1979.

Place: Building 31C Conference Room 8, National Institutes of Health.

Times: Open: June 25, 8:30 a.m.—10:00 a.m.

Closed: June 25, 10:00 a.m.—5:00 p.m.

Closed: June 26, 8:30 a.m.—5:00 p.m.

Closed: June 27, 8:30 a.m.—adjournment.

Closure reason: To review research grant applications.

Executive secretary: Dr. Dorothy Macfarlane.
Address: Westwood Building Room 819, National Institutes of Health, Phone: 301/496-7481.

(Catalog of Federal Domestic Assistance Number 13.395 National Institutes of Health)

Name of committee: Cancer Special Program Advisory Committee.

Dates: July 11-12, 1979.

Place: Building 31C Conference Room 9, National Institutes of Health.

Times: Open: July 11, 9:00 a.m.—10:00 a.m.

Closed: July 11, 10:00 a.m.—5:00 p.m.

Closed: July 12, 8:30 a.m.—adjournment.

Closure reason: To review research grant applications.

Executive secretary: Dr. William R. Sanslone.
Address: Westwood Building Room 805, National Institutes of Health. Phone: 301/496-7565.

(Catalog of Federal Domestic Assistance Number 13.392 National Institutes of Health)

Dated: April 30, 1979.

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 79-14386 Filed 5-8-79; 8:45 am]

BILLING CODE 4110-08-M

Aging Review Committee Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Aging Review Committee, National Institute on Aging, on June 21, 22, 1979, in Building 31C, Conference Room 7, National Institutes of Health, Bethesda, Md.

The meeting will be open to the public from 9:00 a.m. to 10:00 a.m. on June 21, for introductory remarks. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on June 21, from 10:00 a.m. to adjournment on June 22, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Suzanna H. Porter, Committee Management Officer, NIA, Building 31, Room 5C07, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496-5345, will provide summaries of meetings and rosters of Committee members as well as substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.866, National Institutes of Health)

Dated: April 30, 1979.

Suzanne L. Fromeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 79-14398 Filed 5-8-79; 8:45 am]

BILLING CODE 4110-08-M

Allergy and Clinical Immunology Research Committee Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Allergy and Clinical Immunology Research Committee, National Institute of Allergy and Infectious Diseases on June 11-12, 1979, at the Federal Building, Room 6C-01, National Institutes of Health, Bethesda, Maryland.

This meeting will be open to the public from 8:30 a.m. until 12:00 Noon on June 11 and from 8:30 a.m. until 9:00 a.m. on June 12 to discuss program policies and issues. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting of the Committee will be closed to the public on June 11 from 1:00 p.m. until 5:00 p.m., and on June 12 from 9:00 a.m. to 5:00 p.m. for the review, discussion, and evaluation of individual grant applications. These applications, and discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications and proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Robert L. Schreiber, Chief, Office of Research Reporting and Public Response, NIAID, Building 31, Room 7A32, National Institutes of Health, Bethesda, Maryland 20205, telephone (301) 496-5717, will provide summaries of the meeting, and rosters of the Committee members.

Dr. Harley G. Sheffield, Executive Secretary, Allergy and Clinical Immunology Research Committee, NIAID, NIH, Westwood Building, Room 706, telephone (301) 496-7465, will

provide substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.855, National Institutes of Health)

Dated: April 30, 1979.

Suzanne L. Fromeau

Committee Management Officer, National Institutes of Health.

[FR Doc. 79-14389 Filed 5-8-79; 8:45 am]

BILLING CODE 4110-08-M

Animal Resources Review Committee Meeting

Pursuant to Pub. Law 92-463, notice is hereby given of the meeting of the Animal Resources Review Committee, Division of Research Resources, May 30 and 31, 1979, Conference Room 8, Building 31, National Institutes of Health, Bethesda, Maryland 20205.

The meeting will be open to the public on May 30 from 1:00 p.m. to recess, during which time there will be a brief staff presentation on the current status of the Animal Resource and Primate Research Centers programs. The Committee will select future meeting dates. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on May 30 from 8:30 a.m. to 12:00 noon for the review, discussion, and evaluation of individual grant applications submitted to the Primate Research Centers Program and on May 31 from 8:30 to adjournment for the review, discussion, and evaluation of individual grant applications and an individual National Research Service Award submitted to the Laboratory Animal Sciences Program. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. James Augustine, Information Officer, Room 5B13, Bldg. 31, Division of Research Resources, National Institutes of Health, Bethesda, Maryland 20205, (301) 496-5545, will provide summaries of the meeting and rosters of the committee members. Dr. Dennis O. Johnsen, Executive Secretary of the Animal Resources Review Committee, Room 5B55, Bldg. 31, National Institutes of Health, Bethesda, Maryland 20205, (301) 496-5175, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Programs No. 13.306, National Institutes of Health)

Dated: April 30, 1979.

Suzanne L. Fromeau,

NIH Committee Management Officer.

[FR Doc. 79-14384 Filed 5-8-79; 8:45 am]

BILLING CODE 4110-08-M

Biomedical Library Review Committee Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Biomedical Library Review Committee, National Library of Medicine, on June 18-20, 1979, convening each day at 8:30 a.m. in the Board Room of the National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland, to adjournment on June 20.

This meeting will be open to the public from 8:30 to 11:00 a.m. on June 18 for the discussion of administrative reports and program developments. Attendance by the public will be limited to space available.

In accordance with provisions set forth in section 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from 11:00 a.m. on June 18 to adjournment on June 20 for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Roger W. Dahlen, Executive Secretary of the Committee, and Chief, Division of Biomedical Information Support, Extramural Programs, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20205, telephone number: 301-496-4191, will provide summaries of the meeting, rosters of the committee members, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Program No. 13.879—National Institutes of Health)

Dated: April 30, 1979.

Suzanne L. Fromeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 79-14396 Filed 5-8-79; 8:45 am]

BILLING CODE 4110-08-M

Cellular and Molecular Basis of Disease Review Committee Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the

Cellular and Molecular Basis of Disease Review Committee, National Institute of General Medical Sciences, on June 11-12, 1979 at the National Institutes of Health, Building 31A, Conference Room 4, Bethesda, Maryland.

This meeting will be open to the public on June 11, 1979 from 8:30 a.m. until 9:00 a.m. for background information and discussion of issues relevant to the National Institute of General Medical Sciences and its National Research Service Award training activities and research programs. Attendance by the public will be limited to space available.

In accordance with provisions set forth in section 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on June 11, 1979 from 9:00 a.m. until 6:00 p.m. and on June 12, 1979 from 8:30 a.m. until adjournment for the review, discussion, and evaluation of individual grant applications. These applications and discussions could reveal personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Paul Deming, Research Reports Officer, NIGMS, National Institutes of Health, Room 9A05, Westwood Building, Bethesda, Maryland, 20205 (Telephone: 301/496-7301) will provide a summary of the meeting and a roster of committee members.

Dr. Lee Van Lenten, Executive Secretary, Cellular and Molecular Basis of Disease Review Committee, NIGMS, National Institutes of Health, Room 907, Westwood Building, Bethesda, Maryland, 20205 (Telephone: 301/496-7621) will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13-863, General Medical Sciences)

Dated: April 30, 1979.

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 79-14390 Filed 5-8-79; 8:45 am]

BILLING CODE 4110-08-M

General Clinical Research Centers Committee Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the General Clinical Research Centers Committee, Division of Research Resources, on June 21-22, 1979, in Conference Room 6, Building 31, National Institutes of Health, Bethesda, Maryland 20205.

The meeting will be open to the public June 21, 1979, from 9:00 a.m. to 11:00 a.m., to discuss administrative matters. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public June 21 from 11:00 a.m. to 5:00 p.m., and on June 22 from 9:00 a.m. to adjournment for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. James Augustine, Information Officer, Division of Research Resources, National Institutes of Health, Room 5B13, Building 31, National Institutes of Health, Bethesda, Maryland 20205, (301) 496-5545, will provide summaries of the meeting and rosters of the Committee members. Dr. Ephraim Y. Levin, Executive Secretary of the General Clinical Research Centers Committee, Room 5B51, Building 31, National Institutes of Health, Bethesda, Maryland 20205, (301) 496-6595, will furnish substantive program information. (Catalog of Federal Domestic Assistance Programs No. 13.333, National Institutes of Health)

Dated: April 30, 1979.

Suzanne L. Fremeau,

NIH Committee Management Officer.

[FR Doc. 79-14397 Filed 5-8-79; 8:45 am]

BILLING CODE 4110-08-M

Genetic Basis of Disease Review Committee Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Genetic Basis of Disease Review Committee, National Institute of General Medical Sciences on June 18-19, 1979, 9 a.m., Conference Room 7, Building 31C, National Institutes of Health, Bethesda, Maryland.

This meeting will be open to the public on June 18 from 9 a.m. to 11 a.m. for opening remarks and discussion of procedural matters and issues relevant to the Genetics Program. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Title 5, U.S. Code 552b(c)(6), the meeting will be closed to the public on June 18 from 11 a.m. to 5 p.m., and June

19 from 9 a.m. until adjournment, for the review, discussion, and evaluation of institutional training grant applications in genetics. These applications and the discussions could disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Mr. Paul Deming, Research Reports Officer, NIGMS, Westwood Building, Room 9A05, Bethesda, Maryland 20205, Telephone (301) 496-7301, will furnish summary minutes of the meeting and a roster of committee members.

Mrs. Mary L. Wolff, Executive Secretary, Genetic Basis of Disease Review Committee, Westwood Building, Room 953, Telephone (301) 496-7585, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program 13-862, General Medical Sciences Genetics Program)

Dated: April 30, 1979.

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 79-14395 Filed 5-8-79; 8:45 am]

BILLING CODE 4110-08-M

Microbiology and Infectious Diseases Advisory Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Microbiology and Infectious Diseases Advisory Committee, National Institute of Allergy and Infectious Diseases, on June 4-5, 1979, at the National Institutes of Health, Building 1, Wilson Hall, Bethesda, Maryland.

This meeting will be open to the public from 8:30 a.m. until 10:30 a.m. on June 4 to discuss program policies and issues. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting of the Committee will be closed to the public from 10:30 a.m. on June 4 until adjournment on June 5 for the review, discussion, and evaluation of individual grant applications and contract proposals. These applications, proposals, and discussion could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications and proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Robert L. Schreiber, Chief, Office of Research Reporting and Public Response, NIAID, National Institutes of

Health, Building 31, Room 7A32, Bethesda, Maryland 20205 (301) 496-5717, will provide summaries of the meeting, and rosters of the Committee members.

Dr. Thelma N. Fisher, Executive Secretary, Microbiology and Infectious Diseases Advisory Committee, NIAID, National Institutes of Health, Westwood Building, Room 706, Bethesda, Maryland 20205, (301) 496-7465, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.858, National Institutes of Health)

Dated: April 30, 1979.

Suzanne L. Fremeau,
Committee Management Officer, National Institutes of Health.

FR Doc. 79-14387 Filed 5-8-79; 8:45 am]

BILLING CODE 4110-08-M

Neurological Disorders Program— Project Review B Committee Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Neurological Disorders Program-Project Review B Committee, National Institutes of Health, June 14-16, 1979, in the Holiday Inn, New Jersey Room, 8120 Wisconsin Avenue, Bethesda, MD 20014.

The meeting will be open to the public from 8:00 p.m. until 10:00 p.m. on June 14th, to discuss program planning and program accomplishments. Attendance by the public will be limited to space available. In accordance with the provisions set forth in section 552b(c)(4), and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on June 15th from 8:30 a.m. to adjournment on June 16th, for the review, discussion and evaluation of individual grant applications. The applications and the discussion could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which could constitute a clearly unwarranted invasion of personal privacy.

Sylvia Shaffer, Chief, Office of Scientific and Health Reports, Building 31, Room 8A03, NIH, NINCDS, Bethesda, MD 20205, telephone 301/496-5751, will furnish summaries of the meeting and rosters of committee members.

Dr. Herbert Yellin, Executive Secretary, Federal Building, Room 9C10B, Bethesda, MD 20205, telephone 301/496-9223, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.852, National Institutes of Health)

Dated: April 30, 1979.

Suzanne L. Fremeau,
Committee Management Officer, National Institutes of Health.

FR Doc. 79-14393 Filed 5-8-79; 8:45 am]

BILLING CODE 4110-08-M

Neurological Disorders Program— Project Review A Committee Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Neurological Disorders Program-Project Review A Committee, National Institutes of Health, June 14-16, 1979, in the Holiday Inn, Pennsylvania Room, 8120 Wisconsin Avenue, Bethesda, MD 20014.

The meeting will be open to the public from 8:00 p.m. until 10:00 p.m. on June 14th, to discuss program planning and program accomplishments. Attendance by the public will be limited to space available. In accordance with the provisions set forth in section 552b(c)(4), and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on June 15th from 8:30 a.m. to adjournment on June 16th, for the review, discussion and evaluation of individual grant applications. The applications and the discussion could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which could constitute a clearly unwarranted invasion of personal privacy.

Sylvia Shaffer, Chief, Office of Scientific and Health Reports, Building 31, Room 8A03, NIH, NINCDS, Bethesda, MD 20205, telephone 301/496-5751, will furnish summaries of the meeting and rosters of committee members.

Dr. Leon J. Greenbaum, Jr., Executive Secretary, Federal Building, Room 9C14B, Bethesda, MD 20014, telephone 301/496-9223, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.852, National Institutes of Health)

Dated: April 30, 1979.

Suzanne L. Fremeau,
Committee Management Officer, National Institutes of Health.

FR Doc. 79-14394 Filed 5-8-79; 8:45 am]

BILLING CODE 4110-08-M

Pharmacology-Toxicology Review Committee Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Pharmacology-Toxicology Review Committee, National Institute of General

Medical Sciences, June 14-15, 1979, National Institute of Health, Building 31C, Conference Room 10, Bethesda, Maryland.

This meeting will be open to the public on June 14 from 8:30 a.m. to 9:30 a.m. for opening remarks and general administrative business. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Title 5, U.S. Code 552b(c)(6), the meeting will be closed to the public on June 14 from 9:30 a.m. to 5:00 p.m. and on June 15 from 8:30 a.m. to 5:00 p.m. or adjournment for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Paul Deming, Research Reports Officer, NIGMS, Westwood Building, Room 9A05, Bethesda, Maryland 20205, Telephone: 301, 496-7301, will provide a summary of the meeting and a roster of committee members.

Substantive program information may be obtained from Dr. Martha Panitch, Executive Secretary, Pharmacology-Toxicology Review Committee, Westwood Building, Room 953, Bethesda, Maryland, Telephone: 301, 496-7585.

(Catalog of Federal Domestic Assistance Program 13-859, Pharmacology-Toxicology Program, National Institute of General Medical Sciences, National Institute of Health)

Dated: April 30, 1979.

Suzanne L. Fremeau,
Committee Management Officer, National Institutes of Health.

FR Doc. 79-14391 Filed 5-8-79; 8:45 am]

BILLING CODE 4110-08-M

Population Research Committee Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Population Research Committee, National Institute of Child Health and Human Development, on June 6-8, 1979 in the Landow Building, Conference Room "A," 7910 Woodmont Avenue, Bethesda, Maryland.

This meeting will be open to the public on June 6 from 9:00 a.m. to 10:30 a.m. to discuss the program status, new developments and projections for population research centers, programs projects and institutional fellowships. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Title 5, U.S. Code 552b(c)(4) and 552b(c)(6) and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on June 6 from 10:30 a.m. to adjournment on June 8 for the review, discussion and evaluation of individual grant applications.

The applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Marjorie Neff, Committee Management Officer, NICHD, Building 31, Room 2A-04, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496-1848, will provide a summary of the meeting and a roster of committee members. Dr. William A. Sadler, Executive Secretary of the Population Research Committee, NICHD, Landow Building, Room 7C-33, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496-6515, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.864, National Institutes of Health)

Dated: April 30, 1979.

Suzanne L. Fremseau,
Committee Management Officer, National Institutes of Health.
FR Doc. 79-14388 Filed 5-8-79; 8:45 am]
BILLING CODE 4110-08-M

Transplantation Biology and Immunology Committee Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Transplantation Biology and Immunology Committee, National Institute of Allergy and Infectious Diseases on June 14-15, 1979, at the Federal Building, Room 6C-01, National Institutes of Health, Bethesda, Maryland.

This meeting will be open to the public from 8:30 a.m. until 12:00 Noon on June 14 and from 8:30 a.m. until 9:00 a.m. on June 15 to discuss program policies and issues. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting of the Committee will be closed to the public on June 14 from 1:00 p.m. until 5:00 p.m., and on June 15 from 9:00 a.m. to 5:00 p.m. for the review, discussion and evaluation of individual grant

applications and contract proposals. These applications, proposals, and discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications and proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Robert L. Schreiber, Chief, Office of Research Reporting and Public Response, NIAID, Building 31, Room 7A32, National Institutes of Health, Bethesda, Maryland 20205, telephone (301) 496-5717, will provide summaries of the meeting, and rosters of the Committee members.

Dr. Harley G. Sheffield, Executive Secretary, Transplantation Biology and Immunology Committee, NIAID, NIH, Westwood Building, Room 706, telephone (301) 496-7465 will provide substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.855, National Institutes of Health)

Dated: April 30, 1979.

Suzanne L. Fremseau,
Committee Management Officer, National Institutes of Health.
[FR Doc. 79-14392 Filed 5-8-79; 8:45 am]
BILLING CODE 4110-08-M

Vision Research Program Committee Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Vision Research Program Committee, National Eye Institute, June 28, 1979, Building 31, C Wing, Conference Room 8, National Institutes of Health, Bethesda, Maryland.

This meeting will be open to the public on Thursday, June 28, from 8:30 a.m. to 9:30 a.m. for opening remarks. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from 10:00 a.m. on June 28 until adjournment on June 28 for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Julian Morris, Chief, Office of Program Planning and Scientific Reporting, National Eye Institute, Building 31, Room 6A-25, National Institutes of Health, Bethesda, Maryland 20205 (telephone: 301/496-5248) will furnish summaries of the meeting and rosters of committee members.

Dr. Catherine Henley, Review and Special Projects Officer, Extramural and Collaborative Programs, National Eye Institute, Building 31; Room 6A-06, National Institutes of Health, Bethesda, Maryland 20205 (telephone: 301/496-5561) will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.867, 13.868, 13.869, 13.870, and 13.871, National Institutes of Health)

Dated: April 30, 1969.

Suzanne L. Fremseau,
Committee Management Officer, National Institutes of Health.
[FR Doc. 79-14390 Filed 5-8-79; 8:45 am]
BILLING CODE 4110-08-M

Office of the Assistant Secretary for Health

Intent To Grant Exclusive Patent Licenses to Exxon Research & Engineering Co.

Pursuant to Section 8.2, 45 CFR, Part 8, and 41 CFR 1-9, notice is hereby given of an intent to grant to Exxon Research and Engineering Co., exclusive licenses to manufacture, use and sell for medical purposes the inventions disclosed and claimed in U.S. Patent Application Serial No. 874,247 filed February 1, 1978 for "Detoxification by Means of Controlled *In Vivo* Secretion Triggered Rupture of Liquid Membrane Capsules," by William J. Asher and Tina C. Vogler, and United States Patent Application Serial No. 874,254 filed February 1, 1978, for "Liquid Membrane Capsule Systems Resistant to Coalescence by Means of an Irreversible Coating," by Tina C. Vogler and William J. Asher. Copies of the two patent applications may be obtained upon written request to the Acting Chief, Patent Branch, Department of Health, Education, and Welfare, Room 5A-03 Westwood Building, National Institutes of Health, Bethesda, Maryland 20205.

The proposed license will have a duration of five (5) years, may be royalty bearing, and will contain other terms and conditions to be negotiated by the parties in accordance with Department of Health, Education, and Welfare (HEW) patent regulations. HEW will grant the license unless, within sixty (60) days of this Notice, the Acting Chief, Patent Branch, named

hereinabove, receives in writing a statement from any person setting forth reasons why it would not be in the best interest of the United States to grant the proposed license, together with supporting documents.

The Assistant Secretary for Health of the Department of Health, Education, and Welfare will review all written responses to this Notice.

(45 CFR 8.2 and 41 CFR 1-9.)

Dated: April 27, 1979.

Julius B. Richmond,
Assistant Secretary for Health.
[FR Doc. 79-14446 Filed 5-9-79; 8:45 am]
BILLING CODE 4110-85-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

Arkansas; Amendment to Notice of Major Disaster Declaration

AGENCY: Federal Disaster Assistance Administration, HUD.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of a major disaster for the State of Arkansas (FDAA-574-DR), dated April 11, 1979.

DATED: April 23, 1979.

FOR FURTHER INFORMATION CONTACT: John L. Perry, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202/634-7825).

NOTICE: This Notice of major disaster for the State of Arkansas dated April 11, 1979, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of April 11, 1979.

For Public Assistance in addition to Individual Assistance: Bradley County.

(Catalog of Federal Domestic Assistance No. 14,701, Disaster Assistance)

William H. Wilcox,
Administrator, Federal Disaster Assistance Administration.

[Docket No. NFD-688; FDAA-574-DR]
[FR Doc. 79-14417 Filed 5-8-79; 8:45 am]

BILLING CODE 4210-22-M

Mississippi; Amendment to Notice of Major Disaster Declaration

AGENCY: Federal Disaster Assistance Administration, HUD.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of a major disaster for the State of Mississippi (FDAA-577-DR), dated April 16, 1979.

DATED: April 22, 1979.

FOR FURTHER INFORMATION CONTACT: John L. Perry, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202-634-7825).

NOTICE: This Notice of major disaster for the State of Mississippi dated April, 16, 1979, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of April 16, 1979.

For Public Assistance in addition to Individual Assistance, the Counties of:

Aitalla, Choctaw, Claiborne, Clay, Issaquena, Kemper, Lawrence, Leake, Madison, Marion, Monroe, Neshoba, Noxubee, Oktibbeha, Sharkey, Warren Winston, Yazoo.

(Catalog of Federal Domestic Assistance No. 14,701, Disaster Assistance)

William H. Wilcox,
Administrator, Federal Disaster Assistance Administration.

[Docket No. NFD-687; FDAA-577-DR]
[FR Doc. 79-14416 Filed 5-8-79; 8:45 am]

BILLING CODE 4210-22-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Beaufort Sea Oil and Gas; Hearing Change

Public hearings to be held in four Alaskan locations on a proposed Federal-State Beaufort Sea oil and gas lease sale were announced in the April 19, 1979 Federal Register (44 FR 23383).

The following change in scheduling the Fairbanks hearing should be noted:

Time: May 17, 1979—1:00 p.m. May 18, 1979—9:00 a.m.

Location: University of Alaska, Schaible Auditorium, Fairbanks, Alaska.

Arnold E. Petty,
Acting Associate Director, Bureau of Land Management.

Approved: May 3, 1979.

Guy R. Martin,
Assistant Secretary of the Interior.
[FR Doc. 79-14375 Filed 5-8-79; 8:45 am]
BILLING CODE 4310-84-M

Bureau of Reclamation

Gallup-Navajo Indian Water Supply Project, New Mexico-Arizona; Intent To Prepare a Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior proposes to prepare a draft environmental statement for the Gallup-Navajo Indian Water Supply Project, New Mexico-Arizona. The purpose of the project is to develop a reliable water supply to meet immediate and long-range needs of the Navajo Indian communities in northwestern New Mexico and the city of Gallup, New Mexico. The primary alternatives are:

1. To divert water from Navajo Reservoir on the San Juan River, using Navajo Indian Irrigation Project canals to convey the water to the proposed Cottonwood dam and reservoir. The water would be transported to delivery points through an aqueduct system.

2. To release water from Navajo Reservoir into the San Juan River to the proposed San Juan diversion dam at Farmington, New Mexico, down river some 37 miles where it would enter an aqueduct delivery system.

Investigations have been underway since 1971; and over the years, input has been received from interested agencies and individuals. Consequently, there will not be a scoping meeting.

Interested public entities and individuals may obtain information on the project and provide input to the draft environmental statement. The draft environmental statement is expected to be completed and available for review and comment by January 1980.

The contact person for this draft environmental statement is Larry Kysar, Bureau of Reclamation, Herring Plaza, Box H-4377, Amarillo, TX 79101, telephone (808) 376-2212.

Dated: May 3, 1979.

R. Keith Higginson,
Commissioner.
[FR Doc. 79-14439 Filed 5-8-79; 8:45 am]
BILLING CODE 4310-09-M

DEPARTMENT OF JUSTICE

Consent Judgment in Clean Water Act Enforcement Action

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a proposed consent decree in *United States v. Navisco, Inc.*, has been lodged with the United States District Court for the Northern District of Illinois. The decree requires that

Nabisco pay a civil penalty of three thousand dollars, and install modifications to its Marseilles, Illinois boxboard facility to prevent future untreated by-pass discharges from the facility.

The Department of Justice will receive on or before June 8, 1979, written comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States v. Nabisco, Inc.*, D.J. Ref. 90-5-1-1101.

The consent decree may be examined at the office of the United States Attorney, United States Courthouse, Chicago, Illinois 60604, at the United States Environmental Protection Agency, Region V, 230 S. Dearborn Street, Chicago, Illinois 60604, and at Room 2625, Pollution Control Section, Land and Natural Resources Division, Department of Justice, 9th & Pennsylvania Avenue, N.W., Washington, D.C. 20530. A copy of the proposed judgment may be obtained in person or by mail from the Pollution Control Section, Land and Natural Resources Division of the Department of Justice.

Sanford Sagalkin,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 79-14420 Filed 5-8-79; 8:45 am]

BILLING CODE 4410-01-M

Proposed Consent Decree in Action To Enjoin Discharge of Air Pollutants by United States Steel Corporation (South Works)

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on or about April 26, 1979, a proposed consent decree in *First Charter Land Corporation, et al. v. Newman A. Howard, Jr., et al.* (E.D. Va., Civ. No. 78-14-N), was lodged with the United States District Court for the Eastern District of Virginia (Norfolk Division). The proposed consent decree includes remedial work on previously dug canals, protection and enhancement of certain wetlands, monitoring provisions, and a bonding requirement.

The proposed consent decree may be examined at the office of the United States Attorney, Room 409, United States Post Office and Courthouse, Granby Street, Norfolk, Virginia 23510, and at the Pollution Control Section, Land and Natural Resources Division of the Department of Justice, Room 2631, Ninth and Pennsylvania Avenue, N.W., Washington, D.C. 20530. A copy of the

proposed decree may be obtained in person or by mail from the Pollution Control Section, Land and Natural Resources Division of the Department of Justice, at a cost of \$8.60 per copy to cover reproduction expense. Checks or money orders should be made payable to the Treasurer of the United States.

The Department of Justice will receive written comments relating to the proposed consent decree on or before June 8, 1979. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *First Charter Land Corporation v. Howard* (E.D. Va., Civ. No. 78-14-N), D.J. Ref. 62-81-2.

James W. Moorman,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 79-14419 Filed 5-8-79; 8:45 am]

BILLING CODE 4410-01-M

LEGAL SERVICES CORPORATION

Grants and Contracts

May 7, 1979.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355 88 Stat. 378, 42 U.S.C. 2996-2996f, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least 30 days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly * * * such grant, contract or project."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

Legal Aid Services, Inc. of Casper, Wyoming to serve the migrant farmworker population in the State of Wyoming.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at:

Legal Services Corporation, Seattle Regional Office, 506 Second Avenue, Seattle, Washington 98104.

Alice Daniel,

Acting President.

[FR Doc. 79-14504 Filed 5-8-79; 8:45 am]

BILLING CODE 6820-35-M

LIBRARY OF CONGRESS

American Folklife Center Board of Trustees Meeting

In accordance with Pub. L. 92-463, the Board of Trustees of the American Folklife Center announces its meeting to be held on June 4, 1979, in the Whittall Pavilion of the Library of Congress from 8:30 a.m. to 4:00 p.m. The meeting will be open to the public up to the seating capacity of the room (approximately 40, including about 25 members of the Board and the staff of the American Folklife Center). It is suggested that persons planning to attend this meeting as observers contact Eleanor Sreb, American Folklife Center, (202) 426-6590.

The American Folklife Center was created by the U.S. Congress with passage of Pub. L. 94-201, the American Folklife Preservation Act, in 1976. The Center is directed to "preserve and present American folklife" through programs of research, documentation, archival preservation, live presentation, exhibition, publication, dissemination, training, and other activities involving the many folk cultural traditions of the United States. The Center is under the general guidance of a Board of Trustees composed of members from Federal agencies and private life widely recognized for their interest in American folk traditions and arts.

The Center is structured with a small core group of versatile professionals who both carry out programs themselves and oversee projects done on contract by others. In the brief period of the Center's operation, it has begun energetically to carry out its mandate with programs that provide coordination, assistance, and model projects for the field of American folklife.

Raymond L. Dockstader,

Deputy Director, American Folklife Center.

[FR Doc. 79-14378 Filed 5-8-79; 8:45 am]

BILLING CODE 1410-01-M

NATIONAL COMMISSION ON AIR QUALITY

Plan of Study

Printed below is the draft Plan of Study of the National Commission on Air Quality.

The Commission was established under Section 323 of the Clean Air Act as amended. That Section directs the Commission to evaluate the Act and report back to Congress recommendations based upon Commission studies.

In preparing the draft Plan of Study, the Commission held public hearings in Washington, D.C., and in Los Angeles in January, February, and April 1979 and considered numerous written and verbal comments on how the Commission should conduct its study. The Plan of Study is designed to be a general overview and description of issues the Commission plans to consider and the ways it plans to address those issues. More detailed statements of the structure and operation of specific studies to be undertaken will be developed after adoption by the Commission of a final Plan of Study as the Commission's research program continues to develop.

The Commission invites additional public comments, specifically focussing on the draft Plan of Study, to be submitted in writing by June 8, 1979, to Mr. Richard A. Penna, Acting Assistant Director for Research, The National Commission on Air Quality, 499 South Capitol Street, S.W., Washington, D.C. 20003. Telephone (202) 245-2405. The National Commission on Air Quality.

William H. Lewis, Jr.,
Director.

May 4, 1979.

Plan of Study

(Draft prepared by NCAQ staff for consideration by Commission members and the public)

Introduction

Congress established the National Commission on Air Quality in 1977 when it substantially amended the federal Clean Air Act of 1970. Section 323 of the Act prescribes a number of studies for the Commission to carry out and gives the Commission a broad mandate to evaluate the Act in a comprehensive fashion.

The Commission is to conduct its review in light of the purposes of the 1970 Act and the 1977 Amendments. Those purposes, as stated in Section 101(b)(1), are "to protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of its population."

This Plan of Study divides the issues to be addressed in generally the same way as the provisions appear in the Clean Air Act. The Commission's study, however, will not be limited to considering the merits of existing provisions. In addition, the Commission will evaluate alternatives for achieving the goals of the Act in a fundamentally different manner. These alternatives will be addressed throughout the Plan and will be summarized in Part VIII—

Review and Analysis of Alternative Approaches to Air Pollution Control.

In general, the Act provides for controlling pollutants for which ambient air quality standards have been established. Part I of the Plan—Analysis of National Ambient Air Quality Standards—will analyze these standards and the way they are established. This Part also will examine the need for controlling currently unregulated pollutants.

The Act imposes requirements for control of regulated pollutants under three separate but related general headings: Prevention of Significant Deterioration of Air Quality; Plan Requirements for Non-Attainment Areas; and Emission Standards for Moving Sources. The Commission will study these requirements in Part II—Review and Analysis of Policy for Areas Attaining Standards; Part III—Review and Analysis of Policy for Non-Attainment Areas; and Part IV—Review of Vehicle Emission Standards. Part VI of the Study—The Impact of Air Pollution Abatement Activities on Selected Industries will examine the overall impact of all the Act's requirements on specific industries.

In addition to directing a review of the key programmatic elements of the Act's requirements, Congress directed the Commission to study certain economic impacts and to review institutional arrangements and scientific research needed to implement the Act. Part V, Costs and Benefits Associated with Air Pollution Control, and Part VII, Review and Analysis of Institutional Relationships and Research Programs, will address these issues.

Congress also required the Commission to examine the effects of the Act on energy supplies and consumption and to address questions relating to enforcement of air pollution control laws. Because energy and enforcement issues are involved throughout the air pollution control program, the study will deal with these subjects in each appropriate Part.

Each part of the Plan consists of a discussion of issues to be studied by the Commission and a description of the methodology to be used in studying them. Because of the Commission's limited life and budget, little "original" research will be performed. The Commission will draw heavily from studies performed and data collected by government agencies, research organizations, and private groups. The Commission will critically analyze the assumptions, methodology, and findings of these studies. The Commission will supplement these studies as necessary,

and incorporate relevant information into its final report.

Because of limited time, many studies will be conducted simultaneously rather than sequentially. In a number of cases, however, studies completed early in the Commission's life will provide data and conclusions for studies to be completed later. The discussions of methodology will indicate where this approach will be possible.

The Commission will establish a program to ensure broad public participation and will seek comments from the public at all stages of the program, including the development of its reports to Congress.

In fully involving all sectors of the public in its work, the Commission plans not only a public information program but also an active public involvement or public participation program. Through meetings, hearings, workshops, and briefings—both formal and informal, both in Washington, D.C., and throughout the country—the Commission will assure that groups interested in air pollution control issues have abundant opportunity to be involved in Commission activities.

The Commission will develop a detailed public participation/public information work plan which will emphasize that its approach is one in which the Commission not only informs the public of its own activities but also listens to the public's experiences and applies that information to the overall study.

This Plan of Study is the initial step in a process which will lead to the development of specific study programs in each of the eight general areas described above. The final Commission approval of this Plan will be followed immediately by a period of intensive research of available literature. The literature search will enable the Commission to define more fully the extent of research efforts which are necessary for each subject area. Based upon this review the Commission will prepare a budget that will indicate the amount of funds to be allocated for the studies in each of the subject areas. After approval of the budget, the Commission will begin preparation of the detailed work statements for studies in each of the areas.

Upon the completion of all studies and review of public comments on the studies and draft reports, the Commission will develop appropriate reports and recommendations.

I. Analysis of National Ambient Air Quality Standards

A. *Issues to be Addressed.* The establishment of National Ambient Air Quality Standards (NAAQS), which must be attained by a specified date, is a fundamental requirement of the present statutory framework. Pursuant to the Clean Air Act of 1970, the Environmental Protection Agency adopted national primary and secondary ambient air quality standards for sulfur oxides, total suspended particulates, carbon monoxide, photochemical oxidants, hydrocarbons, and oxides of nitrogen. In response to a court decision that the agency must adopt a standard once it determines that a pollutant coming from numerous sources causes adverse health effects, EPA also has adopted primary and secondary standards for lead.

Congress in the 1977 Clean Air Act Amendments directed EPA to establish and independent scientific committee to review the air quality criteria and ambient standards no later than December 31, 1980, and thereafter at intervals of no more than five years. Congress also provided that the EPA review can take place more often than every five years, and said the standards should be revised whenever the information justifies revision.

In the 1977 Amendments, Congress directed EPA to adopt a short-term (maximum three-hour) standard for oxides of nitrogen within a year of enactment of the amendments unless the EPA Administrator finds no such standard "is requisite to protect public health."

In addition, Congress amended Section 122(a) of the Clean Air Act to require EPA to investigate the need for setting ambient standards for radioactive pollutants, cadmium, arsenic, and polycyclic organic matter. If the EPA Administrator determines that any of those substances may endanger public health, ambient standards must be adopted within one year of enactment, except for radioactive pollutants, for which the standards are to be adopted within two years of enactment.

In this area the Commission will examine existing and proposed ambient standards and the scientific and medical bases upon which these standards are set. Studies will attempt to examine both the policy and physical phenomena related to standard setting. Several issues are particularly relevant to this area of study:

—A review of the current practices used by EPA in preparing criteria documents and

establishing NAAQS and practices which might be substituted for or added to existing ones

- An analysis of factors considered in establishing NAAQS, including margin of safety, protection of susceptible segments of the population, synergistic effects of pollutants, and secondary effects such as acid rainfall
- Scientific and medical bases for NAAQS
- The relationship between hydrocarbons and oxides of nitrogen in the formation of photochemical oxidants including an analysis of the amount of reduction of each pollutant necessary to attain NAAQS
- The necessity to develop a standard for fine particulate matter as a replacement for or in addition to the total suspended particulates (TSP) standard
- The consideration of fugitive dust in the establishment of particulate standards
- The need for a separate NAAQS for carbon monoxide at high altitudes

In addition to an examination of existing standards, the Commission will study the desirability of developing ambient or other standards for currently unregulated pollutants including pollutants resulting from chemical changes in the atmosphere (secondary pollutants).

B. *Methodology.* The Commission's study in this area will consist primarily of a critical review of existing data and an examination of the processes used by EPA in establishing NAAQS. The Commission will perform a preliminary literature search for each of the existing criteria pollutants and compile a list of candidate substances for further investigation to determine whether a NAAQS is required. The Commission also will establish a review panel to examine the relationship of hydrocarbons and oxides of nitrogen in the formation of photochemical oxidants. The panel will consist of 10-12 experts in the field selected by the Commission. The task of the group will be to determine whether and how much one or both precursors of oxidant (hydrocarbons and oxides of nitrogen) must be controlled to attain the NAAQS for oxidant and whether the precursor to be controlled varies for different parts of the country. The review panel will be charged with developing within 90 days an approach to these issues by means of at least two intensive 3-4 day sessions where data and views can be presented in an uninterrupted manner. The conclusions of this panel will be necessary in order to complete other studies relating to oxidant control utilizing the most current scientific knowledge of this question.

Upon completing the preliminary literature search, the Commission will examine current and proposed NAAQS, the procedures used in establishing

these standards, candidate substances, and relevant studies by the National Academy of Sciences and public and private sector groups. The Commission will review relevant scientific studies and data on health effects of fine particles and high altitude effects of carbon monoxide. The resulting information will be the basis for recommendations by the Commission regarding the standard setting procedure, the need for refinement of certain standards, and the need, if any, for additional substances to be the subject of NAAQS or other standard setting. The research also will be used in other studies; for example, the attainment and non-attainment studies. The special studies on unregulated pollutants and high altitude CO emissions will be used in examining standards for motor vehicle emissions and their health effects.

II. Review and Analysis of Policy for Areas Attaining Standards

A. *Issues to be Addressed.* Congress in the Clean Air Act of 1970 directed the Environmental Protection Agency to establish national ambient air quality standards and gave states primary responsibility for attainment and maintenance of both primary and secondary standards.

While directing that areas exceeding the standards reduce emissions to meet the standards, the Act did not specify requirements for areas of the country in which air quality was cleaner than required by the ambient standards. The issue raised in subsequent litigation was whether EPA could approve state implementation plans which did not prevent "clean air" areas from becoming "dirtier" up to the national standards.

With the courts ultimately determining that EPA could not approve such plans, EPA in November 1972 notified states that it would disapprove state implementation plans which did not provide for the prevention of significant deterioration of air quality (PSD). EPA's December 1974 PSD regulations were incorporated into SIPs under Section 110(c) of the Clean Air Act.

EPA's regulations established three classes with numerical "increments" specifying additional allowable pollution levels for sulfur dioxide and particulates. Class I allowed very minor additional pollution, Class II moderate additional pollution, and Class III additional pollution up to the NAAQS.

The PSD regulations were to be enforced through a preconstruction and premodification permit program applicable to 19 specified industries.

Permits for sources in those industries could not be approved unless the sources would not exceed the applicable increments and unless they used best available control technology (BACT).

In its 1977 Clean Air Act Amendments, Congress affirmed the PSD concept and extended its application. In those Amendments, Congress mandated that EPA adopt PSD regulations for other criteria pollutants by August 1979. Within 21 months of promulgation of those regulations, state implementation plans are to be submitted to EPA and approved or disapproved in the succeeding four months.

Congress in the 1977 Amendments also expanded from 19 to 28 the number of source categories specified to be covered by the PSD regulations. It said "major stationary sources" within those 28 industries with the potential to emit 100 tons or more of pollutants would be covered by the regulations. The coverage would extend also to those sources with the potential to emit or increase emissions by 100 tons of any pollutant or any regulated under new source performance standards, national emission standards for hazardous air pollutants, or those regulated under the mobile source control title of the Act.

Beyond the 28 specified industries, other sources with the potential to emit 250 tons of any pollutant also would be covered.

The law specified that, except for certain federal lands, all areas initially would be classified as Class II and could be redesignated by states, Indian tribes, and federal land managers.

The Commission in this research will focus on issues related to the prevention of significant deterioration provisions of the Clean Air Act, with particular attention being given to values intended to be protected by those provisions and to impacts of PSD on source location and size, employment and regional economic growth. The Commission also will address questions relating to uniform implementation and enforcement of existing requirements of the Act and will consider alternative techniques for accomplishing the goals of PSD. Of particular interest will be the enforceability of alternative techniques.

In examining PSD and its impacts, the Commission will address a number of significant issues. These include:

- The appropriateness of the increments of additional pollution permitted by the Act in preventing significant deterioration of air quality in Class I and II regions
- Alternative techniques, for example the use of standards in lieu of increments and the

- use of nonregulatory alternatives to PSD and the enforceability of such approaches
- The allocation of PSD increments within a state and in interstate areas, particularly in areas with significant existing or potential energy development and generation
- Whether existing PSD requirements affect the size and location of major sources and the effectiveness and appropriateness of existing siting requirements
- Whether exclusion of non-major sources will affect the ability of major sources to meet existing increments
- The reliability of existing modelling techniques and possible alternatives for PSD review, and the extent to which modelling should serve as a basis for approval of PSD permits
- The desirability of including pollutants other than sulfur dioxide and particulates in PSD review
- Whether technology is available to permit projected economic growth without exceeding increments contained in the Act, and the cost of such technology
- Best available control technology requirements
- The adequacy of the existing methods for designation of lands of special national interest and of methods to add or delete such lands from Class I designation
- The impact of the visibility provisions in the Act on future economic development, including industrial growth and tourism

B. Methodology. The Commission will develop the information necessary to address these issues through selected air quality regions. Separate studies will focus on modelling, alternative designation techniques, inclusion of additional pollutants, and visibility.

The Commission will review existing literature which addresses these questions and on the basis of this search will develop a detailed study methodology. Regions will be selected when the literature search is completed. The Commission then will establish ad hoc information groups of local government, business and citizen representatives for each region. These groups will provide data and help involve local officials to ensure that the analysis uses the most accurate information available.

The Commission also will establish a modelling review panel. This panel, similar in composition and purpose to the photochemical oxidant panel, will review existing modelling techniques and assumptions taking into account the effects of variations in climate, meteorology, terrain, and other localized effects. Within 90 days of its organization this panel will recommend specific models for use in the attainment and non-attainment studies.

The Commission during this time will begin a study to examine the appropriateness of the existing increments of additional pollution

permitted by the Act. In this study, the Commission will focus on whether the existing increments are appropriate to protect areas designated as Class I and II from significant deterioration of air quality. The Commission will use results of the study to assess costs and benefits associated with the existing increments as compared to the alternative increment levels to be examined in the regional studies.

When the regional information groups are established, the Commission also will prepare work statements for the regional studies. The Commission expects to select — regions for analysis. These analyses will draw upon studies performed and data collected by other governmental and industry organizations for baseline data and analyses. The methodology and analytical approach for all of these studies will be the same to assure consistent results.

The regional studies will include the following components:

- An examination of control technology and costs necessary for compliance with existing requirements
- The establishment of growth projections
- A review of emission inventory and air quality data from 1979 SIP submissions
- An evaluation of costs of control for existing increments in the region
- An evaluation of regional economic and energy impacts
- The development of alternatives to PSD including alternative increment levels
- An evaluation of costs, enforceability and institutional requirements of alternatives
- A comparison of environmental, economic and technological effects of the current increment approach with the effects under alternatives considered

When the regional studies are being conducted, the Commission will examine the issues of designation methods, visibility requirements, and the desirability of including additional pollutants in PSD review. In the study of additional pollutants, the Commission will attempt to identify the types and relative magnitude of costs and benefits associated with including other pollutants in PSD review. In the study of visibility, the Commission will attempt to measure effects of the Act's provisions on regional economic development, including industrial growth and tourism, and the Act's effectiveness in protecting visibility in scenic areas. In the designation study, the Commission will examine existing procedures for designation to Class I or Class III areas to determine their efficacy in preventing deterioration of air quality while permitting economic growth. The Commission in this study will work closely with the Department

of the Interior and state and local officials in affected areas.

Results of the regional, increment evaluation, pollutant addition, visibility and designation studies will form the basis for the Commission's recommendations on the issue of PSD policies for attainment areas. These findings also will be valuable data for the industry and institutional relationship studies described below.

III. Review and Analysis of Policy for Non-Attainment Areas

A. Issues to be Addressed. The Clean Air Act of 1970 required states to attain primary national ambient air quality standards by May 31, 1975, with extensions possible for some areas to mid-1977. Secondary standards were to be attained within a "reasonable time," and most state implementation plans defined that to be the same as the primary standard attainment date.

By the May 31, 1975 date, however, the Environmental Protection Agency reported that 160 of 247 air quality control regions still had monitored violations. Lacking congressional guidance on the consequences for states failing to achieve the standards by the deadline, EPA adopted its own strategy for allowing new growth in non-attainment areas.

On December 21, 1976, EPA published an interpretive ruling on its preconstruction review regulations establishing what has become known as the "emissions offset" ruling. As amended in 1977, the Clean Air Act largely ratifies until July 1, 1979, EPA's interpretive ruling. After July 1, 1979, the ruling is to be replaced by revised state implementation plans (SIPs).

The revised SIPs must provide for annual emission reductions from existing sources, an emission inventory for all non-attainment areas, a growth allowance, and detailed permit requirements for new major sources. The SIPs must demonstrate that primary NAAQS attainment will be accomplished by December 31, 1982, except for oxidants and carbon monoxide for which, upon the making of a special showing, deadlines can be extended until December 31, 1987.

The plans also must detail the amount of new growth permissible and require that new sources achieve the lowest achievable emission rate (LAER), which is defined as the most stringent emission limitation in the state implementation plan of any state for that class or category of source or the most stringent emission limitation actually achieved in practice, whichever is more stringent.

The state implementation plans must require also that existing sources use reasonably available control technology so that annual reductions in emissions will lead to attainment of the applicable NAAQS by the specified attainment date.

The Commission will assess the existing statutory requirements for areas not attaining ambient standards for their effectiveness in achieving the goals intended by Congress and for their effects on environmental health, energy development, employment and economic growth. The pollutants considered in this analysis will be sulfur dioxide, particulates, and photochemical oxidants. The Commission will examine several subsidiary issues as part of the overall non-attainment issue. These include:

- The effectiveness of the offset/new source review provisions and alternatives to those provisions (e.g., emission taxes, emission "auctions," other market approaches to allocating emissions and other emission allocation procedures), and the enforceability of the alternatives
- The effectiveness and appropriateness of existing siting requirements other than the offset provisions
- The impact of interregional and interstate transport and background levels of photochemical oxidants on non-attainment control requirements (only in oxidants study)
- The availability of offset sources within regions
- Whether the most cost-effective controls are being included in SIPs
- The need for Inspection and Maintenance (I/M) Programs in photochemical oxidant non-attainment areas
- The availability, effectiveness and costs of transportation controls for attaining or maintaining standards, including analysis of alternative policy instruments for achieving reductions of emissions from transportation systems; e.g., incentives/disincentives through federal transportation funding mechanisms and energy and economic impacts of these alternative funding approaches (only in oxidants study)
- The effectiveness and uniformity of state and federal enforcement activities
- The use of alternative control schemes (e.g., increased emphasis on controlling mobile rather than stationary source emissions or vice versa) and resultant enforcement impacts
- The ability of states to attain standards by deadlines in the Act
- Consideration of the definitions of reasonably available control technology (RACT) and lowest achievable emission rate (LAER)
- Special problems of small businesses and government agencies in obtaining emission offsets.

B. Methodology. The Commission's research on non-attainment will be quite

similar in approach to its studies of attainment areas. Except for the study on special problems of small businesses and government agencies in obtaining emission offsets, much of the data will be collected through regional studies.

The Commission will undertake an extensive literature search, and upon completion, will select regions to be studied. The Commission will establish ad hoc information groups such as those described in the attainment area study.

Concurrently with the establishment of regional information groups, the Commission will prepare detailed work statements for these studies. The methodology for each will be the same to ensure that the results can be properly compared. — regions for each pollutant will be selected for study. As with the attainment studies, these will use existing reports to the maximum extent possible. Also, the work done by the photochemical oxidants review panel and the modelling review panel will be used in these studies.

The content of the regional studies will be quite similar to the studies outlined in the PSD/attainment area discussion, above. However, because of several significant differences in content, the basic elements of these regional studies also are listed; these include:

- An examination of control technology and costs
- The establishment of regional growth projections
- A review of emission inventory and air quality data derived from 1979 SIP submissions
- An evaluation of the way background levels and transport of oxidants affect development and implementation of control strategies (performed only in oxidant non-attainment studies)
- The identification of alternative control strategies
- An evaluation of economic, technology, compliance time and health impacts of alternative strategies and alternative NAAQS levels (from NAAQS review studies)
- An evaluation of regional health, energy and economic impacts for existing requirements
- The development of alternative approaches to offset/new source review policy
- An evaluation of costs, economic development, enforceability and institutional requirements of alternative approaches
- A comparison of offset/new source review procedures to alternative approaches

An integral part of the regional studies will be an analysis to determine the combination of strategies which will permit the regions to attain standards by mandated deadlines. In making these

determinations, the Commission will focus on motor vehicle inspection and maintenance programs. Inspection and maintenance will be examined also in light of anticipated advances in vehicle technology in the mid-to-late 1980s.

The study of problems encountered by small businesses and governmental agencies in obtaining offsets will proceed while the regional and industry studies are in progress. The Commission will examine the extent of problems and identify possible means of eliminating them (if serious problems exist). In addition, the Commission will evaluate the impact of alternative approaches to non-attainment developed as a part of the regional studies.

Results of the regional studies and of the small business impact study will form the basis of the Commission's recommendations on policies and strategies to attain ambient air quality standards in present non-attainment areas. They also will provide data for studies conducted in the Institutional Relationship and Selected Industry portions of the Commission's Plan of Study. Varying mobile and stationary source control options also will be useful to the Vehicle Emission Standards study.

IV. Review of Vehicle Emission Standards

A. Issues to be Addressed. Congress in 1965 noted that "the problem of motor vehicle pollution is growing," and said that photochemical smog "is appearing with increasing frequency and severity in metropolitan areas throughout the nation." The Senate that year said it was convinced the "manufacturers have the capability of incorporating air pollution reduction facilities in their vehicles" for hydrocarbons and carbon monoxide, but it said "further research is needed to determine effects of automobile pollutants other than hydrocarbons and carbon monoxide and to find means of controlling them."

In the Motor Vehicle Air Pollution Control Act of 1965, Congress directed the Secretary of the Department of Health, Education and Welfare to "conduct and accelerate research programs" into these and other automobile emission problems. In enacting the 1970 Amendments to the Act, Congress adopted automobile emissions standards for hydrocarbons, carbon monoxide, and oxides of nitrogen.

In the 1977 Clean Air Act Amendments it established interim automobile emission standards for those pollutants for 1978-1979, and 1980, with "final" standards to be achieved by

1981. Under the 1977 Amendments, the 1981 standards call for meeting 0.41 gram per mile for hydrocarbons, 3.40 grams per mile for carbon monoxide (with the possibility of a two-year waiver to 7 grams per mile), and one gram per mile for oxides of nitrogen (with a research goal of 0.4 gram per mile and with an innovative technology or diesel waiver to 1.5 grams per mile).

The 1977 Amendments also require automobile manufacturers to demonstrate to the Environmental Protection Agency Administrator the health and safety impacts of new motor vehicles and engines and of new fuels and fuel additives. EPA is authorized also to prescribe gasoline fill pipe standards for new motor vehicles to assure proper connections with approved vapor recovery systems.

In addition, the 1977 Amendments call for a nonconformance penalty to eliminate competitive advantages that could accrue to automakers by delaying compliance. The Act provides for civil penalties of up to \$2,500 for tampering with auto emission controls, and it requires EPA to develop and phase in heavy-duty vehicle emission standards for hydrocarbons, carbon monoxide and, by 1985, for oxides of nitrogen. The heavy-duty vehicle statutory standards require 90 percent hydrocarbon and carbon monoxide emission reductions by 1983 and a 75 percent oxides of nitrogen reduction by 1985.

The Commission will examine the following issues related to vehicle emission standards:

- The availability of technology and the economic, energy and environmental effects of achieving required and proposed control levels for NOx emissions
- The effectiveness of existing and proposed control technology for all pollutants, including the problems of deterioration of current technology, tampering and fuel switching
- The need for emission limitations for currently unregulated pollutants
- The control of vehicle emissions at high altitude

B. Methodology. The Commission will design these studies to determine the emission standards necessary both to attain and maintain relevant NAAQS and to protect the public from currently unregulated pollutants such as nitrosamines.

In the case of NOx emissions, existing exhaust standards for gasoline and diesel vehicles and alternative levels will be examined to determine benefits of the various limitations in attaining the existing photochemical oxidants standard, and the short-term ambient standard for NO₂ to be proposed by

EPA. The Commission also will study the availability and cost of technology to meet more stringent NOx standards.

The Commission will examine the impact of NOx emissions on non-attainment of the photochemical oxidants NAAQS by examining varying vehicle emission levels of NOx in the regional non-attainment studies discussed above and also examining benefits and costs which would result from such controls. The Commission will evaluate the impact of NOx emissions on meeting the proposed short-term NO₂ NAAQS by determining the effects existing and alternative emission levels would have on attainment in a non-attainment area. In examining alternative NOx emission standards, the Commission will estimate fuel economy impacts of various alternatives.

Finally, as a part of the NOx study, the Commission will assess the potential NOx reductions obtainable with an I/M program and consider which type of test for NOx may be best suited for I/M programs.

In the study of control technology, the Commission will examine questions related to equipment currently in use, and will examine the impact that anticipated or other alternative technology may have on these questions. The Commission will review catalyst technology to determine how much catalytic converters deteriorate in in-use vehicles. In addition, the Commission will determine the extent to which tampering with other engine components and fuel switching reduce the control obtained from these devices. The Commission then will assess anticipated and other alternative control systems to determine their effects on these issues and will attempt to identify potential areas of concern with these technologies.

The Commission will study the control of CO by examining benefits and costs of existing and alternative emission levels both at sea level and at high altitude. The Commission will examine the impact of different CO limitations by analyzing three typical non-attainment locations for CO: an urban central business district at sea level; a major suburban shopping plaza at sea level; and a business district with heavy traffic at high altitude. Each of these conditions will be examined assuming both the existence and the absence of an I/M program.

In each case, the Commission will examine existing and alternative CO emission limitations to determine effects they have on attainment of NAAQS. The Commission also will address the impact of the alternative emission levels

on fuel economy at sea level and at high altitude in light of findings in the NAAQS study regarding the need for a high-altitude CO NAAQS.

Currently unregulated pollutants from vehicles, specifically including diesel-powered vehicles, will be examined in light of the study of regulated and unregulated pollutants in the NAAQS study described above. The Commission will determine emission levels of these pollutants by examining data from manufacturers and EPA. This study will focus on determining what contribution unregulated vehicular emissions make to the overall emissions of substances of particular concern and also the extent to which current and anticipated emissions will present a health or other environmental problem.

In its vehicle emission studies, the Commission will explore the adequacy of some of the most debated areas of the 1977 Clean Air Act Amendments. In addition to forming an integral part of the Commission's final report to Congress, the results will provide data for the cost-benefit and institutional relationship portions of the Plan of Study.

V. Costs and Benefits Associated With Air Pollution Control

A. *Issues to be Addressed.* The Commission will examine at a macroeconomic level the costs and benefits associated with air pollution control. The Commission also will examine cases in which cost/benefit analyses can and should be used in air pollution control activities and cases in which cost/benefit analyses cannot be used. To the extent possible, the Commission will quantify aggregate costs and benefits of past and future controls. Where no quantification is possible, the Commission will attempt to provide a range or estimate based upon the best available methodology.

Examples of the types of costs and benefits to be examined include:

Costs

- Capital costs for compliance
- Operation and maintenance costs
- Opportunity costs/foregone investment
- Administrative fees (consultants legal fees)
- Control agency budgets
- Decreases in employment in certain industries
- Decreases in plant productivity

Benefits

Health

- Lower health care costs because of fewer adverse health effects of air pollution

Economic

- Increased worker productivity

- Increased employment in certain industries
- Increased agricultural yields
- Less damage to structures, materials and property values
- Fewer adverse effects on aesthetics and tourism
- Increases in plant productivity and process modernization as a result of pollution control investment
- Recovery of materials

Other issues to be examined as part of this analysis include the effects of domestic air pollution control requirements on U.S. industry in international markets and effects on the balance of trade. In addition, with data developed in the regional attainment, non-attainment vehicle emission and industry studies, the Commission will examine marginal costs associated with the marginal benefits of increasingly stringent control requirements.

The Commission in its study of these questions will emphasize the assignment of values and quantification of benefits because they are a relatively new and more speculative area of study. The Commission will begin its compilation of these data early in its study through an extensive search of existing literature. The literature search will determine where additional information is necessary in order to attempt to fully quantify, or accurately estimate a cost or benefit, or to determine where quantification is possible given current valuation techniques.

Based upon the results of this research, the Commission will determine how or where such additional information can be obtained or the type of analyses necessary to develop it. Where the development or gathering of that information will not involve massive new research, the Commission will attempt to obtain or develop the information. Where major new research is needed, the Commission will identify the type of work to be undertaken.

The Commission also will examine the use of cost-benefit studies in future air pollution control programs at all levels of government. The Commission will examine current practices and determine situations in which they can be used. The Commission will use the results of the quantification and valuation analyses discussed above to determine potential additional uses for them in air pollution control activities.

VI. The Impact of Air Pollution Abatement Activities on Selected Industries

A. *Issues to be Addressed.* The existing statutory requirements for attainment and non-attainment areas, as discussed previously, create a complex

framework within which sources are to operate. In analyzing the attainment and non-attainment parts of the Plan, the Commission will focus on general effects of existing and alternative requirements and will not assess effects on a specific industry. The Commission here will examine the overall impact of the Act's requirements on specific industries, with high priority being given to energy-related industries, particularly those using coal or affecting coal utilization.

The Commission in this area will examine the following broad subjects:

- The effects of existing and alternative control requirements on existing sources
- The effects of existing and alternative control requirements on new or modified sources.

On the first issue, the Commission will study existing and alternative control approaches and assess the abatement technologies necessary, costs, energy consumption, and effects on the environment, employment and economic development. On the second issue, the Commission will examine the effects on siting decisions for new or modified sources of existing and alternative approaches to PSD, offset/new source review, new source performance standards, and visibility requirements. In these studies, the Commission will attempt to determine the extent of overlapping requirements for PSD, non-attainment review and new source performance standards and whether alternative approaches would reduce or increase the amount of any overlap.

B. *Methodology.* The Commission in this research effort will focus on in-depth analyses of selected industries. The Commission first will select candidate industries for study. The Commission will examine those industries which will be affected by the broadest range of requirements contained in the existing Act. It will give top priority to energy-related industries, with particular emphasis on those industries affecting increased coal utilization. Because many studies of major industries have been undertaken by industrial and governmental groups, and because of limited Commission resources, the Commission intends to use studies conducted by others to the greatest possible extent, both in selecting industries and in performing its analysis.

Once the Commission selects the industries, it will make a thorough literature search to examine the studies previously performed on the industries. This approach will enable the Commission to determine what additional data or analyses will be

necessary to complete the studies contemplated and to develop a detailed work statement.

While the literature search is being conducted, the Commission will establish an ad hoc information group for each industry selected. These groups will consist of representatives of the industry to be studied, control agencies, and environmental and labor organizations. The groups will provide a flow of communication among the Commission, the industry, and those affected by the industry. These groups will help assure that the Commission and those performing the study for the Commission have the most accurate data possible.

Each industry study will include the following components:

- A compilation of the availability of control technology, environmental effects, costs, and energy needs associated with existing SIP requirements
- A cost-effectiveness analysis of various processes and controls
- The performance of air quality modelling to predict impacts relative to the following: existing PSD increments; alternative increments; alternative approaches to PSD; offset/new source non-attainment review; new source performance standards; visibility requirements
- Selection of possible control techniques for existing and alternative requirements
- Assembly of regional and national projections of future new and expanded plants
- Extrapolation nationally of technology availability and costs
- Evaluation of regional and national effects of existing and alternative approaches on economic growth, employment, energy consumption and development and, where appropriate, coal utilization

The Commission will examine results of these analyses in light of the overall impact each industry has on national and regional air quality, economic development, employment, and energy development, especially the future use of coal. In the studies of industries which utilize coal an analysis will be performed of current and projected emission of carbon dioxide (CO₂) from sources in that industry, as well as the relationship between coal combustion and radioactive byproducts. The studies will be conducted to allow consideration of effects that current requirements have on plant siting and sizing decisions. In addition, they will examine overall effects on the industry of alternative approaches to existing requirements which will be developed as part of the regional studies of attainment and non-attainment areas.

The Commission will use these studies to evaluate the overall effects of

existing requirements and alternative control approaches. That analysis will help the Commission develop overall recommendations on attainment, non-attainment and new source review policies and procedures, particularly as they affect energy development and coal utilization.

VII. Review and Analysis of Institutional Relationships and Research Programs

A. Issues to be Addressed. The Commission will focus its attention in this area on the relationships between federal, state, and local governments and the private sector in planning, administering and enforcing the Clean Air Act, and on air pollution-related research activities of government and industry. Specific questions to be addressed include:

- The ability of federal, state, and local governments to implement and enforce existing provisions of the Act, including an examination of available resources, relationships among states in interstate air quality control regions, and effects of existing sanction provisions
- The relationship of air quality planning to other state and local planning efforts (e.g., transportation and growth management) and to other federally-mandated environmental planning programs (e.g., Clean Water Act Areawide Management Plans and Solid Waste Management Planning)
- The adequacy of research, development, and demonstration projects conducted by federal, state and local governments and private industry
- The ability of business to secure the financial resources and train the personnel necessary to assure compliance with the control requirements contained in the Act.

B. Methodology. The Commission will study administration and enforcement of existing provisions of the Act by EPA and state and local governments. It will examine statutory authority of state and local agencies, resources available to all levels of government, and the effectiveness in using those resources for planning, surveillance and enforcement. The Commission will emphasize two areas: The proper role of the federal government in the air quality planning process; and implementation of the Act by all levels of government. As part of this study, the Commission will examine the relationship of air quality planning to other state and local planning activities and, in particular, the role of regional planning activities and, in particular, the role of regional planning organizations. Recommendations for improvements or adjustment of any major differences in planning and enforcement will be developed.

To carry out this study, the Commission will contact officials at all levels of government and industry for views and data. Some of this contact will take place in the regional and industry information group activities which are part of the attainment, non-attainment and industry studies. The views of officials in other regions and industries also will be actively sought. Of particular interest will be the degree of participation by elected and non-elected officials, business officials, and public interest groups in developing the 1979 SIP revisions, and the effects of any sanctions imposed because of EPA non-approval of those plans. The Commission will also examine the Section 175 (Department of Transportation) transportation planning grants to local agencies and the urban demonstration grants made by the Department of Commerce under the President's Urban Policy.

The Commission will analyze current and projected budgets, personnel levels, and enforcement activity data by reviewing existing SIPs and contacting appropriate officials. Whenever possible, the issues explored in this study will be analyzed in conjunction with the regional studies described earlier in the Plan of Study.

In a second study to be done simultaneously with the one described above, the Commission will examine the air pollution research done by federal, state and local governments and industry. Federal research activities will be carefully scrutinized and evaluated, and several state and local programs will be selected for examination. In addition, the Commission will examine efforts of selected industries and industry groups to further air pollution research activities. In this study, the Commission will determine the adequacy of research programs at each level and recommend possible improvements.

For federal agency analysis, the Commission will draw upon reports and analyses by congressional committees, and will evaluate the reports in light of recent activities. The Commission will use existing reports and data on state, local and industrial efforts where available, and additional information will be obtained through interviews with appropriate officials.

An important part of the regional attainment and non-attainment studies will be the development of alternative approaches to meeting the goals of PSD and offset/new source review policies. As indicated in the description of those studies, a portion of them will be devoted to examining institutional

relationships which would be created by substituting each alternative for the existing approach, as well as the enforceability of each of these measures. Because these factors are critical to determining the viability of these alternatives, Commission personnel who will analyze these issues will not have participated in developing the alternative approaches.

In the study of the ability of industry to achieve requirements contained in the Act, the Commission will use data collected in the regional attainment, non-attainment, industry and cost-benefit studies. The Commission will examine not only the financial commitments needed to comply with the Act's requirements and sources of these resources, but also training programs established by industry to assure proper operation and maintenance of pollution control equipment, and proper reporting of information to control agencies.

The institutional relationships and research studies will be especially important to almost all other Commission studies. The findings will be applied to these other studies as they are completed to test the practicality of alternative approaches to the 1977 Clean Air Act Amendments and to support final recommendations of the Commission.

VIII. Review and Analysis of Alternative Approaches to Air Pollution Control

A. Issues to be Addressed. Other parts of the Plan provide for developing and evaluating alternatives to the specific area of the Act being considered. These alternatives include economic and other non-regulatory approaches and alternative emission limitations as potential substitutes for existing requirements.

This portion of the study, in addition to compiling and summarizing conclusions about each of the alternatives, will review alternatives transcending specific issues such as attainment or non-attainment, now provided for under the Act. In particular, the Commission will emphasize the study of economic incentives. Also, alternatives which would require that pollutants from all media be addressed comprehensively will be considered. Advantages and disadvantages of all alternatives will be considered, and an evaluation made of each approach or combination of approaches.

B. Methodology. The Commission will thoroughly examine each of the studies prepared as part of this Plan of Study. The alternatives discussed in each of these studies will be reviewed both as complete or partial replacements for and

as supplements to existing requirements. The Commission will examine the alternatives and advantages and disadvantages of each, and assess whether the overall goals of the Act could be better accomplished by use of one or more alternatives. In this evaluation, the Commission will consider the net effect on air quality and other environmental programs, enforceability, economic impacts, and needed institutional arrangements.

While analyses of these considerations will take place as part of each study, the examination in this part will enable the Commission also to review the total statutory framework. That review may result in modifying some of the alternatives or applying approaches in one subject area to other areas.

This approach will allow the Commission to explore more fully the range of possible approaches and to evaluate implications of these newly developed or modified approaches.

While reviewing and evaluating alternative approaches to existing issues, the Commission also will examine whether economic and other non-regulatory approaches can be used effectively to deal with the major issues created by the Act. As discussed previously, these approaches may include auction or other market approaches, emission taxes as well as generic alternatives to existing PSD and non-attainment requirements. The Commission will develop candidate alternatives in light of future growth and technology projections and those alternatives will be examined in terms of enforceability, economic impact and needed institutional relationships.

The results of these studies on alternative approaches will be an essential part of the basis for the Commission's overall recommendations.

IX. The Final Report

Upon concluding the studies in the eight areas described above, the Commission will review and compile the findings of each. These findings will then be reviewed in the context of the overall statutory scheme; within two months of completion of all studies, a draft report will be prepared for review by the general public. After that review, the Commission will consider the views and comments and prepare a final report to Congress.

The final report will contain recommendations on issues for which statutory modifications appear desirable and the framework for such modifications; issues for which no changes to the existing statute appear

necessary; and issues for which modifications to current administrative practices and procedures would be appropriate.

[FR Doc. 79-14444 Filed 5-8-79; 8:45 am]
BILLING CODE 6320-99-M

SECURITIES AND EXCHANGE COMMISSION

Allegheny Power System, Inc., and Potomac Edison Co.; Proposal by Public Utility Subsidiary To Make Subordinated Short-Term Borrowings From Parent Holding Company

April 30, 1979.

Notice is hereby given that Allegheny Power System, Inc. ("APS"), 320 Park Avenue, New York, New York 10022, a registered holding company, and the Potomac Edison Company ("PE"), Downsville Pike, Hagerstown, Maryland 21740, a public utility subsidiary of APS, have filed an application-declaration and amendments thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6 and 12 of the Act as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

It is proposed that APS, for a period not to exceed 12 months, beginning as soon as appropriate authorizations from regulatory bodies have been received and ending on June 1, 1980, from time to time, will lend and PE will borrow such amounts as may be necessary for varying periods of time of not less than one day and not more than 270 days but not to exceed \$30 million outstanding at any one time.

The proposed borrowings will (a) bear interest at a rate equal to the actual cost of money to APS of obtaining the funds either through the sale of commercial paper or through bank borrowings pursuant to Commission orders dated September 21, 1977 and August 24, 1978 (HCAR Nos. 20185 and 20682), (b) be subordinated to the outstanding cumulative preferred stock of PE, (c) be prepayable by PE at any time without premium or penalty and (d) be evidenced by notes. PE will not make principal or interest payments on the proposed borrowings if dividend payments on outstanding shares of the cumulative preferred stock are in arrears.

APS is authorized to have outstanding at any one time \$130 million of short-term debt until September 30, 1980,

although its authority to issue such short-term debt expires on March 31, 1980. As of March 15, 1979, APS had about \$61 million of short-term debt outstanding and it is expected that on June 1, 1979 about \$90 million of such short term debt will be outstanding. APS plans to issue common stock, the precise amount of which has not yet been determined, in the summer of 1979 and should it nevertheless prove necessary to do so will seek authority to issue additional amounts of short-term debt. APS will pay or pre-pay short-term debt incurred for the purposes proposed herein as soon as practicable upon repayment by PE.

PE will repay any monies borrowed from APS from time to time from one or more of the following: internally generated funds, the proceeds of a Federal income tax refund expected to aggregate between \$10 and \$12 million (expected to be received prior to the end of 1979), the proceeds of the sale of first mortgage bonds expected to be sold in the third quarter of 1979 and the proceeds of the sale of such other securities, including additional common stock to its parent, as this Commission and other regulatory authorities having jurisdiction may authorize.

As stated above, the cost to PE of the borrowings proposed herein would be equal to the cost of short-term debt to APS. The commercial paper issued by APS is rated P-1 and is sold to a dealer in commercial paper at a discount not in excess of the discount rate per annum prevailing at the time for issuance of commercial paper of comparable quality and of the particular maturity. Pursuant to the Commission's orders of September 21, 1977 and August 24, 1978 (HCAR Nos. 20185 and 20682, respectively), APS may only issue commercial paper notes if (1) the interest cost thereof is equal to or less than the effective interest cost at which APS could borrow the same amount from certain banks identified in that order, or (2) APS cannot at that time borrow the same amount for the same period of time from such banks. PE's commercial paper is rated P-2 and the arrangements for the sale of its commercial paper are substantially the same as those for APS.

APS generally borrows from banks at the prime or equivalent interest rate of the bank at which the borrowing is made in effect at the time of issuance, or in effect from time to time, or in some instances at a lower rate pursuant to special arrangements. The prime or equivalent rate as of March 15, 1979 varied between $11\frac{1}{2}\%$ and $11\frac{3}{4}\%$ depending on the bank. APS and its

subsidiaries regularly maintain balances at all of the banks named to meet regular operating requirements although the amounts of such balances will vary from time to time. Balances required to support lines of credit and loans are generally either on the basis of a percentage of the lines of credit extended by the bank (for example, 10%) or a higher percentage (for example, 20%) of notes outstanding, whichever is greater or a percentage of the line of credit (for example, 10%) plus a percentage (for example, 10%) of notes outstanding in every case on an average annual basis. If such balances were maintained solely to fulfill compensating balance requirements for borrowings, the effective interest cost to APS of issuing and selling notes would be no more than 14.68% of a prime rate of $11\frac{3}{4}\%$ and 15% with a prime rate of 12%. In some instances fees can be substituted for or used in conjunction with lower compensating balances than those described. In some cases fees equal to a specific percentage of the prime rate are involved while in others a combination of a fee equal to $2\frac{1}{2}\%$ of prime and a 5% balance requirement of the line of credit is required. APS uses the substitute fee arrangements only if the effective cost thereof is less than the cost of the compensating balance arrangement in effect at that bank at that time. The fee arrangements produce an effective interest cost of between 13.35% and 14.05% on the basis of a prime rate of $11\frac{3}{4}\%$ and between 13.63% and 14.35% on the basis of a prime rate of 12%. Similar arrangements are applicable to PE when it borrows from banks directly. As a result the cost to PE of borrowing funds from APS under the proposed arrangement would be substantially the same or less than the cost of PE's borrowing such funds directly.

It is stated that the fees, commissions and expenses to be incurred in connection with the proposed transactions are estimated at \$4,000. The Public Service Commission of West Virginia and the State Corporate Commission of Virginia have jurisdiction over the proposed transactions. It is stated that no State or federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than May 29, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert, or he may request that he

be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the applications-declaration, as amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20 (a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

Shirley E. Hollis,
Assistant Secretary.

[Release No. 21025; 70-6285]
[FR Doc. 79-14476 Filed 5-9-79; 8:45 am]
BILLING CODE 8010-01-M

R. B. Jones Corp.; Application and Opportunity for Hearing

April 30, 1979.

Notice is hereby given that R. B. Jones Corporation ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act"), seeking an exemption from the requirement to file reports pursuant to Sections 13 and 15(d) of the 1934 Act.

The Applicant states in part:

1. The Applicant was a publicly-held company with a class of securities registered pursuant to Section 12(g) of the 1934 Act; and was thus subject to the reporting provisions of Sections 13 and 15(d) of the 1934 Act.

2. On January 31, 1979, the Applicant was merged with and into a wholly owned subsidiary of Alexander & Alexander Services, Inc. pursuant to an Agreement and Plan of Merger dated January 8, 1979.

3. As a result of the merger there is no trading in Applicant's securities all of which are held of record by Alexander & Alexander Services, Inc.

In the absence of an exemption, Applicant will be required to file certain periodic reports with the Commission

including a quarterly report on Form 10-Q for the quarter ended January 31, 1979 and such further reports for periods through Applicant's fiscal year end of October 31, 1979, pursuant to Section 15(d) of the 1934 Act.

The Applicant contends that no useful purpose would be served in filing the periodic reports because Alexander & Alexander Services, Inc. now owns all of the Applicant's common stock, and its common stock is no longer publicly traded.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the Office of the Commission at 1100 L Street, N.W., Washington, D.C. 20549.

Notice is further given that any interested person not later than May 25, 1979; may submit to the Commission in writing his views on any substantial facts bearing on the application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert.

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. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Shirley E. Hollis,
Assistant Secretary.

[File No. 81-499]
[FR Doc. 79-14499 Filed 5-8-79; 8:45 am]
BILLING CODE 8010-01-M

Wood Industries, Inc.; Application and Opportunity for Hearing

April 30, 1979.

Notice is hereby given that Wood Industries, Inc. ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act"), seeking an exemption from the requirement to file reports pursuant to Sections 13 and 15(d) of the 1934 Act.

The Applicant states in part:

1. The Applicant was a publicly-held company with a class of securities registered pursuant to Section 12(b) of the 1934 Act, and was thus subject to the reporting provisions of Sections 13 and 15(d) of the 1934 Act.

2. On February 9, 1979, the Applicant was merged with and into a wholly owned subsidiary of MaschinenFabrik Augsburg-Nuernberg Aktiengesellschaft, ("M.A.N.") a German corporation, pursuant to an Agreement and Plan of Merger dated December 6, 1978.

3. As a result of the merger Applicant has only one record holder of its common stock.

4. Applicant after termination of its Section 12(b) registration on March 5, 1979, is now subject to the reporting provisions of Section 15(d) of the 1934 Act.

In the absence of an exemption, Applicant will be required to file certain periodic reports with the Commission including an annual report on Form 10-K for the fiscal year ending June 30, 1979, and such further reports for periods ending within Applicant's fiscal year pursuant to Section 15(d) of the 1934 Act.

The Applicant contends that no useful purpose would be served in filing the required periodic reports because there are no longer public investors or trading interest in its securities.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the Office of the Commission at 1100 L Street, N.W., Washington, D.C. 20549.

Notice is further given that any interested person not later than May 25, 1979, may submit to the Commission in writing his views on any substantial facts bearing on the application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert.

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. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Shirley E. Hollis,
Assistant Secretary.

[File No. 81-497]
[FR Doc. 79-14500 Filed 5-8-79; 8:45 am]
BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Issuance of License

On February 15, 1979, a Notice was published in the Federal Register (FR Vol 44, No. 33-9821) stating that an application had been filed by Central Capital Corporation, 1097 Commercial Ave., Lancaster, Pennsylvania 17604, with the Small Business Administration (SBA) pursuant to Section 107.102 of the SBA Regulations governing small business investment companies (SBIC's), (13 CFR 107.102 (1978)), for a license as an SBIC.

Interested parties were given until the close of business March 2, 1979, to submit their written comments to SBA. No comments were received.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information the SBA issued License No. 04/04-0140 to Central Capital Corporation on April 20, 1979.

Peter F. McNeish,
Deputy Associate Administrator for Finance and Investment.
[FR Doc. 79-14478 Filed 5-8-79; 8:45 am]
BILLING CODE 8025-01-M

Minnesota; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration I find that Aitkin, Clay, Itasca, Kittson, Lake of the Woods, Marshall, Norman, Polk, Red Lake, Roseau, Wilkin counties and adjacent counties within the State of Minnesota, constitute a disaster area because of damage resulting from severe storms and flooding beginning on or about April 14, 1979. Applications will be processed under the provisions of Public Law 94-305. Interest rate is 7½ percent. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on June 29, 1979, and for economic injury until close of business on January 30, 1980, at: Small Business Administration, District Office, Plymouth Building Room 530, 12 South Sixth Street, Minneapolis, Minnesota 55402, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: May 4, 1979.

Harold A. Thelsto,
Acting Administrator.

(Declaration of Disaster Loan Area #1629)
[FR Doc. 79-14479 Filed 5-8-79; 8:45 am]

BILLING CODE 8025-01-M

Missouri; Declaration of Disaster Loan Area

Clark County and adjacent counties within the State of Missouri constitute a disaster area as a result of damage caused by ice jams and flooding which occurred on March 13-14, 1979. Applications will be processed under provisions of Public Law 94-305. Interest rate is 7% percent. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on July 2, 1979, and for economic injury until the close of business on February 4, 1980, at: Small Business Administration, District Office, Mercantile Tower, Suite 2500, One Mercantile Center, St. Louis, Missouri 63101, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: May 3, 1979.

A. Vernon Weaver,
Administrator.

(Declaration of Disaster Loan Area #1628)
[FR Doc. 79-14480 Filed 5-9-79; 8:45 am]

BILLING CODE 8025-01-M

Small Business Product Liability Issues and Options; Hearing

• Pursuant to statutory authority set forth in Section 634(d) of Title 15, United States Code, the Chief Counsel for Advocacy of the Small Business Administration, Milton D. Stewart, Esq., with the approval of the Administrator, A. Vernon Weaver, will conduct a public hearing in Kansas City, Missouri, on May 26, 1979, on Small Business Product Liability Issues and Options. The hearing will convene at 9:00 a.m. at the Federal Building, 601 East 12th Street, Kansas City, Missouri

• The Office of the Chief Counsel for Advocacy will consider the current product liability problems of small business owners and their assessments of the remedies proposed at the Federal and state levels.

• Participants will include small manufacturers and product sellers, pertinent trade association representatives, and concerned government officials.

• The hearing is open to the public. Any member of the public may make a verbal statement, but must file a written statement prior to the hearing. Any member of the public may file a written statement with the Office of the Chief Counsel for Advocacy before, during, or after the hearing. All communications or inquiries regarding the hearing should be addressed to: Maureen C. Glebes, Office of the Chief Counsel for Advocacy, U.S. Small Business Administration, 1441 L Street, NW., Room 1100, Vermont Building, Washington, D.C. 20416, (202) 653-6083.

Milton D. Stewart,
Chief Counsel for Advocacy.

April 26, 1979.

[FR Doc. 79-14477 Filed 5-8-79; 8:45 am]
BILLING CODE 8025-01-M

INTERSTATE COMMERCE COMMISSION

Motor Carrier Temporary Authority Applications

The following are notices of filing of applications for temporary authority under Section 210(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce

Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

MC 2226 (Sub-115TA), filed April 6, 1979. Applicant: RED ARROW FREIGHT LINES, INC., P.O. Box 1897, San Antonio, TX 78297. Representative: Phillip Robinson, 1806 Rio Grande (Box 2207), Austin, TX 78767. *General Commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment): (1) Between Dallas and Amarillo, Texas, from Dallas over Interstate Highway 35E to Denton, then over U.S. Highway 380 to Decatur, the over U.S. Highway 287 to Amarillo, and return over the same route, serving Wichita Falls, and all intermediate points between Wichita Falls and Amarillo. (2) Between Dallas and Decatur, Texas, from Dallas over Texas Highway 114 to Rhome, then over U.S. Highway 287 to Decatur and return over the same route, serving Decatur and Rhome for purposes of joinder only. (3) Between Dallas and Rhome, Texas, from Dallas over the Texas Turnpike Authority Toll Road to Fort Worth, then over U.S. Highway 287 to Rhome and return over the same route, serving Fort Worth as an intermediate point and serving Rhome for purposes of joinder only. (4) Between Fort Worth and Wichita Falls, Texas, from Fort Worth over Texas Highway 199 to Jacksboro, then over U.S. Highway 281 to Wichita Falls, and return over the same route. (5) Between Jacksboro and Lubbock, Texas, from Jacksboro over Texas Highway 114 to Seymour, then over U.S. Highway 82 to Lubbock and return over the same route, serving all intermediate points. (6) Between Wichita Falls and Abilene, Texas, (a) over U.S. Highway 277, and (b) from Wichita Falls over Texas Highway 79 to Throckmorton, then over U.S. Highway 283 to Albany, then over U.S. Highway 180 to junction Texas Highway 351, then over Texas Highway 351 to Abilene, and return over the same route, serving all intermediate points (except Weinert, Haskell, Points between Abilene and Stamford on U.S. Highway 277 and Albany). (7) Between Jacksboro and Rule, Texas, over U.S. Highway 380, serving all intermediate points (except Haskell and those between Jacksboro and Graham), serving South Bend, Eliasville, Ivan and Woodson as off-route points, and serving Jacksboro as a point of joinder

only. (8) Between Stamford and Benjamin, Texas, over Texas Highway 6. (9) Between Vernon and Hereford, Texas, from Vernon over U.S. Highway 70 to Olton, then over Farm-to-Market Road 168 to Hart (also from Plainview over Texas Highway 194 to Hart), then over Texas Highway 194 to junction U.S. Highway 385, then over U.S. Highway 385 to Hereford, and return over the same route, serving all intermediate points and the off-route points of Fargo, Rooding Springs and Glenn. (10) Between Ralls and Estelline, Texas, from Ralls over Texas Highway 207 to Silverton, then over Texas Highway 86 to Estelline, and return over the same route, serving all intermediate points. (11) Between Amarillo and Farwell, Texas, over U.S. Highway 60, serving all intermediate points and the United States Helium Plant west of Amarillo as an off-route point. (12) Between Idalou and Plainview, from Idalou over U.S. Highway 82 to junction Farm-to-Market Road 400, then over Farm-to-Market Road 400 to Plainview and return over the same route, serving all intermediate points and the off-route point of Petersburg. (13) Between Wichita Falls, Texas, and Sheppard Air Force Base and the Wichita Falls Airport and Kell Field, from Wichita Falls over U.S. Highways 277 and 281 to their intersection with unnumbered county road to Sheppard Air Force Base and the Wichita Falls Airport and Kell Field and return over the same route, serving all intermediate points. (14) Between Olney and Newcastle, Texas, over Texas Highway 251, serving all intermediate points. (15) Between Jean, Texas, and the intersection of Farm-to-Market Road 1769 and U.S. Highway 380 over Farm-to-Market Road 1769, serving all intermediate points. (16) Between Seymour and Throckmorton, Texas, over U.S. Highway 283, serving all intermediate points. (17) Between Canyon and Plainview, Texas, over U.S. Highway 87. (18) Between Matador and Dickens, Texas, over U.S. Highway 70. (19) Between Childress and Paducah, Texas, over U.S. Highway 62. (20) Between Quanah, Texas, and junction Farm-to-Market Road 104 and U.S. Highway 70, over Farm-to-Market Road 104. (21) Between Knox City and Munday, Texas, over Texas Highway 222. (22) Between Graham, Texas, and junction Texas Highway 16 and U.S. Highway 281 near Antelope, Texas, over Texas Highway 16. Routes (17) through (22) are alternate routes for operating convenience only, serving no intermediate points and serving the termini for purpose of joinder only. Routes (1) through (22) are restricted

against service to points in new Mexico. Applicant intends to tack and coordinate the authority sought with applicant's existing authorities in MC-2226 and subs thereunder, and to interline with other motor carriers. Supporting shipper(s): There are 614 supporting shippers. Their statements can be examined at the office listed below and at ICC Headquarters. Send protests to: Richard H. Dawkins, District Supervisor, Interstate Commerce Commission, Room B-400 Federal Building, San Antonio, TX 78206.

MC 27817 (Sub-155 TA), filed March 29, 1979. Applicant: H. C. GABLER, INC., RD No. 3 P.O. Box 220, Chambersburg, PA 17201. Representative: Christian V. Graf, Esquire, 407 North Front Street, Harrisburg, PA 17101. See attached summary. Supporting shipper(s): Heinz USA, Division of H. J. Heinz Company, P.O. Box 57, Pittsburgh, PA 15230. Send protests to: Interstate Commerce Commission, William J. Green Jr Federal Bldg., 600 Arch Street, Room 3238, Philadelphia, PA 19106.

MC 32166 (Sub-13TA), filed March 29, 1979. Applicant: BRONAUGH MOTOR EXPRESS, INC., 1025 Nandino Blvd., Lexington, Ky. 40511. Representative: John W. Bronaugh, President (address above). Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting *General Commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Lexington, Ky. and its commercial zone; and Nashville, TN, and its commercial zone, serving no intermediate points; from Lexington, Ky., over U.S. Hwy. 60 to its junction with Blue Grass Parkway, then over Blue Grass Parkway to its junction with Interstate Hwy. 65, then over Interstate Hwy. 65 to Nashville, TN, and return over the same route. Supporting shipper(s): Thirty-two (32) Supporting Shippers. Send protests to: Mrs. Linda H. Sypher, District Supervisor, Interstate Commerce Commission, Washington, D.C. 20423.

MC 37656 (Sub-12TA), filed April 18, 1979. Applicant: DOYLE TRUCKING CORPORATION, 100 Plaza Center, Secaucus, NJ 07094. Representative: Edward L. Nehez, P.O. Box 1409, 167 Fairfield, NJ 07008. Contract, irregular. *New Furniture*. From the facilities of Allied Fine Furniture, Inc. at Richmond, VA to points in ME, NH, VT, NY, NJ, MA, RI, DE, CT, PA, MD, DC, and WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s):

Allied Fine Furniture, 5301 Glen Allen, Richmond, VA 23231. Send protests to: Robert E. Johnston, D/S, ICC, 9 Clinton St., Newark, NJ 07102.

MC 40757 (Sub-19TA), filed April 3, 1979. Applicant: CREECH BROTHERS TRUCK LINES, INC., 100 Industrial Dr., Troy, MO 63379. Representative: Richard A. Mehley, 1000 16th St. NW., Washington, D.C. 20036. *Printed matter*, between Crawfordsville, IN and Troy, MO, for 180 days. Supporting shipper(s): Harper & Row Publishers, Inc., Keystone Industrial Park, Scranton, PA 18512. Send protests to: P. E. Binder, DS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 42487 (Sub-903TA), filed April 2, 1979. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Drive, Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208. Common: regular routes: General commodities, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and commodities requiring special equipment, between Fort Smith, AR and the facilities of Ladish Company at or near Russellville, AR, serving no intermediate points: From Fort Smith over U. S. Hwy 64 to Russellville, and return over the same route, for 180 days. Applicant intends to tack the proposed authority with its present authority found in Docket MC 42487 SUB 708. Supporting shipper(s): Ladish Company, 5481 S. Packard Ave., Cudahy, WI 53110. Send protests to: District Supervisor M. M. Butler, 211 Main, Suite 500, San Francisco, CA 94105.

MC 59557 (Sub-16TA), filed April 13, 1979. Applicant: AUCLAIR TRANSPORTATION, INC., 333 March Ave., Manchester, NH 03108. Representative: Elliott Bunce, Suite 1301, 1600 Wilson Blvd., Arlington, VA 22209. *General commodities*, except those of unusual value and except dangerous explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment and those injurious or contaminating to other lading, between points in the St. Louis, MO commercial zone, for 180 days. Supporting shipper(s): There are 18 shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: Ross J. Seymour, DS, ICC, RM 3,6 Loudon RD., Concord, NH 03301.

MC 77016 (Sub-21TA), filed March 26, 1979. Applicant: BUDIG TRUCKING CO., 1100 Gest St., Cincinnati, OH 45203.

Representative: George M. Catlett, Attorney at Law, Suite 708 McClure Bldg., Frankfort, KY 40601. *Common carrier*: regular routes: *General commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment)*, (1) Between Madison, IN, and Vevay, IN: from Madison, IN, over Indiana Hwy 56 to Vevay, IN, and return over the same route, serving all intermediate points; (2) between Louisville, KY, and Cincinnati, OH: from Louisville, KY, over Interstate Hwy 71 to Cincinnati, OH, and return over the same route, serving no intermediate points; but serving the junction of Interstate Hwy 71 and Kentucky Hwy 227 for joinder only; and (3) between the junction of Interstate Hwy 71 and the junction of Kentucky Hwy 227 and Madison, IN: from the junction of Interstate Hwy 71 and Kentucky Hwy 227 over Kentucky Hwy 227 to junction of U.S. Hwy 42, thence over U.S. Hwy 42 to junction of Kentucky Hwy 36, thence over Kentucky Hwy 36 to junction of U.S. Hwy 421, thence over U.S. Hwy 421 to Madison, IN, and return over the same route, serving all intermediate points. Authority is sought to serve the commercial zones of all points sought to be served in Routes (1) through (3) next above, and to tack Routes (1) through (3) next above with each other.

RESTRICTION: Service at Louisville, KY, and points within its commercial zone located wholly in KY is restricted against the handling of traffic originating at, destined to, or interchanged at Maysville, KY, and points within its commercial zone located wholly in KY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are approximately 95 supporting shippers. Send protests to: Bureau of Operations, ICC, Wm. J. Green, Jr., Federal Bldg., 600 Arch St., Room 63238, Philadelphia, PA 19106.

MC 91306 (Sub-19TA), filed April 11, 1979. Applicant: JOHNSON BROTHERS TRUCKERS, INC., 1858 9th Ave, NE, Hickory, NC 28601. Representative: Gerald Johnson, P.O. Box 848, Hickory NC 28601. *Containers, sheet iron or steel* from Everett, MA to points in Mecklenburg and Union Counties, NC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Radiator Specialty, Charlotte, NC. Send protests to: District Supervisor Terrell Price, 800 Briar Creek Rd. Rm CC516, Mart Office Building, Charlotte, NC 28205.

MC 93147 (Sub-6TA), filed April 9, 1979. Applicant: DELTA TRANSPORT CORP., 80 James Street, Jersey City, NJ 07302. Representative: Paul Sheley, P.O. Box 546, West Springfield, MA 01809. A. *Resins, plastic, plastic articles, vinyl and chemicals*. B. Materials, equipment and supplies used in the manufacturing, sale and distribution of commodities in (a) above. Restricted in A and B above against commodities in bulk in tank vehicles. Between points in the US except AK and HI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Mobil Chemical Company, 3 Hanover Street, Holyoke, MA 01040. Send protests to: R. E. Johnston, D/S, ICC, 9 Clinton St. Room 618, Newark, NJ 07102.

MC 93147 (Sub-7TA), filed April 9, 1979. Applicant: DELTA TRANSPORT CORPORATION, 80 James Street, Jersey City, NJ 07302. Representative: Paul Sheley, P.O. Box 546, West Springfield, MA 01089. *Machines, N.O.I., parts, materials, equipment, and supplies* used in the manufacturing, sale and distribution of machines, for 180 days. An underlying ETA seeks 90 days authority. **BETWEEN** points in the US except AK and HI. **RESTRICTION:** Restricted against commodities in bulk moving in tank vehicles. Supporting shipper(s): Choice-Vend, Inc., P.O. Box 250 Turnpike Road, Windsor Locks, CT 06096. Send protests to: R. E. Johnston, D/S, ICC, 9 Clinton St., Newark, NJ 07102.

MC 95876 (Sub-274TA), filed April 4, 1979. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, MN 56301. Representative: Robert S. Lee, 1000 First National Bank Building, Minneapolis, MN 55402. *Forgings and castings* from points in IN to Avon, MN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Hanauer Machine Works, Inc., a subsidiary of Federal-Mogul, Purchasing Agent, Highway 1-94, Avon, MN 56310. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 100666 (Sub-457TA), filed April 10, 1979. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 71107. Representative: Paul L. Caplinger (same address as applicant). Applicant is seeking authority to operate as a common carrier over irregular routes transporting *heating and air conditioning equipment, parts and accessories* from the facilities of Heil Quaker Corporation at or near Davidson County, TN to points in AL and MS, for

180 days. Applicant has filed underlying ETA seeking 90 days authority. Supporting shipper(s): Heil Quaker Corporation, 1714 Heil Quaker Blvd. LaVergne, TN 37086. Send protests to: Robert J. Kirspele, DS, ICC, T-9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 102567 (Sub-225TA), filed April 11, 1979. Applicant: McNAIR TRANSPORT, INC., P.O. Drawer 5357, Bossier City, LA 71111. Representative: Joe C. Day, 13403 Northwest Fwy., Suite 130, Houston, TX 77040. Applicant is seeking authority to operate as a common carrier over irregular routes transporting *Chemicals*, in bulk, in tank vehicles, between the plantsite of Dow Chemical Co., at or near Plaquemine, LA and the U.S. (except AK and HI), for 180 days. Applicant has filed an underlying ETA seeking 90 days. Supporting shipper(s): Dow Chemical Company U.S.A., Louisiana Division, P.O. Box 150, Plaquemine, LA 70764. Send protests to: Robert J. Kirspele, DS, ICC, T-9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 102616 (Sub-992TA), filed April 11, 1979. Applicant: COASTAL TANK LINES, INC., 250 North Cleveland-Massillon Rd., Akron, OH 44313. Representative: David F. McAllister (same address as above). *Foundry facing compound*, in bulk, in tank vehicles, from Darlington, PA, to Huntington, WV, for 180 days. Supporting shipper(s): Thermium, Inc., P.O. Box 352, Darlington, PA 16115. Send protests to: Mary Wehner, D/S, I.C.C., 731 Federal Bldg., Cleveland, OH 44199.

MC 104896 (Sub-57TA), filed March 30, 1979. Applicant: WOMELDORF, INC., P.O. Box G, Knox, PA 16232. Representative: James W. Patterson, Esquire, 1200 Western Savings Bank Building, Philadelphia, PA 19107. (1) Containers, container ends and closures, (2) Commodities manufactured or distributed by manufacturers and distributors of containers when moving in mixed loads with containers, and (3) Material, equipment and supplies used in the manufacture and distribution of the commodities named in (1) above, Between those points in the United States in and east of MN, IA, MO, AR and LA, restricted, (1) against the transportation of commodities in bulk, in tank vehicles, and (2) to the transportation of traffic originating at or destined to the facilities of Brockway Glass Company, Inc, for 180 days. Supporting shipper(s): Brockway Glass Company, Inc., McCullough Avenue, Brockway, PA 15824. Send protests to: John J. England, District Supervisor,

Bureau of Operations, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

MC 105007 (Sub-54TA), filed April 4, 1979. Applicant: MATSON TRUCK LINE, INC., 1407 St. John Avenue, Albert Lea, MN 56007. Representative: Robert S. Lee, 1000 First National Bank Building, Minneapolis, MN 55402. Paper from Madisonville, KY to Lake Mills, IA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Southern Specialty, P.O. Box 606, Madisonville, KY 42431. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 107496 (Sub-1206TA), filed March 30, 1979. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Avenue, Des Moines, IA 50309. Representative: E. Check (same as applicant). *Inedible tallow*, in bulk, in tank vehicles, from Rockport, MO to points in KS for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: MBPXL, P.O. Box 2519, Wichita, KS 67201. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 107496 (Sub-1207TA), filed March 30, 1979. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Avenue, Des Moines, IA 50309. Representative: E. Check (same as above). *Animal fats, animal and vegetable oils and blends and products thereof* in bulk, in tank vehicles, from the facilities of Kraft, Inc., at Champaign, IL to Indianapolis and New Albany, IN and Louisville, KY for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Kraft, Inc., Industrial Group, P.O. Box 398, Memphis, TN 38101. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 107496 (Sub-1209TA), filed March 30, 1979. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Avenue, Des Moines, IA 50309. Representative: E. Check (same as above). *Lime pellets*, in bulk, in tank vehicles, from the plantsite of U.S. Gypsum at or near New Orleans, LA to the Ashgrove Plant at or near Sequiota, MO for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Exxon Chemical Company, U.S.A., P.O. Box 3272, Houston, TX 77001. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 108207 (Sub-505TA), filed April 3, 1979. Applicant: FROZEN FOOD EXPRESS, INC., P.O. Box 225888, Dallas, TX 75265. Representative: M. W. Smith (same as above). *Foodstuffs*, from Memphis, TN, to points in IL, IA, NE,

KS, TX, MO, OK, NM, AR, MS, and LA for 180 days. Underlying ETA for 90 days filed. Supporting shipper: I. M. Smucker Co., 4740 Burbank Memphis, TN 38118. Send protests to: Opal M. Jones, Trans. Asst., Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 109376 (Sub-13TA), filed April 9, 1979. Applicant: SKINNER TRANSFER CORP., P.O. Box 284, Reedsburg, WI 53959. Representative: Richard Westley, 4506 Regent St., Suite 100, Madison, WI 53705. *Rough iron/steel castings* (1) from facilities of Grede Foundries, Inc. at or near Reedsburg, Waukesha, & Milwaukee, WI to points in IA, IL, IN, OH, PA, NY & MI (2) *Foundry materials and supplies* from points in PA, NY, OH & IL to the facilities of Grede Foundries, Inc., named in (1) above, for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers(s): Grede Foundries, Inc., 9898 W. Bluemound Rd., Milwaukee, WI 53226. Send protests to: Gail Daugherty, Transportation Asst., 517 E. Wisconsin Avenue, Room 619, Milwaukee, Wisconsin 53202.

MC 112617 (Sub-426TA), filed March 30, 1979. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, KY 40221. Representative: Charles R. Dunford (address as above). Authority sought to operate as a *Common carrier* by motor vehicle, over irregular routes, to transport Olefin Solvent, in bulk, in tank vehicles, from West Lake Charles, LA, to Parsons, WV. Supporting shippers(s): Richard A. Parks, Traffic Manager, The Kingsford Company, P.O. Box 1033, Louisville, KY 40201. Send protests to: Mrs. Linda H. Sypher, District Supervisor, Interstate Commerce Commission, 426 Post Office Building, Louisville, Ky. 40202.

MC 113047 (Sub-11TA), filed April 18, 1979. Applicant: BUANNO TRANSPORTATION CO., INC., R.D. No. 1 Fort Johnson, N.Y. 12070. Representative: Henry Buanno (same address). *Common carrier*: Irregular Routes, Foodstuffs (Gum, Candy, Cough Drops, Chicle, Confectionary) Between Holland, MI on the one hand, and, on the other Canajoharie and Port Chester, NY. Supporting shippers(s): Life Savers, Inc., L. E. McDuffee, Manager Distribution, Church Street, Canajoharie, NY 13317. Send protests to: David M. Miller, District Supervisor, ICC, 338-342 Federal Building, 436 Dwight Street, Springfield, MA 01103.

MC 113666 (Sub-161TA), filed April 3, 1979. Applicant: FREEPORT TRANSPORT, INC., 1200 Butler Road, Freeport, PA 16229. Representative: R. Scott Mahood, House Counsel (same as

Applicant). *Pesticides and insecticides, in packages* from Randolph, WI to ports of entry on the International Boundary line between the United States and Canada located at Detroit and Port Huron, MI. Supporting shippers(s): Cyanamid Canada, Inc., 635 Dorchester Blvd., West, Montreal, Quebec H3B 4A6. Send protests to: John J. England, District Supervisor, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

MC 113666 (Sub-162TA), filed April 16, 1979. Applicant: FREEPORT TRANSPORT, INC., 1200 Butler Road, Freeport, PA 16229. Representative: R. Scott Mahood, House Counsel (same as applicant). *Refractories and refractory products* from Mt. Union, PA to points in the Chicago Commercial Zone for 180 days. An ETA seeks 90 days operating authority. Supporting shipper: Harbison Walker Refractories, No. 2 Gateway Center, Pittsburgh, PA 15222. Send protests to: J. J. England, DS, ICC, 2111 Federal Building, Pittsburgh, PA 15222.

MC 114097 (Sub-10TA), filed April 2, 1979. Applicant: NIEDFELDT TRUCKING SERVICE, INC., 821 S. Front St., LaCrosse, WI 54601. Representative: Ed H. Instenes, P.O. Box 676, Winona, MN 55987. *Contract carrier*; irregular routes; *Malt beverages, empty beverage containers and pallets*, between St. Paul, MN and LaCrosse, WI, for 180 days. Supporting shipper: G. Heileman Brewing Co., Inc., LaCrosse, WI. Send protests to: Gail Daugherty, Transportation Asst. ICC., 517 E. Wisconsin Ave., Room 619, Milwaukee, WI 53202.

MC 114457 (Sub-498TA), filed April 11, 1979. Applicant: DART TRANSIT COMPANY, 2102 University Avenue, St. Paul, MN 55114. Representative: James H. Wills, (same address as applicant). *Electric ranges and microwave ovens and such commodities as are used in the manufacture of electric and microwave ovens and accessories related thereto* from the facilities of Litton Microwave Cookings Products, Litton Systems, Inc., at Sioux Falls, SD to points in the U.S. (except AK, HI and SD), for 180 days. Supporting shipper: Litton Microwave Cooking Products, Traffic Manager, 1405 Xenium Lane North, Minneapolis, MN 55441. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 114457 (Sub-499TA), filed April 11, 1979. Applicant: DART TRANSIT COMPANY, 2102 University Avenue, St. Paul, MN 55114. Representative: James H. Wills, (same address as applicant). *Glass containers* from Lawrenceburg, IN

to points in WI, for 180 days. Supporting shipper: Thatcher Glass Manufacturing Co., P.O. Box 265, Elmira, NY 14902. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 114897 (Sub-130TA), filed April 3, 1979. Applicant: WHITFIELD TANK LINES, INC., 124 W. Thomas Rd., Phoenix, AZ 85011. Representative: J. Karleen Kelso, (same address as applicant). *Petroleum and petroleum products, in bulk, in tank vehicles*, from Ardmore, OK to El Paso, TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper: ASARCO Inc., 120 Broadway, New York, NY 10005. Send protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025.

MC 115056 (Sub-22TA), filed April 3, 1979. Applicant: LANE TRUCK LINES, INC., 505 Sunset Avenue, Rocky Mount, NC 27801. Representative: Thomas L. Young, Attorney, 131 North Church Street, Rocky Mount, NC 27801. *Wooden fencing and fencing materials* from points in Halifax County, NC, to points in VA, WV, OH, MD, DE, PA, NJ, NY, CT, MA, SC, GA, and FL, for 180 days. An underlying ETA seeking 90 days authority has been filed. Supporting shipper(s): Carolina Wood Preserving Co., Inc., P.O. Box 310, Scotland Neck, NC 27874. Send protests to: Mr. Archie W. Andrews, D/S, ICC, P.O. Box 26896, Raleigh, NC 27611.

MC 115826 (Sub-443TA), filed April 10, 1979. Applicant: W. J. DIGBY, INC., 6015 East 58th St., Commerce City, CO 80022. Representative: Howard Gore (same address as applicant). *Toilet preparations, health and beauty aid products; buffing or polishing compounds, chemicals NOI, foodstuffs, cleaning compounds and equipment and appliances used in health and beauty care* (except commodities in bulk) between Sparks NV; Portland, OR; Seattle, WA; Chicago, IL and Los Angeles and San Francisco, CA and their commercial zones, for 180 days. RESTRICTED: to transportation for traffic originating at or consigned to the facilities of Alberto-Culver Company. Supporting shipper: Alberto Culver Company, 2525 Armitage Ave., Melrose Park, IL 60160. Send protests to: D/S Herbert C. Ruoff, ICC, 492 U.S. Customs House, 721 19th St., Denver, CO 80202.

MC 115826 (Sub-444TA), filed April 19, 1979. Applicant: W. J. DIGBY, INC., 6015 East 58th St., Commerce City, CO 80022. Representative: Howard Gore (same address as above). *Alcoholic liquors in cases*, from Melvindale, MI to

Phoenix, AZ, Denver, CO, Salt Lake City, UT, their commercial zones; and points in CA, for 180 days. Supporting shipper(s): Seagram's Distillers, 800 Third Avenue, New York, NY 10022. Send protests to: District Supervisor Herbert C. Ruoff, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 115826 (Sub-445TA), filed April 16, 1979. Applicant: W. J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO 80022. Representative: Howard Gore (same address as above). *Foodstuffs and articles, materials and supplies used and dealt in by restaurants and food service companies*, from points in AZ, CA, DE, FL, IA, ID, IL, ME, MA, NH, NY, OR, PA, RI, TX, VT, WA and WI to Denver, CO and Albuquerque, NM, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): United Food Service, Inc., 3770 East 40th Avenue, Denver, CO 80205. Send protests to: District Supervisor Herbert C. Ruoff, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 11607 (Sub-410TA). Applicant: DSI TRANSPORTS, INC., 4550 One Post Oak Place/Suite 300, Houston, TX 77027. Representative: J. C. Browder, 4550 One Post Oak Place/Suite 300, Houston, TX 77027. Common carrier over irregular routes. *Nitric acid, in bulk, in tank vehicles* from Lake Charles, LA to points in Texas within a 350-mile radius of Lake Charles, LA seeks 180 days authority. An underlying ETA seeks 90 days authority. Supporting shipper(s): Olin Corporation, 120 Long Ridge Road, Stamford, CT 06904. Send protests to: John F. Mensing, Interstate Commerce Commission, 8610 Federal Bldg., 515 Rusk Ave., Houston, TX 77002.

MC 117676 (Sub-8TA), filed April 13, 1979. Applicant: HERMS TRUCKING, INC., 620 Pear Street, Trenton, N.J. 08648. Representative: Alan Kahn, Esquire, 1920 Two Penn Center Plaza, Philadelphia, Pa. 19102. *Charcoal briquets, pressed fireplace logs and hickory chips* (except in bulk), from the facilities of The Kingsford Company at Ridgely and Parsons, WV to points in CT, DE, MA, MD, ME, NJ, NY, OH, PA, RI, and VT, for 180 days. An underlying ETA seeks 90 day authority. Supporting shipper(s): The Kingsford Company, 1700 Commonwealth Building, P.O. Box 1033, Louisville, KY 40201. Send protests to: District Supervisor, ICC, 428 East State Street, Room 204, Trenton, N.J. 08608.

MC 117686 (Sub-258TA), filed April 4, 1979. Applicant: HIRSCHBACK MOTOR LINES, INC., 5000 South Lewis Blvd., P.O. Box 417, Sioux City, IA 51102.

Representative: George L. Hirschback (same address as applicant). *Heating and cooling units*, from Los Angeles, CA to Phoenix, AZ; Denver, CO; Council Bluffs, Des Moines, and Sioux City, IA; Kansas City and Wichita, KS; Kansas City and Springfield, MO; Minneapolis, MN; Kearney, Grand Island, Omaha, and Lincoln, NE; Oklahoma City, OK; and Milwaukee and Madison, WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): R. G. Beecroft, Carrier Transicold Co., 1100 S. Taylor Ave., Montebello, CA 90604. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 118776 (Sub-31TA), filed April 12, 1979. Applicant: GULLY TRANSPORTATION, INC., 3020 Wisman Lane, Quincy, IL 62301. Representative: Frank Taylor, Jr., Suite 600, 1221 Baltimore Ave., Kansas City, MO 64105. (1) *Animal bedding materials*, from Warrensburg, NY and Maumee, OH to St. Louis, MO and (2) *dry animal feed*, in bags, from Richmond, IN to St. Louis, MO, for 180 days. Supporting shipper(s): Mariam Feed Co., 3801 N. Broadway St., St. Louis, MO. Send protests to: Charles D. Little, DS, ICC, RM., 414, 527 E. Capitol Ave., Springfield, IL 62701.

MC 119767 (Sub-356TA), filed April 6, 1979. Applicant: BEAVER TRANSPORT CO., P.O. Box 188, Pleasant Prairie, WI 53158. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th St., NW., Washington, DC 20004. *Paper, paper products, and cellulose products*, from the facilities of Procter & Gamble Paper Products Co. at or near Neeley's Landing, MO to points in IL, IN, IA, KS, KY, MI, MN, NE, ND, OH, SC & WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Procter & Gamble Paper Products Co., P.O. Box 599, Cincinnati, OH 45201. Send protests to: Gail Daugherty, T/A., ICC, 617 E. Wisconsin Ave., Room 619, Milwaukee, Wisconsin 53202.

MC 119777 (Sub-367TA), filed April 2, 1979. Applicant: LIGON SPECIALIZED HAULER, INC., Highway 85, East, Madisonville, KY 42431. Representative: Carl U. Hurst, Attorney (same as above). (1) Plastic pallets and/or dunnage and (2) materials, equipment, and supplies used in the production or distribution of plastic products, between the facilities of Midland-Ross Corporation, Dawson Springs, KY, on the one hand, and, on the other, points in the United States, except AK and HI. Supporting shipper(s): Joe Eades, Manager, Special Projects, Midland-Ross Corp., P.O. Box 423, Dawson Springs, KY 42408. Send

protests to: Mrs. Linda H. Sypher, District Supervisor, Interstate Commerce Comm., 426 Post Office Bldg., Louisville, KY 40202.

MC 119777 (Sub-368TA), filed April 18, 1979. Applicant: LIGON SPECIALIZED HAULER, INC., P.O. Drawer L, Madisonville, KY 42431. Representative: Carl U. Hurst, Attorney (as above). Authority sought to transport (1) Gypsum Wallboard from the facilities of Weyerhaeuser Company, Inc., at Briar, AR to points in AL, FL, GA, IL, IN, KS, KY, LA, MS, MO, NB, OK, TN, TX and WI; (2) Posts, poles and piling from the facilities of Weyerhaeuser Company, Inc., at DeQueen, AR, to points in AL, CO, GA, IL, IN, IA, KS, KY, LA, MN, MI, MS, MO, NB, NM, NC, ND, NY, OH, OK, SC, SD, TN, TX, VA, WV, and WI; (3) Particleboard, insulation board, board or sheets from the facilities of Weyerhaeuser Company, Inc., at Craig, OK, to points in AL, AR, AZ, CO, GA, FL, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, NB, NC, NM, NY, OH, PA, TN, TX, SD, VA and WI. Supporting shipper(s): J. L. Flemming, Region Transportation Manager, Weyerhaeuser Company, 810 Whittington Ave., Hot Springs, AR 71901. Send protests to: Mrs. Linda H. Sypher, District Supervisor, Interstate Commerce Commission, 426 Post Office Building, Louisville, KY 40202.

MC 119777 (Sub-369TA), filed April 18, 1979. Applicant: LIGON SPECIALIZED HAULER, INC., P.O. Drawer L, Madisonville, Ky. 42431. Representative: Carl U. Hurst, Attorney (as above). Authority sought to operate as a motor *common carrier*, over irregular routes, to transport Corn and Corn products, in bulk, in tank vehicles, from Indianapolis, IN, to Battle Creek, MI; Lancaster and Cincinnati, OH; Paris, IL and Louisville, KY. Supporting shipper(s): Richard McFarland, Production Scheduling Mgr., Evans Milling Company, Subsidiary of Illinois Cereal Mills, Inc., Paris, IL. Send protests to: Mrs. Linda H. Sypher, District Supervisor, Interstate Commerce Commission, 426 Post Office Building, Louisville KY. 40202.

MC 119917 (Sub-55TA), filed March 9, 1979. Applicant: DUDLEY TRUCKING COMPANY INC., 724 Memorial Dr., Atlanta, GA 30316. Representative: Barry L. Dudley (same as applicant). *Charcoal, charcoal briquets, hickory chips, charcoal lighter fluid, fireplace logs (compressed sawdust), and related barbecue equipment* between Isanti, MN and points in IO, IN, MO, NE, IL, WI, & ND; between Branson, MO and points in AR, AL, LA, OK, VA, TN, & TX; between Pachuta, MS and points in AL, LA, GA, FL, TN, NC, SC, & TX; and between

Ocala, FL and points in GA, AL, MS, TN, NC, & SC. An underlying ETA seeks 90 days authority. Supporting shipper(s): Husky Industries, Inc., 62 Perimeter Center East, Atlanta, GA 30346. Send protests to: Sara K. Davis, T/A, ICC 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.

MC 119917 (Sub-56TA), filed March 9, 1979. Applicant: DUDLEY TRUCKING COMPANY, INC., 724 Memorial Dr., S.E., Atlanta, GA 30316. Representative: Theodore Polydoroff, Suite 301, 1307 Dolly Madison Blvd., McLean, VA 22101. *Foodstuffs, and materials, supplies and equipment used in the manufacture of foodstuffs (except commodities in bulk)* between the facilities of Keebler Co., at or near Grand Rapids, MI, Cincinnati, OH, and Chicago, IL, on the one hand, and, on the other points in IL, IN, IA, MI, MN, MO, NE, ND, OH, and WI, restricted to the transportation of shipments originating at or destined to the named facilities and restricted against the transportation of the named commodities from Cincinnati, OH to points in MI. An underlying ETA seeks 90 days authority. Supporting shipper(s): Keebler Co., One Hollow Tree LN., Elmhurst, IL 60126. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.

MC 121066 (Sub-9TA), filed April 12, 1979. Applicant: NEBRASKA TRANSPORT CO., INC., P.O. Box 621, Scottsbluff, NE, 69361. Representative: Scott T. Robertson, P.O. Box 81849, Lincoln, NE, 68501. *Meats, meat products and 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, 61M.C.C. 209 and 766 (except hides and commodities in bulk)*, from Austin, MN, to Denver, CO. An underlying ETA seeks 90 days authority. Supporting shipper(s): Edward C. Hunkele, Motor Carrier Services Supervisor, Geo. A. Hormel & Co., Box 800, Austin, MN, 55912. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Building and Court House, 100 Centennial Mall North, Lincoln, NE, 68508.

MC 121626 (Sub-16TA), filed April 9, 1979. Applicant: BAYVIEW TRUCKING, INC., 7080 Florin-Perkins Road, Sacramento, CA 95828. Representative: Paul D. Kratz, 7171 Mercy Road, Suite 610, Omaha, NE 68108, Phone: (402) 392-1220. *Frozen Foods* in mechanically refrigerated trailers from the facilities of Campbell Soup Company at Omaha, NE to Denver and Grand Junction, CO, for

180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Campbell Soup Company, 1202 Douglas, Omaha, NE 68102. Send protests to: A. J. Rodriguez, DS, ICC, 211 Main Street, Suite 500, San Francisco, CA 94105.

MC 123407 (Sub-567TA), filed March 20, 1979. Applicant: SAWYER TRANSPORT, INC., Sawyer Center, Route 1, Chestertown, IN 46304. Representative: H. E. Miller, Jr. (same as applicant). *Plumbing Goods*: from Shelby, OH, to Wickes Lumber and Supply Centers located in the States of AR, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MO, MS, NE, NH, NJ, NY, NC, OK, PA, SC, TN, TX, VT, VA and WI for 180 days. Applicant has been granted authority for 90 days. Supporting shipper: Wickes Lumber, 515 North Washington Avenue, Saginaw, MI 48607. Send protests to: Annie Booker, TA, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 123407 (Sub-568TA), filed April 13, 1979. Applicant: SAWYER TRANSPORT, INC., Sawyer Center, Route 1, Chestertown, IN 46304. Representative: H. E. Miller (same as applicant). (1) *Iron and steel articles*: from the facilities of Georgetown Steel Co., located in Georgetown, SC to points in the U.S. in and east of KS, NE, ND, SD, OK and TX; and (2) *Materials and supplies used in the manufacture of iron and steel articles*: from points in the U.S. in and east of KS, NE, ND, SD, OK, and TX to the facilities of Georgetown Steel Co., located in Georgetown, SC for 180 days. Supporting shipper: Georgetown Steel Corp., P.O. Box 619, Georgetown, SC. Send protests to: Annie Booker, TA, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 123987 (Sub-21TA), filed April 11, 1979. Applicant: JEWETT SCOTT TRUCK LINE, INC., Box 267, Mangum, OK 73554. Representative: Jewett Scott, Jr. (same as above). *Wire and wire products, fence and fencing materials*, from the plantsite of Bekaert Steel Wire Corporation, Van Buren, AR, to points in AZ, CA, CO, KS, IA, ID, LA, MO, MT, ND, NE, NM, NV, OK, OR, SD, TX, UT, WA, and WY, for 180 days. An underlying ETA seeking 90 days authority was granted. Supporting shipper: Bekaert Steel Wire Corporation, I-40 and Lee Creek Road, Van Buren, AR 72956. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission—Bureau of Operations, Box F-13206 Federal Building, Amarillo, TX 79101.

MC 124887 (Sub-78TA), filed April 3, 1979. Applicant: SHELTON TRUCKING SERVICE, INC., Route 1, Box 230, Altha, FL 32421. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *Material used in manufacturing of stoves and metal beds*, from points in and east of ND, SD, OK, NE, KS, and TX, to the facilities of Fisher Stoves in or near Watkinsville, GA (Oconee County), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Fisher Stoves, P.O. Box 481, Watkinsville, GA 30667. Send protests to: G. H. Fauss, Jr., DS, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 125126 (Sub-4TA), filed April 9, 1979. Applicant: CO-TRUX RENTALS, INC., RFD No. 1; Honeyman Street, Princeton, NJ 08540. Representative: Eugene M. Malkin, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. *Contract carrier*: irregular routes: (1) *Household cleaning, polishing and washing compounds, toilet preparations, and fabric dyeing, bleaching and softening agents*, from the facilities of Knomark, Inc. at or near Jamaica, NY to points in CA, DE, FL, GA, IL, IN, MD, MI, NC, OH, PA, TN, TX, WI and WV, and (2) *materials and supplies* (except in bulk) used in the manufacture, packaging and distribution of the commodities specified in (1) above on return, under continuing contract with Knomark, Inc. of Jamaica, NY, for 180 days. Supporting shipper(s): Knomark, Inc., 132-20 Merrick Blvd., Jamaica, NY 11434. Send protests to: District Supervisor, ICC, 428 East State Street, Room 204, Trenton, NJ 08608.

MC 126346 (Sub-25TA), filed April 11, 1979. Applicant: HAUPT CONTRACT CARRIERS, INC., P.O. Box 1023, Wausau, WI 54401. Representative: Elaine Conway, 10 S. LaSalle St., Suite 1600, Chicago, IL 60603. *Contract carrier*; irregular routes: (1) *Tractors and farm equipment, industrial, construction and excavation machinery and equipment and parts and attachments for the commodities described above*, from Racine & Wausau, WI; Burlington and Bettendorf, IA; and Terre Haute, IN; to the Ports of Baltimore, MD; Charleston, SC; Miami and Jacksonville, FL; New York, NY and Tacoma, WA; and (2) *Tractors* from Jacksonville, FL to points in IL, IN, KY, MI, OH, TN & WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): J. I. Case Co., 700 State St., Racine, WI 53404. Send protests to: Gail Daugherty, TA, ICC, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wisconsin 53202.

MC 127306 (Sub-11TA). Applicant: M. W. McCURDY & CO., INC., 401 Nora Lane, Houston, TX 77022. Representative: Daniel O. Hands, Suite 200, 205 W. Touhy Ave., Park Ridge, IL 60068. Common carrier over irregular routes. (1) *Precooked rice*, and (2) *rice which is otherwise exempt from economic regulation under 49 USC Section 10526(a)(6)*, when moving in mixed loads with precooked rice, from the facilities of Riviana Foods Inc. at or near Houston, TX to Phoenix and Tucson, AZ, Los Angeles, Riverside, San Diego and San Francisco, CA and Portland, OR, and points in the commercial zones of the destination points named, restricted to traffic originating at the named origin for 180 days. An underlying ETA seeking 90 days authority has been filed. Supporting shipper(s): Riviana Foods Inc., P.O. Box 2636, Houston, TX 77001. Send protests to: John F. Mensing, 8610 Federal Bldg., 515 Rusk Ave., Houston, TX 77002.

MC 129387 (Sub-90TA), filed April 5, 1979. Applicant: PAYNE TRANSPORTATION, INC., P.O. Box 1271, Huron, SD 57350. Representative: Charles E. Dye (same address as applicant's). *Meat, meat products and meat by-products and articles distributed by meat packinghouses* as described in Sections A, B and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk) from Esterville and Sioux City, IA; Sioux Falls, SD and Worthington, MN and their commercial zones to points in AZ, CA and NM, for 180 days. Supporting shipper(s): John Morrell & Co., 208 S. LaSalle St., Chicago, IL 60604. Send protests to: J. L. Hammond, DS, ICC, Room 455, Federal Bldg., Pierre, SD 57501.

MC 129387 (Sub-91TA), filed April 6, 1979. Applicant: PAYNE TRANSPORTATION, INC., P.O. Box 1271, Huron, SD 57350. Representative: Charles E. Dye (same address as applicant's). *Foodstuffs* from Minneapolis, MN and its commercial zone to Deadwood, SD, for 180 days. Supporting shipper(s): Twin City Fruit, Inc., 11 Sherman St., Deadwood, SD 57732. Send protests to: J. L. Hammond, DS, ICC, Room 455, Federal Bldg., Pierre, SD 57501.

MC 133686 (Sub-28TA), filed March 29, 1979. Applicant: JACOBSON TRANSPORT, INC., 1112 Second Avenue South, Wheaton, MN 56296. Representative: Thomas J. Burke, Jr., 1600 Lincoln Center Building, 1660 Lincoln Street, Denver, CO 80264. *Road*

asphalt, road oils and fuel oils, in bulk, in tank vehicles, from Minneapolis-St. Paul, MN to points in ND and SD, for 180 days. Supporting shipper(s): Duinack Bros. & Gilchrist, Prinsburg, MN 56281. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 133796 (Sub-56TA), filed April 13, 1979. Applicant: GEORGE APPEL TRUCKING, INC., 249 Carverton Road, Trucksville, PA 18708. Representative: Joseph F. Hoary, 121 S. Main St., Taylor, PA 18517. *Paint, roofing cement, masonry cleaning compounds, cement, glazing and caulking compounds, adhesives, and advertising material*, from Dunmore, PA, to Goshen, CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: United Gilsonite Laboratories, 103 Woodlawn Drive, Peckville, PA 18452. Send protests to: ICC, Wm. J. Green, Jr., Federal Bldg., 600 Arch St., Philadelphia, PA 19106.

MC 133867 (Sub-14TA), filed April 6, 1979. Applicant: STARLING TRANSPORT LINES, INC., P.O. Box 1733, Fort Pierce, FL 33450. Representative: Dwight L. Koerber, Jr., 805 McLachlen Bank Bldg., 666 Eleventh St., N.W., Washington, D.C. 20001. *Contract carrier*—Irregular route: *Foodstuffs* from New Paltz, NY to Anaheim, CA, La Grange, IL, Taylor, MI, Morrow, GA and Dallas, TX under a contract with Foodways National, Inc. for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Foodways National, Inc., 1000 Silas Avenue Dean Highway, Wethersfield, CT 06109. Send protests to: Donna M. Jones, TA, ICC-BOP, Monterey Bldg., Suite 101 8410 N.W. 53rd Terr., Miami, FL 33166.

MC 134197 (Sub-5TA), filed April 12, 1979. Applicant: JACKSON AND JOHNSON, INC., Route 31, West Church St., Box 327, Savannah, NY 13146. Representative: Philip C. Pinsky, Atty.-at-Law, Suite 1020—State Tower Bldg., Syracuse, NY 13202. *Foodstuffs, (except frozen foods and commodities in bulk)* from the plantsite of Ragu Foods, Inc. in Rochester, NY to points in CT, ME, MA, NJ, NH, RI and VT, with no transportation for compensation on return except as otherwise authorized. Supporting shipper(s): Ragu Foods, Kevin J. Clarke, Asst. Div. Traffic Mgr., 33 Benedict Place Greenwich, CT 06830. Send protests to: Interstate Commerce Commission, U.S. Courthouse and Federal Bldg., 100 S. Clinton St., Rm. 1259, Syracuse, NY 13260.

MC 134286 (Sub-102TA), filed April 20, 1979. Applicant: ILLINI EXPRESS, INC., P.O. Box 1564, Sioux City, IA 51102. Representative: Julie Humbert (same address as applicant). *Frozen foodstuffs (except in bulk)*, from the facilities of Continental Freezers of Illinois at or near Chicago, IL to points in CO, IN, IA, KS, KY, MI, MO, NE, and OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers(s): Continental Freezers of Illinois, 4220 S. Kildare Blvd., Chicago, IL. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 134286 (Sub-103TA), filed April 16, 1979. Applicant: ILLINI EXPRESS, INC., P.O. Box 1564 Sioux City, IA 51102. Representative: Julie Humbert (same address as above) *Weed killing compounds and animal feed supplements (except in bulk)*, from the facilities of Eli Lilly and Company at or near Clinton, Indianapolis, and Lafayette, IN to Memphis, TN; Lubbock, TX; Omaha, NE; and Des Moines, IA, and points in their commercial zones, for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers(s): Eli Lilly & Company, Box 618, Indianapolis, IN 46206. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 134477 (Sub-334TA), filed March 29, 1979. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Fresh meats, suspended*, from the facilities of Sunstar Foods, Inc., at or near south St. Paul, MN to Huron, SD, for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers(s): Sunstar Foods, Inc., Traffic Manager, 425 South Concord Street, South St. Paul, MN 55075. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 136786 (Sub-153TA), filed April 5, 1979. Applicant: ROBCO TRANSPORTATION, INC., 4333 Park Ave., Des Moines, IA 50321. Representative: William L. Libby, 7525 Mitchell Rd., Eden Prairie, MN 55343. *Foodstuffs (except commodities in bulk), in vehicles equipped with mechanical refrigeration*, from the facilities of Welch Foods, Inc. at or near Kennewick and Grandview, WA to points in CO and UT for 180 days. Supporting shippers(s): Welch Foods, Inc., 2 South Portage St., Westfield, NY 14787. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 138157 (Sub-140TA), filed April 9, 1979. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, 2931 South Market Street, Chattanooga, TN 37410. Representative: Patrick E. Quinn P.O. Box 9596, Chattanooga, TN 37412. *Agricultural pesticides* from Los Angeles, CA to points in the United States in and east of ND, SD, NE, KS, OK & TX, for 180 days. Restricted against transportation of commodities in bulk. Further restricted to traffic originating at the facilities of AMVAC Chemical Corporation. Supporting shippers(s): AMVAC Chemical Corporation, 4100 East Washington Blvd., Los Angeles, CA 90023. Send protests to: Glenda Kuss, TA, ICC, Suite A-422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 138176 (Sub-11TA), filed April 13, 1979. Applicant: RENTZ FARM SUPPLY, INC., Route 1, Brinson, GA 31725. Representative: Frank D. Hall, Suite 713, 3384 Peachtree Road, NE, Atlanta, GA 30326. *Nitrogen fertilizer solutions and phosphatic fertilizer solutions, in bulk, in tank vehicles*, from the facilities of Allied Chemical Corporation at or near Sylvania and Bainbridge, GA, to all points in FL and SC for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Allied Chemical Corporation, P.O. Box 2120, Houston, TX 77001. Send protests to: G. H. Fauss, Jr., DS, ICC, Box 3008, 400 West Bay Street, Jacksonville, FL 32202.

MC 138176 (Sub-12TA), filed April 3, 1979. Applicant: RENTZ FARM SUPPLY, INC., Route 1, Brinson, GA 31725. Representative: Frank D. Hall, Suite 713, 3384 Peachtree Road, NE, Atlanta, GA 30326. (1) *anhydrous ammonia and liquid nitrogen solutions, in bulk, in tank vehicles*; (2) *fertilizer, dry, in bulk haulers*; and (3) *liquid fertilizer solution, in bulk, in tank vehicles*, from the facilities of Kaiser Agricultural Chemical Co. at or near Bainbridge and Tifton, GA, to all points in FL and AL for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kaiser Agricultural Chemical Co., P.O. Box 246, Savannah, GA 31402. Send protests to: G. H. Fauss, Jr., DS, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 138257 (Sub-1TA), filed April 10, 1979. Applicant: BESTWAY TRANSPORT, INC., 4900 Holabird Ave., Baltimore, MD 21224. Representative: Robert L. Cope, 1730 M Street, N.W., Suite 501, Washington, DC 20036. (1) *Floor coverings, paneling, flooring*, between the facilities of Tate Architectural Products and Tate

Interiors, located within the commercial zone of Baltimore, MD, on the one hand, and, on the other, CT, DE, GA, MA, MD, NJ, NY, OH, PA, WV, and VA: (2) *Bottles*, between the facilities of Maryland Glass Co. and Chattanooga Glass, located within the commercial zones of Baltimore, MD, and the facilities of Sewell Plastics, Inc., located at Havre De Grace, MD, on the one hand, and, on the other, CT, DE, GA, MA, MD, NJ, NY, OH, PA, WV, and VA; and (3) *Bottles*, between the facilities of Chattanooga Glass located at Keyser, WV, on the one hand, and, on the other, CT, DE, GA, MA, MD, NJ, NY, OH, PA, WV and VA, for 90 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are six shippers. Their statements may be examined at the office listed below and headquarters. Send protests to: W. L. Hughes, DS, ICC, 1025 Federal Bldg., Baltimore, MD 21201.

MC 138627 (Sub-61TA), filed April 12, 1979. Applicant: SMITHWAY MOTOR EXPRESS, INC., P.O. Box 404, Fort Dodge, IA 50501. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Rd., Omaha, NE 68106. *Iron and steel articles and materials, equipment, and supplies (except in bulk) used in the manufacture of iron and steel articles*, between the facilities of North Star Steel Co. at Newport, MN, on the one hand, and, on the other, points in AR, CO, IL, IN, IA, KS, KY, MI, MO, NE, ND, OH, OK, SD, TN, TX and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): North Star Steel Co., P.O. Box 43189, St. Paul, MN 55164. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 138736 (Sub-11TA), filed March 12, 1979. Applicant: F B M TRUCKING INC., Hwy 154 East (P.O. Box 513), Fayetteville, GA 30214. Representative: Dorothy V. Meatows (same as applicant). *Fabric or piece goods—unfinished, woven, made of acetate, rayon or synthetic fiber or mixtures thereof, synthetic fiber, not woven nor knitted nor stitched, woven cotton fabric unfinished not printed, dyed or bleached* from points in AL, GA, NC, SC, TN and VA to the plantsite of Pacific Upholstery Supply Corp. at Gardena, CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Pacific Upholstery Supply Corp., 15151 S. Main St., Gardena, CA 90247. Send protests to: Sara K. Davis, T/A ICC, 1252 W. Peachtree St., NW., Rm 300, Atlanta, GA 30309.

MC 139206 (Sub-57TA), filed April 10, 1979. Applicant: F.M.S. TRANSPORTATION, INC., 2564 Harley

Drive, Maryland Heights, MO 64043. Representative: R. C. Mitchell (address same as above). *Contract carrier, irregular routes, Pipe or tubing, brass bronze of copper, automotive air conditioner parts, and aluminum or steel, in strips or coils, between the facilities of Thermal Components, Inc., Montgomery, AL, on the one hand, and, on the other, points in the U.S. (except AK and HI), under a continuing contract or contracts with Thermal Components, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Thermal Components, Inc., 2760 Gunter Pk. Dr., West, Montgomery, AL 36109. Send protests to: P. E. Binder, DS, ICC, Rm. 1485, 210 N. 12th St., St. Louis, MO 63101.*

MC 139276 (Sub-7TA), filed March 20, 1979. Applicant: ALOHA FREIGHTWAYS, INC., 1069 Bryn Mawr Avenue, Bensenville, IL 60106. Representative: Grace Kasallis (address same as applicant). *Iron and steel articles; from the facilities of Jones and Laughlin Steel Company located in Chicago, IL commercial zone to points in IL on and north of a line commencing at the IN-IL state line at U.S. Hwy 36 to Decatur then along U.S. Hwy 48 to the intersection of U.S. Hwy 29, then along U.S. Hwy 29 to the intersection of U.S. Hwy 36, then west along U.S. Hwy 36 to the IL-IA state line and Bettendorf, IA and Davenport IA. Supporting shipper(s): Jones and Laughlin Steel Corporation, 3001 Dickey Road, East Chicago, IN 46320. Send protests to: Annie Booker, Transportation Assistant, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.*

MC 13957 (Sub-38TA), filed March 30, 1979. Applicant: ADAMS TRANSIT, INC., P.O. Box 338, Friesland, WI 53935. Representative: Wayne Wilson, 150 E. Gilman St., Madison, WI 53703. *Paper, paper products, cellulose products, and textile softeners (except in bulk, in tank vehicles) (1) from Green Bay, WI to points in IL, IN, IA, KY, MI, MN, MO, OH, and PA (2) from Neelys Landing, MO to points in IL, IN, IA, KY, MI, MN, OH, PA and WI; and (3) from Cheboygan, MI to Mehoopany, PA, restricted to traffic originating at the facilities of Procter & Gamble Paper Products Co. at the named origins and destined to the named destinations, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Procter & Gamble Paper Products Co., P.O. Box 599, Cincinnati, OH 45201. Send protests to: Gail Daugherty, Transportation Asst., IL, 517 East*

Wisconsin Ave., Room 619, Milwaukee, Wisconsin 53202.

MC 139906 (Sub-46TA), filed March 26, 1979. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, 2156 West 2200 South, P.O. 30303, Salt Lake City, UT 84125. Representative: Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501. *Such commodities as are used, manufactured or dealt in by manufacturers and distributors of sound recording (except in bulk or those which because of their size or weight require special handling or equipment) (1) from Danbury, CT, New York, NY and points in their commercial zones, and points in NJ to Terre Haute, IN and points in its commercial zone and to points in CA. (2) From Terre Haute, IN and points in its commercial zone, to points in NJ and Danbury, CT, New York, NY, and points in their commercial zones, and to points in CA. (3) From points in CA to Terre Haute, IN and New York, NY and points in their commercial zones, and points in NJ. Restricted to the transportation of traffic originating or terminating at the facilities of CBS, Inc., for 180 days. Supporting shipper(s): CBS Records, a division of CBS, Inc., 51 East 52nd St., New York, NY 10019. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.*

MC 139906 (Sub-47TA), filed March 27, 1979. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, 2156 West 2200 South, P.O. Box 30303, Salt Lake City, UT 84125. Representative: Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501. *Such merchandise as is dealt in by a retail mail order house from the facilities of United States Sales Corporation in Pacoima, CA to points in the United States in and east of ND, SD, NE, CO and NM, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): United States Sales Corp., 12800 Rangoon Avenue, Pacoima, CA 91331. Send protests to: L. D. Helfer, DS, ICC, 5301 Fed. Bldg., Salt Lake City, UT 84138.*

MC 139906 (Sub-48TA), filed March 7, 1979. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, 2156 West 2200 South, P.O. Box 30303, Salt Lake City, UT 84125. Representative: Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501. *General commodities (except those of unusual value, Classes A & B explosives, commodities in bulk, household goods as defined by the Commission and those requiring special handling of equipment) from the facilities of Import-Export Shippers*

Cooperative, Inc., at Los Angeles, CA to points in the United States in and east of ND, SD, NE, KS, OK and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Import-Export Shippers Cooperative, Inc., 2437 East 14th Street, P.O. Box 2 1428 Los Angeles, CA 90021. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 140186 (Sub-31TA), filed April 16, 1979. Applicant: TIGER TRANSPORTATION, INC., P.O. Box 2248, Missoula, MT 59801. Representative: Joel E. Guthals, Attorney at Law, P.O. Box 2533, Billings, MT 59103. *General commodities, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment and those injurious to or contaminating to other lading, from points in CA, CO, GA, IL, KS, MN, MO, NE, NC, OR, UT, WA and WI, on the one hand, to MT and WY, on the other hand; and between points in MT and WY, restricted to transportation of shipments moving on bills of lading of exempt shipping associations operating pursuant to 49 U.S.C. Sec. 1002(c)(1), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Billings Retail Shippers Association, 1000-1st Ave. No., Billings, MT. Billings Shipping Corporation, 1000-1st Ave. No., Billings, MT. Billings Furniture Pool Association, 1000-1st Ave. No., Billings, MT. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.*

MC141426 (Sub-23TA), filed April 16, 1979. Applicant: WHEATON CARTAGE CO., 3rd & G Streets, Millville, NJ 08332. Representative: Lester R. Gutman, 805 McLachlen Bank Building, 666 Eleventh Street, NW, Washington, DC 20001. *Contract carrier: irregular routes: Medical, surgical and hospital supplies, from Broken Bow, Holdredge, and Columbus, NE to points in CT, NJ and NY, for 180 days. An underlying ETAF seeks 90-day authority. Supporting shipper(s): Becton-Dickerson & Co., Rutherford, NJ 07070. Send protests to: District Supervisor, ICC, 428 East State Street, Room 204, Trenton, NJ 08608.*

MC 141516 (Sub-3TA), filed April 6, 1979. Applicant: RICHARD L. HODGES, INC., P.O. Box 141, Unity, ME 04988. Representative: John C. Lightbody, 30 Exchange St., Portland, ME 04101. *Frozen and dry vegetable products from ME to points in AL, AR, FL, GA, LA, MD, MS, NC, SC, TN, TX, VA and WV. Supporting shipper(s): L & S Sales, Inc., P.O. Box 158, Ashland, ME 04732.*

McCain Foods, Inc., Washburn, ME 04786. Send protests to: Donald G. Weiler, District Supervisor, ICC, 76 Pearl St., Rm., 303, Portland, ME 04111.

MC 142096 (Sub-7TA), filed April 13, 1979. Applicant: MILLER BROS. TRUCKING CO., INC., 4100 W. Mitchell St., Milwaukee, WI 53215. Representative: James Spiegel, 6425 Odana Rd., Madison, WI 53719. *Such commodities as are manufactured, processed, sold, used or dealt in by manufacturers, converters, and printers of paper and paper products (except commodities in bulk), between the facilities of Bay West Co. at or near Columbus, Green Bay, and Mosinee, WI and points in the Chicago, IL Commercial Zone, restricted to transportation performed for Bay West Co., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Bay West Co., 1100 W. Mason St., Green Bay, WI 54303. Send protests to: Gail Daugherty, Transportation Asst., ICC, 517 E. WI Ave., Rm. 619, Milwaukee, Wisconsin 53202.*

MC 142246 (Sub-5TA), filed April 2, 1979. Applicant: VAN WYK, INC., C Street, Box 433, Sheldon, IA 51201. Representative: Edward A. O'Donnell, 1004 29th St., Sioux City, IA 51104. *Contract carrier: irregular routes: Meat, meat products, meat by-products, and articles distributed by meat packinghouses, as described in Sections A & C of appendix I to the Report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766, except hides and commodities in bulk, in tank vehicles, from the facilities of Dubuque Packing Co., LeMars, IA, to points in IL and IN, under continuing contract or contracts with Dubuque Packing Co. at LeMars, IA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Richard Ernst, Dubuque Packing Co., LeMars, IA 51031. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.*

MC 142846 (Sub-3TA), filed April 2, 1979. Applicant: ROYAL COACH TOURS, 644 Stockton Avenue, San Jose, CA 95126. Representative: Eldon M. Johnson, 650 California Street, Suite 2808, San Francisco, CA 94108. *Passengers and their baggage, in the same vehicle with passengers, in charter operations, beginning and ending at points in Santa Clara County, CA and extending to points in Douglas, Storey and Washoe Counties, and Carson City, NV, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Nevada Tahoe Tours 394 So.*

Bird Ave., San Jose, CA 95126 and Travelyn Tours, 650 Stockton Ave., San Jose, CA 95126. Send Protests To: District Supervisor Michael M. Butler, 211 Main—Suite 500, San Francisco, CA 94105. Supporting shipper(s): Nevada Tahoe Tours, 394 So. Bird Ave., San Jose, CA 95126. Travelyn Tours, 650 Stockton Ave., San Jose, CA 95126. Send protests to: District Supervisor Michael M. Butler, 211 Main—Suite 500, San Jose, CA 95126.

MC 142947 (Sub-2TA), filed April 13, 1979. Applicant: SCOTT D. WILLIAMS TRUCKING, INC., W248 S3029 Prairie Ave., Waukesha, WI 53186. Representative: Richard Alexander, 710 N. Plankinton Ave., Milwaukee, WI 53203. *Contract carrier; irregular routes: Steel and steel articles from points in the Chicago, IL Commercial Zone to Appleton, Butler, Cedarburg, LaCrosse, Madison, Milwaukee, Thorp and Waukesha, WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Badger Steel Sales, Inc., 34629 Bartlett Rd., Oconomowoc, WI. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, U.S. Federal Bldg, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wisconsin 53202.*

MC 143127 (Sub-31TA), filed April 9, 1979. Applicant: K. J. TRANSPORTATION, INC., 1000 Jefferson Rd., Rochester, NY 14623. Representative: S. Michael Richards, P.O. Box 225, Webster, NY 14580. *(1) Office equipment and supplies and (2) materials, equipment and supplies used in the sale, manufacture and distribution of the items named in (1), (except in bulk), between the facilities of Burroughs Corporation at or near Park Ridge, NJ, Rochester, NY, Bardstown, KY and City of Industry, CA for 180 days. Underlying ETA for 90 days under R-16 was granted with effective date of March 28, 1979. Supporting shipper(s): Burroughs Corporation, John Villano, Traffic Manager, 76 Park Avenue, Park Ridge, NJ 07656. Send protests to: Interstate Commerce Commission, U.S. Courthouse & Federal Bldg., 100 S. Clinton St.—Rm. 1259, Syracuse, NY 13260.*

MC 143127 (Sub-32TA), filed April 4, 1979. Applicant: K. J. TRANSPORTATION, INC., 1000 Jefferson Road, Rochester, NY 14623. Representative: S. Michael Richards, P.O. Box 225, Webster, NY 14580. *Foodstuffs, from the facilities of Campbell Soup Company at Napoleon, OH to points in IL, IN, KY, NJ, NY, PA*

and WV for 180 days. No ETA has been filed. Permanent will be filed within 60 days. Supporting shipper(s): Campbell Soup Company, Harry Sanford, Mgr. of Transportation, Napoleon, OH 43545. Send protests to: Interstate Commerce Commission, U.S. Courthouse & Federal Bldg., 100 S. Clinton St.—Rm. 1259, Syracuse, NY 13260.

MC 143127 (Sub-33TA), filed April 16, 1979. Applicant: K.J. TRANSPORTATION, INC., 1000 Jefferson Road, Rochester, NY 14623. Representative: S. Michael Richards, P.O. Box 225, Webster, NY 14580. *(1) Synthetic latex, liquid, and synthetic plastics, liquid, in drums (requiring protective service), battery insulating partitions and pulpboard, from the facilities of W. R. Grace & Co. at Owensboro, KY to all points in the states of ND, SD, NE, CO, OK and TX and all states east thereof, and (2) Materials, equipment and supplies used in the manufacture, production, and distribution of the commodities named in (1) above, from the destination states named in (1) above to the facilities of W. R. Grace & Co. at Owensboro, KY for 180 days. RESTRICTION: Restricted against the transportation of commodities in bulk, in tank vehicles and commodities which by reason of size or weight, require the use of special equipment. Underlying ETA for 90 days under R-18 was granted April 10, 1979. Supporting shipper(s): W. R. Grace & Co., Organic Chemicals Division, J. D. Feagin, Traffic Mgr., 55 Hayden Ave., Lexington, MA 02173. Send protests to: Interstate Commerce Commission, U.S. Courthouse & Federal Bldg., 100 S. Clinton St.—Rm. 1259, Syracuse, NY 13260.*

MC 143246 (Sub-4TA), filed March 30, 1979. Applicant: LAND TRANSPORT CORPORATION, 24 Sabrina Rd., Wellesley, MA 02181. Representative: James E. Mahoney, 148 State Street, Boston, MA 02109. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *such commodities as are sold in drug, chain, discount and department stores (except commodities in bulk, in tank vehicles) under a continuing contract with Newton Buying Corporation* between the distribution centers and warehouses of Newton Buying Corporation located in Framingham, MA on the one hand, and, on the other, Farmington, MI, for 180 days. Supporting Shipper(s): Newton Buying Corporation, 770 Cochituate Rd., Framingham, MA 01701. Send protests to: John B. Thomas, District Supervisor, Interstate Commerce Commission, 150

Causeway Street, Room 501, Boston, MA 02114.

MC 144027 (Sub-8TA), filed April 20, 1979. Applicant: WARD CARTAGE AND WAREHOUSING, INC., Route #4, Glasgow, KY 42141. Representative: Walter Harwood, Attorney, P.O. Box 15214, Nashville, TN 37215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, (1) General Commodities, except those of unusual value, classes A and B explosives, household goods, commodities in bulk, and those requiring special equipment, from the facilities of or used by the Procter and Gamble Distributing Company, at or near Cincinnati, OH, to points in KY, except Louisville; and (2) Foodstuffs, from Lexington, KY, to the facilities of or used by the Procter and Gamble Distributing Company, at or near Cincinnati, OH. Supporting Shipper(s): W. P. Edmund, III, Traffic Analyst, The Procter & Gamble Distributing Company, P.O. Box 599, Cincinnati, OH 45201. Send protests to: Mrs. Linda H. Sypher, District Supervisor, Interstate Commerce Commission, 426 Post Office Building, Louisville, KY 40202.

MC 144117 (Sub-37TA), filed April 10, 1979. Applicant: TLC LINES, INC., P.O. Box 1090, Fenton, MO 63026. Representative: Bernard J. Kompare, Sullivan & Sullivan Associates, Ltd., 10 S. LaSalle St., Suite 1600, Chicago, IL 60603. *Pet food ingredients* (except in bulk) from the facilities of Consolidated Pet Foods, Inc., at or near Amarillo, TX, to Columbus, OH; Kankakee and Chicago, IL; Topeka, KS; Los Angeles, CA; Crete, NE, and Lafayette, IN, for 180 days. Restricted to the transportation of traffic originating at the above-named origin. Supporting Shipper(s): Consolidated Pet Food, Inc., P.O. Box 30488, Amarillo, TX 79120. Send protests to: P. E. Binder, DS, ICC, Rm. 1485, 210 N. 12th St., St. Louis, MO 63101.

MC 145406 (Sub-34TA), filed March 30, 1979. Applicant: MIDWEST EXPRESS, INC., 380 East Fourth St., Dubuque, IA 52001. Representative: Richard A. Westley, Attorney, 4506 Regent St., Suite 100, Madison, WI 53705. *Meat, meat products and articles distributed by meat packinghouses*, from the facilities of Wilson Foods Corporation, located at or near Albert Lea, MN; Cedar Rapids, Cherokee and Des Moines, IA to points in WA and OR for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Wilson Foods Corporation, 4545 Lincoln Blvd., Oklahoma City, OK 73105. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 145406 (Sub-35TA), filed April 4, 1979. Applicant: MIDWEST EXPRESS, INC., 380 E. Fourth St., Dubuque, IA 52001. Representative: Richard A. Westley, Attorney, 4506 Regent St., Suite 100, Madison, WI 53705. *Meat* from the plantsite of Iowa Beef Processors, Inc., (IBP) facilities at Dakota City, NE and Sioux City, IA to points in CA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Iowa Beef Processors, Inc., Dakota City, NE 68731. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 145566 (Sub-5TA), filed April 4, 1979. Applicant: TERRY W. KULTGEN & NORMAN W. KULTGEN d/b/a B & K ENTERPRISES, 7950 S. 27th St., Oak Creek, WI 53154. Representative: Terry W. Kultgen, 5605 Brookhaven Dr., Racine, WI 53406. *Rotating biological disc assemblies*, which because of size or weight require special equipment or special handling, from the facilities of Tait/Bio-Shafts, Inc. at Oconomowoc, WI to Harvard, IL and points in its Commercial Zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Tait/Bio-Shafts, Inc., 5656 N. Frontier Rd., Oconomowoc, WI 53066. Send protests to: Gail Daugherty, Transportation Asst., ICC, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wisconsin 53202.

MC 145566 (Sub-6TA), filed April 4, 1979. Applicant: TERRY W. KULTGEN & NORMAN W. KULTGEN d/b/a B & K ENTERPRISES, 7950 S. 27th St., Oak Creek, WI 53154. Representative: Terry W. Kultgen, 5605 Brookhaven Dr., Racine, WI 53406. *Commodities which because of size or weight require special handling or special equipment*, from the facility of Voeller Mfg. Co. at Port Washington, WI to points in IN, MI, OH, PA, NY, NJ, VA, MD and WV, for 180 days. Supporting shipper(s): Voeller Mfg. Co., 455 Moore Rd., Port Washington, WI. Send protests to: Gail Daugherty, Transportation Asst., ICC, 517 E. Wisconsin Avenue, Room 619, Milwaukee, Wisconsin 53202.

MC 145566 (Sub-7TA), filed April 4, 1979. Applicant: TERRY W. KULTGEN & NORMAN W. KULTGEN d/b/a B & K ENTERPRISES, 7950 S. 27th St., Oak Creek, WI 53154. Representative: Terry W. Kultgen, 5605 Brookhaven Dr., Racine, WI 53406. *Steel wire and steel rod*, from the facilities of Charter Rolling Div. of Charter Mfg. at Saukeville, WI to the facilities of National Lock Washer Div. of Charter Mfg. at North Branch, NJ, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Charter Rolling, Div. of Charter Mfg.,

Saukeville, WI 53080. Send protests to: Gail Daugherty, Transportation Asst., ICC, 517 E. Wisconsin Avenue, Room 619, Milwaukee, Wisconsin 53202.

MC 145596 (Sub-2TA), filed April 20, 1979. Applicant: A & M EXPRESS, INC., 1136 Haley Road, Murfreesboro, TN 37130. Representative: C. B. Smotherman (same address as applicant). *Paper, paper forms, and related products and commodities used in the manufacture and distribution of paper and paper forms* between Rutherford County, TN, on the one hand, and, on the other, points in AL, FL, GA, IL, KS, LA, MN, MO, OH, TX, WI, IN, ME, MI, NC, PA and VA, for 180 days. Supporting shipper(s): Standard Register Company, P.O. Box 1187, 626 Albany, Dayton, OH 45401. Send protests to: Glenda Kuss, TA, ICC, Suite A-422 U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 145797 (Sub-6TA), filed April 3, 1979. Applicant: NANCY TRANSPORTATION, INC., 429 Stablestone Dr., Chesterfield, MO 63017. Representative: R. Thomas Grasso (address same as above). *Foodstuffs, candy and confectionery* (except in bulk, in tank vehicles) from the facilities of Sunmark, Inc., at or near Itasca, IL, to the facilities of Sunmark, Inc., at or near St. Louis, MO, and from the facilities of Sunmark, Inc., at or near St. Louis, MO and Itasca, IL to New Jersey. Supporting shipper(s): Sunmark, Inc., 10795 Watson Rd., St. Louis, MO 63123. Send protests to: P. E. Binder, DS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 145897 (Sub-2TA), filed April 4, 1979. Applicant: WOODCO, d.b.a. S N F PETROLEUM TRANSPORTATION, P.O. Box 1868, Casper, WY 82602. Representative: S. Sheldon Wood (same address as applicant). *Petroleum products*, between points in WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Exxon Minerals Co., Highland Mine Operations, P.O. Box 3020, Casper, WY 82602. Send protests to: District Supervisor Paul A. Naughton, Interstate Commerce Commission, Room 105, Federal Building and Court House, 111 South Wolcott, Casper, WY 82601.

MC 145907 (Sub-TA), filed April 9, 1979. Applicant: RICHARD KILLIAN d.b.a. KILLIAN TRUCKING, 345 N. Highway Dr., Fenton, MO 63026. Representative: B. W. LaTourette, Jr., 11 S. Meramec, Suite 1400, St. Louis, MO 63105. *Contract carrier*, irregular routes (1) *Meat* from the plantsite of Diamond Meat Packing Company, Carlinville, IL to points in the US except AK, HI, NC, SC, ND, SD, ME, NH, VT, MA, CT, RI, DE, MD and DC and (2) New Restaurant

Fixtures, Pre-Fabricated Interior

Fixtures, including necessary pre-cut lumber, from the sites of Holekamp Industries, Inc., and Marion Lumber Co. at or near St. Louis, MO, on the one hand, and, on the other, points in IA, WI, MN, NE, NV, IL, FL, MI and KS, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Diamond Meat Packing Co., Carlinville, IL, 62626. Holekamp Industries, Inc., 425 N. Highway Dr., Fenton, MO 63026. Marion Lumber Co., 13575 St. Charles Rock Rd., Bridgeton, MO 63044. Send protests to: P. E. Binder, OIC, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 146416 (Sub-5TA), filed April 10, 1979. Applicant: HERITAGE TRANSPORTATION COMPANY, 155 N. Eucla Avenue, San Dimas, CA 91773. Representative: R. Y. Schureman, 1545 Wilshire Blvd., Los Angeles, CA 90017. *Chemicals; cleaning, scouring and washing compounds; plastic liquids and sheeting; ink; defoaming compounds; laminating machinery, parts, solvents, pallets and containers in mechanically refrigerated trailers*, between the facilities of Thiokol/Dynachem Corporation at or near Tustin, CA and their warehouse facilities in Los Angeles, Orange, Riverside and San Bernardino Counties, CA, on the one hand, and, on the other, points in MA, NJ, VA, NC, FL, MI, IN, and TX, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Thiokol/Dynachem Corporation, P.O. Box 12047, Santa Ana, CA. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, P.O. Box 1551, Los Angeles, CA 90053.

MC 146466 (Sub-1TA), filed April 16, 1979. Applicant: SUMMIT TRUCK LINES, LTD., RR. #3, Pella, IA 50219. Representative: Robert R. Rydell, 1020 Savings and Loan Bldg., Des Moines, IA 50309. *Swinging meat* from Pella, IA to IL, WI, NE and MN for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Pella Packing Co., Inc., R.R. #3, Pella, IA 50219. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des. Moines, IA 50309.

MC 146546 (Sub-1TA), filed April 12, 1979. Applicant: JOHN W. & CARLENE C. ARNETT, dba LUCARJO CARRIERS, 4643 Prescott, Lincoln, NE, 68506. Representative: John W. Arnett (same address as applicant). (1) *Furniture*, from the facilities of Harris of Pendleton at Lincoln, NE, to points in PA, NJ, CT, DE, DC, IL, MA, MD, OH, VA, NY, NE, IA, and IN; (2) *materials, equipment and supplies used in the manufacture, sale*

and distribution of furniture, from destination states named in (1) above to the facilities of Harris of Pendleton at Lincoln, NE. An underlying ETA seeks 90 days authority. Supporting shipper(s): Paul Schwab, Plant Manager, Harris of Pendleton, 4909 Stockwell Street, Lincoln, NE, 68506. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Building & Court House, 100 Centennial Mall North, Lincoln, NE, 68508.

MC 146557 (Sub-1TA), filed April 3, 1979. Applicant: ROBERT W. GRAVERT, dba S & R RENTALS, 5024 "I" Parkway, Sacramento, CA 95823. Representative: Raymond A. Greene, Jr., Handler, Baker & Greene, 100 Pine Street, Suite 2550, San Francisco, CA 94111. *Contract carrier, irregular routes: Fabricated structural steel and steel products* from Sacramento and Fresno, CA to North Valmeij, NV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Pittsburgh-Des Moines Steel Company, P.O. Box 115469, Sacramento, CA 95813. Send protests to: A. J. Rodriguez, DS, ICC, 211 Main Street, Suite 500, San Francisco, CA 94105.

MC 146566 (Sub-TA), filed March 21, 1979. Applicant: JAK-WIL EXPRESS, INC., Box 161, Mankato, MN 56001. Representative: Grant J. Merritt, 4444 IDS Center, Minneapolis, MN 55402. *Plastic film and plastic articles (except in bulk)* from Mankato, MN to Waukesha, Madison and Milwaukee, WI and Chicago, IL, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): National Poly Products, Traffic Coordinator, P.O. Box 1180, Mankato, MN 56001. SEND PROTESTS TO: Delores A. Poe, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 146567 (Sub-2TA), filed March 21, 1979. Applicant: COAST TRANSPORT, INC., 4667 Somerton Road, Treviso, PA 19407. Representative: Ira G. Megdal, Esq., 499 Cooper Landing Road, Cherry Hill, NJ 08002. *General commodities (except commodities in bulk, commodities which because of size or weight require specialized handling, household goods as defined by the Commission, and Classes A and B explosives)*, in containers, (1) between Phila., PA on the one hand, and Baltimore, MD, New York, NY, and Norfolk, VA, on the other (2) between pts. in Phila., PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Solano Forwarding Co., 904 Public Ledger Bldg., Phila., PA. Davies Turner Co., Inc., 113

Chestnut St., Phila., PA 19106. Eckert Overseas Agencies, Inc., 613 Lafayette Bldg. 5th and Chestnut Sts., Phila., PA 19106. Tilston Roberts, Inc., 716 Mall Bldg., Phila., PA 19106. Send protests to: Carol Rosen, TA, ICC, 600 Arch St., Rm. 3238, Philadelphia, PA 19106.

MC 146636 (Sub-1TA), filed April 16, 1979. Applicant: J. K. Smith, P. Smith and M. R. Smith d.b.a. SMITH TRUCKING, Route 1, Box 43, Round Lake, MN 56167. Representative: Steven K. Kuhlmann, P.O. Box 82028, Lincoln, NE 68501. *Canned goods* from Fond du Lac, WI to Birmingham, AL; Augusta, Atlanta and Rome, GA; Jacksonville, Miami, Pensacola and Monticello, FL; New Orleans, LA; Memphis, TN, Harrisonburg, and Roanoke, VA; Hayward and Los Angeles, CA; Salt Lake City, UT; and Portland, OR. An underlying ETA seeks 90 days authority. Supporting shipper(s): Valley Warehouse, P.O. Box 67, Ripon, WI 54971. Send protests to: Delores A. Poe, T/A, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 146646 (Sub-2TA), filed March 30, 1979. Applicant: BRISTOW TRUCKING CO., P.O. Box 63558, Birmingham, AL 35217. Representative: John R. Frawley, Jr., 5506 Crestwood Blvd., Birmingham, AL 35212. *Paper, paper products and wood pulp* between the facilities of Scott Paper Company located in the commercial zones of Mobile, AL; Chicago, IL; Philadelphia, PA; Fond Du Lac, Green Bay, Marinette and Oconto Falls, WI. For 180 days. Supporting Shipper(s): Scott Paper Company, Scott Plaza I, Philadelphia, PA 19113. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operation, ICC, Room 1616—2121 Building, Birmingham, AL 35203.

MC-146657 (Sub-1TA), filed April 3, 1979. Applicant: LEGAN BUS LINES, LTD., 3027—130 Avenue, Edmonton, AB, Canada T5A 3M1. Representative: Lawrence I. Lindeman, 425—13th St. NW, Suite 1032, Washington, DC 20004. *Passengers and their baggage, in special and charter operations*, from ports of entry on the U.S.-Canada Boundary line in WA, MT, ND and MN to points in the United States (except AK and HI), and return; restricted to traffic originating in foreign commerce, for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers(s): L. R. Blair, Clover Bar, Pioneer Court, 6 Mission St., Sherwood Park, AB Sherwood Oaks Senior Citizens, 100 Fir St., Sherwood Park, AB Great Oaks Seniors, Ste 101-6 Mission St., Sherwood Park, AB Sally Smith, Past Pres., Sherwood Oaks Senior

Citizens Assn., 7120—138 Ave., Edmonton, AB Eleanor Blair, Senior Citizen, 311-6 Mission St., Sherwood Park, AB. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 146667 (Sub-2TA), filed March 30, 1979. Applicant: VERMILLION GRAIN CO., INC., P.O. Box 96, Vermillion, KS 66544. Representative: Clyde N. Christey, Kansas Credit Union Bldg., 1010 Tyler, Suite 110-L, Topeka, KS 66612. *Ammonium Nitrate*, from the facilities of N-ReN Corp. near Pryor, OK to points in KS north of Interstate I-70 and east of U.S. Hwy 81, and points in NE south of U.S. Interstate 80 and east of U.S. Hwy 81, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): N-ReN Corporation, 256 McCullough St., Cincinnati, OH 45226. Send protests to: Thomas P. O'Hara, D/S, ICC, 256 Federal Bldg. 444 S.E. Quincy, Topeka, KS 66683.

MC 146677 (Sub-1TA), filed April 3, 1979. Applicant: GRANNY'S EXPRESS, INC., 2101 Ross Ave., Cincinnati, OH 45212. Representative: E. H. van Deusen, P.O. Box 97, 220 West Bridge St., Dublin, OH 43017. *General commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment)*, between points in the Cincinnati, OH, Commercial Zone, on the one hand, and, on the other, points in OH, for 180 days. RESTRICTED to the transportation of shipments having a prior or subsequent movement by rail. An underlying ETA seeks 90 days authority. Supporting shippers(s): Rail-Van, Inc., Cincinnati, OH; C. W. Zumbiel Co., Cincinnati, OH; Nationwide Shippers Cooperative Ass'n., Inc., Cincinnati, OH; International Paper Co., Cincinnati, OH; DuBois Chemicals, Sharonville, OH; and Levi Strauss & Company, Florence, KY. Send protests to: Bureau of Operations, ICC, Wm. J. Green, Jr., Federal Bldg., 600 Arch St., Room 63238, Philadelphia, PA 19106.

MC 146726 (Sub-1TA), filed April 2, 1979. Applicant: HENRY MEARS, Rural Route 3, Harrisburg, AR 72432. Representative: Henry Mears, Rural Route 3, Harrisburg, AR 72432. Farm and Grain storage building, and equipment. From points of manufacture in IL and IN to points of erection in AR for 180 days as a contract carrier over irregular routes. Supporting shippers(s): Jerry Jacobs Construction, Route 1, Harrisburg, AR 72432. Send protests to: William H. Land, Jr., District Supervisor,

3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 146766 (Sub-1TA), filed April 12, 1979. Applicant: F. E. BLATCHLEY, INC., Silver Street, Portland, CT 06480. Representative: Edward F. Bowes, Esq., P.O. Box 1409, Fairfield, NJ 07006. Contract carrier: irregular routes: *Petroleum products in bulk*, in tank vehicles, from New Haven, CT to points on and west of MA Highway 12 in MA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Getty Refining & Marketing Company, P.O. Box 1650, Tulsa, OK 74102. Send protests to: J. D. Perry, Jr., DS, ICC, 135 High Street, Hartford, CT 06103.

MC 146766 (Sub-2TA), filed April 12, 1979. Applicant: F. E. BLATCHLEY, INC., Silver Street, Portland, CT 06480. Representative: Edward F. Bowes, Esq., P.O. Box 1409, Fairfield, NJ 07006. Contract Carrier: irregular routes: *Petroleum products in bulk*, in tank vehicles, from East Hartford, New Haven, West Haven, East Haven, Rocky Hill and Wethersfield, CT to points and places in MA on and west of MA Highway 12, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): F. L. Roberts & Co., Inc., 93 West Broad Street, Springfield, MA 01105. Send protests to: J. D. Perry, Jr., DS, ICC, 135 High Street, Hartford, CT 06103.

MC 146777 (Sub-1TA), filed April 10, 1979. Applicant: CENTRAL STATES DISPATCH, INC., 2619 N St., Omaha, NE 68107. Representative: D. Douglas Titus, Suite 510, Bensen Bldg., Sioux City, IA 51101. (1) *General commodities (except those of unusual value, Classes A & B explosives and household goods), in vehicles equipped with mechanical refrigeration, having a prior or subsequent movement by water*, between points in the commercial zones of Baltimore, MD; New York, NY; Norfolk, VA; Philadelphia, PA, on the one hand, and, on the other, points in CO, IA, IL, IN, KS, KY, MI, MN, MO, NE, NY, HI, OH, PA, SD, AND WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 6 statements in support attached to this application which may be examined at the ICC in Washington, D.C. or at the field office named below. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 115826 (Sub-422TA), filed March 12, 1979 and published in the Federal Register issue of April 12, 1979 and republished as corrected in this issue. Applicant: W. J. DIGBY, INC., 6015 East 58th Ave., Commerce City, CO 80022. Representative: Howard Gore (same address as applicant), *Meats and meat products*, from Phoenix, AZ to points in NM, TX, OK TN, GA and FL for 180 days. An UNDERLYING ETA seeks 90 days authority. Supporting shipper(s) Cudahy Foods Co., 100 W. Clarendon Phoenix, AZ 85038. Send protests to Herbert C. Ruoff, D/S, 492 U.S. Customs House, 721 19th St., Denver, CO 80202. The purpose of this republication is to indicate the proper destination territory of this application.

MC 107486 (Sub-1172TA), filed October 30, 1978 and republished as corrected this issue. Applicant: RUAN TRANSPORT CORP., 666 Grand Ave., 3200 Ruan Center, Des Moines, IA 50309. Representative: E. Check (same as applicant), *Inedible animal fat*, in bulk in tank vehicles, from Huro, SD to Sleepy Eye, MN, for 180 days. An underlying ETA seeks authority. Supporting shipper(s): Armour Food Co., Clarendon, Greyhound Tower, Phoenix, AZ 85077. Send protests to Herbert W. Allen, D/S, 518 Federal Bldg., Des Moines, IA 50309.

By the Commission.

H. G. Homme, Jr.,
Secretary.

[Notice No. 71]

[FR Doc. 79-14331 Filed 5-8-79; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Applications

Important Notice

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and Six (6) copies of protests to an application may be filed with the field official named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall

specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

MC 13087 (Sub-47TA), filed February 2, 1979. Applicant: STOCKBERGER TRANSFER & STORAGE, INC., 524 Second Avenue SW., Mason City, IA 50401. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. *Foodstuffs, except in bulk*, from the facilities of Todo, Inc., at Charles City, IA to Milwaukee, WI; Minneapolis-St. Paul, MN; Chicago, IL; Kansas City, MO; St. Louis and Kansas City, MO, and points in their commercial zones, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Todo, Inc., 901 N. Main St., Charles City, IA 50616. Sent protests to: Herbert W. Allen, DS, ICC, 518 Federal Building, Des Moines, IA 50309.

MC 21337 (Sub-4TA), filed February 14, 1979. Applicant: RAPID FILM SERVICE, INC., P.O. Box 639, Grand Island, NE. 68801. Representative: Clarence C. Wagner (same address as applicant). *General commodities, except those requiring special equipment*, between Broken Bow, NE, and points in Blaine, Custer, Grant, Hooker, Logan, Sheridan, Thomas counties, NE. An underlying ETA seeks 90 days authority. Applicant proposes to tack at Broken Bow, NE, and interline at Grand Island and Omaha, NE. Supporting shipper(s): Baldwin Hardware, Mullen, NE, Sandhills Tack Shop, Hyannia, NE, Schmoker Chevrolet & Oldsmobile, Mullen, NE, Brandin' Iron, Theford, NE, Schmoker Oil Co., Mullen, NE, McMullen Propane Co., Dunning, NE, B&D Enterprises, Mullen, NE. Sent protests to: Max H. Johnston, District Supervisor, 285 Federal Building and

Court House, 100 Centennial Mall North, Lincoln, NE 68508.

MC 2421 (Sub-20TA), filed February 22, 1979. Applicant: NEWTON TRANSPORTATION COMPANY, INC., P.O. Box 678, Lenoir, NC 28645. Representative: Charles H. Keller 510 Greer Circle, SW, Lenoir, NC 28645. *New furniture and furniture parts* from the plantsites and warehouse facilities of Broyhill Furniture Industries, Inc. located in Rutherfordind, NC to points in PA, for 180 days. Supporting shipper(s): Broyhill Furniture Industries, Inc., Lenoir, NC. Send protests to: District Supervisor Terrell Price, 800 Briar Creek Rd.—Rm CC516, Mart Office Building, Charlotte, NC 28205.

MC 26396 (Sub-226TA), filed February 23, 1979. Applicant: POPELKA TRUCKING CO. d.b.a. THE WAGGONERS, P.O. Box 990, Livingston, MT 59047. Representative: Bradford E. Kistler P.O. Box 82028, Lincoln, NE 68501. *Agricultural chemicals* from Atlanta, IL to points in IA, KS, MN, MO, NE, SD and WI. Supporting shipper(s): Hopkins Agricultural Chemicals, P.O. Box 7532, Madison, WI 53707. Send protests to: Paul J. Labane, DS, ICC 2602 First Avenue North, Billings, MT 59101.

MC 26396 (Sub-228TA), filed February 26, 1979. Applicant: POPELKA TRUCKING CO. d.b.a. THE WAGGONERS, P.O. Box 990, Livingston, MT 59047. Representative: Bradford E. Kistler P.O. Box 82028, Lincoln, NE 68501. *Starch* from Keokuk, IA to points in the states of ND and MT. Supporting shipper(s): Wyo-Ben, 1242 N. 28th, Billings, MT 59101. Send protests to: Paul J. Labane, DS, ICC 2602 First Avenue North Billings, MT 59101.

MC 28307 (Sub-24TA), filed February 14, 1979. Applicant: FREDRICKSON MOTOR EXPRESS CORPORATION, P.O. Box 21098, Charlotte, NC 28206. Representative: Loy J. Foster (same address as applicant). *Common Carrier-Regulair Routes; Glass containers & fiberboard containers* from Midway, NC over US Hwy 52 to Winston-Salem, NC then over US Hwy 158 to Reidsville, NC then over NC Hwy 14 to Eden, NC for 180 days. An underlying ETA seeks 90 days authority. NOTE: Applicant proposes to Tack the authority sought here with its lead docket, MC-28307. Supporting shipper(s): Owens-Illinois, Inc., P.O. Box 1035, Toledo, OH 43666. Send protests to: District Supervisor Terrell Price, 800 Briar Creek Rd.—Rm CC516, Mart Office Building, Charlotte, NC 28205.

MC 34227 (Sub-15TA), filed February 9, 1979. Applicant: PACIFIC INLAND

TRANSPORTATION COMPANY, 15910 East Colfax, Aurora, CO 80011.

Representative: James P. Beck, 717 17th St., Suite 2600, Denver, CO 80202. *Contract carrier: irregular routes: New furniture and furnishings* from the facilities of Samsonite Corporation near Ft. Smith, AR to points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA and WY for 180 days. RESTRICTION: Restricted to a transportation service to be performed under continuing contract with Samsonite Corporation of Denver, CO. Supporting shipper: Samsonite Corporation, Route #1 Samsonite Blvd., Murfreesboro, TN 37130. Send protests to: District Supervisor Roger L. Buchanan, ICC, 721 19th St., 492 U.S. Customs House, Denver, CO 80202.

MC 41347 (Sub-10TA), filed March 1, 1979. Applicant: DEBACK CARTAGE CO., INC., 4041 W. Burnham St., Milwaukee, WI 53210. Representative: Richard Alexander, 710 N. Plankinton Ave., Milwaukee, WI 53203. *Fire brick shapes, furnace lining cement, crushed fire brick, and fire brick plastic and high-temperature mortar*, between the facilities of Chicago Fire Brick Co. at Chicago, IL and the facilities of D & S Distribution Service Warehouse, a Div. of D & S Investment Corp., at Wauwatosa, WI, for 180 days. Supporting shipper(s): Chicago Fire Brick Co., 1467 N. Elston Ave., Chicago, IL 60622. Send protests to: Gail Daugherty, TIA, ILL, 517 East Wisconsin Ave., Room 619, Milwaukee, Wisconsin 53202.

MC 41406 (Sub-113TA), filed January 26, 1979. Applicant: ARTIM TRANSPORTATION SYSTEM, INC., 7105 Kennedy Ave., Hammond, IN 46323. Representative: Wade H. Bourdon (same as applicant). *Iron and steel articles*, from Keokuk, IA to OH, PA, WV for 180 days. Supporting shipper(s): Amsted Industries, Inc., Griffin Wheel Company, 200 W. Monroe St., Chicago, IL 60606. Send protests to: TA Annie Booker, 219 S. Dearborn St. Rm. 1386, Chicago, IL 60604.

MC 42487 (Sub-909TA), filed February 20, 1979 Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Dr., Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208. *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, serving the facilities of Trent Tube Division, Colt Industries, Inc., at East Troy, WI, as an off-route point in connection with presently

authorized regular route operations for 180 days. NOTE: Applicant proposes to interline traffic with its present connecting carriers at authorized interline points throughout the United States. Supporting shipper(s): Colt Ind. Crucible Inc., Trent Tube Div., 2188 Church St., East Troy, WI 53120. Send protests to: Michael M. Butler, District Supervisor, 211 Main, Suite 500, San Francisco, CA 94105. Supporting shipper: Colt Inc. Crucible Inc., Trent Tube Div., 2188 Church St., East Troy, WI 53120. Send protests to: District Supervisor Michael M. Butler, 211 Main—Suite 500, San Francisco, CA 94105.

MC 51146 (Sub-670TA), filed March 1, 1979. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: John R. Patterson, 2480 E. Commercial Blvd., Ft. Lauderdale, FL 33308. (a) *Containers, container ends, and closures:* (b) *commodities manufactured or distributed by manufacturers and distributors of containers when moving in mixed loads with containers; and (c) materials, equipment, and supplies used in the manufacture and distribution of containers, container ends, and closures.* between the facilities of Brockway Glass Company, Inc. at Muskingum County, OH and LaCrosse County, WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Brockway Glass Co., McCullough Ave., Brockway, PA 15824. Send protests to: Gail Daugherty, T/A, ICC, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wisconsin 53202.

MC 51146 (Sub-677TA), filed February 20, 1979. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: John R. Patterson, 2480 E. Commercial Blvd., Ft. Lauderdale, FL 33308. (1) *Such merchandise as is dealt in by wholesale, retail, chain grocery, and food business houses; and (2) Equipment, materials, and supplies used in the manufacture, sale, and distribution of the commodities named in (1) above* between the facilities of the Ralston Purina Co., at or near Clinton and Davenport, IA on the one hand, and, on the other, points, in WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ralston Purina Co., 2200 Manufacture Drive, Clinton, IA 52732. Send protests to: Gail Daugherty, T/A, ICC, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wisconsin 53202.

MC 51146 (Sub-678TA), filed February 20, 1979. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative:

John R. Patterson, 2480 E. Commercial Blvd., Ft. Lauderdale, FL 33308. *Paper and paper related products* from Pacific, MO to points in NJ, NY and PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Alton Box Board Co., 401 Alton St., Alton, IL 62002. Send protests to: Gail Daugherty, T/A, ICC, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wisconsin 53202.

MC 59117 (Sub-66TA), filed February 21, 1979. Applicant: ELLIOTT TRUCK LINE, INC., P.O. Box 1, Vinita, OK 74301. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. *Silica sand*, from Ottawa, IL, to Pryor, OK, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Pryor Foundry, Inc., Box 549, Pryor, OK 74361. Send protests to: Connie Stanley, Transportation Assistant, Interstate Commerce Commission, Room 240 Old Post Office & Court House Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 59117 (Sub-67TA), filed February 23, 1979. Applicant: ELLIOTT TRUCK LINES, INC., P.O. Box 1, Vinita, OK 74301. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. *Dry bulk fertilizer and fertilizer materials*, from Atlas, MO to AR, KS, IA, IL, OK, NE, and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): W. R. GRACE & Co., Agricultural Chemicals Group, 100 N. Main Bldg., Memphis, TN 38103. Send protests to: Connie Stanley, Transportation Assistant, Room 240, Old Post Office & Court House Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 59957 (Sub-53TA), filed February 28, 1979. Applicant: MOTOR FREIGHT EXPRESS, P.O. Box 1029, York, PA 17405. Representative: Walter M. F. Neugebauer, P.O. Box 1029, York, PA 17405. *Iron and steel articles* serving the facilities of Franklin Steel Company at or near Franklin, PA, as an off-route point in connection with carrier's authorized regular-route operations. Supporting shipper(s): Franklin Steel Company, P.O. Box 671, Franklin, PA 16323. Calumet Steel Company, 390 E. Joe Orr Rd., Chicago Heights, IL 60411. Send protests to: Charles F. Myers, District Supervisor, Interstate Commerce Commission, P.O. Box 869, Federal Square Station, 228 Walnut Street, Harrisburg, PA 17108.

MC 65626 (Sub-33TA), filed February 9, 1979. Applicant: FREDONIA EXPRESS, INC., P.O. Box 222, Fredonia, NY 14063. Representative: Mr. David C. Venable, Suite 805, 666 Eleventh Street, N.W., Washington, D.C. 20001. (1) *Such*

merchandise as is dealt in by wholesale, retail, chain grocery and food business houses and (2) materials, equipment, ingredients and supplies used in the manufacture, distribution, and sale of the commodities named in (1) above, between the facilities of Ralston-Purina Company at or near Dunkirk, NY, on the one hand, and, on the other, points in MD, NJ, OH, PA and WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): R. F. Schulenberg, Traffic Manager, Ralston Purina Company, Dunkirk, NY 14048. Send protests to: Richard H. Cattadoris, DS, ICC, 111 West Huron Street, Buffalo, NY 14202.

MC 69397 (Sub-55TA), filed February 15, 1979. Applicant: JAMES H. HARTMAN & SON, INC., P.O. Box 85, Pocomoke City, MD 21851. Representative: Wilmer B. Hill, Suite 805, 666 Eleventh St., NW., Washington, DC 20001. *Iron and steel and iron and steel articles*, from the facilities of Wheeling-Pittsburgh Steel Corp., at Canfield, Martins Ferry, Mingo Junction, Steubenville and Yorkville, OH; Allenport and Monessen, PA; and Beech Bottom, Benwood, Follansbee, and Wheeling, WV to points in NJ, NY and VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Wheeling-Pittsburgh Steel Corp., P.O. Box 118, Pittsburgh, PA 15230. Send protests to: T. M. Esposito, Trans. Asst., 600 Arch St., Room 3238, Phila., PA 19106.

MC 78687 (Sub-59TA), filed February 28, 1979. Applicant: LOTT MOTOR LINES, INC., West Cayuga Street, P.O. Box 751, Moravia, NY 13118. Representative: Dwight L. Koerber, Jr., 805 McLachlen Bank Bldg., 666 Eleventh Street, N.W., Washington, D.C. 20001. *Iron and steel articles*, from the facilities of Jones & Laughlin Steel Corporation at Aliquippa and Pittsburgh, PA to points in New York, except points in Rockland, Westchester, Nassau and Suffolk Counties, and New York, NY, for 180 days. Underlying ETA for 30+2 under R-5 was granted with the effective date being February 16, 1979. Supporting shipper(s): Jones & Laughlin Steel Corporation, Charles N. Hartman, Gen. Supvr., 1600 West Carson Street—Room 121, Pittsburgh, PA 15263. Send protest to: Interstate Commerce Commission, U.S. Courthouse & Federal Bldg., 100 S. Clinton St.—Rm. 1259, Syracuse, NY 13260.

MC 95376 (Sub-18TA), filed February 21, 1979. Applicant: MC VEY TRUCKING, INC., Rt. #1, Oakwood, IL 61358. Representative: Robert T. Lawley, Attorney, 300 Reisch Building,

Springfield, IL 62701. (1) *Foundry sand*, from Michigan City, IN and Bridgman, MI to Tilton, IL, and (2) *Bulk pig iron* from Keokuk, IA to Tilton, IL (all restricted to traffic destined to the facilities of Central Foundry Division, General Motors Corporation, Tilton, IL.) Supporting shipper(s): Central Foundry Division, General Motors Corporation, 77 W. Center—P.O. Box 1629, Saginaw, MI 48605. Send protest to: Charles D. Little, District Supervisor, Interstate Commerce Commission, 414 Leland Office Building, 527 East Capitol Avenue, Springfield, Illinois 62701

MC 100666 (Sub-441TA), filed February 22, 1979. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 71107. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. *Prefabricated steel buildings, knocked down, and parts and accessories of prefabricated steel buildings and iron and steel articles* from the facilities of INRYCO, Inc. at Milwaukee, WI to points in AL, CA, FL, GA, NV, TN, and UT, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days operating authority. Supporting shipper(s): ARMCO, Inc., 703 Curtis Street, Middletown, OH 45043. Send protest to: Connie A. Guillory, ICC, T-9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 102567 (Sub-219TA), filed February 28, 1979. Applicant: McNAIR TRANSPORT, INC., P.O. Drawer 5357, Bossier City, LA 71111. Representative: Joe C. Day, Vice-President—Traffic, 13403 Northwest Fwy.—Suite 130, Houston, TX 77040. *Liquid caustic soda, in bulk, in tank vehicles*, from Westwego, LA to all points in AL and MS, for 180 days. Applicant has filed an underlying ETA for 90 days. Supporting shipper(s): Morchem Products, 1009 Chartres, Houston, TX 77003. Send protest to: Connie A. Guillory, ICC, T-9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 105007 (Sub-48TA), filed February 21, 1979. Applicant: MATSON TRUCK LINES, INC., 1407 St. John Avenue, Albert Lea, MN 56007. Representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, MN 55402. *Lard, grease and tallow, in bulk, in tank vehicles*, from Estherville, IA to St. Louis, MO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): John Morrell & Co., 208 South LaSalle Street, Chicago, IL 60604. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building and U.S. Court House,

110 South 4th Street, Minneapolis, MN 55401.

MC 106707 (Sub-14TA), filed February 15, 1979. Applicant: ADAMS TRUCKING, INC., 1700 West Second Street, Webster City, IA 50595. Representative: Ronald D. Adams (same as above). *Iron and steel articles* from the facilities on Inland Steel Company at East Chicago, IN to points in IL on and West of U.S. Route 78 on and North of U.S. 34, and to points in IA on and East of U.S. Route 61 for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Inland Steel Company, 30 W. Monroe Street, Chicago, IL 60603. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 112617 (Sub-423TA), filed Feb. 28, 1979. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, KY 40221. Representative: Charles R. Dunford, Vice President, Traffic (same as applicant). Cornstarch, in bulk, in hopper type vehicles, from the plantsite of American Maize Products Company at Hammond, IN, to points in IL, KY, MI, OH, PA and WV. Supporting Shipper(s): Donald F. Owens, Manager of Transportation, American Maize Products Co., 113th and Indianapolis Blvd., Hammond, IN 46326. Send protests to: Mrs. Linda H. Sypher, District Supervisor, Interstate Commerce Comm., 428 Post Office Building, Louisville, Ky. 40202.

MC 113406 (Sub-11TA), filed February 21, 1979. Applicant: DOT LINES, INC., 1000 Findlay Road, Lima, OH 45802. Representative: Beery & Spurlock Co., L.P.A., 275 East State Street, Columbus, OH 43215. *Auto parts*, from the plantsite and facilities of Ford Motor Company, at or near Lima and Cleveland, OH, to the plantsites, warehouses and facilities of Ford Motor Company, at or near Louisville, KY, for 180 days. Common-carrier-irregular routes. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Ford Motor Company, One Parklane Blvd., Parklane Towers East, Suite 200, Dearborn, MI 48126. Send protests to: P. J. Crawford, Transportation Consumer Specialist, Interstate Commerce Commission, 313 Federal Office Bldg., 234 Summit St., Toledo, OH 43604.

MC 113646 (Sub-17TA), filed February 22, 1979. Applicant: JEFFERSON TRUCKING COMPANY, P.O. Box 17, National City, MI 48748. Representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. *Contract carrier—irregular routes. Building materials, composition board, and materials and supplies used in the*

manufacture, distribution and installation thereof (except commodities in bulk). For 180 days, between Newark, OH, on the one hand, and, on the other, points in AL, AR, FL, GA, KS, LA, MS, OK, NE, ND, SC, and SD. Supporting shipper(s): Gold Bond Building Products Division, National Gypsum Company, 2001 Rexford Road, Charlotte, NC 28211. Underlying ETA seeks 30 days authority. Send protests to: C. R. Flemming, D/S I.C.C., 225 Federal Building, Lansing, MI 48933.

MC 113666 (Sub-154TA), filed February 16, 1979. Applicant: FREEPORT TRANSPORT, INC., 1200 Butler Road, Freeport, PA 16229. Representative: D. R. Smetanick, Vice President (same as applicant). *Grouting compounds, materials and supplies used in the production and installation of grouting compounds* between Wilmington, DE on the one hand and, on the other, points in the United States (except AK and HI) for 180 days. An underlying ETA seeks 90 days. Supporting shipper(s): U.S. Grout Corporation, West End Avenue, Old Greenwich, CT 06870. Send protests to: John J. England, District Supervisor, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

MC113666 (Sub-155TA), filed February 16, 1979. Applicant: FREEPORT TRANSPORT, INC., 1200 Butler Road, Freeport, PA 16229. Representative: D. R. Smetanick, Vice President (same as applicant). *Iron and steel articles* between the plant sites of Allegheny Ludlum Steel Corp., located at Bagdad, Brackenridge and West Leechburg, PA, on the one hand, and, on the other, points in the states of AL, AR, IL, IN, KY, MO, NY, NC, OH and TN. Supporting shipper(s): Allegheny Ludlum Steel Corporation, P.O. Box 565, Leechburg, PA 15656. Send protests to: John J. England, District Supervisor, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

MC 113666 (Sub-156TA), filed February 23, 1979. Applicant: FREEPORT TRANSPORT, INC., 1200 Butler Road, Freeport, PA 16229. Representative: D. R. Smetanick, Vice President (same as applicant). *Ammonium nitrate*, in bulk from Donora, PA to points in OH, VA and WV for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): United States Steel Corporation, 600 Grant Street, Pittsburgh, PA 15230. Send protests to: John J. England, District Supervisor, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

MC 114457 (Sub-480TA), filed February 26, 1979. Applicant: DART TRANSIT COMPANY 2102 University Avenue, St. Paul, MN 55114. Representative: James H. Wills (same address as applicant). *Automotive parts and materials and supplies used in the manufacture of automotive parts (except commodities in bulk)* between the facilities of Ford Motor Company in the state of MI, on the one hand, and, on the other, St. Louis and Kansas City, MO and St. Paul, MN, for 180 days. Supporting Shipper(s): Ford Motor Company, One Parklane Boulevard, Parklane Towers-East, Suite 200, Dearborn, MI 48126. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 115496 (Sub-116TA), filed February 13, 1979. Applicant: LUMBER TRANSPORT, INC., P.O. Box 111, Cochran, Georgia 31014. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Blvd., Atlanta, Georgia 30349. (1) Building wall and insulation board, (2) moulding, building woodwork, (3) Luan plywood, (4) board or sheets made from shavings, wood sawdust or ground wood, and (5) plywood from the plantsite of Pan American Gyro-Tex Company at Jasper, FL to points in GA, IL, IN, OH, IK, MO, MD, KS, PA, NY, NC, SC, VA, TN, and TX. Supporting Shipper(s): Pan American Gyro-Tex Company, Jacksonville, FL 32218. Send protests to: Sara K. Davis, Transportation Assistant ICC, Room 300, 1252 W. Peachtree St., NW., Atlanta, Georgia 30309.

MC 115826 (Sub-407TA). Applicant: W. J. DIGBY INC., 6015 East 58th Ave., Commerce City, CO 80022. Representative: Howard Gore (same address as above). *Frozen foods*, from Clearfield, UT to points in AL, FL, GA, KS, TX, OK, NC, SC, TN, NM, VA, MS and KY, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Termicold Corporation, 1618 S. W. First Avenue, Portland, OR 97201. Send protests to: District Supervisor Herbert C. Ruoff, 721 19th Street, 492 U.S. Customs House, Denver, CO 97201.

MC 115826 (Sub-411TA). Applicant: W. J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO 80022. Representative: Howard Gore (same address as above). *Meat*, from facilities of Iowa Beef Processors, Inc. at Dakota City, NE to points in Camden, Burlington, Gloucester, Mercer Counties, NJ; Bucks, Chester, Delaware, Montgomery and Philadelphia Counties, PA; Bristol, Essex, Hampshire, Middlesex, Norfolk, Plymouth, Suffolk

and Worcester Counties, MA; and Anne Arundel, Baltimore, Carroll, Cecil, Frederick, Harford and Howard Counties, MD, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Iowa Beef Processors, Inc., Dakota City NE 68731. Send protests to: District Supervisor Herbert C. Ruoff, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 115826 (Sub-408TA). Applicant: W. J. DIGBY, INC., 6015 East 58th Ave., Commerce City, CO 80022. Representative: Howard Gore (same address as above). *Canned goods*, from facilities of Oconomowoc Canning Co. at Poynette, WI to all points in the United States (except AK and HI). Restricted to transportation of traffic originating at the named origin, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Oconomowoc Canning Co., P.O. Box 248, Oconomowoc, WI 53066. Send protests to: District Supervisor Herbert C. Ruoff, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 115826 (Sub-410TA). Applicant: W. J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO 80022. Representative: Howard Gore (same address as above). *Boards, blocks, or panels NOI, honeycomb cellular construction, expanded or compressed; metal; fibreboard or paper impregnated with other materials, or not impregnated with other materials, corrugated or O/T corrugated*, from facilities of Hexcel Corporation near Casa Grande, AZ to Pascogoula, MS, St. Louis, MO and their commercial zones, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Hexcel Corporation, 11711 Dublin Blvd., Dublin, CA 94566. Send protests to: District Supervisor Herbert C. Ruoff, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 115826 (Sub-412TA). Applicant: W. J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO 80022. Representative: Howard Gore (same address as above). *Foodstuffs*, from points in CA to points in OK, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Food Service Sales, Inc., 4900 North Portland, Suite 104, Oklahoma City, OK 73112. Send protests to: District Supervisor Herbert C. Ruoff, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 115826 (Sub-413TA). Applicant: W. J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO 80022. Representative: Howard Gore (same

address as above). *Confectionery, dessert preparations, gumball machines and gumball stands*, from facilities of Leaf Confectionery, Inc., Chicago, IL to points in CA, AZ and NM, for 180 days. An underlying 90 day ETA has been filed. Supporting Shipper(s): Leaf Confectionery, Inc., 1155 North Cicero Ave., Chicago, IL 60651. Send protests to: District Supervisor Herbert C. Ruoff, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 115826 (Sub-414TA). Applicant: W. J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO 80022. Representative: Howard Gore (same address as above). *Meats and meat products*, from Washington Court House and Dayton, OH to Phoenix, AZ; Los Angeles and San Francisco, CA, to Salt Lake City, UT, Albuquerque, NM, Amarillo, TX, Kansas City, KS; Kansas City, MO, and their commercial zones, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): American Pantry, Inc., P.O. Box 9284, Phoenix, AZ 85088. Send protests to: District Supervisor Herbert C. Ruoff, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 116077 (Sub-402TA). Applicant: DSI TRANSPORTS, INC., 4550 Post Oak Place/Suite 300, Houston, TX 77027. Representative: J. C. Browder, 4550 Post Oak Place/Suite 300, Houston, TX 77072. Common carrier over irregular routes. Acrylonitrile, in bulk, in tank vehicles from Avondale, LA to St. Louis, MO. An underlying ETA seeks 90 days authority. Supporting Shipper(s): American Cyanamid Corp., 10800 River Rd., Westwego, LA 70094. Send protests to: John F. Mensing, Interstate Commerce Commission, 515 Rusk Avenue, 8610 Federal Bldg., Houston, TX 77002.

MC 116077 (Sub-403TA). Applicant: DSI TRANSPORTS, INC., 4550 One Post Oak Place/Suite 300, Houston, TX 77027. Representative: J. C. Browder, 4550 One Post Oak Place/Suite 300, Houston, TX 77072. Common carrier over irregular routes. *Clay catalyst*, in bulk, in tank vehicles from Houston, TX to the states of AR, OK, LA and TX. Supporting Shipper(s): Engelhard Minerals & Chemicals Corp., Menlo Park, Edison, NJ 08818. Send protests to: John F. Mensing, Interstate Commerce Commission, 515 Rusk Avenue, 8610 Federal Bldg., Houston, TX 77002.

MC 116457 (Sub-41TA), filed Feb. 22, 1979. Applicant: GENERAL TRANSPORTATION INCORPORATED, 1804 S. 27th Avenue, P.O. Box 6484, Phoenix, AZ 85005. Representative: D. Parker Crosby, 1710 S. 27th Avenue, P.O. Box 6484, Phoenix, AZ 85005. Waste

paper, waste paper products, waste cardboard and waste newsprint (except in bulk) from points in Salt Lake County and Davis County, Utah, to the facilities of Crown Zellerbach, at Antioch, California, for 180 days. Supporting Shipper(s): Crown Zellerbach Corporation, 1 Bush Street, San Francisco, CA 94104. Send protests to: Thomas Klobas, Acting District Supervisor, Interstate Commerce Commission, 2020 Federal Bldg., 230 N. First Avenue, Phoenix, AZ 85025.

MC 116947 (Sub-67TA), filed February 16, 1979. Applicant: SCOTT TRANSFER, CO., INC., 920 Ashby Street, S.W., Atlanta, Georgia 30310. Representative: William Addams, Attorney, Suite 212, 5299 Roswell Road, N. E., Atlanta, Georgia 30342. (1) Canned goods, from the facility of Woldert Canning Co., Inc. at or near Tyler, TX to points in AL, SC, NC, GA, TN, LA, and MS and (2) Metal containers and parts therefor, from points in Fulton County, GA to the facility of Woldert Canning Co., Inc. at or near Tyler, TX. Supporting shipper(s): Woldert Canning, Inc., Tyler, Texas 75710. Send protests to: Sara K. Davis, Transportation Assistant, ICC, Room 300, 1252 West Peachtree St., NW, Atlanta, GA 30309.

MC 117686 (Sub-243TA), filed March 1, 1979. Applicant: HIRSCHBACH MOTOR LINES, INC., 5000 South Lewis Blvd., P.O. Box 417, Sioux City, IA 51102. Representative: Robert A. Sichser [same address as applicant]. *Meat, meat products, and 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 MCC 209 and 766 (except hides and commodities in bulk)*, from the facilities of Farmland Foods, Inc., at or near (1) Denison, Iowa Falls, Carroll, and Sioux City, IA and Omaha, NE, to points in FL, NC, and SC; (2) Des Moines, IA and Lincoln, NE to points in AL, FL, GA, LA, MS, NC, SC, and TN; and (3) Fort Dodge, IA, to FL, GA, NC, SC, for 180 days. Restricted to the transportation of traffic originating at the named origin facilities and destined to the named destinations. An underlying ETA seeks 90 days authority. Supporting shipper(s): Dean Wilson, Farmland Foods, Inc., P.O. Box 403, Denison, IA 51442. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha NE 68102.

MC 119226 (Sub-112TA), filed February 15, 1979. Applicant: LIQUID TRANSPORT CORP., 3901 Madison Avenue, Indianapolis, IN 46227. Representative: Robert W. Loser, 1009

Chamber of Commerce Building, Indianapolis, IN 46204. (1) *Chemical, vegetable oils, animal fats, and products thereof, in bulk, in tank vehicles*, from the facilities of Procter & Gamble Company at Ivorydale and St. Bernard, OH to points in AL, DE, GA, IA, IL, IN, KY, MI, NC, NJ, NY, PA, SC, TN, TX, VA and WV. (2) *Vegetable oils, in bulk, in tank vehicles, from points in IL and Ky to the facilities of Procter & Gamble Company at Ivorydale and St. Bernard, OH.*

MC 119767 (Sub-352TA), filed February 22, 1979. Applicant: BEAVER TRANSPORT CO., P.O. Box 186, Pleasant Prairie, WI 53158. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th St., NW, Washington, DC 20004. *Tree or weed killing compounds in containers from facilities of Amchem in Clinton, IA to points in the Lower Peninsula of Michigan, for 180 days.* Supporting shipper(s): Amchem Products, Inc., Brookside Ave., Ambler, PA 19002. Send protests to: Gail Daugherty, T/A, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wisconsin 53202.

MC 119767 (Sub-353TA), filed February 28, 1979. Applicant: BEAVER TRANSPORT CO., P.O. Box 186, Pleasant Prairie, WI 53158. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th St., NW, Washington, DC 20004. *Liquid latex, in drums, in temperature controlled vehicles, from Oak Creek, WI to Defiance, OH, for 180 days.* An underlying ETA seeks 90 days authority. Supporting shipper(s): Northwest Chemical Corp., 6870 S. 13th St., Oak Creek, WI 53154. Send protests to: Gail Daugherty, ICC, 517 East Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 121828 (Sub-13TA), filed February 26, 1979. Applicant: BAYVIEW TRUCKING, INC., 7080 Florin-Perkins Road, Sacramento, CA 95828. Representative: Donald L. Stern, Suite 610, 7171 Mercy Road, PH (402) 392-1220, Omaha, NE 68106. *Meat, meat by-products processed by Lakin Meat Processors, Omaha, NE—In vehicles equipped with mechanical refrigeration, from the plantsite of Lakin Meat Processors at Omaha, NE to points in WA, OR, MT, CA, AZ, CO and UT, for 180 days.* An underlying ETA seeks 90 days authority. Supporting shipper(s): Lakin Meat Processors, 8900 Dodge Road, Omaha, NE 68114. Send protests to: A. J. Rodriguez, DS, ICC, 211 Main Street, Suite 500, San Francisco, CA 94105.

MC 121517 (Sub-4TA), filed February 14, 1979. Applicant: ELLSWORTH

MOTOR FREIGHT LINES, INC., P.O. Box 15627, Tulsa, OK 74112. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. *Limestone, in bulk, from Carthage, MO, to Stroud, OK, for 180 days.* An underlying ETA seeks 90 days authority. Supporting shipper(s): Allied Materials Corporation, P.O. Box 12340, 5101 North Pennsylvania, Oklahoma City, OK 73112. Send protests to: Connie Stanley, Room 240, 215 NW. 3rd, Oklahoma City, OK 73102.

MC 123476 (Sub-40TA), filed February 22, 1979. Applicant: CURTIS TRANSPORT, INC., 23 Grandview Ind. Ct., Arnold, MO 63010. Representative: David G. Dimit (address, same as above). *Plastic bottles (except in bulk, in tank vehicles) from Bedford Park, IL to Maryland Heights, MO, for 180 days.* An underlying ETA seeks 90 days authority. Supporting shipper(s): International Bottle Company, 7420 S. Meade, Bedford Park, IL 60638. Send protests to: P. E. Binder, DS, ICC, Rm 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 124887 (Sub-66TA), filed February 6, 1979. Applicant: SHELTON TRUCKING SERVICE, INC., Route 1, Box 230, Altha, FL 32421. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL. *Lumber from Crestview, Defuniak Springs, and West Bay, FL, to points in the States of TX, LA, MS, TN, KY, IL, IN, MI, OH, VA, NC and SC.* Supporting shipper(s): Louisiana-Pacific Corporation, P.O. Box 160 West Bay Station, Panama City, FL 32401. Send protests to: G. H. Fauss, Jr., DS, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 124887 (Sub-68TA), filed February 21, 1979. Applicant: SHELTON TRUCKING SERVICE, INC., Route 1, Box 230, Altha, FL. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *Face brick, fire brick, glazed face brick, and glazed and unglazed structural facing tile (1) from the facilities of Elgin-Butler Brick Co., located in Bastrop County, TX, to points in and east of ND, SC, NE, KS, OK, and TX, and (2) from East Canton, OH, to points in MS, LA and TX.* Supporting shipper(s): Elgin-Butler Brick Company, P.O. Box 45019, Baton Rouge, LA 70895. Send protests to: G. H. Fauss, Jr., DS, ICC, Box 35008, 400 West Bay street, Jacksonville, FL 32202.

MC 124887 (Sub-70TA), filed February 20, 1979. Applicant: SHELTON TRUCKING SERVICE, INC., Route 1, Box 230, Altha, FL 32421.

Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *Lumber, particleboard, and plywood* from Winnfield, Alexander and Urania, LA to points in AL, FL, GA, MS, NC, SC, TN, TX and VA. Supporting shipper(s): Louisiana Pacific Corporation, P.O. Drawer AA, New Waverly, TX 77358. Sent protests to: G. H. Fauss, Jr., DS, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 126736 (Sub-111TA), filed February 6, 1979. Applicant: FLORIDA ROCK & TANK LINES, INC., 155 East 21st Street, P.O. Box 1559, Jacksonville, FL 32201. Representative: L. H. Blow (same as applicant). *Phosphate, phosphate products and phosphate by-products, in bulk* from Occidental, FL (at or near White Springs, FL), to points in SC. Supporting shipper(s): Hooker Chemical Company, P.O. Box 4289, Houston, TX 77210. Send protests to: G. H. Fauss, Jr., DS, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 127047 (Sub-34TA), filed February 28, 1979. Applicant: ED RACETTE & SON, INC., 6021 No. Broadway, Wichita, KS 67219. Representative: William B. Barker, 641 Harrison, Topeka KS 66603. *Grain handling equipment* between Wichita, KS and points in CO, MO, NE, OK, TX & Portland, OR. Restricted to traffic originating at or destined to facilities of H & L Equipment, Inc., located at or near Wichita, KS.; 180 days, common, irregular; Supporting shipper: H & L Equipment, Inc., 3311 No. Emporia, Wichita, KS 67219; Send protests to: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS. 67202. Supporting shipper(s): H & L Equipment, Inc. 3311 No. Emporia, Wichita, KS 67219. Send protests to: M. E. Taylor, Dist. Supv. Interstate Commerce Commission, 101 Litwin Bldg., Wichita, KS 67202

MC 127187 (Sub-14TA), filed February 8, 1979. Applicant: FLOYD DUENOW, INC., 1728 Industrial Park Blvd., P.O. Box 415, Pergus Falls, MN 56537. Representative: William J. Gambucci, 414 Gate City Bldg., P.O. Box 1680, Fargo, ND 58107. *Animal and poultry feed and animal and poultry feed ingredients* (except in bulk in tank vehicles) from points in IA, WI and NE to ports of entry on the U.S. Canada International Boundary Line in MN, ND and MT, restricted to traffic destined to points in the Canadian provinces of Manitoba, Alberta and Saskatchewan, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): L. V. Patteson, Ltd., 215 Panet Road, Winnipeg, Manitoba, Canada. Send protests to: Ronald R. Mau, DS, ICC,

Room 268 Fed. Bldg and U.S. Post Office, 657 2nd Avenue North Fargo ND 58102.

MC 128007 (Sub-134TA), filed February 9, 1979. Applicant: HOFER, INC., 20th and Bypass, Pittsburg, KS. 66762. Representative: Larry E. Gregg, 641 Harrison, Topeka, KS 66603. *Iron and steel articles* from Chicago, IL and its commercial zone to points in Harvey County, KS.; common carrier, irregular routes, 180 days; underlying 90 day ETA, R-85, granted 2-7-79; Supporting shipper(s): Hesston Corporation, Hesston, KS.; Send protests to: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS. 67202. Supporting shipper(s): Hesston Corporation, Hesston, KS. 67062. Send protests to: M. E. Taylor, Dist. Supv. Interstate Commerce Commission, 101 Litwin Bldg., Wichita, KS, 67202.

MC 128087 (Sub-6TA), filed February 7, 1979. Applicant: JOHN N. JOHN, III, INC., P.O. Box 921, Crowley, LA 70526. Representative: John N. John, III, 1000 West 2nd Street, Crowley, LA 70526. *Bags, bagging, burlap, steel cotton bale ties, twine, cotton fabric, and metal strippings* in mixed or straight truckload, from the Port of New Orleans, LA to Crowley, LA. for 180 days. Applicant has filed an underlying ETA for 90 days operating authority. Supporting shipper(s): V. V. Sharpe Company, Inc., P.O. Box 507, Crowley, LA 70526, Continental Bag Company, P.O. Drawer 350, Crowley, LA 70526. Send protests to: Connie A. Guillory, ICC, T-9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 128404 (Sub-13TA), filed February 27, 1979. Applicant: BLACKWOOD CRANE & TRUCK SERVICE, INC., P.O. Box 3037, Knoxville, TN 37917. Representative: Wayne R. Whaley, Jr. (same address as applicant). *Iron and steel and iron and steel articles*, between the plantsite of Olympic Metals in or near Knoxville, TN on the one hand, and, on the other, points in MS, GA, SC, NC, VA, WV, PA, OH, IN, IL, AR, AL and KY, for 180 days. Supporting shipper(s): Olympic Metals, Inc., P.O. Box 11112, Knoxville, TN 37921. Send protests to: Glenda Kuss, TA, ICC—Bureau of Operations, Suite A-422 U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 129387 (Sub-86TA), filed February 26, 1979: Applicant: PAYNE TRANSPORTATION, INC., P.O. Box 1271, Huron, SD 57350. Representative: Charles E. Dye (same address as applicant). *Cleaning, washing, buffing or polishing compound, textile softener, lubricating grease or oils, deodorants or disinfectants* (except commodities in

bulk) from Joliet, IL and its commercial zone to points in CA, CO, IA, MO, NE, ND and SD for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Economics Laboratory, Inc., Osborn Building, St. Paul, MN 55102. Send protests to: J. L. Hammond, DS, ICC, Room 455, Federal Bldg., Pierre, SD 57501.

MC 133296 (Sub-12TA), filed February 14, 1979. Applicant: YULE TRANSPORT, INC., P.O. Box 56, Medford, MN 55049. Representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, MN 55402. *Contract carrier: irregular routes: Canned goods* from Owatonna, MN to Dallas, Fort Worth, San Antonio, Lubbock and Houston, TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Owatonna Canning Co., 100 West Winona Street, Owatonna, MN 55060. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 133796 (Sub-53TA), filed February 9, 1979. Applicant: GEORGE APPEL TRUCKING, INC., 249 Carverton Road, Trucksville, PA 18708. Representative: Joseph F. Hoary, 121 S. Main St., Taylor, PA 18517. *Confectionery and cough drops*, from the facilities of Luden's, Inc., Reading, PA, to AZ, CA, CO, ID, NV, OR, UT and WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper: Luden's, Inc., 200 No. Eighth St., Reading PA 19601. Send protests to: P. J. Kenworthy, DS, ICC, 314 U.S. Post Office Bldg., Scranton, PA 18503. Supporting Shipper(s): Luden's, Inc., 200 N. Eighth St., Reading PA 19601. Send protests to: P. J. Kenworthy, DS, ICC, 314 U.S. Post Office Bldg., Scranton, PA 18503.

MC 133798 (Sub-54TA), filed February 21, 1979. Applicant: GEORGE APPEL TRUCKING, INC., 249 Carverton Road, Trucksville, PA 18708. Representative: Joseph F. Hoary, 121 S. Main St., Taylor, PA 18517. *Sugar substitutes, broth and seasonings*, dry, in packages, from New Paltz, NY, to Anaheim, CA, Dallas, TX, Morrow, GA, LaGrange, IL, AND Detroit, MI, for 150 days. An underlying ETA seeks 90 days authority. Supporting Shipper: Foodways National, Inc., 140 Broadway, Hawthorne, NY 10532. Send protests to: P. J. Kenworthy, DS, ICC, 314 U.S. Post Office Bldg., Scranton, PA 18503. Supporting Shipper(s): Foodways National, Inc., 140 Broadway, Hawthorne, NY 10532. Send protests to: P. J. Kenworthy, DS, ICC, 314 U.S. Post Office Bldg., Scranton, PA 18503.

MC 133977 (Sub-26TA), filed February 27, 1979. Applicant: GENE'S INC., 10115

Brookville-Salem Road, Clayton, OH 45315. Representative: John L. Alden, Stiverson and Alden, 1396 West Fifth Ave., Columbus, OH 43212. *Plastic articles, except commodities in bulk*, from Memphis, TH, to points in the United States (except AK and HI). Supporting Shipper(s): Huntzman Container Corporation, Donald G. Leach, Corporate Traffic Manager, Waverville, ME 04901. Send protests to: Paul J. Lowry, DS, ICC, 5514-B Federal Bldg, 550 Main St., Cincinnati, OH 45202.

MC 134286 (Sub-95TA), filed February 15, 1979. Applicant: ILLINI EXPRESS, INC., P.O. Box 1564, Sioux City, IA 51102. Representative: Julie Humbert (same address as applicant). *Foodstuffs (except commodities in bulk)*, from the facilities of Vlastic Foods, Inc. located at or near Memphis, Bridgeport, and Imlay City, MI, to points in the states of ND, SD, NE, KS, MN, IA, MO, WI, IL, MI, IN, OH, NY, and PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Ira M. Kaplan, Vlastic Foods, Inc., 33200 West 14 Mile Road, West Bloomfield, MI 48003. Send protests to Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 134467 (Sub-41TA), filed March 1, 1979. Applicant: POLAR EXPRESS, INC., P.O. Box 845, Springdale, AR 72764. Representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. *Cheese, cheese products and synthetic cheeses (except commodities in bulk)*, from the facilities of L. D. Schreiber Cheese Co., Inc., in Jasper, Newton, Barry and Lawrence Counties, MO, to the facilities of Martin Brower, Inc., at or near Manassas, VA, for 180 days as a common carrier over irregular routes. Supporting Shipper(s): L. D. Schreiber Cheese Co., Inc., P.O. Box 610, Green Bay, WI 54305. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 134477 (Sub-321TA), filed February 8, 1979. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Air cleaner filter paper (except in bulk)* from Greenwich, NY to Dixon, IL, Cresco, IA and Kirksville, MO, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Donaldson Company, Inc., 1400 West 94th Street, Minneapolis, MN 55440. Send protests to: Delores A. Poe, TA, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 134477 (Sub-327TA), filed February 22, 1979. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Automatic control devices and parts, materials and equipment used in the manufacture thereof (except commodities in bulk)* between Minneapolis, MN and points in its Commercial Zone on the one hand, and on the other, the international boundary at Port Huron, MI, restricted to traffic having prior or subsequent movement from or to Scarborough, Ontario, Canada and further restricted to traffic moving from or to the facilities of Honeywell, Inc. at Minneapolis, MN and points in its Commercial Zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Honeywell, Inc., 1885 North Douglas Drive, Golden Valley, MN 55422. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 134477 (Sub-328TA), filed February 22, 1979. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Foodstuffs (except commodities in bulk)* from Fort Fairfield, ME to points in IL, KS, KY, MI, OH and WI, restricted to traffic originating at the above named origin and destined to the above named destinations, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Great A & P Tea Co., Inc., 2 Paragon Drive, Montvale, NJ 07645. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 134806 (Sub-58TA), filed February 27, 1979. Applicant: B-D-R TRANSPORT, INC., P.O. Box 1277, Brattleboro, VT 05301. Representative: Francis J. Ortman, 7101 Wisconsin Avenue, Suite 605, Washington, D.C. 20014. Contract carrier, irregular routes: *Aluminum linear shapes, in bundles*, from Vernon, CA to Plainsboro, NJ, for 180 days, under continuing contract or contracts with MAARK Division of AMF, Inc. Supporting shipper(s): MAARK Division of AMF, Inc., Schalks Road, Plainsboro, NJ 08538. Send protests to: ICC, PO Box 548, Montpelier, VT 05602.

MC 135007 (Sub-73TA), filed February 26, 1979. Applicant: AMERICAN TRANSPORT, INC., 7850 "F" Street, Omaha, NE 68127. Representative:

Arthur J. Cerra, P.O. Box 19251, 2100 TenMain Center, Kansas City, MO 64141. *Meat, 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 MCC 209 and 768 (except hides and commodities in bulk)*, from the facilities of Iowa Beef Processors, Inc., at or near Dakota City, NE; Sioux City, IA; and Emporia and Wichita, KS to points in TN, NC, SC, MS, AL, GA, KY, and FL, under contract with Iowa Beef Processors, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Glen C. Echelbarger, Iowa Beef Processors, Inc., Dakota City, NE 68731. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 135797 (Sub-180TA), filed February 14, 1979. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 200, Lowell, AR 72745. Representative: Paul R. Bergant (same as applicant). *Molding* from Turlock, CA and Douglas, AZ to Dallas, TX for 180 days, as a common carrier over irregular routes. Supporting shipper(s): Frazier Building Materials, P.O. Box 20456, Dallas, TX 75220. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 135797 (Sub-181TA), filed February 15, 1979. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 200, Lowell, AR 72745. Representative: Paul R. Bergant (same as applicant). *Textiles* from St. Martinville, LA to Woodward, OK for 180 days as a common carrier over irregular routes. Supporting shipper(s): Union Underwear, P.O. Box 780, Bowling Green, KY 42101. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 135797 (Sub-182TA), filed February 21, 1979. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 200, Lowell, AR 72745. Representative: Paul R. Bergant (same as applicant). *Such commodities as are dealt in or used by wholesale and retail discount or variety stores (except commodities in bulk)*, (1) from points in AR, CO, DE, ID, KS, KY, LA, ME, MD, MS, MO, MT, NE, NV, NH, ND, OK, OR, RI, SD, TN, UT, VT, WA, WV, WY and DC, to the facilities of Wal-Mart Stores, Inc. at points in AR, IL, KS, KY, LA, MO, MS, OK, TN and TX, and (2) from points in Benton, and White Counties, AR to points in AR, IL, KY, LA, MO, MS, OK, TN and TX, for 180 days as a common carrier over irregular routes. Supporting shipper(s): Wal-Mart Stores, Inc., P.O. Box 116,

Bentonville, AR 72712. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 135797 (Sub-188TA), filed February 27, 1979. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 200, Lowell, AR 72745. Representative: Paul R. Bergant (same as applicant); *Metal containers* from Springdale, AR to points in TX for 180 days, as a common carrier over irregular routes. Supporting shipper(s): Diamond International Corp., 429 New Street, Cincinnati OH 45202. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 135797 (Sub-189TA), filed February 27, 1979. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 200, Lowell, AR 72745. Representative: Paul R. Bergant (same as applicant); *Glassware*, (1) from the facilities of Santa Claus Industries located at Waterloo, IA, to points in the United States (except AK and HI) and; (2) from Lancaster, OH to Waterloo, IA, for 180 days as a common carrier over irregular routes. Supporting shippers(s): Santa Claus Industries, P.O. Box 629, Waterloo, IA 50704. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 136246 (Sub-18TA), filed February 16, 1979. Applicant: GEORGE BROSI, INC., P.O. Box 492, Sutton, NE, 68979. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Road, Omaha, NE, 68106. *Lard, grease and tallow*, in bulk, in tank vehicles, from the facilities of: John Morrell & Co. at Estherville, IA to points in IL, MN, MO, NE, SD, and WI. An underlying ETA seeks 90 days authority. Supporting shipper(s): Curt Y. Hopkins, Manager of Transportation, John Morrell & Co., 208 South LaSalle St., Chicago, IL, 60604. Send protests to: Max H. Johnston, district supervisor, 285 Federal Building & Court House, 100 Centennial Mall North, Lincoln, Nebraska 68508.

MC 136786 (Sub-148TA), filed February 15, 1979. Applicant: ROBCO TRANSPORTATION, INC., 4333 Park Avenue, Des Moines, IA 50321. Representative: William L. Libby, 7525 Mitchell Road, Eden Prairie, MN 55343. *Inedible meats, meat products and meat by-products (except hides and skins)*, from the facilities of Consolidated Ref. Foods, Inc. at or near Amarillo, TX to the facilities of Kal-Kan Foods, Inc. at or near Vernon, CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kal Kan Foods,

Inc., 3386 E. 44th Street, Vernon, CA 90058. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 136786 (Sub-149TA), filed February 16, 1979. Applicant: ROBCO TRANSPORTATION, INC., 4333 Park Avenue, Des Moines, IA 50321. Representative: William L. Libby, 7525 Mitchell Road, Eden Prairie, MN 55343. (1) Meats; meat products; meat by-products and articles distributed by meat packinghouses as described in Sections A & C of Appendix I to the report in Descriptions in Motor Carrier Certificates; 61 MCC 209 and 766 (except hides and commodities in bulk) and (2) foodstuffs when moving in mixed loads with articles listed in (1) above from the facilities of Oscar Mayer & Co., Inc. at or near Perry and Des Moines, IA to PA, NJ, NY, NC, MD, SC and VA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Oscar Mayer & Co., Inc., P.O. Box 7188, Madison, WI 53707. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 138206 (Sub-6TA), filed February 12, 1979. Applicant: TRUELINE CORPORATION, 4455 S. Cameron Ave., Las Vegas, NV 89103. Representative: Robert G. Harrison, 4299 James Dr., Carson City, NV 89701. *Iron and steel products*; including rebar, fencing; sheet; angle; flat beams; tubing; pipe; channel; structural sizes and shapes; mesh; rolls and nails; for 180 days. *Restriction:* Restricted to prohibit transportation of construction materials and/or building materials as defined at Appendix VI in Description in Motor Carrier Certificates; 61 MCC: 209. Supporting shipper(s): There are six shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: W. J. Huetig, DS, ICC, 209 Federal Bldg., Carson City, NV 89701.

MC 138486 (Sub-6TA), filed February 23, 1979. Applicant: DAVE WHITE TRUCKING, Dave White, d.b.a., RR #1, Cerro Gordo, IL 61818. Representative: Jerry C. Slaughter; Registered Practitioner, 4666 Faries Parkway, Decatur, IL 62525. *Corn products*, dry, in bulk (except in tank vehicles), from the facilities of Archer Daniels Midland Company in Cedar Rapids, Iowa to points in Illinois. Supporting shippers: Archer Daniels Midland Company, 4666 Faries Parkway, P.O. Box 1470, Decatur, Illinois 62525. Send protests to: Charles D. Little, District Supervisor, Interstate Commerce Commission, 414 Leland Office Building, 527 East Capitol Avenue, Springfield, Illinois 62701.

MC 138676 (Sub-11TA), filed February 8, 1979. Applicant: O-J TRANSPORT COMPANY, 10290 Gratiot, Detroit, MI 48213. Representative: Robert E. McFarland, 999 West Big Beaver Rd., Suite 1002, Troy, MI 48064. *Auto parts and materials, supplies, equipment, and related articles used in the manufacture and production of motor vehicles*, between Detroit, MI and its commercial zone; on the one hand, and, on the other, Chicago, IL and its commercial zone, for 180 days. Supporting shippers: Ford Motor Company, Suite 200, Parklane Towers East, Dearborn, MI 48126. Send protests to: Tim Quinn, DS, ICC, 604 Federal Building and U.S. Courthouse, 231 West Lafayette Blvd., Detroit, MI 48226.

MC 139207 (Sub-6TA), filed February 26, 1979. Applicant: McNABB-WADSWORTH TRUCKING COMPANY, 305 S. Wilcox Drive, Kingsport, TN 37665. Representative: Henry E. Seaton, 929 Pennsylvania Bldg, 425 13th Street, NW, Washington, D.C. 20004. *Flat glass* from the facilities of Tempglass Eastern, Inc., at or near Norcross, GA to points in AL, AR, FL, KY, MS, NC, SC, TN, VA and WV, for 180 days. Supporting shippers: Tempglass Eastern, Inc., 1441 Industrial Park Drive, Norcross, GA 30071. Send protests to: Glanda Kuss, TA, ICC, Suite A-422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 139577 (Sub-31TA), filed February 3, 1979. Applicant: ADAMS TRANSIT, INC., P.O. Box 338, Friesland, WI 53935. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703. *Such merchandise as is dealt in by wholesale, retail, chain grocery and food business houses and materials, equipment, ingredients and supplies used in the manufacture, distribution and sale of the products named above* between the facilities of the Ralston Purina Co. at or near Clinton and Davenport, IA and Louisville, KY on the one hand, and, on the other, points in the States of IN, IL, IA, KY, MI, MN, MO, OH, TN & WI, for 180 days. Supporting shipper(s): Ralston Purina Co., Checkerboard Square, St. Louis, MO 53188. Send protests to: Gail Daugherty, TAICG, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wisconsin 53202.

MC 139587 (Sub-15TA), filed March 1, 1979. Applicant: BROWN REFRIGERATED EXPRESS, INC., P.O. Box 603, Fort Scott, KS 66701. Representative: Wilburn L. Williamson, Suite 615 East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. *Rubber articles, plastic*

articles, and rubber and plastic combined products, from Irving, TX to points in AL, AZ, CA, CO, FL, GA, IN, IA, KS, LA, MI, MN, MS, MO, NE, NC, OH, OK, OR, SC, WA, & WI; 180 days, common, irregular; Supporting Shipper: Entek Corporation of America, Dallas, TX.; Send protests to: M. E. Taylor, DS, ICC, 101, Litwin Bldg., Wichita, KS. 67202. Supporting Shippers(s): Entek Corporation of America, P.O. Box 61048, Dallas, TX 75261. Send protests to: M. E. Taylor, Dist. Supv., Interstate Commerce Commission, 101 Litwin Bldg., Wichita, KS. 67202.

MC 140587 (Sub-1TA), filed February 14, 1979. Applicant: CECIL CLAXTON, Route 3, Box 7, Wrightsville, Georgia 31096. Representative: Ronald K. Kolins, Esq., c/o Suite 428, 910 17th Street, NW., Washington, D.C. 20006. (1) Glass containers; (2) Materials, equipment and supplies used in the manufacture, sale and distribution of glass containers (1) from the plantsite of Midland Glass Co. at or near Warner Robins, GA. to St. Louis, MO to the plantsite of Midland Glass Co. at or near Warner Robins, GA. Supporting Shipper(s): Midland Glass Company, Inc., Cliffwood, N.J. 07721. Send protests to: Sara K. Davis, Transportation Assistant, ICC, Room 300, 1252 West Peachtree St., N.W., Atlanta, GA 30309.

MC 140717 (Sub-15TA), filed March 1, 1979. Applicant: JULIAN MARTIN, INC., P.O. Box 3348, Batesville, AR 72501. Representative: Timothy C. Miller, 9503 Marston Lane, Gaithersburg, MD 20760. Welding rods, wire and bars and welding related products, form the facilities of Alloy Road Division, Chemetron Corporation, Hanover, PA, and Monticello, IN, to points in AL, AR, AZ, CA, CO, ID, IA, IN, IL, KS, LA, MI, MN, MO, MS, MT, ND, NE, NM, NV, NY (restricted to points on and west of U.S. Highway I-81), OK, OR, SD, TX, UT, WA, WI and WY, restricted to traffic moving under a continuing contract with Chemetron Corporation, Hanover, PA, for 180 days as a contract carrier over irregular routes. Supporting shipper(s): Alloy Rods Division, Chemetron Corporation, Wilson Avenue, Hanover, PA 17331. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 141597 (Sub-6TA), filed February 5, 1979. Applicant: RIVERSIDE TRUCK LINE, INC., 919 Fourth Avenue, South, Denison, IA 51442. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. *Contract carrier* irregular routes: *Meat, meat products, and 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 hides and commodities in bulk), from the facilities of Farmland Foods, Inc., located at or near Denison, Iowa Falls, and Carroll, IA, and Crete, NE to points in AZ, CA, ID, MT, NV, OR, UT, and WA, under continuing contract or contracts with Farmland Foods, Inc., for 180 days. Restricted to the transportation of traffic originating at the above-named origins and destined to the above-named destination state An underlying ETA seeks 90 days authority. Supporting shipper(s): Deam Wilson, Farmland Foods, Inc., P.O. Box 403, Denison, IA 51442. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 142416 (Sub-4TA), filed January 16, 1979. Applicant: HAMILTON TRANSFER STORAGE & FEEDS, INC., P.O. Box H, Torrington, WY 82240. Representative: Rufus P. Brott, Pres. (same address as applicant). *Common carrier*, regular routes. General commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Torrington, Wyo., and Casper, Wyo., serving Lusk and Douglas, Wyo., and all points on U.S. Highway 26 between Torrington and junction U.S. Highway and Interstate Highway 25 west of Dwyer, Wyo., thence north over Interstate Highway 25 (or U.S. Highway 87) to Casper, and return over the same route. From Torrington over U.S. Highway 26 to junction Interstate Highway 25 west of Dwyer, Wyo., thence north over Interstate Highway 25 (or U.S. Highway 87) to Casper, and return over the same route. From Torrington over U.S. Highway 26 to Lingle, Wyo., thence over U.S. Highway 85 to Lusk, Wyo., thence west over U.S. Highway 20 to Orin Junction, and thence over Interstate Highway 25 to Casper and return over the same route. Between Torrington, WY and Scottsbluff, NE via U.S. Hwy 26, serving all intermediate points in WY for 180 days. Waiver of restrictions against tacking and interline, this application. Supporting shipper(s): There are twelve shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: District Supervisor Paul A. Naughton, Interstate Commerce Commission, Rm 105 Federal

Bldg & Crt House, 111 South Wolcott, Casper, WY 82601.

MC 142447 (Sub-10TA). Applicant: LOUISIANA-PACIFIC TRUCKING COMPANY, P.O. Drawer AB, New Waverly, TX 77358. Representative: Harold R. Ainsworth, 2307 American Bank Bldg., New Orleans, LA 70130. *Contract carrier* over irregular routes. *Shavings and Sawdust* from the Louisiana-Pacific Corp. plant at or near Carthage, TX to the Olinkraft, Inc. Particleboard plant at or near Lillie, LA for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Louisiana Pacific Corporation, P.O. Drawer AB, New Waverly, TX 77358. Send protests to: John F. Mensing, District Supervisor, 8610 Federal Bldg., 515 Rusk Ave., Houston, TX 77002.

MC 142897 (Sub-13TA), filed February 12, 1979. Applicant: KENNEDY FREIGHT LINES, INC., 7401 Fremont Pike, Perrysburg, OH 43551. Representative: Paul Beery, Beery & Spurlock, L.P.A., 275 E. State Street, Columbus, OH 43215. *Bakery products*, from Columbus, OH to Memphis and Nashville, TN and Roanoke, VA, for 180 days. *Contract carrier-irregular routes*. An underlying ETA seeks 90 days authority. Supporting Shipper(s): The Kroger Co., 1014 Vine Street, Cincinnati, OH 45201. Send protests to: P. J. Crawford, 313 Federal Office Bldg., 234 Summit St., Toledo, OH 43604.

MC 143236 (Sub-28), filed February 26, 1979. Applicant: WHITE TIGER TRANSPORTATION, INC., 40 Hackensack Avenue, Kearny, NJ 07032. Representative: Elizabeth Eleanor Murphy, 40 Hackensack Avenue, Kearny, NJ 07032. *Beer and related material and equipment* used in the sale or brewing of beer (except in bulk) in vehicles equipped with temperature control between the facilities and distributors of Anheuser-Busch, Inc., at or near St. Louis, MO; Columbus, OH; Newark, NJ; on the one hand and, on the other facilities, of distributors, and customers of Anheuser-Busch, Inc., at points in Iowa, Missouri, New Jersey, New York, Delaware, Pennsylvania, New Hampshire, Rhode Island, Ohio, Connecticut, and Massachusetts, for 180 days. Supporting Shipper(s): Anheuser-Busch, Inc., 200 US Hwy 1, Newark, NJ 07101. Send protests to: Robert E. Johnston, D/S, ICC, 9 Clinton St., Room 618, Newark, NJ 07102.

MC 143387 (Sub-4TA), filed February 14, 1979. Applicant: ASSOCIATED COURIERS, INC., 342 Fee Fee Rd., Maryland Heights, MO 63043. Representative: Warren W. Wallin, Sullivan & Associates, Ltd., 10 S. LaSalle

St., suite 1600, Chicago, IL 60603; *Contract carrier; irregular routes: Radioactive, pharmaceuticals, radioactive isotopes, and medical testing kits, between Maryland Heights, MO, on the one hand, and, on the other, Birmingham, AL, Nashville, TN, Charlotte, NC, Atlanta, GA, Orlando and Fort Lauderdale, FL. (2). Lead safes and materials used in the packaging of the commodities in (1) above, from Oak Ridge, TN, to Maryland Heights, MO, under contract with Mallinckrodt, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s); Mallinckrodt, Inc., Box 10172 Lambert Field, St. Louis, MO 63045. Send protests to: P. E. Binder, ADS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.*

MC 143627 (Sub-4TA), filed February 26, 1979. Applicant: FITZSIMMONS-TRUCKING, INC., 617 Fourth Avenue, Southeast, Waseca, MN 56093. Representative: Robert D. Gisvold, 1000 First National Bank Building, Minneapolis, MN 55402. *Contract carrier; irregular routes: Printed matter and equipment and supplies used by printing companies, (except commodities in bulk) between Franklin, KY, on the one hand, and, on the other, points in the United States (except AK and HI), under a contract with Brown Printing Company, Inc., of Waseca, MN, for 180 days. SUPPORTING SHIPPER(S); Brown Printing Company, Inc., U.S. Highway 14 West, Waseca, MN 56093. SEND PROTESTS TO: Delores A. Poe, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.*

MC 143956 (Sub-5TA), filed February 16, 1979. Applicant: GARDNER TRUCKING CO., INC., Drawer 493, Walterboro, SC 29488. Representative: Theodore Polydoroff, Suite 301, 1301 Dolley Madison Blvd., McLean, VA 22101. *Foodstuffs, in vehicles equipped with temperature control from facilities of Holsum Foods, Waukesha, WI to points in NJ, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s); Holsum Foods, 500 South Prairie Avenue, Waukesha, WI 53186. Send protests to: E. E. Strotheid, D/S, ICC, Rm. 302, 1400 Bldg., 1400 Pickens Street, Columbia, SC 29201.*

MC 144117 (Sub-30TA), filed February 16, 1979. Applicant: T. L. C. LINES, INC., P.O. Box 1090, Fenton, MO 63026. Representative: Jack H. Blanshan, Suite 200, 205 W. Touhy Ave., Park Ridge, IL 60088. *Foodstuffs, except frozen foods and commodities in bulk, in vehicles equipped with mechanical refrigeration, from the facilities of Hershey Chocolate Co., Div. Hershey Foods Corp., at or*

near Derry Township, Dauphin County, PA, and the facilities of Y&S Candies, Inc., at or near E. Hempfield Township, Lancaster County, PA, to Oakdale, CA, and its commercial zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Hershey Chocolate Company, 19 E. Chocolate Ave., Hershey, PA 17033. Send protests to: P. E. Binder, DS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 144407 (Sub-9TA), filed February 22, 1979. Applicant: DECKER TRANSPORT COMPANY, INCORPORATED, 412 Route 23, Pompton Plains, NJ 07444. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Common, irregular. Such commodities as are dealt in and sold by Do It Yourself Home Centers and materials, equipment, and supplies used in the conduct of such business (except foodstuffs and commodities in bulk), between Macedonia, Kent and Cleveland, OH on the one hand, and on the other, points in MA, CT, PA, NJ, RI and NY, for 180 days. Restricted to the transportation of shipments originating at or destined to the facilities of Forest City, Division of Forest City Enterprises, Inc. Supporting shipper(s); Forest City—Division of Forest City Enterprises, Inc., 10800 Brookpark Road, Cleveland, OH 44130. Send protests to: Joel Morrows, D/S, ICC, 9 Clinton St., Rm. 618, Newark, NJ, 07102.*

MC 144547 (Sub-3TA), filed February 26, 1979. Applicant: DURA-VENE TRANSPORT CORPORATION, 2525 El Camino Real, Redwood City, CA 94064. Representative: Barry Roberts, 888 17th St., N.W., Washington, DC 20006. *Contract carrier; irregular routes: Furnaces, air conditioning equipment, and related equipment, materials and supplies, from Cincinnati, OH, to points in AZ, CA, CO, ID, KS, MO, MT, NM, NV, OK, OR, TX, UT, WA, and WY, for the account of The Williamson Company, for 180 days. Supporting shipper(s); The Williamson Company, 3500 Madison Rd., Cincinnati, OH 45209. Send protests to: M. M. Butler, District Supervisor, 211 Main, Suite 500, San Francisco, CA 94105.*

MC 144557 (Sub-5TA), filed February 23, 1979. Applicant: HUDSON TRANSPORTATION, INC., P.O. Box 847, Troy, AL 36801. Representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 1240, Arlington, VA 22210. *Foodstuffs (except in bulk), from the facilities of Illes Company, at or near Dallas, TX, to points in the United States in and east of MN, IA, MO, KS, OK, AR, and LA, for*

180 days. Supporting shipper(s); Illes Company, 5527 Redfield, P.O. Box 35412, Dallas, TX 75235. Send protests to: Mabel E. Holston, TA, ICC, Room 1616—2121 Building, Birmingham, AL 35203.

MC 144827 (Sub-19TA), filed February 14, 1979. Applicant: DELTA MOTOR FREIGHT, INC., 2877 Farriaview, Memphis, TN 38118. Representative: R. Connor Wiggins, Jr., 100 North Main Bldg., Suite 909, Memphis, TN 38103. *Such merchandise as is dealt in by department stores and advertising materials, from Chicago, Rockford and Des Plaines, IL; South Bend, IN; West Bend and Mikwaukee, WI to the facilities of Service Merchandise Company, Inc. at Memphis and Nashville, TN. Restricted to the transportation of shipments from suppliers and vendors of Service Merchandise Company, Inc. at the named origin points and to shipments destined to the facilities of Service Merchandise Company, Inc. at the named destinations, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Service Merchandise Company, Inc., 2968 Foster Creighton Drive, Nashville, TN 37204. Send protests to: Floyd A. Johnson, D/S, ICC, 100 North Main Building—Suite 2006, 100 North Main Street, Memphis, TN 38103.*

MC 144846 (Sub-5TA), filed February 15, 1979. Applicant: TRANSTATES, INC., 3216 East Westminster, Santa Ana, CA 92703. Representative: Patricia M. Schnegg, Esq., Knapp, Stevens, Crossman & Marsh, 1800 United California Bank Building, 707 Wilshire Boulevard, Suite 1800, Los Angeles, California 90017. *Transformers and related electrical and switching equipment from the facilities of Westinghouse at Athens, GA to points in WA, OR, CA, AZ, NV, and UT, for 180 days. Supporting shipper(s): Westinghouse Electric Corporation, 290 Legan Road, No. Huntingdon, PA 15642. Send protests to: Irene Carlos, T/A, ICC, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, California 90012.*

MC 144867 (Sub-2TA), filed February 2, 1979. Applicant: R & J TRANSPORT, INC., 929 N. 24th St., Manitowoc, WI 54220. Representative: Michael Wyngaard, 150 E. Gilman St., Madison, WI 53703. *Papermaking machinery and equipment, parts and accessories thereto, and dunnage between Nauenah, WI, on the one hand, and, on the other, points in IN, GA, FL, ME, NY, CA, WA, OR, MO & AR, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): J. W. Hewitt Co.,*

131 N. Commercial St., Neenah, WI 54956, and Stowe-Woodward Co., 912 Haase St., Neenah, WI 54956. Send protests to: Gail Daugherty, TA, 517 East Wisconsin Ave., Rm 619, Milwaukee, WI 53202.

MC 145406 (Sub-19TA), filed February 16, 1979. Applicant: MIDWEST EXPRESS, INC., 380 East Fourth Street, Dubuque, IA 52001. Representative: Richard A. Westley, Attorney 4506 Regent Street, Suite 100, Madison, WI 53705. *Fresh meat and packinghouse products* from the facilities of Wilson Foods Corp., at or near Cherokee, IA to points in IL for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Wilson Foods Corporation, 4545 Lincoln Boulevard, Oklahoma City, OK 73105. Send protests to: Herbert W. Allen DS, ICC 518 Federal Bldg., Des Moines, IA 50309.

MC 145627 (Sub-1TA), filed January 29, 1979. Applicant: M & T TRUCKING, INC. 4290 State Route 7, New Waterford, OH 44445. Representative: Stanley I. Goldman, 1700 K St., NW, Washington, DC 20006. *Coal*, from the facilities of East Fairfield Coal Co., at or near North Lima and Springfield Township (Mahoning County), OH to points in Lawrence and Beaver Counties, PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): East Fairfield Coal Co., P.O. Box 255, North Lima, OH 44452. Send protests to: J. A. Niggemyer, DS; 416 Old PO Bld., Wheeling WV 26003.

MC 146436 (Sub-TA), filed March 1, 1979. Applicant: SIERRA HIGHLANDS BUS CO., INC., 1559 Broadway, Fresno, CA 93721. Representative: Otto L. Johansen (same address as above). *Common Carrier*: regular routes: *Passengers and their baggage, Express, Newspapers, U.S. Mail* in the same vehicle, between Fresno and Fishcamp, CA, serving all intermediate points; from Fresno to Fishcamp via State Hwy 41 and return same route, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): There are 7 statements in support attached to this application which may be examined at the ICC in Washington, D.C. or copies of which may be examined in the San Francisco, CA field office. Send protests to: District Supervisor M. M. Butler, 211 Main, Suite 500, San Francisco, CA 94105.

MC 107496 (Sub-1208TA), filed March 30, 1979. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Avenue, Des Moines, IA 50309. Representative: E. Check (same as applicant). *Herbicides*, liquid, in bulk, in tank vehicles, from St. Rose, LA to Des Moines, IA for 180 days;

An underlying ETA seeks 90 days authority. Supporting Shipper(s): CIBA-Geigy Corporation, 444 Saw Mill River Rd., Ardsley, NY 10502. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 146146 (Sub-3TA), filed February 28, 1979. Applicant: HADDAD TRANSPORTATION, INC., 5000 Wyoming, Dearborn, MI 48128. Representative: James F. Schouman, 21925 Garrison Ave., Dearborn, MI 48124. Authority sought to operate as a contract carrier by motor vehicle, over irregular routes transporting (1) *iron and steel articles, machinery, aluminum, plastics N.O.I., auto trim, paint, compounds N.O.I., materials and related equipment and supplies*, from Detroit, MI and its commercial zone to points in the 48 contiguous States; (2) *materials, equipment and supplies used in the manufacture and distribution of the above-mentioned commodities*, from points in the 48 contiguous States to Detroit, MI and its commercial zone. Said operations are limited to a transportation service to be performed under a continuing contract, or contracts with Douglas and Lomason. Supporting Shipper(s): Douglas & Lomason, 24600 Hallwood Ct., Farmington Hills, MI 48018, Robert H. Brewer, Traffic Manager. Send protests to: Tim Quinn, DS, ICC, 604 Federal Building and U.S. Courthouse, 231 W. Lafayette Blvd., Detroit, MI 48226.

MC 146187 (Sub-1TA), filed February 20, 1979. Applicant: THE TEN WHEELERS, INC., Route 2, Gregory Road, Greenback, TN 37742. Representative: Edward C. Blank, II, P.O. Box 1004, Columbia, TN 38401. *Electroless nickel plating solution and raw materials for manufacture of same* (1) from the facilities of Elnic of Tennessee, Inc., Nashville, TN to points in the States of IL, IA, LA, MN, NV, NY, OK, RI, and TX and (2) from Rochester, NY and Chicago, IL to the facilities of Elnic of Tennessee, Inc., Nashville, TN, for 180 days. Supporting Shipper(s): Elnic of Tennessee, Inc., 657 Massman Drive, Nashville, TN 37210. Send protests to: Glenda Kuss, TA, ICC, Suite A-422, U.S. Court House, Nashville, TN 37203.

MC 146248 (Sub-1TA), filed February 8, 1979. Applicant: PETER AND SON, INC., 1424 Water Street, P.O. Box 903, Fitchburg, MA 01420. Representative: James M. Burns, 1383 Main Street, Springfield, MA 01103. Contract carrier, irregular routes, *such merchandise as is dealt in by mail order houses and retail stores* between Leominster, MA, on the one hand, and, on the other, Cheshire,

Hillsborough and Rockingham Counties, NH for the account of Sears, Roebuck and Company of St. Davids, PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Sears, Roebuck and Co., 555 E. Lancaster Avenue, St. Davids, PA 19087. Send protests to: David M. Miller, DS, ICC, 436 Dwight Street, Springfield, MA 01103.

MC 146277 (Sub-1TA), filed February 15, 1979. Applicant: ALLAN FODNESS, d./b./a. AL'S TRUCKING, R.R. #3, Lennox, South Dakota 57039. Representative: Mark Menard, P.O. Box 480, Sioux Falls, SD 57101. *Animal and poultry feed and feed ingredients in bags and in bulk in auger tank equipment* from Lennox, SD to points in IA bounded by Hwy 71 on the east and Hwy 20 on the south, points in MN bounded by Hwy 71 on the east and Hwy 212 on the north, Knox and Cedar Counties, NE, points in ND lying east of Hwy 83, points in SD and return from Sioux City, IA and New Richland, MN to Lennox, SD, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Cargill, Inc., Nutrena Feed Division, Lennox, SD 57039. Send protests to: J. L. Hammond, DS, ICC, Room 455, Federal Bldg., Pierre, SD 57501.

MC 146296R (Sub-1TA), filed February 28, 1979. Applicant: DANCO OILFIELD SERVICE COMPANY, 2300 South Olive, Oklahoma City, OK 73109. Representative: G. Timothy Armstrong, 6161 North May Ave., Oklahoma City, OK 73112. *Steel tubing*, (1) from the facilities of Russell Steel Division of Van Pelt Corporation at Oklahoma City, OK, to points in TX and points in KS on and west of U.S. Hwy 81, and (2) from Houston, Dallas, and Lone Star, TX, to the facilities of Russell Steel Division of Van Pelt Corporation at Oklahoma City, OK, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Russell Steel Division, 2030 N.W. 7th, Oklahoma City, OK 73106. Send protests to: Connie Stanley, Room 240 Old Post Office, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 146306 (Sub-1TA), filed February 15, 1979. Applicant: JOHN D. LARNED d.b.a. J & P TRANSPORTATION, Box 515, Westminster, CO 80030. Representative: Truman A. Stockton, Jr., 1650 Grant St. Bldg., Denver, CO 80203. Contract carrier: *irregular routes: Advertising matter and such general merchandise as is dealt in by wholesale and retail grocery and food business houses (except commodities in bulk in tank vehicles and fresh or frozen meats)* from the facilities of C.I.A.

Consolidators, Inc., at or near Denver, CO to Albuquerque, NM; Salt Lake City, UT and Gering, NE for 180 days. Underlying ETA filed seeking 90 days authority. SUPPORTING SHIPPER: C.A.I. Consolidators, Inc., 4250 Oneida, Suite 139, Denver, CO 80216. SEND PROTESTS TO: Roger L. Buchanan, ICC, 492 U.S. Customs House, 721 19th St., Denver, CO 80202. Supporting Shipper(s): C.A.I. Consolidators, Inc., 4250 Oneida, Suite 139, Denver, CO 80216. Send protests to: D/S Roger L. Buchanan, Interstate Commerce Commission, 721 19th St., 492 U.S. Customs House, Denver, CO 80202.

MC 146326 (Sub-1TA), filed February 21, 1979. Applicant: ALGER TRANSPORTATION, John Alger, Sr. d.b.a. 9811 Redman Ave., Omaha, NE 68134. Representative: Marshall D. Becker, Suite 610, 7171 Mercy Rd., Omaha, NE 68106. *Cable, wire and telephone equipment (except commodities in bulk in tank vehicles)*, from Omaha, NE to Sunset Whitney Ranch, Mulford, Los Angeles and San Diego, CA and their respective commercial zones and empty reels and cores on return, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): A.C. Dodge, Western Electric Co., Inc., P.O. Box 14000, Omaha, NE 68114. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 146366 New carrier (Sub TA), filed February 22, 1979. Applicant: VICKERD BROTHERS LIMITED, R.R. #1, Woodslee, Ontario, Canada. NOR 1VO. Representative: Richard C. Marsh, 1600 First Federal Building, Detroit, MI 48226. *Shipping containers, reconditioned pallets and materials, and equipment and supplies used in the manufacture of shipping containers and reconditioned pallets*, between points of entry on the United States-Canada boundary line located in MI, on the one hand, and, on the other, points in OH, MI and IN, for 180 days. Restricted to shipments originating at or destined to the facilities of L & H Wood Manufacturing Company and L & H Wood Manufacturing Company, LTD. Supporting shipper(s): L & H Manufacturing Company, LTD., 31200 West Eight Mile Rd., Farmington, MI 48024. L & H Wood Manufacturing Company, 31200 West Eight Mile Rd., Farmington, MI 48204. Send protests to: Tim Quinn, DS, ICC, 604 Federal Building and U.S. Courthouse, 231 W. Lafayette Blvd., Detroit, MI 48226.

MC 146367 (Sub TA), filed February 5, 1979. Applicant: COAL CORNERS, INC., Aberdeen, KY 42261. Representative: Judy Yessin, Attorney, 314 Wilkinson

St., Frankfort, KY 40601. Coal, between points in KY, TN and IN, for 180 days. Supporting shipper(s): Jimmie Combs, President, Tri-Coal Energies, Inc., Rt. 1, Cromwell, KY 42333. F. L. Cassity, Alley Cassity Coal Co., Inc., P.O. Box 23305, Nashville, TN 37202. Mark A. Rust, Vice President, Golden R Coal Co., Rt. 1—Cromwell, KY 42333. Send protests to: Mrs. Linda H. Sypher, District Supervisor, Interstate Commerce Commission, 426 Post Office Building, Louisville, KY 40202.

Decided by the Commission.

H. G. Homme, Jr.,
Secretary.

[Notice No. 76]

[FR Doc. 79-14330 Filed 5-8-79; 8:45 am]

BILLING CODE 7035-01-M

Permanent Authority Applications; Decision-Notice

Decided: April 26, 1979.

The following applications are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the *Federal Register*. Failure to file a protest, within 30 days, will be considered as a waiver of opposition to the application. A protest under these rules should comply with Rule 247(e)(3) of the *Rules of Practice* which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of § 247(e)(4) of the special rules and shall

include the certification required in that section.

On cases filed on or after March 1, 1979, petitions for intervention either with or without leave are appropriate.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If applicant has introduced rates as an issue it is noted. Upon request an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

We Find: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that

applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient protests, filed on or before June 8, 1979 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

H. G. Homme, Jr.,
Secretary.

MC 4484 (Sub-7F), filed January 29, 1979. Applicant: CROWN TRANSPORT, INC., R.D. #2, Wampum, PA 16157. Representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting: (1) *rotary fans, machinery, and fabricated steel*, and (2) *attachments, accessories, and parts for the commodities in (1) above*, (except commodities in bulk), (3) *materials, equipment and supplies used in the manufacture of commodities named in (1) and (2) above*, (except commodities in bulk), between the facilities of the Green Fan Company, at Beacon, NY, on the one hand, and, on the other, those points in the United States in and east of WI, IL, KY, TN, AR, and LA. (Hearing site: Washington, D.C.)

MC 8744 (Sub-15F), filed January 28, 1979. Applicant: CONSOLIDATED MOTOR EXPRESS, INC., 909 Grant Street, Bluefield, WV 27401. Representative: John M. Friedman, 2930 Putnam Avenue, Hurricane, WV 25526. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting (1) *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Smithers, WV, and Charleston, WV,

over U.S. Hwy 60, serving all intermediate points, and all off-route points in Kanawha County, and (2) between Beckley, WV, and Charleston, WV: (a) from Beckley over WV Hwy 3 to junction WV Hwy 3 and U.S. Hwy 119, then over U.S. Hwy 119 to Charleston, and return over the same route, serving all intermediate points and all off-route points in Kanawha County, and (b) over the WV Turnpike, serving all off-route points in Kanawha County. (Hearing site: Charleston, WV.)

MC 41404 (Sub-156F), filed February 2, 1979. Applicant: ARGO-COLLIER TRUCK LINES CORPORATION, P.O. Box 440, Martin, TN 38237. Representative: Mark L. Horne (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except in bulk), from the facilities of J. H. Filbert, Inc., in Fulton, Clayton, DeKalb, Cobb, and Douglas Counties, GA, to points in AL, IL, IN, KY, LA, MS, NC, SC, and TN. (Hearing site: Baltimore, MD, or Atlanta, GA.)

MC 52704 (Sub-205F), filed February 1, 1979. Applicant: GLENN McCLENDON TRUCKING COMPANY, INC., P.O. Drawer "H", LaFayette, AL 36862. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by manufacturers and distributors of rubber and rubber products, (except commodities in bulk, in tank vehicles), between the facilities of The Goodyear Tire & Rubber Company, at or near Gadsden, AL, on the one hand, and, on the other, points in AL, AR, DE, FL, GA, IA, IL, IN, KY, KS, LA, MD, MI, MN, MS, MO, NJ, NY, NC, OH, OK, PA, SC, TN, TX, VA, WV, and WI. (Hearing site: Atlanta, GA.)

MC 60014 (Sub-105F), filed February 8, 1979. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, PA 15146. Representative: A. Charles Tell, 100 East Broad Street, Columbus, Oh 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *metal buildings*, and (2) *parts and accessories for metal buildings*, from the facilities of Pascoe Steel Corporation at or near Columbus, GA, to those points in the United States in and east of MN, WI, IL, KY, TN, MS, and LA. (Hearing site: Atlanta, GA, or Washington, DC.)

MC 98964 (Sub-18F), filed January 26, 1979. Applicant: P.B.I. FREIGHT SERVICE, a corporation, 960 North 1200 West, Orem, UT 84057. Representative: Lon Rodney Kump, 333 East Fourth South, Salt Lake City, UT 84111. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except commodities in bulk, household goods as defined by the Commission, and commodities requiring special equipment), between Fredonia, AZ, and Las Vegas, NV, from Fredonia over AZ Hwy 389 to the AZ-UT State line, then over UT Hwy 59 to Hurricane, UT, then over UT Hwy 15 to junction Interstate Hy 15, then over Interstate Hwy 15 to Las Vegas, NV, and return over the same route, serving all intermediate points in AZ, and the off-route points of Kaibab Indian Reservation, Cane Beds, Moccasin, Colorado City, and Pipe Spring National Monument, AZ, and serving no intermediate points in UT (except St. George, UT, for purposes of interline only). Condition: To the extent the certificate in this proceeding authorizes the transportation of classes A and B explosives it will expire 5 years from the date of issuance. (Hearing site: Las Vegas, NV, or Cedar City, UT.)

MC 106644 (Sub-274F), filed February 1, 1979. Applicant: SUPERIOR TRUCKING COMPANY, INC., P.O. Box 916, Atlanta, GA 30301. Representative: Louis C. Parker, III (same address as applicant). To operate as a *common carriers*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plywood, paneling, gypsum board, composition board, and molding*, from the facilities of Pan American Gyro-Tex Company, at or near Jacksonville and Jasper, FL, to those points in the United States in and east of MN, IA, NE, KS, OK, and TX (except FL). (Hearing site: Jacksonville, FL, or Washington, DC.)

Note.—Dual operations may be involved.

MC 107064 (Sub-131F), filed February 5, 1979. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, TX 75221. Representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, TX 75201. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *petroleum products, chemicals, and fertilizer*, between points in OK, and those in TX on the north of Interstate Hwy 40, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Dallas, TX.)

MC 113434 (Sub-126F), filed February 8, 1979. Applicant: GRA-BELL TRUCK LINE, INC., A-5253 144th Avenue, Holland, MI 49423. Representative: Wilhelmina Boersma, 1600 First Federal Building, Detroit, MI 48226. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *paper and paper products* (except commodities in bulk), from the facilities of Scott Paper Company, at or near (1) Philadelphia, PA, to points in IL, IN, KY, MI, OH and WV, (2) Columbus, OH, to points in IL, IN, IA, KY, MI, MO, and WV, (3) Indianapolis, IN, to points in IA, IL, MI, MO, KY, and WV, and (4) Chicago, IL, to points in IA, IN, MI, MO, OH, and KY, restricted in (1), (2), (3), and (4) above, to the transportation of traffic originating at the named origins and destined to the indicated destinations (Hearing site: Philadelphia, PA, or Washington, DC.)

MC 114045 (Sub-531F), filed February 8, 1979. Applicant: TRANS-COLD EXPRESS, INC., P.O. Box 61228, Dallas, TX 75261. Representative: J. B. Stuart, (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen foods*, from the facilities of Ore-Ida Foods, Inc., at Greenville, MI, to points in TX. (Hearing site: Chicago, IL, or Dallas, TX.)

MC 114334 (Sub-47F), filed February 2, 1979. Applicant: BUILDERS TRANSPORTATION COMPANY, a Corporation, 3710 Tulane, Memphis, TN 38116. Representative: Dale Woodall, 900 Memphis Bank Building, Memphis, TN 38103. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from Birmingham, AL, to those points in MS on and north of U.S. Hwy 82. (Hearing site: Memphis, TN.)

MC 115554 (Sub-19F), filed February 5, 1979. Applicant: SCOTT'S TRANSPORTATION SERVICE, INC., P.O. Box 89B, R.R. 6, Iowa City, IA 52240. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *gas and electrical appliances*, (2) *parts* for the commodities in (1) above, (3) *materials equipment and supplies* used in the manufacture, distribution and repair of the commodities in (1) above, from the facilities of Whirlpool Corporation, at Evansville, IN, to points in AR, IL, IA, MI, MN, MO, NE, OH, and WI. (Hearing site: Chicago, IL.)

MC 116254 (Sub-251F), filed February 2, 1979. Applicant: CHEM-HAULERS, INC., 118 East Mobile Plaza, Florence, AL 35630. Representative: Hampton M. Mills (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *contaminated brass items, contaminated copper items, contaminated zinc items, and contaminated lead items*, (1) from Decatur, AL, to points in OH, PA, IL, MO, CT, WI, IN, GA, KY, NY, TN, and FL, and (2) from points in TN, to points in AL. (Hearing site: Birmingham, AL, or Nashville, TN.)

MC 116254 (Sub-252F), filed February 8, 1979. Applicant: CHEM-HAULERS, INC., 118 East Mobile Plaza, Florence, AL 35630. Representative: Hampton M. Mills (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *liquid chemicals*, in bulk, in tank vehicles, from the facilities of Jefferson Chemical Company, Inc., in Jefferson, Montgomery, and Travis Counties, TX, to points in AL, MS, TN, AR, LA, and FL. (Hearing site: Houston, TX, or Washington, DC.)

MC 117664 (Sub-13F), filed February 6, 1979. Applicant: DENTON TRUCKING, INC., P.O. Box 33, Denton, MD 21629. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 Fifteenth St., NW, Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *limestone and limestone products*, in bulk, in dump vehicles, from the facilities of E. J. Baker Lime Company, at or near York, PA, to points in Sussex County, DE, and Caroline County, MD. (Hearing site: Washington, DC.)

MC 121664 (Sub-52F), filed January 25, 1979. Applicant: HORNADY TRUCK LINE, a corporation, P.O. Box 846, Monroeville, AL 36460. Representative: W. E. Grant, 1702 First Avenue South, Birmingham, AL 35201. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *cement* (1) from the facilities of Martin Marietta Cement, Southern Division, at Atlanta, GA, to points in AL and FL, (2) from the facilities of (a) National Cement Company, at Ragland, AL, and (b) Martin Marietta Cement, Southern Division, at Roberta, AL, to points in LA. (Hearing site: Birmingham or Montgomery, AL.)

MC 121664 (Sub-54F), filed January 25, 1979. Applicant: HORNADY TRUCK

LINE, a corporation, P.O. Box 846, Monroeville, AL 36460. Representative: Donald B. Sweeney, Jr., 603 Frank Nelson Building, Birmingham, AL 35203. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in Monroe County, AL, on the one hand, and, on the other, Mobile, Selma, and Montgomery, AL. (Hearing site: Mobile or Montgomery, AL.)

MC 123054 (Sub-24F), filed February 6, 1979. Applicant: R & H CORPORATION, 295 Grand Avenue, Box 469, Clarion, PA 16214. Representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, PA 15219. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *glass containers, closures* for glass containers, and *fiberboard boxes*, from points in CT, to points in KY and MI. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 123054 (Sub-25F), filed February 6, 1979. Applicant: R & H CORPORATION, 295 Grand Ave., Box 469, Clarion, PA 16214. Representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, PA 15219. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *glass containers, plastic containers, and container accessories*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, (except commodities in bulk, in tank vehicles), between those points in the United States in, north and east of MI, IN, KY, TN, and GA, restricted to the transportation of traffic originating at or destined to the facilities of Brockway Glass Company, Inc. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 123314 (Sub-24F), filed January 31, 1979. Applicant: JOHN F. WALTER, INC., P.O. Box 175, Newville, PA 17241. Representative: Christian V. Graf, 407 North Front St., Harrisburg, PA 17101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by grocery and feed business houses, from the facilities of Ralston Purina Company, at or near Hampden Township (Cumberland County), PA, to points in NJ and those in NY on and

south of Interstate Hwy 84; (Hearing site: Washington, DC or Harrisburg, PA.)

MC 123685 (Sub-24F), filed December 27, 1978, previously noticed in the Federal Register of February 2, 1979. Applicant: PEOPLES CARTAGE, INC., 8045 Navarre Road, SW., Massillon, OH 44646. Representative: Boyd B. Ferris, 50 West Broad Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by, processors and distributors of salt and salt products, between Rittman, Fairport Harbor, Cincinnati and Cleveland, OH, on the one hand, and, on the other, points in WV, PA, NY, MI, IL, IN, KY, TN, VA, MD, NJ, and DC. (Hearing site: Cleveland or Columbus, OH.)

Note.—This republication modifies the territorial description.

MC 124004 (Sub-47F), filed February 1, 1979. Applicant: RICHARD DAHN, INC., 620 West Mountain Rd., Sparta, NJ 07871. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *ground coffee*, from Freehold, NJ, to points in MN, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: New York, NY, or Washington, DC.)

MC 124004 (Sub-48F), filed February 1, 1979. Applicant: RICHARD DAHN, INC., 620 West Mountain Rd., Sparta, NJ 07871. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *feed and feed ingredients*, from the facilities of Doane Products Co., at or near Manassas, VA, to those points in the United States in and east of MN, IA, MO, AR, and LA; and (2) *materials and supplies* used in the manufacture and distribution of feed and feed ingredients, in the reverse direction, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: New York, NY, or Washington, DC.)

MC 128205 (Sub-64F), filed February 5, 1979. Applicant: BULK MATIC TRANSPORT COMPANY, a Corporation, 12000 South Doty Ave., Chicago, IL 60628. Representative: William H. Towle, 180 North LaSalle St., Chicago, IL 60601. To operate as a *common carrier*, by motor vehicle, in

interstate or foreign commerce, over irregular routes, transporting *starch*, in bulk, in tank vehicles, from Chicago, IL, to points in IL, OH, IN, WI, and MI, restricted to the transportation of traffic having a prior movement by rail (Hearing site: Chicago, IL.)

MC 133095 (Sub-202F), filed October 2, 1978, previously noticed in the Federal Register of November 28, 1978. Applicant: TEXAS-CONTINENTAL EXPRESS, INC., P.O. Box 434, Euless, TX 76039. Representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, TX 75201. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *alcoholic beverages* (except in bulk), and (2) *materials and supplies* used in the manufacture and distribution of alcoholic beverages, between Peoria, IL, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Dallas, TX)

Note.—This republication modifies the territorial description.

MC 134404 (Sub-44F), filed January 29, 1979. Applicant: AMERICAN TRANS-FREIGHT, INC., P.O. Box 796, Manville, NJ 08835. Representative: Eugene M. Malkin, Suite 6193, 5 World Trade Center, New York, NY 10048. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *cleaning products, toilet preparations, nutritional foods*, and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities named in (1) above (except commodities in bulk), (a) from Dayton, OH, and Nashville, TN, to Denver, CO, Jacksonville, FL, Atlanta, GA, Chicago and Peoria, IL, Kansas City, KS, Baltimore, MD, Detroit, MI, St. Louis, MO, Elizabeth, NJ, Syracuse, NY, Charlotte, NC, Columbus and Cincinnati, OH, East Stroudsburg, Philadelphia and Pittsburgh, PA, Saylesville, RI, Dallas, TX, and Richmond, VA, (b) from Franklin, KY, to Peoria, IL, Columbus, OH, Baltimore, MD, Elizabeth, NJ, Philadelphia and Pittsburgh, PA, and Nashville, TN, and (c) between Franklin, KY, Cincinnati, Dayton, and Urbana, OH, and East Stroudsburg, Pa, under a continuing contract(s) with The Drackett Products Company, Division of Bristol Meyers Company, of Cincinnati, OH. (Hearing site: New York, NY.)

Note.—Dual operations may be involved.

MC 134404 (Sub-45F), filed January 29, 1979. Applicant: AMERICAN TRANS-FREIGHT, INC., P.O. Box 796, Manville, NJ 08835. Representative: Eugene M.

Malkin, Suite 6193, 5 World Trade Center, New York, NY 10048. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *fiberglass tubs and fiberglass shower stalls*, from the facilities of Facetglas, Inc., at or near, Martinsburg, WV, Rock Hill, SC, Mishawaka, IN, and Richmond, MI, to those points in the United States in and east of MN, IA, MO, AR, and LA, and (2) *materials, equipment and supplies* used in the manufacture and distribution of commodities in (1) above, (except commodities in bulk), in the reverse direction, under a continuing contract(s) with Facetglas, Inc., of Rock Hill, SC. (Hearing site: New York, NY.)

MC 134405 (Sub-63F), filed February 5, 1979. Applicant: BACON TRANSPORT COMPANY, a corporation, P.O. Box 1134, Ardmore, OK 73401. Representative: Wilburn L. Williamson, Suite 615 East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *petroleum and petroleum products*, in bulk, in tank vehicles, from Wynnewood, OK, to points in AZ, CO, and NM. (Hearing site: Oklahoma City, OK.)

MC 135944 (Sub-2F), filed January 25, 1979. Applicant: RODGERS EXPRESS, INC., 1310 S. West Street, Indianapolis, IN 46204. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities*, (except those of unusual value, classes A and B explosive, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Havana, IL, and Columbus, OH, from Havana, over U.S. Hwy 136 to junction Interstate Hwy 74, then over Interstate Hwy 74 to junction Interstate 70, then over Interstate 70 to Columbus, OH, and return over the same route, serving the intermediate points of Mahomet, Heyworth, and Tilton, IL and Indianapolis, IN, and the off-route points of Bentown, Bloomington and Gibson City, IL, (2) between Havana, IL, and junction Interstate Hwys 465 and 70, at Indianapolis; IN from Havana over IL Hwy 78 to Jacksonville, IL, and then over U.S. Hwy 36 to junction Interstate Hwys 465 and 70, and return over the same route, serving no intermediate points, as an alternate route for operating convenience only. (Hearing site: Indianapolis, IN, or Chicago, IL.)

MC 136464 (Sub-42F), filed January 29, 1979. Applicant: CAROLINA WESTERN EXPRESS, INC., P.O. Box 3961, Gastonia, NC 28052. Representative: Eric Meierhoefer, Suite 423, 1511 K Street, N.W. Washington, DC 20005. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *zippers, thread, tape, braid, lace, binding, ribbon, webbing, and sewing aids*, (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), between points in the United States (except AK and HI), under continuing contract(s) with Talon Division of Tectron, Inc., of Meadville, PA. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 136774 (Sub-13F), filed January 30, 1979. Applicant: MC-MOR-HAN TRUCKING CO., INC., Shullsburg, WI 53586. Representative: Donald B. Levine, 39 South LaSalle St., Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *corn syrup*, in bulk, in tank vehicles, from the facilities of American Maize Products Company, at or near Hammond, IN, to points in OH, MI, WI, and IL. (Hearing site: Chicago, IL.)

Note.—Dual operations may be involved.

MC 138054 (Sub-31F), filed February 4, 1979. Applicant: CONDOR CONTRACT CARRIERS, INC., 656 Wooster St., Lodi, OH 44254. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lawn equipment, garden equipment, and accessories and parts* for lawn equipment and garden equipment (except commodities in bulk, and those requiring special equipment), from Houston, TX, to points in the United States (except TX, AK, and HI); and (3) *forgings and castings*, from Houston, TX, to Morehead and Maysville, KY, under continuing contract(s) with Emerson Electric Co., of St. Louis, MO. (Hearing site: St. Louis, MO.)

Note.—Dual operations may be involved.

MC 138104 (Sub-63F), filed January 29, 1979. Applicant: MOORE TRANSPORTATION CO., INC., 3509 N. Grove Street, Fort Worth, TX 76106. Representative: Bernard H. English, 6270 Fifth Road, Fort Worth, TX 76116. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *roofing granules*, in bulk, in dump vehicles, from Annapolis, MO,

and Little Rock, AR, to Fort Worth, TX. (Hearing site: Fort Worth or Dallas, TX.)

MC 139254 (Sub-18F), filed January 30, 1979. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Ave., Cleveland, OH 44114. Representative: John P. McMahon, 100 East Broad St., Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *paper, paper articles, and materials, equipment, and supplies* used in the manufacture and distribution of paper and paper articles (except commodities in bulk), between those points in the United States in and east of ND, SD, NE, DS, OK, and TX, under continuing contract(s) with Champion International Corporation, of Hamilton, OH. CONDITION: Issuance of this permit is subject to prior or coincidental cancellation, at applicant's written request, of Permits Nos. MC-139254 Subs 4, 6, 9, and 11. (Hearing site: Columbus, OH.)

Note.—Dual operations may be involved.

MC 140024 (Sub-141F), filed February 6, 1979. Applicant: J. B. MONTGOMERY, INC., 5565 East 52nd Avenue, Commerce City, CO 80022. Representative: Jeffrey A. Knoll (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *hides and pelts*, from points in CO, NE, KS, IA, and MO, to points in CT, DE, IL, IN, KY, ME, MD, MS, MI, MO, NH, NJ, NY, PA, RI, VT, VA, WV, WI, and DC. (Hearing site: Omaha, NE.)

MC 141774 (Sub-17F), filed February 2, 1979. Applicant: R & L TRUCKING CO., INC., 105 Rocket Ave., Opelika, AL 36801. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *carbonated beverages* (except alcoholic beverages), from Eustis, FL, Birmingham, AL, Memphis, TN, Kenner, LA, Granite City, IL, Charlotte, NC, and Montgomery, AL, to points in FL, NC, SC, GA, MO, LA, AR, TN, KY, IL, MS, TX, and AL; and (2) *materials and supplies* used in the manufacture and distribution of the commodities described in (1) above, (except commodities in bulk, in tank vehicles), in the reverse direction. (Hearing site: Birmingham, AL, of San Francisco, CA.)

MC 141804 (Sub-169F), filed January 29, 1979. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J.

Coffman (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *tile and tile products*, and (2) *materials and supplies* used in the manufacture, distribution, and installation of the commodities in (1) above, (except commodities in bulk), from Minerva, OH, to those points in the United States in and west of ND, SD, NE, KS, OK, and TX, (except AK and HI). (Hearing site: Los Angeles or San Francisco, CA.)

MC 141804 (Sub-170F), filed January 30, 1979. Applicant: WESTERN EXPRESS, Division of Interstate Rental, Inc., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *bicycles and tricycles*, (2) *accessories and parts* for bicycles and tricycles, and (3) *materials, equipment, and supplies* used in the manufacture, distribution, and sale of bicycles and tricycles, between Ponca City, OK, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Los Angeles or San Francisco, CA.)

MC 142244 (Sub-2F), filed February 1, 1979. Applicant: LLOYD WEST and BURDETT WEST, a Partnership, d/b/a WEST BROTHERS CONSTRUCTION COMPANY, P.O. Box 256, Canada Hollow Rd., Millport, PA 16739. Representative: Gregory B. Fraser, Bankers Trust Bldg., Jamestown, NY 14701. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *wooden dowels*, between points in NY, PA, OH, and TN; and (2) *wood chips*, from the facilities of Union Fork & Hoe Company, at or near Portville, NY, to the facilities of Masonite Corp., at or near Towanda, PA, under continuing contract(s) with Union Fork & Hoe Company, of Portville, NY. (Hearing site: Pittsburgh, PA.)

MC 143594 (Sub-6F), filed February 5, 1979. Applicant: NATIONAL BULK TRANSPORT, INC., P.O. Box 5078, Atlanta, GA 30302. Representative: Charles W. Singer, 2480 E. Commercial Blvd., Fort Lauderdale, FL 33308. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *chemicals*, in bulk, from points in LA, to points in the United States (except AK and HI). (Hearing site: New Orleans, LA.)

MC 145134 (Sub-2F), filed September 29, 1978, previously noticed in the Federal Register of January 18, 1979. Applicant: FMLD, INC., Freeport Rd., Box 181, Creighton, PA 15030. Representative: Mark Lasser, 7130 Penn Avenue, Pittsburgh, PA 15208. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by manufacturers of petroleum products, (except containers in excess of fifty-five gallons, and commodities in bulk), between points in the United States (except AK and HI), under contract(s) with Pittsburgh Penn Oil Company, of Creighton, PA. CONDITION: Said carrier shall conduct separately its contract carrier operations and its other business activities. Carrier shall maintain separate accounting systems for each such business. Carrier shall not transport property as both a private and for-hire carrier at the same time and in the same vehicle. (Hearing site: Pittsburgh, PA, or Washington, DC)

Note.—This republication modifies the territorial description, and restrictively amends the commodity description.

MC 145384 (Sub-25F), filed February 6, 1979. Applicant: ROSE-WAY, INC., 1914 East Euclid, Des Moines, IA 50306. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *plastic pipe and pipe fittings*, from the facilities of R & G Sloane Manufacturing Company, Inc., at or near Bakersfield, Santa Ana, and Sun Valley, CA, to points in the United States (except KS, MT, NE, NM, OK, SD, and WY); and (2) *plastic granules*, in bags, from Louisville, KY, Avon Lake, OH, and Neal, WV, to the facilities R & G Sloane Manufacturing Company, Inc., at or near Bakersfield, Santa Ana, and Sun Valley, CA. (Hearing site: Los Angeles, CA, or Chicago, IL.)

Note.—Dual operations may be involved.

MC 145454 (Sub-2F), filed February 1, 1979. Applicant: SOUTHERN REFRIGERATED TRANSPORTATION COMPANY, INC., 2154 Green Valley Drive, Crown Point, IN 46307. Representative: Anthony E. Young, 29 S. LaSalle St., Suite 350, Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen foods*, and *materials and supplies* used in the manufacture and distribution of frozen foods (except commodities in bulk), between the facilities of The Pillsbury Company, at

or near Murfreesboro and Nashville, TN, on the one hand, and, on the other, points in AL, GA, FL, NC, SC, MS, LA, VA, KY, IL, IN, OH, MI, and WI, restricted to the transportation of traffic originating at or destined to the above-named facilities. (Hearing site: Minneapolis-St. Paul, MN, or Chicago, IL.)

MC 145664 (Sub-1F), filed January 26, 1979. Applicant: STALBERGER, INC., 223 South 50th Avenue West, Duluth, MN 55806. Representative: John M. LeFevre, 4610 IDS Center, Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, in foreign commerce only, over irregular routes transporting *particleboard* and *composition board*, from ports of entry in the United States-Canada international boundary line at or near Grand Portage, MN, to points in MN, MI, ND, SD, NE, MO, IN, KY, KS, OH, and those in WI on and north of Hwy 29, restricted to the transportation of traffic originating at the facilities of (a) MacMillan Bloedel Building Materials Limited, and (b) Great Lakes Paper Company Limited, at or near Thunder Bay, Ontario, Canada. (Hearing site: Minneapolis or Duluth, MN.)

MC 146094 (Sub-2F), filed January 26, 1979. Applicant: BURK DELIVERY SERVICE, INC., 6524 Brookville Rd., Indianapolis, IN 46219. Representative: Alki E. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN 46204. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by retail drug stores, from the facilities of Hook Drugs, Inc., at Indianapolis, IN, to points in IL, under continuing contract(s) with Hook Drugs, Inc., of Indianapolis, IN. (Hearing site: Indianapolis, IN, or Chicago, IL.)

MC 146344F, filed February 2, 1979. Applicant: BEST MESSENGER SERVICE, INC., 61 Voorhis Lane, Hackensack, NJ 07601. Representative: Thomas F. X. Foley, State Hwy 34, Colts Neck, NJ 07722. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *plastic articles*, and (2) *materials and supplies* used in the manufacture of plastic articles, between Wayne, Newton, and Marlboro, NJ, on the one hand, and, on the other, points in Fairfield, Hartford, New Haven, and New London Counties, CT, points in Bronx, Dutchess, Kings, Nassau, New York, Orange, Putnam, Queens, Richmond, Rockland, Suffolk, Sullivan, and Westchester Counties, NY, Bucks, Chester, Delaware, Lackawanna,

Lebanon, Lehigh, Lycoming, Montgomery, Northampton, Philadelphia, Pike, Schuylkill, Susquehanna, Union, Wayne, and York Counties, PA, and points in NJ, under continuing contract(s) with Mack-Wayne Plastics Company of Wayne, NJ, a subsidiary of the West Company of Phoenixville, PA.

Note.—Dual operations may be involved. (Hearing site: Newark, NJ, or New York, NY) [Permanent Authority Decisions] [FR Doc. 79-14336 Filed 5-8-79; 8:45 am] BILLING CODE 7035-01-M

Petitions, Applications, Finance Matters (Including Temporary Authorities), Alternate Route Deviations, and Intrastate Applications

Dated: April 26, 1979.

Petitions for Modification, Interpretation, or Reinstatement of Operating Rights Authority

The following petitions seek modification or interpretation of existing operating rights authority, or reinstatement of terminated operating rights authority.

All pleadings and documents must clearly specify the suffix (e.g. M1 F, M2 F) numbers where the docket is so identified in this notice.

An original and one copy of protests to the granting of the requested authority must be filed with the Commission within 30 days after the date of this notice. Such protests shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) * and shall include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon petitioner's representative, or petitioner if no representative is named.

MC 1838 (Sub-11) (M2F) (notice of filing of petition to modify permit), filed January 31, 1979. Petitioner: S & K TRANS. INC., 1355 Bloomingdale, P.O. Box 208, Akron, NY 14001. Representative: David M. Marshall, 101 State Street—Suite 304, Springfield, MA 01103. Petitioner holds a motor *contract carrier* permit in MC 1838 (Sub-11), issued August 11, 1978, authorizing the transportation, over irregular routes of (1) *building materials* (except commodities in bulk, in tank vehicles, and iron and steel articles requiring the use of special equipment), between the

* Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

facilities used by MacMillan Bloedel Building Materials located at points in the United States in and east of MN, IA, MO, AR, and LA (except Pine Hill and Opelika, AL), on the one hand, and, on the other, points in the United States in and east of MN, IA, MO, AR, and LA and ports of entry on the International Boundary Line between the United States and Canada located in ND, MT, ID, and WA, (2) *particleboard*, from Pine Hill, AL, to points in the United States in and east of MN, IA, MO, AR, and LA, and ports of entry on the International Boundary Line between the United States and Canada, located in ND, MT, ID, AND WA. Restriction: All of the service in (1) and (2) above to be performed under a continuing contract or contracts with MacMillan Bloedel Building Materials. Petitioner by the instant petition seeks to (a) delete the restriction (except Pine Hill and Opelika, AL) and (b) delete Part (2) of the Permit.

MC 19778 (Sub-88) (M1F) (Notice of filing petition to modify certificate), filed December 4, 1978. Petitioner: THE MILWAUKEE MOTOR TRANSPORTATION COMPANY, Suite 508, 516 West Jackson Boulevard, Chicago, IL 60606. Representative: Henry C. Winters, 525 Evergreen Building, 15 South Grady Way, Renton, WA 98055. Petitioner holds a motor *common carrier* certificate in MC 19778 (Sub-88), issued April 21, 1976 authorizing transportation of *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities which because of size or weight require the use of special equipment), over described regular routes between Plevna, MT and Seattle, WA; between Plevna, MT and Miles City, MT; between junction U.S. Hwy 12 and MT Hwy 294 and Three Forks, MT; between Three Forks, MT and Bozeman, MT; between Harlowtown, MT and Lewistown, MT; between junction U.S. Hwy 191 and U.S. Hwy 87 and Chouteau, MT, between Lewistown, MT and Grassrange, MT; between Lewistown, MT and Great Falls, MT; between junction Interstate Hwy 90 and MT Hwy 200 and junction MT Hwy 200 and MT Hwy 209 at Clearwater, MT; between Wallace, ID and junction Interstate Hwy 90 and WA Hwy 243 east of Vantage, WA; between Plummer, ID and junction WA Hwy 27 and Interstate Hwy 90; between Gibbs, ID (junction of Interstate Hwy 90 and ID Hwy 41) and Metaline Falls, WA; between Beverly, WA and Hanford

Works, Hanford, WA; between Seattle, WA and Tacoma, WA; between junction WA Hwy 410 and WA Hwy 161 and Morton, WA; between Chehalis, WA and Raymond, WA; between Port Townsend, WA and Port Angeles, WA; between Sumas, WA and Portland, OR; between Maytown, WA and Hoquiam, WA; between Tacoma, WA and Centralia, WA; between Everett, WA and North Bend, WA; between Tacoma, WA and Discovery Bay, WA and between St. Maries, ID and Elk River, ID; with service authorized to specified intermediate and off-route points; and over described alternate routes for operating convenience only in connection with carrier's regular route operations, serving no intermediate points, between Great Falls, MT and Butte, MT; between Newport, WA and Spokane, WA; between Lynnwood, WA and Tukwila, WA and between Moses Lake, WA and junction WA Hwy 17 and WA Hwy 170; Restriction: The operations authorized herein are subject to the following conditions: The service to be performed shall be limited to service which is auxiliary to, or supplemental of, rail service of the Chicago, Milwaukee, St. Paul, and Pacific Railroad Company, hereinafter called the railroad. Carrier shall not serve, or interchange traffic at, any point which is not a station on the rail lines of the railroad. Shipments transported by carrier shall be limited to those moving on through bills of lading covering, in addition to a motor carrier movement by carrier, an immediately prior or immediately subsequent movement by rail. No shipment shall be transported by carrier as a common carrier by motor vehicle between any of the following points or through, or to, or from more than one of said points: Miles City, Harlowton, and Missoula, Mont., Spokane and Seattle, Wash., and Portland, Oreg. Such further specific conditions as the Commission, in the future, may find it necessary to impose in order to insure that carrier's service shall be auxiliary to, or supplemental of, rail service of the railroad. By the instant petition, petitioner seeks to modify the above restriction to read: Restriction: The operations authorized herein are restricted to the transportation of shipments having a prior or subsequent movement by rail.

MC 48958 (M1F) (notice of filing petition to modify certificate), filed February 2, 1979. Petitioner: ILLINOIS-CALIFORNIA EXPRESS, INC., 510 East 51st Avenue, Denver, CO 80216. Representative: Lee E. Lucero (same address as petitioner). Petitioner holds

motor *common carrier* certificate in MC 48958, issued January 24, 1955, which authorizes transportation, over irregular routes of *contractors' supplies and used contractors' equipment*, between points in NE, CO, WY, KS, MO, IA, and IL. By the instant petition, petitioner seeks to modify the commodity description to read: *contractors' equipment, materials, and supplies*.

MC 107818 (Sub-29) (M1F) (notice of filing of petition to modify certificate), filed January 11, 1979. Petitioner: GREENSTEIN TRUCKING COMPANY, 280 N.W. 12th Street, Pompano Beach, FL 33061. Representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, FL 32207. Petitioner holds motor *common carrier* certificate in MC 107818 (Sub-29), issued August 8, 1972, authorizing the transportation, over irregular routes, of *fresh, frozen, and canned meats, and dairy products*, from St. Paul, MN, Chicago, IL, and points in WI, to points in AL, FL, GA, SC, and TN, with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized herein are restricted to the transportation of traffic originating at the plant sites, or storage facilities of Armour & Co., at Chicago, IL, St. Paul, MN, and points in WI and destined to points in AL, FL, GA, SC, and TN. By the instant petition, petitioner seeks to remove the restriction.

MC 108649 (Sub-5) (M1F) (notice of filing of petition to modify certificate), filed January 8, 1979. Petitioner: STURM FREIGHTWAYS, INC., 8919 N. University St., Peoria, IL 61614. Representative: Leonard R. Kofkin, 39 South LaSalle Street, Chicago, IL 60603. Petitioner holds motor *common carrier* certificate in MC 108649 (Sub-5), issued February 20, 1973, authorizing transportation, over regular routes of *general commodities*, (except those of unusual value, classes A and B explosives, commodities in bulk, and household goods as defined by the Commission), between junction U.S. Hwy 34 and U.S. Hwy 65, near Lucas, and Des Moines, IA, serving no intermediate points, from junction U.S. Hwy 34 and U.S. Hwy 65 over U.S. Hwy 65 to Des Moines, IA, and return over the same route. Restriction: The authority granted herein is restricted against the transportation of traffic moving to, from or through Omaha, NE, or Chicago, IL, or points within their respective commercial zones, as defined by the Commission. By the instant petition, petitioner seeks to modify the authority as to remove the restriction

prohibiting operations between Des Moines, IA, Chicago, IL, and Omaha, NE.

MC 111729 (Sub-535) (M2F) (Notice of filing of petition to modify certificate), filed January 16, 1979. Petitioner: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, NY 11040. Representative: Peter A. Green, 900 17th Street, N.W., Washington, DC 20006. Petitioner holds a motor *common carrier* certificate in MC 111729 (Sub-535) issued August 21, 1978, authorizing transportation, over irregular routes of *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in AL, GA, MS, and TN and between points in AL, GA, MS, on the one hand, and, on the other, points in FL subject to the following restrictions: (1) restricted against the transportation of packages weighing more than 50 pounds; (2) restricted against the transportation of packages or articles weighing in the aggregate more than 100 pounds from one consignor at one location to one consignee at one location in any one day; (3) restricted against providing service from or to the premises of banks and banking institutions; (4) restricted against providing service from or to premises of persons, other than agencies of the United States Government who or which have entered into contracts with carrier or its affiliates and are served by them pursuant to permits issued by the Commission; (5) restricted against the transportation of motion picture film used primarily for commercial theatre exhibition; (6) restricted against the transportation of shipments having an immediate prior or subsequent movement by air between points in TN, AL, GA and FL; (7) restricted against transportation of shipments between points in the area described below including points on the line circumscribing the involved area and points in the commercial zones of any points on the line beginning at the intersection of the KY-TN State Boundary Line and U.S. Highway 31W; then southerly over U.S. Hwy 31W to Nashville, TN; then southeasterly over TN Hwy 50 to Lewisburg, TN; then southerly over U.S. Hwy 431 to the TN-AL State Boundary line to junction AL Hwy 17; then southerly over AL Hwy 17 to Hamilton, AL; then westerly along U.S. Hwy 78 to the AL-MS State line; then southerly along the AL-MS State line to junction U.S. Hwy 80; then westerly along U.S. Hwy 80 to junction with the Mississippi River at Vicksburg,

MS; then northerly along the Mississippi River to the KY-TN State line; then easterly along the KY-TN State line to the point of beginning; and (8) the Commission reserves the right to impose such terms, conditions or limitations in the future as it may find necessary to insure that carrier's operations conform to the provisions of Section 210 of the Act. By the instant petition, petitioner requests that restrictions (6) and (7) be deleted and that restriction (8) be renumbered as (6).

MC 111729 (Sub-547) (M2F) (notice of filing of petition to modify certificate), filed January 15, 1979. Petitioner: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, NY 11040. Representative: Peter A. Greene, 900 17th Street, N.W., Washington, DC 20006. Petitioner holds a motor *common carrier* certificate in MC-111729 Sub 547, issued November 26, 1976, authorizing transportation, over irregular routes, of *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment, commercial papers documents, and written instruments as are used in the business of banks and banking institutions, stocks, bonds, securities and negotiable instruments) between points in GA, NC, SC, and VA and between points in NC and SC, on the one hand, and, on the other, points in WV subject to the following restrictions: (1) restricted against the transportation of packages weighing more than 50 pounds, with each package or article considered to be a separate and distinct shipment; (2) restricted against the transportation of packages or articles weighing in the aggregate more than 100 pounds from one consignor at one location to one consignee at one location, in any one day; (3) restricted against the transportation of shipments having an immediate prior or subsequent movement by air (a) between points in SC, and (b) between points in SC, on the one hand, and, on the other, Charlotte, NC, and Atlanta, GA; (4) restricted against providing service from or to the premises of banks and banking institutions; (5) restricted against providing service from or to the premises of persons, other than agencies of the United States Government, who or which have entered into contracts with carrier or its affiliates and are served by them pursuant to permits issued by the Commission; (6) the authority granted herein shall be subject to the right of the Commission, which is

hereby expressly reserved, to impose such terms, conditions, or limitations in the future as it may find necessary in order to insure that carrier's operations shall conform to the provisions of Section 210 of the Act. By the instant petition, petitioner requests that restriction (3) be deleted and that restrictions (4), (5) and (6) be renumbered as (3), (4) and (5).

MC-116509 (MIF) (notice of filing of petition to modify certificate), filed December 22, 1978. Petitioner: FOOD PRODUCTS REFRIGERATED EXPRESS, INC., 51 Lexington, Ave., New York, NY 10010. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Petitioner holds motor *common carrier* certificate in MC-116509, issued September 3, 1957, authorizing transportation, over irregular route or *frozen bakery products*, from New York NY, and Marysville and Harrisburg, PA. to Mobile, AL, South Bend, IN, Louisville, KY, Bay City, Detroit, and Jackson, MI, Buffalo, Jamestown, and to Rochester, NY, Elkton, Pittsburgh, and Sunbury, PA, Chattanooga, Knoxville, Memphis, and Nashville, TN, and Bristol, Norfolk, Roanoke, and Winchester, VA, and *corrugated cardboard and fibre shipping containers and unsold frozen bakery products*, from the above specified destination points to New York, NY, and Marysville and Harrisburg, PA. By the instant petition petitioner seeks to modify the authority by changing the commodity description to food and food products instead of frozen bakery products.

MC 117119 (Sub-433), (M1F) (notice of filing of petition to modify certificate), filed December 8, 1978. Petitioner: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: Martin M. Geffon, Box 154 Willingboro, NJ 08048. Petitioner holds motor *common carrier* Certificate in MC 117119 (Sub-433), issued March 24, 1972, authorizing transportation, over irregular routes, of *frozen foods and bakery products*, from Downingtown, Lancaster, and Philadelphia, PA, to points in CA, OR, WA, NM, and UT, with no transportation for compensation on return except as otherwise authorized. Restriction: The authority granted herein is restricted to the transportation of traffic originating at the above named origins. By the instant petition, petitioner seeks to modify the authority as follows: (a) have the commodity description changed to read "foodstuffs", (b) add the commodities "cake trays", and (c) add origin points of Pottstown, Bethlehem, Fogelsville,

Mechanicsburg, and Shiremanstown, PA.

MC 119789 (Sub-254) (M1F) (Notice of petition to modify certificate), filed January 29, 1979. Petitioner: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr. (same address as petitioner). Petitioner holds motor *common carrier* Certificate in MC 119789 Sub 254, issued April 7, 1976, authorizing transportation, over irregular routes, of *milk or cream substitutes*, dry (other than frozen), in containers, from Chester, SC to points in AZ, AR, CA, DO, ID, KS, MN, MO, MT, NE, NV, NM, OK, OR, SD, TX, UT, WA, and WY, with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized herein are restricted to the transportation of shipments originating at the facilities of Borden Foods Division, Borden, Inc., at Chester, SC. By the instant petition, petitioner seeks to add Rockhill, SC as an additional origin point in the above authority.

MC 130217 (M1F) (notice of filing of petition to modify license filed January 9, 1979). Petitioner: ST. PETERSBURG MOTOR CLUB d.b.a. AAA WORLD-WIDE TRAVEL AGENCY, 1121 First Avenue N. St. Petersburg, FL 33733. Representative: Finley B. Myers, Jr. (same address as applicant). Petitioner holds common carrier brokerage license in MC 130217 issued April 8, 1975. MC 130217 authorizes the transportation of passengers and their baggage, in special and charter operations in one-way and round-trip tours, beginning and ending at points in Pinellas County, FL, and extending to points in the United States (including AK and HI). By the instant petition, petitioner seeks to modify the territorial description as follows: between points in the United States.

MC 130358 (M1F) (notice of filing of petition to modify license), filed March 19, 1979. Petitioner: MARCON TOURS, INC., 825 David Whitney Building, Detroit, MI 48226. Representative: S. Harrison Kahn, Suite 733 Investment Building, 1511 K Street, N.W., Washington, DC 20005. Petitioner holds a *broker* license in MC-130358, issued July 14, 1977 authorizing broker activities of motor carrier passenger transportation at Detroit, MI. By this instant petition, petitioner seeks additional office at Troy, MI.

MC 133119 (Sub-61) (M1F) (notice of filing of petition to modify certificate), filed January 17, 1979. Petitioner: HEYL TRUCK LINES, INC., 200 Noroka Drive, Akron, IA 51001. Representative: A. J.

Swanson, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. Petitioner holds motor *common carrier* certificate in MC 133119 (Sub-61), issued March 16, 1977, authorizing the transportation of *bananas, and agricultural commodities* which would otherwise be exempt for economic regulation under Section 203(b)(6) of the Act, in mixed loads with bananas, from the facilities of Chiquita Brands, Inc., at Galveston, TX, to points in MN, MT, ND, SD, and WI, with no transportation for compensation on return except as otherwise authorized. Restriction: The authority granted herein is restricted to the transportation of shipments having an immediate prior movement by water. By the instant petition, petitioner seeks to remove the language "the facilities of Chiquita Brands, Inc., at", which limits present service to these facilities.

MC 135438 (M1F) (notice of filing of petition to modify certificate), filed January 25, 1979. Petitioner: SHELDON OIL COMPANY, 426 Main St., Suisun, CA 94585. Representative: Marvin Handler, 100 Pine Street—Suite 2550, San Francisco, CA 94111. Petitioner holds motor *common carrier* certificate in MC 135438, issued July 29, 1975, authorizing the transportation, over irregular routes, of *residual fuel oils* used in paving operations, asphalt, road oils, and road asphalt emulsions, in bulk, in tank vehicles, from points in Contra Costa, Alameda, Sacramento, and Solano Counties, CA, to points in Washoe, Storey, Carson City, Douglas, Lyon, Mineral, Churchill, Pershing, Humboldt, and Lander Counties, NV, with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized herein shall not be tacked or joined with any other authority. By the instant petition, petitioner seeks to add Santa Clara County, CA as an origin.

MC 138109 (M1F) and (Sub-1) (M1F) (notice of filing of petition for modification of permits), filed March 16, 1979. Petitioner: RAY J. FORNEY, INC., P.O. Box 207, Ashton, IL 61006. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, N.W., Washington, DC 20001. By permits issued October 4, 1974, and March 9, 1977, in MC 138109 and MC 138109 (Sub 1), petitioner is authorized to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *such merchandise* as is dealt in by wholesale, retail and chain grocery stores and food processors, and (2) *equipment, materials, and supplies* used in the operation and business of such stores (except commodities in

bulk), between the plant sites and warehouse facilities of Crest Foods, Inc., at or near Ashton and Forreston, IL, on the one hand, and, on the other, points in the United States (except AK and HI). Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with Crest Foods, Inc., of Ashton, IL. By the instant petition, petitioner seeks to modify only the restriction in each permit by adding an additional contracting shipper: The Carnation Company, of Los Angeles, CA. The commodity and territorial description would remain the same. NOTE: Petitioner has filed a motion to dismiss the petition, arguing that Crest Foods, Inc., is the contracting shipper on all movements conducted under the authority of the permits. (Hearing site: Chicago, IL, or Washington, DC.)

MC 143499 (Sub-2) (M1F) (notice of filing of petition to modify certificate), filed February 14, 1979. Petitioner: DOUBLE NICKEL TRANSPORT LTD., 32 North Lexow Ave., Nanuet, NY 10954. Representative: John L. Alfano, 550 Mamaroneck Avenue, Harrison, NY 10528. Petitioner holds motor *contract carrier* permit in MC 143499 (Sub 2), issued March 15, 1979, authorizing the transportation, over irregular routes of (1) *agricultural pesticides* (except commodities in bulk, in tank vehicles), from the facilities of Ciba-Geigy Corporation, at (a) Birmingham, McIntosh, and Mobile, AL, (b) Baton Rouge, Port Allen, and St. Gabriel, LA, (c) Jackson, MS, and (d) Memphis, TN, to points in AR, DE, FL, GA, IL, IN, IA, KS, MD, MN, MO, NE, NJ, NY, NC, OH, OK, PA, TX, VA, and WI, and (2) *materials and supplies* used in the production of the commodities in (1) above, (except commodities in bulk), from the destinations named in (1) above, to the facilities named in (1) above, under contract in (1) and (2) above, with Ciba-Geigy Corporation, of Ardsley, NY. By the instant petition, petitioner seeks to add as part (3) *tetrabromobisphenol*, (except in bulk), from Eldorado, AR, to Toms River, NJ.

MC 143909 (Sub-1)(M1F) (notice of filing of petition to modify permit), filed January 29, 1979. Petitioner: KIRBY TRANSPORT INC., 6677 North Northwest Highway, Chicago, IL 60631. Representative: Stuart R. Mandel, 315 S. Beverly Drive, Suite 315, Beverly Hills, CA 90212. Petitioner holds motor *contract carrier* Permit in MC-143909 Sub 1, issued October 27, 1978, authorizing the transportation, over irregular routes, of *equipment and*

supplies used by clinical industrial, educational and research laboratories, in trailers equipped with mechanical refrigeration; (1) from Edison and Gibbstown, NJ, to the facilities of Scientific Products Division of American Hospital Supply Corporation at or near Tempe, AZ, Irvine and Menlo Park, CA, Denver, CO, Miami and Ocala, FL, Stone Mountain (Atlanta), GA, Gurnee and McGaw, IL, Harahan, LA, Ronulus, MI, Minneapolis, MN, North Kansas City, MO, Charlotte, NC, Obetz, OH, Houston and Grand Prairie, TX, Salt Lake City, UT, and Redmond, WA, (2) from Gurnee, IL, to the facilities of Scientific Products Division of American Hospital Supply Corporation at or near Tempe, AZ, Irvine and Menlo Park, CA, Denver, CO, Harahan, LA, Maryland Heights, and North Kansas City, MO, Houston and Grand Prairie, TX, Salt Lake City, UT, and Redmond, VA, and (3) from Miami, FL, to the facilities of Hycel, Inc., at or near Houston, TX, and the facilities of Scientific Products Division of American Hospital Supply Corporation at or near Tempe, AZ, Irvine and Menlo Park, CA, and Houston, TX. Restriction: The above authority is limited to transportation to be performed under a continuing contract(s) with Scientific Products Division, American Hospital Supply Corporation, of McGraw Park, IL. By the instant petition, petitioner seeks to modify the Permit by substituting as a destination point, Sunnyvale, CA in place of Menlo Park, CA, in paragraphs (1), (2), and (3) of the Permit.

MC 144189 (M1F) (notice of filing of petition to modify permit), filed March 1, 1979. Petitioner: CORPORATE TRANSPORT INC., 107 7th North Street, Liverpool, NY 13088. Representative: Edward M. Alfano, 550 Mamaroneck Avenue, Harrison, NY 10528. Petitioner holds a *contract carrier* permit in MC 144189, issued November 20, 1978, authorizing transportation, over irregular routes, transporting *paper and paper products*, from Deferiet, NY to Akron, Canton, Cleveland, Independence, Sandusky, Wadsworth, and Willard, OH, Kokomo and Warsaw, IN, Adrian, Detroit, Grand Rapids, Lansing and Warren, MI, and Broadview, Brookfield, Chicago, and Elk Grove Village, IL; *pulp and papermaking machinery*, between Sandusky, OH, on the one hand, and, on the other, Deferiet, NY; and *paperwinding cores*, from Willard, OH, Kokomo, and Warsaw, IN and Chicago, IL to Deferiet, NY, all restricted to a transportation service to be performed under a continuing contract(s) with St. Regis Paper

Company of New York. By the instant petition, petitioner seeks to change the commodity description to authorize the transportation of *such commodities* as are dealt in by a manufacturer of paper and paper products and *materials*, equipment, and supplies used in the manufacture of such commodities, (except commodities in bulk), and to change the territorial description to authorize service between Deferiet, NY, on the one hand, and, on the other, points in IL, IN, MI, and OH.

Republications of Grants of Operating Rights Authority Prior to Certification

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the Federal Register.

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission on or before June 8, 1979. Such pleading shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

MC 9844 (Sub-6F) (republication), filed March 24, 1978, previously noticed in the Federal Register issue of May 11, 1978. Applicant: B.T.L., INC., 631 Santa Fe, Kansas City, MO 64101. Representative: William J. Burns (same address as applicant). A Decision of the Commission, Review Board Number 2, decided January 22, 1979 and served February 26, 1979, finds that the present and future public convenience and necessity require operation by applicant, interstate or foreign commerce, as a *common carrier* by motor vehicle over regular routes transporting: *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Kansas City, MO, and Omaha, NE: from Kansas City, over Interstate Hwy 29, to junction Interstate Hwy 29, to junction Interstate Hwy 80, then over Interstate Hwy 80 to Omaha, and return over the same route, serving no

intermediate points, as an alternate route for operating convenience only. Applicant is fit, willing and able properly to perform such service and to conform to the requirements of Title 49, Sub-title IV, U.S. Code and the Commission's regulations. The purpose of this republication is to indicate the substitution of Kansas City, MO as a termini in lieu of St. Joseph, MO.

MC 109397 (Sub-423), (republication), filed April 14, 1978, published August 3, 1978, and republished this issue. Applicant: TRI-STATE MOTOR TRANSIT CO., A CORP., P.O. Box 113, Joplin, MO 64801. Representative: A. N. Jacobs (same address as applicant). A decision of the Commission, Review Board Number 2, decided January 19, 1979, and served March 2, 1979, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier* by motor vehicle, over irregular routes, in the transportation of (1) *cranes, draglines, backhoes, shovels and loaders, and* (2) *equipment, attachments, accessories and parts for the commodities in (1) above*, from Cedar Rapids, IA, Milwaukee and Cudahy, WI, Escanaba, MI, Teterborough, NJ, Pampa, TX, Lima, OH, Schiller Park and Aurora, IL, Shady Grove, PA, and Conway, NC to points in the United States (except AK and HI), that applicant is fit willing and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to modify the commodity and territorial description.

MC 117686 (Sub-No. 194) (republication), filed November 12, 1977, published in the Federal Register issue of January 12, 1978, and republished this time. Applicant: HIRSCHBACH MOTOR LINES, INC., P.O. Box 417, Sioux City, IA 51102. Representative: George L. Hirschbach (same address as applicant). A decision of the Commission, Review Board Number 2, decided April 25, 1978, and served May 9, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier* by motor vehicle, over irregular routes, in the transportation of such commodities as are dealt in by grocery and food business houses, (except commodities in bulk) between Northfield, MN and Fargo, ND, restricted to the transportation of traffic originating at the facilities of Fairway Foods, Inc., at the named points, that applicant is fit,

willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to modify the territorial description.

MC 126346 (Sub-No. 22) (republication), filed May 12, 1978, published in the Federal Register issue of June 27, 1978, and republished this issue. Applicant: HAUPT CONTRACT CARRIERS, INC., P.O. Box 1023, Wausau, WI 54401. Representative: Daniel C. Sullivan, 10 South LaSalle St., Suite 1600, Chicago, IL 60603. A decision of the Commission, Review Board Number 1, decided February 5, 1979, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *contract carrier*, by motor vehicle, over irregular routes, in the transportation of (1)(a) *self-propelled material handling equipment and construction equipment* (except self-propelled vehicles designed for transporting property or passengers on the highway) and (b) *grading and loading attachments for tractors, parts for grading and loading attachments, and parts and attachments for the commodities described in (1)(a) above*, from Wausau, WI to points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA and WY, (2) *structural or fabricated steel and steel assemblies*, from Wausau, WI to points in the United States (except AK and HI and WI), and (3) *materials, equipment and supplies used in the manufacture and distribution of the commodities named in (1) and (2) above*, in the reverse direction, under contract with Loed Corp. of Wausau, WI, will be consistent with the public interest and the national transportation policy. The purpose of this republication is to modify the territorial description.

MC 142516 (Sub-11) (republication), filed April 14, 1978, published in the Federal Register issue of August 17, 1978, and republished this issue. Applicant: ACE TRUCKING CO., INC., 1 Hackensack Ave., South Kearny, NJ 07032. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. A decision of the Commission, Review Board Number 3, decided January 3, 1979, and served February 8, 1979, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of *window glass* from the port of Newark, NJ and the port of New York, NY, to Chicago, IL,

restricted to the transportation of traffic having a prior movement by water and destined to the named destination point, that applicant is fit, willing and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to modify the territorial description.

MC 143505 (Sub-No. 2) (republication), filed December 13, 1977, previously noticed in the Federal Register issue of March 2, 1978. Applicant: KOMMER BULK FEED SERVICES, INC., 171 Stafford Road, Palmyra, NY 14522. Representative: Charles A. Schiano, 500 Wilder Bldg., One East Main Street, Rochester, NY 14614. A Decision of the Commission, Division 2, Acting as an Appellate Division, decided January 22, 1979, and served February 9, 1979, finds that the present and future public convenience and necessity, require operation by applicant in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, transporting: (1) *dried brewers' grain and dried brewers' grain products*, in bulk and in bags, from points in Monroe County, NY, to points in PA; and (2) *feed and feed ingredients*, from Marion, Bellevue, Fostoria, and Delphos, OH, to points in NY and PA. Applicant is fit, willing and able properly to perform such service and to conform to the requirements of Title 49, Subtitle IV, U.S. Code and the Commission's regulations. The purpose of this republication indicate service from Bellevue, OH, in lieu of Belleville, OH.

Motor Carrier, Broker, Water Carrier, and Freight Forwarder Operating Rights Applications

The following applications are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the Federal Register. Failure to seasonably file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with Section 247(e)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and

describing in detail the method—whether by joinder, interline, or other means—by which protestant would use a such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected.

MC 60012 (Sub-99F) (republication), filed October 19, 1978, and previously published in the Federal Register on December 21, 1978. Applicant: RIO GRANDE MOTOR WAY, INC., 1400 West 52nd Avenue, Denver, CO 80221. Representative: Arnold L. Burke, 180 N. La Salle, Street, Chicago, IL 60601. Authority sought to operate as a *common carrier*, by motor vehicle, regular routes, transporting general commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Heber City, UT, and Craig, CO, over U.S. Hwy 40, serving all intermediate points. (Hearing site: Salt Lake City or Vernal, UT.)

Notes.—(1) Applicant states that he can operate over a series of regular routes between points in UT, CO, and NM. Applicant further states that he intends to tack his existing authority with the authority above. (2) The purpose of this republication is to add Note (1).

MC 114273 (Sub-409F) (republication), filed June 30, 1978, and previously published in the Federal Register on August 15, 1978, September 18, 1978, and September 20, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *such commodities* as are dealt in by grocery stores and food business houses, from Chicago, IL, to points in OH. (Hearing site: Chicago, IL, or DC.)

Notes.—(1) Applicant states the purpose of this filing is to substitute single-line service for existing joint-line service. (2) The purpose of this republication is to add grocery stores to the commodity description.

MC 135082 (Sub-76F) (republication), filed October 3, 1978, and previously published in the Federal Register on December 14, 1978. Applicant: ROADRUNNER TRUCKING, INC., P.O. Box 26748, 415 Rankin Road, NE, Albuquerque, NM. Representative: Randall R. Sain (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle,

over irregular routes, transporting: *Roofing, roofing products, supplies and equipment, metal products, and insulation materials* (except commodities in bulk), (1) Between points in AZ, CO, and NM. (2) From points in AZ, CO, and NM, to AR, CA, KS, LA, NV, MT, OK, OR, TX, UT, WA, and WY. (3) From points in AR, LA, MO, OK, TX, and Memphis, TN, to points in AZ, CO, and NM. (4) From points in CA, ID, MT, NV, OR, UT, WA, and WY, to points in AZ, CO, and NM. (Hearing sites: Albuquerque, NM, or Houston, TX.)

Notes.—(1) Applicant intends to tack the separate authorities herein sought at points in the common gateway states of AZ, CO, and NM in order to provide a through service as follows: From points in CA, OR, WA, ID, MT, NV, UT, and WY, to points in KS, LA, OK, TX and AR, and from points in AR, LA, MO, OK, TX and also Memphis, TN, to points in CA, OR, WA, ID, MT, NV, UT and WY and authority to so tack and provide said through service is hereby sought and requested in this application. (2) The purpose of this republication is to add Note (1) above.

MC 136393 (Sub-2F) (republication), filed November 14, 1978, and previously published in the Federal Register on January 16, 1979. Applicant: NY., NJ., CONN., FREIGHT & MESSENGER CORP., 55 Lakeshore Drive, Rockaway, NJ 07866. Representative: Ronald I. Shapps, 450 Seventh Avenue, New York, NY 10001. Authority sought to operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Kansas City, KS, and points in MA, RI, CT, NY, NJ, DE, MD, PA, OH, MI, IN, WI, IL, MN, IA, and MO, in non-radial movements, and (2) from Kansas City, KS, and points in MA, RI, CT, NY, NJ, DE, MD, PA, OH, MI, IN, WI, IL, MN, IA, and MO, to points in WY, LA, TN, KY, ND, SD, NE, CO, KS, OK, AR, and TX, restricted to the transportation of traffic moving on bills of lading of freight forwarder. (Hearing site: New York, NY.)

Note.—The purpose of this republication is to add "in non-radial movements" to part (1).

Finance Applications

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, of rail carriers or motor carriers pursuant to Sections 11343 (formerly Section 5(2)) or 11349 (formerly Section 210a(b)) of the Interstate Commerce Act.

An original and one copy of protests against the granting of the requested authority must be filed with the Commission on or before June 8, 1979. Such protest shall comply with Special Rules 240(c) or 240(d) of the Commission's *General Rules of Practice* (49 CFR 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant, if no representative is named.

Each applicant states that approval of its application will not significantly affect the quality of the human environment nor involve a major regulatory action under the Energy Policy and Conversation Act of 1975.

MC-F-13986F. Authority sought by MARTIN THOMPSON, 11218 Elm Street, Omaha, NE 68144 to control Chip Carriers, Inc., 11218 Elm Street, Omaha, NE 68144 and Thompson Truck Transportation, Inc., 11218 Elm Street, Omaha, NE 68144. Applicants' attorney: Arthur Liberstein, 888 Seventh Avenue, New York, NY 10019. Operating rights sought to be controlled: *Chip Carriers, Inc.:* (1) *Foodstuffs* (except in bulk), and (2) *imprinted advertising, packaging and display materials, and display racks and stands* (except commodities in bulk), as a contract carrier over irregular routes, between points in AL, AR, AZ, CA, CO, FL, GA, ID, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, MT, NE, NM, ND, OH, OK, SD, TN, TX, UT, WI and WY. Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with Frito-Lay, Inc., of Dallas, TX. *Thompson Truck Transportation, Inc.:* To transport *flavoring syrup and compounds, and materials, supplies and equipment*, (except in bulk), used in the manufacture of flavoring syrup as a contract carrier over irregular routes between Arlington, TX, on the one hand, and, on the other, all points in the continental United States, under continuing contract(s) with Pepsi Cola Company, of Purchase, NY. (Hearing site: Omaha, NE.) Vendee is authorized to operate as a contract carrier in all States in the United States. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-13988F. Authority sought for purchase by BAKER HI-WAY EXPRESS, INC., P.O. Box 506, Commercial Parkway, Dover, OH 44622, of a portion of the operating rights of A. J. WEIGAND, INC., P.O. Box 130, Dover, OH 44622, and for acquisition by HAROLD BAKER, SR., P.O. Box 506,

Dover, OH 44622, of control of such rights through the transaction. Applicants' attorney: Richard H. Brandon, P.O. Box 97, 220 West Bridge Street, Dublin, OH 43017. Operating rights sought to be purchased: *Steel and steel products*, as a common carrier over irregular routes, from Dover, OH, and points within two miles of Dover, not including New Philadelphia, OH to points in that part of New York, on and west of a line beginning at Oswego, NY, and extending along New York Hwy 57 to Syracuse, NY, and then along U.S. Hwy 11 to the New York-Pennsylvania State line, those parts of Maryland and Pennsylvania on the west of U.S. Hwy 11, including Wilkes-Barre, Sunbury, and Harrisburgh, PA, that part of West Virginia, on, north, and west of a line beginning at the Maryland-West Virginia State line, and extending along U.S. Hwy 220 to junction U.S. Hwy 33, then along U.S. Hwy 33 to junction West Virginia Hwy 4, then along West Virginia Hwy 4 to junction U.S. Hwy 60, and then along U.S. Hwy 60 to the West Virginia-Kentucky State line, that part of Kentucky on, north and east of a line beginning at the West Virginia-Kentucky State line and extending along U.S. Hwy 60 to junction U.S. Hwy 62, then along U.S. Hwy 62 to junction U.S. Hwy 41 and then along U.S. Hwy 41 to the Ohio River, that part of Michigan and on and south of a line beginning at Muskegon, MI, and extending along MI Hwy 20 to Bay City, MI, and then along MI Hwy 25 to Huron City, MI, that part of IL on and east of U.S. Hwy 51 and on and north of U.S. Hwy 36, and points in IN; *Machinery and machinery parts* used in the manufacture of steel and steel products, from points in the destination territory specified above to Dover, OH and points within two miles thereof, not including New Philadelphia, OH; *Truck Parts, accessories, and equipment, and trailer parts, accessories, and equipment*, from Chicago, IL, Detroit and Pontiac, MI, Hillside, NJ, and Clearfield, Pittsburgh, Uniontown and Washington, PA, to Dover, OH, with no transportation for compensation on return except as otherwise authorized; From Dover, OH to Clearfield, PA, with no transportation for compensation on return except as otherwise authorized; From Dover, OH to Clearfield, PA, with no transportation for compensation on return except as otherwise authorized; *Sheet steel and sheet steel products*, from the site of the plant of the Reeves Steel and Manufacturing Company, near Dover, OH to points in PA east of U.S. Hwy 11, except Wilkes-Barre, Sunbury, and Harrisburgh, PA. *Sheet steel and sheet steel Products* (except articles

requiring special equipment, from the site of Reeves Steel and Manufacturing Co. plant at Dover, OH to points in that part of NY east of a line beginning at Oswego, NY and extending along NY Hwy 57 to Syracuse, NY and then along U.S. Hwy 11 to the new York-Pennsylvania state line points in New Jersey, points in that part of Maryland east of U.S. Hwy 11 and the District of Columbia, with no transportation for compensation on return except as otherwise authorized. Vendee is authorized to operate as a common carrier under Certificate No. MC-119441 throughout the involved states. Application has not been filed for temporary authority under section 210a(b). Hearing site: Columbus, OH or Washington, D.C.

No. MC-F-13992F filed April 12, 1979. Authority sought for purchase by New Penn Motor Express, Inc., P.O. Box 630, Lebanon, PA of the operating rights of Auto Express, Inc., Elm Street and Remington Avenue, Scranton, PA 18505. Applicants' attorney: S. Harrison Kahn, Kahn and Kahn, Suite 733 Investment Building, Washington, D.C. 20005. New Penn seeks to purchase the Certificates of Public Convenience and Necessity issued to Auto Express, Inc. in Interstate Commerce Commission Docket No. MC-60196 and Sub No. 6 and Sub No. 7 thereto authorizing the transportation of general commodities, with the usual exceptions, as a common carrier between points in southeastern New York State and points in the northeastern sector of the Commonwealth of Pennsylvania over regular routes generally between Wilkes-Barre, PA and Endicott, NY; between Wilkes-Barre, PA and Elmira, NY; between Binghamton, NY and Waverly, NY; between Scranton, PA and nearby points in the Commonwealth of Pennsylvania, all more particularly described in the identified Certificates of Public Convenience and Necessity. New Penn is authorized, pursuant to a series of Certificates of Public Convenience and Necessity issued in Docket No. MC-70832 and various sub numbers thereunder to transport property as a motor common carrier of general freight, with the usual exceptions, between the eastern sector of the Commonwealth of Pennsylvania, points and places in New Jersey, the metropolitan area of New York, NY, points and places in Connecticut, Rhode Island and Massachusetts. An application of temporary authority under 49 USC Sec. 11349 has been filed. Harrisburg, PA has been requested as the hearing site.

Motor Carrier Intrastate Application(s)

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to Section 10931 (formerly Section 206(a)(6)) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's *General Rules of Practice* (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall *not* be addressed to or filed with the Interstate Commerce Commission.

Missouri Docket No. T-43,001, filed April 12, 1979. Applicant: DONALD R. JONES, F. WILLIAM GEE, WARREN D. SPENCER, AND BILL ATWELL d.b.a. OVERLAND FREIGHT, 608 Missouri Boulevard, Jefferson City, MO 65101. Representative: Charles J. Fain, Fain & Fain, 333 Madison Street, Jefferson City, MO 65101. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: General commodities, except those of unusual value, Classes A and B explosives, commodities in bulk, uncrated household goods as defined by the Commission: From Jefferson City, MO, to Kansas City, MO over U.S. Hwy No. 50, and return over the same route; from Jefferson City, MO, over U.S. Hwy 54 to Fulton, MO; then over Callaway County Road F to junction of Callaway County Road WW; then over County Road WW to Columbia, MO, and return over the same route; with alternate route during inclement weather when said county roads are impassable as follows: From Fulton, MO, over U.S. Hwy 54 to junction of U.S. Interstate 70; then over U.S. Interstate 70 to Columbia, MO, and return over the same route to Fulton, MO; from Jefferson City, MO, over U.S. Hwy 54 to Eldon, MO, then over Business Route U.S. Hwy 54 to junction of U.S. Hwy 54; then over U.S. Hwy 54 to Lake Ozark, MO; then over U.S. Hwy 54 to Camden, MO, and return over the same route; from Jefferson City, MO, over U.S. Hwy 63 to Rolla, MO; and also from junction of U.S. Hwy 63 and Missouri State Hwy 68 over said Hwy 68 to Saint James, MO; then over U.S. Interstate 44 to Rolla, MO; then over U.S. Interstate 44 to St. Robert, MO,

servicing Fort Leonard Reservation as an off-access point; then from St. Robert, MO, over Business Loop 44 to Waynesville, MO; then over Missouri State Hwy 17 to junction of said Hwy 17 and U.S. Hwy 54; then over U.S. Hwy 54 to Jefferson City, MO; with authority to render service between Jefferson City, MO, and its commercial zone, and all points located on the above named routes, including their commercial zones, located on such routes and with authority to provide through service between all such points and to provide joint service at the applicable rates prescribed by the Commission for certificated motor common carriers. Intrastate, interstate and foreign commerce authority sought. HEARING: June 28 and 29, 1979, 10:00 A.M., Public Service Commission, 10th Floor, 100 E. Capitol Ave., Jefferson City, MO, 65101. Requests for procedural information should be addressed to Missouri Public Service Commission, P.O. Box 360, Jefferson City, MO 65102, and should *not* be direct to the Interstate Commerce Commission.

New York Docket No. T-727, filed April 6, 1979. Applicant: BENLIN DISTRIBUTION SERVICES, INC., 89 Perry Street, Buffalo, NY 14203. Representative: William J. Hirsch, esq., 43 Court Street, Buffalo, NY 14202. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: General commodities, between all points in Erie and Niagara Counties. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to Department of Transportation, 1220 Washington Ave., State Campus Building #4, Room G-21, Albany, NY 12232, and should *not* be directed to the Interstate Commerce Commission.

Note.—Applicant presently holds specific point to point authority between all major cities, towns, villages and hamlets in the above two counties. Intrastate, interstate and foreign commerce authority sought.

Oklahoma Docket No. MC-45133, filed March 19, 1979. Applicant: SMITH MOTOR FREIGHT, INC., 9112 S. Villa, Oklahoma City, OK 73159. Representative: WILLIAM L. ANDERSON, 4400 N. Lincoln, Suite 22, Oklahoma City, OK 73105. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: General commodities from Oklahoma City via U.S. Highway 62 and H. E. Bailey Turnpike to Richards Spur, near Lawton; U.S. 62 from Richards Spur to Chickasha; S.H. 8 from Anadarko to Cyril, S.S. Hwy 81 from Chickasha to its

intersection with U.S. Hwy 277, then along U.S. 277 to its intersection with U.S. 62 north of Richards Spur S.H. 19 from Cyril to Apache. The above authority to constitute the right to transport freight in all directions along routes described, to, from and between all points and places on the routes described, save and except no freight will be picked up or delivered in Chickasha; said authority shall include the right to serve all points and places on the routes described (except Chickasha) and also the right to serve customers along the routes or adjacent to the communities or routes served or traversed, where the same are within a reasonable distance from the described routes or points on said route and may be normally served without going through a city or town that carrier is not authorized to serve. Intrastate, interstate and foreign commerce authority sought. HEARING: May 24, 1979, 9:00 A.M., 2nd Floor, Jim Thorpe Bldg., Oklahoma City, OK. Requests for procedural information should be addressed to Oklahoma Corporation Commission, Jim Thorpe Office Building, Oklahoma City, OK 73105, and should *not* be directed to the Interstate Commerce Commission.

Tennessee Docket No. MC-7495 (amendment), filed January 24, 1979. Applicant: BLOUNT MOTOR LINES, INC., 3712 Valley Ridge Drive, Nashville, TN 37211. Representative: Grant W. Smith, P.O. Box 2725, 100 J. C. Bradford Bldg., Nashville, TN 37219. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: General commodities, except household goods, Class A and B explosives, and commodities which because of size and weight require special equipment or special handling, between all points and places in Davidson County, TN, and Blount County, TN. Intrastate, interstate and foreign commerce authority sought. Hearing: April 4, 1979, at 9:30 A.M., Commission Hearing room, C1-110 Cordell Hull Building, Nashville, TN. Requests for procedural information should be addressed to Tennessee Public Service Commission, C1-102 Cordell Hull Building, Nashville, TN 37219, and should not be directed to the Interstate Commerce Commission.

Tennessee Docket No. MC-7521, filed February 14, 1979. Applicant: AAA WISE EXPRESS, INC., 135 Lemuel Street, Nashville, TN 37207. Representative: Roland M. Lowell, 618 United American Bank Building, Nashville, TN 37219. Certificate of Public Convenience and Necessity sought to operate a freight service, as

follows: Transportation of: General commodities (except commodities in bulk, household goods, and those commodities which because of size or weight require special handling or equipment), between Nashville, TN, and Memphis, TN, serving the intermediate points of Jackson, TN, and all intermediate points between Jackson and Memphis and as off-route points, all points in Madison County, TN, not on the regular described routes, Humboldt, TN, and Milan, TN: (a) from Nashville over U.S. Hwy 40 to Memphis and return over the same route, and (b) from Nashville over Interstate Highway 40 to Memphis and return over the same route. Intrastate, interstate and foreign commerce authority sought. Hearing: June 25, 1979, (1 week), 9:30 A.M., The Executive Plaza Inn, 1471 Brooks RD, Memphis, TN. Requests for procedural information should be addressed to Tennessee Public Service Commission, Cordell Hull Building, Nashville, TN 37219, and should not be directed to the Interstate Commerce Commission.

Operating Rights Application(s) Directly Related to Finance Proceedings

The following operating rights application(s) are filed in connection with pending finance applications under Section 11343 (formerly Section 5(2)) of the Interstate Commerce Act, or seek tacking and/or gateway elimination in connection with transfer applications under Section 10926 (formerly Section 212(b)) of the Interstate Commerce Act.

An original and one copy of protests to the granting of the authorities must be filed with the Commission on or before June 8, 1979. Such protests shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) and include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon applicant's representative or applicant if no representative is named.

Each applicant states that approval of its application will not significantly affect the quality of the human environment nor involve a major regulatory action under the Energy Policy.

MC 126900 (Sub-3F), filed March 19, 1979. Applicant: Fiamingo Moving & Storage, R. D. No. 3, Box 678, Mansfield, Pennsylvania 16933. Representative: Thomas F. X. Foley, State Highway 34, Colts Neck, NJ 07722. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, in

the transportation of household goods between Wellsboro, PA and points within 25 miles of Wellsboro, PA, on the one hand, and, on the other, points in Pennsylvania, West Virginia and the District of Columbia, and (2) between points in Cumberland, MD, and points in Maryland, Pennsylvania, and West Virginia within 10 miles of Cumberland, on the one hand, and, on the other, points in New Jersey, New York, and Ohio. Gateways eliminated: (1) Common points consist of Cumberland, MD and points in MD within 10 miles of Cumberland, MD., and (2) Common points consist of points in PA within 25 miles of Wellsboro, PA. (Hearing site: Philadelphia, PA.)

By the Commission.

H. G. Hocutt, Jr.,

Secretary.

[Vol. No. 15]

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Assignment of Hearings

May 4, 1979.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 112223 Sub-109F, Quickie Transport Company, and MC 118569 Sub-7F, Halberg Construction and Supply, Inc., d.b.a. Kirsher Transport Co., A Corp., now assigned May 21, 1979, at St. Paul, MN, will be held at the St. Paul Hotel, The Capitol Room, 367 St. Peter's Street.

MC 134477 Sub-241F, Schanno Transportation, Inc., now assigned May 17, 1979, at St. Paul, MN, will be held at the St. Paul Hotel, The Capitol Room, 367 St. Peter's Street.

MC 134477 (Sub-261F), Schanno Transportation, Inc., now assigned May 16, 1979, at St. Paul, MN, will be held in the St. Paul Hotel, The Capitol Room, 367 St. Peter's Street.

MC 21259 Sub-2F, Gertsen Cartage Co., Inc., now assigned May 16, 1979, at Chicago, IL, is postponed indefinitely.

MC 144401F, General Oilfield Trucking, Inc., now assigned May 18, 1979, at Baton Rouge, LA, will be held in the Memorial Room, 760 Riverside Mall.

MC 124306 Sub-46F, Kenan Transport Company, Inc., now assigned May 14, 1979,

at Washington, D.C., is postponed to May 15, 1979, at the Offices of the Interstate Commerce Commission, Washington, D.C. MC 119988 Sub-159F, Great Western Trucking Co., Inc., and MC 143059 Sub-24F, Mercer Transportation Co., a Texas Corp., now assigned May 14, 1979, at Portland, OR, will be held in Room No. 103, Pioneer Courthouse, 555 S.W. Yamhill Street. MC 112989 Sub-78F, West Coast Truck Lines, Inc., now assigned May 15, 1979, at Portland, OR, will be held in the Redline Motor Inn, 310 Southwest Lincoln Street. MC 124711 (Sub-71F), Becker Corporation, now assigned for hearing on June 4, 1979, (2 days), at Kansas, City, MO., will be held in Room No. 609, Federal Office Building, 911 Walnut Street.

H. G. Homme, Jr.,
Secretary.

[Notice No. 83]
[FR Doc. 79-14483 Filed 5-9-79; 8:45 am]
BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Applications

May 3, 1979.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also

in the ICC field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

W-1152 (Sub-6TA). By order entered May 1, 1979, the Motor Carrier Board granted United Transportation, Inc., 1046 First Avenue, Bethel, AK, 99559, 180-day temporary authority to engage in the business of transportation of general commodities, utilizing self-propelled vessels and non-self-propelled vessels with the use of separate towing vessels, between Tuluksak, AK and points on the Kushokwin River at and North of Tuluksak, AK., Applicant was authorized to tack this authority with its existing authority under W-1152 at Tuluksak, AK. Warren G. Kellicut, Esq. 3201 "C" Street, Suite 401, Anchorage, AK, 99503, for applicant. Any interested person may file a petition for reconsideration within 20 days of the date of this publication. Within 20 days after the filing of such petition with the Commission, any interested person may file and serve a reply thereto.

H. G. Homme, Jr.,
Secretary.

[Notice No. 58]
[FR Doc. 79-14484 Filed 5-9-79; 8:45 am]
BILLING CODE 7035-01-M

Montana Intrastate Freight Rates and Charges—1979

Decided: May 1, 1979.

By joint petition filed April 4, 1979, Union Pacific Railroad, Chicago, Milwaukee, St. Paul & Pacific R.R. Co.; and Burlington Northern, Inc. (petitioners), each operating in intrastate commerce in Montana, request that this Commission institute an investigation of their Montana intrastate freight rates and charges, under 49 U.S.C. 11501 and 11502. Petitioners seek an order authorizing them to increase such rates and charges in the same amounts approved for interstate application by this Commission in Ex Parte Nos. 343 and 349. Petitioners have stated grounds sufficient to warrant instituting an investigation.

It is ordered: The petition is granted. An investigation, under 49 U.S.C. 11501 and 11502 is instituted to determine whether the Montana state rail freight rates in any respect cause any unjust discrimination against or any undue burden on interstate or foreign commerce, or cause undue or unreasonable advantage, preference, or prejudice as between persons or localities in intrastate commerce and

persons or localities in interstate or foreign commerce, or are otherwise unlawful, by reason of the failure of such rates and charges to include the full increases authorized for interstate application by this Commission in Ex Parte Nos. 343 and 349. In the investigation we shall also determine if any rates or charges, or maximum or minimum charges, or both, should be prescribed to remove any unlawful advantage, preference, discrimination, undue burden, or other violation of law, found to exist.

All persons who wish to participate in this proceeding and to file and receive copies of pleadings shall make known that fact by notifying the Office of Proceedings, Room 5356, Interstate Commerce Commission, Washington, DC 20423, on or before May 24, 1979. Although individual participation is not precluded, to conserve time and to avoid unnecessary expense, persons having common interests should endeavor to consolidate their presentations to the greatest extent possible. This Commission desires participation of only those who intend to take an active part in this proceeding.

As soon as practicable after the last day for indicating a desire to participate in the proceeding, this Commission will serve a list of names and addresses on all persons upon whom service of all pleadings must be made. Thereafter, this proceeding will be assigned for oral hearing or handling under modified procedure.

A copy of the order shall be served upon each of the petitioners. Montana shall be notified of the proceeding by sending copies of this decision by certified mail to the Governor of Montana and the Montana Public Service Commission. Further notice of this proceeding shall be given to the public by depositing a copy of this decision in the Office of the Secretary of the Interstate Commerce Commission at Washington, D.C. and by filing a copy with the Director, Office of the Federal Register, for publication in the Federal Register.

This is not a major regulatory action under the Energy Policy and Conservation Act of 1975, nor is this a major federal action significantly affecting the quality of the human environment.

By the Commission, Alan Fizwater,
Director, Office Proceedings.

H. G. Homme, Jr.,
Secretary.

[Decision No. 37159]
[FR Doc. 79-14461 Filed 5-8-79; 8:45 am]
BILLING CODE 7035-01-M

**Permanent Authority Applications;
Decision-Notice**

Decided: April 23, 1979.

The following applications filed on or before February 28, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247). For applications filed before March 1, 1979, these rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the Federal Register. Failure to file a protest, on or before June 8, 1979, will be considered as a waiver of opposition to the application. A protest under these rules should comply with Rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed.

Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

On cases filed on or after March 1, 1979, petitions for intervention either with or without leave are appropriate.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If applicant has introduced rates as an issue it is noted. Upon request an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter—

which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient protests, filed on or before June 8, 1979 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall

not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

H. G. Housse, Jr.,
Secretary.

MC 2900 (Sub-359F), filed February 1, 1979. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, P.O. Box 2408-R, Jacksonville, FL 32203. Representative: John Carter (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *plastic pipe, fittings, and materials* used in the installation of plastic pipe and fittings; and (2) *cast iron pipe, fittings, valves, hydrants, and accessories* used in the installation of cast iron pipe, fittings, valves, and hydrants, from the facilities of Clow Corporation, at points in Jefferson and Talladega Counties, AL, to those points in the United States in and east of MT, WY, CO, NM, and TX, restricted to the transportation of traffic originating at the named origins and destined to the named destinations. (Hearing site: Chicago, IL.)

MC 2900 (Sub-360F), filed February 5, 1979. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, P.O. Box 2408-R, Jacksonville, FL 32203. Representative: John Carter (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *chemicals and materials or supplies* used in the manufacture and packaging of chemicals, between the facilities of the Dow Chemical Company, at or near Ludington, MI, on the one hand, and, on the other, points in IL, IN, KY, MI, MO, OH, PA, WV, and WI. (Hearing site: Detroit or Grand Rapids, MI.)

MC 2900 (Sub-361F), filed February 5, 1979. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, P.O. Box 2408-R, Jacksonville, FL 32203. Representative: John Carter (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *axle housings*, from Reading, PA, to the facilities of the Dana Corporation, at or near Edgerton, WI, and Syracuse, IN, restricted to the transportation of traffic originating at the named origin and destined to the

named destinations. (Hearing site: Philadelphia or Reading, PA.)

MC 2900 (Sub-363F), filed February 1, 1979. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, P.O. Box 2408-R, Jacksonville, FL 32203. Representative: S.E. Somers, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) Between junction U.S. Hwy 50 and Interstate Hwy 75, and junction Interstate Hwy 75 and Interstate Hwy 40, over Interstate Hwy 75, serving the termini for the purposes of joinder only, as an alternate route for operating convenience only, and (2) Between junction Interstate Hwy 75 and Interstate Hwy 40, and junction Interstate Hwy 85 and U.S. Hwy 21: From junction Interstate Hwy 75 and Interstate Hwy 40 over Interstate Hwy 40 to junction NC Hwy 226, then over NC Hwy 226 to junction U.S. Hwy 74, then over U.S. Hwy 74 to junction Interstate Hwy 85, then over Interstate Hwy 85 to junction U.S. Hwy 21, and return over the same route, serving the termini for the purpose of joinder only, as an alternate route for operating convenience only. (Hearing site: Jacksonville, FL, or Washington, DC.)

MC 2960 (Sub-27F), filed February 6, 1979. Applicant: ENGLAND TRANSPORTATION COMPANY OF TEXAS, 2301 McKinney Street, Houston, TX 77023. Representative: E. Larry Wells, Suite 1125, Exchange Park, Post Office Box 45538, Dallas, TX 75245. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *fertilizer, weed and tree killing compounds, insecticides, and fungicides*, in bags or packages, from the facilities of Swift Agricultural Chemical Company, at or near Shreveport, LA, to points in TX. (Hearing site: Dallas, TX, or Shreveport, LA.)

MC 19311 (Sub-55F), filed January 29, 1979. Applicant: CENTRAL TRANSPORT, INC., 34200 Mound Road, Sterling Heights, MI 48077. Representative: Leonard R. Kofkin, 39 So. LaSalle St., Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and

those requiring special equipment), (1) Between Cleveland, OH, and Dunkirk, NY, over U.S. Hwy 20, serving all intermediate points, and (2) Between Lisbon, OH, and junction OH Hwy 11 and U.S. Hwy 20; From Lisbon, OH over OH Hwy 45 to junction U.S. Hwy 62, then over U.S. Hwy 62 to junction U.S. Hwy 422; then over U.S. Hwy 422 to junction OH Hwy 11, then over OH Hwy 11 to junction U.S. Hwy 20, and return over the same route, serving all intermediate points. (Hearing site: Cleveland, OH.)

MC 21491 (Sub-4F), filed January 24, 1979. Applicant: WILLIAM VOLLRATH, R.D. #1, Box 449, Harveys Lake, PA 18618. Representative: Joseph F. Hoary, 121 South Main Street, Taylor, PA 18517. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *metalware*, from the facilities of Bertels Can Company, Hanover Township, PA, to points in the United States (except AK and HI); and (2) *materials, supplies, and equipment* used in the manufacture of the commodities named in (1) above, from points in the United States (except AK and HI), to the facilities of Bertels Can Company, Hanover Township, PA. (Hearing site: Washington, DC.)

MC 21491 (Sub-5F), filed January 25, 1979. Applicant: WILLIAM VOLLRATH, R.D. #1, Box 449, Harveys Lake, PA 18618. Representative: Joseph F. Hoary, 121 South Main Street, Taylor, PA 18517. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment, and foodstuffs), from the facilities of the Union Corporation, at Old Forge, PA, to points in the United States (except AK and HI); and (2) *materials, supplies, and equipment* used in the manufacture, sale, and distribution of the commodities named in (1) above, from points in the United States (except AK and HI), to the facilities of the Union Corporation, at Old Forge, PA, restricted to the transportation of traffic originating at or destined to the facilities of the Union Corporation, at Old Forge, PA. (Hearing site: Washington, DC.)

MC 33641 (Sub-142F), filed February 6, 1979. Applicant: IML FREIGHT, INC., P.O. Box 30277, Salt Lake City, UT 84125. Representative: Thomas A. Scott (same address as applicant). To operate as a *common carrier*, by motor vehicle,

in interstate or foreign commerce, over irregular routes, transporting *soda ash, sodium bicarbonate, sodium carbonate, and cleaning, scouring, and washing compounds* (except commodities in bulk), from points in Sweetwater County, WY, to points in the United States (except AL, AK, AR, FL, GA, LA, ME, MN, MS, MT, NC, ND, NH, NM, OK, SD, SC, TN, TX, VT, and WI). (Hearing site: Salt Lake City, UT, or Denver, CO.)

MC 47171 (Sub-121F), filed February 5, 1979. Applicant: COOPER MOTOR LINES, INC., P.O. Box 2820, Greenville, SC 29602. Representative: Harris G. Andrews (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *alcoholic beverages*, from Hammondsport, NY, to points in SC. (Hearing site: Washington, DC.)

MC 52460 (Sub-235F), filed February 5, 1979. Applicant: ELLEX TRANSPORTATION, INC., 1420 W. 35th Street, P.O. Box 9637, Tulsa, OK 74107. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are sold and used by wholesale, retail, and discount stores, from points in AL, FL, GA, LA, MS, NC, SC, TN, and TX, to the facilities of Wal-Mart Stores, Inc., at or near Bentonville, Fort Smith, and Searcy, AR. (Hearing site: Oklahoma City, OK.)

MC 52921 (Sub-33F), filed January 29, 1979. Applicant: RED BALL, INC., P.O. Box 520, Sapulpa, OK 74066. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *petroleum products*, in containers, *such commodities* as are distributed by wholesale or retail suppliers, marketers, or distributors of petroleum products, and *such commodities* as are used by wholesale or retail suppliers, marketers, or distributors of petroleum products in the conduct of their business, from Ponca City, OK, to points in LA. (Hearing site: Oklahoma City, OK.)

MC 52921 (Sub-34F), filed February 6, 1979. Applicant: RED BALL, INC., P.O. Box 520, Sapulpa, OK 74066. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. To operate as a *common*

carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *paper, paper products, and materials, equipment, and supplies* used in the manufacture and distribution of paper and paper products, (except commodities in bulk, in tank vehicles), between the facilities of Union Camp Corporation, at or near Lafayette, LA, and San Antonio, TX, on the one hand, and, on the other, points in AR, CO, KS, LA, MO, NM, and OK. (Hearing site: Oklahoma City, OK.)

MC 56270 (Sub-21F), filed January 25, 1979. Applicant: LEICHT TRANSFER & STORAGE CO., a corporation, 1401-55 State Street, P.O. Box 2385, Green Bay, WI 54306. Representative: Dennis L. Sedlacek (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *hardwood flooring, hardwood flooring components, and materials and supplies* used in the manufacture and distribution of hardwood flooring and hardwood flooring components, between White Lake, WI, and Ishpeming, MI, on the one hand, and, on the other, those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Madison, WI, or Chicago, IL.)

MC 59531 (Sub-113F), filed February 7, 1979. Applicant: AUTO CONVOY CO., 3020 South Haskell, Dallas, TX 75223. Representative: Eugene C. Ewald, 100 West Long Lake Road, Suite 102, Bloomfield Hills, MI 48013. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *motor vehicles*, in initial movements, in truckaway service, from Claycomb, MO, to points in TX, OK, AZ, NM, AR, and LA. (Hearing site: Dallas, TX.)

MC 67450 (Sub-78F), filed January 25, 1979. Applicant: PETERLIN CARTAGE CO., a corporation, 9651 S. Ewing Avenue, Chicago, IL 60617. Representative: Joseph Winter, 29 South LaSalle Street, Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by nursery and horticultural supply stores (except commodities in bulk), from Cullman, Opelika, and Sylacauga, AL, Susanville and Yreka, CA, Adel and Whitestone, GA, Morrison, IL, Wheaton, MD, Mason, MI, Newton, West Milford, and Sussex, NJ, Edenton, NC, Crestline, Bellefontaine, Toledo, and S. Charleston, OH, Lancaster, PA, and Knoxville, TN, to points in the United States (except

AK and HI). (Hearing site: Chicago, IL, or Toledo, OH.)

MC 67450 (Sub-80F), filed February 2, 1979. Applicant: PETERLIN CARTAGE CO., a Corporation, 9651 S. Ewing Avenue, Chicago, IL 60617. Representative: Joseph Winter, 29 South LaSalle Street, Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *malt syrup*, in bulk, from the facilities of Malt Products Corporation, at or near Maywood, NJ, to points in IL, IN, IA, OH, and WI. (Hearing Site: Chicago, IL.)

MC 69281 (Sub-49F), filed February 5, 1979. Applicant: THE DAVIDSON TRANSFER & STORAGE CO., a Corporation, 698 Fairmount Avenue, Towson Plaza, Baltimore, MD 21204. Representative: Henry J. Bouchat, P.O. Box 58, Baltimore, MD 21203. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *paper, pulpboard, and paper, pulpboard, and woodpulp products*, serving West Point, VA, as an off-route point in connection with carrier's otherwise authorized regular route operations. (Hearing Site: Washington, DC.)

MC 74681 (Sub-13F), filed January 31, 1979. Applicant: STEVENS VAN LINES, 121 South Niagara Street, Saginaw, MI 48602. Representative: Robert J. Gallagher, 1000 Connecticut Avenue, N.W., Suite 1200, Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *uncrated wooden wardrobe cabinets*, from the facilities of the Furniture Division of Hoover Universal, Inc., at or near Vernon, AL, to points in NH, MA, CT, RI, NY, NJ, PA, MD, DE, VA, WV, NC, SC, GA, FL, AL, MS, TN, KY, OH, IN, IL, MI, WI, MN, ND, SD, NE, IA, CO, KS, MO, NM, OK, AR, TX, LA, ME, VT, and DC. (Hearing Site: Saginaw, MI.)

MC 75320 (Sub-212F), filed February 1, 1979. Applicant: CAMPBELL SIXTY-SIX EXPRESS, INC., P.O. Box 807, Springfield, MO 65801. Representative: John A. Crawford, 17th Floor, Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Sperry Vickers,

at or near Searcy, White County, AR, as an off-route point in connection with carrier's otherwise authorized regular route operations. (Hearing Site: Little Rock, AR.)

MC 85970 (Sub-20F), filed January 22, 1979. Applicant: SARTAIN TRUCK LINE, INC., 1354 N. Second Street, Memphis, TN 38307. Representative: Warren A. Goff, 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) Between Dyersburg, TN, and Portageville, MO: From Dyersburg, TN over TN Hwy 78 to junction TN Hwy 21, then over TN Hwy 21 to the Mississippi River, then over MO Hwy 162 to Portageville, MO, and return over the same route, serving all intermediate points and points in Lake and Dyer Counties, TN as off-route points, (2) Between Nashville, TN, and Trenton, TN: (a) From Nashville, TN over U.S. Hwy 70 to junction U.S. Hwy 70-A, then over U.S. Hwy 70-A to junction TN Hwy 104, then over TN Hwy 104 to Trenton, TN, and return over the same route, serving no intermediate points, and (b) From Nashville, TN over Interstate Hwy 40 to junction U.S. Hwy 45 and TN Hwy 5, then over U.S. Hwy 45 and TN Hwy 5 to junction U.S. Hwy 45-W, then over U.S. Hwy 45-W to Trenton, TN, and return over the same route, serving the intermediate point of Jackson, TN, (3) Between junction Interstate Hwy 40 and TN Hwy 22, and Gleason, TN: From junction Interstate Hwy 40 and TN Hwy 22 over TN Hwy 22 to Gleason, TN, and return over the same route, as an alternate route for operating convenience only, (4) Between St. Louis, MO, and Nashville, TN: From St. Louis, MO, over Interstate Hwy 55 to junction Interstate Hwy 155, then over Interstate Hwy 155 to junction U.S. Hwy 51, then over U.S. Hwy 51 to junction TN Hwy 20, then over TN Hwy 20 to junction Interstate Hwy 40, then over Interstate Hwy 40 to Nashville, TN, and return over the same route, serving all intermediate points between St. Louis, MO, and Dyersburg, TN, including Dyersburg, (5) Between Dyersburg, TN, and Nashville, TN: From Dyersburg, TN over U.S. Hwy 51 to junction TN Hwy 54, then over TN Hwy 54 to junction U.S. Hwy 70, then over U.S. Hwy 70 to junction Interstate Hwy 40, then over Interstate Hwy 40 to Nashville, TN, and

return over the same route, serving the intermediate points of Halls, Gates, Ripley, Henning, Covington, Brownsville, and Jackson, TN, (6) Between Union City, TN, and Fulton, KY: From Union City, TN over U.S. Hwys 51 and 45-W to Fulton, KY, and return over the same route, serving the intermediate point of South Fulton, TN and (7) Between Union City, TN, and Hickman, KY: From Union City, TN over TN Hwy 5 to the TN-KY State line, then over KY Hwy 125 to Hickman, KY, and return over the same route, serving the port of Hickman as an off-route point, restricted against the transportation of traffic originating at, destined to, or is interlined at Memphis, TN, when such traffic is moving to or from St. Louis, MO or Nashville, TN, and points in their respective commercial zones. (Hearing Site: Memphis, TN, or St. Louis, MO.)

MC 90870 (Sub-22F), filed January 31, 1979. Applicant: RIECHMANN ENTERPRISES, INC., Route 2, Box 137, Alhambra, IL 62001. Representative: Cecil L. Goettsch, 1100 Des Moines Building, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from the facilities of Jones & Laughlin Steel Corp., at Putnam County, IL, to points in MO, and the Kansas City, KS commercial zone. (Hearing site: Chicago, IL, or Des Moines, IA.)

MC 90870 (Sub-23F), filed January 31, 1979. Applicant: RIECHMANN ENTERPRISES, INC., Route 2, Box 137, Alhambra, IL 62001. Representative: Cecil L. Goettsch, 1100 Des Moines Building, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from the facilities of Laclede Steel Co., at Alton, IL, to those points in KY on and west of Interstate Hwy 65, those points in TN on and west of Interstate Hwy 65, those points in MS on and north of U.S. Hwy 82, and points in IN. (Hearing site: St. Louis, MO, or Washington, DC.)

MC 95540 (Sub-1075F), filed February 1, 1979. Applicant: WATKINS MOTOR LINES, INC., 1144 West Griffin Road, P.O. Box 1636, Lakeland, FL 33802. Representative: Benjy W. Fincher (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *titanium dioxide* (except in bulk), from DeLisle, MS, to those points in the United States in and east of MT, WY, CO, and NM,

and points in CA. (Hearing site: Wilmington, DE, or Washington, DC.)

MC 95540 (Sub-1076F), filed February 1, 1979. Applicant: WATKINS MOTOR LINES, INC., 1144 West Griffin Road, P.O. Box 1636, Lakeland, FL 33802. Representative: Benjy W. Fincher (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *confectionery, chewing gum, and novelties*, from Duryea, PA, to points in NC, SC, GA, FL, KY, TN, AL, MS, KS, and MO. (Hearing site: Philadelphia, PA, or New York, NY.)

MC 95540 (Sub-1078F), filed February 5, 1979. Applicant: WATKINS MOTOR LINES, INC., 1144 West Griffin Road, P.O. Box 1636, Lakeland, FL 33802. Representative: Benjy W. Fincher (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products, and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of Wilson Foods Corporation, at or near Albert Lea, MN, to points in AR, LA, and MS, restricted to the transportation of traffic originating at the named origin and destined to the named destinations. (Hearing Site: Oklahoma City, OK, or Washington, DC.)

MC 95540 (Sub-1080F), filed February 5, 1979. Applicant: WATKINS MOTOR LINES, INC., 1144 West Griffin Road, P.O. Box 1636, Lakeland, FL 33802. Representative: Benjy W. Fincher (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs*, from New York, NY, to Chicago, IL. (Hearing site: New York, NY, or Washington, DC.)

MC 95540 (Sub-1081F), filed February 5, 1979. Applicant: WATKINS MOTOR LINES, INC., 1144 West Griffin Road, P.O. Box 1636, Lakeland, FL 33802. Representative: Benjy W. Fincher (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products, and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766,

(except hides and commodities in bulk), from Gonzales, LA, to points in OH, IN, MN, CA, TN, and WI. (Hearing site: New Orleans, LA, or Washington, DC.)

MC 103051 (Sub-477F), filed February 6, 1979. Applicant: FLEET TRANSPORT COMPANY, INC., 934, 44th Ave., N., Nashville, TN 37209. Representative: Russell E. Stone, P.O. Box 90408, Nashville, TN 37209. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *dry starch* in bulk, in tank vehicles, from Lexington, NC, to points in VA, SC, GA, and TN. (Hearing site: Nashville, TN, or Atlanta, Ga.)

MC 111231 (Sub-257F), filed January 24, 1979. Applicant: JONES TRUCK LINES, INC., 610 East Emma Avenue, Springdale, AR 72764. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Avenue, Washington, DC 20014. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) Between Wichita, KS, and Aurora, CO: (a) From Wichita, KS over KS Hwy 98 to junction U.S. Hwy 50, then over U.S. Hwy 50 to junction U.S. Hwy 287, then over U.S. Hwy 287 to junction Interstate Hwy 70, then over Interstate Hwy 70 to Aurora, CO, and return over the same route, serving Great Bend, KS, and Eads, CO, as intermediate points for purposes of joinder only, and (b) From Wichita, KS over KS Hwy 96 to junction U.S. Hwy 50, then over U.S. Hwy 50 to junction U.S. Hwy 281, then over U.S. Hwy 281 to junction Interstate Hwy 70, then over Interstate Hwy 70 to Aurora, CO, and return over the same route, serving no intermediate points, and (2) Between Great Bend, KS, and Eads, CO: From Great Bend, KS over KS Hwy 98 to junction CO Hwy 98, then over CO Hwy 98 to Eads, CO, and return over the same route, serving no intermediate points, serving Great Bend, KS, and Eads, CO for purposes of joinder only. (Hearing site: Little Rock, AR, or Washington, DC.)

MC 112801 (Sub-223F), filed January 30, 1979. Applicant: TRANSPORT SERVICE CO., a Corporation, 2 Salt Creek Lane, Hinsdale, IL 60521. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 668 Eleventh Street, N.W., Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, in interstate or foreign

commerce, over irregular routes, transporting *commodities*, in bulk, in tank vehicles, (1) between points in IL, IN, IA, KS, KY, MI, MN, MO, NE, OH, and TN, and (2) between points in the United States (except AK and HI). (Hearing site: Chicago, IL, or Washington, DC.)

Note.—Insofar as the transportation of hazardous materials is authorized the certificate shall expire in 5 years.

MC 112991 (Sub-4F), filed January 30, 1979. Applicant: LIVINGSTON TRANSPORTATION LIMITED, 264 Tillson Avenue, Tillsonburg, Ontario, Canada N4G 3B6. Representative: Wilhelmina Boersma, 1600 First Federal Building, Detroit, MI 48226. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *dry bulk commodities*, in dump vehicles, between ports of entry on the international boundary line between the United States and Canada, at or near Detroit, Port Huron, and Sault Ste. Marie, MI, on the one hand, and, on the other, points in OH and MI. (Hearing Site: Detroit, MI, or Washington, DC.)

MC 113460 (Sub-10F), filed February 1, 1979. Applicant: BLACKHAWK TRANSPORTATION, INC., 3909 E. 29th Street, Des Moines, IA 50317. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of Wilson Foods Corporation, at Cedar Rapids, IA, to points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, and DC, restricted to the transportation of traffic originating at the named origin and destined to the named destinations. (Hearing Site: Dallas, TX, or Kansas City, MO.)

MC 114890 (Sub-89F), filed February 5, 1979. Applicant: COMMERCIAL CARTAGE CO., a Corporation, 343 Axminster Drive, Fenton, MO 63026. Representative: David A. Cherry, P.O. Box 1540, Edmond, OK 73034. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *printing ink and printing ink ingredients*, in bulk, in tank vehicles, from St. Louis, MO, to points in AR, DE, IL, IN, KS, KY, MI, MN, NY, OH, PA, TN, VA, and WI.

(Hearing Site: St. Louis, MO, or Washington, DC.)

MC 115331 (Sub-481F), filed January 29, 1979. Applicant: TRUCK TRANSPORT INCORPORATED, 29 Clayton Hills Lane, St. Louis, MO 63131. Representative: J. R. Ferris, 230 St. Clair Avenue, East St. Louis, IL 62201. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *extruded vinyl siding, extruded plastic siding, clapboard siding, plastic articles, paper articles, and building materials*; and (2) *accessories and supplies* used in connection with the commodities named in (1) above, (except commodities in bulk), from the facilities of Bird & Son, Inc., at or near Bardstown, KY, to points in AZ, CA, CO, CT, DE, ID, IL, IN, IA, KS, ME, MD, MA, MI, MS, NE, NH, NJ, NY, OH, OR, PA, UT, VT, WA, WV, WI, and DC. (Hearing Site: Washington, DC, or St. Louis, MO.)

MC 115331 (Sub-482F), filed January 29, 1979. Applicant: TRUCK TRANSPORT INCORPORATED, 29 Clayton Hills Lane, St. Louis, MO 63131. Representative: J. R. Ferris, 230 St. Clair Avenue, East St. Louis, IL 62201. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *zinc, zinc alloys, zinc oxide, zinc dust, zinc dross, residue or skimmings, metallic cadmium, lead sheet, and recyclable zinc products*; and (2) *materials, equipment, and supplies* used in the manufacture of the commodities named in (1) above, between the facilities of St. Joe Zinc Co., at or near Josephstown, Potter Township, Beaver County, PA, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing Site: Washington, DC, or St. Louis, MO.)

MC 115841 (Sub-672F), filed January 24, 1979. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Building 100, Knoxville, TN 37919. Representative: D. R. Beeler (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *floor covering, tools and accessories, for floor covering, adhesives, preservatives, carpet tacking strips, and metal moulding*, from the facilities of Roberts Consolidated Industries, at or near Los Angeles County, CA, to points in VA, NC, SC, GA, FL, AL, TN, KY, MS, LA, AR, MO, IL, IN, OH, MI, WI, KS, OK, and TX. (Hearing site: Los Angeles, CA.)

MC 115841 (Sub-875F), filed February 5, 1979. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Building 100, Knoxville, TN 37919. Representative: D. R. Beeler (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of M & M/Mars, at or near Cleveland, TN, to points in AZ, CA, IA, IL, KS, MI, MO, NE, NV, OH, and UT. (Hearing site: Washington, DC, or Philadelphia, PA.)

MC 115841 (Sub-676F), filed February 5, 1979. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Building 100, Knoxville, TN 37919. Representative: David C. Venable, 805 McLachlen Bank Building, 666 Eleventh Street, N.W., Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen foods and materials and supplies* used in the manufacture or distribution of frozen foods, between the facilities of The Pillsbury Company, at or near Murfreesboro and Nashville, TN, on the one hand, and, on the other, those points in the United States in and east of MN, IA, MO, AR, and LA (except TN), restricted to the transportation of traffic originating at or destined to the facilities of The Pillsbury Company at or near Murfreesboro and Nashville, TN. (Hearing site: Nashville, TN, or Minneapolis, MN.)

MC 119991 (Sub-27F), filed January 31, 1979. Applicant: YOUNG TRANSPORT, INC., Post Office Box 3, Logansport, IN 46947. Representative: Warren C. Moberly, 777 Chamber of Commerce Building, Indianapolis, IN 46204. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *aluminum ingots, aluminum scrap, aluminum sheet metal, aluminum plate, and aluminum foil*, (1) between the facilities of Alcan Aluminum Division of Alcan Service, Inc., at or near Oswego, NY, Warren, OH, and Fairmont, WV, and (2) from the facilities of Alcan Aluminum Division of Alcan Service, Inc., at or near Oswego, NY, Warren, OH, and Fairmont, WV, to points in WA, OR, CA, ID, NV, MT, WY, UT, AZ, NM, ND, and SD. (Hearing site: Indianapolis, IN, or Washington, DC.)

MC 120910 (Sub-15F), filed November 8, 1978, and previously noticed in the FR issues of February 15, 1979, and March

15, 1979. Applicant: SERVICE EXPRESS, INC., P.O. Box 1009, Tuscaloosa, AL 35401. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *paper and paper products* (except commodities in bulk), from the facilities of Union Camp Corporation, at or near Prattville, AL, to points in AL, FL, GA, KY, LA, MS, NC, SC, TN, and VA. (Hearing site: Birmingham, AL.)

Note.—This republication adds LA as a destination State.

MC 120981 (Sub-29F), filed January 24, 1979. Applicant: BESTWAY EXPRESS, INC., 905 Visco Drive, Nashville, TN 37210. Representative: George M. Catlett, 708 McClure Building, Frankfort, KY 40601. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) Between Nashville, TN, and Mobile, AL: From Nashville, TN over Interstate Hwy 65 to junction AL Hwy 47, then over AL Hwy 47 to junction AL Hwy 59, then over AL Hwy 59 to junction U.S. Hwy 31, then over U.S. Hwy 31 to Mobile, AL, and return over the same route, serving the intermediate point of Montgomery, AL, and serving junction Interstate Hwy 65 and AL Hwy 47 for joinder only, (2) Between Mobile, AL, and junction Interstate Hwy 65 and AL Hwy 47: From Mobile, AL over Interstate Hwy 65 to junction Interstate Hwy 65 and AL Hwy 47, and return over the same route, serving junction Interstate Hwy 65 and AL Hwy 47 for joinder only, (3) Between Jackson, MS, and Mobile, AL: From Jackson, MS over U.S. Hwy 49 to junction U.S. Hwy 98, then over U.S. Hwy 98 to Mobile, AL, and return over the same route, serving no intermediate points, restricted against the transportation of traffic originating at, destined to, or interlined at Jackson, MS, and (4) Between Jackson, MS, and Montgomery, AL, over U.S. Hwy 80, serving no intermediate points, restricted against the transportation of traffic originating at, destined to, or interlined at, Jackson, MS. (Hearing site: Nashville, TN.)

MC 123061 (Sub-111F), filed February 5, 1979. Applicant: LEATHAM BROTHERS, INC., 46 Orange St., P.O. Box 16026, Salt Lake City, UT 84116. Representative: Harry D. Pugsley, 1283

E. South Temple #501, Salt Lake City, UT 84102. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *salt and salt products*, from Saltair, UT, to points in CA. (Hearing site: Salt Lake City, UT, or Chicago, IL.)

MC 123061 (Sub-112F), filed February 7, 1979. Applicant: LEATHAM BROS. INC., 46 Orange Street, P.O. Box 16026, Salt Lake City, UT 84116.

Representative: Harry D. Pugsley, 1283 E. South temple #501, Salt Lake City, UT 84102. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes transporting *bagged copper flue dust*, from points in Salt Lake County, UT, to East Helena, MT. (Hearing Site: Salt Lake City, UT, or Boise, ID.)

MC 124211 (Sub-356F), filed January 29, 1979. Applicant: HILT TRUCK LINE, INC., P.O. Box 988, D.T.S., Omaha, NE 68101. Representative: Thomas L. Hilt (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except commodities in bulk), from the facilities of Blue Star Foods, Inc., at Omaha, NE, to points in the United States (except those points in MO south of U.S. Hwy 50, and points in AK, HI, IL, IA, MN, NE, ND, SD, and WI). (Hearing site: Omaha, NE.)

MC 124230 (Sub-37F), filed February 2, 1979. Applicant: C. B. JOHNSON, INC., P.O. Drawer S, Cortez, CO 81321. Representative: David E. Driggers, 1660 Lincoln Street, Suite 1600, Denver, CO 80264. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *ore and ore concentrates*, in bulk, from points in Lake County, CO, to Pueblo, Denver, and Canon City, CO; (2) *sulphuric acid*, in bulk, in tank vehicles, between points in AZ and NM; and (3) *molten sulphur*, in bulk, in tank vehicles, between points in WY and CO. (Hearing Site: Denver, CO.)

MC 124711 (Sub-81F), filed February 5, 1979. Applicant: BECKER CORPORATION, P.O. Box 1050, El Dorado, KS 67042. Representative: T. M. Brown, P.O. Box 1540, Edmond, OK 73034. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *cement*, from points in KS to points in AR, MO, NE, and OK. (Hearing Site: Kansas City, MO, or Wichita, KS.)

MC 124801 (Sub-5F), filed January 24, 1979. Applicant: ROY AYERS, R.D. #2, Clarks Summit, PA 18411.

Representative: Joseph F. Hoary, 121 South Main Street, Taylor, PA 18517. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *feed, feed ingredients, and animal health and sanitation products*, between points in Union County, PA, on the one hand, and, on the other, points in Allegheny, Albany, Broome, Cattaraugus, Cayuga, Chemung, Chenango, Cortland, Delaware, Erie, Fulton, Genesee, Greene, Livingston, Madison, Montgomery, Oneida, Ontario, Oswego, Otsego, Onondaga, Schoharie, Schuylers, Seneca, Steuben, Sullivan, Tioga, Tompkins, Ulster, Wayne, Wyoming, and Yates Counties, NY. (Hearing Site: Scranton, PA.)

MC 125470 (Sub-44F), filed February 1, 1979. Applicant: MOORE'S TRANSFER, INC., P.O. Box 1151, Rural Route 4, Norfolk, NE 68701. Representative: Lavern R. Holdeman, 521 South 14th St., Suite 500, P.O. Box 81849, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from points in IL, IN, IA, KS, MI, MN, MO, MT, ND, OK, SD, TX, UT, WI, and WY to the facilities of Norfolk Iron & Metal Co., Inc., at or near Norfolk, NE, restricted to the transportation of traffic originating at the named origins and destined to the named facilities. (Hearing Site: Norfolk or Omaha, NE.)

MC 127840 (Sub-87F), filed December 15, 1978. Applicant: MONTGOMERY TANK LINES, INC., 17550 Fritz Drive, Lansing, IL 60438. Representative: William H. Towle, 160 North LaSalle Street, Chicago, IL 60601. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *corn products*, in bulk, from Keokuk, IA, to points in the United States (except AK and HI). (Hearing Site: Keokuk, IA.)

MC 134300 (Sub-35F), filed January 31, 1979. Applicant: TRIPLE R EXPRESS, INC., 498 First Street Northwest, New Brighton, MN 55112. Representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. To operate as a *common carrier*, by motor vehicle in interstate or foreign commerce, over irregular routes, transporting *materials and supplies* used in the manufacture of paints and varnishes, (except commodities in bulk, in tank vehicles), from those points in the United States in and east of WI, IA, MO, AR, and LA, to Minneapolis, MN. (Hearing site: Minneapolis or St. Paul, MN.)

MC 134501 (Sub-39F), filed January 26, 1979. Applicant: INCORPORATED CARRIERS, LTD., P.O. Box 3128, Irving, TX 75061. Representative: T. M. Brown, P.O. Box 1540, Edmond, OK 73034. To operate as a *common carrier*, by motor vehicle in interstate or foreign commerce, over irregular routes, transporting *new furniture*, from Quincy, FL, to points in ME, NH, VT, MA, CT, RI, NY, PA, NJ, MD, DE, VA, WV, OH, IN, MI, KY, TN (except Shelby County), NC, SC, GA, AL, MS, LA, TX, and AR. (Hearing site: Tallahassee, FL, or Dallas, TX.)

MC 134501 (Sub-41F), filed January 26, 1979. Applicant: INCORPORATED CARRIERS, LTD., P.O. Box 3128, Irving, TX 75061. Representative: T. M. Brown, P.O. Box 1540, Edmond, OK 73034. To operate as a *common carrier*, by motor vehicle in interstate or foreign commerce, over irregular routes, transporting (1) *restaurant furniture*, from Miami, FL, to points in ME, NH, VT, MA, CT, RI, NY, PA, NJ, MD, DE, VA, WV, OH, IN, MI, KY, TN (except Shelby County), NC, SC, GA, AL, MS, LA, AR (except points on, north, and west of a line beginning at Interstate Hwy 40 and the Mississippi River, then along Interstate Hwy 40 to junction Interstate Hwy 30, then along Interstate Hwy 30 to junction AR Hwy 9, then along AR Hwy 9 to junction U.S. Hwy 79, then along U.S. Hwy 79 to the AR-LA State line), TX (except points on, north, and west of a line beginning at the LA-TX State line and Interstate Hwy 20, then along Interstate Hwy 20 to junction Interstate Hwy 35E, then along Interstate Hwy 35E to junction Interstate Hwy 35, then along Interstate Hwy 35 to Waco, TX, then along U.S. Hwy 77 to Victoria, TX, then along U.S. Hwy 87 to the Gulf of Mexico), and DC; and (2) *restaurant fixtures, equipment, and supplies* (except foodstuffs), from Miami, FL, to points in the United States (except AK and HI). (Hearing site: Miami, FL, or Dallas, TX.)

MC 135170 (Sub-31F), filed January 24, 1979. Applicant: TRI-STATE ASSOCIATES, INC., P.O. Box 188, Federalsburg, MD 21632. Representative: James C. Hardman, 33 North LaSalle Street, Chicago, IL 60602. To operate as a *contract carrier*, by motor vehicle in interstate or foreign commerce, over irregular routes, transporting *containers, container ends and closures, container accessories, paper and plastic articles, and materials, equipment, and supplies* used in the manufacture, sale, and distribution of containers, container ends and closures, and container accessories, and paper and plastic

articles (except commodities in bulk, and those which, because of size or weight, require the use of special equipment), between points in AL, DE, FL, GA, KY, LA, MD, MI, MS, NC, NJ, NY, OH, PA, SC, TN, VA, WV, and DC, under continuing contract(s) with The Continental Group, Inc., of Passaic, NJ. (Hearing site: Washington, DC.)

MC 136291 (Sub-13F), filed February 5, 1979. Applicant: CUSTOMIZED PARTS DISTRIBUTION, INC., 3600 N.W. 82nd Avenue, Miami, FL 33166. Representative: Francis W. McInerney, 1000 Sixteenth St., NW, #502, Washington, DC 20036. To operate as a *contract carrier*, by motor vehicle in interstate or foreign commerce, over irregular routes, transporting *liquid argon, liquid nitrogen, and liquid oxygen*, in specially designed cryogenic vehicles provided by the shipper, from Theodore, AL, to points in AR, GA, FL, KY, LA, MS, NC, SC, and TN, under continuing contract(s) with Union Carbide Corporation, of New York, NY. Condition: Any grant of authority shall be limited in point of time to a period expiring 5 years from the date of issuance. (Hearing site: Washington, DC.)

MC 136501 (Sub-6F), filed January 24, 1979. Applicant: CARDOSI CONTRACT REFRIGERATED EXPRESS, INC., 5885 Jetway Drive, Arlington, TN 38002. Representative: Thomas A. Stroud, 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by grocery and food business houses and in connection therewith, *equipment, supplies, and materials* used in the conduct of such businesses, in vehicles equipped with mechanical refrigeration (except commodities in bulk), between the facilities of the Kroger Co., at or near Cincinnati, Springdale, Woodlawn, Blue Ash, Columbus, and Whitehall, OH, on the one hand, and, on the other, points in OH, IN, IL, MO, AR, TX, TN, KY, GA, VA, WV, MI, PA, and FL, under continuing contract(s) with the Kroger Co., of Cincinnati, OH. (Hearing site: Memphis, TN, or Cincinnati, OH.)

MC 138741 (Sub-67F), filed February 5, 1979. Applicant: AMERICAN CENTRAL TRANSPORT, INC., 2005 North Broadway, Joliet, IL 60435. Representative: Tom B. Kretsinger, 20 Franklin, Liberty, MO 64068. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *steel tubing*, from Gerald, MO, to points in

AL, AR, IL, IN, IA, KS, KY, LA, MI, MS, NE, OH, OK, PA, TN, TX, and WI. (Hearing site: St. Louis, MO.)

MC 140241 (Sub-41F), filed February 5, 1979. Applicant: DALKE TRANSPORT, INC., Box 7, Moundridge, KS 67107. Representative: Larry E. Gregg, 641 Harrison Street, Topeka, KS 66603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *steel bar joists and accessories* for steel bar joists, from Grapeland, TX, to points in AZ, AR, LA, NM, and OK. (Hearing site: Dallas, TX.)

MC 140820 (Sub-11F), filed February 5, 1979. Applicant: A & R TRANSPORT, INC., 2996 N. Illinois 71, Ottawa, IL 61350. Representative: James R. Madler, 120 W. Madison St., Chicago, IL 60602. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *sand*, in bulk, from points in LaSalle County, IL, and Berrien County, MI, to points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, VT, VA, WV, and WI. (Hearing site: Chicago, IL.)

MC 141450 (Sub-10F), filed February 7, 1979. Applicant: WOOTEN TRANSPORT COMPANY, P.O. Box 731, Hazlehurst, GA 31519. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *containers and container parts*, from Homerville, GA, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX (except ME, VT, NH, and MA); and (2) *materials and supplies* used in the manufacture of containers and container parts, from those points in the United States in and east of ND, SD, NE, KS, OK, and TX (except ME, VT, NH, and MA), to Homerville, GA, under continuing contract(s) with Standard Container, of Homerville, GA. (Hearing site: Jacksonville, FL, or Atlanta, GA.)

MC 141781 (Sub-15F), filed February 6, 1979. Applicant: LARSON TRANSFER & STORAGE COMPANY, INC., 10700 Lyndale Avenue South, Minneapolis, MN 55420. Representative: Samuel Pubenstein, 301 North Fifth Street, Minneapolis, MN 55403. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *chain saws, snow-throwers, and garden, lawn, turf and golf course care equipment*, from the facilities of the Toro Company, at or near Windom and Minneapolis,

MN, and Tomah, WI, to points in AL, AR, FL, GA, KY, LA, MS, NC, SC, and TN, restricted to the transportation of traffic originating at the named origins and destined to the named destinations. (Hearing site: Minneapolis or St. Paul, MN.)

Note.—Dual operations may be involved.

MC 142130 (Sub-4F), filed February 1, 1979. Applicant: CRESCENT INDUSTRIES, INC., P.O. Box 18146, Dallas, TX 75218. Representative: E. Larry Wells, Suite 1125, Exchange Park, P.O. Box 45538, Dallas, TX 75245. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *missiles and aircraft*; (2) *engines, parts, and equipment* for missiles and aircraft; and (3) *devices* used for the transportation of the commodities named in (1) and (2) above, (a) between points in Sacramento County CA, on the one hand, and, on the other, points in UT, WY, CO, NM, KS, OK, and TX and (b) between points in Sacramento County, CA, on the one hand, and, on the other, Lockhaven, PA, Wayne, MI, Alliance and Middletown, OH, Cape Girardeau, MO, and Riverdale, MD. (Hearing site: Dallas, TX, or Washington, DC.)

MC 142130 (Sub-5F), filed February 2, 1979. Applicant: CRESCENT INDUSTRIES, INC., P.O. Box 18146, Dallas, TX 75218. Representative: E. Larry Wells, Suite 1125, Exchange Park, P.O. Box 45538, Dallas, TX 75245. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *missiles and aircraft*, (2) *engines, parts, and equipment* for missiles and aircraft; and (3) *devices* used for the transportation of the commodities named in (1) and (2) above, between points in ME, NH, VT, MA, RI, CT, NY, NJ, MD, DE, VA, WV, PA, OH, MI, and DC, on the one hand, and, on the other, points in NE, KS, OK, TX, NM, AZ, CA, UT, CO, and WY. (Hearing site: Dallas, TX, or Washington, DC.)

MC 143701 (Sub-7F), filed February 5, 1979. Applicant: WILLIAM OBERSTE, INC., 5733 Airline Highway OFC 805, Metairie, LA 70003. Representative: Lester C. Arvin, 814 Century Plaza Bldg., Wichita, KS 67202. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plastic materials and commodities* used in the manufacture of plastic materials (except commodities in bulk), from Houston, TX, and Baton Rouge, Marksville, and Lake Charles, LA, to points in AL, FL, GA, IL, KY, MN, NC, OH, PA, SC, TN, VA, WI,

and WV. (Hearing site: New Orleans, LA, or Atlanta, GA.)

MC 143960 (Sub-1F), filed February 6, 1979. Applicant: LEONARD ESTES, d.b.a. LEONARD ESTES TRUCKING COMPANY, Route #1 Box 248-D, Hamilton, AL 35570. Representative: John Self, P.O. Box 597, Hamilton, AL 35570. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lumber*, from Guin, AL, to Clarksdale and Eupora, MS, Crossville, Selmer, and Henry, TN, under continuing contract(s) with Universal Forest Products, Inc., of Guin, AL. (Hearing site: Birmingham, AL.)

MC 144630 (Sub-12F), filed January 25, 1979. Applicant: STOOPS EXPRESS, INC., 2239 Malibu Court, Anderson, IN 46011. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *overhead door sections, materials, and hardware* used in the manufacture and sale of overhead door sections, between the facilities of Overhead Door Corporation, at Dallas and Ft. Worth, TX, on the one hand, and, on the other, points in IN, MI, KY, OH, CA, and GA. (Hearing Site: Indianapolis, IN.)

Note: Dual operations may be involved.

MC 144661 (Sub-4F), filed February 1, 1979. Applicant: F. A. MILLER, INC., P.O. Box 401, Rexburg, ID 83440. Representative: Timothy R. Stivers, P.O. Box 162, Boise, ID 83701. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *pre-cut log home packages*, from the facilities of Authentic Log Homes, at points in Albany County, WY, to those points in the United States in and west of MN, WI, IL, MO, AR, and LA (except AK and HI); (2) *lumber, lumber mill products, and particleboard*, from points in ID, to points in Albany County, WY, under continuing contract(s) in (1) and (2) above with Authentic Homes Corporation, of Laramie, WY; (3) *lumber, lumber mill products, and particleboard*, from those points in WA on and east of U.S. Hwy 97, those points in ID and MT on and west of Interstate Hwy 15, to points in CO and WY, under continuing contract(s) with Idaho Forest Industries, Inc., of Coeur d'Alene, ID; and (4) *lumber, lumber mill products, and particleboard*, (a) from points in OR, WA, and ID, to points in CA, and (b) from points in CA, to points in CO, UT, and WY, under continuing contract(s) with Intermountain-Orient,

Inc., of Boise, ID. (Hearing Site: Boise, ID.)

MC 145541 (Sub-1F), filed February 5, 1979. Applicant: SUNWAY CORPORATION, 118 W. Main St., Thomasville, NC 27360. Representative: Stephen L. Ervin, Fairview Ch. Rd., P.O. Box 22, Trinity, NC 27370. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *new furniture, furniture parts, and materials* used in the manufacture of new furniture, from points in Appomattox County, VA, and points in Caldwell, Catawba, Davidson, Forsyth, Guilford, and McDowell Counties, NC, to points in AZ, CA, and TX. (Hearing Site: Charlotte, NC, or Washington, DC.)

MC 145571 (Sub-1F), filed February 6, 1979. Applicant: RALPH AARON, JAMES BARTHOLOMEW AND AUBRY WILLIS, d.b.a. ABW TRUCKING COMPANY, P.O. Box 113, Scotts Hill, TN 38374. Representative: Roland M. Lowell, 618 United American Bank Bldg., Nashville, TN 37219. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *rock, sand, gravel, and base materials*, from points in Hardin County, TN, to points in Tishomingo County, MS, under continuing contract(s) with Clyd Owens Sand and Gravel, Inc., of Collierville, TN. (Hearing Site: Memphis, TN.)

MC 145660 (Sub-2F), filed January 31, 1979. Applicant: CALLISTER & SONS TRUCKING, 3077 Midwest Drive, Salt Lake City, UT 84118. Representative: Stuart L. Poelman, 700 Continental Bank Building, Salt Lake City, UT 84101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lumber, lumber mill products, and wood fiber building materials*, from points in CA in and north of Sonoma, Napa, Solano, San Joaquin, Calaveras, and Tuolumme, and points in WA and OR, to points in UT, ID, WY, and CO. (Hearing Site: Salt Lake City, UT, or Portland, OR.)

MC 146230F, filed January 29, 1979. Applicant: J & V TRUCKING COMPANY, INC., 617 River Rouge Drive, Nashville, TN 37209. Representative: George M. Catlett, 708 McClure Building, Frankfort, KY 40601. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *rubber articles, and materials, equipment, and supplies* used in the manufacture, sale, and distribution of rubber articles, (1) between Franklin, KY, and Hot Springs,

AR, on the one hand, and, on the other, points in the United States on and west of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to junction with western boundary of Itasca County, MN, then northward along the western boundaries of Itasca and Koochiching Counties, MN, to the international boundary line between the United States and Canada, and (2) between Franklin, KY, on the one hand, and, on the other, Hot Springs, AR, under continuing contract(s) with Alliance Rubber Company, Inc., of Franklin, KY. (Hearing site: Nashville, TN, or Louisville, KY.)

MC 146251 (Sub-1F), filed January 26, 1979. Applicant: CLAXTON TRANSPORT, INC., Route 3, Box 135, Wrightsville, GA 31096. Representative: Ronald K. Kolins, 1055 Thomas Jefferson Street, N.W., Suite 308, Washington, DC 20007. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *newsprint paper*, from points in Laurens County, GA, to points in AL, AR, FL, GA, IL, IN, KS, KY, LA, MD, MO, MS, NC, OH, OK, PA, SC, TN, EX, VA, and WV; and (2) *waste newspaper, cores, materials, supplies, and equipment* used in the manufacture of newsprint paper, from points in AL, AR, FL, GA, IL, IN, KS, KY, LA, MD, MO, MS, NC, OH, OK, PA, SC, TN, TX, VA, and WV, to points in Laurens County, GA. (Hearing site: Atlanta, Ga.)

MC 146350F, filed February 1, 1979. Applicant: ARKAY COMPANY, INC., Star Route—East Lake Road, Guntersville, AL 35976. Representative: Donald B. Sweeney, Jr., 603 Frank Nelson Building, Birmingham, AL 35203. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *feed, feed ingredients, and minerals*, (except commodities in bulk), from the facilities of Southeastern Minerals, Inc. and Eastern Minerals, Inc., at or near Bainbridge, GA, Marshall, TX, and Henderson, NC, to points in AL, AR, DE, IL, IN, KY, LA, MD, MS, NC, OH, PA, SC, TN, TX, VA, and WV; and (2) *materials and supplies* used in the manufacture of the commodities named in (1) above, (except commodities in bulk), from points in AL, AR, DE, IL, IN, KY, LA, MD, MS, NC, OH, PA, SC, TN, TX, VA, and WV, to the facilities of Southeastern Minerals, Inc. and Eastern Minerals, Inc., at or near Bainbridge, GA, Marshall, TX, and Henderson, NC. (Hearing site: Birmingham, AL, or Atlanta, GA.)

MC 146470F, filed February 5, 1979.

Applicant: MONARCH TRANSPORTATION, INC., P.O. Box 1257, Omaha, NE 68101. Representative: Scott E. Daniel, 800 Nebraska Savings Bldg., 1623 Farnam Street, Omaha, NE 68102. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *asphalt emulsions, and building and road construction materials*, in bulk, in tank vehicles, from the facilities of Monarch Asphalt Oils, Inc., at Omaha, NE, to points in IA, SD, MN, KS, NE, and MO; (2) *coal tar emulsions*, from Omaha, NE, and Kansas City, MO, to points in KS, NE, IA, SD, MO, and MN; (3) *asphalt and road oils*, from Omaha, NE, Sugar Creek, MO, Sioux Falls, SD, St. Paul, MN, Casper and Cheyenne, WY, Denver, CO, and Points in KS, to points in KS, NE, SD, IA, MN, and MO; and (4) *aggregates, hot mix, and construction materials, equipment, and supplies* (except liquids in bulk), between points in KS, NE, SD, IA, MN, and MO, under continuing contract(s) with Monarch Asphalt Oils, Inc., of Omaha, NE. (Hearing site: Omaha, NE.)

MC 146471F, filed February 1, 1979.

Applicant: SERVALL TRANSPORT LIMITED, 176 Creditstone Road, Concord, Ontario, Canada L4K 1B1. Representative: Rex Eames, 900 Guardian Building, Detroit, MI 48226. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel and iron and steel articles*, between Detroit, MI, on the one hand, and, on the other ports of entry on the international boundary line between the United States and Canada, at or near Detroit, MI. (Hearing site: Detroit or Lansing, MI.)

Broker Authority

MC 130551F, filed January 29, 1979. Applicant: CONNECTICUT MOTOR CLUB, INC., 2276 Whitney Avenue, Hamden, CT 06518. Representative: Thomas O. Terrace, P.O. Box No. 1820, 33 Whitney Avenue, New Haven, CT 06508. To engage in operations, in interstate or foreign commerce, as a *broker*, at Hamden, CT, in arranging for the transportation, by motor vehicle of *passengers and their baggage*, in the same vehicle with passengers, in round-trip special and charter operations, beginning and ending at points in New Haven, Litchfield, and Fairfield Counties, CT, and points of entry on the international boundary line between the United States and Canada. (Hearing site: New Haven or Bridgeport, CT.)

Freight Forwarder Authority

FF 501 (Sub-1F), filed February 2, 1979.

Applicant: ECONOCARIBE CONSOLIDATORS, INC., 2929 N.W. 73rd Street, Miami, FL 33147. Representative: Bruce E. Mitchell, Fifth Floor—Lenox Towers South, 3390 Peachtree Road, Atlanta, GA 30326. To operate as a *freight forwarder*, through use of the facilities of common carriers by rail or motor, in the transportation of *general commodities* (except commodities in bulk, in tank vehicles), from points in the United States (except AK and HI), to New Orleans, LA, Houston, TX, and points in FL, restricted to the transportation of traffic having an immediate subsequent movement by water in foreign commerce, and restricted to service in substitution for water operations in conjunction with applicant's non-vessel operations. (Hearing site: New Orleans, LA, or Miami, FL.)

[Permanent Authority Decision Volume No. 43]
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Texas Intrastate Freight Rates and Charges—1979¹

Decided: May 1, 1979.

By petitions filed March 23, 1979 ten common carriers by railroad operating in intrastate commerce in the State of Texas request that this Commission institutes an investigation of their Texas intrastate freight rates and charges, under 49 U.S.C. 11501 and 11502 (formerly section 13 of the Interstate Commerce Act). They seek an order authorizing them to increase such rates and charges in the same amounts approved for interstate application by this Commission in Ex Parte No. 349. Petitioners have stated grounds sufficient to warrant instituting an investigation.

It is ordered: The petition is granted. An investigation, under 49 U.S.C. 11501 and 11502, is instituted to determine whether the Texas State rail freight rates in any respect cause any unjust discrimination against or any undue burden on interstate or foreign commerce, or cause undue or

¹ This decision embraces a petition, No. 37150, filed by St. Louis Southwestern Railway Company; a petition, 37150 (Sub-No. 1), filed by the Southern Pacific Transportation Company, and a joint petition, 37150 (Sub-No. 2) filed by The Atchafalaya, Topeka and Santa Fe Railway Company; Chicago, Rock Island and Pacific Railroad Company; Fort Worth and Denver Railway Company; The Kansas City Southern Railway Company; Louisiana & Arkansas Railway Company; Missouri-Kansas-Texas Railroad Company; Missouri Pacific Railroad Company, and Saint Louis-San Francisco Railway Company.

unreasonable advantage, preference, or prejudice as between persons or localities in intrastate commerce and persons or localities in interstate or foreign commerce, or are otherwise unlawful, by reason of the failure of such rates and charges to include the full increases authorized for interstate application by this Commission in Ex Parte No. 349. In the investigation we shall also determine if any rates or charges, or maximum or minimum charges, or both, should be prescribed to remove any unlawful advantage, preference, discrimination, undue burden, or other violation of law, found to exist.

All persons who wish to participate in this proceeding and to file and receive copies of pleadings shall make known that fact by notifying the Office of Proceedings, Room 5342, Interstate Commerce Commission, Washington, D.C. 20423, on or before May 24, 1979. Although individual participation is not precluded, to conserve time and to avoid unnecessary expense, persons having common interests should endeavor to consolidate their presentations to the greatest extent possible. This Commission desires participation of only those who intend to take an active part in this proceeding.

As soon as practicable after the last day for indicating a desire to participate in the proceeding, this Commission will serve a list of names and addresses on all persons upon whom service of all pleadings must be made. Thereafter, this proceeding will be assigned for oral hearing or handling under modified procedure.

A copy of this decision shall be served upon each of the petitioners. Texas shall be notified of the proceeding by sending copies of this decision by certified mail to the Governor of the State of Texas and Railroad Commission of Texas. Further notice of this proceeding shall be given to the public by a copy of this decision in the Office of the Secretary of the Interstate Commerce Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register, for publication in the Federal Register.

This is not a major federal action significantly affecting the quality of the human environment. Furthermore, this decision is not a major regulatory action under the Energy Policy and Conservation Act of 1975.

By the Commission, Alan Fitzwater,
Director, Office of Proceedings.

H. G. Homme, Jr.,
Secretary.

[Decision No. 37150]

[FR Doc. 79-14482 Filed 5-8-79; 8:45 am]

BILLING CODE 7035-01-M

Sunshine Act Meetings

Federal Register

Vol. 44, No. 91

Wednesday, May 9, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL ENERGY REGULATORY COMMISSION.

May 7, 1979.

TIME AND PLACE: 9 a.m., May 7, 1979.

PLACE: Hearing room F, 825 North Capitol Street NE., Washington, D.C. 20426.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Continued meeting from May 4, 1979, on matter relating to an investigation.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary (202) 275-4166.

[S-918-79 Filed 5-7-79; 10:05 am]
BILLING CODE 6740-02-M

2

FEDERAL MARITIME COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: May 3, 1979, 44 FR 25969.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., May 9, 1979.

CHANGE IN THE MEETING: Addition of the following item to the closed session:

3. Litigation with Baltic Shipping Company.

[S-915-79 Filed 5-7-79; 9:24 am]
BILLING CODE 6730-01-M

3

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 10 a.m., May 4, 1979.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Closed (pursuant to 5 U.S.C. 552b(C) (10)).

MATTER CONSIDERED: 3. FMSHRC Cases in Appellate Courts:

1. Jones v. Oliver, NORT 78-415.
2. Shamrock Coal v. FMSHRC, BARB 78-152-P.
3. Richardson v. Peabody Coal, BARB 78-600-P.
4. Cowin and Co. v. FMSHRC, HOPE 78-210-P.
5. Grundy Mining Co. v. Secretary of Labor, BARB 78-168-P.

VOTE: Voting to close that part of the meeting: Commissioners Waldie (Chairman), Lawson, Nease, Jestrab and Backley. It was determined by this vote that Commission business required that this meeting be closed. Further the Commission members voted to hold the meeting immediately on the basis that agency business so required and to issue public notice as soon as practicable.

ATTENDANCE: Present at that closed part of the meeting were; Commissioners Waldie (Chairman), Lawson, Nease, Jestrab and Backley; Al Treherne, Robert Phares, Mary Masulla, Arthur Sapper, Nathaniel Speights, Dan Delacey, Joanne Kelley, Carolyn Crittenden and Cris Gilbert.

CONTACT FOR MORE INFORMATION: Joanne Kelly, 202-653-5632.

[S-916-79 Filed 5-7-79; 9:24 am]
BILLING CODE 6735-01-M

4

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

May 4, 1979.

TIME AND DATE: 10 a.m., May 11, 1979.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following agenda items:

1. Iselin Preparation Co., PITT 78-343,344.
2. Secretary of Labor v. Allied Chemical Co., HOPE 78-722-P (Petition for Discretionary Review).
3. Ronnie R. Ross v. Monterey Coal Co., VINC 78-38 (Petition for Discretionary Review).

CONTACT PERSON FOR MORE INFORMATION: Joanne Kelley 202-653-5632.

[S-917-79 Filed 5-7-79; 9:25 am]
BILLING CODE 6735-01-M

5

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE.

White House Conference on Library and Information Services, Information Community Advisory Committee.

TIME AND DATE: 11 a.m., May 15, 1979.

PLACE: Hamilton Room, Hay-Adams Hotel, 800 16th Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE DISCUSSED:

- Review of important developments since last meeting.
- Report of Exhibits Subcommittee.
- Discussion of Program for White House Conference.
- Outline of future activity.

CONTACT PERSON FOR MORE

INFORMATION: Barry Jagoda, Coordinator (202) 342-9300.

Marilyn K. Gell,
Director.

May 3, 1979.

[S-919-79 Filed 5-7-79; 3:01 pm]
BILLING CODE 7527-01-M

6

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: May 8 and 11, 1979.

PLACE: Commissioners conference room, 1717 H Street NW., Washington, D.C.

STATUS: Open/closed.

MATTERS TO BE CONSIDERED:

Tuesday, May 8—11 a.m.

1. Briefing on Interagency Radiological Assistance Program (postponed from April 3, approximately 1 hour, public meeting).

Friday, May 11—9:30 a.m.

1. Discussion of NEPA Regulations (approximately 1 hour, public meeting).
2. Recess (5 minutes).
3. Discussion of Personnel Matter (approximately 1½ hours, closed—Exemption 6).
- Noon—Recess.

Friday May 11—1:30 p.m.

1. Briefing on Legislative Matters (approximately 1½ hours, public meeting).
2. Recess (5 minutes).
3. Discussion of Upgrade Rule and Supporting Guidance (postponed from April 2, approximately 1½ hours, closed—Exemption 1).
4. Recess (5 minutes).
5. Affirmation session (approximately 5 minutes, public meeting).

a. Radiation Exposure to Transient Workers.

b. Physical Protection of Material.

CONTACT PERSON FOR MORE INFORMATION: Roger Tweed (202) 634-1410.

Roger M. Tweed,
Office of the Secretary.

May 4, 1979.

[S-820-79 Filed 5-7-79; 3:13 p.m.]

BILLING CODE 7590-01-M

7

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Thursday, May 3, 1979.

PLACE: Commissioners conference room, 1717 H Street, NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: Thursday, May 3,—5 p.m.—Staff Briefing on Oyster Creek (approximately 1 hour, public meeting).

ADDITIONAL INFORMATION: The Commission voted 5-0 on May 3, that pursuant to 5 U.S.C.b(e)(1) and § 9.107(a) of the Commission's Rules, that Commission business requires that the above meeting be held on less than one week's notice to the public. Prompt discussion was required to permit consideration of this important issue.

CONTACT PERSON FOR MORE INFORMATION: Roger Tweed (202) 634-1410.

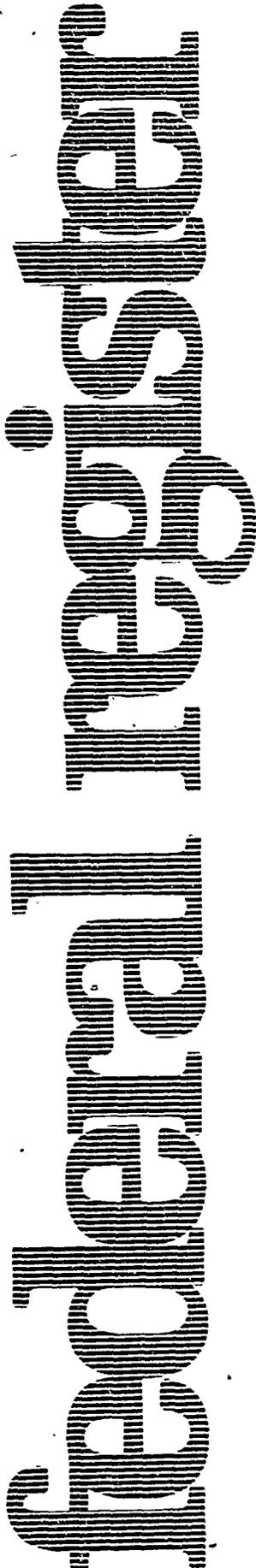
Roger M. Tweed,
Office of the Secretary.

May 3, 1979.

[S-821-79 Filed 5-7-79; 3:13 pm]

BILLING CODE 7590-01-M

Wednesday
May 9, 1979



Part II

**Environmental
Protection Agency**

**Proposed Health Effects Test Standards
for Toxic Substances Control Act Test
Rules**

**Good Laboratory Practice Standards for
Health Effects**

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Parts 770, 771, and 772]

Proposed Health Effects Test Standards for Toxic Substances Control Act Test Rules

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule and notice of public meetings.

SUMMARY: This action proposes test standards for the development of data on the chronic health effects of chemical substances and mixtures for which testing will be required under the Toxic Substances Control Act (TSCA). With this proposal, the Environmental Protection Agency (EPA) initiates the process to codify these standards for incorporation into future TSCA Section 4 test rules. The Agency may also use these standards to respond to Section 4(g) petitions for test standards for new chemical substances. This proposal provides standards for testing for oncogenic (tumor-inducing) effects, other (non-oncogenic) chronic effects, and combined oncogenic and non-oncogenic chronic effects, by prescribing standards relating to experimental design, the conduct of tests, data evaluation, and other test requirements.

EPA proposes these test standards under Section 4(b) of TSCA. The ultimate purpose of the proposed standards is to assure that data developed under Section 4 test rules can be used by EPA to determine whether the tested chemicals present an unreasonable risk of oncogenic or other chronic effects and to support regulatory actions to eliminate or reduce such risk. The standards proposed at this time pertain to general provisions for the conduct of long-term laboratory animal bioassays. This proposal does, however, include general provisions that would apply to all TSCA health and environmental effects test rules. Standards for Good Laboratory Practices are also proposed in a separate part of today's Federal Register.

The Agency recognizes that long-term health effects testing is expensive and time-consuming. Estimates of the costs of performing tests in accordance with these proposed standards are presented in Section VI of this preamble. TSCA requires EPA to be selective in designating chemicals to be tested and in specifying the tests to be performed. Thus, to conclude from this proposal

that large numbers of chemicals will routinely be subject to both oncogenic and non-oncogenic testing in accordance with the proposed standards would be erroneous and would give a misleading impression as to the likely economic impact of the TSCA testing program. Even so, the Agency is interested in ways of reducing the cost of performing oncogenic and non-oncogenic effects testing, insofar as the costs can be reduced without significantly impairing the reliability of test results and their usefulness for hazard assessment. EPA therefore will welcome and carefully consider suggestions for reducing costs.

DATES: Interested persons are invited to submit written comments to the EPA on these proposed test standards prior to the close of business on or before August 7, 1979. See section VII, Public participation, for further information.

PUBLIC MEETINGS: EPA has scheduled public meetings on these proposed standards. These meetings will be held during the week of July 9 in Chicago and during the week of July 16 in Washington, D.C. Additional information on these meetings including dates, times and locations, is presented in Section VIII, Public Meetings.

ADDRESSES: Written views and comments should bear the document control number OTS No. 046003 and should be submitted to: Ms. Joyce A. Barbour, Chemical Information Division, Office of Toxic Substances (TS-799), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

FOR INFORMATION CONTACT: Industry Assistance Office, Office of Toxic Substances (TS-799), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, Telephone No.: 800-424-9065 (toll-free) (In Washington, DC, call 544-1404).

SUPPLEMENTARY INFORMATION: A Support Document which provides the scientific bases for the test standards and discussions related economic and confidentiality issues is available upon request from the Industry Assistance Office, Office of Toxic Substances (TS-799), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, DC 20460. The Support Document must be read together with the preamble to obtain a complete explanation of the basis of this rule.

The following is an index to the remainder of this preamble.

I. Introduction—Statutory Framework—General, Test Standards, Chemical Identification, Relation to Premanufacture Notification, Applicability of Test Standards, Implementation.

II. Basis and Purpose—

III. Proposed test standards—General, Summary of Standards, Definitions, Submission of Study Plan, Personnel Qualifications, Chemical Analyses, Dietary Considerations, Reporting Requirements, Animal Selection, Use of Positive Controls, Age at Start of Exposure, Route(s) of Exposure, Number of Animals, Duration of Exposure/Observation Period, Dose Selection, Clinical Procedures, Pathology Examination, Additional Scientific Studies, Request for Comments on Proposed Test Standards.

IV. Policy considerations—Relationship to EPA Pesticide Registration Guidelines, Relationship to Interagency and International Test Guidelines, Specificity of Details in Standards, Future Health Effects Test Standards.

V. General Provisions—Information and Definitions, Confidentiality and Public Access to Information, Revision and Modifications of Test Standards, Compliance.

VI. Economic analysis—

VII. Public participation—

VIII. Public meetings—

IX. Public record.

I. Introduction

Under Section 4(b) of the Toxic Substances Control Act (TSCA) (Public Law 94-469; 90 Stat. 2006; 15 USC 2603), the EPA proposes standards for testing chemicals for chronic health effects. The proposal includes standards for long-term animal bioassays to test for oncogenic effects, and other (non-oncogenic) chronic effects. In addition to the standards proposed here, the Agency is also proposing standards for Good Laboratory Practices in a separate part of today's Federal Register.

Later this year, the Agency will propose the first chemicals to be tested in accordance with Section 4 test standards. In the present rulemaking to codify test standards, the issues center on the suitability of the proposed generic standards for testing chemicals under future Section 4 test rules. In later rulemakings to identify chemicals for testing, the issues will center on the need to test the identified chemicals.

When EPA determines that chemicals satisfy the testing prerequisites in Section 4(a), these chemicals will be joined in Section 4(a) test rules with the standards finalized as a result of today's proposal, or with revisions or modifications of these standards, as necessary and appropriate.

This preamble outlines EPA's legal authority to require testing of chemicals in accordance with test standards, discusses the use of test data for assessing the risk potential of toxic chemicals, and introduces the first Section 4 test standards to be proposed under TSCA.

Statutory Framework

General.—Section 4 of the Toxic Substances Control Act authorizes the Administrator of the Environmental Protection Agency to require manufacturers (including importers) and processors of identified chemical substances and mixtures to test the chemicals in accordance with applicable EPA test rules (Section 4(a), (b)). This regulatory authority implements Congress' stated intent that "adequate data should be developed with respect to the effect of chemical substances and mixtures on health and the environment and that development of such data should be the responsibility of those who manufacture and those who process such chemical substances and mixtures" (Section 2(b)(1)).

TSCA states that each Section 4(a) test rule must identify the chemical substances and mixtures for which testing is required, provide standards for the development of test data ("test standards"), and, for chemicals which are not new chemicals, designate deadlines for the submission of data developed under the rule (Section 4(b)(1)).

In today's action, EPA proposes test standards for oncogenic effects, non-oncogenic chronic effects, and combined chronic effects. In future actions, EPA will propose Section 4(a) test rules which identify specific chemical substances and mixtures which are to be tested, give deadlines for the submission of test data to the EPA, and specify the persons (Sponsors) who are required to conduct tests and submit data to the Agency. The Sponsor(s) may be the manufacturer(s), processor(s), or both, of the specified chemical.

Test standards.—TSCA specifies that each test rule must include standards for the development of test data. The test standards must prescribe the health and environmental effects, and the information relating to toxicity, persistence, and other characteristics which affect health and the environment for which test data for a chemical substance or mixtures are to be developed, and any analysis that is to be performed on such data (Sections 4(b)(1) and 3(12)(A)). The Act states that carcinogenesis, mutagenesis, teratogenesis, behavioral disorders, cumulative or synergistic effects and any other effect which may present an unreasonable risk of injury to health or the environment are effects for which test standards may be prescribed (Section 4(b)(2)(A)). The Act further specifies that the characteristics of chemical substances and mixtures for

which such standards may be prescribed include persistence, acute toxicity, subacute toxicity, chronic toxicity, and any other characteristic which may present such a risk (Section 4(b)(2)(A)).

In addition, to assure reliable and adequate data for such health and environmental effects, each test rule must include standards which prescribe the manner in which data are to be developed, any test methodology to be employed in the development of such data, and such other requirements as are necessary to provide such assurance (Sections 4(b)(1)(B) and 3(12)(B)). The Act specifies that the methodologies that may be prescribed in such standards include epidemiological studies, serial or hierarchical tests, *in vitro* tests, and whole animal tests (Section 4(b)(2)(A)).

Chemical identification.—In order to require that a chemical be tested in accordance with EPA test standards, the Administrator must make three findings relating to the chemical's risk potential and the insufficiency of data then available to EPA.

First, the Administrator must find either that the manufacture, distribution in commerce, processing, use, disposal, or some combination of these activities involving the chemical may present an unreasonable risk of injury to health or the environment, or that the chemical is or will be produced in substantial quantities and that there is or may be significant or substantial human or environmental exposure to the chemical (Sections 4(a)(1)(A)(i) and (B)(i)).

Second, the Administrator must find that existing data and experience relating to the chemical are insufficient to reasonably determine or predict the effects on health or the environment of the manufacture, distribution in commerce, processing, use, or disposal of the chemical or of any combination of these activities. (Sections 4(a)(1)(A)(ii) and (B)(ii)).

The third finding is that testing is necessary to develop the requisite data (Sections 4(a)(1)(A)(iii) and (B)(iii)).

Section 26(c)(1) provides that any action authorized or required under any provision of the Act with respect to a chemical substance or mixture may be taken with respect to a "category of chemical substances or mixtures." Section 26(c)(2)(A) explains that the term "category of chemical substances" means a group of chemical substances the members of which are similar in molecular structure, in physical, chemical, or biological properties, in use, or in mode of entrance into the human body or the environment, or the

members of which are in some other way suitable for classification as such for purposes of the Act, except that such term does not mean a group of chemical substances which are grouped together solely on the basis of their being new chemical substances.

The Administrator may require testing of mixtures only if, in addition to the foregoing findings, he finds that the necessary information cannot reasonably and more efficiently be obtained by testing the separate components in the mixtures (Section 4(a)(2)). Also, chemicals manufactured, processed, or distributed in commerce for use as pesticides, food additives, drugs, and cosmetics are among the chemicals to which TSCA, including the testing authority, does not generally apply (Section 3(2)(B)). However, such chemicals may be tested under Section 4 if they are also manufactured, processed, or distributed in commerce for other uses not excluded from TSCA authority.

Relation to premanufacture notification.—Under Section 5 of the TSCA any person who intends to manufacture a new chemical substance for commercial purposes in the United States must submit a notice to the EPA at least 90 days before such manufacture (or import) commences. The person must describe intended production, use and disposal plans, data on chemical and biological properties, and other information relating to the new chemical substance (Sections 5(a), (d)(1)). On January 10, 1979, the Agency proposed regulations and forms to implement the Section 5 notification requirements (44 FR 2242). The preamble to that proposal reviews the relevant statutory provisions and discusses the Agency's plans for implementation of Premanufacture Notification.

The notification requirements in Section 5(b)(1) and the categorization authority in Section 26(c) require manufacturers of new chemical substances that are in a category for which testing is required under Section 4, to conduct the tests required for the category and submit the data with the premanufacture notification form. Specifically, Section 5(b)(1) provides that if a person is required both to submit a premanufacture notice to the Administrator and to submit test data for the substance under a Section 4 rule, the person must submit the data in accordance with the rule at the time the premanufacture notice is submitted.

In addition, persons intending to submit a Section 5 Premanufacture Notice but who are not subject to a Section 4(a) test rule may petition the

Administrator to prescribe standards for the development of test data for such substance (Section 4(g)). The Administrator must either grant or deny the petition within 60 days and, if a petition is granted, the Administrator must prescribe standards within 75 days of the date the petition is granted.

Applicability of test standards.—Section 4(b)(3)(B) specifies that if the Administrator makes the Section 4(a) findings referenced in that section (See discussion of chemical identification, above), the relevant test rules apply to each person who manufactures or intends to manufacture, and/or to each person who processes or intends to process the chemical substances and mixtures for which test data is required. The section also provides that the Administrator may permit two or more of the manufacturers and/or processors who are required to conduct tests and submit data to the EPA to designate one such person or a qualified third person to conduct the tests and submit such data on behalf of the persons making the designation. Because TSCA defines "manufacture" to include "import into the customs territory of the United States" (Section 3(7)), the term "manufacturer" is used to mean both manufacturers and importers in this preamble and in Section 4 test rules.

Under Section 4(c) any person required by a section 4(a) test rule to conduct tests and submit data may apply to the Administrator for an exemption from such requirement. If the Administrator determines that a chemical substance or mixture for which an exemption application was submitted is equivalent to a chemical substance or mixture for which data have been submitted to the Administrator under a Section 4(a) rule or are being developed under such a rule, and that submission of data by the applicant would be duplicative of data which have been submitted to the Administrator under a Section 4(a) rule or are being developed under such a rule, the Administrator shall exempt the applicant from conducting tests and submitting data (Section 4(c)(2)). In accordance with procedures and rules authorized but not yet implemented by Sections 4(c)(3) and 4(c)(4), those persons exempted from conducting testing and submitting data must reimburse those persons submitting the data on which the exemption was based.

Implementation

The Administrator will propose chemicals to be tested for chronic effects when the Agency has determined that such data are necessary to

adequately assess whether or not the chemical(s) may present a risk of injury to human health.

Except as provided below, each proposed test rule which identifies chemicals for chronic toxicity testing will reference the appropriate test standards finalized through the rulemaking which this proposal initiates. The Administrator may propose individualized modifications of these standards for certain chemical substances and mixtures. Also, TSCA requires the Administrator to review the adequacy of these test standards at least once each year and, if necessary, to institute appropriate proceedings to revise the standards (Section 4(b)(2)(B)).

Each proposal which identifies chemicals for testing will: specify the chemical and physical form of the chemical for which testing is required, give deadlines for the submission of data to EPA, specify the persons (manufacturers, processors, or both) who are required to conduct the tests and submit data to EPA, provide other information necessary to conduct the required tests, e.g., route of exposure, and any necessary modifications to the standards.

When persons intending to manufacture or process new chemical substances submit Section 4(g) petitions for chronic effects test standards, the Agency will prescribe the standards finalized through this rulemaking or modifications of these standards, as appropriate.

The Agency will generally use the legal authority and approach outlined in this section in developing other TSCA test rules. The legal authority for other aspects of Section 4(a) test rules and related EPA action will be detailed when those rules and related procedures are published.

II. Basis and Purpose

People are afflicted with a wide variety of chronic diseases, including various types of cumulative effects which impair organ functions and neoplasias. Among these chronic effects are lung conditions, such as chronic bronchitis, pneumoconiosis, and emphysema; chronic liver disease, such as cirrhosis; chronic kidney disease, such as nephrosis and chronic interstitial nephritis; chronic nervous conditions, such as impaired mental or motor activity, and neuropathies; chronic skin effects; bone demineralization; cataracts; hematopoietic and cardiovascular conditions and generalized emaciation and debilitation. Malignant neoplasias represent one particularly large group of

over 200 different disease processes described generally as "cancer".

Because of the broad spectrum of human susceptibility, chronic diseases produce mild to severe health effects in humans of all ages, races, and nationalities, regardless of sex. Most of these conditions adversely affect the quality of life for the affected person and his or her family, impose significant health care costs, restrict employability and other normal activity, and reduce life expectancy.

The exact cause of a chronic disease is often difficult to determine for each individual. However, environmental agents such as radiation, viruses, and chemicals have been identified as potential factors in the etiology of many chronic diseases. Numerous studies have demonstrated a higher incidence of particular chronic conditions in human populations exposed to certain chemicals, especially those in the workplace. The same chronic diseases occurring in the general population may also be related to specific chemical exposure.

Because chronic disease is a major human health problem, the Agency proposes test standards for developing experimental animal data that would be used to assess the risks of chemically-induced chronic health effects in humans. The standards serve several different purposes in relation to this risk assessment objective.

First, testing in accordance with these standards would permit a determination of whether the chemical produces particular effects such as kidney damage, liver damage, or tumors in test animals. Second, the standards are designed to develop data of a kind and quality that will permit an estimate of the probable magnitude of harm to humans who may be exposed to the chemical. This information along with other considerations would permit the Agency to decide whether any regulatory action is appropriate. Finally, because the standards are designed to assure that test data are reliable and adequate for risk assessment purposes, the Agency, industry and the public would be confident that these data are reliable indicators of the nature and extent of the risk and that the Agency's regulatory decisions are based on sound data. When these test data indicate that the chemical may present a risk of injury to human health, the Agency will review that data in terms of regulatory measures available under Sections 5, 6, 7, and 9 of TSCA.

The Agency has selected long-term bioassays as the method for development of chronic health effects

test data. Long experience has established that such bioassays provide toxicity data of the kind and quality required for chronic effects hazard evaluation. Such bioassays have predicted or confirmed the carcinogenic potential for chemicals such as vinyl chloride, benzidine, 4-aminobiphenyl, bis(chloromethyl)ether, diethylstilbesterol, beta-naphthylamine, aflatoxin, and asbestos which are now widely accepted as carcinogens in humans. Data from animal bioassays have provided valuable data on which to base regulatory actions to restrict the use of these injurious chemicals and thereby reduce the risk to humans.

The importance and utility of long-term animal bioassays for development of test data on chronic health effects stems in part from the limits on other approaches to the development of such data. For example, in many cases, human studies cannot be conducted for ethical or legal reasons or because of scientific considerations such as the inability to identify a population that has been exposed to the chemical under conditions that permit meaningful scientific analysis.

Moreover, even when such populations can be identified, it has been difficult, or in some cases impossible, to confirm by studies of humans a direct association of exposure to a specific chemical substance with a chronic disease. This is primarily due to: the long latency period (10-30 years in humans) for manifestation of many chronic disease states, exposure to several substances during that period, the inadequacy of personal histories or records on exposure to specific substances, concomitant factors such as smoking, malnutrition, infectious diseases, and genetic defects, and the great expense to conduct epidemiological studies having sufficient populations to demonstrate effects.

Thus, because epidemiological information is often impractical or impossible to apply to particular chemicals, such studies cannot always serve as a general methodology for ascertaining their chronic toxicity potential. When epidemiological data are available, they are often the best evidence for the identification of risk factors and hazardous processes that may result in excessive mortality rates. However, in the absence of such data, long-term animal bioassays provide the information necessary for this purpose.

III. Proposed Test Standards

General

This section of the Preamble summarizes the scientific base for the proposed test standards and reviews alternatives that the Agency considered. These issues are addressed in greater detail and with references in the Support Document for the proposed test standards. The proposed test standards have been modeled after generally accepted testing methodology and formulated on the basis of critical review by Agency scientists in consultation with scientists in industry, government, and universities.

Summary of Standards

The proposed test standards would require Sponsors to administer test chemicals to both sexes of at least two (2) species of laboratory animals, from weaning until 24-30 months of exposure and examine all animals in the study at their death for gross and microscopic abnormalities. There are some variations to the standards, depending upon the particular test to be conducted. The main differences are in number and types of species, doses and dose levels, duration of the tests and the extent of microscopic examination of tissues. For example, mice and rats are to be used in the oncogenic effects test, whereas rats and a non-rodent species are used in the test for other chronic effects. The combined test employs all three species. The number of doses varies with the particular test—three (3) for both the oncogenic effects test and for the non-oncogenic chronic effects tests, and either 3, 4 or 5 for the combined test, depending upon the species and the chemical. The proposed requirements for microscopic examination of tissues are more extensive in the chronic and combined chronic tests than in the oncogenic effects test. In addition to experimental design aspects, standards are proposed for the diet, chemical analysis, clinical examinations and scientist and technician qualifications.

Under these standards, persons subject to TSCA chronic effects test rules would develop and submit to the Agency the following kinds of information:

(a) Information relating to test methodology such as species tested, duration of test, exposure route(s), dose levels, clinical/pathological examinations, and any other methodological considerations prescribed in § 772.113 of this proposal;

(b) Information and data derived from these procedures such as data on the incidence of gross and microscopically-

detected tumors or other lesions by species, sex, dose level, time on study, and data on clinical test results, and any other data and observations that relate to the chronic effects of the chemical in test animals;

(c) Information relating to Good Laboratory Practices such as nature and purity of the test substance, and qualifications of personnel conducting the tests, and other data prescribed in § 772.110-1.

(d) Analysis of data developed in the study, data describing deviations and departures from the prescribed protocols, and other factors which require qualification of the data or otherwise limit the interpretability of the data.

Definitions

"Chronic" effects refer to disease processes which have a long latency period for development, result from long-term exposure, are long-term illnesses, or combinations of these factors. Certain chronic effects, such as tumors or life-shortening, generally become manifest late in life regardless of the exposure. Other chronic effects, such as liver or kidney damage, may be similar to acute or subchronic effects observed after short-term exposures. They appear as chronic effects under conditions of less intense but longer exposure which might result in a gradual accumulation of tissue damage to the point that the effect eventually becomes manifest as an organ dysfunction. Oncogenic effects represent one major type of chronic effect requiring special considerations and thus separate standards are proposed.

The best standards for neoplasia, or tumor induction, are called "oncogenic" effects test standards rather than "carcinogenic" test standards, the term often used in the past. By strict definition, carcinogenicity pertains to invasive (or malignant) neoplasia arising from epithelial cells. The term oncogenicity includes the disease processes that result in benign and/or malignant neoplasms of any cell type and, thus, is considered the more appropriate term for these test standards.

Although the histogenesis of many benign neoplasms, and their eventual fate, is not fully known, medical scientists generally view benign neoplasms as significant because certain "benign" tumors may have serious consequences, including transformation to malignancy. For example, gliomas, benign brain tumors, and benign liver and kidney tumors

often result in death or require radical surgical treatment.

Thus, these standards define an "oncogen" as a chemical agent that either initiates, promotes, or causes biologic changes that result in benign and/or malignant neoplasms.

Submission of Study Plan

The standards propose submittal of a Study Plan ninety days prior to initiation of the chronic test(s). The submission of a Study Plan prior to test does not and should not be taken to mean that the Agency intends to approve or disapprove the Study Plan. Submission of the Study Plan will allow the Agency to become knowledgeable about the tests to be undertaken, facilitate discussion and approval of certain Sponsor-recommended modifications, and aid in the determination of exemption requests filed under Section 4(c). A list of information items to be included in the Study Plan is contained in § 772.113-1.

Personnel Qualifications

Perhaps the most critical element in the design and conduct of chronic effects studies is that of having knowledgeable and motivated scientific staff managing and conducting the studies. The Agency, in attempting to arrive at a means of assuring reliable data, proposes certain qualification requirements in the standards for key scientific staff. Considered especially critical are the Study Director, and the responsible toxicologist, pathologist, veterinarian, and histology and animal technicians. Other disciplines are also important, e.g., chemist, biochemist, and statistician. However, it is expected that the Study Director and Sponsor will assure the qualifications of all disciplines and the performance of all aspects of the studies. Standards for the Study Director are contained in the standards for Good Laboratory Practices, § 772.110, while standards for the pathologist, veterinarian, and technicians are contained in § 772.113-1.

The Agency recognizes the possible shortage of experimental pathologists having the qualifications defined in the standards and available to conduct routine diagnostic pathology, but, it also realizes the effects on decision-making of a less than adequate examination. The Agency is concerned with the lack of confidence in the routine diagnostic pathology carried out by unqualified pathologists. The standards propose that the responsible pathologist must be a board-certified or board-eligible medical or veterinary pathologist, with at least three years experience in pathology of

the species to be examined. Other pathologists with less experience, can work under the direction of the responsible pathologist. Parapathologists, i.e., persons that have received special training in histology and gross necropsy, but do not possess a medical sciences degree, are not considered as having adequate academic training to conduct diagnostic microscopic examinations. The differentiation between normal tissues and many lesions, the diagnoses of these lesions, and an assessment of their biological nature, often requires a high degree of professional judgment. An ability to make such judgments can be attained only by a combination of intensive medical training and practical experience. It is acknowledged that there may be laboratories where parapathologists are well-trained and closely supervised who are employed satisfactorily in sorting or screening abnormal from normal tissues. Such situations, however, are considered rare and difficult to evaluate; therefore, the test standards do not permit the use of parapathologists for final microscopic diagnoses.

In arriving at these proposed standards for pathologists, the Agency realized that no simple definition would satisfy all situations, e.g., where pathologists are on a satisfactory consulting or subcontracting arrangement. The Agency is also aware that studies may be conducted in foreign laboratories. Some American and foreign pathologists may indeed be "qualified" but do not possess the proposed standards requirements. On the other hand, it is possible that a few pathologists, meeting the proposed standards, may not be considered "qualified" by their peers.

The Agency is also proposing standards which require that a veterinarian certified or eligible for certification in the American College of Laboratory Animal Medicine and having at least two years experience with the animal species to be used must be in charge of animal care and welfare. This requirement is proposed because Agency experience has shown that poor animal care has led to erroneous and useless experimental data. In order to assure reliable data, the Agency is thus proposing specific qualifications for the veterinarian in charge. The resource limitations do not appear as critical for the animal care veterinarian as in the case of the responsible pathologist.

The Agency is not proposing criteria for the responsible toxicologist at this time although that is under consideration. The reason for this is, in

part, that there had not been a board for general toxicology until 1979. Only recently, the Society of Toxicology has created the American Board of Toxicology Certification. When the certification process has developed a sufficiency of certified toxicologists, the agency may want to require such certification as a requirement for the toxicologist in charge of the studies conducted under section 4 test rules. There have been other toxicology boards for several years, e.g., veterinary toxicology, medical toxicology, and forensic toxicology; however, these specialty boards have not been related to general toxicology. For this reason, the Agency thinks that certification in those boards would not be an appropriate requirement for Section 4 activities.

The Agency is particularly interested in viewpoints as to how best to achieve the degree of personnel qualifications needed for these chronic studies while allowing for the use of adequately trained and experienced scientists that have equivalency in capabilities. This issue is of special concern regarding foreign conducted studies.

Chemical Analyses

Section 772.113-1 proposes that certain chemical tests be performed to determine: a) the stability of the test substance in the test mixture, b) methods to assure homogenous mixing of the test substance in the test mixture (feed or other carrier material), and c) concentration of test substance in each test mixture. The test standards would require chemical analyses which are intended to provide reasonable assurance that the test mixture contains the requisite level of test substance and that it is mixed equally throughout. Ideally, the test mixture to be administered to the test animals should contain the exact amount of the dose planned for, without any degradation impurities and with complete homogeneity of the test substance in the mixture.

The need for stability studies is prompted by the fact that some chemicals degrade or are lost from the mixture due to volatilization and/or elution from the mixture. As the rate of loss varies with the chemical and storage conditions of the test mixture, exact requirements for method of storage and period for use of the test mixture are not practical. The need to achieve homogeneity is so that all animals receive the exact same dose rather than a range of doses that might occur with a non-homogeneous mixture. From the practical standpoint, this is

often difficult to achieve, especially with some chemicals that do not mix well at low levels. Due to the need to vary the extent of chemical analyses and mixing/storage procedures with the test chemical, the Agency proposes performance standards leaving the determination of methods to achieve them up to the Sponsor.

Dietary Considerations

The diet is a very significant source of variance in long-term studies. The longevity of several animal species, including humans, has been shown to be influenced considerably by the quality and quantity of the diet. It is essential that a nutritionally adequate diet that meets the needs for long-term animal health be utilized. In addition, the presence of dietary contaminants has been suggested as a major contributory factor in the outcome of long-term studies in that they may influence the incidence of lesions in test animals and make assessment of the causative relationship uncertain. For these reasons, the Agency proposes a specific diet for use in long-term studies as well as standards for chemical analysis for nutrients and dietary contaminants. Concern for the availability of the proposed diet prompted inquiries to the National Institutes of Health and commercial laboratory feed companies. The Agency believes that the specified diet can be obtained by the Sponsor without substantial increased cost or time delay. Comment is specifically requested on the question of the benefits and problems associated with the requirement of a specific diet, and whether similar quality control can be assured through other means.

Reporting Requirements

As the purpose of Section 4 test rules is to develop data which can be utilized in assessing risk from the test chemical, the Agency proposes an extensive list of data items to be reported in the final test report. These relate to test procedures, conduct of the study, results, and analyses of the results.

It is anticipated that the Agency will require that the final report of a Section 4 test contain an abstract, introduction, methods and materials, results, discussion and data analyses, conclusions, and references, as well as formatted in a specified manner. The Agency intends to propose specific standards for data formatting later this year. Standardized formats will facilitate study comparisons and a more efficient review of test data submitted under Sections 4 and 5 of TSCA. The Agency is also considering the use of

electronic data processing techniques to manage the large quantities of data that may become available through the implementation of TSCA, and may provide guidance on the use of such techniques in that context.

It is also proposed that Summary Reports be submitted on a quarterly basis which would provide the current status of the study. It is expected that these interim summary reports will be brief (5-10 pages) and provide summary information on significant findings of such parameters as survival, weight changes, clinical test results, accumulative incidence of tumors and toxicity.

Animal Selection

The Oncogenic Effects Test Standards propose the use of rats and mice, whereas the Non-Oncogenic Chronic Effects Test Standards propose the use of the rat and non-rodent. The Combined Chronic Effects Test Standards propose three species, the mouse, rat, and a non-rodent. Alternate species will be considered by the Agency on a case-by-case basis. Both sexes are proposed for all three standards.

For Oncogenic Effects Test Standards: Rats and mice have been found to be reliable models for human oncogenicity. Virtually all confirmed human oncogens, with the exception of arsenic, also are oncogenic in these species. Furthermore, since much oncogenicity testing has been done with rats and mice, these prior results provide a reference for new tests results. The choice of rodents is based also on economic and time concerns. In order to develop statistically meaningful data, large numbers of animals usually are required. The cost to conduct studies with large numbers of rodents is considerably less than that involved in the use of large numbers of large animals, such as dogs or monkeys. A second factor, that of the long latency period for tumor development, requires that animals be exposed and/or observed for most of their normal lifespan. Whereas with rodents this period is 2-3 years, dogs and monkeys must be maintained for 7-10 years. Not only does this greatly increase the cost, it means that the data will not be available for the correspondingly longer period.

In certain cases there may be a scientific rationale for using a different species, e.g., one having more comparable metabolism to that of humans. Where such a rationale exists, the Agency will consider permitting use of an alternate species.

Two species are proposed because in the past, chemical oncogens have not always proven positive in one species while positive results have been found in other species. Similar results in both species markedly increase the degree of confidence when extrapolations are made to humans. Data from a second species are particularly important when a chemical appears to be non-carcinogenic in the first species tested. Both sexes of both species are proposed because of the previously demonstrated differences in response of female and male animals to various chemicals in oncogenicity testing. In many previous oncogenicity tests neither the more sensitive sex nor species could have been predicted.

For Non-Oncogenic Chronic Effects Test Standards: Rats and a non-rodent (usually dog) are required. The basis for this is that non-oncogenic chronic effects are sometimes detectable in non-rodents but not in rodents (or vice versa). Another reason for the non-rodent is the enhanced capability to conduct more precise clinical evaluations with larger animals.

The Agency has received conflicting viewpoints as to the practicability of proposing a non-rodent species in addition to a rodent species for chronic effects testing. Those challenging the need for a non-rodent contend that nearly all chronic effects will be observed in the rodent, except in those instances in which species differences in metabolism, transport mechanisms, and/or protein binding might occur. Exposure levels for effects might differ and thus the basis for establishing exposure limits, e.g., Average Daily Intakes (ADI's) or Threshold Limit Values (TLV's), will be better than if only rodent data is available. Generally, dose-related effects obtained with larger animals more nearly approximate those expected in humans. As the Agency will likely propose exposure limits for chemicals tested under Section 4, where positive test results are found, dose-response data with two species will provide a firmer scientific basis for the risk estimations that might result.

Dogs have been extensively used as the usual non-rodent species of intermediate lifespan between humans and the common laboratory rodents and they are of a convenient size disposition for clinical examinations. In addition, they are relatively easy to breed and are available in relatively large numbers and of genetic similarity (if purebreds are desired). Non-human primates have also been promoted as surrogates for humans based primarily upon their phylogenetic relationship and similarity

in physiological functions. They are generally difficult (and expensive) to obtain in a defined (disease-free) condition with most animal sources from foreign countries having restricted exportation quotas. For routine testing, the advantages of non-human primates over dogs likely do not offset the procurement, cost, and management problems involved in the use of primates.

For Combined Chronic Effects Test Standards: Three species, mouse, rat and a non-rodent are proposed in order to adequately assess both oncogenic and non-oncogenic chronic effects. In order to test the chemical for oncogenic effects in two species, both the rat and mouse must be used, as the duration of the non-rodent study would be too short due to a longer latency period for tumor development than the observation period. The non-rodent species is necessary to evaluate non-oncogenic chronic effects.

The Agency has not specified that a specific strain or stock of species be used as there are many strains which might be satisfactory with none clearly the preferred one for routine testing. Rather, the selection is to be made by the Sponsor of the test with the rationale to be presented at the time of Study Plan submission. In certain circumstances, the Agency might choose to propose a specific strain in the chemical test rule. Strains anticipated to be the most sensitive should be used unless a scientific basis exists for not doing so. The advantages of using inbred strains, hybrid strains, or an outbred stock are controversial. Inbred strains have less variability in biological characteristics such as average lifespan and spontaneous tumor rate and thus are more predictable in response. In contrast, outbred strains are generally more resistant to diseases and less likely to be genetically-resistant to a specific oncogenic agent. While the scientific community is divided as to the best choice for routine chronic toxicity testing, many scientific bodies consider the heterogeneity of response of outbreds as more likely to reveal an effect, and thus a characteristic that may outweigh the advantages of inbred strains. Hybrid strains possess many of the advantages of inbred strains while the increased gene pool lessens the probability of not responding due to strain-specific resistance. The National Cancer Institute uses a hybrid strain of mouse in its testing program primarily due to its hardiness (hybrid-vigor) and good longevity.

Use of Positive Controls

The Agency recognizes that to evaluate the validity of negative results it is important to be assured that the test animals are sensitive and respond to the chemical stimulus in a predictable manner. One way to determine such inherent sensitivity is to expose groups of the test animals to agents which produce the effect to be tested for. Such groups are known as "Positive Controls." Positive controls also have value in the monitoring of technical procedures and controls, such as diet mixture, pathology diagnoses, and data recording, as well as allowing comparison of research results within and between laboratories. The Agency is not proposing the routine inclusion of positive controls with each chemical test as they may not always be needed to adequately evaluate the sensitivity of the test animals. In addition, the Agency recognizes the technical and safety problems of employing known toxic chemicals in the laboratory. At the time of Study Plan submission the Sponsor should provide evidence which substantiates that sensitive animals are to be used. If this cannot be done, then positive controls may be needed. In certain cases, the Agency may include positive controls as a requirement in a specific chemical test rule.

Age at Start of Exposure

It is proposed to start animals on test at the earliest practical age, preferably immediately after weaning and acclimatization. This will be no later than six weeks of age for rodents and ten weeks of age for dogs. The sensitivity of the test system to detect chronic effects is enhanced if the animals are continuously exposed to the test substance from the period of rapid growth through adulthood.

The Agency considered providing for greater sensitivity in the Oncogenic Effects Test Standards by beginning exposure *in utero* and continuing it through the neonatal, infant, and adult life stages. The extent of the enhanced sensitivity is difficult to quantify. In studies using *in utero* exposure, tumors have been observed in organs other than those in which tumors were observed following adult exposure only. The Agency is not aware of any chemical found to be oncogenic as a result of *in utero* exposure that has not been determined oncogenic following post-parturition exposure alone; however, too few chemicals not oncogenic in adults have been tested by *in-utero* exposure. Consequently, the data do not appear sufficient for deciding for or against the

use of *in utero* exposure. Considerably greater cost and difficulties of adjusting exposure, litter randomization, etc., in using *in utero* exposure are significant considerations. However, the Agency invites comments on this issue.

Comments have been received that starting rodents on test at six weeks of age may be difficult to achieve, if animals must be obtained from a commercial supplier, acclimatized for 1-2 weeks and then subject to scheduling uncertainties within the laboratory. The Agency believes that six weeks is achievable except in rare situations. In those cases, the Sponsor should provide a rationale for starting at a different age.

Route(s) of Exposure

The Agency will designate route(s) of exposure individually for each chemical identified in each testing regulation. In general, the test chemical will be administered by the route(s) which simulates as nearly as possible the expected or known human exposure. Such experimental designs would provide greater confidence in extrapolating the test results to predict human hazards.

The most common human exposure route(s) may not always be the most important potential mode(s) of exposure. The kinetics of absorption and potential for local or systemic effects will be considered in selecting the route(s) of exposure to be used in the tests. For example, even though greater exposure to a chemical may be to the skin, if there is greater absorption through inhalation or ingestion, these routes may present the greater risk. In such a case, the Agency will likely propose testing by inhalation and/or ingestion. It is anticipated that usually only one route will be selected for testing; however, there may be occasions in which data obtained with two or more routes may be necessary to adequately assess for risk.

While the primary concern is for the development of the most meaningful data for assessment purposes, the Agency does recognize the necessity to consider resource availability and economic factors in selecting the route(s) of exposure for testing. For example, if both inhalation and ingestion routes would be expected to give equally meaningful results the Agency would probably select the less expensive route, ingestion. The Agency also realizes that certain aspects of testing may vary with the route of exposure, e.g., frequency of treatment, husbandry practices, and pathology. In those cases, the Agency may indicate such modifications in the test rule or

may accept modifications proposed by the Sponsor at the time of Study Plan submission.

Number of Animals

The number of test animals determines in part the sensitivity of the test, i.e. its ability to demonstrate the effect(s) studied and the reliability of the observed effects. The utility of the data for risk assessment purposes is therefore highly influenced by the number of animals studied. The proposal proposes a minimum of 50 rodents or six non-rodents for each exposure or matched control group, with a group consisting of one sex of one species at one dose level. Historically, this number for each group has been selected primarily because it represents a compromise between the desired sensitivity of the test system and economic or practical considerations. An additional group of eight rats/group are proposed for the non-oncogenic chronic effects and combined chronic effects standards for the conduct of clinical chemical analysis. Additional animals must also be used if interim kills are planned.

The Agency considered not specifying a minimum sample size for the oncogenic effects test standards, providing instead specified error rates, e.g., 95% probability of detecting a 10% increase in tumor incidence between chemically-exposed and control animals. The Agency recognizes, however, that in testing chemicals of unknown potential oncogenicity or chronic toxicity, the target organ is generally not predictable. Because the incidence of spontaneously occurring tumors or chronic conditions varies so widely among organs, calculating the number of animals based upon predetermined or specified error rates would be impractical in many cases. To achieve the same level of sensitivity given a high background incidence would require many more animals than if the background incidence was very low in controls.

Also considered was the use of an unbalanced design which would allow variation in the number of animals at different dose levels. This technique remains under consideration and the Agency requests comment on its scientific merit. The Agency also considered requiring fewer rodents for the Non-Oncogenic Effects Test Standards, but concluded that the foregoing considerations were equally applicable to testing for these other chronic effects.

Duration of Exposure/Observation Period

For Oncogenic Effects Test Standards: Since tumors have a long latency period, animals on oncogenicity tests must be allowed to live most of their life expectancy. The proposed Oncogenic Effects Test Standards propose that rodents be exposed to the test substance for a minimum of 24 months but no longer than 30 months prior to sacrifice. Continuous administration of the test chemical for this long exposure period should maximize the sensitivity of the test, thus enhancing the confidence in a negative test result. The Agency considers that with proper selection of rodent strains and proper husbandry practices, survival rates at 24 months in both rats and mice will be satisfactory for analysis purposes. Termination at 30 months is based upon the opinion that further continuation rarely would increase substantially the test sensitivity. In some cases it might tend to decrease the sensitivity as older animals die, or are cannibalized or autolyzed, and thus lost from the experiment.

The Agency has considered longer and shorter periods of exposure as well as the following alternatives to a prescribed exposure period: (a) continuous exposure until a predetermined level of mortality occurs, e.g., 75% of controls or of each test group, (b) continuous exposure until death of each animal, (c) set period of exposure followed by an additional period of observation, e.g., 18 month exposure and 6 months observation, (d) predetermined exposure period based upon expected length of life from literature information or historical control data.

A period of less than 24 months could decrease the sensitivity of the test to detect oncogenic effects. Certain tumors may have a long latency period and may be observed at 24 months but not at 18 months. The increased observation time will also increase the probability of detecting metastatic tumors. With current husbandry methods, rodents live longer than they did several years ago, and 24 months represents an achievable life expectancy for most strains. Alternatives (a) and (b) would assure that exposure was for the greater portion (or all) of the animals lifespan; however, these methods provide logistical difficulties in conducting the test and complexities in data analysis. Continuous exposure for the entire period is preferred over alternative (c) in that the test is often more sensitive. Historical control data, whether from

within the test laboratory or from literature, is often unreliable for predicting the expected length of life, due to variables in breeder operations, seasonal fluctuations, etc. For this reason, alternative (d) was rejected.

For Non-Oncogenic Chronic Effects and Combined Chronic Effects Standards: In order to develop data suitable for evaluating life-shortening effects, as well as detect late occurring pathologic conditions, a period of at least 24 months for mice and non-rodents and 30 months for rats is proposed. While this period in non-rodents such as the dog or monkey may not be sufficient to detect life-shortening effects, it is expected that the vast majority of latent effects will be evident in high dose groups at that time. An even shorter period, such as 6-12 months, has also been considered for tests with non-rodents, especially the dog. EPA does not regard short periods as adequate because of the long latency period.

Dose Selection

For Oncogenic Effects Test Standards: The standards propose at least 3 dose levels of the test substance, with the High Dose Level (HDL) to be slightly toxic. The second dose is proposed to be a fraction of the high dose (generally $\frac{1}{2}$ to $\frac{1}{4}$) with the low dose to be no more than $\frac{1}{2}$ of the intermediate dose and no less than 10% of the high dose level selected. It is possible that some materials will have such a shallow dose-response curve for certain toxic effects, such that some toxicity might be observed at 10% of the High Dose Level. This is expected to occur only rarely. The proposal for a minimum of 3 dose levels is primarily to develop information as to the oncogenic potential of the tested agent although it should also indicate the general slope of the dose-response for the species responding. Such a design may not provide data sufficient for a precise dose-response analysis, and the Sponsor can add additional dose levels if desired to develop such information.

Determination of High Dose Level: In oncogenicity testing, the concept of employing high exposures, much greater than usual human exposure, is considered a valid procedure. This is based upon two factors: the statistical insensitivity of detecting an effect with small groups of animals and the possible differences in sensitivity between the test animals and humans. The probability that a test using small numbers of animals might detect a significant oncogenic response at the usual low, human exposure levels, is

minimal except for the most potent of oncogens. A chemical inducing tumors in 1/2 percent of the U.S. population would result in over a million cancer cases. Yet a true cancer rate as high as 10-11 percent will go undetected over 5% of the time in a group of 50 animals. In order to increase the sensitivity to detect an oncogenic response, either many more animals must be utilized at the lower exposures, or higher exposures must be employed. The only practical approach for a routine test for oncogenic potential is to use high exposures.

These standards refer to a High Dose Level rather than a "Maximum Tolerated Dose" (MTD) as used in some guidelines on oncogenicity testing. The difference in terminology reflects the Agency's concern with the confusion and misinterpretation of MTD, as in the past the maximum tolerated dose has rarely been tolerated, depending on one's interpretation of definition of tolerance. No objective criteria for tolerance for the MTD have been accepted by all investigators. The MTD frequently used in the past has resulted in some decrease in survival rate, weight decrement, and toxic reactions, conditions which might be questioned as being tolerated. The MTD, often estimated from toxicity observed after exposure for 6-8 weeks, was quite inaccurate. The high dose levels had to be adjusted downwards in many documented studies before the study was completed because many treated animals died from effects not related to oncogenicity. In other cases, doses were adjusted upwards due to lack of an observable toxic effect. Due to the importance in determining accurate doses for long-term bioassays, the Agency requires conducting adequate preliminary toxicity range-finding studies, with a minimum of 90 days exposure.

Information on chemical tissue disposition (including absorption, disposition, metabolism, and excretion), might provide data which would help establish more precise dose levels from 90 day preliminary range-finding studies. Such data often are not available due to the expense of obtaining them. An alternative is to allow for adjusting the dose levels as the study proceeds in order to achieve the highest tolerated dose. While such adjustments present difficulties in data analysis and extrapolation, they may be necessary in some cases, to achieve the desired performance standards for the High Dose Level.

Lower Dose Levels: Two lower dose levels are proposed, fractions of the high

dose level ranging down to no less than 10% of the high dose level. While a well selected single dose might be adequate to assess for oncogenic potential, the two additional dose levels provide: (a) assurance of an adequate study in the event of unpredicted toxicity occurring at the High Dose, (b) some information regarding the dose-response relationship, and (c) additional data which can be used in statistical evaluation of an oncogenic response.

The Agency has considered several other alternatives including (a) two dose levels (HDL and 1/2 HDL), (b) four doses (HDL, two middle dose levels, and a low dose approximately 1/100th of the High Dose), and (c) a process in which the number and range of doses is not defined but rather a requirement that data be developed sufficient for the Agency to conduct a risk assessment including dose-response analysis. Under alternative (c), a well-conducted study with two dose levels, such as in alternative (a) might provide sufficient data for an initial assessment of oncogenic potential. Should a positive result be obtained, however, additional studies, including more dose levels, might be necessary to provide adequate data necessary to make a scientific risk assessment. A serious disadvantage, that of delayed availability of results, might occur with option (c). An EPA review of many studies by the National Cancer Institute using two dose levels, MTD and 1/2 MTD, revealed that in many cases the greatest oncogenic response was achieved at the 1/2 MTD level. Conceivably, a higher oncogenic response might also have occurred had a third lower dose been included in those studies. Decrease survival of the animals at the MTD level may often account for this phenomenon; however, other mechanisms, e.g., competition between cell killing and cellular transformation, and altered metabolism may be determination of this inverse relationship. The EPA thinks that the proposed three-dose levels, provide a reasonable balance between scientific needs and cost.

For Non-Oncogenic Chronic Effects Test Standards: The experiment is to be designed to allow for a dose-response analysis and "no observed effect." The highest dose, however, must be moderately toxic with lethality evident. The basis for these standards is the belief that a threshold may exist for most non-oncogenic effects and can be used in predicting risk at low exposure levels. The Agency is not proposing a specific number of dose levels required to meet these performance standards although it is expected that 3-4 may be

needed to comply with the proposed standards.

For the Combined Chronic Effects Test Standards: The number of dose levels may vary with the species. For the mouse, three-dose levels are proposed as it is intended to provide primarily oncogenicity data and thus the dose used in the oncogenic effects test are sufficient. It could, of course, also provide valuable information on other chronic effects. For the non-rodent, criteria established for the Non-Oncogenic Chronic Effects Test Standards are to be followed. The rat is to provide data for both oncogenic and other chronic effects and thus dose levels meeting the requirements for both the Oncogenic and Non-Oncogenic Chronic Effects Test Standards must be selected. The combined Chronic Effects Test Standards should provide a sensitive test for both oncogenicity and chronic toxicity.

Clinical Procedures

The loss due to cannibalism or autolysis is largely preventable by careful and frequent clinical observations to detect weak or dead animals. Impending morbidity and mortality is often not evident a full day in advance, especially with rodents. The Agency therefore proposes observation of animals every 12 hours or more frequently to assure that no more than 5% of the animals in any group are lost from the experiment due to autolysis, cannibalism, missing from cage, etc. This is considered achievable through the use of proper operating practices and careful, clinical examinations.

Clinical data may also be used to predict onset and development of toxic effects at an early stage and help in antemortem and necropsy diagnosis. The three standards vary in the extent of proposed clinical tests. Only routine hematology is proposed for the Oncogenic Effects Test Standards. In addition to hematology, blood chemistry, urinalysis, and functional capacity studies are also proposed in the Non-Oncogenic Chronic Effects Test and the Combined Chronic Effects Test Standards for a subset of rat groups (8/group) and for all non-rodents. The reasons for the differences in proposed clinical tests are as follows: Hematology data can be used to predict the development or aid in the diagnosis of leukemia and other hematopoietic disorders of relevance to an assessment of oncogenic potential. However, other tests, such as urinalysis, have relatively little value in the oncogenicity test, except perhaps to detect other aspects of toxic effects. In contrast, results of

hematology and biochemical tests have considerable value in the determination of the extent or profile of other chronic toxic manifestations, especially as related to clinical and pathological observations.

Pathology Examination

It is crucial to the successful conduct of the study that an adequate pathology examination be planned for and accomplished with quality control procedures implemented at all steps in the study. For this reason the Agency proposes stringent requirements in regard to the qualifications of the responsible pathologist and in the thoroughness with which gross and microscopic examinations are conducted. Diagnosis can only be provided for those lesions presented on the microscopic slide. Even the most careful microscopic evaluation is of no value when lesions are lost due to autolysed tissues, an inadequate gross necropsy, or failure to recognize and select lesions at necropsy, blocking or slide preparation. While there is little controversy regarding the need for a careful and thorough gross necropsy considerable disagreement exists as to the extent of microscopic examination that is needed for a routine evaluation for oncogenicity.

There are differences of opinion among pathologists regarding the number of animals and tissues from each animal that should routinely be examined microscopically. Most frequently recommended have been the following:

(1) All tissues in the highest dose and control groups with the extent of subsequent pathology in the intermediate dose levels depending on the types and significance of the high dose level findings, e.g., examinations of gross lesions and tissues found to have tumors in the high dose group (target tissues).

(2) A small group (6-8) of selected tissues per animal;

(3) Random sampling a percentage of animals in the test, e.g., ten percent of each group.

(4) Major tissues from all animals.

The Agency has chosen the 4th approach. The Oncogenic Effects Test Standards propose microscopic examination of approximately 30 different organs or tissues of each animal, a few with multiple sections. This represents about 40,000 tissue sections per chemical tested and entails over three-quarters workyear effort by a diagnostic pathologist.

The proposed microscopic examination of all animals in the

oncogenic test standards is based upon the knowledge that: (a) oncogenic response occasionally occurs in the lower dose groups while not in the high dose group, (b) dose-related variations may occur in the target organs or degree of metastasis, and (c) there is greater likelihood of missing rare tumors or those occurring in small incidence if only a single group is microscopically examined. There can be little doubt that a very thorough examination may be needed to detect early and/or small lesions, those in small organs, and those that resulted from metastasis and are in a minute form.

For chronic effects other than oncogenicity, dose-response relationships and a no-effect-level are to be determined. This will necessitate an even greater degree of pathology examination for all animals in the Non-Oncogenic Effects and the Combined Chronic Effects Test Standards. In addition to those tissues designated in the Oncogenic Effects Test Standards, several other tissues or multiple sections of certain organs are also proposed for examination in the Non-Oncogenic Effects and the Combined Chronic Effects Test Standards.

The Agency has not specified that pathology diagnoses be in accordance with any specific classification or nomenclature system. Various systems, e.g., SNOP (Systematized Nomenclature of Pathology, The College of American Pathologists), a modified-version of SNOP, the World Health Organization's International Histological Classification of Tumors, and that being used by the National Center for Toxicological Research, are being considered. The use of a uniform classification and reporting system would greatly facilitate the Agency's review and evaluation process. Such a system may be proposed at a future date along with data formatting requirements.

In order to achieve consistency in diagnosis and prevent biased diagnoses, it is desirable that the same pathologist examine all tissues of all animals in the test. The Agency realizes that this might not be practical or possible in all cases, especially for the Combined Chronic Effects Test and thus proposes that the same pathologist examine all tissues of one species. Another alternative being considered is to require the same pathologist to examine tissues from one sex of one species. This latter alternative would allow for more pathologists to be assigned to the study and facilitate completion of the examination. Viewpoints as to how best to achieve the desired quality control and

prevention of bias in the pathology examination under practical conditions are solicited.

Routine weighing of organs is not proposed in the Oncogenic Effects Test Standards as the data are not considered of sufficient value in the assessment of oncogenic potential. However, organ to body weight ratios are of value in assessing chronic toxicity and thus weighing of a few major organs is proposed in the Non-Oncogenic Chronic Effects Test Standards and in the Combined Chronic Effects Standards.

Additional Scientific Studies

Other data might be valuable in relating animal toxicological findings to man, selecting appropriate test species, and determining chronic dose levels, e.g., that pertaining to metabolism, pharmacokinetics, and enzymology. Obtaining such data is often expensive, and the appropriate studies must be selected or designed specifically for the chemical to be tested. The Agency therefore proposes that the decisions as to the need for and extent of these additional studies (data needs) are usually best left to the discretion of the Sponsor. In some cases, however, they may be identified by the Agency and will be required in specific test rules.

Any animal metabolism and pharmacokinetics data provided by the Sponsor will be considered by the Agency in the risk assessment process. Because more accurate risk assessments may be made from comparative data, known data on human metabolism and pharmacokinetics (often available only from accidental or workplace exposures or in the scientific literature), might also be requested either informally or by a Section 8(d) rule.

Request for Comments on Proposed Test Standards

In the previous sections, the proposed standards have been discussed along with other alternatives considered. The public is invited to submit viewpoints and supporting data on any and all aspects of the standards and supporting documentation. Comments on the following issues are of particular interest to the Agency:

(a) Qualifications of professional personnel conducting tests

(b) Specifications for diet and chemical analyses

(c) Choice of animal species, e.g., rodents and non-rodent (dog) failure to designate specific strains requirements for controls

(d) Starting exposure as weanlings rather than in utero or as newborn animals

(e) Use of a set number of animals per groups, e.g., fifty, versus number based upon a specified sensitivity, e.g. increase of 10% in tumor rate

(f) Duration of exposure and observation periods

(g) Determination of doses and dose levels.

(h) Extent and methods of conducting clinical and pathology examinations.

(j) Reporting requirements.

IV. Policy Considerations

Relationship to EPA Pesticide Registration Guidelines

EPA's Office of Pesticide Programs has proposed testing guidelines under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (FIFRA) (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136 et seq.) which contain data requirements comparable to those proposed by these standards (43 FR 37336, August 22, 1978).

In addition, EPA or other Federal agencies and departments may issue regulations under other statutory authorities which would impose requirements similar to those in these standards. The Agency's policy is to reduce the burden on the regulated public which might arise from conflicting requirements under these different sets of regulations and guidelines. Therefore, although the proposed TSCA and proposed FIFRA test standards differ in some significant ways because of updated OTS views, the final TSCA test standards and final FIFRA guidelines will be consistent to the extent permitted by the different laws. Among major differences are: the use of a non-rodent in the non-oncogenic chronic and combined chronic standards, the duration of exposure, and the qualifications of key scientific personnel. A list comparing the differences in the two standards appears in the Support Document.

Comments received in response to the FIFRA proposed guidelines will be reviewed along with those received from this proposal in arriving at final standards for both FIFRA and TSCA.

Relationship to Interagency and International Test Guidelines

The final TSCA standards also will be as consistent as possible with FDA's Good Laboratory Practice regulations and other data or testing requirements established by U.S. Federal regulatory bodies. EPA has joined with the Food and Drug Administration (DHEW) the Consumer Product Safety Commission

(CPSC), and the Occupational Safety and Health Administration (DOL), and the U.S. Department of Agriculture (USDA), to form the Interagency Regulatory Liaison Group (IRLG). The general purpose of the IRLG is to coordinate the regulatory activities of the four agencies, and one IRLG committee is developing testing protocols for human health and environmental effects which would be acceptable to all four agencies. EPA will review the proposed IRLG guidelines when they are available and revise its test standards as appropriate.

In developing these and other areas under TSCA, the United States has been a full and regular partner in extensive international consultations and activities, especially through the Organization for Economic Cooperation and Development (OECD). The United States is the lead country for the projects on Long-Term Toxicology and Good Laboratory Practices. The preparation of test guidelines by the World Health Organization is also being followed closely. The Agency places high priority on these international activities and will attempt to achieve an international harmonization of standards and regulatory approaches in an attempt to eliminate trade and regulatory barriers, ensure that the international chemical industry is not hampered unnecessarily by vague or inconsistent requirements and that data developed in one country are acceptable in another.

Although TSCA sets forth specific requirements and deadlines, it provides room for some discretion and flexibility. To the extent possible, EPA is attempting to make our regulatory approaches consistent with those of other countries and international organizations.

Comments from other countries and international organizations will be solicited and given serious consideration as the Agency further develops regulations. Agreements reached through the international activities in which the United States Environmental Protection Agency is engaged will be reflected in EPA's national regulations, in accordance with rulemaking requirements.

Specificity of Details in Standards

The Agency must assure that sufficient data are developed and in a manner and quality so that a hazard identification and risk assessment can be performed. It is recognized that many toxicology laboratories have the scientific staff and facilities to conduct the necessary tests in a highly

professional manner, and that in those cases, only general guidance as to the type of data might suffice. In many well-documented cases, however, inadequate data have been provided to EPA or other agencies. For this reason, standards are detailed enough to provide for the most essential elements for development of reliable data. See discussion in the preamble to the Good Laboratory Practices, also appearing in today's Federal Register. The Agency has decided not to propose even more detailed requirements at this time, although other aspects have been suggested to the Agency and are under consideration. As these standards are of a generic nature, more specific requirements, related to the chemical substance(s) to be tested, may be proposed in specific chemical test rules.

Future Health Effects Test Standards

Standards for tests such as acute/subchronic toxicity, teratogenicity, and other health effects, will be proposed later this year for use in Section 4 test rules for these effects.

The Agency is also considering proposing certain biological screening tests to identify chemicals that may present a potential chronic health risk. Although short-term tests utilizing both mammalian and sub-mammalian species can be applied in the initial evaluation of the biologic activity of certain chemical substances, EPA does not believe that any short-term test or test battery is sufficiently validated at this time to replace long-term bioassays. EPA is, however, undertaking various activities to validate such short-term tests, and will consider proposing such standards upon their validation.

V. General Provisions

Elsewhere in this preamble, the Agency has explained that the standards proposed today are intended for use in future chronic effects test rules, and that the Agency will propose test rules for other health and environmental effects beginning later this year. Because today's proposal thus initiates the Agency's long-term program for testing chemicals through TSCA test rules, the Agency also proposes establishing a Part that provides information, test standards, and other general regulatory criteria applicable not only to the planned chronic effects test rules, but also to other future health and environmental effects test rules as well. These general provisions are reviewed below and proposed as new Part 770.

Information and Definitions

Sections 770.1, 770.2 and 770.3 would provide generally applicable informational provisions based primarily on the legal criteria summarized in Section I of this preamble. These provisions would describe the general structure of TSCA test rules, explain the purpose of these rules as a means of developing data for risk assessment purposes, summarize the legal authority for test rules, identify the persons responsible for developing test data and submitting these data to EPA, and provide generally applicable definitions. Because these are intended as general provisions, the Agency would supplement these provisions by proposing other provisions specific to particular chemicals or specific to particular test standards, as necessary and appropriate.

Many of the definitions proposed for Section 4 test rules are identical to definitions finalized or proposed for regulations under Sections 5, 6, and 8 of TSCA. In addition, the Agency proposes new definitions or revised versions of existing definitions to meet the specific purposes of TSCA test rules.

Confidentiality and Public Access to Information

Section 770.4 of those regulations would establish general procedures for handling information claimed as confidential. In addition, specific procedures for handling confidentiality claims related to chemical identity will be proposed, if necessary, when the Agency applies these test standards to specific chemical substances or mixtures.

When information submitted is covered by a claim of confidentiality asserted in accordance with these rules, EPA will disclose that information only to the extent permitted by the Act, these rules, and EPA's Public Information rules, 40 CFR Part 2. Basically, this means that EPA will not disclose information claimed as confidential without prior notice to the submitter. If a person asserts a claim but fails to submit a sanitized copy or the required substantiations, he will be given an opportunity to correct this problem before EPA releases the information.

EPA will review all confidentiality claims asserted for information included in reports submitted to meet test rule requirements. In accordance with Section 14(b) of the Act, EPA will grant confidentiality for such information only if the Agency determines that release would disclose confidential information concerning the manufacturing or

processing process for a chemical substance or mixture, or the confidential proportions of a mixture.

As discussed in the Support Document, EPA would require submission of a second sanitized copy of a health and safety study if a person asserts a claim of confidentiality for any information contained in the health and safety study, and substantiation of a claim of confidentiality at the time of submitting the information. First, for this type of information Congress intended public disclosure of the data to the extent possible. Second, because EPA expects a high volume of requests for disclosure, EPA must have the substantiation readily available in order to reduce the administrative burden of responding to Freedom of Information Act requests. And third, EPA must be prepared to respond to these requests speedily. Finally, the substantiations burden is further justified by the need to discourage ill-founded claims. Substantiation aids the submitter in understanding the findings which are required by law to support confidentiality claims. Experience with the Inventory reporting regulations indicates that detailed substantiation requirements significantly reduced the number of claims. This should result in a higher level of public information and a reduced burden on EPA to evaluate and protect information erroneously claimed to be confidential.

To satisfy this substantiation requirement, a person must provide written answers to a series of questions developed by EPA. The basis for this requirement, and the draft substantiation questions, are included in the Support Document.

Compliance and Enforcement

Section 770.5 proposes general standards for assessing the validity of data submitted under TSCA test rules. In the first instance, the Agency would review these data in terms of the test standards and other requirements in a test rule. Because data submissions that contain data that is intentionally false or misleading, or that omit required data cannot conform to the testing and reporting standards in a rule, the data would be presumed to be invalid. As a result, the Sponsor would be in violation of the test rule requirement that data be developed and submitted in accordance with the test standards. Further, data submissions that include such invalid data would also be in violation of the requirement that data developed in accordance with the test standards be submitted to the Agency by the deadline given in the rule. Similarly, where a

testing facility refuses entry to EPA inspectors, any data submitted from such a facility would be considered to be invalid, and subject to the same consequences.

If data do not meet the requirements of the testing rule, including standards, the Agency may impose penalties for violation of the test rule, or require the test Sponsor to submit additional data as required by the test rule under an extended deadline, or otherwise use the regulatory and penalty provision of TSCA to enforce the test rule requirements. While the Agency would first review data submitted under a TSCA test rule to determine if it meets test rule requirements, the Agency is not precluded from considering non-confirming data for risk assessment purposes.

The Agency considers the success of the testing program to be vital to the effectiveness of the TSCA chemical control program as a whole. Consequently, every effort to insure compliance with the mandates of Section 4 in all rules and standards promulgated thereunder will be made. In this regard, the Agency intends to assure that standards regarding the development of test data are complied with by doing periodic inspections of facilities conducting tests required by Section 4 rules. However, the Agency intends to take a reasonable approach towards enforcing against minor deviations and technical violations.

The Agency has authority to proceed against responsible corporate officials under Sections 15 and 16 of TSCA since they are "persons" within the meaning of these sections. The Agency is also exploring the boundaries of the liability of independent testing facilities for violations of any Section 4 rules.

Revision and Modifications of Test Standards

Section 770.6 would provide general standards relating to the revision and modification of test standards. The Agency intends these standards to be dynamic and will provide for the periodic review of the scientific basis of the standards. Thus in accordance with Section 4(b)(2)(B) of the Act, the Agency will review the adequacy of all codified, generic test standards not less than once every 12 months after the standards are first incorporated into a test rule and will institute proceedings to revise the standards, if necessary. The Agency will revise the standards in accordance with the provisions of the Administrative Procedure Act (5 U.S.C. 551 et seq.). Changes to the standards which have significant impact would require notice

and opportunity for comment, but routine or minor changes may be made without proposal when the Agency determines such to be impractical and unnecessary.

Although EPA plans generally to incorporate generic test standards into test rules, the Agency also recognizes that generic standards may not be suitable for every chemical proposed for such testing. For example, test standards relating to the route of administration and the form of the chemical to be tested would necessarily be specific for each chemical and would be proposed at the time that the Agency identifies particular chemicals for testing. For this reason, requirements relating to standards of this kind are not included in the present proposal.

In addition, in some cases, the Agency may find that the generic standards are not completely suitable for a particular chemical and that a modification of the standards for that chemical is indicated. For example, the metabolic characteristics of a particular chemical may indicate that rodents are inappropriate as the test species, that a different dosing regimen is appropriate, or that tissues other than those specified in the generic test standards should be microscopically examined. In such cases, the Agency would propose chemical-specific modifications of the generic test standards.

VI. Economic Analysis

A regulatory analysis is not required with respect to these proposed test standards because the standards themselves do not impose any costs on any person at this time. The Agency recognizes, however, that long-term health effects testing is expensive and time-consuming. The estimated cost per chemical for the test standards proposed in this notice (based upon feeding studies) is approximately as follows:

Oncogenic effects.....	\$400,000
Non-oncogenic chronic effects.....	\$550,000
Combined oncogenic and non-oncogenic chronic effects.....	\$800,000

The cost of prechronic range-finding studies is approximately as follows: oncogenic—\$50,000; non-oncogenic chronic—\$100,000; combined chronic—\$130,000. Where these studies have not been previously conducted, the cost for the test standards will be increased by these amounts.

The use of point estimates unfortunately gives an impression of preciseness which is not intended. Actual costs of long-term testing will vary substantially (perhaps 10-40%), depending on a number of factors, including, for example, the chemical

tested, laboratory performing the test, number of dose levels, species, route(s) of exposure, extent of pathology conducted, duration of tests, and inclusion of ancillary studies.

Many chemicals that will be subject to Section 4 rules may not require these specific chronic effects tests. Rather, these standards are being developed as part of an array of standards to be required selectively and as needed. Furthermore, no chemical will have to undergo all three tests. Depending on the data already available and the additional data needed to assess risks, a chemical could be required to undergo either oncogenicity or non-oncogenic chronic toxicity testing or both. Where both are required, testing can be performed in accordance with the combined test standard, thus allowing a saving of approximately \$150,000 compared to the cost of separate testing for oncogenic and non-oncogenic effects.

Changes in cost per chemical could be achieved by modifications in the requirements set forth in the testing standards, e.g., reducing or increasing the number of dose levels, the number of tissues to be examined by the pathologists, the use of less highly skilled individuals, or performing testing in a non-rodent species. EPA believes that the proposed standards are necessary to assure that data developed through test rules are adequate for their intended use in risk assessment, and that abbreviated standards generally could result in a significant reduction in the quality and reliability of the resulting data and could preclude adequate assessment of hazard potential. For example, data derived from the NCI bioassay program, which utilizes two dose levels, rather than the three proposed levels, may adequately assess potential for oncogenicity but the data have serious limitations as pertains to assessing dose-response relationships.

EPA's issuance of testing rules (requiring testing of specific chemicals in accordance with the testing standards) will, of course, impose costs on persons required to undertake the testing. Which chemicals and how many chemicals will be required to undergo such testing remain to be decided. Given this, it is difficult to estimate the potential total cost of these standards, as incorporated into rules requiring testing of particular chemicals. Assuming that approximately 15 to 30 chemicals a year will be tested under Section 4 test rules using these particular test standards, their total annual cost is estimated to be \$6 to \$27 million.

The proposed standards could apply to both existing and new chemicals within any chemical category for which testing rules are issued. Thus, testing requirements may have some impact on development of new chemicals within categories selected for testing. The Agency recognizes that there is some potential for impact on innovation in the chemicals industry and that the extent of this impact will depend on the way in which the Agency selects and defines testing requirements for new chemicals.

VII. Public Participation

During the development of these proposed standards, numerous meetings and discussions were held with non-EPA scientists and with an Agency Work Group consisting of Agency scientists, other EPA officials and scientists from other Federal Agencies. At meetings on July 25 and August 15, 1978, scientists from industry, environmental groups and EPA, reviewed preliminary drafts, discussed the Agency's basic approach to developing the standards, and considered scientific alternatives for various aspects of the standards (43 FR 34841, August 7, 1978).

Drafts of these proposed standards were also discussed with the EPA's Science Advisory Board at public meetings held on June 22 and August 10, 1978 (43 FR 23013, May 30, 1978; 43 FR 32185, July 25, 1978). The Science Advisory Board also solicited public comments on the proposed standards at those meetings.

In addition to these workgroup and public meetings, other meetings on specific scientific issues were held. One, on pathology requirements, was held on April 3, 1978. On August 10, 1978, a workshop was held between Agency and National Cancer Institute scientists to discuss statistical and pathological aspects of oncogenicity and chronic toxicity bioassays.

This public participation has significant influenced the development of these proposed standards and associated provisions.

Note.—Comments previously presented to the Agency in response to the proposed Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Guidelines for the Registration of Pesticides (43 FR 37336, August 22, 1978), are available to the Office of Toxic Substances and will be considered along the comments to this proposal in finalizing the TSCA standards. Previous submitters to the FIFRA proposal may supplement their earlier comments.

VIII. Public Meetings

EPA will hold public meetings during the comment period to provide the

public an opportunity to present comments and questions on these proposed standards. The purpose of these meetings is to enable interested persons to provide oral comments on the proposed rulemaking to EPA officials who are directly responsible for developing the standards and supporting provisions of the rule. The public meetings will start with a short summary by EPA of the proposed standards to be followed by oral presentations from the floor of no more than 10 minutes per person, company, or organization, depending upon the number of requests. EPA will allot speaking times on a first-come basis, although the Agency reserves the right to alter the order depending upon the nature of the particular comments and other relevant factors. If time permits, following these prepared presentations, EPA will receive any other comments from the floor.

These meetings will be held during the week of July 9 in Chicago and during the week of July 16 in Washington, D.C. Further information on these meetings will be published in the Federal Register.

Persons who wish to present their comments at any one of the meetings should contact EPA no later than four days before the meeting date by calling toll-free at 800-424-9065 (in Washington, D.C., call 554-1404), or by writing to the address listed at the beginning of this preamble under "For Further Information Contact."

Presenters are urged, but not required, to submit copies of their statements on the day of the meeting. All such written materials will become a part of EPA's record for this rulemaking. In addition, the Agency will transcribe each meeting and will include the written transcripts in the public record.

IX. Public Record

EPA has established a public record for this rulemaking (docket number OTS 046008) which is available for inspection in the OTS Reading Room from 9:00 a.m. to 5:00 p.m. on working days (Room 710E, 401 M Street SW., Washington, D.C. 20460.) This record includes basic information considered by the Agency in developing this proposal. The Agency will supplement the record with additional information as it is received. The record includes the following categories of information:

(1) USEPA-OTS. "Proposed Health

Effects Test Standards for Toxic Substances Control Act Test Rules".

(2) USEPA-OTS. "Proposed Health Effects Test Standards for Toxic Substances Control Act Test Rules": Support Document.

(3) Working drafts of the proposed rules, the preamble, and the Support Document which were available for public comment.

(4) Correspondence pertaining to development of the standards, preamble, and support document. (This does not include inter- or intra-agency correspondence, unless specifically noted in the index of the rulemaking record).

(5) Minutes, summaries, or transcripts relating to public meetings held to develop the standards.

Published documents cited in this preamble are incorporated in the record by reference. EPA will accept additional material for the record at any time between this proposal and the final designation of the rulemaking record. EPA will identify the complete rulemaking record on or before the date of promulgation of these requirements, as prescribed by TSCA Section 19(a)(3). The record of this proceeding is available in the OTS Reading Room.

Note.—Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Dated: April 27, 1979.

Douglas M. Costle,
Administrator.

It is proposed that new Parts 770, 771 and 772 be added to Chapter I of Title 40 as follows:

PART 770—TEST RULES FOR CHEMICAL SUBSTANCES AND MIXTURES

General

Sec.

- 770.1 Scope, purpose and authority.
- 770.2 Definitions.
- 770.3 Applicability.
- 770.4 Confidentiality and public access to information.
- 770.5 Compliance.
- 770.6 Revisions and modifications of test standards.

PART 771—IDENTIFICATION OF CHEMICAL SUBSTANCES AND MIXTURES TO BE TESTED [RESERVED]

PART 772—STANDARDS FOR DEVELOPMENT OF TEST DATA

Subpart A—General [Reserved]

Subpart B—Good Laboratory Practice Standards [Reserved]¹

Sec.

- 772.110-1 Good Laboratory Practice Standards for Health Effects [Reserved]¹

Subpart C—Acute and Subchronic Health Effects [Reserved]

Subpart D—Chronic Health Effects

Sec.

- 772.113-1 General
- 772.113-2 Oncogenic Effects Test Standards
- 772.113-3 Non-Oncogenic Chronic Effects Test Standards
- 772.113-4 Combined Chronic Effects Test Standards

Subpart E—Mutagenicity [Reserved]

Subpart F—Teratogenicity/Reproductive Effects [Reserved]

Subpart G—Short-Term Tests for Health Effects [Reserved]

Subpart H—Behavioral/Neurotoxicity Health Effects [Reserved]

Subpart I—Other Health Effects [Reserved]

Subpart J—Epidemiological Studies [Reserved]

Subpart K—[Reserved]

Subpart L—Physical and Chemical Properties [Reserved]

Subpart M—Chemical Fate [Reserved]

Subpart N—Ecological Effects [Reserved]

Subparts O-Z—[Reserved]

Authority: Section 4, Toxic Substances Control Act (TSCA) (90 Stat. 2006; 15 U.S.C. 2603).

PART 770—TEST RULES FOR CHEMICAL SUBSTANCES AND MIXTURES

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Authority: Section 4, Toxic Substances Control Act (TSCA) (90 Stat. 2006; 15 U.S.C. 2603.)

General

§ 770.1 Scope, purpose, and authority.

(a) Scope. As authorized by Section 4 of the Toxic Substances Control Act (the

¹ See FR Doc 79- also in this Part II of the Federal Register.

"Act"), Part 771 of this Chapter provides test rules that require manufacturers (including importers) and processors of chemical substances and mixtures ("chemicals") to develop test data in accordance with the rule and submit this data to the Environmental Protection Agency ("EPA"). Part 771 identifies the chemical substances and mixtures for which data are to be developed, provides deadlines for the submission of data to EPA, and prescribes test standards for the development of the data by reference to the standards in Part 772 and specific modifications thereto. Part 772 includes standards relating to the design and conduct of tests, and the analysis and reporting of test data.

(b) *Purpose.* Each TSCA test rule is designed to require manufacturers and processors of the chemicals identified in the rule to develop data on the health and/or environmental effects of these chemicals so that the Administrator will have the data that are necessary to determine whether or not the tested chemicals present a risk of injury to human health or the environment. When data developed in accordance with the rule (and any other relevant information) indicate to the Administrator that regulatory action may be appropriate, the Administrator will use the data developed through the rule (and any other relevant information) to make decisions and support regulatory actions in accordance with the provisions of Section 5, 6, 7 and 9 of the Act.

(c) *Authority.* Section 4 of the Act authorizes the Administrator to promulgate rules for development of test data on chemical substances and mixtures, and specifies that each test rule must, among other things, identify the chemicals to be tested and provide standards for development of test data. The Act further specifies that each test rule must include standards that prescribe the health and environmental effects for which information is to be developed, the data that are to be developed, the analyses to be done on the data, and, if necessary to assure reliable and adequate data, test methodology and other requirements. In order to require that a chemical be tested in accordance with EPA test standards, the Administrator must make three findings relating to the chemical's risk potential and the insufficiency of data then available to EPA.

(1) First, the Administrator must find either that the manufacture, distribution in commerce, processing, use, disposal, or some combination of these activities involving the chemical may present an

unreasonable risk of injury to health or the environment, or that the chemical is or will be produced in substantial quantities and that there is or may be significant or substantial human or environmental exposure to the chemical (Sections 4(a)(1) (A)(i) and (B)(i) of the Act).

(2) Second, the Administrator must find that existing data and experience relating to the chemical are insufficient to reasonably determine or predict the effects on health or the environment of the manufacture, distribution in commerce, processing, use, or disposal of the chemical or of any combination of these activities (Sections 4(a)(1) (A)(ii) and (B)(ii) of the Act)

(3) The third finding of that testing is necessary to develop the requisite data (Sections 4(a)(1) (A)(iii) and (B)(iii) of the Act).

§ 770.2 Definitions.

(a) For the purposes of Parts 770, 771, and 772, the following terms shall have the meaning contained in Section 3 of the Toxic Substances Control Act, 15 U.S.C. 2601 *et seq.*, and any regulation issued under that Act: "Administrator"; "By-Product"; "Chemical Substance"; "Commerce"; "Co-Product"; "Distribute in commerce" and "Distribution in commerce"; "Health and Safety Study"; "Intermediate"; "Manufacture"; "Manufacture for commercial purposes"; "Possession or control"; "Process"; "Process for commercial purposes"; and "Standards for development of test data."

(b) For the purposes of Parts 770, 771, and 772, the following terms shall have the meaning contained in the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 321 *et seq.*, and the regulations issued under that Act: "cosmetic," "device," "drug," "food," and "food additive." In addition, the term "food" includes poultry and poultry products, as defined in the Poultry Products Inspection Act, 21 U.S.C. 453 *et seq.*; and eggs and egg products, as defined in the Egg Products Inspection Act, 21 U.S.C. 1033, *et seq.* "Pesticide" shall have the meaning contained in the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. 136 *et seq.*, and the regulations issued thereunder.

"Act" means the Toxic Substances Control Act, 15 U.S.C. 2601 *et seq.*

"Control substance" means any chemical substance or mixture or other material that is administered to the test system in the course of a study for the purpose of establishing a basis for comparison with the test substance.

"EPA" means the U.S. Environmental Protection Agency.

"Importer" means any person who imports a chemical substance, including a chemical substance as a part of a mixture or article, into the Customs Territory of the United States, and includes the person primarily liable for the payment of any duties on the merchandise or an authorized agent acting on his behalf. Importer also includes, as appropriate:

(1) The consignee;

(2) The importer of record;

(3) The actual owner, if an actual owner's declaration and superseding bond has been filed, in accordance with CFR 141.20; or,

(4) The transferee, if the right to draw merchandise in a bonded warehouse has been transferred in accordance with Subpart C of 19 CFR 144. For the purpose of this definition, the Customs Territory of the U.S. consists of the 50 States, Puerto Rico, and the District of Columbia.

"Impurity" means a chemical substance which is unintentionally present with another chemical substance or in a mixture.

"Person" means any natural person, firm, company, corporation, joint-venture, partnership, sole proprietorship, association, or any other business entity, any State or political subdivision thereof, any municipality, any interstate body and any department, agency, or instrumentality of the Federal Government.

"Processor" means any person who processes a chemical substance or mixture.

"Protocol" means a detailed description of the study design and conduct to be followed.

"Test data" means: (1) data, including chemical identity, from a formal or informal study, test, experiment, recorded observation, monitoring, or measurement; and (2) information concerning the objectives, experimental methods and materials, protocols, results, data analyses (including risk assessments), and conclusions from a study, test, experiment, recorded observation, monitoring, or measurement.

"Tester" means any person who develops health and/or environmental effects data to meet the requirements of a TSCA test rule, including any sponsor who develops such data and any independent consulting or contracting laboratory that develops such data.

"Test mixture" means a combination which results from mixing a test substance with another substance(s), including vehicle, dust-suppressant, feed, water, etc., for the purpose of

exposing the test system to the test substance.

"Sponsor" means any manufacturer (including importer) or processor of a chemical substance or mixture for which testing is required under a TSCA test rule who conducts and/or causes to be conducted health and environmental effects tests required by TSCA test rules and/or submits data developed in accordance with the rule to EPA.

"Sponsor" includes any manufacture or processor who designates a second manufacturer or processor or a tester to develop such health and environmental effects data.

"Study Plan" means a work document prepared by the sponsor(s) or tester(s) which contains the proposed test protocol along with other pertinent information regarding the test to be conducted, including: the name and address of the sponsor and testing facilities including responsible administrative officers; identification of the substance to be tested; physical and chemical properties of the test substance; data on test substance stability under test and storage conditions; brief summaries of training and experience of each professional involved in the study, including the study director, toxicologist, veterinarian, pathologist(s) and pathology assistants; rationale for species/strain selection; summary of expected spontaneous chronic diseases (including tumors), genealogy, and life span of the strain and species of test animal selected; routes of exposure; description of diet to be used; rationale and supporting data for dose selection; proposed modifications and rationale for variance from applicable TSCA standards; and, schedule for initiation of studies greater than 90 days duration, including schedule for submission of interim progress and final reports to EPA.

"Test substance" means the specific form of a chemical substance or mixture that is used to develop data to meet the requirements of a TSCA test rule.

"Test system" means any animal, plant, microorganism, or subparts thereof to which the test or control substance is administered or added for study. "Test system" also includes appropriate groups or components of the system not treated with the test or control substance.

"Testing facility" means the persons, premises, and operational units that the tester uses or has used for the development of health and environmental effects data required by TSCA test rules.

§ 770.3 Applicability.

(a) Section 4(b)(3)(B) of the Act specifies that if the Administrator makes the Section 4(a) findings referenced in that section, the relevant test rules apply to each person who manufactures or intends to manufacture, and/or to each person who processes or intends to process the chemical substances and mixtures for which test data are required. The section also provides that the Administrator may permit two or more of the manufacturers and/or processors who are required to conduct tests and submit data to the EPA to designate one such person or a qualified third person to conduct the tests and submit such data on behalf of the persons making the designation.

(b) Under Section 4(c) of the Act, any person required by a TSCA test rule to conduct tests and submit data may apply to the Administrator for an exemption from such requirement. If the Administrator determines that a chemical substance or mixture for which an exemption application was submitted is equivalent to a chemical substance or mixture for which data have been submitted to the Administrator pursuant to a TSCA test rule or are being developed pursuant to such a rule, and that submission of data by the applicant would be duplicative of data which have been submitted to the Administrator pursuant to a Section 4(a) rule or are being developed pursuant to such a rule, the Administrator must exempt the applicant from conducting tests and submitting data (Section 4(c)(2)). In accordance with procedures and rules authorized by Sections 4(c)(3) and 4(c)(4), those persons exempted from conducting testing and submitting data must be required to reimburse those persons submitting the data on which the exemption was based.

§ 770.4 Confidentiality and public access to information.

(a) A person may assert a claim of confidentiality for any information which he submits to EPA under Part 771.

(b) Any claim of confidentiality must accompany the information at the time it is submitted to EPA.

(1) If any information in a document is claimed as confidential, two copies of the document in which the information appears must be submitted.

(i) One copy of the document must be complete. In that copy, the submitter must clearly identify the data which are claimed confidential by marking the specific information on each page with a label such as "confidential business information," "proprietary," or "trade secret."

(ii) The second copy must be complete except that all information claimed as confidential in the first copy must be deleted. EPA will place the second copy in the public file.

(2) If the person does not provide the second copy, EPA will notify him of this fact by telephone or certified mail. If EPA does not receive the second copy within ten working days after the person receives this notice, the Agency will place the first copy in the public file.

(c) At the time a person submits the information to EPA, he must substantiate any claim of confidentiality for information contained in health and safety studies.

(1) If a person does not submit any substantiation, EPA will notify him of this fact by certified mail. If EPA does not receive the substantiation within ten working days after the person receives this notice, the Agency will place the information in the public file.

(d) EPA will disclose information that is covered by a claim of confidentiality asserted in accordance with this section only to the extent permitted by and in accordance with the procedures set forth in the Act, this section and Part 2 of this Title.

(e) If a person does not assert a claim of confidentiality for information at the time he submits it to EPA, the Agency may make the information public, including placement in the public file, without further notice to the person.

§ 770.5 Compliance.

(a) *General.* In order to satisfy the requirements of a TSCA test rule, the sponsor and/or other person who conducts or has conducted tests to meet the requirements in the test rule must test the chemical identified in the rule in accordance with the standards specified in the rule, including the appropriate good laboratory practice standards. The sponsor must submit test data and other required information to EPA on or before the data submission deadline specified in the rule.

(b) *Violations.* (1) Section 15(1) of the Act makes it unlawful for any person to fail or refuse to comply with any rule promulgated or order issued under Section 4. Section 15(3) makes it unlawful for any person to fail or refuse to (i) establish or maintain records, (ii) submit reports, notices, or other information, or (iii) permit access to or copying of records required by the Act or any rule promulgated thereunder. Thus, failure to comply with any aspect of a Section 4 rule or the submission of invalid data, as defined in Section 770.5(c), would be violations as defined by Section 15(1) and 15(3).

(2) Section 16(a) provides that any person who violates any provision of Section 15 shall be liable to the United States for a civil penalty of up to \$25,000 per violation, with each day of violation constituting a separate violation. If a violation is knowing or willful, criminal penalties of up to one year in prison and \$25,000 per day of violation may also be assessed under Section 16(b). In addition, under Section 17 of the Act, the Agency may take injunctive action to restrain persons from violating Section 4 rules and standards.

(c) *Invalid data.* Except as provided in Section 770.5(d), data submitted to satisfy a TSCA test rule may be presumed to be invalid if any of the following conditions is present:

(1) The test is not being or was not conducted in accordance with the data development standards in the rule. Non-conformity with any single standard is sufficient to invalidate a test; or

(2) The data submission to EPA includes information and data that is intentionally false or misleading, contains significant omissions, or otherwise does not fulfill the requirements of Section 4 or of a test rule promulgated pursuant to Section 4; or

(3) A sponsor and/or any person who is developing or has developed test data to meet the requirements of a TSCA test rule refuses to admit the Administrator or his delegate for the purpose of auditing test data or inspecting test facilities.

(d) *Non-conforming data submissions.* If a person submits data that was not developed or submitted in accordance with the test standards or other requirements in a rule, EPA may review the data and, if appropriate, use the non-conforming data in order to meet the purposes of the Act.

§ 770.6 Revisions and modifications of test standards.

(a) *Annual revision.* At least once each year, EPA will review the generic test standards to assess their suitability for development of the data required by TSCA test rules. If this review indicates that substantial revision is required, EPA will propose amendments to the standards in accordance with the rulemaking procedures of 5 U.S.C. 553. If this review indicates that minor changes are required, EPA will publish these changes in the Federal Register and notify persons currently subject to a test rule containing the standards by certified mail. In either case, EPA will review data developed in accordance with the standards in effect when the rule was promulgated.

(b) *Chemical-specific modification of test standards.* EPA may propose or review a test sponsor's proposal for chemical-specific modifications of test standards if the generic standards are not suitable for a particular chemical. In addition, EPA and the sponsor may agree to specify those details of test methodology that are not mandatory test standards.

PART 771—IDENTIFICATION OF CHEMICAL SUBSTANCES AND MIXTURES TO BE TESTED [RESERVED]

PART 772—STANDARDS FOR DEVELOPMENT OF TEST DATA

Subpart A—General [Reserved]

Subpart B—Good Laboratory Practice Standards [Reserved]¹

Sec.
772.110-1 Good Laboratory Practice Standards for Health Effects [Reserved]¹

Subpart C—Acute and Subchronic Health Effects [Reserved]

Subpart D—Chronic Health Effects

772.113-1 General.

(a) *Scope and purpose.*

(b) *Applicability.*

(c) *Definitions.*

(d) *Good laboratory practice standards for chronic health effects.*

(e) *Specific personnel requirements.*

(f) *Submission of study plan.*

(g) *Test or control substance concentration.*

(h) *Dietary requirements.*

(i) *Contaminant analysis of feeds and/or vehicles.*

(j) *Reporting requirements.*

(k) *Contents of final report.*

Subpart E—Mutagenicity [Reserved]

Subpart F—Teratogenicity/Reproductive Effects [Reserved]

Subpart G—Short-Term Tests for Health Effects [Reserved]

Subpart H—Behavioral/Neurotoxicity Health Effects [Reserved]

Subpart I—Other Health Effects [Reserved]

Subpart J—Epidemiological Studies [Reserved]

Subpart K—[Reserved]

Subpart L—Physical and Chemical Properties [Reserved]

Subpart M—Chemical Fate [Reserved]

Subpart N—Ecological Effects [Reserved]

Subparts O-Z—[Reserved]

Authority: Section 4, Toxic Substances Control Act (TSCA) (90 Stat. 2006; 15 U.S.C. 2603).

¹ See FR Doc. 79-14497 also in this Part II of the Federal Register.

Subpart D—Chronic Health Effects

§ 772.113-1 General.

(a) *Scope and purpose.* The standards in this subpart are designed to develop data on chronic health effects of chemical substances and mixtures ("chemicals") subject to chronic health effects test regulations under the Toxic Substances Control Act (TSCA) (P.L. 94-469, 90 Stat. 2003, 15 U.S.C. 2601 *et seq.*). The EPA will use these data to assess the risk of chronic effects these chemicals may present to human health.

(b) *Applicability.* These standards apply to the development of chronic health effects data from the testing of chemicals specified in Part 771 of this subchapter.

(c) *Definitions.* The definitions in section 3 of the TSCA and the definitions in § 770.2 and § 772.110-1(a)(3), entitled "Good Laboratory Practice Standards for Health Effects," apply to Subpart D. In addition, the following definitions also apply to Subpart D.

(1) "Chronic health effects" means any differences between the control and test animals which may result from long-term chemical exposure and/or develop over a long latency period.

(2) "Oncogenic effects" means chronic health effects which result in benign and/or malignant neoplasms. These effects may be due to initiation and/or promotion mechanisms.

(3) "Test group" means a cohort of test animals which have been randomly selected and which are identical in species/strain, sex, age, source, husbandry conditions, and dose level.

(4) "Exposed group" means a test group, which is administered the test substance at a specific dose level.

(5) "Matched control group" means a test group, which does not receive the test substance but which otherwise is treated the same as the exposed group.

(6) "Test animal" means any animal in the study.

(7) "Exposed animal" means any test animal that receives or is exposed to the test substance.

(8) "Control animal" means any test animal that is not exposed to the test substance.

(d) *Good laboratory practice standards for chronic health effects.* The Good Laboratory Practice Standards for Health Effects in Section 772.110-1, Subpart B, apply to Subpart D.

(e) *Specific personnel requirements.* For the purposes of these test standards:

(1) There are two types of qualified pathologists:

(i) Board-Certified or Board-Eligible pathologist(s) who have a minimum of

three years of experience in pathology of the species of laboratory animals to be used; or

(ii) Other doctorate pathologists (D.V.M., M.D., Ph.D., D.D.S., D.O.) who have a minimum of three years of experience in gross, clinical, and/or histopathology of the species of laboratory animals to be used.

(2) A qualified veterinarian is one who is Board-Certified or eligible for certification by the American College of Laboratory Animal Medicine, and who has a minimum of two years of experience in laboratory animal science; and

(3) There are two types of qualified technical employees:

(i) One certified by the American Society of Clinical Pathology (HTASCP), or with equivalent training and experience.

(ii) One certified or eligible for certification by the American Association of Laboratory Animal Science (LTAALAS), or with equivalent training and experience.

(f) *Submission of study plan.* (1) The sponsor(s) of a study must submit a detailed study plan to the Agency at least 90 days before the study is initiated.

(2) The following information must be submitted:

(i) The name and address of the sponsor and testing facility including responsible administrative officials and project manager(s);

(ii) Brief summaries of the training and experience of each professional involved in the study, including Study Director, Veterinarian, Toxicologist(s), Pathologist(s) and Pathology Assistants;

(iii) Study protocol including rationale for species/strain selection, dose selection (and supporting data), route(s) of exposure, modifications or variance from applicable TSCA standards and rules;

(iv) Summary of expected spontaneous chronic diseases (including tumors), genealogy, and lifespan;

(v) Description of diet to be used and source of diet;

(vi) Data on test substance and stability under test and storage conditions;

(viii) Schedule for initiation and completion of major phases of long-term test(s); schedule for submission of interim progress and final reports to EPA.

(g) *Test or control substance concentration.* The tester must document that, at the time of administration, the test substance or mixture administered contains no less than 90 percent of the designated test

substance concentration as specified in the sponsor-approved protocol. To accomplish this objective, the tester must conduct and document stability studies in accordance with Section 772.110-1, Subpart B, prior to initiation of a study and analyze the administered substance or mixture to determine:

(1) The rate of loss of the test substance by elution, degradation, or other means;

(2) The major degradation products, if any; and

(3) Analyze for initial concentration.

The initial mean concentration of the test substance must not vary more than ± 5 percent from the designated concentration. To assure homogeneity in a test mixture, variability among randomly selected samples (at least 3) from the test mixture must not exceed ± 10 percent from the means of the samples.

Note.—If a vehicle is needed in the preparation of the test mixture, either to dissolve, dilute or otherwise facilitate mixing or administering the test substance, the vehicle should be selected to have the following characteristics:

(1) It facilitates absorption but does not substantially alter the extent of distribution, metabolism, or retention of the test substance;

(2) It does not alter the chemical properties of the test substance or substantially enhance, reduce, or alter the toxic characteristics of the test substance;

(3) It does not substantially affect the food or water consumption or the nutritional status of the animals;

(4) It does not produce substantial physiological effects at the levels used in the study.

(h) *Dietary requirements.* (1) All rodents must be fed the standardized diet containing the nutrient levels and produced by feed stocks or ingredients as listed in Appendix A unless EPA approves another diet that the sponsor proposes as a substitute. The sponsor must request and obtain EPA approval at the time of study plan submission for diets for non-rodent species.

(2) The tester must not use feed 90 days after its manufacture. The tester must maintain as a part of the raw data a log showing the date each batch/lot of feed was manufactured and the last date it was administered.

(i) *Contaminant analysis of feeds and/or vehicles.* The sponsor must have each batch/lot of feed and vehicle analyzed to determine concentrations of contaminants listed in Appendix A of this section. The Agency considers this list to be minimal and not all inclusive. The Agency encourages the tester to conduct additional analysis for other

contaminants that may affect the interpretation of the study results.

(j) *Reporting requirements.* The tester must submit to EPA all data generated by the test that is suggestive or predictive of the initiation and/or promotion of oncogenic or other chronic disease process(es) and all concomitant toxicologic manifestations. The tester must submit to EPA the following reports:

(1) "Study Plan" as required in § 772.113-1(f).

(2) "Interim Quarterly Summary Reports" outlining the current status of the study including any significant findings.

(3) "Final Test Report".

(k) *Contents of final test report.* (1) *Description of the test procedures.* (i) *Methodology.* Specification of test methods, including a full description of the study design and procedures, the length of the study, and the dates on which the study began and ended, must be stated.

(ii) *Deviation from standards.* The report must indicate all ways in which the test procedure deviated from test standards and must state the reasons for such deviations.

(iii) *Animal data.* Animal data must include:

(A) Species, strain and subline used, rationale for selection of species if it is different than that required in this subpart, and rationale for selection of strain and subline;

(B) Source of supply of the animals;

(C) Breeding Type—*inbred, hybrid, outbred;*

(D) Disease Control—*specific pathogen-free, germ-free, conventional vaccinated;*

(E) Description of any pre-test conditioning, including diet and quarantine;

(F) Initial number by sex, numbers of animals in each test group;

(G) Age and condition of each animal at beginning of study;

(H) Method of randomization used in assigning animals to each test group.

(iv) *Environmental conditions.* A description of the caging conditions must include number of animals per cage, bedding material, light (source and time cycle), diet (type and source), amount of diet (*ad libitum*, consumption), water source, amount of water, ambient temperature and humidity (range), cleaning agents used and any pest control materials.

(v) *Preparation of test mixture.* Data on preparation of test mixture must include: name of chemical(s), name of vehicle(s), preparation and calculations of concentrations, method(s) of

preparation, amount prepared each time, frequency of preparation, physical state, pH, stability and decomposition, storage, date(s) prepared and date(s) of final use.

(vi) *Dosing*. Dosing information must include:

(A) All dose levels administered;

(B) Method and frequency of administration;

(C) Duration of treatment;

(D) Total volume of material (i.e., test substances plus vehicle) contained in individual dosings;

(E) If the test substance is administered in a vehicle, the method of randomization used in selecting samples of test mixture to assay for the test substance, the assay method used to determine the stability and homogeneity of the test substance being administered, and the results of this assay;

(F) For each dose level, the mean total amount of test substance administered per animal; and

(G) The rationale including discussion of alternatives for selection of the vehicle.

(VII) *Treatment for infectious diseases*. A description of the treatment(s) used to prevent or control infectious diseases if such treatment was undertaken during a test or shortly before a test was begun must include:

(A) For each individual affected animal: its identification number; the nature and severity of the disease; frequency of administration and name(s) of drug(s) or other treatment; total number of doses; total dose given, total time of treatment, the date of first observation and duration of disease; the date(s) of each treatment; and the outcome of the treatment(s) in relation to the disease and to the test results; and

(B) For each treatment: preparation administered, dose per administration (volume, weight, how measured); route of administration; site; and methods and instruments used.

(viii) *Methods of observation*. (A) A description of methods of observation;

(B) Checking individual animals;

(C) Weighing animals and if done on individual animals basis or by weighing of cages;

(D) Frequency of recording of observations;

(E) Frequency of measuring consumption of feed and water.

(ix) *Statistical procedures*.

Appropriate statistical methods must be used to summarize test data, to express trends, and to evaluate the significance of differences in data from individual test groups. All data averages or means

must be accompanied by standard deviations, to indicate the amount of variability in the raw data. In addition, the standard errors of the means may also be calculated, since they are useful in comparing means from different test groups; however, notations of statistically significant differences, accompanied by the confidence level or probability, may be used in place of the standard errors.

(x) *References*: Statistical and any other methods employed for analyzing the raw data; a list of references to any published literature used in developing the test protocol, performing the testing, making and interpreting observations, and compiling and evaluating the results.

(2) *Data reporting*. The test report must contain the following information, arranged and presented in the format specified.

(i) *For individual animals*. (A)

Significant time periods. In tabular form, data must be provided showing, for each animal:

(1) Its identification number;

(2) Whether it was a scheduled kill, the method of kill, and, if so, whether it was moribund before being killed;

(3) Its age at the beginning of study, and date on which dosing was begun;

(4) The date, time of day, and the day of the study when killing occurred or the animal's death was noted;

(5) The date, time of day, and the day of the study when gross necropsy was performed;

(6) The date and day of the study when the histopathology examination was performed; and

(7) The reasons for failure (if there was failure) to perform necropsy or histopathology examination.

(B) *Toxic, pharmacologic, and behavioral effects*. In tabular form, data must be provided showing, for each animal:

(1) Its identification number;

(2) The date of observation of each sign of toxicity or pharmacological effect or behavioral abnormality; and

(3) A description of the toxic sign, pharmacological effect, or behavioral abnormality. If such a response occurred repeatedly, it need be described only once and may thereafter be described by reference.

(C) *Food and body weight data*. In tabular form, data must be provided showing, for each animal:

(1) Its identification number;

(2) Estimated food consumption measured at weekly intervals for the first 13 weeks and at monthly intervals throughout the remainder of the test period; and

(3) Body weight measured at least weekly during the first 13 weeks of the test period and biweekly throughout the remainder of the test period.

(D) *Descriptions of tumors and other lesions*. Data must be submitted in an appropriate form showing:

(1) For each animal, its identification number, the number of weeks on study, its age (in weeks) at death, the manner of death (terminal kill, moribund, or other), and a complete description and diagnosis of every neoplasm, pre-neoplastic lesion, and non-neoplastic lesion found in the animal. The description and diagnosis must include the time of first observation for each lesion, correlation of the histopathology findings with the clinical and gross necropsy observations, and identity of any neoplasm or other lesion, which may have caused the animal to be moribund or to die. All pre-neoplastic and non-neoplastic lesions observed frequently or common in both treated and control animals must be graded. A commonly-accepted scale such as $\pm 1, 2, 3$ and 4 expressing degrees ranging from very slight to extreme may be used; however, other scales reflecting this concept are also acceptable. If a grading system is used, a description of the system must be submitted. The description and diagnosis of individual tumors must distinguish between apparently benign and apparently malignant tumors. Histopathologic abnormalities observed repeatedly in a specific test group need to be described only once, in detail as described above; subsequently, the repeat lesion may be referenced to the complete description. However, significant variations from the detailed description must be noted;

(2) For each animal, its identification number, and a list of the tissues examined, with designation by checkmark of those tissues found to be normal;

(3) For each animal, its identification number, and the number observed of each of the following: non-neoplastic lesions, pre-neoplastic lesions, benign tumors, and malignant tumors.

(ii) *By test group*. The following information must be arranged by test group (species, dose level and sex) and presented in the format specified. All averages must be accompanied by standard deviation. The number of data units on which a calculation is based must be reported for all percentages and means.

(A) *Toxic, pharmacologic, and behavioral effects*. In tabular form, data must be provided showing, for each test group (dose level and sex): (1) A list of each sign of toxicity, pharmacological

effect, or behavioral abnormality affecting any animal in the test group;

(2) For each such response, the number of animals affected;

(3) For each such response, the median time from the beginning of the study to the first observation of such response; and

(4) The median age at death for those animals displaying each type of response.

(B) *Food and body weight data, means.* In tabular and graphic form, data must be provided showing, for each test group (dose level and sex): (1) Mean estimated food consumption measured at weekly intervals for the first 13 weeks and at monthly intervals throughout the remainder of the test period; and

(2) Mean body weight measured weekly during the first 13 weeks of the test period and bi-weekly throughout the remainder of the test period.

(C) *Survival and kill data.* In tabular format, data must be provided showing, for each test group: the number of animals which remained alive at the end of each 7-day interval, the number of animals that were killed or otherwise died during each 7-day interval, and the number that died by sacrifice and were moribund before sacrifice.

(D) *Clinical laboratory data.* (1) In any appropriate form, data must be submitted showing, for each animal: (i) Its identification number;

(ii) The results of any hematological blood chemistry, and other clinical laboratory tests performed; and

(iii) The results of any residue analysis, if performed.

(2) In any appropriate form, data must be submitted showing, for each test group (dose level and sex): (i) The average of the results of each hematological, blood chemistry, and other clinical laboratory test performed; and

(ii) The average results of any residue analysis, if performed.

(E) *Gross necropsy data.* The following test information, arranged by test group (dose level and sex), must be supplied in tabular form: (1) Data showing the identification number of any animal in which any gross abnormality was noted, and including, for each such animal, a description of each gross abnormality, the dimensions of any visible lesion, and the data (if known) when it was first observed. Gross abnormalities observed repeatedly in necropsies of the test animals need be described by reference.

(2) Data showing the number of animals in which any specific types of gross abnormalities are observed.

(3) Data showing the identification number of each animal, individual organ weights, and organ-to-body weight ratios.

(4) Data showing the mean weights of each type of organ, the mean organ-to-body weight ratios, and corresponding standard deviations.

(F) *Incidence of tumors, by test group.* Data must be submitted in tabular form, showing: (1) For each test group, the number of animals at the start of the test, the number and percentage of animals surviving to the termination of the test, the number and percentage of animals in which any tumor was found, the number and percentage of animals with multiple tumors (more than one type), and the number and percentage of animals with a malignant tumor; and

(2) For each type of tumor, the number of animals in each test group in which the affected tissue was examined microscopically, and the number and percentage of animals in each test group in which that type of tumor was observed.

(G) *Incidence of lesions other than tumors, by test group.* References to lesions in this paragraph (k) refer to lesions other than tumors. Data must be submitted in tabular form showing, for each test group: (1) The number of animals at the start of the test, the number of animals surviving to the termination of the test, the number of animals in which any lesion was found, the number of animals in which any pre-neoplastic lesions were found, and the number of animals in which any non-neoplastic lesions were found; and

(2) The number of animals affected by each different type of lesion, the average grade (when applicable) of each type of lesion, the number of animals examined microscopically for each type of lesion, and the percentage of those animals examined which were affected by each type of lesion.

(H) *Cumulative mortality and cumulative incidence of tumors and other lesions at weekly intervals, by test group.* Data must be submitted in tabular form showing, for each test group at each 7-day interval: (1) Cumulative mortality (total number of animals which died during the study);

(2) Cumulative incidence of all types of tumors (total number of animals with any type of tumor);

(3) Cumulative incidence of specific types of tumors by site which were observed frequently (total number of animals with a specific type of commonly-occurring tumor); and

(4) Cumulative incidence and average grade (when applicable) for specific

types of commonly-occurring non-neoplastic lesions.

(I) *Tumors and other lesions in historical controls.* In an appropriate form, data must be submitted showing the types, incidence (number and percentages), and grades (where known and appropriate) of non-neoplastic and pre-neoplastic lesions and benign and malignant tumors in historical controls (to the extent that such controls were taken into account in evaluating the results of testing).

(iii) *Study evaluation.* (A) An evaluation of the test results, including their statistical analysis, must be made and supplied, based on clinical findings, gross necropsy findings, and histopathology results. This submission must include an evaluation of the relationship, if any, between the animal's exposure to the test substance and the development of benign and malignant neoplasms as well as non-neoplastic disease.

(B) The statistical methods used must be described. This includes survival correction for tumor incidence.

(3) *Summary and analysis of test results.* This section of the test report must contain a summary and analysis of the data, and a statement of the conclusions drawn from the analysis. The summary must highlight any and all positive data or observations, and any deviations from control data which may be indicative of toxic effects. The summary must be presented in sufficient detail to permit independent evaluation of the results.

Appendix A—Dietary Requirements and Contaminant Analysis

Dietary Requirements. This Appendix provides dietary requirements and contaminant analysis of feeds and vehicles for the Chronic Effects Test.

(a) *Nutrient Requirements.* The diet used must be manufactured from the following ingredients and no others. (Reference: Nutrient Requirements of Laboratory Animals, Third Revised Edition, National Academy of Sciences, Washington, D.C., 1978.)

(1) *Ingredients*

Fish meal
Soybean meal
Alfalfa meal
Corn gluten meal
Ground whole wheat
Ground #2 yellow shelled corn
Ground whole oats
Wheat middlings
Brewers dried yeast
Soy oil
Salt
Dicalcium phosphate
Ground limestone

(i) A vitamin premix must be prepared from the following vitamin sources:

Vitamin A Palmitate or Acetate
 D activated animal sterol
 Menadione activity
 Alpha-tocopherol acetate
 Choline Chloride
 Folic Acid
 Niacin
 d-Calcium Pantothenate
 Riboflavin Supplement
 Thiamine mono nitrate
 B12 Supplement
 Pyridoxine hydrochloride
 d-Biotin

A mineral premix must be prepared from the following compounds:

Cobalt carbonate
 Copper sulfate
 Iron sulfate
 Magnesium oxide
 Manganese oxide
 Zinc oxide
 Calcium iodate

Microanalysis—The total calculated concentration of nutrients in the diet are from the ingredients and from the vitamin and mineral fortifications at the time of manufacture must be as follows:

	Minimum (percent)
Crude protein.....	18.0
Crude fat.....	4.3
Crude fiber.....	4.2
Ash.....	8.0

Nutrient concentrations in final diet must not vary from the individually stated values by more than 10%.

Amino Acids (percent of total diet):	Minimum
Arginine.....	0.95
Lysine.....	.90
Methionine.....	.38
Cystine.....	.27
Tryptophan.....	.20
Glycine.....	1.00
Histidine.....	.38
Leucine.....	1.50
Isoleucine.....	.95
Phenylalanine.....	.90
Tyrosine.....	.60
Threonine.....	.65
Valine.....	.95

Minerals:	Minimum
Calcium.....	1.15 percent
Phosphorus.....	.90 percent
Potassium.....	.80 percent
Sodium.....	.33 percent
Magnesium.....	.20 percent
Iron.....	345 mg/kg
Zinc.....	50 mg/kg
Manganese.....	140 mg/kg
Copper.....	12 mg/kg
Cobalt.....	.80 mg/kg
Iodine.....	1.85 mg/kg

	Minimum	Maximum
Vitamins:		
Vitamin A.....	15.0	75.00 IU/g
Vitamin D.....	4.0	10.00 IU/g
Alpha-tocopherol.....	50.0	mg/kg
Thiamine.....	14.0	mg/kg
Riboflavin.....	7.0	mg/kg
Niacin.....	65.0	mg/kg
Pantothenic Acid.....	32.0	mg/kg
Choline.....	1900.0	mg/kg
Pyridoxine.....	10.0	mg/kg
Folic Acid.....	2.0	mg/kg
Biotin.....	0.3	mg/kg
Vitamin B12.....	14.0	Mcg/lb
Vitamin K.....	3.0	mg/kg

For autoclavable diet:	Minimum	Maximum
Vitamin A.....	30.0	mg/kg
Thiamin.....	70.0	mg/kg
Vitamin K.....	20.0	mg/kg

The diet must be void of any feed additives containing antibiotics or estrogen activity. When diet is purchased for feeding in meal form, it must be manufactured by regrinding pellets.

(2) *Approximate Analysis*—Analysis for nutrient content of both ingredients and the finished product must be conducted in accordance with the procedures of the Association of Official Agricultural Chemists (1975) and must be expressed as a nutrient content percentage by weight on an air-dry basis.

(3) *Ingredient Standards*—Ingredients used in the manufacture of this ration must not be contaminated with any more than 3 percent of foreign materials such as other grains, weed seeds, chaff, etc. Nor will any mold, must, or insect/rodent infestation be allowed. The average minimum nutrient concentrations of ingredients used in the manufacture of this ration must be equal to the values published in the National Academy of Sciences Publication 1684, United States-Canadian Tables of Food Composition.

The data from these analyses must be made available to the facility using the product.

(4) *Feed Additives and Processing Restrictions*—The product must contain no antibiotics, other preservatives or estrogen additives of any kind. All milling and warehousing conditions and/or restrictions, as specified in the latest issue of the National Institutes of Health Standard No. 1, apply to the feed covered by this specification. The product must not be altered in any manner that will affect the final nutrient content.

(5) *Labeling*—Each bag must be clearly marked with the name of the product, the name of the manufacturer, the net weight, the ingredients, the guaranteed analysis of its contents, the date (month, day, and year) the manufacturing process was completed, and the batch number under which it was processed.

(b) *Contaminant analysis of feeds and vehicles.*

Parameter	Specification limitation	
	Minimum	Maximum
Aflatoxin (B1, B2, G1, G2) ppb Total.....		5
Estrogenic Activity, ppb (DES eq.).....		1
Lindane, ppb.....		20
Heptachlor, ppb.....		20
Malathion, ppm.....		2.5
DDT (Total), ppb.....		100
Dieldrin, ppb.....		20
Cadmium, ppb.....		160
Arsenic, ppm.....		1.0
Lead, ppm.....		1.5
Mercury, ppb.....		100
Selenium, ppm.....	0.1	0.6
PCB, ppb.....		50
Nitrosamines, ppb.....		10

§ 772.113-2 Oncogenic effects test standards.

(a) *Study design.* (1) *Species and Strains.*

(2) *Sex.*

(3) *Age at Start of Test.*

(4) *Group Size.*

(5) *Control Groups.*

(6) *Route(s) of Administration.*

(7) *Frequency of Exposure.*

(8) *Duration of Treatment and Observation Periods.*

(9) *Dose Levels and Dose Selection.*

(b) *Study conduct.* (1) *Clinical Procedures.*

(2) *Pathology Procedures.*

§ 772.113-2 Oncogenic effects test standards.

(a) *Study design.* (1) *Species and Strain.* (i) The tester must use at least two rodent species, the laboratory mouse and rat. An alternative species may be used if the sponsor can provide sufficient data and/or rationale to demonstrate that it is a more appropriate species for a specific test substance. The sponsor must present such data and/or rationale for Agency approval as a part of the study plan submission.

(ii) The sponsor or tester must select the specific strains and/or stocks of test animals to be used. Established strains and/or stocks which are expected to be sensitive to the test substance must be used. As part of the study plan submission, the sponsor must present the rationale for selection of the specific test animals. This must include a summary of any prior test results with the selected species, historical data on their lifespans, spontaneous diseases and conditions (including tumors) and their incidences.

Note.—Acceptable rationale for alternate species would be results from prior oncogenicity studies which show that the alternative species is sensitive to the oncogenic effects of the chemical class to which the test substance belongs or that the alternate species has similar metabolism or pharmacokinetics to humans.

(2) *Sex.* The tester must use equal numbers of males and females at each dose level.

(3) *Age at start of test.* The tester must begin to dose rodents as soon as possible after weaning and environmental acclimatization, by no later than six (6) weeks of age. For nonrodents, the Agency must approve the age of initial exposure.

(4) *Group size.* Each "test group" of rats or mice must contain at least 50 animals. The tester must assign animals to individual test groups by a specified randomization procedure. When the study plan calls for interim kill, the tester must increase the number of animals in each group at the start of the study by the number scheduled to be killed before completion of the study. If species other than the laboratory mouse

and rat are selected, EPA must approve the number of animals per group.

(5) *Control groups.* A tester must use a matched control group which is identical in every respect to the exposed groups except for exposure to the test substance.

Note (i).—If a vehicle is administered to the matched control group and if its toxic properties are not known, the tester may, at his/her discretion, use a negative or untreated control group.

Note (ii).—The EPA may require a Positive Control Group for particular chemicals when the sensitivity of the test animal to the chemical class to which the test substance belongs cannot be documented. When used, the positive control group should serve as an internal quality control to ascertain whether the test animals are sensitive to or respond in a predictable manner to known toxic agents and whether the test strain or species reacts similarly to another strain or species when exposed to the same known standard toxicant.

(6) *Route(s) of administration.* To the extent possible, route(s) of administration should be comparable to the expected or known routes of human exposure. The test rules in Part 771 will specify the route(s) to be employed for a particular chemical. For inhalation and dermal studies, Part 771 will also specify the specific conditions for administering the test substance.

(7) *Frequency of exposure.* The tester must administer test substance and vehicle, if any, by the same route and at the same frequency for the duration of the study. For gavage, the test substance must be administered daily; for feeding, *ad libitum*; for inhalation exposure, a minimum of 5 days per week, 6 hours per day; and for dermal exposure, as specified in the applicable test rule. The tester must conduct the dosing at approximately the same time each day.

(8) *Duration of treatment and observation periods.* The tester must administer the test substance to rodent species for a minimum of 24 months but no longer than 30 months. If a nonrodent species is used, the Agency must approve the duration of exposure.

(9) *Dose levels and dose selection.* (i) The tester must provide data from at least three dose levels (in addition to controls) in each sex of each species.

(A) The high dose level must be the maximum level that can be administered for the duration of the test period, with demonstrable but only slight toxicity, and no substantial reduction in longevity due to effects other than tumors. Signs of demonstrable, slight toxicity are a weight decrement not to exceed 10 percent compared to appropriate controls, clinical signs of

toxicity, or pathologic lesions other than those related to a neoplastic response.

(B) The intermediate dose level must be some fraction ($\frac{1}{4}$ to $\frac{1}{2}$) of the high dose level.

(C) The lowest dose level must be some fraction ($\frac{1}{2}$ or less) of the intermediate dose level but not less than 10 percent of the high dose level.

(D) The sponsor or tester may add additional dose levels at his/her own discretion. If other dose levels are tested, the sponsor must submit the data from any such discretionary levels to Agency along with that of the required levels.

(ii) The tester must conduct a preliminary toxicology study of at least 90 days to select the chronic dose levels which will meet the requirements in this subsection. A preliminary toxicology study of at least 90 days that has been completed previously may be submitted for this purpose.

(iii) The sponsor must submit the rationale for dose selection including supporting data from preliminary toxicity studies as a part of the plan submission.

(b) *Study conduct.* (1) *Clinical procedures.* Veterinarians, as specified in § 772.113-1(e)(2), must ascertain and be responsible for the health status and care of all test animals prior to and during the study. Technical employees, as specified in § 772.113-1(e)(3)(ii), must be responsible for the daily observations and care of test animals.

(i) *Observation of Animals.* (A) Each test animal must be identified by a specific identification number. The tester must account for all animals at the end of the study. The tester must establish and adhere to standard operating procedures for housing, feeding, handling, and care of test animals as specified in § 772.110-1, Subpart B. To further assure minimal loss of animals due to cannibalism or autolysis of tissue, technical employees, as specified above, must observe the test animals every 12 hours throughout the test period. EPA may consider a study to be unacceptable for purposes of satisfying a test rule requirement if losses in any test group exceed 5 percent.

(B) Technical employees must conduct routine clinical examinations on each animal. These clinical examinations must include weighing of each animal, approximately the same time of day, at least once a week during the first 13 weeks, and every two weeks thereafter, and observing animals in relation to food and water consumption, morbidity, mortality and causes thereof, loss of animals for whatever reason, signs to

toxicity, pharmacologic effects, and behavioral changes. The observer must record all data in detail at the time of observation.

(ii) *Hematology.* The tester must conduct the following quantitative hematologic determinations on a minimum of eight predesignated animals in each test group at one year (\pm one month) and at termination: hematocrit, hemoglobin, erythrocyte count, total and differential leukocyte counts, platelet count, and prothrombin and clotting times. If hematologic evidence of anemia is present at one year, reticulocyte counts must be performed within one week of the determination. In addition to the tests listed above, if any interim clinical observations suggest that other tests are necessary to assess the health status of test animals, the appropriate tests must be conducted. In the event that any of the predesignated animals does not survive 12 months, another animal selected by statistical randomization from the remainder of the appropriate test group can serve as a replacement.

Note.—Predesignated means that the animal has been selected to undergo this test by a specified randomization procedure prior to initiation of the study.

(iii) *Interim kill.* The tester may kill predesignated animals (other than those predesignated for hematological test in paragraph (b)(1)(ii) of this section at any time during the study, provided that he (she) increased the number of animals started in the study at least by the number scheduled or anticipated to be killed before the end of the study.

(iv) *Killing of test animals.* Animals which appear during the study as moribund, injured, or weak, and not expected to survive to the next observation, must be killed to preclude the loss of tissues from cannibalism and/or autolysis. Animals surviving to the termination of the study must also be killed. A technical employee must obtain blood samples for hemotologic determinations from each animal immediately before it is killed or as it is killed. The method used for killing must be humane and the same throughout the study. The tester must select a method of killing which will not produce interfering pathologic lesions.

(2) *Pathology procedures.* A Board-certified or Board-eligible pathologist, as specified in § 772.113-1(e)(1)(i), must be responsible for the planning and conduct of all pathology procedures and histopathology examinations, as well as for the final interpretation of all pathology data. Other doctorate pathologists, as specified in § 772.113-

1(e)(1)(ii), are also acceptable for conducting procedures in their disciplines of specialization, under the direct supervision of a Board-Certified or Board-Eligible pathologist as specified in § 772.113-1(e)(1)(i).

Note.—Direct supervision means that the supervisor is immediately available for consultation, as necessary. This consultation may be done in person or by telephone.

(i) *Gross necropsy.* (A) Qualified pathologists, as specified in § 772.113-1(e)(2)(1), must perform or personally supervise the necropsies. Other appropriately trained technical employees, as specified in § 772.113-1(e)(3)(i), may assist in the necropsy.

Note.—Personal supervision means that the supervisor is immediately available for consultation at the site.

(B) Animals must be necropsied as soon as possible after death but no later than 16 hours after death. If necropsy cannot be performed immediately after the animal is killed or found dead, a technical employee must immediately refrigerate (but not freeze) the animal at temperatures low enough to minimize tissue autolysis (4-8° C). Animals found dead upon routine clinical examination must be necropsied as soon as possible to salvage useable tissues.

(C) The gross necropsy must include an initial physical examination of the external surfaces and all orifices followed by an internal examination of tissues and organs *in situ*. The examination must include the following: external and internal portions of all hollow organs; cranial cavity and external surfaces of the brain and spinal cord; nasal cavity and paranasal sinuses; neck with its associated organs and tissues; thoracic, abdominal, and pelvic cavities with their associated organs and tissues; and the muscular/skeletal carcass. The urinary bladder and lungs must be inflated with a proper fixative to allow for better gross examination and preservation.

(D) The person responsible for the gross necropsy must record all gross necropsy findings in accordance with § 772.113-1(k)(2).

(ii) *Tissue preservation.* A technical employee must immediately preserve all tissues and organs from all test animals in ten percent (10%) buffered formalin or another recognized and accepted fixative appropriate for the specific tissue(s). Sections from the following tissues from all test animals regardless of their time of death must be properly preserved for routine microscopic examination:

(A) All gross lesions (with a margin of normal tissue);

(B) Brain (minimum of one section each from the forebrain, midbrain, and hindbrain);

(C) Eyes and contiguous Harderian glands;

(D) Pituitary gland;

(E) Major salivary glands, thymus, thyroid with parathyroid, mammary glands; Zymbal's gland (if present);

(F) Oral mucous membrane (including random sections from tongue, buccal, and alveolar mucosa, pharynx, and nasopharynx);

(G) Heart and aorta;

(H) Trachea; lungs with the mainstem bronchi;

(I) Esophagus, stomach, small intestines and large intestine (cecum, colon, and rectum);

(J) Adrenal glands, pancreas, liver (minimum of two lobes), gall bladder (if present), spleen;

(K) Kidneys, urinary bladder;

(L) Representative lymph nodes (including those draining any neoplasm and those with gross changes);

(M) Bone including marrow from the sternum, vertebra and/or tibiofemoral joint;

(N) Skeletal muscle;

(O) For males: testes, prostate, and all other accessory sex organs;

(P) For females: vagina, corpus and cervix uteri, ovaries, and fallopian tubes.

(iii) *Preparation of tissue for microscopic examination.* A pathologist or a technical employee, as specified in § 772.113-1(e)(3)(i), must prepare all specimens for microscopic examination.

(A) *Tissue fixation and trimming.* A technical employee must fix tissues for the appropriate time for the fixative utilized. A pathologist must perform or directly and personally supervise tissue trimming. Routinely, tissues must be trimmed to a thickness of no more than 0.4 cm for subsequent processing. Parenchymal organs must be trimmed to allow for the largest surface area possible for subsequent microscopic examination. Hollow organs must be trimmed to allow for a cross section mount from mucosa to serosa. Lymph nodes must be bisected through the hilus, if possible.

(B) *Slide preparation.* A technical employee must cut tissues routinely at a thickness of three to six micra (3 to 6 μ), in no case exceeding 10 μ . All tissues must be stained routinely with hematoxylin and eosin (H&E). EPA encourages the use of special stains appropriate to the specific neoplasm, lesion, or tissue. Multiple sections (step cuts) must be made on each tissue or organ that contains gross evidence of a neoplasm or lesion and on each tissue or

organ in which a metastasis may be anticipated. The tester must identify all blocks and microscopic slides by references to the animal's specific identification number and must preserve and hold them in accordance with § 772.110-1(j)(2).

(iv) *Microscopic examination and evaluation.* (A) Qualified pathologists as described in § 772.113-1(e)(1), must perform the microscopic examination and evaluation with subsequent diagnosis. The same pathologist must examine and evaluate all microscopic slides from all test animals of a given species.

(B) Microscopic examination must be performed on all tissues described in paragraphs (b)(2)(ii), (b)(2)(v), and (b)(2)(vi) of this section. The pathologist must record, document, and report all microscopic findings including all abnormalities, lesions, neoplasms, metastatic tumors and their anatomic locations in accordance with § 772.113-1(k)(2).

(v) *Additional examination.* All adverse health effects, including non-oncogenic effects, observed during the course of the study must be examined. When there is clinical evidence suggesting specific toxicologic or pharmacologic effects, including non-oncogenic effects, the necropsy and microscopic examinations of the suspected target organs must be conducted in greater detail. For example, when there is clinical evidence of neurologic effects, multiple sections from brain, spinal cord, and nerves must be examined.

(vi) *Special examinations.* (A) Additional sections, as specified below, must be microscopically examined from a minimum of ten animals selected randomly from the long-term survivors of each test group and in all animals in which clinical or grossly observable evidence of disease is present. If microscopic examination reveals evidence of disease in any of the tissues, then these target tissues must be examined in all test animals.

(B) The necropsy and microscopic examinations must include, in addition to those tissues listed in paragraph (b)(2)(ii) of this section, the following:

(1) *In a feeding study:* nasal cavity; paranasal sinuses; nasopharynx.

(2) *In an inhalation study:* multiple sections of the upper respiratory tract; nares; nasal cavity; paranasal sinuses; hypopharynx-larynx.

(3) *In a dermal study:* skin (normal); skin from sites of skin painting.

§ 772.113-3 Non-oncogenic chronic effects test standards.

(a) *Study design.* (1) Species and strains.

- (2) Sex.
- (3) Age at start of test.
- (4) Group size.
- (5) Control groups.
- (6) Route(s) of administration.
- (7) Frequency of exposure.
- (8) Duration of treatment and observation periods.
- (9) Dose levels and dose selection.

(b) *Study conduct.* (1) Clinical procedures.

(2) Pathology procedures.

§ 772.113-3 Non-oncogenic chronic effects test standards.

(a) *Study design.* (1) *Species and strains.* (i) The tester must use at least two mammalian species: one, a laboratory rat and the second, a nonrodent. The Agency recommends the dog as the nonrodent species. The tester may utilize other suitable nonrodent species approved by EPA.

Note.—Selection of the most appropriate nonrodent species should be predicated upon such factors as metabolism, pharmacokinetics, sensitivity or organotropism and other considerations pertinent to the study.

(ii) The sponsor or tester must select the specific strains and/or stocks of test animals to be used. Test animals must be from established strains and/or stocks. As part of the study plan submission, the sponsor must present the rationale for selection of the specific test animals along with historical data on their lifespans and disease types and incidences.

(2) *Sex.* The tester must use equal numbers of males and females at each dose level.

(3) *Age at start of test.* The tester must begin to dose as soon as possible after weaning and environmental acclimatization, but no later than six weeks of age for rodents and at ten weeks of age for dogs. For nonrodent species, other than the dog, the Agency must approve the age of initial exposure.

(4) *Group size.* Each "test group" of rodents must contain at least 50 animals (plus at least 8 additional for clinical laboratory testing). If the nonrodent species is the dog, then each group must contain at least six animals. The tester must assign animals to individual test groups by a specified randomization procedure. When the study plan calls for interim kill, the tester must increase the number of animals in each group at the start of the study by the number scheduled to be killed before completion of the study. If species other than the

laboratory dog and rat are selected, EPA must approve the number of animals per group.

(5) *Control groups.* A tester must use a matched control group which is identical in every respect to the exposed groups except for exposure to the test substance.

Note (i).—If a vehicle is administered to the matched control group and if its toxic properties are not known, the tester may, at his/her discretion, use a negative or untreated control group.

Note (ii).—The EPA may require a Positive Control Group for particular chemicals when the sensitivity of the test animal to the chemical class to which the test substance belongs cannot be documented. When used, the positive control group should serve as an internal quality control to ascertain whether the test animals are sensitive to or respond in a predictable manner to known toxic agents and whether the test strain or species reacts similarly to another strain or species when exposed to the same known standard toxicant.

(6) *Route(s) of administration.* To the extent possible, route(s) of administration should be comparable to the expected or known routes of human exposure. Test rules in Part 771 will specify the route(s) to be employed for a particular chemical. For inhalation and dermal studies, Part 771 will also specify the specific conditions for administering the test substance.

(7) *Frequency of exposure.* The tester must administer test substance and vehicle, if any, by the same route and at the same frequency for the duration of the study. For gavage, the test substance must be administered daily; for feeding, *ad libitum*; for inhalation exposure, a minimum of 5 days per week, 6 hours per day; and for dermal exposure, as specified in the applicable test rule. For gavage, the tester must conduct the dosing at approximately the same time each day.

(8) *Duration of treatment and observation periods.* The tester must administer the test substance to rats for at least 30 months. In studies with nonrodents, the tester must test for at least 2 years unless the Agency authorizes specific exceptions.

(9) *Dose levels and dose selection.* (i) The tester must select doses to permit analysis of dose-response relationships and the "no observable effect level" (NOEL).

(A) A minimum of three dose levels (in addition to controls) in each sex of each species must be used.

(B) The highest dose level must demonstrate toxicologic effects. Mortality in rat groups must not exceed 50 percent before 18 months. Mortality

in nonrodent groups must be kept to a minimum but significant toxicologic effect must also be demonstrated in the species.

(C) The lowest dose level must be selected to produce no observable evidence of toxicity other than tumors (NOEL).

(D) The sponsor or tester may add additional dose levels at his/her own discretion. If other dose levels are tested, the sponsor must submit the data from any such discretionary levels to the Agency along with that of the required levels.

(ii) The tester must conduct a preliminary toxicology study of at least 90 days to select the chronic dose levels which meet the requirements of this section. A preliminary toxicology study of at least 90 days that has been completed previously may be submitted for this purpose.

(iii) The sponsor must submit the rationale for dose selection including supporting data from preliminary toxicity studies as a part of the study plan submission.

(b) *Study conduct.* (1) *Clinical procedures.* A veterinarian, as specified in § 772.113-1(e)(2), must ascertain and be responsible for the health status and care of all test animals during the study. A technical employee, as specified in § 772.113-1(e)(3)(ii), must be responsible for the daily observations and care of the test animals.

(i) *Observation of animals.* (A) Each test animal must be identified by a specific identification number. The tester must account for all animals at the end of the study. The tester must establish and adhere to standard operating procedures for housing, feeding, handling, and care of test animals as specified in § 772.110-1. To further assure minimal loss of animals due to cannibalism or autolysis of tissue, technical employees, as specified above, must observe the test animals at least every 12 hours throughout the test period. EPA may consider a study to be unacceptable for purposes of satisfying a test rule requirement if losses in any test group exceed 5 percent.

(B) Technical employees must conduct routine clinical examinations on all test animals. Clinical examination must include weighing of each animal, at approximately the same time of day, at least once a week during the first 13 weeks, and every two weeks thereafter and observing all animals in relation to food and water consumption, morbidity, mortality and causes thereof, loss of animals for whatever reason, signs of toxicity, pharmacologic effects, and behavioral changes. The observer must

record all data in detail at the time of observation.

(ii) *Clinical laboratory testing.* The tester must conduct the following quantitative determinations on a minimum of eight additional predesignated rats in each test group. For nonrodents, all animals in each test group must be utilized. In addition to the tests listed below, if any interim clinical observations suggest that other tests are necessary to assess the health status of test animals, the appropriate tests must be conducted.

Note.—Predesignated means that the animal has been selected to undergo these tests by a specified randomization procedure prior to initiation of the study.

(A) *Hematology.* The tester must conduct the following quantitative hematologic determinations at least at 3, 6, 12, 18, 24 months and at study termination: hematocrit, hemoglobin, erythrocyte count, total and differential leukocyte counts, platelet count, and prothrombin and clotting times. If hematologic evidence of anemia is present, reticulocyte counts must be performed within one week of the determination.

(B) *Blood chemistry.* The tester must conduct the following quantitative blood chemistry determinations at least at 3, 6, 12, 18, 24 months and at study termination: calcium, sodium, potassium, chloride, serum lactic dehydrogenase, serum glutamic pyruvic transaminase, creatinine kinase, serum glutamic oxaloacetic transaminase, glucose, blood urea nitrogen, creatinine, direct and total bilirubin, cholinesterase, total cholesterol, triglycerides, serum alkaline phosphatase, albumin, globulin, and total protein. In addition to these tests, the tester may conduct other quantitative blood chemistry determinations at his/her discretion, such as uric acid, gammaglutamyl transpeptidase, and ornithine carbamoyltransferase.

(C) *Urinalysis.* The tester must conduct the following quantitative determinations at least at 3, 6, 12, 18, 24 months and at study termination: specific gravity or osmolarity, pH, protein, glucose, ketones, bilirubin, and urobilinogen, as well as microscopic examination and analysis of formed elements. Each animal's urine must be evaluated individually.

Note.—*Additional Tests.* Based on results of concurrent or previous studies on the test substance, its metabolic or degradation products, the tester should conduct such other determinations as may be necessary for adequate toxicological evaluation.

(D) *Function tests.* (1) The tester must determine the functional capacity of the renal, hepatic, pulmonary, and cardiovascular systems.

Note.—Additional determinations must place major emphasis on organ or system function tests. Selection of the appropriate tests must be based upon the findings in the subchronic studies or observations made during the course of present study.

(2) Additional quantitative determinations may include, but not necessarily be limited to the following: water dilution and water concentration tests for renal function; total lung capacity, functional residual capacity, and residual volume for pulmonary function; bromsulphalein excretion test for liver function; electrocardiogram, blood pressure, and exercise recovery for cardiovascular function. The tester must perform these evaluations at the beginning (nonrodent only) and at least every 3, 6, 12, 18, 24 months and at study termination.

(E) *Residue analysis.* The tester must measure levels of test substance, major metabolites or other biologically significant metabolites at 3, 6, 12, 18, and 24 months \pm 1 month and at the termination of the study. Tissues from the predesignated animals analyzed should include all target tissues from prechronic toxicology studies and those suggested by pharmacokinetic studies. These analyses must include at least plasma, 24-hour urine, feces and, at time of death or scheduled killing, liver and kidney.

(iii) *Interim kill.* The tester may kill predesignated animals (other than those predesignated for hematological tests in paragraph (b)(1)(ii)(A) of this section at any time during the study, provided that he/she increases the number of animals started in the study at least by the number scheduled or anticipated to be killed before the end of the study.

(iv) *Killing of test animals.* Animals which appear during the study as moribund, injured, or weak, and not expected to survive to the next observation, must be killed to preclude the loss of tissues from cannibalism and/or autolysis. Animals surviving to the termination of the study must also be killed. A technical employee must obtain blood samples for hematologic determinations from each animal immediately before it is killed or as it is killed. The method used for killing must be humane and the same throughout the study. The tester must select a method of killing which will not produce interfering pathologic lesions.

(2) *Pathology procedures.* A Board-Certified or Board-Eligible pathologist,

as specified in § 772.113-1(e)(1)(i), must be responsible for the planning and conduct of all pathology procedures and histopathology examination, as well as for the final interpretation of all pathology data. Other doctorate pathologists, as specified in § 772.113-1(e)(1)(ii), are also acceptable for conducting procedures in their disciplines of specialization, under the direct supervision of a Board-Certified or Board-Eligible pathologist as specified in § 772.113-1(e)(1)(i).

Note.—Direct supervision means that the supervisor is immediately available for consultation, as necessary. This consultation may be done in person or by telephone.

(i) *Gross necropsy.* (A) Qualified pathologists, as specified in § 772.113-1(e)(1), must perform or personally supervise the necropsies. Other appropriately trained technical employees, as specified in § 772.113-1(e)(3)(i) may assist in the necropsy.

Note.—Personal supervision means that the supervisor is immediately available for consultation at the site.

(B) Animals must be necropsied as soon as possible after death but no later than 16 hours after death. If necropsy cannot be performed immediately after the animal is killed or found dead, a technical employee must immediately refrigerate (but not freeze) the animal at temperatures low enough to minimize tissue autolysis (4-8° C). Animals found dead upon routine clinical examination must be necropsied as soon as possible to salvage usable tissues.

(C) The gross necropsy must include an initial physical examination of the external surfaces and all orifices followed by an internal examination of tissues and organs *in situ*. The examination must include the following: external and internal portions of all hollow organs; cranial cavity and external surfaces of the brain and spinal cord; nasal cavity and paranasal sinuses; neck with its associated organs and tissues; thoracic, abdominal, and pelvic cavities with their associated organs and tissues; and the muscular/skeletal carcass. The urinary bladder and lungs must be inflated with a proper fixative to allow for better gross examination and preservation.

(D) The weights of the heart, liver, kidneys, testes, spleen, lung, brain, and adrenals must be recorded after careful dissection and trimming. In addition, the thyroid (with parathyroids) and pituitary must be weighed for each nonrodent. The person responsible for the gross necropsy must record all gross necropsy findings in accordance with § 772.113-1(k)(2).

(ii) *Tissue preservation.* A technical employee must immediately preserve all tissues and organs from all test animals in 10 percent buffered formalin or another recognized and accepted fixative appropriate for the specific tissue(s). Sections from the following tissues from all test animals regardless of their time of death must be properly preserved for routine microscopic examination:

(A) All gross lesions (with a margin of normal tissue);

(B) Brain (minimum of one section each from the forebrain, midbrain, and hindbrain);

(C) Spinal cord (minimum of one section each from cervical, thoracic, and lumbar regions);

(D) Eyes and contiguous Harderian glands;

(E) Pituitary gland;

(F) Major salivary glands, thymus, thyroid with parathyroid, mammary glands, Zymbal's gland (if present);

(G) Oral mucous membrane (including random sections from tongue, buccal, and alveolar mucosa, pharynx, and nasopharynx);

(H) Heart and aorta (three sections from different locations);

(I) Trachea; lungs, with the mainstem bronchi;

(J) Esophagus, stomach, small intestines and large intestine (cecum, colon, and rectum);

(K) Adrenal glands, pancreas, liver (minimum of two lobes), gall bladder (if present), spleen;

(L) Kidneys, urinary bladder;

(M) Representative lymph nodes (including those draining any neoplasm and those with gross changes);

(N) Bone including marrow, from the sternum vertebra and/or tibiofemoral joint;

(O) Skin (sections from similar sites of all animals);

(P) Skeletal muscle;

(Q) For males: testes, prostate, and all other accessory sex organs;

(R) For females: vagina, corpus and cervix uteri, ovaries, and fallopian tubes.

(iii) *Preparation of tissue for microscopic examination.* A pathologist or a technical employee, as specified in § 772.113-1(e)(3)(i), must prepare all specimens for microscopic examination.

(A) *Tissue fixation and trimming.* The technical employee must fix tissues for the appropriate times for the fixative utilized. A pathologist must perform or directly and personally supervise tissue trimming. Routinely, tissues must be trimmed to a thickness of no more than 0.4 cm for subsequent processing. Parenchymal organs must be trimmed to

allow for the largest surface areas possible for subsequent microscopic examination. Hollow organs must be trimmed to allow for a cross section mount from mucosa to serosa. Lymph nodes must be bisected through the hilus, if possible.

(B) *Slide preparation.* A technical employee must cut tissues routinely at a thickness of three to six micra (3 to 6 μ), in no case exceeding 10 μ . All tissues must be stained routinely with hematoxylin and eosin (H&E). EPA encourages the use of special stains appropriate to the specific neoplasm, lesion, or tissue. Multiple sections (step cuts) must be made on each tissue or organ that contains gross evidence of a neoplasm or lesion and on each tissue or organ in which a metastasis may be anticipated. The tester must identify all blocks and microscopic slides by reference to the animal's specific identification number and must preserve and hold them in accordance with § 772.110-1(j)(2).

(iv) *Microscopic examination and evaluation.* (A) Qualified pathologists as described in § 772.113-1(e)(1), must perform the microscopic examination and evaluation with subsequent diagnosis. The same pathologist must examine and evaluate all microscopic slides from all test animals of a given species.

(B) Microscopic examination must be performed on all appropriate tissues described in paragraphs (b)(2)(ii), (b)(2)(v), and (b)(2)(vi) of this section. The pathologist must record, document, and report all microscopic findings including all abnormalities, lesions, neoplasms, metastatic tumors and their anatomic location in accordance with § 772.113-1(k)(2).

(v) *Additional Examinations.* All adverse health effects observed during the course of the study must be examined. When there is clinical evidence of specific toxicologic or pharmacologic effects related to specific target organs, the necropsy and microscopic examinations of the suspected target organs must be conducted in greater detail. For example, when there is clinical evidence of neurologic effects, multiple sections from brain, spinal cord, and nerves must be examined.

(vi) *Special Examinations.* (A) Additional sections must be microscopically examined from a minimum of ten rodent animals selected randomly from the long-term survivors and all nonrodent animals of each test group and in all animals in which clinical or grossly observable evidence of disease is present. If microscopic

examination reveals evidence of disease in any of these tissues, then these target tissues must be examined in all test animals.

(B) The necropsy and microscopic examination must include, in addition to those tissues listed in paragraph (b)(2)(ii) of this section, the following:

(1) *In a feeding study:* nasal cavity; paranasal sinuses; nasopharynx.

(2) *In an inhalation study:* multiple sections of the upper respiratory tract; nares; nasal cavity; paranasal sinuses; hypopharynx-larynx.

(3) *In a dermal study:* skin (normal); skin from sites of skin painting.

§ 772.113-4 Combined chronic effects test standards.

(a) *Study design.* (1) Species and strains.

(2) Sex.

(3) Age at start of test.

(4) Group size.

(5) Control groups.

(6) Route(s) of administration.

(7) Frequency of exposure.

(8) Duration of treatment and observation periods.

(9) Dose levels and dose selection.

(b) *Study conduct.* (1) Clinical procedures.

(2) Pathology procedures.

§ 772.113-4 Combined chronic effects test standards.

(a) *Study design.* (1) *Species and strains.* (i) The tester must use at least three mammalian species: two rodent species, the laboratory mouse and rat, and a nonrodent. The Agency recommends the dog as the nonrodent species. The tester may utilize other suitable nonrodent species after prior approval by EPA.

Note.—Section of the most appropriate nonrodent species should be predicated upon such factors as metabolism, pharmacokinetics, sensitivity or organotropism and other considerations pertinent to the study.

(ii) The sponsor or tester must select the specific strains and/or stocks of test animals to be used. Test animals must be from established strains and/or stocks. As part of the study plan submission, the sponsor must present the rationale for selection of the specific test animals along with historical data on their lifespans and disease types and incidences.

(3) *Sex.* The tester must use equal numbers of males and females at each dose level.

(3) *Age at start of test.* The tester must begin to dose as soon as possible after weaning and environmental acclimatization, but no later than six

weeks of age for rodents and at ten weeks of age for dogs. For nonrodent species, other than the dog, the Agency must approve the age of initial exposure.

(4) *Group size.* Each "test group" of rodents must contain at least 50 animals (plus at least 8 additional for clinical laboratory testing). If the nonrodent species is the dog, then each group must contain at least six animals. The tester must assign animals to individual test groups by a specified randomization procedure. When the study plan calls for interim kill, the tester must increase the number of animals in each group at the start of the study by the number scheduled to be killed before completion of the study. If species other than the laboratory dog and rat are selected, EPA must approve the number of animals per group.

(5) *Control groups.* A tester must use a matched control group which is identical in every respect to the exposed groups except for exposure to the test substance.

Note (i).—If a vehicle is administered to the matched control group and if its toxic properties are not known, the tester may, at his/her discretion, use a negative or untreated control group.

Note (ii).—The EPA may require a Positive Control Group for particular chemicals when the sensitivity of the test animal to the chemical class to which the test substance belongs cannot be documented. When used, the positive control group should serve as an internal quality control to ascertain whether the test animals are sensitive to or respond in a predictable manner to known toxic agents and whether the test strain or species reacts similarly to another strain or species when exposed to the same known standard toxicant.

(6) *Route(s) of administration.* To the extent possible, route(s) of administration should be comparable to the expected or known routes of human exposure. Test rules in Part 771 will specify the route(s) to be employed for a particular chemical. For inhalation and dermal studies, Part 771 will also specify the specific conditions for administering the test substance.

(7) *Frequency of exposure.* The tester must administer test substance and vehicle, if any, by the same route and at the same frequency for the duration of the study. For gavage, the test substance must be administered daily; for feeding, *ad libitum*; for inhalation exposure, a minimum of 5 days per week, 6 hours per day; and for dermal exposure, as specified in the applicable test rule. For gavage, the tester must conduct the dosing at approximately the same time each day.

(8) *Duration of treatment and observation periods.* The tester must administer the test substance to the laboratory mouse for a minimum of 24 months, but no longer than 30 months and to the laboratory rat for at least 30 months. In studies with nonrodents, the tester must administer the test substance for at least 2 years unless the agency authorizes specific exceptions.

(9) *Dose levels and dose selection.* (i) The tester must select doses to permit the evaluation of oncogenic potential, dose-response relationships, and a "no observable effect level" (NOEL).

(A) In the mouse, the tester must use the dose levels as specified in § 772.113-2 (Oncogenic Effects Test Standards).

(B) In the rat, the tester must use at least four or five dose levels (in addition to controls) in each sex of each species.

(1.) The highest dose level must demonstrate toxicologic effects. Mortality in rat groups must not exceed 50 percent before 18 months.

(2.) The tester must also include the dose levels as specified in § 772.113-2 (Oncogenicity Test Standards).

(3.) One dose level must be selected to produce no observable evidence of toxicity other than tumors (NOEL).

(4.) If one of the dose levels required in paragraph B is predicted to induce no observable effects other than tumors (NOEL), a fifth dose is not required.

(C) In the nonrodent, the tester must use the dose levels as specified in § 772.113-3 (Non-Oncogenic Chronic Effects Test Standards).

(ii) The sponsor or tester may add additional dose levels at his/her own discretion. If other dose levels are tested, the sponsor must submit the data from any such discretionary levels to the Agency along with that of the required levels.

(iii) The tester must conduct a preliminary toxicology study of at least 90 days to select the chronic dose levels which meet the requirements of this section. A preliminary toxicology study of at least 90 days that has been completed previously may be submitted for this purpose.

(iv) The sponsor must submit the rationale for dose selection including supporting data from preliminary toxicity studies as a part of the study plan submission.

(b) *Study conduct.* (1) *Clinical procedures.* A veterinarian, as specified in § 772.113-1(e)(2), must ascertain and be responsible for the health status and care of all test animals during the study. A technical employee, as specified in § 772.113-1(c)(3)(ii), must be responsible for the daily observations and care of the test animals.

(i) *Observation of Animals.* (A) Each test animal must be identified by a specific identification number. The tester must account for all animals at the end of the study. The tester must establish and adhere to standard operating procedures for housing, feeding, handling, and care of test animals as specified in § 772.110-1. To further assure minimal loss of animals due to cannibalism or autolysis of tissue, technical employees, as specified above, must observe the test animals at least once every 12 hours throughout the test period. EPA may consider study to be unacceptable for purposes of satisfying a test rule requirement if losses in any test group exceed 5 percent.

(B) Technical employees must conduct routine clinical examinations on all test animals. Clinical examination must include weighing of each animal, at approximately the same time of day, at least once a week during the first 13 weeks, and every two weeks thereafter and observing all animals in relation to food and water consumption, morbidity, mortality and causes thereof, loss of animals for whatever reason, signs of toxicity, pharmacologic effects, and behavioral changes. The observer must record all data in detail at the time of observation.

(ii) *Clinical laboratory testing.* The tester must conduct the following quantitative determinations on a minimum of eight additional predesignated rats in each test group. For nonrodents, all animals in each test group must be utilized. In addition to the tests listed below, if any interim clinical observations suggest that other tests are necessary to assess the health status of test animals, the appropriate tests must be conducted.

Note.—Predesignated means that the animal has been selected to undergo these tests by a specified randomization procedure prior to initiation of the study.

(A) *Hematology.* The tester must conduct the following quantitative hematologic determinations at least at 3, 6, 12, 18, 24 months and at study termination: hematocrit, hemoglobin, erythrocyte count, total and differential leukocyte counts, platelet count, and prothrombin and clotting times. If hematologic evidence of anemia is present, reticulocyte counts must be performed within one week of the determination.

(B) *Blood chemistry.* The tester must conduct the following quantitative blood chemistry determinations at least at 3, 6, 12, 18, 24 months and at study termination: calcium, sodium,

potassium, chloride, serum lactic dehydrogenase, serum glutamic pyruvic transaminase, creatinine kinase, serum glutamic oxaloacetic transaminase, glucose, blood urea nitrogen, creatinine, direct and total bilirubin, cholinesterase, total cholesterol, triglycerides, serum alkaline phosphatase, albumin, globulin, and total protein. In addition to these tests, the tester may conduct other quantitative blood chemistry determinations at his/her discretion, such as uric acid, gammaglutamyl transpeptidase, and ornithine carbamoyltransferase.

(C) *Urinalysis.* The tester must conduct the following quantitative determinations at least at 3, 6, 12, 18, 24 months and at study termination: specific gravity or osmolality, pH, protein, glucose, ketones, bilirubin, and urobilinogen, as well as microscopic examination and analysis of formed elements. Each animal's urine must be evaluated individually.

Note.—Additional Tests. Based on results of concurrent or previous studies on the test substance, its metabolic or degradation products, the tester should conduct such other determinations as may be necessary for adequate toxicological evaluation.

(D) *Function tests.* (1) The tester must determine the functional capacity of the renal, hepatic, pulmonary, and cardiovascular systems.

Note.—Additional determinations must place major emphasis on organ or system function tests. Selection of the appropriate tests must be based on the findings in the subchronic studies or observations made during the course of present study.

(2) Additional quantitative determinations may include, but not necessarily be limited to the following: water dilution and water concentration tests for renal function; total lung capacity, functional residual capacity, and residual volume for pulmonary function; bromsulphalein excretion test for liver function; electrocardiogram, blood pressure, and exercise recovery for cardiovascular function. The tester must perform these evaluations at the beginning (nonrodent only) and at least every 3, 6, 12, 18, 24 months and at study termination.

(E) *Residue analysis.* The tester must measure levels of test substance, major metabolites or other biologically significant metabolites at 3, 6, 12, 18, and 24 months \pm 1 month and at the termination of the study. Tissues analyzed should include all subchronic target tissues and those suggested by pharmacokinetic studies. These analyses must include at least plasma,

24-hour urine, feces and, at time of death or scheduled killing, liver and kidney.

(iii) *Interim kill.* The tester may kill predesignated animals (other than those predesignated for hematological tests in paragraph (b)(1)(ii)(A) of this section) at any time during the study, provided that he/she increases the number of animals started in the study at least by the number scheduled or anticipated to be killed before the end of the study.

(iv) *Killing of test animals.* Animals which appear during the study as moribund, injured, or weak, and not expected to survive to the next observation, must be killed to preclude the loss of tissues from cannibalism and/or autolysis. Animals surviving to the termination of the study must also be killed. A technical employee must obtain blood samples for hematologic determinations from each animal immediately before it is killed or as it is killed. The method used for killing must be humane and the same throughout the study. The tester must select a method of killing which will not produce interfering pathologic lesions.

(2) *Pathology procedures.* A Board-Certified or Board-Eligible pathologist, as specified in § 772.113-1(e)(1)(i), must be responsible for the planning and conduct of all pathology procedures and histopathology examinations, as well as for the final interpretation of all pathology data. Other doctorate pathologists, as specified in § 772.113-1(e)(1)(ii), are also acceptable for conducting procedures in their disciplines of specialization, under the direct supervision of a Board-Certified or Board-Eligible pathologist as specified in § 772.113-1(e)(1)(i).

Note.—Direct supervision means that the supervisor is immediately available for consultation, as necessary. This consultation may be done in person or by telephone.

(i) *Gross necropsy.* (A) Qualified pathologists, as specified in § 772.113-1(e)(1), must perform or personally supervise the necropsies. Other appropriately trained technical employees, as specified in § 772.113-1(e)(3)(i) may assist in the necropsy.

Note.—Personal supervision means that the supervisor is immediately available for consultation at the site.

(B) Animals must be necropsied as soon as possible after death but no later than 16 hours after death. If necropsy cannot be performed immediately after the animal is killed, or found dead, a technical employee must immediately refrigerate (but not freeze) the animal at temperatures low enough to minimize tissue autolysis (4–8° C). Animals found dead upon routine clinical examination

must be necropsied as soon as possible to salvage usable tissues.

(C) The gross necropsy must include an initial physical examination of the external surfaces and all orifices followed by an internal examination of tissues and organs *in situ*. The examination must include the following: external and internal portions of all hollow organs; cranial cavity and external surfaces of the brain and spinal cord; nasal cavity and paranasal sinuses; neck with its associated organs and tissues; thoracic, abdominal, and pelvic cavities with their associated organs and tissues; and the muscular/skeletal carcass. The urinary bladder and lungs must be inflated with a proper fixative to allow for better gross examination and preservation.

(D) The weights of the heart, liver, kidneys, testes, spleen, lung, brain, and adrenals must be recorded after careful dissection and trimming. In addition, the thyroid (with parathyroids) and pituitary must be weighed for each nonrodent. The person responsible for the gross necropsy must record all gross necropsy findings in accordance with § 772.113-1(k)(2).

(ii) *Tissue preservation.* A technical employee must immediately preserve all tissues and organs from all test animals in 10 percent buffered formalin or another recognized and accepted fixative appropriate for the specific tissue(s). Sections from the following tissues from all test animals regardless of their time of death must be properly preserved for routine microscopic examination.

(A) All gross lesions (with a margin of normal tissue);

(B) Brain (minimum of one section each from the forebrain, midbrain and hindbrain);

(C) Spinal cord (minimum of one section each from cervical, thoracic, and lumbar regions);

(D) Eyes and contiguous Harderian glands;

(E) Pituitary gland;

(F) Major salivary glands, thymus, thyroid with parathyroid, mammary glands, Zymbal's gland (if present);

(G) Oral mucous membrane (including random sections from tongue, buccal, and alveolar mucosa, pharynx, and nasopharynx);

(H) Heart and aorta (three sections from different locations);

(I) Trachea; lungs, with the mainstream bronchi;

(J) Esophagus, stomach, small intestine and large intestine (cecum, colon, and rectum);

(K) Adrenal glands, pancreas, liver (minimum of two lobes), gall bladder (if present), spleen;

(L) Kidneys, urinary bladder;

(M) Representative lymph nodes (including those draining any neoplasm and those with gross changes);

(N) Bone including marrow, from the sternum vertebra and/or tibiofemoral joint;

(O) Skin (sections from similar sites of all animals);

(P) Skeletal muscle;

(Q) for males: testes, prostate, and all other accessory organs;

(R) For females: vagina, corpus and cervix uteri, ovaries, and fallopian tubes.

(iii) *Preparation of tissue for microscopic examination.* A pathologist or a technical employee, as specified in § 772.113-1(e)(3)(i), must prepare all specimens for microscopic examination.

(A) *tissue fixation and trimming.* The technical employee must fix tissues for the appropriate times for the fixture utilized. A pathologist must perform or directly and personally supervise tissue trimming. Routinely, tissues must be trimmed to a thickness of no more than 0.4 cm for subsequent processing. Parenchymal organs must be trimmed to allow for the largest surface areas possible for subsequent microscopic examination. Hollow organs must be trimmed to allow for a cross section mount from mucosa to serosa. Lymph nodes must be bisected through the hilus, if possible.

(B) *Slide preparation.* A technical employee must cut tissues routinely at a thickness of three to six micra (3 to 6 μ), in no case exceeding 10 μ . All tissues must be stained routinely with hematoxylin and eosin (H&E). EPA encourages the use of special stains appropriate to the specific neoplasm, lesion, or tissue. Multiple sections (step cuts) must be made on each tissue or organ that contains gross evidence of a neoplasm or lesion and on each tissue or organ in which a metastasis may be anticipated. The tester must identify all blocks and microscopic slides by reference to the animal's specific identification number and must preserve and hold them in accordance with § 772.110-1(j)(2).

(iv) *Microscopic examination and evaluation.* (A) Qualified pathologists as described in § 772.113-1(e)(1), must perform the microscopic examination and evaluation with subsequent diagnosis. The same pathologist must examine and evaluate all microscopic slides from all test animals of a given species.

(B) Microscopic examination must be performed on all appropriate tissues described in paragraphs (b)(2)(ii), (b)(2)(v), and (b)(2)(vi) of this section. The pathologist must record, document, and report all microscopic findings including all abnormalities, lesions, neoplasms, metastatic tumors and their anatomic location in accordance with § 772.113-1(k)(2).

(v) *Additional examinations.* All adverse health effects observed during the course of the study must be examined. When there is clinical evidence of specific toxicologic or pharmacologic effects related to specific target organs, the necropsy and microscopic examinations of the suspected target organs must be conducted in greater detail. For example, when there is clinical evidence of neurologic effects, multiple sections from brain, spinal cord, and nerves must be examined.

(vi) *Special examinations.* (A) Additional sections must be microscopically examined from a minimum of ten rodent animals selected randomly from the long-term survivors and all nonrodent animals of each test group and in all animals in which clinical or grossly observable evidence of disease is present. If microscopic examination reveals evidence of disease in any of these tissues, then these target tissues must be examined in all test animals.

(B) The necropsy and microscopic examination must include, in addition to those tissues listed in paragraph (b)(2)(ii) of this section, the following:

(1) *In a feeding study:* nasal cavity; paranasal sinuses; nasopharynx.

(2) *In an inhalation study:* multiple sections of the upper respiratory tract; nares; nasal cavity; paranasal sinuses; hypopharynx-larynx.

(3) *In a dermal study:* skin (normal); skin from sites of skin painting.

[FRL 1079-8; OTS-046003]

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[40 CFR Part 772]

Good Laboratory Practice Standards for Health Effects

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule and notice of public meetings.

SUMMARY: This action proposes good laboratory practice standards for the development of data on the health effects of chemical substances and mixtures tested in accordance with

testing rules promulgated under section 4 of the Toxic Substances Control Act (TSCA) (Pub. L. 94-469, 90 Stat. 2003, 15 U.S.C., 2801 *et seq.*).

When these proposed good laboratory practice standards are made final, they will be incorporated, as appropriate, into the testing rules on the chemicals for which EPA makes the findings required by Section 4 of TSCA. Compliance with these standards is intended to assure the reliability and adequacy of the submitted data.

The good laboratory practice standards include general standards that apply to all laboratory health effects testing under Section 4 of TSCA.

DATES: Interested persons are invited to submit written comments to EPA on these proposed standards prior to the close of business on August 7, 1979. See also Section VII, public participation, for further information.

PUBLIC MEETINGS: EPA has scheduled public meetings on these proposed standards. These meetings will be held during the week of July 9 in Chicago and during the week of July 16 in Washington, D.C. Additional information on these meetings including dates, times and locations, is presented in Section X, Public Meetings.

ADDRESSES: Written comments should bear the document control number OTS-046002 and should be submitted to: Ms. Joyce A. Barbour, Chemical Information Division, Office of Toxic Substances (TS-793), U.S. Environmental Protection Agency, 401 M Street SW, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Industry Assistance Office, Office of Toxic Substances (TS-799), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, Telephone No.: 800-424-9065 (toll-free); (In Washington, D.C., call 554-1404).

SUPPLEMENTARY INFORMATION: Following is an index to the remainder of this preamble:

- I. Introduction.
- II. Problem of unreliable test data.
- III. EPA's approach to good laboratory practice.
- IV. Proposed good laboratory practice standards
 - a. General—Scope, Purpose and Definitions,
 - b. Test and Control Substances and Mixtures,
 - c. Personnel and Organization,
 - d. Facilities,
 - e. Equipment,
 - f. Testing Facilities Operation,
 - g. Protocol for and Conduct of a Study,
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- VI. Economic analysis.
- VII. Public participation.
- VIII. Other quality assurance issues of concern to EPA.
- IX. Legal basis.
- X. Public meetings.
- XI. Public record.

I. Introduction

Under Section 4(b) of TSCA (90 Stat. 2003, *et seq.* 15 U.S.C., 2601 *et seq.*, EPA is initiating its proposals for standards for the development of test data that are relevant to the determination that particular chemicals present, or do not present, an unreasonable risk to health. The proposal consists of this notice and a separate one entitled "Health Effects Test Standards for Toxic Substances Control Act Test Rules" (hereafter "Health Effects Test Standards") also appearing in today's Federal Register.

In this notice, EPA is proposing general Good Laboratory Practice (GLP) Standards for Health Effects. These GLP Standards are designed to assure the reliability and adequacy of data submitted. These practices are proposed to apply generally to all animal bioassay laboratory health effects studies conducted under Section 4 of TSCA by or on behalf of manufacturers or processors of chemical substances or mixtures.

The separate "Health Effects Test Standards" notice contains specific standards for long-term animal bioassays to test for oncogenic effects and other (non-oncogenic) chronic effects. The preamble to the Health Effects Tests Standards notice also contains a detailed discussion of the statutory and regulatory framework of Section 4 of TSCA. That discussion is incorporated in this notice by reference.

While these GLP Standards will apply generally, EPA will be proposing more specific regulations pertaining to the conduct of laboratory studies in test standards that relate to particular effects or in test rules pertaining to particular chemicals. For example, while these proposed GLP Standards state principles of general applicability relating to care of experimental animals and maintenance of laboratory equipment, the Oncogenic and Non-Oncogenic Chronic Effects Test Standards appearing in the "Health Effects Test Standards" notice deal with issues of specific laboratory practices and experimental design as they relate to chronic effects testing (see proposed § 772.113 of the "Health Effects Tests Standards").

These GLP Standards for Health Effects are proposed as generic standards for testing chemicals subject

to rules under Section 4 of TSCA. In later rulemaking proceedings, EPA will identify chemicals to be tested. In the chemical specific rules, EPA intends to focus on the need to test the chemicals. For example, EPA will determine under Section 4 of TSCA that a chemical (1) may present an unreasonable risk of injury to health or the environment, or will cause significant environmental or human exposure; (2) that there are insufficient data to determine health or environmental effects of the chemical; and (3) that testing is necessary to develop the data. If a chemical meets these prerequisites, a testing rule will be developed that will incorporate, as appropriate, the GLP standards. Once the proposed GLP standards are finalized, EPA is not required to solicit further comment on the general GLP principles in the chemical specific rules. A more detailed explanation of the regulatory framework appears in the separate Federal Register notice on "Health Effects Tests Standards."

EPA intends, at a later date, to propose, as part of these general GLP Standards, specific criteria for other types of health effects testing such as *in vitro* biological studies. In addition, GLP Standards addressing chemical fate and ecological effects testing under TSCA will be proposed at a later date.

EPA is also considering whether these general GLP Standards should be used to provide guidance to persons making submissions to EPA under Section 5 of TSCA. EPA specifically invites comment on the issue of the applicability of these GLP Standards to Section 5 or any other Agency regulatory authority under TSCA.

II. The Problem of Unreliable Test Data

It is apparent that EPA will be evaluating substantial amounts of laboratory data under the authority of Section 4 of TSCA. It has been well documented that government agencies have faced the problem that submitted data may be unreliable or unusable for regulatory purposes. In assessing the need for GLP Standards under TSCA, EPA has drawn heavily on its own experience and that of the U.S. Food and Drug Administration (FDA).

In testimony before both the U.S. Senate Subcommittee on Health (Committee on Labor and Public Welfare) and the U.S. Senate Subcommittee on Administrative Practice and Procedure (Committee on the Judiciary), the Commissioner of the FDA raised questions concerning the integrity of data submitted to FDA in support of the safety of regulated products (7/10/75, 1/20/76, 4/8/76, and

7/19/76). Inspections by FDA of several pharmaceutical houses and contract laboratories led to the discovery of unacceptable laboratory practices that, in turn, called into question the validity of the test data submitted by those sources. The unacceptable practices noted included selective reporting and underreporting of test results, lack of adherence to specified protocols, inadequate qualification and supervision of personnel, poor animal care procedures, poor record-keeping techniques, and the general failure of sponsors to monitor studies. As a result of these findings, FDA proposed Regulations for Good Laboratory Practice (41 FR 51206, November 19, 1976) and published final regulations on December 22, 1978 (43 FR 59986).

Aware of FDA's findings, EPA responded to the problem of questionable data by forming the Toxicology Data Auditing Program within the Agency's Office of Pesticide Programs (OPP). This effort was directed toward toxicity data submitted under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) (7 U.S.C. 136 *et seq.*).

Public hearings to invite comment on the appropriateness of the Agency's approach to data quality assurance for pesticide testing were held in October and November of 1977, in San Francisco, Chicago, and Washington, D.C. Public comment indicated the necessity for such a program and a general concurrence with the Agency's approach.

In March 1978, EPA entered into an Interagency Agreement with FDA that formalized the Agencies' cooperative efforts to establish a coordinated quality assurance program for their various activities (43 FR 14124, April 4, 1978). Under the terms of this agreement, FDA provides inspectional support for EPA's data audits. Since the cooperative program became fully operational, approximately 65 joint audits have been performed. Top priority for auditing has been given to testing facilities that generate chronic toxicity, oncogenicity, teratogenicity, reproduction, and neurotoxicity data in support of petitions for pesticide residue tolerances. In addition, several audits have been done "for cause"—namely, data inconsistencies or purported questionable practices brought to the program management's attention from sources both within and outside the Agency. As a result of this program, the Pesticides and Toxic Substances Enforcement Division (PTSED) of EPA has referred some audited facilities to the Department of Justice for possible,

prosecution. Thus, the audits conducted to date, and the results reported, appear to indicate that testing facilities do not always follow good laboratory practices.

The cooperative efforts of EPA and FDA have been further expanded under a new Interagency Agreement that includes coordinated quality assurance activities for both FIFRA and TSCA.

III. EPA's Approach to Good Laboratory Practice

TSCA authorizes EPA to prescribe such standards as are necessary to assure test data are "reliable and adequate" (See Sections 3(12) and 4(b) of TSCA). To this end, EPA has considered various approaches to assure the quality of submitted data: (1) licensing or certification of laboratories; (2) a voluntary standard-setting scheme promulgated and administered by the private sector; and (3) promulgation of good laboratory practice standards that regulate testing procedures.

A laboratory licensing or certification scheme has been considered for TSCA purposes. The Agency has considered certification schemes for laboratories engaged in air and water quality monitoring under the Safe Drinking Water Act, the Clean Air Act, and the Water Pollution Control Act. Although a certification system is feasible for these analytical facilities, it would not be practical for toxicology laboratories because of the diversity and range of testing capabilities in these facilities. In addition, the quality control procedures for toxicity testing are more complex than those for air and water analysis; therefore, submitted data must be evaluated on a case-by-case basis.

The Agency also has considered the concept of a voluntary standard-setting scheme developed and administered by the industrial community or by scientific societies. Although such private sector programs are recognized as being potentially effective in improving testing practices and are thus to be encouraged, all such schemes are by their nature unenforceable. While it is expected that most laboratories will follow GLP Standards, an enforceable set of standards will provide the incentive to ensure that all laboratories comply.

The good laboratory practice standards approach, then, appears to be the most effective way of handling a problem of such magnitude and seriousness, since it will establish an enforceable program but will not needlessly expend Agency resources on an impractical certification scheme.

IV. Proposed Good Laboratory Practice Test Standards

This proposal sets forth standards for test substance characteristics, including handling and storage; personnel qualifications; and internal laboratory Quality Assurance Unit; administrative and personnel facilities; equipment; testing facilities operation; study design and conduct; records and reports; and inspections of laboratory facilities. In addition, guidance is provided in Appendix A for handling potentially toxic substances, including radioactive materials; for animal care facilities; for administrative and personnel facilities; and for animal care and handling. When evaluating submitted data, EPA will give serious consideration to whether a laboratory complies with the Appendix A Guidelines.

These proposed GLP Standards have been harmonized as much as possible with the GLP regulations promulgated by FDA on December 22, 1978 (43 FR 59986). However, EPA's and FDA's basic approach to regulation of the conduct of a laboratory study differs somewhat. FDA has only general good laboratory practice regulations, which are the equivalent of the standards set forth in this notice. In addition to these general standards, EPA will promulgate more specific standards that relate to particular effects or in test rules pertaining to particular chemicals. As a result, any general requirements of proposed § 772.10-1 set forth in this notice may be qualified by specific standards in specific rules. This notice, therefore, reflects a set of general standards that is common to the needs of both agencies.

EPA's proposal for general GLP Standards also differs from FDA's GLP regulations in the following areas: (1) EPA adds to the definition of "raw data" (Subsection 772.110-1(a)(3)) correspondence relating to planning, conduct and interpretation of the study; (2) in all cases, EPA requires stability testing of the chemical to be tested before the laboratory bioassay is initiated; and (3) EPA requires laboratories to retain certain data longer. In addition, standards contain an Appendix A that provides additional guidance not specifically contained in FDA's regulations. All these differences will be discussed below. Unless differences are specifically noted, each section of the EPA proposed general GLP Standards is substantially the same as the counterpart section in the FDA regulations. Note, however, that EPA does not propose a provision on "Disqualification of Testing Facilities,"

Subpart K of FDA regulations (43 FR 60019).

The preamble to the FDA rules contains 253 separate sections that provide detailed justification for the provisions of those rules. Many sections are also applicable to EPA's proposed GLP standards. These sections will be referenced, as appropriate, in subsequent sections of this preamble, as "FDA/GLP preamble section numbers. * * * " EPA invites comment on all issues presented in its proposed GLP Standards, whether or not the issues have been addressed by FDA.

Note further that since FDA's preamble is applicable only to the general standards proposed in this notice, FDA's preamble does not apply to specific effects testing standards in which EPA may provide more detail than in the general GLP rule. This situation is illustrated by comparing statements in FDA's/GLP preamble sections to EPA's proposed "Health Effects Test Standards" for chronic effects, which appears elsewhere in today's Federal Register. The FDA/GLP preamble notes that in FDA's regulations certain issues are left to the discretion of the testing laboratory or are beyond the scope of the regulations. These issues relate to the following areas: the appropriateness of the test system, determination of the adequacy of each standard operating procedure, contaminant analysis of feed, nutrient analysis, and expiration dates for feed (see FDA/GLP preamble section numbers 66, 135, 164, 165, 166, respectively, at 43 FR 59995-60008). EPA, on the other hand, delineates in the "Health Effects Test Standards" as they relate to chronic effects testing more specific requirements in each of these areas, as well as more detailed standards for study design and conduct, and reporting (see the "Health Effects Test Standards" § 772.113). For example, the FDA/GLP preamble section number 66 states that the "determination of the appropriateness of the test system is a scientific decision beyond the scope of these regulations" (43 FR 59995). In contrast, EPA proposes to require that for oncogenic effects test standards the use of two rodent species—the laboratory mouse and rat (§ 772.113-2(a)(1))—and that for non-oncogenic chronic effects test standards, a laboratory rat and a nonrodent mammalian species must be used (§ 772.113-3(a)(1)). Also, where FDA declines to provide specific guidance on nutrient analysis (FDA/GLP preamble section number 165), EPA provides detailed requirements for the rodent standardized diet in Appendix A of

§ 772.113 of its chronic health effects standards.

a. *General—Scope, Purpose, and Definitions—772.110-1(a)*. EPA's definitions generally conform to FDA's, except with respect to those that relate to the differing scope of the authority of each agency. For example, EPA does not need to define "Application for research or marketing permit" (21 CFR 58.3(e); 43 FR 60014) and EPA's and FDA's definitions relating to "sponsor" of a study differ because of the differing authorities under which each agency regulates. (Compare 21 CFR 58.3(f) at 43 FR 60014, and EPA's proposed 772.110-1(a)(3)). Therefore, many of the sections in the "Definition" part of the preamble to FDA's regulations (FDA/GLP preamble section numbers 17-36) do not apply to EPA's standards. The following sections do apply generally to EPA's regulations: FDA/GLP preamble section numbers 17, 30-37, 43 FR 59990-92.

EPA has added to FDA's definition of "raw data" correspondence relating to the planning, conduct, and interpretation of the study. This issue has arisen as a result of recent FDA laboratory audits in which interpretations of data in lab records were found to be inconsistent with those in reports. FDA has not, as yet, formally addressed this issue, but it has supported this general approach in informal discussions.

b. *Test and Control Substances and Mixtures—772.110-1(b)*. For a more detailed discussion of the issues relating to this section, see FDA/GLP preamble section numbers 168-192, 43 FR 60005-07. Paramount in any toxicology study is the assurance that the test system is properly exposed to the chemical substance being tested. In order to provide this assurance, EPA proposes specific quality assurance standards for test and control substances in this section. These proposed standards relate to the identity, purity, and composition of each batch of the test or control substance and to potential deterioration of the chemical substance during the period of administration.

This section also specifies that procedures be established for proper storage and handling of test and control substances. Standards relate to proper identification and documentation of receipt and distribution of these chemical substances.

Finally, this section addresses mixtures of test or control substances with carriers. Standards relate to determination of uniformity, concentration, and stability of the test or control substance in the mixture.

Proposed § 772.110-1(b) generally conforms to Subpart F of FDA's GLP

regulations (43 FR 60017-18). The major difference between proposed EPA and FDA final GLP regulations is that EPA proposes to require that the stability of a test substance or mixture (including shelf life stability and stability in feeds and/or vehicles) must, in all cases, be established before the initiation of any study while FDA permits concurrent stability testing. Also, EPA requires that each batch of an unstable test substance or mixture must be analyzed before the batch is used in the study. Compare EPA proposed §§ 772.110-1(b)(1)(ii); 772.110-1(b)(3)(i)(B); and 21 CFR sections 58.105(b), 58.113 at 43 FR 60017-18; FDA/GLP Preamble, section numbers 174, 188, 195 at 43 FR 60007. Both agencies still emphasize that determination of stability is an important requirement, but only differ as to timing of the stability determinations.

EPA believes that its proposal on stability testing represents sound laboratory practice. Stability studies are generally of short duration and will not significantly delay the toxicologic evaluation. For example, if a chronic study were to be initiated or even completed before the stability kinetics of the test substance were established and the tested substance was later found to be unstable, the study might have to be repeated, with considerable duplication of effort and delay resulting. For TSCA regulatory purposes, such a delay is considered unacceptable.

c. *Personnel and Organization—772.110-1(c)*. For a more detailed discussion of the issues relating to this section, see FDA/GLP preamble section numbers 50-93, 43 FR 59994-99. The Agency considers adequate training and experience to be key factors in assuring the quality of the data generated. The proposed standard also defines responsibilities for the management of the testing facility, the Study Director, and the laboratory Quality Assurance Unit. The testing facility management is responsible for designating the Study Director, for the existence of a Quality Assurance Unit, and, in general, for assuring that any deviations from these Standards are appropriately reported, documented, and corrected.

A major difference between EPA's and FDA's approach to personnel qualifications is that EPA also will propose more specific requirements in Standards relating to testing of specific effects. In the proposed "Health Effects Test Standards," appearing elsewhere in this Federal Register, EPA proposes specific qualifications for personnel conducting chronic effects studies (772.113-1(b)(2)). FDA has no such counterpart in its regulations and rejects

such specific requirements (see FDA/GLP preamble section number 49, 43 FR 59994). EPA requests comment on the requirements it proposes to impose on persons conducting studies for use by EPA. EPA notes that since these qualifications are testing standards under Section 4 of TSCA, any laboratory that violates the Standards could be held in violation of EPA regulations, or may run the risk of having its data rejected by EPA (See § 770.5, in the "Health Effects Test Standards" notice appearing elsewhere in this Federal Register).

(1) *Study Director*. Before the initiation of a study, the proposal requires that a Study Director be identified and assume ultimate responsibility for the implementation and conduct of the study. Experience has shown that unless responsibility for the proper conduct of a study is assigned to one person, there is potential for conflicting instructions and poor protocol implementation. The Study Director would be responsible for assuring that: the sponsor-approved protocol is followed; test systems are appropriate for the study; personnel involved in the study clearly understand their functions and are qualified to perform them; data are accurately and promptly verified and recorded; health hazards to the test system that appear during the study are recognized and removed; quality assurance procedures are followed; the studies are conducted in a manner that is safe for laboratory personnel; and the required data have been transmitted to the archives for storage.

(2) *Quality Assurance Unit*. In order to assure that quality control procedures are followed, the proposed standards require that testing facility management establish an internal Quality Assurance Unit that will provide an effective mechanism for monitoring ongoing studies.

Both EPA's proposed GLP Standards and the FDA final regulations exclude from GLP inspections Quality Assurance Unit records of findings and problems, or actions recommended and taken (See EPA's proposed § 772.110-1(k); see FDA's final regulation, 21 CFR 58.15 at 43 FR 60015; 21 CFR 58.35(c) at 43 CFR 60016; FDA/GLP preamble section number 91 at 43 FR 59998). EPA, however, is considering whether to subject such records to routine inspection procedures, since inspection of these files would provide the Agency with additional information regarding follow-up procedures and the corrective measures taken by the testing facility management in dealing with problems

associated with the management of the quality assurance unit and the studies it oversees. This type of information may be of considerable value for enforcement purposes. EPA specifically invites comment as to whether all quality assurance unit records, including records of findings and problems, or action recommended and taken, should be subject to routine inspection.

d. *Facilities—772.110-1(d)*. For additional discussion of this section, see FDA/GLP preamble section numbers 94-112, 43 FR 59999-60000. This section of the proposal addresses standards relating to animal facilities, animal supply facilities, facilities for handling test and control substances, laboratory operation areas, specimen and data storage facilities, and administrative and personnel facilities.

EPA differs from FDA in that EPA's GLP Standards contain the following additional guidance in Appendix A:

(1) EPA proposes guidance with regard to structural requirements and environmental control of animal facilities. These conditions may impact the validity of the data generated. As such, specific reference to the Animal Welfare Act is included in the Guidelines provided in Appendix A of this subsection.

(2) EPA proposes specialized guidelines for the handling of volatile agents, hazardous aerosols, radioactive materials, and other potentially toxic substances. Specific reference is made in Appendix A to (1) the Nuclear Regulatory Commission's regulations as set forth in 10 CFR, (2) to the Department of Health, Education and Welfare draft document entitled, "Guidelines for the Laboratory Use of Toxic Substances Posing an Occupational Carcinogenic Risk" (August 1978), and (3) to the International Agency for Research on Cancer document entitled, "A Manual on the Safety of Handling Carcinogens in the Laboratory."

(3) Guidelines for Administrative and Personnel Facilities are also provided in Appendix A. Specific reference is made to OSHA regulations set forth in Title 29 of the CFR.

(4) Guidelines are provided for Animal Care and Handling. EPA is of the opinion that the standards contained in the Federal guidelines and regulations cited in Appendix A and any revisions in them are sufficient to assure the quality of the data generated by a facility; therefore, the Agency has incorporated them by reference in this proposal.

e. *Equipment—772.110-1(e)*. For further detailed discussion of the issues

involved in this section see FDA/GLP preamble section numbers 113-129, 43 FR 60000-01.

This section proposes that laboratories established standards relating to equipment design, maintenance, and calibration and standard operating procedures for routine equipment inspection and standardization. In addition, proposed requirements are specified for the maintenance of written records for all inspection, maintenance, testing, calibrating, and/or standardizing operations. Such records will serve to document the nature of the defect and any remedial action(s) taken.

f. *Testing facilities operation—772.110-1(f)*. For detailed discussion of the issues involved in this section, see FDA/GLP preamble section numbers 130-167, 43 FR 60002-05.

(1) *Standard operating procedures*. In order to ensure the quality and integrity of study data, it is proposed that laboratories establish written standard operating procedures for such areas as transfer, proper placement, identification, and care of animals; receipt, storage, testing, mixing, and administration of the test and control substances; maintenance and calibration of equipment; test system observations; laboratory tests; handling of animals found dead or moribund during a study; necropsy or postmortem examination of animals; collection and identification of specimens; and data handling storage, and retrieval.

(2) *Animal care*. Proper care and handling of test animals are essential to the quality of the data generated. EPA is proposing standards for the isolation and quarantine of sick animals or all animals newly received from outside sources. Such quarantine is believed necessary to preclude transmission of disease to animals already in the facility.

EPA is also proposing standards for animal identification, housing, and environmental conditions. Documentation will be required for periodic feed and water analysis, as well as for the use of any pest control materials. In addition, the Agency believes that further guidance is necessary in the general area of animal handling and care. As such, specific reference is made in Appendix A to the Animal Welfare Act of 1970, as set forth in 9 CFR Part 3. There is no counterpart to Appendix A in FDA's regulations.

g. *Protocol for and Conduct of a Study—770.110-1(g)*. For a detailed discussion of the issues involved in this section, see FDA/GLP preamble section

numbers 193, 194, 196-208, 43 FR 60007-09.

(1) *Protocol*. A written, sponsor-approved protocol is essential to ensure that all operations needed to fulfill the stated objectives of a study are performed. Previous EPA audits have shown that unauthorized deviations from protocols have occurred during the management of some studies, compromising their quality and integrity. This proposed section requires that certain informational components of a protocol be specified and carefully followed.

(2) *Conduct of the study*. This proposed section addresses several problems that have been identified in the area of study management. Adherence to the sponsor-approved protocol and to Agency test standards is required. Requirements relating to specimen identification are included to minimize the assignment of specimens to the wrong test system. It is also proposed that records of postmortem observations be made available when a pathologist is examining a specimen microscopically. This will assist the pathologist in correctly describing the microscopic findings and correlating them with gross observations. EPA also proposes standards for data collection and recording, in order to minimize the loss or inaccuracy of data generated during the management of a study.

h. *Records and reports—772.110-1(j)*. For a detailed discussion of the issues involved in this section, see FDA/GLP preamble section numbers 210-230, 43 FR 60009-10.

(1) *Reporting of study results*. It is proposed that the final report be a complete and accurate representation of actual laboratory experience. EPA intends to publish detailed formatting requirements for these reports in the near future. The Agency proposes in these generic GLP Standards to require that the sponsor include all pertinent results, observations, and conclusions related to a study and that it document fully and completely all the conditions and circumstances under which a study was conducted. This proposed section specifies the informational content of the final report. It proposes that the final report be signed and dated by the Study Director and that the report of each individual scientist or other professional involved in the study be signed and dated by that responsible person. It also proposes that corrections or additions to a final report be in the form of an amendment by the Study Director. Such an amendment must clearly identify that part of the final report that is being amended or corrected and must specify

the reasons for the corrections or additions and be signed and dated by the person responsible for such changes.

(2) *Storage and retrieval of records and data.* Proper storage and ready retrieval of the raw data associated with a study are vital for the reconstruction of that study at a later time. Accessibility to such properly preserved data is of paramount importance to the Agency's auditing effort. This subsection proposes to require that all raw data, documentation, protocols, specimens, and final reports generated in connection with a study be retained in an archive(s) under conditions of storage which minimize deterioration of such documents and specimens and assure their preservation in case of a catastrophic event. This subsection also proposes that an individual be identified or responsible for the archives and that materials retained be indexed by test substance or mixture, test system, data and nature of the study.

(3) *Retention of records.* The proposal would require that every attempt be made by the testing facility or sponsor to retain raw data associated with a study for as long as the study is utilized for regulatory purposes or as long as the quality permits evaluation. Practical limitations, however, dictate that minimum periods of retention be established by regulation. As such, the Agency proposes in this subsection that documentation, records, raw data, and specimens pertaining to a study be retained for a period of at least ten (10) years from the date the study is submitted to the Agency. For relatively unstable wet specimens, or materials, retention is required only as long as the quality of the preparation affords evaluation.

If a testing facility goes out of business, all raw data and other documentation shall be transferred to the archives of the sponsor of the study, and the Agency shall be notified in writing of such a transfer and its specific location. If a facility conducting testing changes ownership or management, the Agency and the Sponsor must be notified and concur with the disposition of the archives.

Storage conditions for temperature sensitive specimens are stressed in this proposed section. Wet tissues, paraffin blocks, and other such specimens are to be stored under conditions which will promote their integrity and usefulness for the required retention period. It is recognized that certain types of specimens do not remain stable and of evaluative quality during storage; therefore, these types will be expected

to be retained only as long as the quality of the preparation affords evaluation.

The Agency proposal differs with FDA with regard to the length of the required raw data and specimen retention period. See FDA/GLP preamble section numbers 225-226, 43 FR 60009-10. Since the EPA may wish to perform a data audit at any time during the marketing life of a chemical, a ten (10) year retention requirement is proposed. EPA will also consider comments relative to longer periods for retention of raw data.

i. *Inspection of testing facilities—772.110-1(k).* In order to assure that data development for the Agency is reliable and accurate, EPA believes that Agency personnel or agents must have the opportunity to inspect on a periodic basis the facility that conducts testing under Section 4 and to inspect (and in the case of records, to copy) all records and specimens required to be maintained. Although inspections on health effects studies will generally be conducted for EPA by FDA inspectors, EPA will pursue enforcement action regardless of the source of information. Any inspection will be conducted at reasonable times and in a reasonable manner, and under procedures to avoid inconvenience or intrusion into the work conducted by the inspected laboratory. Inspections, however, should be performed unannounced in order to insure the integrity of the inspection process. EPA expects that facilities generally will voluntarily permit entry of inspectors. In those circumstances in which facilities refuse entry the rules provide three consequences, explained below. The consequences considered by EPA are based on theories that do not precisely correspond with the theories that support the inspection authority of FDA because of the different statutory authorities under which each agency operates. See FDA/GLP preamble section numbers 39-48, 43 FR 59993-94. In addition, since EPA will promulgate more specific GLP Standards in chemical testing rules, EPA's inspections will in some instances be conducted with a greater level of detail. However, inspectors will be directed only toward tests being conducted under the requirements of TSCA.

Under proposed § 772.110-1(k)(1), EPA may take appropriate enforcement action against any laboratory (including an independent testing facility) that denies EPA entry for inspection purposes. The authority for this rule derives from Section 4(b)(1) of TSCA which directs EPA to promulgate "standards for development of test data." These standards are defined in

Section 3(12)(B) of TSCA to include those requirements necessary to assure that data developed under testing rules are reliable and adequate, and "such other requirements as are necessary to provide such assurance." The Agency feels that lab inspections are necessary to provide this assurance.

Under proposed § 770.5 of the "Health Effects Tests Standards" appearing separately in this edition of the Federal Register, EPA will consider in violation of the Act data submitted by a facility that has not permitted EPA to inspect. The sponsor and/or other person conducting the test may then be liable under the Act for submitting data not in compliance with the rule. The Agency expects that such authority would be used, for example, when the Agency has received data, which it is not able to evaluate under scientific criteria accepted by the Agency.

Finally, by the terms of proposed § 772.110-1(k)(2), EPA will not consider reliable for purposes of indicating that a chemical does not present an adverse environmental or health effect any study performed by a laboratory that refuses entry. This action is separate from any enforcement authority held by the Agency, and derives from the presumption that EPA cannot be assured that the study conducted by a facility that has refused entry has been developed in accordance with the applicable standards. In such circumstances, it is within the Agency's discretion to question the validity of the study. EPA would simply be exercising its responsibility to consider a factor relevant to the weight to be given a study in the evaluation of a chemical. The Agency may, at its discretion, rely for purposes of showing a chemical causes adverse effect upon a study conducted by a laboratory that does not consent to inspections.

The Agency requests comments on these compliance measures. EPA will consider comments on other possible methods which it might adopt or on the advisability of including some or all of the alternatives in the final rule, including comments upon EPA's authority under TSCA to adopt any or all of these compliance measures. Comments are also welcome on the procedures the Agency should use to ensure that laboratory facilities permit entry for inspection purposes and that such entry is made in the least disruptive fashion consistent with EPA's need to assure the reliability of test data.

V. Confidentiality

EPA notes that trade secrets obtained as a result of GLP inspection conducted under these regulations are protected under the provisions of Section 14 of TSCA (15 U.S.C. Section 2613) and 40 CFR, Part 2 (as amended, 43 FR 39997, September 8, 1978). Basically, this means that EPA will not disclose confidential information to the public except in very limited circumstances. Furthermore, EPA will not disclose information claimed to be confidential without prior notice to the submitter, even if EPA believes the information is not confidential.

Subsection 14(b) of TSCA provides that EPA may not withhold from public disclosure, "any health and safety study which is submitted under this Act with respect to * * * any chemical substance or mixture for which testing is required under Section 4 [of TSCA]; * * *" although Section 14(b) does not authorize release of any data which disclose processes used in chemical manufacturing or processing or the portions of a mixture comprised by any chemical substance.

EPA recognizes that a person performing a GLP inspection may require access to information which the sponsor or laboratory may consider to be confidential. If such information has not yet been formally submitted to EPA, or previously requested by EPA under any other authorities of TSCA, the Agency believes that such information is not subject to public disclosure under Section 14(b) of TSCA.

EPA reserves the right to determine whether information claimed to be confidential is in fact entitled to confidential treatment under 4 CFR, Part 2 and also notes that pursuant to Section 14(a) of TSCA confidential information may still be disclosed to the public if necessary to protect health or the environment against unreasonable risk of injury or where relevant in any proceeding under TSCA.

EPA invites comment on its interpretation of Section 14(b). The Agency will also consider comments that Section 14(b) requires greater disclosure than stated in the interpretation.

VI. Economic Analysis

In December 1977, FDA estimated that the total estimated annual costs for domestic, non-governmental laboratories to comply with FDA's GLP regulations (on which EPA patterned its own GLP standards) would be \$32.6 million. The costs of compliance with EPA's GLP requirements will be

determined by the specifics of EPA regulatory programs and the extent to which laboratories have already incurred costs to comply with FDA GLP's. EPA and FDA have been jointly developing GLP regulations to minimize the joint cost of compliance.

EPA believes that additional costs that may be attributed to its GLP Standards are justified, since the Standards are necessary to assure adequate and reliable data for use in determining whether a chemical will present unreasonable risks to health. Lesser standards, as experience shows, could result in a significant reduction in quality of data and serious detriment to the risk assessment process.

VII. Public Participation

During the development of these proposed regulations, a public meeting was held on August 15, 1978, for which an announcement appeared in the Federal Register (43 FR 34841; August 7, 1978). In addition, drafts of these standards were discussed with the EPA's Science Advisory Board on June 22 and August 18, 1978. These meetings were also open to the public and announced in the Federal Register (43 FR 23013, May 30, 1978; 43 FR 32185, July 25, 1978). The Science Advisory Board also solicited public viewpoints to contribute to its critique of drafts of proposed standards.

VIII. Other Quality Assurance Issues of Concern to the Agency

a. *Ecological effects and chemical fate data.* Although this proposed regulation pertains to health effects data, the Agency must also concern itself with the quality of other types of data required under TSCA. The Agency is currently drafting good laboratory practice standards for the conduct of studies for ecological effects and Chemical Fate testing, and is developing strategy for implementing an inspection/audit program involving other governmental institutions which perform these types of tests. Concurrently, EPA is also developing a training program for its own regional enforcement personnel in order to prepare them for their roles in the OTS Quality Assurance Program.

b. *Agency-wide quality assurance effort.* Health and ecological effects as well as monitoring data are filed with the Agency pursuant to several Acts administered by other Offices within EPA. These Acts include, but are not limited to, the Safe Drinking Water Act, the Clean Air Act, the Resource Conservation and Reclamation Act, and the Water Pollution Control Act. The Offices which administer these

mandates have similar concerns regarding the quality of the data submitted pursuant to these Acts. In order to present unified input to inter-Agency and international levels of organization dealing with quality assurance issues, the Office of Toxic Substances will participate in the coordination of the various quality assurance programs within other offices of the Agency.

c. *International implications.* Since much of the data utilized by EPA for regulatory decision making is generated in countries outside the United States, the Agency considers international coordination of quality assurance issues to be of prime importance for the effectiveness of its Program. The Administrator believes that all data utilized by the Agency should be judged by the same standards of quality. The Agency will work within the framework of the Organization of Economic Cooperation and Development (OECD) to carry out this policy.

IX. Legal Basis

These standards are being proposed as mandatory requirements under Sections 3(12)(B) and 4(b)(1)(B) of TSCA.

Section 3(12)(B) of TSCA defines the terms "standards for the development of test data" to include setting of requirements:

To the extent necessary to assure that data respecting such effects and characteristics (relating to the health and environmental consequences of exposure to a particular chemical) are reliable and adequate—

- (i) The manner in which such data are to be developed,
- (ii) The specification of any test protocol or methodology to be employed in the development of such data, and
- (iii) Such other requirements as are necessary to provide such assurance.

Specific authority for adoption of such standards is found in Section 4(b)(1)(B) of TSCA, which specifies that rules adopted pursuant to Section 4(a) shall contain such "standards for the development of test data * * *."

X. Public Meetings

EPA will hold public meetings during the comment period to provide the public an opportunity to present comments and questions.

The Agency plans to hold three public meetings on these proposed standards during the week of July 9 in Chicago and during the week of July 16 in Washington, D.C. The purpose of these meetings is to enable interested persons to provide oral comments on the proposed rulemaking to EPA officials who are directly responsible for

developing the standards and supporting provisions of the rule.

Persons who wish to present their comments at any one of the meetings should contact EPA no later than four days before the meeting date by calling toll-free at 800-424-9065 (in Washington, D.C., call 554-1404), or by writing to the address listed at the beginning of this preamble under "For Further Information Contact."

Presenters are urged, but not required, to submit copies of their statements on the day of the meeting. All such written materials will become a part of EPA's record for this rulemaking. In addition to these written materials, the Agency will include the written transcripts of the public meetings in the public record.

Note.— These are the same meetings at which EPA will receive oral comments on the "Proposed Health Effects Test Standards for Toxic Substances Control Act Test Rules," notice of which appears elsewhere in today's Federal Register.

XI. Public Record

EPA has established a public record for this rulemaking (docket number OTS 046003) which is available for inspection in the OTS Reading Room from 9:00 a.m. to 5:00 p.m. on working days (Room 710E, 401 M Street, S.W., Washington, D.C. 20460). This record includes basic information considered by the Agency in developing this proposal. The Agency will supplement the record with additional information as it is received. The record includes the following categories of information:

(1) U.S. EPA-OTS, "Good Laboratory Practice Standards for Health Effects."

(2) U.S. EPA-OTS, "Proposed Health Effects Test Standards for Toxic Substances Control Act Test Rules": Support Document

(3) Working drafts of the proposed rules and the preamble which were available for public comment.

(4) Correspondence between EPA personnel and persons outside the Agency pertaining to development of the standards and preamble, (This does not include inter- or intra-agency correspondence, unless specifically noted on the index of the rulemaking record).

(5) Minutes, summaries, or transcripts relating to public meetings held to develop the standards.

All publicly available published documents, including FDA's GLP Preamble (43 FR 59986), cited in this preamble are incorporated by reference in the rulemaking record. EPA also incorporates by reference and takes notice of the public record in the FDA/ GLP proceedings on FDA's GLP

regulations, FDA Docket No. 76N-0400. EPA will also accept additional material for the record at any time between this proposal and the final designation of the rulemaking record. EPA will identify the complete rulemaking record on or before the date of promulgation of these regulations as prescribed by TSCA Section 19(a)(3).

Note.— Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Dated: April 27, 1979.

Douglas M. Costle,
Administrator, Environmental Protection Agency.

It is proposed to add Part 772, Subpart B, consisting at this time of § 772.110-1 which reads as follows:

PART 772—STANDARDS FOR DEVELOPMENT OF TEST DATA

Subpart B—Good Laboratory Practice Standards

Sec.
772.110-1 Good laboratory practice standards for health effects.

(a) General.
(1) Scope and purpose.
(2) applicability.
(i) General.
(ii) Studies performed under grants and contracts.

(3) Definitions.
(b) Test and control substances.
(1) Characterization.
(2) Handling.
(3) Mixtures of substances with carrier.
(c) Personnel and organization.

(1) Personnel.
(i) General requirements.
(ii) Specific requirements.
(2) Testing facility management.
(3) Study director.

(4) Quality Assurance Unit.
(d) Facilities.

(1) General.
(2) Animal care facilities.
(3) Animal supply facilities.
(4) Facilities for handling testing and control substances.

(5) Laboratory operation areas.
(6) Specimen and data storage facilities.
(7) Administrative and personnel facilities.
(e) Equipment.

(1) Equipment design.
(2) Maintenance and calibration of equipment.

(f) Testing facilities operation.
(1) Standard operating procedures.
(2) Reagents and solutions.
(3) Animal care.
(g) Protocol for and conduct of a study.
(1) Protocol.

(2) Conduct of a study.
(h)-(i) [Reserved]
(j) Records and reports.
(1) Reporting of study results.
(2) Storage and retrieval of records and data.
(3) Retention of records.
(k) Inspection of a testing facility.

Appendix A

(a) Handling of potentially toxic substances.
(b) Animal care facilities.
(c) Handling of radioactive materials.
(d) Administrative and personnel facilities.
(e) Animal care and handling.

Authority: Section 4, Toxic Substances Control Act (90 Stat. 2006, 15 U.S.C. 2603).

Subpart B—Good Laboratory Practice Standards

§ 772.110-1 Good laboratory practice standards for health effects.

(a) *General.* (1) *Scope and purpose.* This section prescribes good laboratory practice standards for conducting studies relating to health and safety evaluation. Compliance with this section is intended to assure the quality and integrity of health and safety data submitted pursuant to Section 4 of the Toxic Substances Control Act (TSCA) (Pub. L. 94-469, 90 Stat. 2003, 15 U.S.C. 2601 *et seq.*).

(2) *Applicability.* (i) *General.* The standards in this section apply to all health effects data developed and submitted to meet requirements of TSCA Section 4 test rules. In addition, more specific or detailed requirements are specified in specific test standards.

(ii) *Studies performed under grants and contracts.* When a sponsor utilizes the services of a consulting laboratory, contractor, or grantee to perform an analysis or other service, it must notify the consulting laboratory, contractor, or grantee that the service is part of a study that must be conducted in compliance with the provisions of this part.

(3) *Definitions.* The definitions in Part 770 apply to this section. In addition, the following specific definitions apply to this section:

(i) "Test substance" means the specific form of a chemical substance or mixture that is used to develop data to meet the requirements of a TSCA Section 4(a) test rule.

(ii) "Control substance" means any chemical substance or mixture or other material that is administered to the test system in the course of a study for the purpose of establishing a basis for comparison with the test substance.

(iii) "Sponsor" means any manufacturer (including importer) or processor(s) of a chemical substance or

mixture for which testing is required under a TSCA test rule who conducts and/or causes to be conducted health and environmental effects tests required by TSCA test rules and/or submits data developed in accordance with the rule to EPA. "Sponsor" includes any manufacturer or processor who designates a second manufacturer or processor or a tester to develop such health and environmental effects data.

(iv) "Tester" means any person who develops health and/or environmental effects data to meet the requirements of a TSCA test rule, including any sponsor who develops such data and any independent consulting laboratory that develops such data.

(v) "Testing facility" means the persons, premises, and operational units that the tester uses or has used for the development of health and environmental effects data required by TSCA test rules.

(vi) "Person" means any natural person, firm, company, corporation, joint-venture, partnership, sole proprietorship, association, or any other business entity, any State or political subdivision thereof, any municipality, any interstate body and any department, agency, or instrumentality of the Federal government.

(vii) "Test system" means any animal, plant, micro-organism, or subparts thereof, to which the test or control substance or mixture is administered or added for study. "Test system" also includes appropriate groups or components of the system not treated with the test or control substance or mixture.

(viii) "Specimen" means any material derived from a test system for examination or analysis.

(ix) "Raw data" means any laboratory worksheets, records, memoranda, notes, or exact copies thereof, that are the result of original observations and activities of a study and are necessary for the reconstruction and evaluation of the report of that study. In the event that exact transcripts of raw data have been prepared (e.g., tapes which have been transcribed verbatim, dated and verified accurate by signature), the exact copy of exact transcript may be substituted for the original source as raw data. "Raw data" may include photographs, microfilm or microfiche copies, computer printouts, magnetic media, including dictated observations, recorded data from automated instruments, and correspondence relating to the planning, conduct, and interpretation of the study.

(x) "Quality assurance unit" means any person or organizational element,

except the study director, designated by testing facility management to perform the duties relating to quality assurance of the studies.

(xi) "Study director" means individual responsible for the overall conduct of a study.

(xii) "Protocol" means a detailed description of the study and conduct to be followed.

(xiii) "Batch" means a specific quantity or lot of a test or control substance that has been characterized according to paragraph (b)(1)(i) of this section.

(xiv) "Impurity" means a chemical substance which is unintentionally present with another chemical substance.

(b) *Test and control substances.* (1) *Characterization.* (i) The identity, strength, purity, and composition or other characteristics which will appropriately identify the test or control substance must be determined for each batch and must be documented before the initiation of the study. Methods of synthesis, fabrication, or derivation of the test and control substances must be documented by the sponsor or the testing facility.

(ii) The stability of each test or control substance must be determined by the testing facility or by the sponsor before initiation of the study. If because of test or control substance instability, the stability of each batch of test or control substance to be used during the study cannot be determined before use of such batch, standard operating procedures must be established and followed to provide analysis of each batch.

(iii) Each storage container for a test or control substance must be labeled by name, chemical abstract number (CAS) or code number, batch number, expiration date, if any, and storage conditions necessary to maintain the identity, strength, purity, and composition of the test or control substances. Storage containers must be assigned to a particular test substance for the duration of the study.

(iv) For studies longer than 4 weeks, reserve samples from each batch of test and control substances must be retained for the period of time provided by paragraph (j)(3)(i) of this section.

(2) *Handling.* Procedures must be established for a system for the handling of the test and control substances to ensure that:

(i) There is proper storage.

(ii) Distribution is made in a manner designed to preclude the possibility of contamination, deterioration, or damage.

(iii) Proper identification is maintained throughout the distribution process.

(iv) The receipt and distribution of each batch is documented. Such documentation must include the date and quantity of each batch distributed or returned.

(v) In addition to the requirements set forth in paragraphs (b)(2)(i)-(iv) of this section, more detailed procedures for handling of potentially toxic substances are presented as guidelines in Appendix A of this section.

(3) *Mixtures of substances with carriers.* (i) For each test or control substance that is mixed with a carrier, tests by appropriate analytical methods must be conducted:

(A) To determine the uniformity of the mixture and to determine, periodically, the concentration of the test or control substance in the mixture.

(B) To determine the stability of the test and control substances in the mixture. If because of test mixture instability, the stability of each batch of the test mixture cannot be determined before use of such batch, standard operating procedures must be established and followed to provide for periodic analysis of each batch.

(ii) For studies of more than 4 weeks' duration, a reserve sample of each test or control carrier substance mixture must be taken and retained for the period of time provided by paragraph (j)(3)(i) of this section.

(iii) Where any of the components of the test or control substance carrier mixture has an expiration date, that date must be clearly shown on the container. If more than one component has an expiration date, the earliest date must be shown. Storage requirements under paragraph (b)(1) of this section apply also to test or control substance/cARRIER mixtures.

(c) *Personnel and organization.* (1) *Personnel.* (i) *General requirements.* (A) Each individual engaged in the conduct of or responsible for the supervision of a study must have education, training, and experience, or combination thereof, to enable that individual to perform the assigned functions.

(B) Each testing facility must maintain a current summary of training and experience and job description for each individual engaged in or supervising the conduct of a study.

(C) There must be a sufficient number of personnel for the timely and proper conduct of the study according to the protocol.

(D) Personnel must take necessary personal sanitation and health precautions designed to avoid

contamination of test and control substances and test systems.

(E) Personnel engaged in a study must wear clothing appropriate for the duties they perform. Such clothing must be changed as often as necessary to prevent micorbiological, radiological, or chemical contamination of test systems and test and control substances.

(F) Any individual found at any time to have an illness that may adversely affect the quality and integrity of the study must be excluded from direct contact with test systems, test and control substances, and any other operation or function that may adversely affect the study until the condition is corrected. All personnel must be instructed to report to their immediate supervisors any health or medical conditions that may reasonably be considered to have an adverse effect on a study.

(ii) *Specific requirements.* In addition to the personnel requirements as described in paragraph (c)(1)(i) of this section, more specific personnel requirements will be specified in individual test standards.

(2) *Testing facility management.* For each study, testing facility management must:

(i) Designate a study director as described in paragraph (c)(3) of this section before the study is initiated.

(ii) Replace the study director promptly if it becomes necessary to do so during the conduct of a study, and document and maintain such action as raw data.

(iii) Assure that there is a quality assurance unit as described in paragraph (c)(4) of this section.

(iv) Assure that test and control substances or mixtures have been appropriately tested for identity, strength, purity, stability, and uniformity.

(v) Assure that personnel, resources, facilities, equipment, materials, and methodologies are available as scheduled.

(iv) Assure that personnel clearly understand the functions they are to perform.

(vii) Assure that any deviations from these regulations reported by the quality assurance unit are documented and communicated to the study director and if corrective actions are required, they are taken and documented.

(3) *Study director.* For each study, a scientist or other professional of appropriate education, training, and experience, or combination thereof, must be identified as the study director. The study director has overall responsibility for the technical conduct

of the study, as well as for the interpretation, analysis, documentation, and reporting of results, and represents the single point of study control. The study director must assure that:

(i) The protocol, including any change, is approved as provided by paragraph (g)(1) of this section and is followed.

(ii) All data, including observations of all responses of the test system, are accurately recorded and verified.

(iii) Unforeseen circumstances that may affect the quality and integrity of the study are documented when they occur, and corrective action is taken and documented.

(iv) Test systems are as specified in the protocol.

(v) All applicable good laboratory practice regulations are followed.

(vi) All raw data, documentation, protocols, specimens, and final reports are transferred to the archives during or at the close of the study.

(4) *Quality assurance unit.* (i) A testing facility must have a quality assurance unit composed of one or more individuals who must be responsible for monitoring each study to assure management that the facilities, equipment, personnel, methods, practices, records, and controls are in conformance with the regulations in this section. For any given study the quality assurance unit must be entirely separate from and independent of the personnel engaged in the direction and conduct of that study.

(ii) The quality assurance unit must:

(A) Maintain a copy of a master schedule sheet of all studies conducted at the testing facility indexed by test substance and containing, for each study, the test system, nature of study, date study was initiated, current status of each study, name of the sponsor, name of the study director, and status of the final report.

(B) Maintain copies of all protocols pertaining to all studies for which the unit is responsible.

(C) Inspect each phase of a study periodically and maintain written and properly signed records of each periodic inspection showing the date of the inspection, the study inspected, the phase or segment of the study inspected, the person performing the inspection, findings and problems, action recommended and taken to resolve existing problems, and any scheduled date for reinspection. For studies lasting more than 6 months, inspections shall be conducted every 3 months. For studies lasting less than 6 months, inspections must be conducted at intervals adequate to assure the integrity of the study. Any significant problems which are likely to

affect study integrity found during the course of an inspection must be brought to the attention of the study director and management immediately.

(D) Periodically submit to management and the study director written status reports on each study, noting any problems and the corrective actions taken.

(E) Determine that no deviations from sponsor approved protocols or standard operating procedures were made without proper authorization and documentation.

(F) Review the final study report to assure that such report accurately describes the methods and standard operating procedures, and that the reported results accurately reflect the raw data of the study.

(G) Prepare and sign a statement to be included with the final study report, which must specify the dates inspections were made and the dates findings were reported to management and to the study director.

(iii) The responsibilities and procedures applicable to the quality assurance unit, the records maintained by the quality assurance unit, and the method of indexing such records must be in writing and must be maintained. These items including inspection dates, the study inspected, the phase or segment of the study inspected, and the name of the individual performing the inspection must be made available for inspection to authorized employees of the Environmental Protection Agency or of the Food and Drug Administration.

(iv) A designated representative of the Environmental Protection Agency or of the Food and Drug Administration must have access to the written procedures established for the inspection and may request testing facility management to certify that inspections are being implemented, performed, documented and followed-up in accordance with this paragraph.

(v) All records maintained by the quality assurance unit must be kept in one location at the testing facility.

(d) *Facilities.* (1) *General.* Each testing facility must be of suitable size, construction, and location to facilitate the proper conduct of studies. It must be designed so that there is a degree of separation that will prevent any function or activity from having an adverse effect on the study.

(2) *Animal care facilities.* (i) A testing facility must have a sufficient number of animal rooms or areas, as needed, to assure proper:

(A) Separation of species or test systems,

(B) Isolation of individual projects.

(C) Quarantine of animals, and
(D) Routine or specialized housing of animals.

(ii) A testing facility must have a number of animal rooms or areas separate from those described in paragraph (d)(2)(i) of this section to ensure isolation of studies being done with test systems or test and control substances known to be biohazardous, including volatile substances, aerosols, radioactive materials, and infectious agents.

(iii) Separate areas must be provided for the diagnosis, treatment, and control of laboratory animal diseases. These areas must provide effective isolation for the housing of animals either known or suspected of being diseased, or of being carriers of disease, from other animals.

(iv) When animals are housed, facilities must exist for the collection and disposal of all animal waste and refuse or for safe sanitary storage of waste before removal from the testing facility. Disposal facilities must be provided and operated to minimize vermin infestation, odors, disease hazards, and environmental contamination.

(v) Animal facilities must be designed, constructed, and located so as to minimize disturbances that interfere with the study.

(vi) In addition to the requirements as described in paragraphs (d)(2)(i)-(v) of this section, more detailed guidance on animal care facilities is given in Appendix A of this section.

(3) *Animal supply facilities.* There must be storage areas for feed, bedding, supplies, and equipment. Storage areas for feed and bedding must be separated from areas housing the test systems and must be protected against infestation or contamination. Refrigeration must be provided for perishable supplies or feed.

(4) *Facilities for handling test and control substances.* (i) As necessary to prevent contamination or mixups, there must be separate areas for:

(A) Receipt and storage of the test and control substances.

(B) Mixing of the test and control substances with a carrier, e.g., feed.

(C) Storage of the test and control substance/carrier mixtures.

(ii) Storage areas for the test or control substance and test and control mixtures must be separate from areas housing the test systems and must be adequate to preserve the identity, strength, purity, and stability of the substances and mixtures.

(5) *Laboratory operation areas.* (i) Separate laboratory space must be provided for the performance of the

routine procedures required by studies, including specialized areas for performing activities such as aseptic surgery, intensive care, necropsy, histology, radiography, and handling of biohazardous materials.

(ii) Separate space must be provided for cleaning, sterilizing, and maintaining equipment and supplies used during the course of the study.

(iii) In addition to the requirements described in paragraphs (d)(s)(i)-(ii) of this section, more detailed guidance on handling of radioactive materials is given in Appendix A of this section.

(6) *Specimen and data storage facilities.* Space must be provided for archives, limited to access by authorized personnel only, for the storage and retrieval of all raw data and specimens from completed studies.

(7) *Administrative and personnel facilities.* (i) There must be space provided for the administration, supervision, and direction of the testing facility.

(ii) Separate space must be provided for locker, shower, toilet, and washing facilities.

(iii) In addition to the requirements in paragraphs (d)(7)(i)-(ii) of this section, more detailed guidance on administrative and personnel facilities is given in Appendix A of this section.

(e) *Equipment.* (1) *Equipment design.* Automatic, mechanical, or electronic equipment used in the generation, measurement, or assessment of data and equipment used for facility environmental control must be of appropriate design and adequate capacity to function according to the protocol and must be suitably located for operation, inspection, cleaning, and maintenance.

(2) *Maintenance and calibration of equipment.* (i) Equipment must be adequately inspected, cleaned, and maintained. Equipment used for the generation, measurement, or assessment of data must be adequately tested, calibrated, and/or standardized.

(ii) The written standard operating procedures required under paragraph (f)(1) of this section must set forth in sufficient detail the methods, materials, and schedules to be used in the routine inspection, cleaning, maintenance, testing, calibration, and/or standardization of equipment, and must specify remedial action to be taken in the event of failure or malfunction of equipment. The written standard operating procedures must designate the person responsible for the performance of each operation, and copies of the standard operating procedures must be made available to laboratory personnel.

(iii) Written records must be maintained of all inspection, maintenance, testing, calibrating, and/or standardizing operations. These records, containing the date of the operation, must describe whether the maintenance operations were routine and followed the written standard operating procedures. Written records must be kept of nonroutine repairs performed on equipment as a result of failure and malfunction. Such records must document the nature of the defect, how and when the defect was discovered, and any remedial action taken in response to the defect.

(f) *Testing facilities operation.* (1) *Standard operating procedures.* (i) A testing facility must have written standard operating procedures setting forth study methods that management is satisfied are adequate to insure the quality and integrity of the data generated in the course of a study. All deviations in a study from standard operating procedures must be authorized by the study director and must be documented in the raw data. Significant changes in established standard operating procedures must be properly authorized in writing by management.

(ii) Standard operating procedures must be established for, but not limited to, the following:

(A) Animal room preparation.

(B) Animal care.

(C) Receipt, identification, storage, handling, mixing, and method of sampling of the test and control substances.

(D) Test system observations.

(E) Laboratory tests.

(F) Handling of animals found moribund or dead during study.

(G) Necropsy of animals or postmortem examination of animals.

(H) Collection and identification of specimens.

(I) Histopathology.

(J) Data handling, storage, and retrieval.

(K) Maintenance and calibration of equipment.

(L) Transfer, proper placement, and identification of animals.

(iii) Each laboratory area must have immediately available laboratory manuals and standard operating procedures relative to the laboratory procedures being performed, e.g., toxicology, histology, clinical chemistry, hematology, teratology, necropsy. Published literature may be used as a supplement to standard operating procedures.

(iv) A historical file of standard operating procedures, and all revisions

thereof, including the dates of such revisions, must be maintained.

(2) *Reagents and solutions.* All reagents and solutions in the laboratory areas must be labeled to indicate identity, titer or concentration, storage requirements, and expiration date. Deteriorated or outdated reagents and solutions must not be used.

(3) *Animal care.* (i) There must be standard operating procedures for the housing, feeding, handling, and care of animals.

(ii) All newly received animals from outside sources must be placed in quarantine until their health status has been evaluated and documented. This evaluation must be in accordance with acceptable veterinary medical practice.

(iii) At the initiation of a study, animals must be free of any disease or condition that might interfere with the purpose or conduct of the study. If, during the course of the study, the animals contract such a disease or condition, the diseased animals must be isolated. If necessary, these animals may be treated for disease or signs of disease provided that such treatment does not interfere with the study. The diagnosis, authorizations of treatment, description of treatment, and each date of treatment must be documented and must be retained.

(iv) Warm-blooded animals, excluding suckling rodents, used in laboratory procedures that require manipulations and observations over an extended period of time or in studies that require the animals to be removed from and returned to their home cages for any reason (e.g., cage cleaning, treatment, etc.), must each receive appropriate identification (e.g., tattoo, toe clip, color code, ear tag, ear punch, etc.). All information needed to specifically identify each animal within an animal housing unit must appear on the outside of that unit.

(v) Animals of different species must be housed in separate rooms when necessary. Animals of the same species, but used in different studies, should not ordinarily be housed in the same room when inadvertent exposure to control or test substances or animal mixup could affect the outcome of either study. If such mixed housing is necessary, adequate differentiation by space and identification must be made.

(vi) Animal cages, racks and accessory equipment must be cleaned and sanitized at appropriate intervals.

(vii) Feed and water used for the animals must be analyzed periodically to ensure that contaminants known to be capable of interfering with the study and reasonably expected to be present

in such feed or water are not present at levels above those specified in the protocol. Documentation of such analyses must be maintained as raw data.

(viii) Bedding used in animal cages or pens must not interfere with the purpose or conduct of the study and must be changed as often as necessary to keep the animals dry and clean.

(ix) The use of cleaning and pest control materials must be documented. Cleaning and pest control materials that interfere with the study must not be used.

(x) In addition to the requirements as described in paragraphs (f)(3)(i)-(ix) of this section, more detailed guidance for proper animal care is given in Appendix A of this section.

(g) *Protocol for and conduct of a study.* (1) *Protocol.* (i) Each study must have a sponsor-approved protocol that clearly indicates the objectives and all methods for the conduct of the study. The protocol must contain but not necessarily be limited to the following information:

(A) A descriptive title and statement of the purpose of the study.

(B) Identification of the test and control substance by name, chemical abstract (CAS) number or code number.

(C) The name and address of the sponsor including the sponsor's project manager. The name and address of the testing facility at which the study is being conducted.

(D) The proposed starting and completion dates.

(E) Justification for selection of the test system.

(F) Where applicable, the number, body weight range, sex, source of supply, species, strain, substrain, and age of the test system.

(G) The procedure for identification of the test system.

(H) A description of the study design, including the methods for control of bias.

(I) A description and/or identification of the diet used in the study as well as solvents, emulsifiers and/or other materials used to solubilize or suspend the test or control substances before mixing with the carrier. The description must include specification for acceptable levels of contaminants that are reasonably expected to be present in the dietary materials and are known to be capable of interfering with the purpose or conduct of the study if present at levels greater than established by the specifications.

(J) The route of administration and the reason for its choice.

(K) Each dosage level, expressed in milligrams per kilogram of body weight or other appropriate units, of the test or control substance to be administered and the method and frequency of administration.

(L) Method by which the degree of absorption of the test and control substances by the test system will be determined if necessary to achieve the objectives of the study.

(M) The type and frequency of tests, analyses, and measurements to be made.

(N) The records to be maintained.

(O) The date of approval of the protocol by the sponsor and the signature of the study director.

(P) A statement of the proposed statistical methods to be used.

(ii) All changes in or revisions of the sponsor approved protocol and the reasons therefore must be documented, signed by the study director, dated, and maintained with the protocol.

(iii) In addition to the protocol requirements as described in paragraphs (g)(1)(i)-(ii) of this section, additional protocol requirements will be specified in individual test standards.

(2) *Conduct of a study.* (i) The study must be conducted in accordance with the protocol.

(ii) The test systems must be monitored in conformity with the protocol.

(iii) Specimens must be identified by test system, study, nature, and date of collection. This information must be located on the specimen container or must accompany the specimen in a manner that precludes error in the recording and storage of data.

(iv) Records of gross findings for a specimen from postmortem observations must be available to a pathologist when examining that specimen histopathologically.

(v) All data generated during the conduct of a study, except those that are generated as direct computer input, must be recorded directly, promptly, and legibly in permanent ink. All data entries must be dated on the day of entry and signed or initialed by the person entering the data. Any change in entries must be made so as not to obscure the original entry, must indicate the reason for such change, and must be dated and signed or identified at the time of the change. In computer driven data collection systems, the individual responsible for direct data input must be identified at the time of data input. Any change in computer entries must be made so as not to obscure the original entry, must indicate the reason for change, and must be dated and the

responsible individual must be identified.

(h)-(i) [Reserved].

(j) *Records and reports.* (1) *Reporting of study results.* (i) A final report must be prepared for each study in accordance with the EPA reporting requirements. The reports must include, but not necessarily be limited to, the following:

(A) Name and address of the facility performing the study and the dates on which the study was initiated and completed.

(B) Objectives and procedures stated in the sponsor-approved protocol, including any changes in the original protocol including justification(s).

(C) Statistical methods employed for analyzing the data.

(D) The test and control substances identified by name, chemical abstract (CAS) number or code number, strength, purity, and composition or other appropriate characteristics.

(E) Stability of the test and control substances under the conditions of administration and storage.

(F) A description of the methods used.

(G) A description of the test system used. Where applicable, the final report must include the number of animals used, sex, body weight range, source of supply, species, strain and substrain, age, and procedure used for identification.

(H) A description of the dosage, dosage regimen, route of administration, and duration.

(I) A description of all circumstances that may have affected the quality or integrity of the data.

(J) The name of the study director, the names of other scientists or professionals, and the names of all supervisory personnel, involved in the study.

(K) A description of the transformations, calculations, or operations performed on the data, a summary and analysis of the data, and a statement of the conclusions drawn from the analysis.

(L) The signed and dated reports of each of the individual scientists or other professionals involved in the study.

(M) The locations where all specimens, raw data, and the final report are to be stored.

(N) The statement prepared and signed by the quality assurance unit as described in paragraph (c)(4)(ii)(G) of this section.

(ii) The final report must be signed by the study director.

(iii) Corrections or additions to a final report must be in the form of an amendment by the study director. The

amendment must clearly identify that part of the final report that is being added to or corrected and the reasons for the correction or addition, and must be signed and dated by the person responsible.

(iv) In addition to the Reporting requirements in paragraphs (j)(1)(i)-(iii) of this section, additional Reporting requirements will be specified in individual test standards.

(2) *Storage and retrieval of records and data.* (i) All raw data, documentation, protocols, specimens, and final reports generated as a result of a study must be retained and indexed.

(ii) There must be an archive(s) for orderly storage and expedient retrieval of all raw data, documentation, protocols, specimens, and interim and final reports. Conditions of storage must minimize deterioration of the documents or specimens in accordance with the requirements for the time period of their retention and the nature of the documents or specimens. Tissue blocks must be separated from specimen slides by a fire resistant barrier. A testing facility may contract with commercial archives to provide a repository for all material to be retained. Raw data and specimens may be retained elsewhere provided the archive(s) have specific reference to those other locations.

(iii) An individual must be identified as responsible for the archives.

(iv) Only authorized personnel must enter the archives. Those who enter, must sign in and out, identify data removed and returned and dates removed and returned.

(v) Material retained or referred to in the archives must be indexed by test substance or mixture, date of study, test system, and nature of study.

(vi) In addition to the Storage and Retrieval of Records and Data requirements as described in paragraphs (j)(2)(i)-(v) of this section, additional requirements will be specified in individual test standards.

(3) *Retention of records.* (i) Record retention requirements set forth in this subsection do not supercede the record retention requirements of any other regulations in this chapter.

(ii) Except as provided in paragraph (j)(3)(iii) of this section, documentation records, raw data, and specimens pertaining to a study and required to be made by this part must be retained in the archive(s) of the testing facility or sponsor for at least 10 years from the date the study is submitted to the Agency.

(iii) Wet specimens, samples of test or control substances, samples of test or control substance/carrier mixtures and

specially prepared material (e.g., histochemical, electron microscopic, blood mounts, teratological preparation, and uteri from dominant lethal mutagenesis tests), which are relatively fragile and differ markedly in stability and quality during storage, must be retained only as long as the quality of the preparation affords evaluation. In no case must retention be required for a longer period than that set forth in paragraph (j)(3)(i) of this section.

(iv) The master schedule sheet, copies of protocols, and records of quality assurance inspections, as required by paragraph (c)(4)(iii) of this section must be maintained by the quality assurance unit as an easily accessible system of records for the period of time specified in paragraph (j)(3)(ii) of this section.

(v) Summaries of training and experience and job descriptions, required to be maintained by paragraph (c)(1)(i)(B) of this section must be retained along with all other testing facility employment records for the length of time specified in paragraph (j)(3)(i) of this section.

(vi) Records and reports of the maintenance and calibration and inspection of equipment, as required by paragraph (e)(2)(ii) and (iii) of this section, must be retained for the length of time specified in paragraph (j)(3)(i) of this section.

(vii) If a facility conducting testing or an archive contracting facility goes out of business, all raw data, documentation, and other material specified in this section must be transferred to the archives of the sponsor of the study. The Agency must be notified in writing of such a transfer and its specific location. If a facility conducting testing or an archive contracting facility changes ownership or management, the Agency and the sponsor must be notified and concur with the disposition of the archives.

(k) *Inspection of a testing facility.* (1) A testing facility must permit an authorized employee of the Environmental Protection Agency or of the Food and Drug Administration, at reasonable times and in a reasonable manner, to inspect the facility and to inspect (and in the case of records, also to copy) all records and specimens required to be maintained regarding studies within the scope of this section. The records inspection and copying requirements shall not apply to quality assurance unit records of findings and problems, or to action recommended and taken.

(2) The Environmental Protection Agency will not consider reliable for purposes of showing that a chemical

substance or mixture does not present a risk of injury to health or the environment any data developed by a testing facility that refuses to permit inspection. The Agency, at its discretion, may for purposes of showing adverse effects rely upon studies conducted by laboratories refusing inspection. The determination that a study will not be considered does not however, relieve the sponsor of a required test of the obligation under any applicable statute or regulation to submit the results to the Environmental Protection Agency.

Appendix A

This Appendix provides guidance on certain issues related to Good Laboratory Practices for Health Effects. Information or methods contained in this Appendix apply to all health effects studies in Part 772.

(a) *Handling of Test Substances.* To minimize possible adverse effects on the health of testing facility personnel from exposure to toxic test substances, testing facilities and personnel should use the following documents (or revisions of these documents) as guidelines for the handling of potentially toxic test substances: the DHEW Toxicology Subcommittee document for Carcinogen Standards (August 1978) entitled, "Guidelines for the Laboratory Use of Toxic Substances Posing a Potential Occupational Carcinogenic Risk," and the IARC document entitled, "A Manual on the Safety of Handling Carcinogens in the Laboratory."

(b) *Handling of Radioactive Materials.* If radioactive materials are to be used, special facilities or areas and licensing of persons to possess and use radioactive materials should be in accordance with regulations set forth by the Nuclear Regulatory Commission in Title 10 of the Code of Federal Regulations or the requirements of an agreement State.

(c) *Administrative and Personnel Facilities.* Testing facilities should be in accordance with regulations set forth by the Occupational Safety and Health Administration under Title 29 of the Code of Federal Regulations.

(d) *Animal Care and Handling.* (1) All animals under the care of the testing facility should be housed, fed, and handled in compliance with standards set forth by the Animal Welfare Act of 1970 under 9 CFR Part 3, or, where standards are not indicated in 9 CFR Part 3, animals should be housed, fed, and handled in a manner consistent with the recommendations in HEW Publication No. (NIH) 74-23, "Guide for the Care and Use of Laboratory Animals," and a report of the Committee on Long-Term Holding of Laboratory Animals," and a report of the Committee on Long-Term Holding of Laboratory Rodents (ILAR News, Vol. XIX, No. 4, 1976). All animals for which there are no specific regulations should be housed, fed, and handled in compliance with Subpart E of 9 CFR Part 3, the recommendations of HEW Publication No. (NIH) 74-23 and the National Academy of Sciences/National Research Council, "Standards for the Breeding, Care and Management of Syrian Hamsters (1960); Laboratory Mice (1962); Laboratory Rats

(1962); Guinea Pigs (1964); Laboratory Cats (1964); Laboratory Dogs (1964); and Laboratory Rabbits (1965)." Should these guidelines and standards be revised, animal care should be in accordance with such revisions.

(2) Animal cages, racks and accessory equipment should be cleaned and sanitized at appropriate intervals as recommended in HEW Publication No. (NIH) 74-23 and any revision of this document.

(e) *Animal Care Facilities.* Structural requirements and environmental control of rooms or areas for animals should comply with the provisions of the Animal Welfare Act of 1970 (Pub. L. 91-579) as set forth in 9 CFR Part 3. Space requirements for the primary enclosure should also be as specified in 9 CFR Part 3, except that where specifications regarding housing of certain species of animals are not set forth in the recommendations contained in HEW Publication No. (NIH 74-23) entitled, "Guide for the Care and Use of Laboratory Animals," and a report of the Committee on Long-Term Holding of Laboratory Rodents (ILAR News, Vol. XIX, No. 4, 1976) should be followed including any revisions of these documents.

[FRL 1079-5; OTS-046004]

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Federal Register

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

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

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
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DOT/OPSO	USDA/REA		DOT/OPSO	USDA/REA
CSA	MSPB*/OPM*		CSA	MSPB*/OPM*
	LABOR			LABOR
	HEW/FDA			HEW/FDA

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

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

*NOTE: As of January 1, 1979, the Merit Systems Protection Board (MSPB) and the Office of Personnel Management (OPM) will publish on the Tuesday/Friday schedule. (MSPB and OPM are successor agencies to the Civil Service Commission.)

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

- ENVIRONMENTAL PROTECTION AGENCY**
- 21019 4-9-79 / New Mexico Air Quality Control Act
- HOUSING AND URBAN DEVELOPMENT DEPARTMENT**
Office of Assistant Secretary for Community Planning and Development—
- 21227 4-9-79 / Comprehensive planning assistance; approval and disapproval of land use and housing element requirement (retroactive to September 5, 1978)
Office of Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection—
- 21014 4-9-79 / Mobil home procedural and enforcement regulations; extension of conditional approval time for State Administrative Agencies
- NUCLEAR REGULATORY COMMISSION**
- 26060 5-4-79 / Uranium fuel cycle impacts from spent fuel reprocessing and radioactive waste management; extension of interim fuel cycle rule to 5-15-79 [originally published at 42 FR 13803, 3-14-77]
- TREASURY DEPARTMENT**
Customs Service—
- 17653 3-23-79 / Fasteners from Japan

Next Week's Deadlines for Comments on Proposed Rules

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Agricultural Marketing Service—
- 25460 5-1-79 / Avocados grown in South Florida and imported avocados; grade and maturity requirements; comments by 5-17-79
Commodity Credit Corporation—
- 22081 4-13-79 / 1979 Crop peanut loan and purchase program; comments by 5-14-79
Farmers Home Administration—
- 21994 4-12-79 / Rural housing loans and grants; technical and supervisory assistance; comments by 5-14-79
Rural Electrification Administration—

- 14607 3-13-79 / 15 and 25 kV primary underground power cable specifications; comments by 5-14-79

COMMERCE DEPARTMENT

- National Oceanic and Atmospheric Administration—
- 18031 3-26-79 / Stone crab fishery; emergency regulations; comments by 5-19-79
- 19445 4-3-79 / Stone crab fishery; plan approved and proposed regulations; comments by 5-19-79
Patent and Trademark Office—

- 16022 3-16-79

- 22478 3-16-79 / Compulsory counterclaims in trademark opposition and cancellation proceedings; comments by 5-15-79 (2 documents)

COMMODITY FUTURES TRADING COMMISSION

- 16443 3-19-79 / Application fees for registration with Commission to be nonrefundable; comments by 5-18-79

ENERGY DEPARTMENT

- 22608 4-16-79 / Weatherization assistance program provisions; comments by 5-16-79
Economic Regulatory Administration—

- 19423 4-3-79 / Butane and natural gasoline deregulation; comments by 5-18-79

- 17644 3-29-79 / Natural gas transportation certificates, displacement of fuel oil; comments by 5-17-79

- 20444 4-5-79 / Participation of gasoline retailers in State set-aside programs in mandatory petroleum allocation; comments by 5-15-79
Federal Energy Regulatory Commission—

- 22090 4-13-79

- 23093 4-18-79 / Determination of incentive rate of return, tariff, and related issues for the Alaska Natural Gas Transportation System; reply comments by 5-16-79 (2 documents)

- 22751 4-17-79 / Voluntary annual reporting of electric utility conservation activities; comments by 5-17-79

ENVIRONMENTAL PROTECTION AGENCY

- 22126 4-13-79 / Air pollution; approval and promulgation of nonattainment plan for S.D.; comments by 5-14-79

- 22130 4-13-79 / Air pollution; delayed compliance orders; North Carolina; Georgia-Pacific Corp.; comments by 5-14-79

- 22131 4-13-79 / Air pollution; delayed compliance orders; North Carolina; Pittsburg Plate Glass Industries; comments by 5-14-79

- 22129 4-13-79 / Air pollution; delayed compliance orders; North Carolina; True Temper Corp.; comments by 5-14-79
- 22127 4-13-79 / Air pollution; approval and promulgation of nonattainment plan for Wyo.; comments by 5-14-79
- 15743 3-15-79 / Attainment status designations; comments by 5-14-79
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- 22752 4-17-79 / Food additive tolerances for insecticide propargite; comments by 5-17-79
- 23094 4-18-79 / Pesticide chemicals in or on raw agricultural commodities; tolerances for the pesticide chemical Methyl 3-[(dimethoxyphosphinyloxy]butenoate; comments by 5-18-79
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- 22652 4-16-79 / College Housing Program for Fiscal Year 1979; loan provisions; comments by 5-16-79
- 22472 4-16-79 / PHA-owned projects—demolition of structures or disposition of real property; comments by 5-16-79
- 22472 4-16-79 / Public housing agencies; energy audits and energy conservation measures and individual metering of utilities; comments period extended to 5-16-79
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- 22812 4-17-79 / Ophthalmic Devices Section of the Ophthalmic Ear, Nose, and Throat; and Dental Devices Panel, Washington, D.C. (partially open) 5-14-79; (open) 5-15-79
- Health Resources Administration—
- 23320 4-19-79 / National Advisory Council on Health Professions Education, Hyattsville, Md. (partially open), 5-14 through 5-16-79
- Health Services Administration—
- 23320 4-19-79 / Maternal and Child Health Research Grants Review Committee, Rockville, Md. (partially open), 5-16 through 5-18-79
- National Institute of Education—
- 25702 5-2-79 / Laboratory and Center Operations Review Panel, Washington, D.C. (open), 5-18 and 5-19-79
- National Institutes of Health—
- 19541 4-3-79 / Arthritis, Metabolism, and Digestive Diseases National Advisory Council, Bethesda, Md. (partially open), 5-17 and 5-18-79
- 24237 4-24-79 / Artificial Kidney—Chronic Uremia Advisory Committee, Bethesda, Md. (open), 5-15 through 5-17-79 (Originally published at 44 FR 21079, 4-9-79)
- 21080 4-9-79 / Cancer Research Manpower Committee, New Orleans, La. (partially open), 5-13-79

- 19539 4-3-79 / Child Health and Human Development National Advisory Council, Bethesda, Md. (partially open), 5-14 and 5-15-79
- 19540 4-3-79 / Neurological and Communicative Disorders and Stroke National Advisory Council, Planning Subcommittee, Bethesda, Md. (partially open), 5-14-79
Office of the Secretary—
- 26168 5-4-79 / Fund for the Improvement of Postsecondary Education Board of Advisory, Elkridge, Md. (closed), 5-17 through 5-19-79
- 23321 4-19-79 / President's Committee on Mental Retardation, San Diego, Calif. (open), 5-15 through 5-17-79
- 24232 4-24-79 / Rights and Responsibilities of Women, Secretary's Advisory Committee, Washington, D.C. (open), 5-17 and 5-18-79
- INTERIOR DEPARTMENT**
Land Management Bureau—
- 24942 4-27-79 / California Desert Conservation Area Advisory Committee, Palm Springs, Calif. (open), 5-17 and 5-18-79
- 21084 4-9-79 / Casper District Grazing Advisory Board, Casper, Wyo. (open), 5-14-79
- 15792 3-22-79 / Colorado wilderness inventory, open house, Craig, Colo. (open), 5-15-79
- 17592 3-22-79 / Colorado wilderness inventory, open house, Grand Junction, Colo. (open), 5-16-79
- 24644 4-26-79 / Public lands in Nevada, open house, Battle Mountain, Nev., 5-14-79
- 24644 4-26-79 / Public lands in Nevada, open house, Ely, Nev., 5-18-79
- 24644 4-26-79 / Public lands in Nevada, open house, Tonopah, Nev., 5-14-79
- 24644 4-26-79 / Public lands in Nevada, open house, Yerington, Nev., 5-16-79
- 22202 4-13-79 / Shoshone District Grazing Advisory Board, Shoshone, Idaho (open), 5-16-79
National Park Service—
- 21716 4-11-79 / Committee for the Preservation of the White House, Washington, D.C. (open), 5-18-79
Surface Mining Reclamation and Enforcement Office—
- 25277 4-30-79 / Advisory Committee on Mining and Mineral Resources Research, Washington, D.C. (open), 5-15-79
- INTERSTATE COMMERCE COMMISSION**
- 25457 5-1-79 / Revisions to preliminary report of number of employees of Class I railroads, and monthly Report of Employees, Service and Compensation, forms A and B, Washington, D.C. (open), 5-15-79
- JUSTICE DEPARTMENT**
- 25952 5-3-79 / Juvenile Justice and Delinquency Prevention National Advisory Committee, Boston, Mass. (open), 5-16 through 5-19-79
- LABOR DEPARTMENT**
Labor Statistics Bureau—
- 24959 4-27-79 / Business Research Advisory Council, Washington, D.C. (open), 5-16-79
- 21385 4-10-79 / Price Indexes Committee of the Business Research Advisory Council, Washington, D.C. (open), 5-15-79
- 21385 4-10-79 / Wages and Industrial Relations Committee of the Business Research Advisory Council, Washington, D.C. (open), 5-15-79
Occupational Safety and Health Administration—
- 24959 4-27-79 / Construction Safety and Health Advisory Committee, Harvey, Ill. (open), 5-16 and 5-17-79
- MARINE MAMMAL COMMISSION**
- 24353 4-25-79 / Marine Mammal Commission and Committee of Scientific Advisors on Marine Mammals, San Diego, Calif. (partially open), 5-17 through 5-19-79
- NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**
- 23134 4-18-79 / NASA Advisory Council (NAC), Historical Advisory Committee (open), 5-14-79
- NATIONAL SCIENCE FOUNDATION**
- 24653 4-26-79 / Advisory Committee for Behavioral and Neural Sciences, Subcommittee on Linguistics, Washington, D.C. (open and closed), 5-13 through 5-15-79
- 24652 4-26-79 / Advisory Committee for Behavioral and Neural Sciences, Subcommittee on Psychobiology, Washington, D.C. (open and closed), 5-16 through 5-18-79
- 24652 4-26-79 / Advisory Committee for Chemistry, Washington, D.C. (open and closed), 5-14 and 5-15-79
- 24652 4-26-79 / Advisory Committee for Physiology, Cellular, and Molecular Biology, Subcommittee on Human Cell Biology, Washington, D.C. (closed), 5-18-79
- 24653 4-26-79 / Advisory Committee for Social Sciences, Subcommittee on History and Philosophy of Science, Washington, D.C. (open and closed), 5-18 and 5-19-79
- 25710 5-2-79 / DOE/NSF Nuclear Science Advisory Committee 1979 Instrumentation Subcommittee, Washington, D.C. (open), 5-19 and 5-20-79
- 25710 5-2-79 / International Programs Advisory Committee, Washington, D.C. (closed), 5-18-79
- OCEANS AND ATMOSPHERE NATIONAL ADVISORY COMMITTEE**
- 25707 5-2-79 / Meeting, Kingston, R.I. (open), 5-17 and 5-18-79
- SMALL BUSINESS ADMINISTRATION**
- 21723 4-11-79 / Region VII Advisory Council, Des Moines, Iowa (open), 5-14-79
- STATE DEPARTMENT**
Office of the Secretary—
- 25962 5-3-79 / Law of the Sea Advisory Committee, Washington, D.C. (partially open), 5-18 and 5-21-79
- 21724 4-11-79 / Shipping Coordinating Committee, Committee on Ocean Dumping, Washington, D.C. (open), 5-15-79
- 24672 4-26-79 / Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea, Washington, D.C. (open), 5-17-79
- 25552 5-1-79 / Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea, Washington, D.C. (open), 5-17-79
- TRANSPORTATION DEPARTMENT**
Coast Guard—
- 22542 4-16-79 / National Boating Safety Advisory Council, Placida, Fla. (open), 5-15 and 5-16-79
Federal Aviation Administration—
- 21926 4-12-79 / Informal airspace meeting, Portland, Oreg. (open), 5-17-79
- 21926 4-12-79 / Informal airspace meeting, Seattle, Wash. (open), 5-15-79
- 21926 4-12-79 / Informal airspace meeting, Spokane, Wash. 5-16-79
- 23402 4-19-79 / Pittsburgh, Pa. terminal control area, Coraopolis, Pa. (open), 5-16-79
- 23401 4-19-79 / Proposed terminal area, Atlanta, Ga., 5-17-79
- 21927 4-12-79 / Radio Technical Commission for Aeronautics Separation Study Review Group, Washington, D.C. (open), 5-15 and 5-16-79
Federal Highway Administration—
- 15630 3-14-79 / Highway beautification program, Washington, D.C. (open), 5-15-79
National Highway Traffic Safety Administration—

25282 4-30-79 / Biomechanics Advisory Committee, Washington, D.C. (open), 5-15 and 5-16-79

[Originally published at 44 FR 15823, Mar. 15, 1979]

15822 3-15-79 / Regional Child Restraint Workshops, San Antonio, Tex. (open), 5-14 and 5-15-79

TREASURY DEPARTMENT

Office of the Secretary—

24681 4-26-79 / Tax Court Nominating Commission, Washington, D.C. (closed), 5-17-79

VETERANS ADMINISTRATION

17251 3-21-79 / Wage Committee, Washington, D.C., 5-17-79

WORLD HUNGER, PRESIDENTIAL COMMISSION

24661 4-26-79 / International Policy Subcommittee, New York, N.Y. (open), 5-18-79

Next Week's Public Hearings

AGING, FEDERAL COUNCIL

23124 4-18-79 / Special Aging Populations Committee, Jackson, Miss., 5-14-79

CIVIL RIGHTS COMMISSION

22139 4-13-79 / Legal developments, Washington, D.C., 5-14-79

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration—

25484 5-1-79 / New England Fishery Management Council; Atlantic Groundfish (Cod, Haddock, and Yellowtail Flounder), Portland, Me., 5-16-79

Office of the Secretary—

24624 4-26-79 / East and West Flower Gardens; on environmental impact statement, Lake Charles, La., 5-17-79

24624 4-26-79 / East and West Flower Gardens; on environmental impact statement, Galveston, Tex., 5-18-79

ENERGY DEPARTMENT

24800 4-26-79 / Federal energy management and planning programs, San Francisco, Calif., 5-18-79

21654 4-11-79 / Residential conservation service, Denver, Colo., 5-14-79

21654 4-11-79 / Residential Conservation Service Program, Seattle, Wash., 5-17-79

16546 3-19-79 / Residential Conservation Service Program, Salt Lake, City, Utah, 5-14 through 5-16-79

Economic Regulatory Administration—

22022 4-12-79 / Electric utilities, assistance and intervention in State regulatory proceeding, Denver, Colo., 5-17-79

18856 3-29-79 / Financial assistance programs for State utility regulatory commissions and eligible nonregulated electric utilities, Denver, Colo., 5-16-79

18448 3-27-79 / Grants for Officers of Consumer Services, Denver, Colo., 5-15-79

22974 4-17-79 / Submission of reports to DOE by State regulatory authorities and nonregulated electric and gas utilities, Denver, Colo., 5-17-79

ENVIRONMENTAL PROTECTION AGENCY

22807 4-17-79 / California State motor vehicle pollution control standards, San Francisco, Calif., 5-17 and 5-18-79

[Rescheduled at 44 FR 23575, 4-20-79]

22131 4-13-79 / Gaseous emissions regulations for 1983 and later model year heavy duty engines, Ann Arbor, Mich., 5-14 and 5-15-79

18138 3-26-79 / Land fill disposal of solid waste; Washington, D.C., 5-15-79 and Houston, Tex., 5-17-79

INTERIOR DEPARTMENT

Office of the Secretary—

22823 4-17-79 / Proposed Central Utah project municipal and industrial system, Herber City, Utah, 5-17-79

22823 4-17-79 / Proposed Central Utah project municipal and industrial system, Orem, Utah, 5-18-79

22823 4-17-79 / Proposed Central Utah project municipal and industrial system, Salt Lake City, Utah, 5-18-79

INTERNATIONAL TRADE COMMISSION

25940 5-3-79 / Carbon Steel Plate from Poland; Washington, D.C., 5-24-79

JUSTICE DEPARTMENT

Law Enforcement Assistance Administration—

25527 5-1-79 / MAC Crime Prevention and Education Program, Inc., Milwaukee, Wis., 5-14 and 5-15-79

LABOR DEPARTMENT

Mine Safety and Health Administration—

23544 4-20-79 / Loading of explosives into blast holes through drill steel or other devices, Miami, Fla., 5-18-79

POSTAL RATE COMMISSION

12306 3-6-79 / Express mail metro service, 1978, Washington, D.C., 5-18-79

Documents Relating to Federal Grants Programs

This is a list of documents relating to Federal grants programs which were published in the Federal Register during the previous week.

DEADLINES FOR COMMENTS ON PROPOSED RULES

26298 5-4-79 / HEW/OE—Direct grant programs, State-administered programs, and general administrative regulations; comments by 7-3-79; workshops and hearings 5-17, 6-4 through 6-8-79, and 6-11-79

APPLICATIONS DEADLINES

25694 5-2-79 / HEW/HDSO—Child welfare research and demonstration grant program for demonstration projects to assess State's foster family services systems; apply by 7-2-79 for FY 1979 grant funds, and by 1-30-80 for FY 1980 grant funds

25696 5-2-79 / HEW/HDSO Child welfare research and demonstration grant program for projects to demonstrate the planning and initiation of a comprehensive emergency services program; apply by 7-2-79 for FY 1979 grant funds, and by 1-30-80 for FY 1980 grant funds

25511 5-1-79 / HEW/HDSO—Regional adoption resources centers demonstration program—Announcement No. 13652-791; apply by 7-18-79

25821 5-2-79 / HEW/OE—Citizen education for cultural understanding program awards; apply by 6-18-79

MEETINGS

25895 5-3-79 / Commerce/NOAA—Sea Grant Review Panel, Rockville, Md. (open), 5-30 and 5-31-79

26168 5-4-79 / HEW—Board of Advisors to the Fund for the Improvement of Postsecondary Education (closed), 5-17 through 5-19-79

25709 5-2-79 / NSF—Mathematical and Computer Sciences Advisory Committee; Computer Science Subcommittee, Washington, D.C. (partially open), 5-21 through 5-23-79

25708 5-2-79 / NSF—Memory and Cognitive Processes Subcommittee, Washington, D.C. (closed), 5-21 and 5-22-79

25709 5-2-79 / NSF—Molecular Biology Subcommittee, Washington, D.C. (closed), 5-21 and 5-22-79

25708 5-2-79 / NSF—Molecular Biology Subcommittee, Washington, D.C. (closed), 5-24 and 5-25-79

- 25707 5-2-79 / NSF—Physiology, Cellular, and Molecular Biology Advisory Committee; Cell Biology Subcommittee, Washington, D.C. (closed), 5-21 through 5-23-79
- 25708 5-2-79 / NSF—Physiology, Cellular, and Molecular Biology Advisory Committee; Genetic Biology Subcommittee, Washington, D.C. (closed), 5-24 through 5-26-79
- 25709 5-2-79 / NSF—Sensory Physiology and Perception Subcommittee, Washington, D.C. (closed), 5-23 and 5-24-79
- 25709 5-2-79 / NSF—Social Sciences Advisory Committee; Geography and Regional Science Subcommittee, Washington, D.C. (closed), 5-21-79
- 25708 5-2-79 / NSF—Sociology Subcommittee, Washington, D.C. (closed), 5-24 and 5-25-79

OTHER ITEMS OF INTEREST

- 26067 5-4-79 / DOE/FERC—Time limit for Commission action on research, development and demonstration programs
- 25812 5-2-79 / EPA—Grants for construction of publicly-owned treatment works; protests of grantee procurement actions; subject index list of regional administrator protest determinations issued during 1978, republication [Originally published at 44 FR 20283, April 4, 1979]
- 25476 5-1-79 / HEW/CDC—Comprehensive Public Health Services; decision to develop health incentive grants regulations
- 25820 5-2-79 / HEW/OE—Citizen education for cultural understanding program
- 25476 5-1-79 / HEW/PHS—Preventive Health Service Programs; intention to develop regulations on formula grants
- 25534 5-1-79 / LSC—Consideration of grant applications submitted by various legal service agencies (2 documents)
- 25706 5-2-79 / LSC—Grants and contracts; California; comments invited
- 25706 5-2-79 / LSC—Grants and contracts; North Carolina; comments invited

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

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