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HIGHLIGHTS OF THIS ISSUE

This listing does not affect the legal status of any document published in this issue. Detailed table of contents appears inside.

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FEDERAL REGISTER

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List of CFR Parts Affected

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears following the Notices section of each issue beginning with the second issue of the month.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1972, and specifies how they are affected.

Presidential Documents

Title 3—The President

PROCLAMATION 4131

Display of the Flag at United States Customs Ports of Entry

By the President of the United States of America

A Proclamation

The flag of the United States should be one of the first things seen at our Customs ports of entry, both by American citizens returning from abroad and by travelers from other countries.

As the symbol of our country and our freedoms, the national colors of the United States provide a welcome greeting of warm promise.

Many people, however, enter our country at night when the flag is not flown, because of the nearly universal custom of displaying it only from sunrise to sunset.

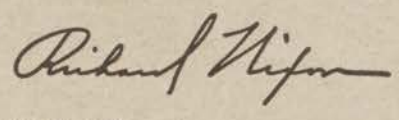
Authority exists to amend that custom. A Congressional joint resolution of June 22, 1942 (56 Stat. 377), as amended (36 U.S.C. 173–178), permits the flag to be displayed at night "upon special occasions when it is desired to produce a patriotic effect."

I believe it is appropriate that returning citizens and visitors from other countries be welcomed by our flag whether they arrive at their ports of entry by night or by day.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby proclaim that the flag of the United States of America shall hereafter be displayed at all times during the day and night, except when the weather is inclement, at United States Customs ports of entry which are continually open.

The rules and customs pertaining to the display of the flag, as set forth in the joint resolution of June 22, 1942, as amended, are hereby modified accordingly.

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



[FR Doc.72–7097 Filed 5–5–72; 3:02 pm]

Rules and Regulations

Title 6—ECONOMIC STABILIZATION

Chapter III—Price Commission

PART 300—PRICE STABILIZATION

Calculation of Productivity Gains by Manufacturers and Construction Contracts

Correction

In F.R. Doc. 72-6727, appearing at page 8941, in the issue of Wednesday, May 3, 1972, the following changes should be made to Appendix III:

1. On page 8942, in the first column, the 15th entry now reading "Guided missiles and space _____ Vehicles, completely assembled", should read "Guided Missiles and Space Vehicles, completely assembled".

2. Also on page 8942, in column 3, the first figure for the fourth entry "Biological products", now reading "3831", should read "2831".

3. On page 8943 in column 1, the second figure for the 45th entry "Electronic computing equipment", now reading "8.6", should read "8.7".

4. On the same page 8943 in column 1, the second figure of the 47th entry "Scales and balances", now reading "3.7", should read "3.6".

5. Under the footnote at the end of Appendix III on page 8943, under the second NOTE in the second line, the second word "(sic)", should read "(SIC)".

Title 7—AGRICULTURE

Chapter II—Food and Nutrition Service, Department of Agriculture

PART 271—PARTICIPATION OF STATE AGENCIES AND ELIGIBLE HOUSEHOLDS

Food Stamp Program

On February 17, 1972, there was published in the FEDERAL REGISTER (37 F.R. 3545-6) a notice of proposed rule making setting forth a proposal to revise the regulations governing the Food Stamp Program (7 CFR Part 271) to prescribe the procedure to be used by State agencies in submitting requests for the concurrent operation of the Food Stamp Program and the Food Distribution Program (7 CFR Part 250) in the same area, and to provide guidelines which will be used by the Department in passing upon such requests. Interested persons were given 30 days in which to submit comments, suggestions, or objections to the proposed amendment. The Department has decided to adopt the proposed amendment and to make it effective upon publication in the FEDERAL REGISTER. This statement summarizes the suggestions and objections from a total of nine interested parties and explains the reasons for the Department's decision.

Six comments were received suggesting that funds from the Department be made available for carrying out the administrative responsibilities of the State agency in the handling and issuing of federally donated foods. The legislative history of the 1971 amendments to the Food Stamp Act of 1964 (Public Law 91-671), which authorized the concurrent operation of both programs in the same area at the request of the State agency, indicated that the full cost of the handling and issuing of federally donated foods in a food stamp area should be at the expense of the State agency or local government.

One suggestion was to include some specific criteria to be applied by the Secretary in determining the need for concurrent operation of both programs in the same area. The specification of detailed criteria would not be desirable because it could result in unduly restricting the bases for a showing of need by State agencies for the concurrent operation of both programs in an area.

Another recommendation was to eliminate the provision that eligibility standards in a concurrent operation area will be the same for both programs. Identical eligibility standards are needed in order to permit households to have freedom of choice with respect to which of the two programs they desire. Further, certification under two sets of standards would impose additional administrative burdens on State agencies. Therefore, the procedure for implementing simultaneous operations provide that all households will be certified for food stamps and then the household will have the option of purchasing food stamps or receiving commodities.

One respondent suggested that a State agency be given an opportunity to comment on the "information obtained by the Department from other sources" which may be used in determining if the conditions in an area necessitate the concurrent operation of both programs. The last paragraph of the amendment provides that the State agency will be informed in writing of the Secretary's decision and the reasons therefor. At that time, if the State agency feels that any information obtained by the Department from other sources is not valid or relevant, it may pursue the matter further with the Department.

After giving further consideration to the above comments, the Department has decided to adopt the proposed amendment published in the FEDERAL REGISTER of February 17, 1972. The amendment is hereby adopted without change and is set forth below.

In § 271.1, paragraph (a) (3) is revised to read as follows:

§ 271.1 General terms and conditions for State agencies.

(a) *Federally donated foods.* * * *

(3) On request of the State agency, under the following conditions:

(i) Factual information showing the need for concurrent operation of both programs in the same area is submitted by the State agency to the Secretary of Agriculture together with proposed amendments to the State agency's plan of operation which shall set forth, among other things, that:

(*a*) No funds received from this Department will be used in carrying out the administrative responsibilities of the State agency in the handling and issuing of federally donated foods;

(*b*) The household eligibility requirements and certification procedures prescribed in this subchapter will be applied by the State agency in determining the eligibility of all applicant households whether for the Food Stamp Program or for federally donated foods;

(*c*) The State agency will establish controls which will prevent any household from participating in the program and also simultaneously receiving household distribution of federally donated foods; and

(ii) The Secretary determines that conditions in the area are such that the concurrent operation of both programs is needed in order to effectively provide food assistance to low income households in the area, and that the proposals of the State agency for local administration will meet the need and otherwise satisfy the requirements of this subparagraph (3). Such determination will be based upon all relevant information available, including that provided by the State agency as well as information obtained by the Department from other sources.

The State agency will be informed in writing of the Secretary's decision and the reasons therefor.

* * * * *

(78 Stat. 703, as amended; 7 U.S.C. 2011-2025)

Effective date. This amendment shall be effective on the date of its publication in the FEDERAL REGISTER (5-9-72).

NOTE: The reporting and/or recordkeeping requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

RICHARD LYNG,
Assistant Secretary.

MAY 4, 1972.

[FR Doc.72-7042 Filed 5-8-72;8:50 am]

Chapter IX—Agricultural Marketing Service (Marketing Agreements, and Orders; Fruit, Vegetables, Nuts), Department of Agriculture

[Lemon Reg. 531, Amdt. 1]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910; 36 F.R. 9061), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this amendment until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restriction on the handling of lemons grown in California and Arizona.

(b) *Order, as amended.* The provision in paragraph (b) (1) of § 910.831 (Lemon Regulation 531, 37 F.R. 8669) during the period April 30, 1972, through May 6, 1972, is hereby amended to read as follows:

§ 910.831 Lemon Regulation 531.

* * * * *

(b) *Order.* (1) * * * 265,000 cartons.

* * * * *

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

Dated: May 3, 1972.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72–7019 Filed 5–8–72;8:47 am]

Title 12—BANKS AND BANKING

Chapter V—Federal Home Loan Bank Board

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

[No. 72–537]

PART 563—OPERATIONS

Selection of Depositary

MAY 2, 1972.

Resolved that, notice and public procedure having been duly afforded (37 F.R. 6114) and all relevant material presented or available having been considered by it, the Federal Home Loan Bank Board, upon the basis of such consideration, determines that it is advisable to amend § 563.34 of the rules and regulations for Insurance of Accounts (12 CFR 563.34) for the following purposes:

1. To require prior approval of the Federal Savings and Loan Insurance Corporation for the establishment of any depositary relationship where a "controlling person" of an insured institution (as defined in such regulation) is an officer, partner, director, or trustee of the depositary or the owner of 10 percent or more of the depositary's stock;

2. To remove the requirement for prior approval with respect to a depositary relationship where an employee of an insured institution, or the spouse of such employee, is so connected with the depositary;

3. To clarify the Board's intention that the requirement for prior approval apply in the case of an existing depositary relationship if an "interlock" (as defined in such regulation) between the insured institution and the depositary occurs subsequent to the establishment of such depositary relationship;

4. To change the "grandfather" date for existing depositary relationships from December 28, 1970, to July 1, 1972; and

5. To exempt any depositary relationship with a Federal Home Loan Bank.

Accordingly, the Federal Home Loan Bank Board hereby amends said § 563.34 by revising paragraph (a) thereof to read as follows, effective July 1, 1972:

§ 563.34 Selection of depositary.

(a) Except with the prior written approval of the Corporation, as provided in paragraph (b) of this section, and except as is otherwise provided in this subparagraph, no insured institution may (1) establish a depositary relationship on or after July 1, 1972, with a depositary with which it has an interlock; or (2) maintain an existing depositary relationship if an interlock with such depositary occurs on or after July 1, 1972. Any depositary arrangement involving an interlock existing prior to July 1, 1972, may be continued on and after such date unless such arrangement has been specifically disapproved by the Corporation. The provisions of this section shall not apply to a depositary relationship between an insured institution and a Federal Home Loan Bank. For the purposes of this section, an "interlock" will be deemed to exist between an insured institution and a depositary whenever any officer, director, or controlling person of the insured institution, or attorney regularly serving the institution in the capacity of attorney at law, or the spouse of any of the foregoing, is an officer, partner, director, or trustee of the depositary or the owner of 10 percent or more of the depositary's stock; and, for such purposes, the term "controlling person" shall mean any person or entity owning or holding 10 percent or more of the stock or voting rights in an insured institution or otherwise having the power, directly or indirectly, to direct or cause the direction of the management or policies of an insured institution.

* * * * *

(Secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended; 12 U.S.C. 1725, 1726, 1730. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

[SEAL] JACK CARTER,
Secretary.

[FR Doc.72–7043 Filed 5–8–72;8:50 am]

Title 14—AERONAUTICS AND SPACE

Chapter II—Civil Aeronautics Board

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER–731, Amdt. 10]

PART 202—TERMS, CONDITIONS, AND LIMITATIONS OF CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY; INTERSTATE AND OVERSEAS ROUTE AIR TRANSPORTATION

Maximum Layover Time at Restricted Intermediate Points

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 2d of May 1972.

In notice of proposed rule making EDR–211,[1] the Board proposed to amend Part 202 of the Economic Regulations (14 CFR Part 202) to increase, from 45 minutes to 1 hour, the maximum layover time for passenger flights at restricted intermediate points classified as "large hub" cities by the Federal Aviation Administration: *Provided, however,* That such increased layover time was to be available only to single-plane through flights. Pursuant to the notice, com-

[1] EDR–211, Sept. 2, 1971 (36 F.R. 18111).

ments were filed by Delta Air Lines, Inc. (Delta), Eastern Air Lines, Inc. (Eastern), and United Air Lines, Inc. (United). Eastern and United support the proposed rule. Delta, whose petition initiated this rule making, supports the substance of the rule as proposed, but request two modifications to the provisions therein.

Upon consideration of the comments, the Board has determined, for the reasons set forth hereinafter and in EDR–211, to adopt the rule as proposed, but without the said proviso. Except as modified herein the tentative findings set forth in the explanatory statement of EDR–211 are incorporated by reference and made final.

This proceeding was instituted pursuant to a petition by Delta for rule making to amend § 202.6(a) so as to increase the permissible layover time at restricted intermediate points from 45 minutes to 1 hour 15 minutes, or alternatively, to limit such increase to airports in cities classified as "large hub" by the Federal Aviation Administration. The Board granted Delta's petition only in part, namely, by proposing to amend § 202.6(a) to increase the permissible layover time at restricted intermediate points on through passenger flights to 1 hour at "large hub cities," and instituted the subject rule making to effect this amendment. As elsewhere discussed, the Board also limited the proposed increase in layover time to through flights performed with a single aircraft. In its comments on EDR–211, Delta reiterates its request to allow a maximum of 1 hour and 15 minutes for layover of restricted flights at "large hub" restricted intermediate points. However, no new matters have been presented which persuade us to depart from our earlier determination to limit the proposed increase to 1 hour, and we adhere to that determination.

Delta now requests alternatively that 1 hour 15 minutes be specifically allowed for layovers of restricted flights at Atlanta. In support of this alternative request, Dela maintains, inter alia, (1) that daily patterns of intraline directly connecting service between medium-sized cities in the southern tier States and cities in other areas of the Nation require that a large number of flights be on the ground in Atlanta at the same time; (2) that these "connecting service complexes" involve not only connections between local flights which originate or terminate at Atlanta but also involve cross-over connections between through flights; (3) that the through flights which arrive the earliest in each "connecting complex" must remain on the ground in Atlanta sufficiently long to allow passengers to connect between (to and from) those flights and flights scheduled to arrive later; and (4) that whatever may be true at other cities, the foregoing operational factors require Delta to layover restricted flights at Atlanta for more than 1 hour.[2]

We will not grant Delta's alternative request. Delta has advanced no persuasive reason why the factors which prompted the Board to limit the proposed increase in layover time to 1 hour—namely, improvements in ground servicing facilities and techniques and the infrequent necessity to off-load and on-load the entire aircraft at the intermediate point—are not equally applicable to layovers at Atlanta.

As previously indicated, in EDR–211 the Board tentatively determined to limit the proposed increase in permissible layover time to through flights performed with single aircraft. In its comments, Delta states that it follows the "time-honored" practice of scheduling "change-of-gauge" service, and it requests that the Board apply the increased layover time to "change-of-gauge" flights as well as to those situations "where the same aircraft is used on the incoming and outgoing portions of the flight." Delta maintains that since "change-of-gauge" scheduling lowers the capacity offered over a restricted segment, more ground time must be scheduled for layovers on through change-of-gauge flights than on through single-plane flights, in order to achieve off-loading and on-loading of all through passengers, baggage and cargo. On the other hand, Eastern contends that limitation of the maximum layover time to through single-plane flights, as proposed by the Board, is essential to preservation of the through-service concept. In Eastern's view, without such limitation, any increase in permissible layover time will facilitate "operations where the public buys a supposed through service intended by a certificate and receives only a connecting operation."[3]

Upon reconsideration of the tentative views which we set forth in EDR–211, we have determined not to limit the increase in layover time to single-plane through flights. On through flights which involve substitutions of equipment at intermediate points, all through passengers and their baggage, along with all through cargo and mail, must be transferred from the originating aircraft to the substitute aircraft. It therefore seems reasonable to allow as much ground time to be scheduled for layovers on such change-of-plane through flights as on through flights performed with a single aircarft.

Finally, we again emphasize—as we did in EDR–211—that we do not pass, in this narrow rule making proceeding, on the legality of practices involving a substitution of equipment at restricted intermediate points.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends § 202.6(a) of the Economic Regulations (14 CFR Part 202), effective June 6, 1972, to read as follows:

§ 202.6 Provisions as to scheduled stops.

(a) With respect to a flight carrying any passengers in addition to the crew members, a scheduled stop at a point within the continental United States shall not be scheduled to exceed 45 minutes on any flight if the origination or termination of such flight at such point is prohibited by any restriction in the certificate: *Provided,* That where the scheduled stop is at a point which is specified as a "large hub" city in the most recent edition of "Airport Activity Statistics of Certificated Route Carriers," the scheduled stop shall not be scheduled to exceed 1 hour.

* * * * *

(Secs. 204(a) and 401 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 754 (as amended by 76 Stat. 143); 49 U.S.C. 1324 and 1371)

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK, *Secretary.*

[FR Doc.72–7028 Filed 5–8–72;8:49 am]

[Reg. ER–732; Amdt. 4]

PART 208—TERMS, CONDITIONS, AND LIMITATIONS OF CERTIFICATES TO ENGAGE IN SUPPLEMENTAL AIR TRANSPORTATION

Definition

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 20th day of April 1972.

In Part 208 of the Board's regulations (14 CFR Part 208), "supplemental air transportation" is defined as charter flights in air transportation performed pursuant to certificates of public convenience and necessity (1) authorizing the holder to engage in supplemental air transportation of persons and property between any point in any State of the United States or the District of Columbia, and any other point in any State of the United States or the District of Columbia or in foreign or overseas supplemental transportation, or (2) authorizing

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[2] Delta has also submitted an exhibit which shows, by way of analogy, that even where § 202.6(a) is not involved, Delta currently schedules a large number of through flights to layover at Atlanta for more than 1 hour. There is little, if any, probative value in evidence which shows that layover times exceeding 1 hour are scheduled for flights not subject to the existing 45-minute limitation in § 202.6(a). Moreover, the selected layover times contained in Delta's exhibit are not for the most part much in excess of 1 hour—indeed, the average ground time is approximately 6 minutes more than 1 hour—and represent only a very small fraction of the total flights transiting through Atlanta.

[3] To the extent that Eastern contends that substitutions of aircraft at a restricted intermediate point on a flight held out as a through flight is, per se, an "unfair or deceptive" practice and an "unfair method of competition" in air transportation, within the meaning of sec. 411 of the Act, we think that its contention is not well-founded. Eastern has presented no facts which would indicate that the public is being misled by the practices of those carriers who substitute aircraft at intermediate points on flights denominated as through flights or that such practices constitute an unfair method of competition in air transportation for the purposes of sec. 411. So long as the carrier which schedules such substitutions of aircraft at intermediate points positions its substitute aircraft in time to meet the incoming flight, gives the through passenger adequate notice of the change-of-plane, and insures that the layover time on said flight is not scheduled to exceed the time limit specified in § 202.6(a), we doubt that the carrier is in violation of sec. 411, even though the through passenger is subjected to the inconvenience of changing planes at an intermediate point.

the holder to engage in transatlantic supplemental air transportation [1] of persons and their personal baggage between points within the 48 contiguous States, on the one hand, and points in specified foreign areas. In the Transatlantic Supplemental Charter Authority Renewal Case, Order 72-5-9, April 20, 1972, issued contemporaneously, the Board, inter alia, expanded the scope of transatlantic supplemental air transportation by amending the certificates of public convenience and necessity of certain supplemental air carriers so as to authorize such carriers to perform supplemental air transportation between points in Alaska and Hawaii, as well as between points within the 48 contiguous States, and points in the same specified foreign areas. Consistent with these certificate amendments we are herein amending the definition of "supplemental air transportation" in Part 208 to reflect said expanded transatlantic charter authority.[2]

Since the amendment contained herein merely reflects the expanded certificate authority granted by the Board in the Transatlantic case, supra, and thus involves no substantive change in the Board's charter regulations, the Board finds that notice and public procedure thereon are unnecessary and the amendment may become effective immediately.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends paragraph (c) of § 208.3 (14 CFR Part 208) effective July 5, 1972, to read as follows:

§ 208.3 Definitions.

For the purposes of this part:

* * * * *

(c) "Supplemental air transportation" means charter flights in air transportation performed pursuant to a certificate of public convenience and necessity issued under section 401(d)(3) of the Act (1) authorizing the holder to engage in supplemental air transportation of persons and property between any point in any State of the United States or the District of Columbia, and any other point in any State of the United States or the District of Columbia (exclusive of air transportation within the State of Alaska) or in foreign or overseas supplemental air transportation, or (2) authorizing the holder to engage in supplemental air transportation of persons and their personal baggage between any point in any State of the United States or the District of Columbia, on the one hand, and points in Greenland, Iceland, the Azores, Europe, Africa, and Asia, as far east as (and including) India, on the other hand.

* * * * *

(Secs. 101(3), 101(34), 204(a), 401(d)(3), and 401(n) of the Federal Aviation Act of 1958, as amended, 72 Stat. 737 (as amended by 76 Stat. 143, 82 Stat. 867, 84 Stat. 921), 743, 754 (as amended by 76 Stat. 143, 82 Stat. 867); 49 U.S.C. 1301, 1324, 1371)

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK, *Secretary.*

[FR Doc.72-7029 Filed 5-8-72;8:49 am]

[1] The term "transatlantic supplemental air transportation" was previously the subject of a separate definition in Part 295 of the Economic Regulations. When Parts 208 and 295 were consolidated (ER-659, Apr. 6, 1971) this separate definition was incorporated into the present definition of "Supplemental air transportation" in Part 208 (§ 208.3(c)).

[2] We are also conforming the description in paragraph (c)(2) to that contained in paragraph (c)(1) of § 208.3 by specifically designating the District of Columbia. Paragraph (c)(2) will now read, in pertinent part, "* * * between any point in any State of the United States or the District of Columbia, on the one hand * * *" instead of "* * * between points within the 48 contiguous States of the United States, on the one hand * * *."

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 72-122]

PART 16—LIQUIDATION OF DUTIES

Countervailing Duties on Compressors and Parts Thereof From Italy

Correction

In F.R. Doc. 72-6839 appearing at page 8948 of the issue of Wednesday, May 3, 1972, the following Appendix A should be inserted just after the final signature.

APPENDIX A

	Per kilogram (lire)
Air compressors (including compressors for refrigerating equipment presented separately); power driven vacuum pumps	5.53-9.90 [1]
Gas compressors (including compressors for refrigerating equipment presented separately); power driven vacuum pumps	9.59-16.93 [1]
Compressors and vacuum pumps, motor coupled sets	35
Parts of compressors:	
Blades, vanes and rotors:	
Of stainless steel	80
Other, made predominantly of cast iron, iron, or steel	40
Cylinders and cylinder heads	20
Cylinder blocks, crankcases, baseplates and bodies of pumps and compressors; Of cast iron or steel	15
Pistons, made predominantly of cast iron, iron, or steel	20
Cylinder liners	15
Connecting rods	30
Crankshafts and camshafts, pump shafts	30
Piston rings	15
Oil pumps, water pumps, and turbines; feed pumps	20
Gasoline lifting pumps, economizers, oil cleaners, oil and fuel filters, and their parts, made predominantly of cast iron, iron, or steel	20
Injectors, injector holders, injection pumps and parts thereof, the latter limited to those made predominantly of cast iron, iron, or steel	70
Pressure regulators	40
Gaskets, also presented in envelopes or like packages, made predominantly of iron or steel	20
Other parts, not elsewhere specified, made predominantly of iron or steel	30

[1] The higher amount shall be collected unless appropriate certification is received indicating a lesser amount was in fact paid or bestowed.

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

COMPONENTS OF PAPER AND PAPERBOARD IN CONTACT WITH AQUEOUS AND FATTY FOODS

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP 2B2723) filed by Sun Chemical Corp., Post Office Box 70, Chester, S.C., 29706, and other relevant material, concludes that the food additive regulations should be amended as set forth below, to provide for the additional safe use of bis(methoxymethyl) tetrakis((octadecyloxy) methyl)melamine resins as a water repellent employed in the manufacture of paper and paperboard intended for use in contact with fatty foods.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under authority delegated to the Commissioner (21 CFR 2.120), § 121.2526 is amended in paragraph (a)(5) by revising Limitation No. 2 for the substance bis(methoxymethyl) tetrakis((octadecyloxy)methyl)melamine resins having a 5.8-6.5 percent nitrogen content as follows:

§ 121.2526 Components of paper and paperboard in contact with aqueous and fatty foods.

* * * * *

(a) * * *

(5) * * *

List of substances	*Limitations*
* * *	* * *
Bis (methoxymethyl) tetrakis [(octadecyloxy) methyl] melamine resins having a 5.8-6.5 percent nitrogen content.	For use only under the following conditions: 1. * * * 2. The finished paper and paperboard will be used in contact with non-alcoholic foods only.
* * *	* * *

* * * * *

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-88, 5600 Fishers Lane, Rockville, Md. 20852, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds

legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. Received objections may be seen in the above office during working hours, Monday through Friday.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (5–9–72).

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: April 27, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72–6999 Filed 5–8–72;8:46 am]

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

COMPONENTS OF PAPER AND PAPERBOARD IN CONTACT WITH DRY FOOD

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP 1B2618) filed by Nopco Chemical Division, Diamond Shamrock Chemical Co., Diamond Shamrock Corp., 350 Mount Kimble Avenue, Morristown, N.J. 07960, and other relevant material, concludes that the food additive regulations should be amended as set forth below, to provide for the safe use of a modified polyacrylamide condensation product as a dry strength and pigment retention aid agent in paper and paperboard intended for use in contact with dry food.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under authority delegated to the Commissioner (21 CFR 2.120), § 121.2571(b)(2) is amended by alphabetically adding a new item to the list of substances as follows:

§ 121.2571 Components of paper and paperboard in contact with dry food.

* * * * *

(b) * * *

(2) * * *

List of substances	*Limitations*
* * *	* * *
Modified polyacrylamide resulting from an epichlorohydrin addition to a condensate of formaldehyde-dicyandiamide-diethylene triamine and which product is then reacted with polyacrylamide and urea to produce a resin having a nitrogen content of 5.6 to 6.3 percent and having a minimum viscosity in 16 percent-by-weight aqueous solution of 200 centipoises at 25° C., as determined by LVT-series Brookfield viscometer using a No. 4 spindle at 60 r.p.m. (or equivalent method).	For use only as a dry strength and pigment retention aid agent employed prior to the sheet-forming operation in the manufacture of paper and paperboard and used at a level not to exceed 1 percent by weight of dry fibers.
* * *	* * *

* * * * *

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6–88, 5600 Fishers Lane, Rockville, Md. 20852, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. Received objections may be seen in the above office during working hours, Monday through Friday.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (5–9–72).

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: April 28, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72–7000 Filed 5–8–72;8:46 am]

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

PRESSURE-SENSITIVE ADHESIVES

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP 2B2706) filed by Uniroyal Chemical, Division of Uniroyal, Inc., Elm Street, Naugatuck, Conn. 06770, and other relevant material, concludes that the food additive regulations should be amended, as set forth below, to provide for the safe use of tri(mixed mono- and dinonylphenyl) phosphite as an antioxidant and/or stabilizer in the manufacture of pressure-sensitive adhesives for food-contact use.

Therefore, pursuant to provisions of the Federal Food, Drug and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under authority delegated to the Commissioner (21 CFR 2.120), § 121.2577 is amended in paragraph (b)(2) by alphabetically adding a new item to the list of substances as follows:

§ 121.2577 Pressure-sensitive adhesives.

* * * * *

(b) * * *

(2) * * *

Tri(mixed mono- and dinonylphenyl) phosphite (which may contain not more than 1 percent by weight of triisopropanolamine).

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6–88, 5600 Fishers Lane, Rockville, Md. 20852, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. Received objections may be seen in the above office during working hours, Monday through Friday.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (5–9–72).

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: April 28, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72–7001 Filed 5–8–72;8:46 am]

PART 121—FOOD ADDITIVES

SUBCHAPTER C—DRUGS

PART 135g—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOOD

PART 141a—PENICILLIN AND PENICILLIN-CONTAINING DRUGS: TESTS AND METHODS OF ASSAY

PART 146a—CERTIFICATION OF PENICILLIN AND PENICILLIN-CONTAINING DRUGS

PART 146c—CERTIFICATION OF CHLORTETRACYCLINE (OR TETRACYCLINE) AND CHLORTETRACYCLINE- (OR TETRACYCLINE-) CONTAINING DRUGS

PART 146e—CERTIFICATION OF BACITRACIN AND BACITRACIN-CONTAINING DRUGS

Revocation of Certain Antibiotic Certification Provisions and Food Additive and New Animal Drug Regulations; Final Order Ruling on Objections and Denying Request for Hearing

An order was published in the FEDERAL REGISTER of December 1, 1971 (36 F.R. 22827), to become effective in 40

days, amending 21 CFR Parts 121, 135g, 141a, 146a, 146c, and 146e by deleting from the antibiotic drug regulations provisions for certification of certain intramammary infusion products, by revoking certain food additive regulations for these products, and by revoking corresponding tolerances for residues of such preparations in food, on the grounds of a lack of substantial evidence that the drugs are effective for their recommended use in treating mastitis in milk-producing animals. Persons who would be adversely affected by the proposed rule making were allowed 30 days to file proper objections and to request a hearing.

Objections to portions of the order and a request for a hearing were submitted jointly on December 30, 1971, by the following: Pharm-House, Inc., Post Office Box 117, Taftville, Conn. 06380; IBA, Inc., 27 Providence Road, Millbury, Mass. 01527; Rhinecliff Laboratories, 733 East Manchester Avenue, Los Angeles, Calif. 90001; Vet-Pro, Ipswich, Mass. 01938; The Reliance Co., Broad Brook, Conn. 06016; Key-A Distributors, Lititz, Pa. 17543; Burns Pharmaceuticals, Inc., 7711 Oakport Street, Oakland, Calif. 94621; Caldwell Supply Co., Inc., West Trenton, N.J. 08628; Animal Health Co. of Minnesota, South St. Paul, Minn. 55101; Food Filters Corp., Eaton, Ohio 45320; Eastern Crown, Inc., Vernon, N.J. 07462; Hanover Drug Products, Inc., Post Office Box 184–3, Hanover, N.J. 07936; Franklin Laboratories, Inc., 1777 South Bellaire Street, Denver, Colo. 80222; and Roberts Laboratories, Inc., 4995 North Main Street, Rockford, Ill. 61101. These 14 firms will be referred to collectively at Pharm-House.

Pharm-House's objections and request for hearing have been considered. The Commissioner of Food and Drugs concludes that there is no genuine and substantial issue of fact requiring a hearing. This conclusion is explained in more detail below.

I. *Background.* The drugs affected by the order are products containing multiple combinations of the certifiable antibiotics penicillin, dihydrostreptomycin, neomycin, polymyxin, nitrofurazone, one or more sulfonamides, cobalt sulfate, hydrocortisone, and papain. These drugs are labeled for use in the treatment of mastitis in milk-producing animals.

On April 24, 1970, a notice was published in the FEDERAL REGISTER (35 F.R. 6602) announcing the evaluation by the Food and Drug Administration of reports received from the National Academy of Sciences-National Resources Council, Drug Efficacy Study Group, of 53 intramammary infusion products for use in treating mastitis in milk-producing animals. The notice stated that the Food and Drug Administration concurred with the findings of the Academy that the information provided did not contain substantial evidence of effectiveness of the products for their intended use. The Academy had stated: (1) That because of possible incompatibilities in the mechanism of action of multiple antimicrobial agents, the manufacturers should reconsider their formulas, and that data should be submitted to establish that the addition of one antimicrobial agent to another will not result in a less than additive action with regard to inhibition of bacterial multiplication or with regard to the fraction of a bacterial population killed; (2) that more information is needed on the use of steroids, cobalt, and papain, when present, to substantiate the efficacy claim; and (3) that the labels of such mastitis preparations require warning statements to the effect that the products are therapeutically effective only against udder infections caused by micro-organisms susceptible to the active ingredients; proper cleaning and disinfecting of the teats is necessary before introduction of the drug into the teat orifice; and appropriate sanitation and management procedures to prevent and/or control bovine mastitis should be instituted.

The drugs were therefore regarded as new animal drugs which, in order to be marketed, must be the subject of approved new animal drug applications (NADA's) and otherwise comply with all other requirements of the Federal Food, Drug, and Cosmetic Act. Six months were allowed for holders of NADA's and all other interested persons to submit adequate documentation in support of the labeling used.

On June 18, 1971, the Commissioner published in the FEDERAL REGISTER (36 F.R. 11742) a notice of proposed revocation of food additive regulations and antibiotic certification provisions. The notice stated that no adequate data were received in response to the April 24, 1970, announcement, and that available information failed to provide substantial evidence of effectiveness of these drugs for their recommended use in treating mastitis in milk-producing animals.

Having considered the available information, the Commissioner found that all intramammary infusion products containing certifiable antibiotics must meet the standards set by the Academy.

The notice further stated that in response to the announcement of April 24, 1970, certain firms had made commitments to conduct controlled studies to comply with said announcement. Based on these commitments and the length of time required to generate adequate information under conditions of use, the Commissioner concluded that as an interim procedure, firms then marketing intramammary infusion products containing certain certifiable antibiotics would be permitted 1 year in which to submit new animal drug applications and complete data to comply with said announcement. The notice stated that products that would be permitted during that time period must comply with the regulations as amended by the said order.

The Commissioner proposed to revoke certain food additive regulations providing for intramammary infusion products; to revoke corresponding tolerances for residues of such preparations in food; and to delete from the antibiotic drug regulations provisions for certification of certain intramammary infusion products. Drugs containing up to four ingredients would be certified for an interim period of 1 year based on these commitments. The notice of proposed rule making allowed 30 days for comment. After evaluation of the comments received, the final order was published on December 1, 1971 (36 F.R. 22827), substantially as proposed. Pharm-House's request for a stay of the order, pending consideration of the objections, was denied.

II. *Evidence submitted.* A. Pharm-House contends that the term "mastitis" refers to a number of conditions and that combination drugs treat several of these conditions without the need to determine the exact cause of the particular case of mastitis. It contends that numerous combinations are justifiable because they act to reduce and delay the rapid evolution of mutants resistant to one particular drug and because they reduce transference of resistance from cell to cell within the mastitis-producing bacteria.

In support of its contention, Pharm-House cited four published articles dealing with the utilization of combinations of antibiotics. Three of those articles relate to human use; the fourth concerns an in vitro, or test-tube, study. At best, these articles concern studies that are supportive. The articles do not represent adequate and well controlled studies to demonstrate that a combination drug is more effective than an individual drug for the treatment of mastitis.

Pharm-House contends that the preparations containing the widest possible number of ingredients should be available to treat mastitis because of the unique circumstances connected with the treatment of the disease. However, the two references cited in support of this contention do not contain any evidence that the drugs which are removed by the order are effective.

With respect to the ingredients which are precluded by the order, Pharm-House contends that polymyxin is effective against certain gram negative organisms and inhibits the occurrence of enzyme production of these organisms which interferes with the activity of other drugs; that neomycin is effective against certain gram-positive and gram-negative organisms and also inhibits the activity of organisms which interferes with the effectiveness of other drugs; that sulfonamides are helpful in treating mastitis; and that papain is effective in liquefying lumpy material which may occur in the mammary glands of the cow suffering from mastitis.

The objections refer to 11 citations of published works purporting to establish the effectiveness of various single active ingredients drugs. Although several of these studies tend to establish the efficacy of the various drugs in certain conditions when used alone, the studies do not attempt to show that the individual drugs are effective against mastitis when used in intramammary infusion preparations. No data were submitted establishing any combination as more effective than a single drug in treating mastitis.

B. In the FEDERAL REGISTER of March 31, 1971 (36 F.R. 5927), the Commissioner concluded that nitrofurazone is not shown to be safe for use in the absence of appropriately sensitive methods of analysis to establish its absence in food derived from treated animals, because information available to the Commissioner established that the drug, when administered to laboratory animals, had been shown to produce tumors. Accordingly, in his order of December 1, the Commissioner concluded that nitrofurazone should not be permitted as an ingredient in intramammary infusion products in the absence of a validated method of assay sensitive enough to demonstrate that no residue of nitrofurazone is present in milk intended for food.

Pharm-House, Inc., Post Office Box 117, Taftville, Conn. 06380, submitted a residue assay method which it contends is adequate to demonstrate the absence of nitrofurazone in milk from cows treated with the drug.

The Commissioner has concluded that nitrofurazone assay methods for milk must be sensitive to 0.2 part per billion. The method submitted by Pharm-House, Inc., Post Office Box 117, Taftville, Conn. 06380, is inadequate because its purported sensitivity is to 2 parts per billion, or 10 times too high. No evidence has been submitted to establish that nitrofurazone is safe for use in intramammary infusion products.

With respect to efficacy, the objections provided no evidence establishing the efficacy of nitrofurazone in a combination ingredient intramammary infusion product.

III. *Other objections.* The remaining objections are legal in nature and do not raise substantial issues of fact requiring a hearing. These remaining objections are as follows:

A. *Applicable hearing regulations.* Pharm-House contends that the regulations applicable to consideration of their objections and request for a hearing are 21 CFR 121.55–121.74 (which apply to the definitions and procedural and interpretive regulations concerning food additives), as well as 21 CFR 2.58–2.98 (which apply to public hearings) as modified by 21 CFR 146.1, which applies to antibiotic drugs. The Commissioner concludes that this objection is not valid and, being a legal objection not raising an issue of fact, that it does not require a hearing. (Dyestuffs and Chemicals, Inc. [v.] Flemming, 271 F. 2d 281 (C.A. 8, 1959), cert. denied, 362 U.S. 911 (1960).)

The December 1, 1971, order is based on the finding that these multiple antibiotic ingredient preparations used in treating mastitis lack substantial evidence of efficacy. The food additive and new animal drug regulations revoked by this order set forth tolerances for the residues of the antibiotic and other drugs in the edible tissue and milk of the treated animals. Thus, the existence of these food additive regulations depended on the existence of the antibiotic certification regulations which allowed the drugs to be marketed and used to treat the animals (21 CFR 121.9). The order revoked the corresponding food additive regulations concurrently with repeal of the antibiotic regulations, because the removal of the antibiotic certifications rendered the food additive tolerances unnecessary. Furthermore, Pharm-House does not object to the revocation of food additive regulations, but solely to the repeal and amendment of the antibiotic regulations.

The Commissioner therefore concludes that the applicable regulations here are those applicable to the amendment or revocation of antibiotic drug regulations, i.e., 21 CFR 2.58–2.98 as modified by 21 CFR 146.1. Under these regulations, a hearing is required only if the objector sets forth specific facts showing that there is a genuine and substantial issue of fact requiring a hearing, e.g., adequate and well controlled clinical investigations to support the claims of effectiveness (21 CFR 146.1).

B. *Standard of efficacy.* Pharm-House asserts that because of the circumstances of mastitis treatment, the ideal, academic, scientific criteria for demonstrating the efficacy of each ingredient of a combination ingredient product is inapplicable and inappropriate. In support, the objections state that mastitis is a generic name for a number of conditions caused by a number of micro-organisms; that the concern of the dairyman administering mastitis preparations is economic, i.e., the swift return of his cows to production with the least expense; that since speed of recovery is so important, the correctness of the antibiotic treatment is not as important a consideration as it is in human drug therapy; that products used in treating mastitis must be combination drugs in order to compensate for the lack of veterinary training, the uncertainty of diagnosis, and the relatively crude conditions under which the farmer administering the drug operate; that the farmer cannot afford to obtain a veterinarian every time his cows have mastitis; and that therefore the drugs available to a farmer must be those which treat the widest possible range of bacterial infection, act as rapidly as possible, and insure insofar as possible that there will be no reoccurrence of the disease. Pharm-House argues that drugs used in treating mastitis must be proven effective, but contends that the law should allow that a special criteria of efficacy be applied to these drugs, rather than the usual standard requiring studies which establish that each of the active ingredients of the drug contributes to its effectiveness.

These objections are without merit. Even assuming the truth of all these claims about the nature and treatment of mastitis, this does not justify the continued marketing of these multiple combination drugs. There is no legal authority for using a special standard to determine the efficacy of drugs for use in the treatment of mastitis.

C. *Drugs allowed for an interim period.* Objection is made to the fact that the order allows the use of certain combination drugs for a period of 1 year. Pharm-House contends that this is arbitrary, capricious, and unauthorized by the statute, and that all combination drugs should have been allowed the 1-year interim period to generate data in support of drug efficacy.

This objection is without merit. The Commissioner concluded that to remove from the market virtually all drugs used in treating mastitis would not be in the public interest. He therefore allowed certain drugs containing up to four specific ingredients to remain on the market. Previously, drugs containing up to 11 active ingredients had been certified. The Commissioner found that such a reduction in the number of active ingredients to a maximum of four from the previously allowed 11 would protect the public health by reducing the number of drugs which had not been proven to contribute to the efficacy of the product. Those drugs which were allowed to remain for the interim period were those which the Commissioner found provided the greatest pharmacological rationale and for which commitments to provide well documented NADA's proving efficacy had been received. Pharm-House made no such commitments with respect to its drugs.

Further, even if it were assumed that the interim drugs were not supported by substantial evidence of effectiveness and should not be allowed to be marketed on an interim basis while such data are compiled, this would not raise a substantial issue of fact requiring a hearing regarding Pharm-House's drug, containing up to 11 ingredients, for which no substantial evidence of efficacy has been provided. Finally, Pharm-House may, in accordance with the order, market the interim drugs and may also submit NADA's for any of the removed drugs when appropriate safety and efficacy data have been gathered.

IV. *Findings.* The Commissioner, on the basis of the information before him and a review of the documentation offered to support the claims of efficacy for the drugs for which certification has been revoked, finds as follows: The objections fail to present substantial evidence of effectiveness for these products. There is no legal authority for allowing any lesser standard in determining the effectiveness of products used in treating mastitis than the standard in determining the effectiveness of other products. There is no evidence to override the Commissioner's discretionary conclusion that an interim clearance not be given to products other than the ones provided for in the December 1, 1971, order, Pharm-House, Inc., Post Office Box 117, Taftville ,Conn. 06380, has failed to submit a residue assay method adequate to demonstrate the absence of nitrofurazone in milk from cows treated with the drug; the objections fail to provide substantial evidence that inclusion of nitrofurazone in intramammary infusion products used to treat mastitis contributes to the effectiveness of such product. There is no genuine and substantial issue of fact requiring a hearing.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 409, 507, 512, 59 Stat. 463, as amended, 72 Stat. 1785–88, as amended, 82 Stat. 343–51; 21 U.S.C. 348, 357, 360b) and under authority delegated to the Commissioner (21 CFR 2.120), the objections are overruled, the request for a hearing is denied, and the order of December 1, 1971, is reaffirmed.

(Secs. 409, 507, 512, 59 Stat. 463, as amended, 72 Stat. 1785–88, as amended, 82 Stat. 343–51; 21 U.S.C. 348, 357, 360b)

Dated: May 4, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-7026 Filed 5-4-72;3:01 pm]

PART 149d—NAFCILLIN

Recodification

Correction

In F.R. Doc. 72-3285 appearing at page 4907 in the issue of Tuesday, March 7, 1972, and corrected at page 7693 in the issue of Wednesday, April 19, 1972, the reference to "§ 149d.2(b)(1)(ii)" in item 2 of the correction should read "§ 149d.11(b)(1)(ii)".

Title 22—FOREIGN RELATIONS

Chapter X—Inter-American Foundation

PART 1002—AVAILABILITY OF RECORDS

Correction

In F.R. Doc. 72-6354 appearing at page 8375 of the issue of Wednesday, April 26, 1972, the following signature should be added at the end of the document directly above the file line: "KENT N. KNOWLES, *Secretary to the Board of Directors.*"

Title 24—HOUSING AND URBAN DEVELOPMENT

Chapter III—Government National Mortgage Association, Department of Housing and Urban Development

SUBCHAPTER C—MANAGEMENT AND LIQUIDATING FUNCTIONS

[Docket No. R-72-175]

PART 390—GUARANTY OF MORTGAGE-BACKED SECURITIES

Subpart A—Pass-Through Type Securities

NET WORTH REQUIREMENTS

On March 24, 1972 (37 F.R. 6108), notice was given that the Government National Mortgage Association, under the authority contained in section 306(g) of the National Housing Act (12 U.S.C. 1723a), was considering the amendment of §§ 390.3 and 390.5 of Part 390 of Title 24 of the Code of Federal Regulations. Interested persons were invited to submit written data, views, or statements with regard to the proposed amendments. No objections were received.

In order to expedite preparation and issuance of mortgage-backed securities based on mobile home loans in response to anticipated applications, and in view of the fact that no change has been made to the proposed rule originally published at 37 F.R. 6108 on March 25, 1972, good cause exists for waiving postponement of the effective date for this amendment of Part 390.

Accordingly Part 390 is amended to read as follows:

1. Section 390.3(c) is revised to read:

§ 390.3 Eligible issuers of securities.

* * * * *

(c) For modified pass-through securities other than those described in paragraph (b) of this section, (1) not less than 3 percent of the first $5 million of modified pass-through securities outstanding after such issue, and (2) not less than 2 percent on the succeeding $5 million of such securities, and (3) not less than 1 percent on all over $10 million, provided that the minimum net worth shall be at least $100,000, but in no case need net worth exceed $500,000.

2. Section 390.5(b) is revised to read:

§ 390.5 Securities.

* * * * *

(b) *Issue amount.* Each issue of guaranteed securities must be in a minimum face amount of $2 million provided that in the case of modified pass-through securities based on and backed by mortgages on mobile homes said minimum face amount is $500,000. The total face amount of any issue of securities cannot exceed the aggregate unpaid principal balances of the mortgages in the pool.

* * * * *

(Sec. 306(g), 82 Stat. 540, 12 U.S.C. 1721; Bylaws of the Association, 35 F.R. 2606, Feb. 5, 1970, 36 F.R. 11229, June 9, 1971)

Effective date. This regulation is effective as of May 6, 1972.

WOODWARD KINGMAN,
President, Government National Mortgage Association.

[FR Doc.72-7021 Filed 5-8-72;8:47 am]

Chapter IV—Office of Assistant Secretary for Housing Management, Department of Housing and Urban Development

SUBCHAPTER C—HOMEOWNERSHIP ASSISTANCE HOUSING—MANAGEMENT AND ASSISTANCE PAYMENT ADMINISTRATION—SECTION 235

[Docket No. R-72-166]

PART 420—ASSISTANCE PAYMENTS—HOMES FOR LOWER INCOME FAMILIES

SUBCHAPTER Z—LIQUIDATING PROGRAMS

PART 490—ADVANCES FOR PUBLIC WORKS PLANNING

PART 491—GRANTS FOR ADVANCE ACQUISITION OF LAND

A proposal was issued on February 17, 1972 (37 F.R. 3546) to amend Title 24 of the Code of Federal Regulations to include a new Part 420, "Assistance Payments—Homes for Lower Income Families."

The new part, which appears in a new Subchapter C with Subchapters A and B reserved for future use is designed to permit closer review of mortgagor eligibility and to expedite assistance in hardship cases, and changes recertification from a biennial to an annual event. It also changes requirements concerning optional recertifications and provides for a system of suspensions and terminations.

Interested persons were given the opportunity to participate in the rule making through submission of comments. Nineteen comments were received, almost all of which favored adoption of the proposed part in principle. Some of the comments, however, contended that the more frequent recertification requirement would impose an additional financial burden upon mortgagees and should be offset by an increased servicing fee. Other comments take issue that § 420.2(b) requiring a mortgagor to report an increase and § 420.3 providing unlimited optional recertifications, would also impose additional financial burdens upon mortgagees. Our research does not agree with these contentions. However, the Department continuously monitors the prescribed fee to assure that it is reasonably compensatory.

In view of the foregoing, the Department is adopting Part 420 as it was proposed by notice of proposed rule making.

Accordingly, Title 24 is amended by:

(1) Adding a new Subchapters A, B, sisting of Part 420 to read as set forth below;

(2) By reserving subchapters A, B, and D through W; and

(3) By designating existing Parts 490 and 491 under the new Subchapter Z heading as set forth above.

Sec.

AUTHORITY: The provisions of this Part 420 issued under sec. 211, 52 Stat. 23, as amended, sec. 235, 82 Stat. 477, as amended; 12 U.S.C. 1715b, 1715z.

§ 420.1 Purpose and definitions.

(a) It is the purpose of this part to set forth the requirements for recertification of occupancy, employment, income and family composition by mortgagors or cooperative members receiving assistance payments pursuant to section 235 of the National Housing Act, and to set forth the procedures for termination, suspension and reinstatement of the assistance payment contract.

(b) The definitions contained in § 235.5 of this title shall apply to this part. In addition, the term "assistance payment" means that portion of a homeowner's or cooperative member's monthly

mortgage payment which HUD becomes obligated to pay under an assistance payment contract.

§ 420.2 Mortgagor's required recertification.

The mortgagee shall obtain from the homeowner (or from the cooperative association on behalf of the cooperative member), on a form prescribed by the Assistant Secretary for Housing Management (hereinafter referred to as the Assistant Secretary), a recertification as to occupancy, employment, income, and family composition whenever one of the following events takes place:

(a) Annually, no earlier than 60 days before and no later than 30 days after the anniversary date of the mortgage or at such other anniversary date as set by the Assistant Secretary;

(b) No more than 30 days after the mortgagee is notified by the mortgagor or learns from any source, that the mortgagor or any adult (21 years or older) member of the family residing in the household changes or begins employment which results in an increase in the family income reported in the original application for assistance or the most recent recertification;

(c) At such other times as the Assistant Secretary may require.

§ 420.3 Mortgagor's optional recertification.

Upon request of the mortgagor or cooperative member, the mortgagee shall accept recertification whenever the mortgagor, his or her spouse or an adult (21 years or older) member of the family changes or loses employment which results in a decrease in the family income reported in the most recent certification or recertification. This recertification shall be on a form prescribed by the Assistant Secretary.

§ 420.4 Adjustment in assistance payments.

The mortgagee shall make appropriate adjustments in the amount of the requested assistance payments to reflect changes in family income reported in any required or optional recertification of the homeowner or cooperative member. The adjustment shall not be retroactive except at the discretion of the Assistant Secretary. The adjustment shall apply only to assistance payments beginning with the payment due no earlier than the first day of the month following and no later than the first day of the second month following the date the mortgagor's recertification is received by the mortgagee.

§ 420.5 Mortgagee records.

The mortgagee shall maintain such records as the Assistant Secretary may require with respect to the mortgagor's payments, the mortgage assistance payments received from the Assistant Secretary, and the annual recertifications of financial status from the homeowner or mortgagor. Such records shall be kept on file for a period of time and in a manner prescribed by the Assistant Secretary and shall be available, when requested, for review and inspection by the Assistant Secretary or the Comptroller General of the United States.

§ 420.6 Effect of assignment of mortgage with an assistance payments contract.

Where a mortgage covered by an assistance payment contract is sold to another approved mortgagee, the buyer shall succeed to all the rights and become bound by all the obligations of the seller under such a contract.

§ 420.7 Termination, suspension, or reinstatement of the assistance payments contract.

(a) *Termination.* The assistance payments contract shall be terminated when any of the following events occur:

(1) The contract of mortgage insurance is terminated, except when the mortgage has been assigned to the Secretary.

(2) The property is purchased by a homeowner not qualified to receive assistance payments.

(3) The cooperative member transfers his membership and occupancy rights to a new cooperative member not qualified to receive assistance payments.

(4) When the assistance payments contract has been suspended for a period of 3 years without reinstatement.

(b) *Suspension.* The assistance payments contract shall be suspended when any one of the following events occurs:

(1) The homeowner, or cooperative member ceases to occupy the property, except in the following instances:

(i) The property is purchased by a homeowner who immediately assumes the mortgage obligation with respect to which assistance payments have been made on behalf of the previous owner, and who meets the income and asset requirements prescribed by the Secretary.

(ii) The cooperative member transfers his membership and occupancy rights to a new member who meets the income and asset requirements prescribed by the Secretary.

(2) The mortgagee determines that the mortgagor or cooperative member ceases to qualify for the benefits of assistance payments by reason of his income increasing to an amount enabling him to pay the full monthly mortgage payment by using 20 percent of the family income.

(3) Foreclosure is instituted.

(4) The mortgage is unable to obtain from the homeowner (or from the cooperative association on behalf of the cooperative member) a required recertification of occupancy, employment, income, and family composition as prescribed in § 420.2.

(5) At such other times as the Assistant Secretary may require.

(c) *Effect of termination or suspension.* Upon termination or suspension of the assistance payments contract, the payment due on the first day of the month in which the termination or suspension occurs shall be the last payment to which the mortgagee shall be entitled; except that, in the case of a suspended contract, payment may be resumed after the contract is reinstated pursuant to paragraph (e) of this section.

(d) *Noneffect on mortgage insurance contract.* The termination or suspension of the assistance payments contract, where the mortgage insurance contract is not simultaneously terminated, shall have no effect on the mortgage insurance contract.

(e) *Reinstatement.* Where the assistance payments contract is suspended, it may be reinstated by the Assistant Secretary at his discretion and on such conditions as he may prescribe.

§ 420.8 Effect of amendments.

The regulations in this part may be amended by the Assistant Secretary at any time from time to time, in whole or in part, but such amendment shall not adversely affect the interests of a mortgagee under an existing contract for assistance payments.

Effective date. This Part 420 shall be effective as of June 9, 1972.

NORMAN V. WATSON,
Assistant Secretary for Housing Management.

[FR Doc.72-7022 Filed 5-8-72;8:48 am]

Title 49—TRANSPORTATION

Subtitle A—Office of the Secretary of Transportation

[OST Docket No. 1, Amdt. 1-53]

PART 1—ORGANIZATION AND DELEGATION OF POWERS AND DUTIES

Delegation of Authority to the Urban Mass Transportation Administrator

The purpose of this amendment is to delegate to the Urban Mass Transportation Administrator certain authority vested in the Secretary of Transportation by the National Capital Transportation Act of 1969 (Public Law 91-143, 83 Stat. 320) and the Urban Mass Transportation Assistance Act of 1970 (Public Law 91-453, 84 Stat. 962).

Since this amendment relates to departmental management, procedures and practices, notice and public procedure thereon is unnecessary, and it may be made effective in less than 30 days after publication in the FEDERAL REGISTER.

In consideration of the foregoing, effective immediately, § 1.50 of Title 49, Code of Federal Regulations, is amended to read as follows:

§ 1.50 Delegations to the Urban Mass Transportation Administrator.

The Urban Mass Transportation Administrator is delegated authority to exercise the functions vested in the Secretary by:

(a) The Urban Mass Transportation Act of 1964, as amended (78 Stat. 302, 49 U.S.C. 1601).

(b) Section 1 of Reorganization Plan No. 2 of 1968 (82 Stat. 1369).

(c) Section 10 of the Urban Mass Transportation Assistance Act of 1970; Public Law 91-453 (84 Stat 962, 968).

(d) Section 3 of the National Capital Transportation Act of 1969, Public Law 91-143 (83 Stat. 320).

(Sec. 9, Department of Transportation Act, 49 U.S.C. 1657)

Issued in Washington, D.C., on April 20, 1972.

JOHN A. VOLPE,
Secretary of Transportation.

[FR Doc.72-7008 Filed 5-8-72;8:48 am]

Chapter V—National Highway Traffic Safety Administration, Department of Transportation

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Recodification; Corrections and Miscellaneous Amendments

The Motor Vehicle Safety Standards were recodified and reissued as Subpart B of Part 571 (§§ 571.101 through 571.302) on December 2, 1971 (36 F.R. 22902 et seq.). The purpose of this notice is to correct errors that appeared in the republication, and to amend certain standards to correct continuing errors or ambiguities.

The following corrections are made to the standards on the pages indicated.

In §§ 571.108 and 571.108a; *Lamps, reflective devices and associated equipment* (p. 22906 and p. 22910). The last test point (degrees) in the chart in S4.1.1.11 is corrected to read "10R" (p. 22908 and 22912). In table I: Footnote 2 is corrected to read "S4.1.1.10". Footnote 5 is corrected to read "S4.1.1.14". Footnote 6 is corrected to read "S4.1.1.13". The reference to footnote "2" in table II following the specification for location of clearance lamps on multipurpose passenger vehicles, trucks, and buses is corrected to read "2,4". The reference to footnote 2 in table II following the specification for location of clearance lamps on trailers is omitted.

(p. 22913) The mounting height for headlights in table IV, column 4, is corrected to read "Not less than 24 inches nor more than 54 inches".

In § 571.109 *Standard 109; new pneumatic tires* (p. 22918): In table I-C "Low Section" sizes, the maximum tire load (pounds) for tire size 6.00-12 at 20 p.s.i. is corrected to "605". Under "Super Low Section" sizes, the minimum size factor (inches) for tire size 155-12/6.15-12 is corrected to "27.36". The correct section width (inches) for the tire sizes listed below are as follows:

Tire size designation	*Section width (inches)*
145-14/5.95-14	5.79
155-14/6.15-14	6.18
195-14	7.80
205-14	8.19
215-15	8.58
235-15	9.37

(p. 22920) In table I-F the maximum tire load (pounds) for the tire size 5.00R 12 at 18 p.s.i. is corrected to "495".

(p. 22920) In table I-G the correct section width (inches) for the tire sizes listed below are as follows:

Tire size designation	*Section width (inches)*
DR70-15	7.75
FR70-15	8.40
GR70-15	8.65
HR70-15	9.20
LR70-15	9.65

(p. 22922) In table I-M the maximum tire load (pounds) for tire size JR78-14 at 38 p.s.i. is corrected to "2,040."

(p. 22923) In table I-O the maximum tire load (pounds) for tire size 150R13 at 36 p.s.i. is corrected to "870". The correct section width (inches) for tire sizes 170R13 and 150R14 are respectively "6.60" and "5.75".

(p. 22949) S7.1.3 and its accompanying chart, omitted in the republication, is added following S7.1.2:

S7.1.3 The weights and dimensions of the vehicle occupants specified in this standard are as follows:

	50th-percentile 6-year-old child	5th-percentile adult female	50th-percentile adult male	95th-percentile adult male
Weight	47.3 pounds	102 pounds	164 pounds	215 pounds.
Erect sitting height	25.4 inches	30.9 inches	35.7 inches	38 inches.
Hip breadth (sitting)	8.4 inches	12.8 inches	14.5 inches	16.5 inches.
Hip circumference (sitting)	23.9 inches	36.4 inches	42 inches	47.2 inches.
Waist circumference (sitting)	20.8 inches	23.6 inches	33 inches	42.5 inches.
Chest depth		7.5 inches	9 inches	10.5 inches.
Chest circumference:				
(nipple)		30.5 inches		
(upper)		29.8 inches	37.7 inches	44.5 inches.
(lower)		26.6 inches		

In § 571.208 *Standard No. 208; Occupant crash protection.* (p. 22949) The heading for S7 was omitted in the republication. The following is added between the end of the test of S6.4 and the heading of S7.1: *"S7. Seatbelt assembly requirements—passenger cars."*

In § 571.215 *Standard No. 215; exterior protection.* (p. 22963) The heading for S5.3 was omitted in the republication. The following is added between the text of S5.2.2 and S5.3.1: *"S5.3 Protective criteria."*

In addition, General Motors and Automobile Manufacturers Association have called attention to previously uncorrected errors or ambiguities in Standards Nos. 108 and 108a, 205, and 210. Amendments to the text of Standard No. 108 during 1971, before and after recodification were not accompanied by corresponding amendments of footnotes and references to footnotes in table III. Paragraph S3.1 of Standard No. 205 references S3.2, which was revoked in 1969. The note following Standard No. 210 is ambiguous and no longer needed since the amendments to the standard became effective on January 1, 1972.

In consideration of the foregoing Subpart B of Part 571, Title 49, Code of Federal Regulations, is amended as follows:

1. Table III of § 571.108, Standard No. 108, is revised to read as follows:

TABLE III—REQUIRED MOTOR VEHICLE LIGHTING EQUIPMENT

ALL PASSENGER CARS AND MOTORCYCLES, AND MULTIPURPOSE PASSENGER VEHICLES, TRUCKS, TRAILERS, AND BUSES, OF LESS THAN 80 INCHES OVERALL WIDTH

Item	Passenger cars, multipurpose passenger vehicles, trucks, and buses	Trailers	Motorcycles	Applicable SAE standard or recommended practice
Headlamps	2 white, 7-inch, Type 2 headlamp units; or 2 white, 5¾-inch, Type 1 headlamp units and 2 white, 5¾-inch, Type 2 headlamp units.			J580a, June 1966, J579a, August 1965, and J566, January 1960.
			1 white	J584, April 1964 and J566, January 1960.
Taillamps	2 red	2 red	1 red	J585c, June 1966.
Stoplamps	2 red [1 2]	2 red [1]	1 red [1]	J586b, June 1966.
License plate lamp	1 white [3 10]	1 white [3 10]	1 white [3 10]	J587d, March 1969.
Parking lamps	2 amber or white [4]	None	None	J592c, November 1968.
Reflex reflectors	4 red; 2 amber [5]	4 red; 2 amber	3 red; 2 amber	J594d, March 1967.
Intermediate side reflex reflectors.	2 amber [9]	2 amber [9]	None	J594d, March 1967.
Intermediate side marker lamps.	2 amber [9]	2 amber [9]	None	J592c, November 1968.
Side marker lamps	2 red; 2 amber [5]	2 red; 2 amber	None	J592c, November 1968.
Backup lamp	1 white [3 11]	None	None	J593c, February 1968.
Turn signal lamps	2 Class A red or amber; 2 Class A amber. [3 6]	2 Class A red or amber.	2 Class B amber. 2 Class B red or amber. [7 12]	J588d, June 1966.
Turn signal operating unit.	1 [7 8 13]	None	1 [12 13]	J589, April 1964.
Vehicular hazard warning signal operating unit.	1 [6]	None	None	J910, January 1966.

[1] See S4.1.1.6.
[2] See S4.1.1.7.
[3] See S4.1.1.10.
[4] See S4.1.1.11.
[5] See S4.1.1.2.
[6] See S4.4.2.
[7] See S4.5.6.
[8] See S4.1.1.5.
[9] See S4.1.1.3.
[10] See S4.1.1.14.
[11] See S4.1.1.13.
[12] See S4.1.1.12.
[13] See S4.1.1.15.

2. Table III of § 571.108a, Standard No. 108a, is revised to read as follows:

TABLE III—REQUIRED MOTOR VEHICLE LIGHTING EQUIPMENT

ALL PASSENGER CARS AND MOTORCYCLES, AND MULTIPURPOSE PASSENGER VEHICLES, TRUCKS, TRAILERS, AND BUSES, OF LESS THAN 80 INCHES OVERALL WIDTH

Item	Passenger cars, multipurpose passenger vehicles, trucks, and buses	Trailers	Motorcycles	Applicable SAE standard or recommended practice
Headlamps	2 white, 7-inch, Type 2 headlamp units; or 2 white, 5¾-inch, Type 1 headlamp units and 2 white, 5¾-inch, Type 2 headlamp units.			J580a, June 1966, J579a, August 1965, and J566, January 1960.
			1 white	J584, April 1964 and J566, January 1960.
Taillamps	2 red	2 red	1 red	J585c, June 1966.
Stoplamps	2 red [1 2]	2 red [1]	1 red [1]	J586b, June 1966.
License plate lamp	1 white [3 10]	1 white [3 10]	1 white [3 10]	J587d, March 1969.
Parking lamps	2 amber or white [4]	None	None	J592c, November 1968.
Reflex reflectors	4 red; 2 amber [5]	4 red; 2 amber	3 red; 2 amber	J594d, March 1967.
Intermediate side reflex reflectors.	2 amber [9]	2 amber [9]	None	J594d, March 1967.
Intermediate side marker lamps.	2 amber [9]	2 amber [9]	None	J592c, November 1968.
Side marker lamps	2 red; 2 amber [5]	2 red; 2 amber	None	J592c, November 1968.
Backup lamp	1 white [3 11]	None	None	J593c, February 1968.
Turn signal lamps	2 Class A red or amber; 2 Class A amber.[3]	2 Class A red or amber.	2 Class B amber; 2 Class B red or amber.[7 12]	J588d, June 1966.
Turn signal operating unit.	1 [7 8 13]	None	1 [13 13]	J589, April 1964.
Vehicular hazard warning signal operating unit.	1	None	None	J910, January 1966.

[1] See S4.1.1.6.
[2] See S4.1.1.7.
[3] See S4.1.1.10.
[4] See S4.1.1.11.
[5] See S4.1.1.2.
[6] See S4.4.2.
[7] See S4.5.6.
[8] See S4.1.1.5.
[9] See S4.1.1.3.
[10] See S4.1.1.14.
[11] See S4.1.1.13.
[12] See S4.1.1.12.
[13] See S4.1.1.15.

3. Paragraph S3.1 of § 571.205, Standard No. 205, is revised to read.

Glazing materials used in windshields, windows, and interior partitions shall conform to United States of American Standards Institute "American Standards Safety Code for Safety Glazing Materials for Glazing Motor Vehicles Operating on Land Highways," ASA Standard Z26.1–1966, July 15, 1966 (hereinafter referred to in this standard as Z26.1–1966).

4. The "Note" at the end of § 571.210, Standard No. 210, is deleted.

Effective date: May 9, 1972. Because the revisions and amendments create no additional burden or obligation, the Administrator has found for good cause shown that an effective date earlier than 180 days after issuance of this notice is in the public interest.

This notice is issued under the authority of sections 103 and 119 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1392, 1407) and the delegation of authority from the Secretary of Transportation to the National Highway Traffic Safety Administrator, 49 CFR 1.51.

Issued on April 28, 1972.

DOUGLAS W. TOMS,
Administrator.

[FR Doc.72–6951 Filed 5–8–72;8:45 am]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

SUBCHAPTER C—THE NATIONAL WILDLIFE REFUGE SYSTEM

PART 28—PUBLIC ACCESS, USE, AND RECREATION

Special Regulations; Recreation and User Fees

Pursuant to the authority contained in the Recreation Act of 1962, Public Law 87–714 (76 Stat. 653; 16 U.S.C., 460 to 460–4) and §§ 28.24 *Fees, charges, and permits,* and 28.25 *Special regulations,* the following special regulations are issued for public recreational use on certain national wildlife refuges.

The purpose of these special regulations is to provide the Bureau of Sport Fisheries and Wildlife a fee program which will be in effect until Congress takes action on the Golden Eagle fee program. Further, any charges imposed and collected shall be covered into the National Wildlife Refuge Fund in suspense until such time the Congress takes action on the Golden Eagle fee program.

While it is the policy of the Department of the Interior, whenever practical, to afford the public an opportunity to participate in the rule making process, it is deemed unnecessary to do so in this instance since these special regulations serve to continue a fee program previously in effect and do not further restrict members of the public.

Due to immediate need for these special regulations they will take effect upon publication of this notice in the FEDERAL REGISTER (5–9–72).

RECREATION FEES

There shall be three types of user fees charged on a daily basis:

(a) Fee for a daily permit applicable to those entering by private, noncommercial vehicle. The fee shall be $1 per vehicle per day. The daily permit shall admit the purchaser and all who accompany him during the same calendar day for which it was purchased. Where overnight use is permitted, such permits shall be valid for departure only until noon of the day following purchase, except as otherwise posted.

(b) Fee for a daily permit applicable to those entering by any means other than private, noncommercial vehicle. The fee shall be $0.50 per person per day.

(c) User fees for use of sites, facilities, equipment, or services provided by the United States which include, but are not limited to well-developed campgrounds, picnic sites, guide services, etc. User fees may be charged singly, or in addition to (a) and (b) above. The amount charged will be consistent with rates in the local area.

WRONGFUL ENTRY

No person shall enter or use national wildlife refuge areas or sites within refuges for which fees have been designated without first paying the required fee. Any violation of this provision is punishable as provided in § 27.10 *Penalties,* 50 CFR.

(a) Exceptions, exclusions, and exemptions.

(1) Nothing contained herein shall authorize Federal hunting or fishing licenses or fees.

(2) No fee shall be charged for the use of any water.

(3) No fee shall be charged any person in the exercise of a right of access to privately owned lands.

(4) No fee shall be charged for commercial or other activities not related to recreation; or for organized tours or outings conducted for educational or scientific purposes; nor shall any fee be charged hospital inmates involved in medical therapy.

(5) No fee shall be charged any person conducting State, local, or Federal Government business.

(6) No fee shall be charged at designated fee areas for persons who have not reached their 16th birthday.

DESIGNATED FEE AREAS

The following refuges are hereby designated as fee areas for public recreational use:

Aransas National Wildlife Refuge, Tex.
Buffalo Lake National Wildlife Refuge, Tex.
Santa Ana National Wildlife Refuge, Tex.
Bear River Migratory Bird Refuge, Utah.
Wichita Mountains Wildlife Refuge, Okla.
Crab Orchard National Wildlife Refuge, Ill.
De Soto National Wildlife Refuge, Iowa.
Bombay Hook National Wildlife Refuge, Del.
Brigantine National Wildlife Refuge, N.J.
Montezuma National Wildlife Refuge, N.Y.
Parker River National Wildlife Refuge, Mass.
Chincoteague National Wildlife Refuge, Va.

Additional areas may be added at such time the Congress takes action on the Golden Eagle fee program. Notification to the public of such designations shall be accomplished by posting such information conspicuously at each area and by local public announcements, press releases, and other suitable means.

F. V. SCHMIDT,
Acting Director, Bureau of Sport Fisheries and Wildlife.

MAY 2, 1972.

[FR Doc.72-7023 Filed 5-8-72;8:48 am]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX

Special Rules for Reduction of Creditable Foreign Taxes in the Case of Foreign Mineral Income

Correction

In F.R. Doc. 72-6352 appearing at page 8453 of the issue of Thursday, April 27, 1972, in *Example* (7) to § 1.901-3(d) (page 8459), the headings on the two columns, "*X tax*" and "*U.S. tax*", should be reversed.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Parts 54, 55, 56, 70]

DOMESTIC RABBITS, EGG PRODUCTS, SHELL EGGS AND POULTRY

Proposed Grading and Inspection Standards

Notice is hereby given that the U.S. Department of Agriculture is considering amendments to the Regulations Governing the Grading and Inspection of Domestic Rabbits and Edible Products Thereof (7 CFR Part 54); the Regulations Governing the Voluntary Inspection and Grading of Egg Products (7 CFR Part 55); the Regulations Governing the Grading of Shell Eggs and U.S. Standards, Grades, and Weight Classes for Shell Eggs (7 CFR Part 56); and the Regulations Governing the Grading and Inspection of Poultry and Edible Products Thereof (7 CFR Part 70), under authority contained in the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621-1627).

Statement of considerations. The proposed amendments would provide for established tours of duty for all resident grading service whether on a full or part time basis. All work after an established daily tour or on other than scheduled days would be overtime regardless of the pay status of the employee performing the work. This provision would greatly simplify billing procedures and provide equitable treatment of all plants using the voluntary grading service.

The amendments would also authorize the licensing of employees of cooperating agencies.

All persons who desire to submit written data, views, or comments in connection with this proposal shall file the same in duplicate with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, no later than June 1, 1972.

All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposed amendments are as follows:

PART 54—GRADING AND INSPECTION OF DOMESTIC RABBITS AND EDIBLE PRODUCTS THEREOF; AND UNITED STATES SPECIFICATIONS FOR CLASSES, STANDARDS, AND GRADES WITH RESPECT THERETO

As to Part 54:

1. In § 54.20, paragraph (a) would be amended to read:

§ 54.20 Licensed or authorized graders and inspectors.

(a) Any person who is a Federal or State employee, the employee of a local jurisdiction, or the employee of a cooperating agency possessing proper qualifications as determined by an examination for competency and who is to perform grading service under this part, may be licensed by the Secretary as a grader.

* * * * *

2. A new § 54.26 would be added to read:

§ 54.26 Schedule of operation of official plants.

Grading operating schedules for services performed pursuant to § 54.108 shall be requested in writing and be approved by the Administrator. Normal operating schedules for a full week consist of a continuous 8-hour period per day (excluding not to exceed 1 hour for lunch), 5 consecutive days per week, within the period of Monday through Saturday, for each shift required. Less than 8-hour schedules may be reqested and will be approved if a grader is available. Sundays may not be approved in any tour of duty. Clock hours of daily operations need not be specified in the request, although as a condition of continued approval, the hours of operation shall be reasonably uniform from day to day. Graders are to be notified by management 1 day in advance of any change in the hours grading service is requested.

3. In § 54.108, paragraph (a) (3) would be amended to read:

§ 54.108 Continuous grading performed on a resident basis.

* * * * *

(a) *Charges.* * * *

(3) A charge for the salary and other costs, as specified in this subparagraph, for each grader while assigned to a plant except that no charge will be made when the assigned grader is temporarily reassigned by AMS to perform service for other than the applicant. The base salary rate used for billing will be that of the grader(s) assigned to the plant. The regular rate charge will be made for work performed during the established tour of duty approved for the plant. The regular rate charge will be determined by adding an established factor to the base salary rate to cover the costs to AMS for such items as the employer's tax imposed under the U.S. Internal Revenue Code (26 U.S.C.) for old age and survivor's benefits under the Social Security System, retirement benefits, group life insurance, health benefits, severance pay, sick leave, annual leave, additional salary and travel costs for relief grading service, accident payments, certain moving costs, and related servicing costs. The overtime rate charge will be made for work performed beyond the established tour of duty approved for the plant or on a day outside the established work schedule. The overtime rate charge will be 150 percent of the grader's base salary rate. The added holiday rate charge will be made for the hours actually worked on a holiday which are within the established tour of duty approved for the plant. The added holiday rate charge will be the same as the grader's base rate. Service rendered on a holiday in excess of the tour of duty hours will be charged at the overtime rate.

* * * * *

PART 55—VOLUNTARY INSPECTION AND GRADING OF EGG PRODUCTS

As to Part 55:

1. In § 55.30, paragraph (a) would be amended to read:

§ 55.30 Licensed graders and inspectors.

(a) Any person who is a Federal or State employee, the employee of a local jurisdiction, or the employee of a cooperating agency possessing proper qualifications as determined by an examination for competency and who is to perform grading service under this part, may be licensed by the Secretary as a grader or inspector.

* * * * *

2. A new § 55.96 would be added to read:

§ 55.96 Schedule of operation of official plants.

Grading operating schedules for services performed pursuant to § 55.560 shall be requested in writing and be approved by the Administrator. Normal operating schedules for a full week consist of a continuous 8-hour period per day (excluding not to exceed 1 hour for lunch), 5 consecutive days per week, within the period of Monday through Saturday, for each shift required. Less than 8-hour schedules may be requested and will be

approved if a grader is available. Sundays may not be approved in any tour of duty. Clock hours of daily operations need not be specified in the request, although as a condition of continued approval, the hours of operation shall be reasonably uniform from day to day. Graders are to be notified by management 1 day in advance of any change in the hours grading service is requested.

3. In § 55.560, paragraph (a)(3) would be amended to read:

§ 55.560 Charges for continuous inspection and grading service on a resident basis.

* * * * *

(a) *Charges.* * * *

(3) A charge for the salary and other costs, as specified in this subparagraph, for each grader or inspector while assigned except that no charge will be made when the assigned grader or inspector is temporarily reassigned by AMS to perform service for other than the applicant. The base salary rate used for billing will be that of the grader(s) or inspector(s) assigned to the plant. The regular rate charge will be made for work performed during the established tour of duty approved for the plant. The regular rate charge will be determined by adding an established factor to the base salary rate to cover the costs to AMS for such items as the Employer's Tax imposed under the U.S. Internal Revenue Code (26 U.S.C.) for old age and survivor's benefits under the Social Security System, retirement benefits, group life insurance, health benefits, severance pay, sick leave, annual leave, additional salary and travel costs for relief grading and inspection service, accident payments, certain moving costs, and related servicing costs. The overtime rate charge will be made for work performed beyond the established tour of duty approved for the plant or on a day outside the established work schedule. The overtime rate charge will be 150 percent of the grader's or inspector's base salary rate. The added holiday rate charge will be made for the hours actually worked on a holiday which are within the established tour of duty approved for the plant. The added holiday rate charge will be the same as the grader's or inspector's base rate. Service rendered on a holiday in excess of the tour of duty hours will be charged at the overtime rate.

* * * * *

PART 56—GRADING OF SHELL EGGS AND U.S. STANDARDS, GRADES, AND WEIGHT CLASSES FOR SHELL EGGS

As to Part 56:

1. In § 56.10, paragraph (a) would be amended to read:

§ 56.10 Who may be licensed.

(a) Except as otherwise provided in paragraph (c) of this section, any person who is a Federal or State employee, the employee of a local jurisdiction, or the employee of a cooperating agency possessing proper qualifications as determined by an examination for competency and who is to perform grading service under this part, may be licensed by the Secretary as a grader.

* * * * *

2. A new § 56.18 would be added to read:

§ 56.18 Schedule of operation of official plants.

Grading operating schedules for services performed pursuant to §§ 56.52 and 56.54 shall be requested in writing and be approved by the Administrator. Normal operating schedules for a full week consist of a continuous 8-hour period per day (excluding not to exceed 1 hour for lunch), 5 consecutive days per week, within the period of Monday through Saturday, for each shift required. Less than 8-hour schedules may be requested and will be approved if a grader is available. Sundays may not be approved in any tour of duty. Clock hours of daily operations need not be specified in the request, although as a condition of continued approval, the hours of operation shall be reasonably uniform from day to day. Graders are to be notified by management 1 day in advance of any change in the hours grading service is requested.

3. In § 56.52, paragraph (a)(3) would be amended to read:

§ 56.52 Continuous grading performed on a resident basis.

* * * * *

(a) *Charges.* * * *

(3) A charge for the salary and other costs, as specified in this subparagraph, for each grader while assigned to a plant, except that no charge will be made when the assigned grader is temporarily reassigned by AMS to perform grading service for other than the applicant. The base salary rate will be determined by averaging the salary rate paid to each full-time grader assigned to plants with approximately equal volume and complexity of operation in the State in which service is furnished, except that a separate average will be established for large metropolitan areas. The regular rate charge will be made for work performed during the established tour of duty approved for the plant. The regular rate charge will be determined by adding an established factor to the base salary rate to cover the costs to AMS for such items as the Employer's Tax imposed under the U.S. Internal Revenue Code (26 U.S.C.) for old age and survivor's benefits under the Social Security System, retirement benefits, group life insurance, health benefits, severence pay, sick leave, annual leave, additional salary and travel costs for relief grading service, accident payments, certain moving costs, and related servicing costs. The overtime rate charge will be made for work performed beyond the established tour of duty approved for the plant or on a day outside the established work schedule. The overtime rate charge will be 150 percent of the grader's base salary rate. The added holiday rate charge will be made for the hours actually worked on a holiday which are within the established tour of duty approved for the plant. The added holiday rate charge will be the same as the grader's base rate. Service rendered on a holiday in excess of the tour of duty hours will be charged at the overtime rate.

* * * * *

4. In § 56.54, paragraph (a)(2) would be amended to read:

§ 56.54 Charges for continuous grading performed on a nonresident basis.

* * * * *

(a) *Charges.* * * *

(2) A charge for the salary and other costs, as specified in this subparagraph, for each grader while assigned to a plant, except that no charge will be made when the assigned grader is temporarily reassigned by AMS to perform grading service for other than the applicant. The base salary rate will be determined by averaging the salary rate paid to each full-time grader assigned to plants with approximately equal volume and complexity of operation in the State in which service is furnished, except that a separate average will be established for large metropolitan areas. The regular rate charge will be made for work performed during the established tour of duty approved for the plant. The regular rate charge will be determined by adding an established factor to the base salary rate to cover the costs to AMS for such items as the employer's tax imposed under the U.S. Internal Revenue Code (26 U.S.C.) for old age and survivor's benefits under the Social Security System, retirement benefits, group life insurance, health benefits, severence pay, sick leave, annual leave, additional salary and travel costs for relief grading service, accident payments, certain moving costs, and related servicing costs. The overtime rate charge will be made for work performed beyond the established tour of duty approved for the plant or on a day outside the established work schedule. The overtime rate charge will be 150 percent of the grader's base salary rate. The added holiday rate charge will be made for the hours actually worked on a holiday which are within the established tour of duty approved for the plant. The added holiday rate charge will be the same as the grader's base rate. Service rendered on a holiday in excess of the tour of duty hours will be charged at the overtime rate.

* * * * *

PART 70—GRADING AND INSPECTION OF POULTRY AND EDIBLE PRODUCTS THEREOF; AND U.S. CLASSES, STANDARDS, AND GRADES WITH RESPECT THERETO

As to Part 70:

1. Section 70.23 would be amended to read:

§ 70.23 Schedule of operation of official plants.

Grading operating schedules for services performed pursuant to §§ 70.137 and

70.138 shall be requested in writing and be approved by the Administrator. Normal operating schedules for a full week consist of a continuous 8-hour period per day (excluding not to exceed 1 hour for lunch), 5 consecutive days per week, within the period of Monday through Saturday, for each shift required. Less than 8-hour schedules may be requested and will be approved if a grader is available. Sundays may not be approved in any tour of duty. Clock hours of daily operations need not be specified in the request, although as a condition of continued approval, the hours of operation shall be reasonably uniform from day to day. Graders are to be notified by management 1 day in advance of any change in the hours grading service is requested.

2. In § 70.30, paragraph (a) would be amended to read:

§ 70.30 Licensed or authorized graders and inspectors.

(a) Any person who is a Federal or State employee, the employee of a local jurisdiction, or the employee of a cooperating agency possessing proper qualifications as determined by an examination for competency and who is to perform grading service under this part, may be licensed by the Secretary as a grader.

* * * * *

3. In § 70.137, paragraph (a) (2) would be amended to read:

§ 70.137 Charges for continuous grading performed on a nonresident basis.

* * * * *

(a) *Charges.* * * *

(2) A charge for the salary and other costs, as specified in this subparagraph, for each grader while assigned to a plant, except that no charge will be made when the assigned grader is temporarily reassigned by AMS to perform grading service for other than the applicant. The base salary rate will be determined by averaging the salary rate paid to each full time grader assigned to plants with approximately equal volume and complexity of operation in the State in which service is furnished, except that a separate average will be established for large metropolitan areas. The regular rate charge will be made for work performed during the established tour of duty approved for the plant. The regular rate charge will be determined by adding an established factor to the base salary rate to cover the costs to AMS for such items as the employer's tax imposed under the U.S. Internal Revenue Code (26 U.S.C.) for old age and survivor's benefits under the Social Security System, retirement benefits, group life insurance, health benefits, severance pay, sick leave, annual leave, additional salary and travel costs for relief grading service, accident payments, certain moving costs, and related servicing costs. The overtime rate charge will be made for work performed beyond the established tour of duty approved for the plant or on a day outside the established work schedule. The overtime rate charge will be 150 percent of the grader's base salary rate. The added holiday rate charge will be made for the hours actually worked on a holiday which are within the established tour of duty approved for the plant. The added holiday rate charge will be the same as the grader's base rate. Service rendered on a holiday in excess of the tour of duty hours will be charged at the overtime rate.

* * * * *

4. In § 70.138, paragraph (a) (3) would be amended to read:

§ 70.138 Continuous grading performed on a resident basis.

* * * * *

(a) *Charges.*

(3) A charge for the salary and other costs, as specified in this subparagraph, for each grader while assigned to a plant, except that no charge will be made when the assigned grader is temporarily reassigned by AMS to perform grading service for other than the applicant. The base salary rate will be determined by averaging the salary rate paid to each full time grader assigned to plants with approximately equal volume and complexity of operation in the State in which service is furnished, except that a separate average will be established for large metropolitan areas. The regular rate charge will be made for work performed during the established tour of duty approved for the plant. The regular rate charge will be determined by adding an established factor to the base salary rate to cover the costs to AMS for such items as the employer's tax imposed under the U.S. Internal Revenue Code (26 U.S.C.) for old age and survivor's benefits under the Social Security System, retirement benefits, group life insurance, health benefits, severance pay, sick leave, annual leave, additional salary and travel costs for relief grading service, accident payments, certain moving costs, and related servicing costs. The overtime rate charge will be made for work performed beyond the established tour of duty approved for the plant or on a day outside the established work schedule. The overtime rate charge will be 150 percent of the grader's base salary rate. The added holiday rate charge will be made for the hours actually worked on a holiday which are within the established tour of duty approved for the plant. The added holiday rate charge will be the same as the grader's base rate. Service rendered on a holiday in excess of the tour of duty hours will be charged at the overtime rate.

* * * * *

Issued at Washington, D.C., this 4th day of May 1972.

G. R. GRANGE,
Acting Administrator.

[FR Doc.72-7041 Filed 5-8-72;8:49 am]

[7 CFR Part 917]

FRESH PEARS, PLUMS AND PEACHES GROWN IN CALIFORNIA

Proposed Limitation of Handling

Consideration is being given to the following proposal submitted by the Peach Commodity Committee, established pursuant to the amended marketing agreement and Order No. 917, as amended (7 CFR Part 917; 36 F.R. 7510, 14381), regulating the handling of fresh pears, plums, and peaches grown in California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The proposal is to amend § 917.426 (Peach Regulation 1; 37 F.R. 8669) to: (1) Continue the effective period of said regulation to include all peach shipments for the 1972 season; (2) continue to June 20, 1972, the minimum size provision (size 96) for varieties not otherwise specified in the regulation; and (3) increase the minimum size, from 96 size to 80 size for varieties not specifically named in the regulation, for the period June 21 to October 31, 1972. It is the committee's recommendation that such regulation be continued for the entire 1972 peach season. The present regulation ends May 31, 1972. Such amendment would also recognize that the later maturing varieties are larger in size at maturity than the earlier varieties and limitations should be set accordingly.

All persons who desire to submit written data, views, or arguments for consideration in connection with the proposed amendment shall file the same, in quadruplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than the 10th day after publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

As proposed to be amended § 917.426 paragraph (a) preceding subparagraph (1); paragraph (b) preceding subparagraph (1), and a new paragraph (c), will read as follows:

§ 917.426 Peach Regulation 1.

(a) During the period June 1, 1972, through May 31, 1973, no handler shall handle:

* * * * *

(b) During the period June 1, 1972, through June 20, 1972, no handler shall handle any package or container of any variety of peaches not specifically named in subparagraphs (2), (3), (4), (5), or (6) of paragraph (a) of this section unless:

* * * * *

(c) During the period June 21, 1972, through October 31, 1972, no handler shall handle any package or container of any variety of peaches not specifically

named in subparagraphs (2), (3), (4), (5), or (6) of paragraph (a) of this section unless:

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

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

(3) Such peaches when packed in any container, other than a No. 22D standard lug box or a No. 12B standard peach box, measure not less than 2⅜ inches in diameter as measured by a rigid ring: *Provided,* That not more than 10 percent by count of peaches in any such container may fail to meet such diameter requirement.

Dated: May 4, 1972.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72-7040 Filed 5-8-72;8:49 am]

Animal and Plant Health Inspection Service

[9 CFR Part 92]

LIVESTOCK FROM MEXICO

Notice of Proposed Rule Making

Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553, that the Department of Agriculture is considering the amendment of the regulations relating to the importation of certain animals and poultry and certain animal and poultry products (9 CFR Part 92) pursuant to the provisions of sections 6, 7, 8, and 10 of the Act of August 30, 1890, as amended, section 2 of the Act of February 2, 1903, as amended, and sections 4, 5, and 11 of the Act of July 2, 1962 (21 U.S.C. 102–105, 111, 134c, 134d, and 134f) in the following respects:

Paragraph (b) (1) of § 92.35 would be amended to read as follows:

§ 92.35 Cattle from Mexico.

* * * * *

(b) *Tuberculosis.* (1) In addition to the provisions required in the certificate under paragraph (a) of this section, such certificate shall also show, with respect to all cattle from Mexico except cattle certified in accordance with § 92.40, that a review of the available herd history, including any tuberculin test results, trace-back slaughter reports and postmortem record, and any other available records or information do not indicate evidence of tuberculosis or exposure thereto during the preceding 60 days. The certificate shall also show, with respect to all cattle, except cattle certified in accordance with § 92.40 and steers, that the herd or herds from which the animals proceed have been tuberculin tested with negative results not more than 12 months nor less than 3 months before the date the animals are offered for entry into the United States and that the animals presented for entry, excepting only the natural increase in the herd, were included in the herd or herds of origin at the time of said herd test. The certificate shall further show, with respect to steers, that each animal has been tested with negative results by a salaried veterinarian of the national Government of Mexico not more than 60 days before the date the animals are offered for entry into the United States: *Provided,* That for steers not so tested and certified, the importer may elect to have the tuberculin test completed at the port of entry by the port veterinarian. The said certificate shall give the date and place of inspection, the date and place and results of the tuberculin test if applicable, the name of the herd owner, the name of the consignor and consignee, and an individual description of each animal including breed, age, sex, and tattoo or ear tag number.

* * * * *

The purpose of the amendment is to require a negative tuberculin test for steers offered for entry into the United States from Mexico not more than 60 days before the date such animals are offered for entry, or in lieu thereof, to require a negative tuberculin test to be conducted at the time such animals are presented at the port of entry for importation.

Any person who wishes to submit written data, views, or arguments concerning the proposed amendment may do so by filing them with the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250, within 90 days after publication of this notice in the FEDERAL REGISTER.

All written submissions made pursuant to this notice will be made available for public inspection at times and places and in a manner convenient to the public business (7 CFR 1.27(b)).

Done at Washington, D.C., this 3d day of May 1972.

KENNETH M. MCENROE,
Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc.72-7020 Filed 5-8-72;8:47 am]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Part 260]

INSPECTION, GRADING, AND CERTIFICATION OF FISHERY PRODUCTS

Statement of Policy and Intent

APRIL 21, 1972.

The National Marine Fisheries Service, U.S. Department of Commerce, operates a voluntary inspection program relating to the standardization, inspection, grading, and certification of fishery products as authorized by the Agricultural Marketing Act of 1946, as amended and the Fish and Wildlife Act of 1956, as amended. Revised regulations (Part 260, Title 50 CFR) for the conduct of this program under the Department of Commerce became effective December 3, 1971.

A new provision (§ 260.103(c)) was added to the regulations which provides that "Official establishments operating under Federal inspection should have an effective quality control program as appropriate for the nature of the product and processing operations." Since the advent of this provision, significant interest has been expressed by some users of this voluntary inspection service to develop or improve their respective quality control systems.

It is the policy of the National Marine Fisheries Service (NMFS) to encourage and assist official establishments in the development and implementation of complete or partial programs for quality control, which will facilitate consistent production of safe, wholesome, and uniformly high quality fishery products, thereby enhancing their marketability consistent with the needs of the consumer.

The NMFS intends to rely on the results of approved quality control systems provided and operated by parties contracting for inspection services, so the amount of inspection effort required and performed by NMFS may by systematically reduced at official establishments in proportion to the amount of quality control effort provided by the contracting party.

To assist contracting parties in the orderly development of complete or partial quality control systems, appropriate to their products and processing operations, NMFS has prepared two guidelines: (1) Guidelines for Development of Quality Control Systems—Official Establishments, and (2) Guidelines for Assessment and Approval of Quality Control Systems—Official Establishments. These proposed guidelines follow:

APPENDIX—GUIDELINE FOR DEVELOPMENT OF QUALITY CONTROL SYSTEMS—OFFICIAL ESTABLISHMENTS

A. *General.* A quality control system must include:

(1) Effectively established controls.

(2) Objective evidence, including a written detail of the system, showing conclusively that the controls are reliable and effective.

B. *Elements of a quality control system.* (1) A quality control system should contain effective procedures for detecting and preventing production of material which does not meet the acceptable level specified in the appropriate standards, specifications, etc. The essential elements of such a system are as follows:

(a) A quality control organization which is independent of production to the extent that the demands to improve quality, when required, shall be effective and not subject to external pressures from production and other facets of manufacturing, sales, or administrative operations (see exhibits I and II).

(b) A procedure for identifying the inspection status of material during and after process. Necessary identification may be ac-

complished by means of codes, tags, routing cards, or other labeling devices.

(c) A procedure for handling nonconforming material. Such material shall be adequately controlled to prevent its movement into production channels prior to correction of the defective aspects of the products.

(d) A procedure for maintaining adequate inspection and testing of incoming materials (raw materials, ingredients, packaging materials, etc.) to determine acceptability or conformance to appropriate standards or specifications.

(e) A procedure for feedback of test and inspection results which is used as a basis for corrective action by the responsible production supervisor.

(f) A procedure for maintaining quality control records in an efficient and orderly manner. The records must indicate the number of units inspected and the number and types of defects found at each inspection station. Any unusual causes adversely affecting product quality, together with corrective action taken, must be recorded.

(g) A procedure for calibration of scales, measuring instruments, and other devices used as media of inspection to assure accuracy and standardization at established intervals.

(2) A quality control system at an official establishment must contain the essential elements listed above, in addition, the contracting party must agree to:

(a) Make pertinent reports and quality control records available to NMFS. The records may consist of control charts, frequency distributions, number of defects in each lot, reasons for defects, corrective actions taken, and others, as suitable.

(b) Submit a written plan of the total Quality Control System to NMFS for evaluation as it pertains to the production of an item(s) intended to be produced under USDC contract inspection. This plan may be prepared with the help of the NMFS supervisory inspector, in accordance with the details of this guideline. The written plan, accompanied by a request to the NMFS supervisory inspector to have the system evaluated, will be forwarded to the Fishery Products Research and Inspection Division.

C. *Quality Control System (QCS) plan.* (1) A detailed plan of a Quality Control System shall consist of four sections, which are:

(a) A statement associating an item(s) with an official establishment and the QCS plan.

(b) A schematic drawing associating production functions with the inspection and testing stations related to particular production operations (see exhibits III and IV).

(c) A narrative report which details the following five aspects of an inspection station as they pertain to each production step appearing in the schematic diagram.

(i) Inspection for (enter tests, evaluations, observations, etc., performed at this station).

(ii) Person responsible to (enter name of department having responsibility for performing inspection and disseminating results for required actions).

(iii) Amount and frequency of inspection (enter number of sample units inspected and rate of sample extraction per lot).

(iv) Acceptance criteria (enter standard, specification, or other criteria, and limits of acceptability).

(v) Corrective action (enter administrative details used to correct production failures).

This data shall be identified with the schematic diagram by use of inspection station step numbers appearing therein.

(d) A statement of applicability and intent of conformance signed by the contracting party or his authorized representative (QC manager) and worded essentially as set forth in specimen exhibits III and IV attached.

(2) The attached exhibits are general guides to schematic diagraming of operations and management responsibilities. They need not be precisely followed so long as symbols are identified as to representation, the flow of production is indicated in sequence, inspection and testing stations are denoted, and reporting flow is indicated. The management organization should be arranged in order of authority. Additional narrative may be provided when various aspects of the plan need special clarification.

(3) The Quality Control System plan, together with a request by the contracting party for evaluation of his quality control system, shall be forwarded to NMFS as directed in preceding subparagraph B(2)(b).

EXHIBIT I

EXAMPLE OF GENERAL FLOW CHART

Indicates general relationship between production and quality control within the framework of both product flow and management organization.

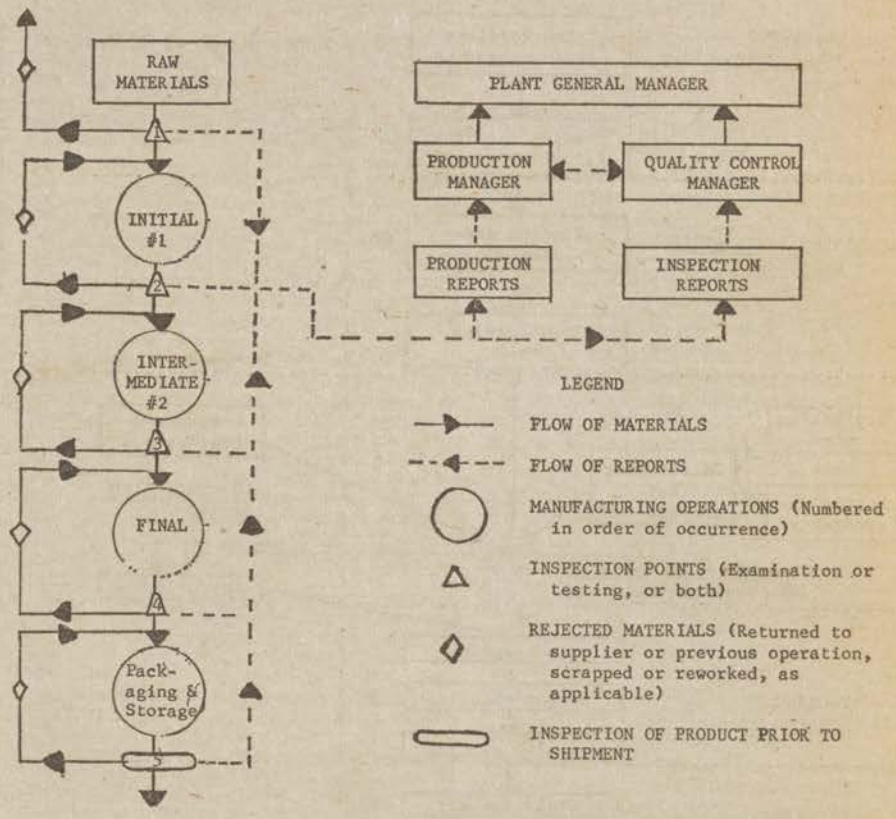


EXHIBIT II

GENERAL ORGANIZATION CHART

Quality control personnel report directly to, Quality Control Manager, who is on an equal basis with the Production Manager in the organization of our concern.

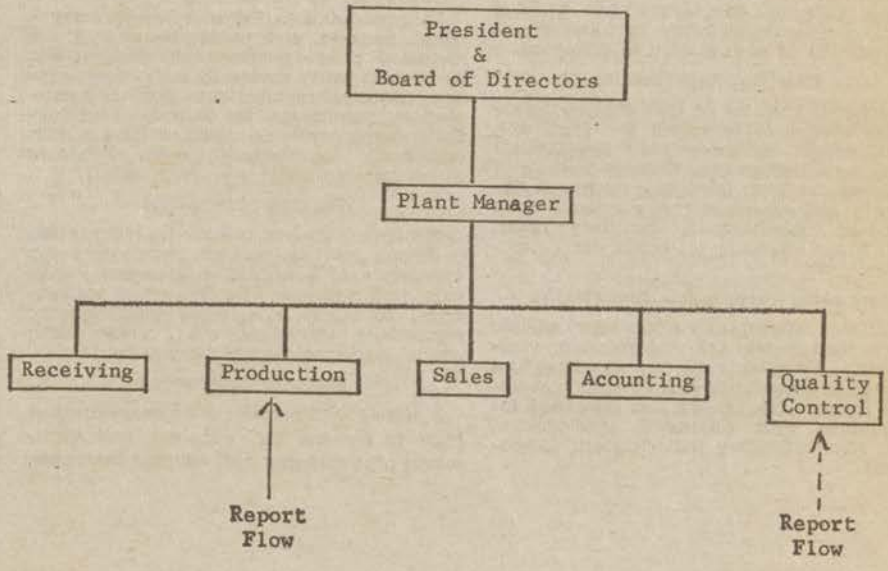
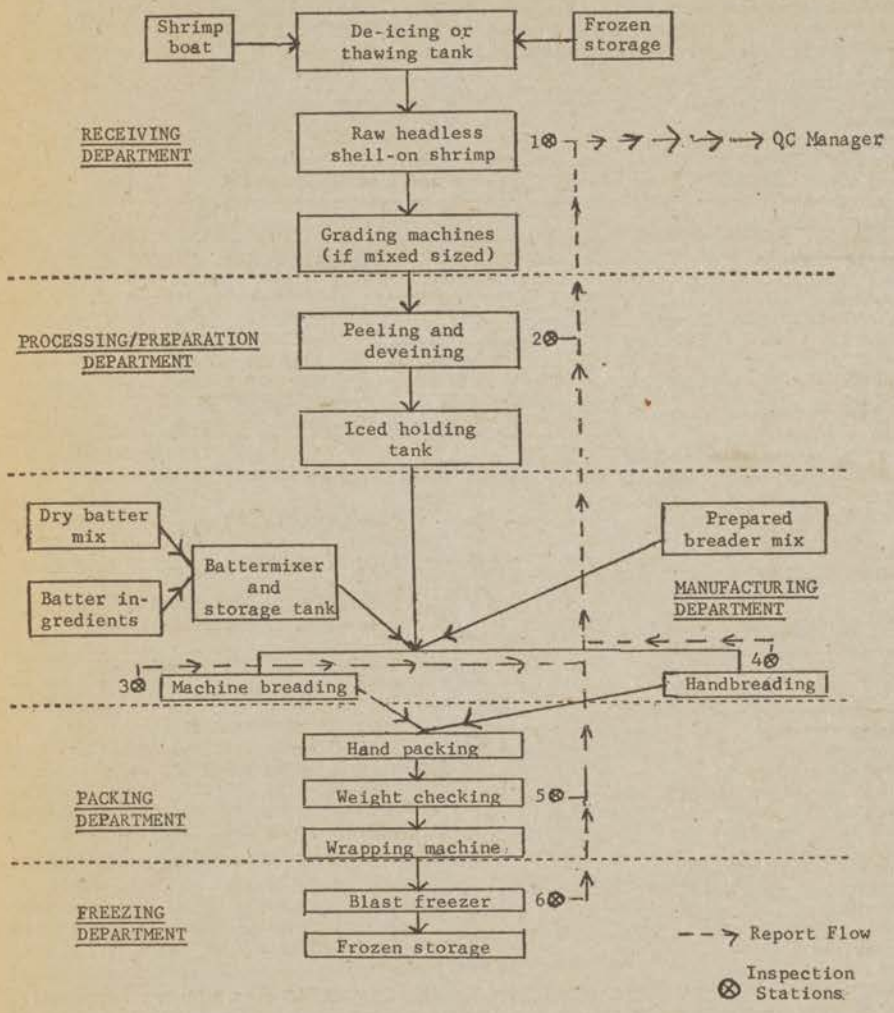


EXHIBIT III

EXAMPLE OF SPECIFIC FLOW CHART (BREADED SHRIMP)

_____, location _____, operates in accordance with
(Plant name) (City and State)
the following QCS plan which details the inspection stations and inspection responsibilities in accordance with the production steps used in the manufacturing process of breaded shrimp produced under Federal inspection, U.S. Department of Commerce.



The inspection stations listed on the preceding example flow chart for breaded shrimp are identified below by number and the function of each station is explained.

Receiving Department

Station 1. Each lot of (raw material component items) is inspected for (e.g., size, count, weight, condition, etc.) by (Department) personnel and the material is sampled in accordance with (sampling table and frequency) and examined for compliance with (standard, specification, purchase order, etc.). Nonconforming materials are (disposition).

Processing/Preparation Department

Station 2. (Item(s)) are inspected on-line for (defined factors for workmanship, quality, etc.), by (Department) personnel and sampled in accordance with (sample instructions for and frequency) and examined for compliance with (standard, specification, etc.). Nonconforming materials are (disposition).

Manufacturing Department

Stations 3 and 4. (Dry ingredients, components, packing, and packaging media) are inspected prior to production and on-line by (Department) personnel for (wholesomeness, technical requirements, etc.) and sampled in accordance to (sampling instructions, frequency) and tested to comply with (standard, specification, etc.). Products which fail to comply are (disposition).

Packing Department

Station 5. Packed, finished products are examined for (net weight, count, etc.), by (Department) personnel in accordance with (specified sampling and frequency instructions) to assure compliance with (specific regulations, standards, etc.). Those units which fail to comply are (disposition).

Freezing Department

Station 6. End product samples are checked prior to freezing for (accuracy, and application of, packaging and labeling materials, codes and identification marks, etc.) by (Department) personnel and sampled in accordance with (specific sampling and frequency instructions) to assure compliance with pertinent (Federal regulations, standards, specifications, etc.). Those units failing to comply are (disposition). In addition, end product is tested after freezing for (factor(s) evaluated in frozen state) by (Department) personnel, and sampled (specification, sampling and frequency instructions) to assure compliance with (Federal regulations, standards, specifications, etc.). Product which does not comply will (disposition).

All quality control inspection records generated and maintained by the Quality Control Department concerning this product(s) will be available to authorized NMFS personnel at all times. Copies of such quality control and production records as NMFS requires for verification and certification of federally inspected products will be supplied to NMFS personnel when requested.

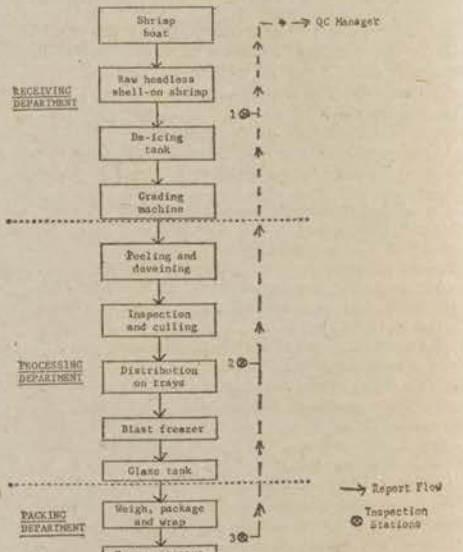
To the best of my knowledge the above plan is accurate and reflects our (present/contemplated) quality control system. Any actual or contemplated change will be reported to NMFS as soon as the decisions are made and prior to execution.

_____
(Name and Title of Official)

EXHIBIT IV

EXAMPLE OF SPECIFIC FLOW CHART (P&D SHRIMP)

_____, located _____,
(Plant Name) (City, State)
operates in accordance with the following QCS plan which details the inspection stations and inspection responsibilities in accordance with the production steps used in the manufacturing process of peeled and deveined shrimp produced and packed under Federal inspection, U.S. Department of Commerce.



The inspection stations listed on the preceding flow chart are identified below by number and the function of each station is explained.

Receiving Department

Station 1. Each lot of (raw material components) is inspected for (specific factors, e.g., size, count, weight, condition, quality,

wholesomeness), by (Department) inspection personnel, and sampled in accordance with (specific sampling and frequency instructions), and examined for compliance with (regulations, standards, specifications, etc.). All lots of product which fail to comply are (disposition).

Processing Department

Station 2. (Product item) is inspected and tested on-line for (factors, e.g., workmanship, etc.) by (Department) personnel, and sampled in accordance with (specific sampling and frequency instructions), and checked for compliance with (regulations, standards, specifications, etc.). Product failing to comply is (disposition).

Packing Department

Station 3. After freezing and glazing end-product units of (item) are tested for (accuracy of packaging and labeling material and codes, and identification marks, net weight, etc.) by (Department) inspection personnel, and sampled in accordance with (specific sampling and frequency of instructions) to assure compliance with (Federal regulations, standards, specifications, etc.). All noncomplying product units are (disposition).

All inspection records pertaining to this product(s) and maintained by the Quality Control Department will be available to all authorized NMFS personnel. Copies of those quality control and production records required by NMFS for verification and certification of federally inspected fishery products will be furnished upon request to NMFS inspection personnel.

To my knowledge the above plan is accurate and reflects as completely as possible our (present/contemplated) quality control system. Any actual or contemplated change will be reported to NMFS as soon as the decisions are made and prior to execution.

(Name and Title of Official)

APPENDIX—GUIDELINE FOR ASSESSMENT AND APPROVAL OF QUALITY CONTROL SYSTEMS—OFFICIAL ESTABLISHMENTS

NMFS will perform verification inspection (examination or testing or both) to assure that the designated Quality Control System (QCS), for which plans were submitted by the contracting party for approval, is adequate in all respects and performance of the system is consistently reliable.

A. *Assessment criteria.* 1. Evaluate the quality control system plan submitted by the contracting party for completeness, appropriateness, and clarity.

2. Survey the official establishment using a team comprised of the assigned NMFS inspector, the supervisory inspector, and other NMFS official(s) as deemed appropriate. The survey team will review the QCS plan and conduct an onsite evaluation of the entire manufacturing process in operation, and the QCS as it is being applied to:

(a) Verify that the QCS plan accurately reflects actual product (and/or components) movement through the processing facility in accordance with established flow charts.

(b) Verify that all QCS elements are present and operational.

(c) Check the designated inspection stations as indicated in the QCS plan to assess completeness of facilities, inspection tools, operator instructions, recording systems, etc.

(d) Assess the performance of the QCS in relation to identification of critical control points of the processing sequence and possible hazard-introduction situations, so that appropriate corrective action will be executed.

(e) Verify through onsite evaluations, the performance of the sanitation program of the official establishment, insofar as it impacts or materially affects the hygienic, safety, and wholesomeness aspects of the products being produced.

3. Select and sample certain lots of production for verification, processed in accordance with the QCS plan throughout a 1 week period, and test such lots for compliance with appropriate documents as specified in the QCS plan.

B. *Verification and approval—Temporary approval.* 1. Upon completion of the evaluation and survey, NMFS will consider the quality control system for approval on an interim basis, for a period of not less than 3 months, in order to thoroughly evaluate the performance of the Quality Control System for any variables which might affect consistent reliability. To aid in determining reliability of the contracting party's quality control system, NMFS will use recognized methods to determine if there are any significant differences between quality control results furnished by the contracting party and the results of NMFS verification inspection on the same lot(s).

2. Initially, the amount of verification inspection performed by NMFS, may equal the amount of inspection performed by the contracting party. During such time as NMFS is verifying the contracting party's quality control system on an interim basis to establish reliability, the products being packed under inspection and being certified will be based on the results of NMFS inspectors, with consideration being given to the results provided by the contracting party's quality control system.

Official approval. At the end of the interim period, if NMFS adjudges the contracting party's quality control system capable of producing consistent, reliable results, the QCS plan will be approved in writing and the inspection contract subsequently will be amended so as to reduce the level of the NMFS inspection effort.

C. *Disapproval of on-going quality control systems.* If at any time following official approval of a QCS, NMFS determines (a) that any element of the contracting party's quality control system is deficient, ineffective or unreliable, and (b) resolution of the problem cannot be resolved through routine corrective action, NMFS will then consider the quality control system as a whole, unreliable. Upon written notification of this determination, the inspection contract will be amended to increase the level of contract inspection service at the official establishment utilizing NMFS inspectors to that which prevailed prior to the official approval of the QCS. This level of contract inspection service by NMFS will continue until such time as the contracting party's quality control system's reliability is again officially approved by NMFS.

Interested persons are provided 60 days in which to submit comments regarding the proposed guidelines, to the Director, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, Washington, D.C. 20235.

PHILIP M. ROEDEL,
Director.

[FR Doc.72-6899 Filed 5-8-72;8:45 am]

ATOMIC ENERGY COMMISSION

[10 CFR Parts 2, 50]

RULES OF PRACTICE; LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

Restructuring of Facility License Application Review and Hearing Processes and Consideration of Environmental Statements

The Atomic Energy Commission is considering amendments to its regulations to restructure its facility license application review and hearing processes. The proposed amendments to Part 2 relate primarily to applications for licenses for production and utilization facilities. The proposed amendments to Appendix A of Part 2 relate primarily to applications for licenses to construct or operate power and test reactors and fuel reprocessing plants. The proposed amendments to Appendix D of Part 50, which applies to such facility and materials licenses as are subject to requirements for environmental impact statements pursuant to the National Environmental Policy Act of 1969 (NEPA), would conform Appendix D, as necessary, to the proposed amendments to Part 2, and make other changes to that appendix.

The proposed amendments would implement concepts outlined in a public announcement issued by the Commission on November 19, 1971 (AEC Considering Extensive Rule Changes to Reshape Regulatory Process). In March of this year a draft version of the amendments was circulated widely to environmentalist groups and to representatives of the nuclear power industry and discussed at a Commission-sponsored conference.

There has developed a widely shared concern as to the ability of the Commission's licensing process, as presently structured, to cope with the demands being placed upon it. Thus, at a time when there is sharply increasing demand for more electrical power, and when nuclear facilities are being called upon to meet a constantly mounting share of the demand, there are increasing delays in completing the decisional process with respect to the construction and operation of those facilities. The Commission is concerned not only with its obligation to the segment of the public participating in licensing proceedings but also its responsibility to the general public—a responsibility to arrive at sound decisions, whether favorable or unfavorable to any particular party, in a timely fashion. The Commission expressly recognizes the positive necessity for expediting the decisionmaking process and avoiding undue delays. It expects that its responsibilities under the Atomic Energy Act of 1954, the National Environmental Policy Act of 1969, and other applicable statutes, will be carried out in a manner consistent

with this policy in the overall public interest.

The dimensions of the problem are reflected in the increasingly lengthy proceedings in facility licensing. In some cases, hearing times are beginning to be measured in years. Parenthetically, the time interval between the filing of an application and the granting of a construction permit or operating license for a nuclear power reactor has been increasing in recent years on the average of 20 percent annually. Additional responsibilities stemming from recent statutes and court decisions underscore the scope and potential seriousness of the problem.

The Commission, in considering the kinds of changes in its licensing program that can best serve the fulfillment of its broad responsibilities, has given equal attention to the past participation of industry, intervenors, and the staff in the process.

With this background, the Commission has prepared and is inviting public comment on several proposals set forth in detail below. The proposals may be generally classified in the following groups: Handling of applications for construction permits and operating licenses; discovery (including depositions, interrogatories, and production of documents); intervention and classes of participants; prehearing conferences, including encouraging stipulations and authentication of documents through prehearing conferences; consolidation of parties; limitation of issues in operating license hearings; improvements in the public hearing process, including limitations on time allotted for the conduct of the culminating hearing phase; advance written testimony; authority of presiding officers to regulate hearings; summary disposition on pleadings; consideration of Commission rules in quasi-adjudicatory proceedings; official notice; and recognition of the public interest in fair and reasonable settlements.

The proposals do not involve drastic changes in the administrative process or novel procedures. Several are interrelated, but few depend on the use of others. Almost all of them have been tried in one or more Federal agencies with positive results.

1. *Handling of applications for facility construction permits and operating licenses.* Under past practice, facility license applications, no matter how deficient, were accepted for docketing. In general, the deficiencies were cured after exchanges of questions from the regulatory staff and answers by the applicant. This time-consuming process created additional staff work and contributed to the overall length of the initial review. The process can be improved and expedited by starting review of an application only when a reasonably complete application has been received. The Commission has developed a standard format for applications which should enable applicants to present an initial application in reasonably complete form. It is, therefore, proposed that each application (accompanied by any required environmental report and application fee) be initially treated as a tendered application to allow a determination as to whether it is reasonably complete and conforms to the Commission's requirements. That determination would generally be made within a period of 30 days. If not returned to the applicant by the end of that period, it will be docketed. The regulatory staff would thus be in a better position to establish a schedule for its review of the application and to specify the key intermediate points of that review. In construction permit and operating license proceedings, the appropriate notices (a notice of hearing in a construction permit proceeding; a notice of opportunity for hearing in an operating license proceeding) would be issued as soon as practicable after the application is docketed, to provide potential intervenors a better opportunity for more meaningful particiaption in the hearing process.

2. *Discovery (including depositions, production of documents, interrogatories, and production of Commission documents).* The proposed amendments would expand the time available for legitimate discovery by the parties to the proceeding and could be expected to obviate or lessen the delays which the current discovery process has caused. Proposed amendments to §§ 2.740 and 2.741 and a new § 2.740a would follow the Federal Rules of Civil Procedure, as revised in 1970, by providing for production of documents, serving of interrogatories and taking of depositions without the necessity of motions and orders by the presiding officer or the Commission. Such discovery would not be permitted until the matters in controversy have been preliminarily identified. Applicants are, however, encouraged to make available to interested persons any documents relied on in the application before that time. Once the matters in controversy have been identified, discovery would be limited to those matters following the initial prehearing conference (described in item 4 below). Discovery would be required to be completed before the second prehearing conference, except for good cause shown.

The proposed amendments would also liberalize the current rules considerably to provide for disclosure of more AEC documents as a matter of course. With respect to such documents, those that are relevant to the proceeding would generally be publicly available as a matter of course unless there is a compelling justification for their nondisclosure (§ 2.790). Therefore, document discovery directed at the staff would be tightly restricted. Since the routinely available documents should, under this approach, reasonably disclose the basis for the staff's position, staff-directed discovery could then be limited to information concerning a matter vital to a decision in the case and not obtainable elsewhere (§ 2.744). It is emphasized that this proposal is not intended to inhibit discovery procedures as a legitimate means of obtaining needed information. It is, rather, an attempt to devise a means of making masses of material readily and routinely available without resort to time-consuming and perhaps less fruitful formal discovery procedures. It should also be noted that with respect to documents, pertaining to licensing or rule making, filed with the Commission that are deemed to be proprietary in nature, the Commission would, in deciding whether the document should be withheld from disclosure, attempt to achieve an effective balance between the legitimate concerns of the person requesting withholding and the public interest in disclosure.

3. *Intervention.* The present procedures for intervention (which stem from statutory requirements) will be essentially retained, but certain new responsibilities would be placed on those permitted to intervene in connection with making and supporting allegations on matters they seek to place in controversy for hearing consideration. The opening up of the process, as described above, implies that intervenors should have correlative responsibilities to help define and substantiate the matters that they seek to put in issue after they have had an opportunity to avail themselves of the information that would then be open to them. Definition of the matters in controversy is widely recognized as the keystone to the efficient progress of a contested proceeding. In order to put a matter in issue, it would not be sufficient merely to make an unsupported allegation. With respect to petitions for leave to intervene, several factors would be considered and orders permitting intervention could be conditioned to restrict irrelevant, duplicative, or repetitive evidence and argument and to require common interests to be represented by a spokesman. It would also be possible to limit an intervention to one or more issues upon a finding that the petitioner's interest is so limited.

4. *Prehearing conferences.* The proposed amendments to Part 2 would also provide for a special prehearing conference to be held within 60 days after the notice of hearing on an application for a facility construction permit is published, or such other time as the Commission or the presiding officer may deem appropriate. In an operating license proceeding in which a hearing is requested, the date would be specified when the Commission ruled on the request. This conference would be in addition to, and not in place of, the prehearing conference contemplated by § 2.752 of Part 2. The purpose of the special conference would be to permit identification of key issues; consider petitions for leave to intervene in order to allow preliminary or final determinations as to the parties to the proceeding; provide for the submission of status reports on discovery; and establish a schedule for further actions in the proceeding. The special conference should facilitate the early establishment of a schedule for succeeding events in the proceeding and should work to the benefit of all parties. Further, informal conferences, including telephone conferences, could be held to the extent they would expedite the proceedings. The second prehearing conference, held pursuant to existing § 2.752, as amended, would usually be held within 60 days after discovery has been completed. "Discovery," for this purpose, would not include production of the report of the

Advisory Committee on Reactor Safeguards, the AEC staff safety evaluation or the AEC detailed statement on environmental considerations.

5. *Consolidation of parties.* A new § 2.715a is proposed to be added to Part 2 to provide that, if more than one party has substantially the same kind of interest that may be affected by the proceeding, and raises the same basic questions, the presiding officer or the Commission may order those parties to consolidate their presentation of evidence, cross-examination, briefs, proposed findings, and conclusions of law and argument, unless the consolidation would prejudice the rights of any party. Depending on the circumstances, the consolidation could be effected across-the-board on all issues or selectively, with respect to one or more issues.

6. *Limitation of issues in operating license hearing.* At the operating license stage, where a hearing is required only upon the request of a person whose interest may be affected, the issues in a proceeding would be limited to matters that are actually put in controversy by the parties. Thus, if radiation safety matters were not put in issue, they would not be considered at the hearing. Under this approach, the atomic safety and licensing board or other presiding officer would not make the findings on the traditional, ultimate issues, but would make findings only on the matters in controversy, and, depending on the resolution of those matters, the Director of Regulation, after making the requisite findings, would issue, deny, or appropriately condition the license.

7. *Improvements in the public hearing process.* The proposals grouped under this heading are directed essentially at expediting the conduct of public hearings by a combination of methods, some of which are widely used.

(a) Late intervention would be discouraged by stricter requirements for granting of petitions for leave to intervene in such cases.

(b) Limitations on time allotted for conduct of hearing: Many of the time limitations prescribed by the current rules were set to allow the maximum time for the parties to the proceedings to perform various activities. There are instances where the activities covered by the limitations can be performed in much less time. There is, therefore, no reason why, in appropriate cases where it would not prejudice a party, some of the time limits could not be reduced by order. Similary, in any instance where a time limit is not set by regulation, the presiding officer should be able to impose reasonable time limits.

(c) Advance written testimony: The use of advance written testimony by all parties, as required by a proposed amendment to § 2.743, can be expected to expedite the hearing process as well as to provide other benefits. Counsel and their technical advisers can examine the material before hearing and be prepared to cross-examine without delay. (Persons who wish to make a limited appearance, and a statement in connection therewith, would, of course, be permitted to do so.)

(d) Summary disposition on pleadings: Courts for many years have recognized and used the device of deciding certain matters, such as questions of law, on the pleadings. In many cases, argument and further hearing can add nothing to the filings in the proceeding. In those cases the presiding officer should be able, on motion, to render a decision, if the filings in the proceeding and other materials show that there is no genuine issue as to any material fact. A new § 2.749 would permit such summary disposition. However, in any proceeding involving a construction permit where a hearing is required by law, this procedure could be used only for determining subordinate issues and not the ultimate issue as to whether the permit should be issued.

(e) Authority of presiding officers to regulate hearings: Most opportunities for expediting proceedings occur during the hearing phase. Delinquencies occurring in this phase will compound delays in the final phase. The effectiveness of the presiding officer depends not only on his ability to organize and manage, but also on the tools he is given. Therefore, to prevent unnecessary delays and an unnecessarily large record, the presiding officer would be enabled to limit cumulative testimony, strike argumentative, repetitious, cumulative, or irrelevant evidence, take necessary and proper steps to prevent argumentative, repetitious, and cumulative cross-examination, and impose reasonable time limits on arguments.

(f) Consideration of AEC rules in hearings in licensing proceedings: In view of the expanding opportunities for participation in Commission rule making proceedings and increased emphasis on rule making proceedings as the appropriate forum for settling basic policy issues, it is proposed, in a new § 2.758, that challenges to Commission regulations in quasi-adjudicatory proceedings involving initial licensing be restricted to the matter of whether the application of a specified regulation or provision thereof should be waived or an exception made for the particular proceeding. Whenever a party wished to take such a position, he would be required to file a petition and furnish particulars by affidavit. Upon a finding by the presiding officer, based on the affidavits and any material in response submitted by other parties, that the asserting party had not made a prima facie case, no evidence, discovery, or argument would be allowed on the matter. If the presiding officer found that such a showing has been made, he would certify directly to the Commission for a determination the question of whether the application of the Commission regulation to a particular aspect of the subject matter of the proceeding should be waived or an exception made. The proposed amendment would not apply in instances where a challenge to Commission regulations had been made, and a ruling rendered, before the effective date of the regulation.

(g) Official notice: The provisions of amended § 2.743 of Part 2 pertaining to official notice would require the specification in the record of each fact of which the Commission and the presiding officer take official notice, with sufficient particularity to advise the parties of what facts have been noticed. There would be opportunity for each party adversely affected by the decision to controvert the fact. It is expected that the amendment would clarify the scope of "official notice" while preserving the legitimate use of the technique to eliminate the need for introduction of evidence on facts properly falling within "official notice."

(h) Encouraging stipulations and authentication of documents through prehearing conferences: At the second prehearing conference, parties would be encouraged to stipulate uncontroverted material, thus making possible the elimination of a substantial amount of cross-examination and the saving of time and expense. Further, stipulations would be encouraged at all later procedural stages.

(i) Recognition of public interest in fair and reasonable settlements: Formal recognition would be given to the public interest in achieving fair and reasonable settlement of contested proceedings. To the extent not inconsistent with the hearing requirement in section 189 of the Act (42 U.S.C. 2239), it is proposed that such settlements be encouraged, either as to particular issues in a proceeding or the entire proceeding. It is expected that the presiding officer and all the parties to the proceeding will take appropriate action to carry out this purpose.

(j) Informal conferences: Greater emphasis would be placed on the use of informal conferences among the parties (including telephone conferences) to expedite proceedings.

(k) Time for regulatory staff to respond to motions and petitions and to file other papers in adjudicatory proceedings: The proposed amendments to Part 2 would allow the regulatory staff to have an opportunity to consider all matters and positions taken by other parties before finalizing its position on various questions presented during a proceeding. The affording of this opportunity to the staff would be appropriate in view of its duty to represent the public interest in Commission adjudicatory proceedings and to assure the development of an adequate decisional record. In general, the proposal would allow the staff to file answers to motions, proposed findings of fact and conclusions of law, exceptions to initial decisions and briefs in support of or in opposition to exceptions filed by another party, and answers to petitions for leave to intervene and for reconsideration 5 days later than the time specified for filing of those documents by other parties to a proceeding.

(l) Limitations on use of expert interrogators: Section 2.733 would be amended to require the presiding officer to make a determination that individuals other than attorneys whom a party wished to conduct on his behalf examination or cross-examination of witnesses have appropriate scientific or technical qualifications, that such individual had read any written or oral testimony or any

documents that will be the subject of examination, and that he had prepared himself to conduct a meaningful and expeditious examination or cross-examination. Permission to conduct examination would be limited to the areas in which the interrogator had been shown to be qualified. The party on whose behalf the interrogator conducted the examination and his attorney would be held responsible for the interrogator's conduct of examination or cross-examination. The use of such expert interrogators would be permitted for the purpose of furthering the conduct of the proceeding.

Certain changes would be made in Part 2 to reflect the provisions of Appendix D of Part 50 that are applicable to hearings held on applications for facility construction permits or operating licenses. Other changes to Part 2 are also proposed. The latter category includes proposed amendments to §§ 2.105 and 2.106 of Part 2 which would conform the provisions of those sections to the present requirements of the Atomic Energy Act and to the Commission's practice, and modify the provisions for publication of notice of the issuance of licenses. Proposed amendments to Appendix A of Part 2 would modify the statement therein of the Commission's policy of holding hearings in the vicinity of the facility to provide for the holding of hearing sessions in the Washington, D.C., area in cases in which all parties so stipulate or when valid reasons for such location exist.

To reflect the changes discussed above, and the fact that most hearings in facility licensing proceedings are now contested proceedings, Appendix A of Part 2 would be extensively revised. The notice of proposed rule making pretaining to amendment of Appendix A of Part 2 published on May 5, 1971 (36 F.R. 8379) is hereby revoked.

Proposed amendments to § 50.57(c) and to Appendix D of Part 50 to reflect the limitation of issues in hearings at the operating license stage are also proposed. Other changes to Appendix D that in part reflect the comments received on the revision of Appendix D to Part 50 published on September 9, 1971 (36 F.R. 18071), are also proposed. The role of clearinghouses and local public document rooms in making documents pertaining to environmental reviews of license applications and licenses subject to Appendix D available to interested persons would be clarified.

The time allowed State and local agencies and interested members of the public for comment on applicant's environmental report and the AEC draft detailed statement would be changed to forty-five (45) days, conforming to the time allowed Federal agencies.

Section C of Appendix D would be amended to provide that, in a licensing proceeding subject to that section, if construction of the facility is expected to be completed by or soon after the completion of the NEPA environmental review required by that section, the NEPA environmental review will cover both the construction permit and the operating license stage. One notice of opportunity for hearing would be issued, and, upon publication of such a notice, the provisions of section D, including sections D.2 and 3, would be applicable.

One of the comments received on revised Appendix D suggested that all relevant records of actions by other agencies should be supplied by the license applicant, that there should be some provision for having the record of proceedings involving establishment of relevant environmental standards by other Federal or State agencies referenced in the AEC review and that parties should be encouraged to stipulate, to that end, that some of the data introduced in those proceedings will serve as evidence for comparable issues in the AEC licensing proceeding. The Commission is considering whether the first and second suggestions might be implemented in some way in its revised Guide to the Preparation of Environmental Reports for Nuclear Power Plants. The third suggestion would be substantially implemented by the proposed provision relating to stipulations in this notice of proposed rule making.

Pursuant to the Atomic Energy Act of 1954, as amended, the National Environmental Policy Act of 1969, and section 553 of title 5 of the United States Code, notice is hereby given that adoption of the following amendments of 10 CFR Parts 2 and 50 is contemplated. All interested persons who desire to submit written comments or suggestions for consideration in connection with the proposed amendments should send them to the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Branch, within 30 days after publication of this notice in the FEDERAL REGISTER. Copies of comments received may be examined in the Commission's Public Document Room, 1717 H Street NW., Washington, DC.

§ 2.4 [Amended]

1. In § 2.4 of 10 CFR Part 2, paragraph (o) is revoked.

2. In § 2.101 of 10 CFR Part 2, new sentences are added at the end of paragraph (a) and the first sentence of paragraph (b) is amended to read as follows:

§ 2.101 Filing of application.

(a) * * * However, an application for a construction permit or operating license for a production or utilization facility will be initially treated as a tendered application after it is received to allow determination as to whether it is complete and conforms to the requirements of this chapter. Generally, that determination will be made within a period of thirty (30) days. If it is not returned to the applicant at the end of that period, it will be assigned a docket number or docketed, as the case may be. If an application is returned, the applicant will be informed in what respects the application is considered incomplete.

(b) After his application has been assigned a docket number, or docketed, as the case may be, each applicant for a license for a facility or for receipt of waste radioactive material from other persons for the purpose of commercial disposal by the waste disposal licensee shall serve a copy of the application on the chief executive of the municipality in which the facility is to be located or the activity is to be conducted or, if the facility is not to be located or the activity conducted within a municipality, on the chief executive of the county. * * *

3. In § 2.102 of 10 CFR Part 2, the word "docketed" is inserted before the word "application" the first time it appears in paragraphs (b), (c), and (d) and paragraph (a) is amended to read as follows:

§ 2.102 Administrative review of application.

(a) During review of an application by the regulatory staff, an applicant may be required to supply additional information. The regulatory staff may request any one party to the proceeding to confer with the staff informally. In the case of a docketed application for a construction permit or an operating license for a facility, the regulatory staff shall establish a schedule for its review of the application, specifying the key intermediate steps from the time of docketing until the completion of its review.

* * * * *

4. In § 2.104 of 10 CFR Part 2, paragraphs (c) and (d) are redesignated paragraphs (d) and (e), a new subparagraph (1)(v) and a new subparagraph (3) are added to paragraph (b), the prefatory language in paragraph (b) and paragraph (b)(2) are amended, and a new paragraph (c) is added to read as follows:

§ 2.104 Notice of hearing.

(a) In the case of an application on which a hearing is required by the Act or this chapter, or in which the Commission finds that a hearing is required in the public interest, the Secretary will issue a notice of hearing to be published in the FEDERAL REGISTER as required by law at least fifteen (15) days, and in the case of an application concerning a facility, at least thirty (30) days, prior to the date set for hearing in the notice. In addition, in the case of an application for a construction permit for a facility, the notice (other than a notice issued pursuant to paragraph (d) of this section) shall be issued as soon as practicable after the application has been docketed. The notice will state:

(1) The time, place, and nature of the hearing and/or prehearing conference, if any;

(2) The authority under which the hearing is to be held;

(3) The matters of fact and law to be considered; and

(4) The time within which answers to the notice shall be filed.

(b) In the case of an application for a construction permit for a facility on which the Act requires a hearing, the notice of hearing will, except as provided in paragraph (d) of this section and unless the Commission determines otherwise, state, in implementation of paragraph (a)(3) of this section:

(1) That, if the proceeding is a contested proceeding, the presiding officer will consider the following issues: [1]

* * * * *

(v) If the application is for a construction permit for a nuclear power reactor, a testing facility, a fuel reprocessing plant, or other facility whose construction or operation has been determined by the Commission to have a significant impact on the environment, whether, in accordance with the requirements of Appendix D of Part 50 of this chapter, the construction permit should be issued as proposed.

(2) That, if the proceeding is not a contested proceeding, the presiding officer will determine (i) without conducting a de novo evaluation of the application, whether the application and the record of the proceeding contained sufficient information, and the review of the application by the Commission's regulatory staff has been adequate, to support affirmative findings on subdivisions (i) through (iii) specified in subparagraph (1) of this paragraph (b) and a negative finding on subdivision (iv) specified in subparagraph (1) of this paragraph (b) proposed to be made and the issuance of the construction permit proposed by the Director of Regulation, and (ii) if the application is for a construction permit for a nuclear power reactor, a testing facility, a fuel reprocessing plant, or other facility whose construction or operation has been determined by the Commission to have a significant impact on the environment, whether the review conducted by the Commission pursuant to the National Environmental Policy Act (NEPA) has been adequate.

(3) That regardless of whether the proceeding is contested or uncontested, the presiding officer will, in accordance with section A.11 of Appendix D of Part 50 of this chapter.

(i) Determine whether the requirements of section 102(2) (C) and (D) of the National Environmental Policy Act and Appendix D of Part 50 of the chapter have been complied with in the proceeding;

(ii) Independently consider the final balance among conflicting factors contained in the record of the proceeding with a view to determining the appropriate action to be taken; and

(iii) Determine whether the construction permit should be issued, denied, or appropriately conditioned to protect environmental values.

(c) In the case of an application for an operating license in which a hearing will be held, the notice of hearing will, except as provided in paragraph (d) of this section and unless the Commission determines otherwise, state, in implementation of paragraph (a)(3) of this section, that the presiding officer will consider any matters in controversy among the parties, within the purview of:

(1) Whether there is reasonable assurance that construction of the facility will be substantially completed on a timely basis, in conformity with the construction permit and the application as amended, the provisions of the Act, and the regulations in this chapter;

(2) Whether the facility will operate in conformity with the application as amended, the provisions of the Act, and the regulations in this chapter;

(3) Whether there is reasonable assurance (i) that the activities to be authorized by the operating license can be conducted without endangering the health and safety of the public, and (ii) that such activities will be conducted in compliance with the regulations in this chapter;

(4) Whether the applicant is technically and financially qualified to engage in the activities to be authorized by the operating license in accordance with the regulations in this chapter;

(5) Whether the applicable provisions of Part 140 of this chapter have been satisfied;

(6) Whether issuance of the license will be inimical to the common defense and security or to the health and safety of the public; and

(7) If the application is for an operating license for a nuclear power reactor, a testing facility, or a fuel reprocessing plant, or other facility whose operation has been determined by the Commission to have a significant impact on the environment, whether, in accordance with the requirements of Appendix D of Part 50 of this chapter, the operating license should be issued as proposed.[2]

§ 2.103 [Amended]

5. The reference to § 2.104(c) in §§ 2.103(a) of 10 CFR Part 2 is amended to "§ 2.104(e)".

6. In § 2.105 of 10 CFR Part 2, a sentence is added at the end of paragraph (a) and paragraph (d) is amended to read as follows:

§ 2.105 Notice of proposed issuance.

(a) If a hearing is not required by the Act or this chapter, and if the Commission or the Director of Regulation has not found that a hearing is in the public interest, he will, prior to acting thereon, cause to be published in the FEDERAL REGISTER a notice of proposed action with respect to an application for:

* * * * *

In the case of an application for an operating license for a facility of a type described in §§ 50.21(b) or 50.22 of this chapter or which is a testing facility, a notice of opportunity for hearing shall be issued as soon as practicable after the application has been docketed.

* * * * *

(d) The notice of proposed action will provide that, within thirty (30) days from the date of publication of the notice in the FEDERAL REGISTER, or such lesser period authorized by law as the Commission may specify:

(1) The applicant may file a request for a hearing and

(2) Any person whose interest may be affected by the proceeding may file a petition for leave to intervene.

* * * * *

7. Section 2.106 (a) and (b) of 10 CFR Part 2 is amended to read as follows:

§ 2.106 Notice of issuance.

(a) The Director of Regulation will cause to be published in the FEDERAL REGISTER notice of, and will inform the State and local officials specified in § 2.104(e) of the issuance of a license or an amendment of a license for which a notice of proposed action has been previously published.

(b) The notice of issuance will set forth:

(1) The nature of the license or amendment;

(2) The manner in which copies of the safety analysis, if any, may be obtained and examined; and

(3) A finding that the application for the license or amendment complies with the requirements of the Act and this chapter.

* * * * *

8. SECTION 2.711 of 10 CFR Part 2 is revised to read as follows:

§ 2.711 Extension and reduction of time limits.

(a) Except as otherwise provided by law, (whenever an act is required or allowed to be done at or within a specified time, the time fixed or the period of time prescribed may for good cause be extended or shortened by the Commission or the presiding officer, or by stipulation approved by the Commission or the presiding officer.

(b) In any instance in which this part does not prescribe a time limit for an action to be taken in the proceeding, the Commission or the presiding officer may set a time limit for that action.

9. Section 2.714 of 10 CFR Part 2 is revised to read as follows:

§ 2.714 Intervention.

(a) Any person whose interest may be affected by a proceeding and who desires to participate as a party shall file a written petition under oath or affirmation for leave to intervene. Any such petition shall be accompanied by a supporting affidavit identifying the specific aspect or aspects of the subject matter of the proceeding as to which he wishes to intervene and setting forth with particularity the matters on which he relies to support his petition. The petition shall be filed not later than the time specified in the notice of hearing, or as provided by the Commission or the presiding officer, except as provided in § 2.102(d)(3). Nontimely filings will not be entertained absent a determination by the Commission or the presiding officer that the petitioner has made a substantial showing of good cause for failure to file on time, and with particular reference to the following factors in addition to those set out in paragraph (d) of this section:

[1] Issues (i) to (iv) are the issues pursuant to the Atomic Energy Act of 1954, as amended. Issue (v) is the issues pursuant to the National Environmental Policy Act of 1969.

[2] Issues (1) to (6) are the issues pursuant to the Atomic Energy Act of 1954, as amended. Issue (7) is the issue pursuant to the National Environmental Policy Act of 1969.

whereby the petitioner's interest will be protected.

(2) The extent to which the petitioner's participation may reasonably be expected to assist in developing a sound record.

(3) The extent to which petitioner's interest will be represented by existing parties.

(4) The extent to which the petitioner's participation will broaden the issues or delay the proceeding.

(b) The petition shall set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and any other contentions of the petitioner including the facts and reasons why he should be permitted to intervene, with particular reference to the factors set forth in paragraph (d) of this section. A petition that sets forth contentions relating only to matters outside the jurisdiction of the Commission shall be denied.

(c) Any party to a proceeding may file an answer to a petition for leave to intervene within five (5) days after the petition is filed, with particular reference to the factors set forth in paragraph (d) of this section. However, the regulatory staff may file such an answer within ten (10) days after the petition is filed.

(d) The Commision or the presiding officer shall, in ruling on a petition for leave to intervene, consider the following factors, among other things:

(1) The nature of the petitioner's right under the Act to be made a party to the proceeding.

(2) The nature and extent of the petitioner's property, financial, or other interest in the proceeding.

(3) The possible effect of any order which may be entered in the proceeding on the petitioner's interest.

(e) An order permitting intervention may be conditioned on such terms as the Commission or presiding officer may direct in the interests of (1) restricting irrelevant, duplicative, or repetitive evidence and argument, (2) having common interests represented by a spokesman, and (3) retaining authority to determine priorities and control the compass of the hearing.

(f) In any case in which, after consideration of the factors set forth in paragraph (d) of this section, the Commission or the presiding officer finds that the petitioner's interest is limited to one or more of the issues involved in the proceeding, any order allowing intervention shall limit his participation accordingly.

(g) A person permitted to intervene becomes a party to the proceeding, subject to any limitations imposed pursuant to paragraph (f) of this section.

(h) Unless otherwise expressly provided in the order allowing intervention, the granting of a petition for leave to intervene does not change or enlarge the issues specified in the notice of hearing.

10. A new § 2.715a is added after § 2.715 of 10 CFR Part 2 to read as follows:

§ 2.715a Consolidation of parties in construction permit or operating license proceedings.

On motion or on its or his own initiative, the Commission or the presiding officer may order any parties in a proceeding for the issuance of a construction permit or an operating license for a production or utilization facility who have substantially the same interest that may be affected by the proceeding and who raise substantially the same questions, to consolidate their presentation of evidence, cross-examination, briefs, proposed findings of fact, and conclusions of law and argument. However, it may not order any consolidation that would prejudice the rights of any party. A consolidation under this section may be for all purposes of the proceeding, all of the issues of the proceeding, or with respect to any one or more issues thereof.

§ 2.716 [Amended]

11. The heading of § 2.716 of 10 CFR Part 2 is amended to read as follows: Section 2.716 *Consolidation of proceedings.*

12. In § 2.720 of 10 CFR Part 2, paragraph (h)(2)(ii) and paragraph (h)(3) are amended and a new paragraph (h)(2)(iii) is added to read as follows:

§ 2.720 Subpoenas.

* * * * *

(h) * * *

(2) * * *

(ii) In addition, a party may file with the presiding officer written interrogatories to be answered by AEC personnel with knowledge of the facts designated by the General Manager or the Director of Regulation, as appropriate. Upon a finding by the presiding officer that answers to the interrogatories are necessary to a proper decision in the proceeding, and that answers to the interrogatories are not reasonably obtainable from any other source, the presiding officer shall certify directly to the Commission [1] for determination, prior to any ruling thereon, the matter of whether the interrogatories should be answered by AEC personnel. If the Commission determines that such interrogatories should be answered by AEC personnel, the interrogatories will be answered and the answers will be served by the Secretary of the Commission upon the parties to the proceeding.

(iii) No deposition of a particular named AEC employee or answer to interrogatories by AEC personnel pursuant to subdivision (i) or (ii) of this subparagraph shall be required before the matters in controversy in the proceeding have been identified by order of the Commission or the presiding officer, or after the beginning of the prehearing conference held pursuant to § 2.752 except upon leave of the Commission for good cause shown.

(3) Records or documents in the custody of the Commissioners and AEC personnel are available for inspection and copying or photographing pursuant to §§ 2.744 and 2.790.

13. Paragraph (c) of § 2.730 of 10 CFR Part 2 is amended to read as follows:

§ 2.730 Motions.

* * * * *

(c) *Answers to motions.* Within 5 days after service of a written motion, or such other period as the Commission or presiding officer may prescribe, a party may file an answer in support of or in opposition to the motion, accompanied by affidavits or other evidence. However, the regulatory staff may file such an answer within 10 days after service of a written motion. The moving party shall have no right to reply, except as permitted by the presiding officer or the Commission.

* * * * *

14. Section 2.733 of 10 CFR Part 2 is revised to read as follows:

§ 2.733 Examination by experts.

A party may request the presiding officer to permit a qualified individual who has scientific or technical training or experience to participate on behalf of that party in the examination and cross-examination of expert witnesses. The presiding officer may permit such individual to participate on behalf of the party in the examination and cross-examination of expert witnesses, where it would serve the purpose of furthering the conduct of the proceeding, upon finding (a) that the individual is qualified by scientific or technical training or experience to contribute to the development of an adequate decisional record in the proceeding by the conduct of such examination or cross-examination, (b) that the individual has read any written or oral testimony on which he intends to examine or cross-examine and any documents to be used or referred to in the course of the examination or cross-examination, and (c) that the individual has prepared himself to conduct a meaningful and expeditious examination or cross-examination. Examination or cross-examination conducted pursuant to this section shall be limited to areas within the expertise of the individual conducting the examination or cross-examination. The party on behalf of whom such examination or cross-examination is conducted and his attorney shall be responsible for the conduct of examination or cross-examination by such individuals.

15. In § 2.740 of 10 CFR Part 2, the section heading and paragraph (a) are revised, paragraph (b) is revoked, paragraphs (c), (d), (e), and (f) are redesignated as paragraphs (b), (c), (d), and (e); redesignated paragraphs (c) and (e) are amended, a new paragraph (f) is added, and paragraph (j) is amended to read as follows:

§ 2.740 Depositions upon oral examination and upon written interrogatories.

(a) Any party desiring to take the testimony of any party or other person by deposition on oral examination or written interrogatories shall, without

leave of the Commission or the presiding officer, give reasonable notice in writing to every other party, to the person to be examined and to the presiding officer of the proposed time and place of taking the deposition; the name and address of each person to be examined, if known, or, if the name is not known, a general description sufficient to identify him or the class or group to which he belongs; the matters upon which each person will be examined and the name or descriptive title and address of the officer before whom the deposition is to be taken. In a proceeding on an application for a construction permit or an operating license for a production or utilization facility, the notice may be served only after the matters in controversy have been identified by the Commission or the presiding officer and shall relate only to such matters. In such proceedings, no deposition shall be taken after the beginning of the prehearing conference held pursuant to § 2.752 except upon leave of the Commission or the presiding officer upon good cause shown. The attendance of witnesses may be compelled by subpoena.

* * * * *

(c) The deponent shall be sworn or shall affirm before any questions are put to him. Examination and cross-examination shall proceed as at a hearing. Except as the parties otherwise agree, the deposition upon written interrogatories shall be taken with only parties and counsel, the deponent, the officer, and the reporter or stenographer present during the interrogation, and the officer shall certify to that fact. Each question propounded shall be recorded and the answer taken down in the words of the witness. Objections on questions of evidence shall be noted in short form without the arguments. The officer shall not decide on the competency, materiality, or relevancy of evidence but shall record the evidence subject to objection. Objections on questions of evidence not made before the officer shall not be deemed waived unless the ground of the objection is one which might have been obviated or removed if presented at that time.

* * * * *

(e) Where the deposition is to be taken on written interrogatories, the party taking the deposition shall serve a copy of the interrogatories, showing each interrogatory separately and consecutively numbered, on every other party with a notice stating the name and address of the person who is to answer them, and the name, description, title, and address of the officer before whom they are to be taken. Within seven (7) days after service, any other party may serve cross-interrogatories. The interrogatories, cross-interrogatories, and answers shall be recorded and signed, and the deposition certified, returned, and filed as in the case of a deposition on oral examination.

(f) (1) A motion opposing the taking of depositions by oral examination or written interrogatories or to examination on any matter covered by the notice to take deposition, or to the substance of any interrogatory, may be filed by any party or by the person to be examined within seven (7) days after service of the notice to take depositions or service of the interrogatories. A response to the opposition motion may be filed by any party to the proceeding within fourteen (14) days after service of the notice to take depositions or service of the interrogatories. At any time during the taking of a deposition, any party or the deponent may file a motion objecting to a subject of examination if the notice to take depositions did not clearly indicate that the deponent was to be examined on the matters to which the objection relates. Objection may also be made on the ground that the examination is being conducted in such manner as unreasonably to annoy, embarrass or oppress a deponent or party.

(2) On an opposition motion filed pursuant to this paragraph the presiding officer may make an order that the deposition shall not be taken, or that it may be taken only at some desigated place other than that stated in the notice, or that it may be taken only on written interrogatories, or that certain matters shall not be inquired into, or that the scope of the examination shall be limited to certain matters, or that privileged matters need not be disclosed, or that studies and evaluations need not be prepared, or the presiding officer may make any other order which justice requires to protect the party or witness from annoyance, embarrassment, or oppression. In the case of a motion in opposition to written interrogatories, the presiding officer may make any such order specified in this subparagraph which is appropriate and just, or an order that the deposition shall not be taken except upon oral examination.

* * * * *

(j) The provisions of paragraphs (a) through (i) of this section are not applicable to AEC personnel. Testimony of AEC personnel by oral examination and written interrogatories addressed to AEC personnel are subject to the provisions of § 2.720(h).

16. A new § 2.740a is added to 10 CFR Part 2 following § 2.740 to read as follows:

§ 2.740a Interrogatories to parties.

(a) Any party may serve upon any other party (other than the regulatory staff) [3] written interrogatories to be answered in writing by the party served or, if the party served is a public or private corporation or a partnership or association, by any officer or agent, who shall furnish such information as is available to the party. A copy of the interrogatories, answers, and all related pleadings shall be filed with the Secretary of the Commission and shall be served on the presiding officer and upon all parties to the proceeding. In a proceeding on an application for a construction permit or an operating license for a production or utilization facility, interrogatories may be served only after the matters in controversy have been identified by the Commission or the presiding officer and shall relate only to such matters. In such proceedings no interrogatories shall be served after the beginning of the prehearing conference held pursuant to § 2.752 except upon leave of the Commission or the presiding officer upon good cause shown.

(b) Each interrogatory shall be answered separately and fully in writing under oath or affirmation, unless it is objected to, in which event the reasons for objection shall be stated in lieu of an answer. The answers shall be signed by the person making them, and the objections by the attorney making them. The party upon whom the interrogatories were served shall serve a copy of the answers and objections upon all parties to the proceeding within 14 days after service of the interrogatories, or within such shorter or longer period as the presiding officer may allow. Answers may be used in the same manner as depositions (see § 2.740(g)).

(c) Any party to the proceeding may, within seven (7) days, move for an order with respect to any objection or other failure to answer an interrogatory. For purposes of this paragraph, an evasive or incomplete answer is a failure to answer; and if the motion is based on the assertion that the answer is evasive or incomplete, it shall contain a statement as to the scope and detail of an answer which would be considered responsive and complete. The party upon whom the interrogatories were served may file a response within seven (7) days after the motion is filed, to which he may append an answer or an amended answer. Additional pleadings should not be submitted and will not be considered.

(d) If the presiding officer determines that an objection is not justified, he shall order that the answer be served. If an interrogatory has not been answered, the presiding officer may rule that the right to object has been waived and may order that an answer be served. If an answer does not comply fully with the requirements of this section, the presiding officer may order that an amended answer be served, may specify the scope and detail of the matters to be covered by the amended answer, and may specify any appropriate procedural consequences. In ruling on a motion made pursuant to this section, the Commission or the presiding officer may make an order that secret processes, developments, or research need not be disclosed and any other order which justice requires to protect the party upon whom the interrogatories were served from annoyance, embarrassment, or oppression.

17. Section 2.741 of 10 CFR Part 2 is revised to read as follows:

§ 2.741 Production of documents and things and entry upon land for inspection and other purposes.

(a) *Scope.* Unless otherwise limited by the Commission or the presiding officer, a party may obtain discovery of any matter, not privileged, which is relevant to

[3] Interrogatories addressed to the staff are subject to § 2.720(h)(2)(ii).

the subject matter involved in a pending proceeding whether it relates to an issue raised by the requesting party to an issue raised by any other party. In the case of an application for a construction permit or an operating license for a production or utilization facility, discovery shall be limited to the matters in controversy as identified by the Commission or by the presiding officer. It is not ground for objection that the information sought will be inadmissible in the proceeding if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

(b) *Request for discovery.* Any party may serve on any other party a request to:

(1) Produce and permit the party making the request, or a person acting on his behalf, to inspect and copy any designated documents, or to inspect and copy, test, or sample any tangible things which are within the scope of paragraph (a) of this section and which are in the possession, custody, or control of the party upon whom the request is served; or

(2) Permit entry upon designated land or other property in the possession or control of the party upon whom the request is served for the purpose of inspection and measuring, surveying, photographing, testing, or sampling the property or any designated object or operation thereon, within the scope of paragraph (a) of this section.

(c) *Service.* The request may be served on any party without leave of the Commission or the presiding officer. Except in the case of a proceeding on an application for a construction permit or an operating license for a production or utilization facility, the request may be served after the proceeding is set for hearing. In a proceeding on an application for a construction permit or an operating license for a production or utilization facility, the request may be served after the matters in controversy have been identified by the Commission or the presiding officer. In such proceedings no request shall be served after the beginning of the prehearing conference held pursuant to § 2.752, except upon leave of the Commission or the presiding officer for good cause shown.

(d) *Contents.* The request shall set forth the items to be inspected either by individual item or by category, and describe each item and category with reasonable particularity. The request shall specify a reasonable time, place, and manner of making the inspection and performing the related acts.

(e) *Response.* The party upon whom the request is served shall serve on the party submitting the request a written response within thirty (30) days after the service of the request. The response shall state, with respect to each item or category, that inspection and related activities will be permitted as requested, unless the request is objected to, in which case the reasons for objection shall be stated. If objection is made to part of an item or category, the part shall be specified.

(f) *Motion to compel discovery.* (1) If the party upon whom the request is served fails to respond or objects to the request, or any part thereof, or fails to permit inspection as requested, the party submitting the request may move the Commission or the presiding officer, within 5 days after the date of the response or after failure of a party to respond to the request for an order compelling inspection in accordance with the request. The motion shall set forth the nature of the request, the response or objection of the party upon whom the request was served and arguments in support of the motion.

(2) In ruling on a motion made pursuant to this section, the Commission or the presiding officer may make an order that the inspection shall be limited to certain matters or that secret processes, developments, or research need not be disclosed and any other order which justice requires to protect the party upon whom the request for discovery was served from annoyance, embarrassment or oppression.

(g) *Persons not parties.* This section does not preclude an independent request for issuance of a subpoena directed to a person not a party for production of documents and things.

(h) *AEC records and documents.* The provisions of paragraphs (a) through (g) of this section do not apply to the production for inspection and copying or photographing of AEC records or documents. Production of such records or documents is subject to the provisions of §§ 2.744 and 2.790.

18. In § 2.742 of 10 CFR Part 2, paragraph (a) is amended to read as follows:

§ 2.742 Admissions.

(a) Apart from any admissions made during or as a result of a prehearing conference, at any time after his answer has been filed, a party may file a written request for the admission of the genuineness and authenticity of any relevant document described in or attached to the request, or for the admission of the truth of any specified relevant matter of fact. A copy of the document shall be delivered with the request unless a copy has already been furnished.

* * * * *

19. Paragraphs (b), (g), and (i) of § 2.743 of 10 CFR Part 2 are amended to read as follows:

§ 2.743 Evidence.

* * * * *

(b) *Written testimony.* The parties shall submit direct testimony of witnesses in written form, unless otherwise ordered by the presiding officer on the basis of objections presented. In any proceeding in which advance written testimony is to be used, each party shall serve copies of its proposed written testimony on each other party at least five (5) days in advance of the session of the hearing at which its testimony is to be presented. The presiding officer may permit the introduction of written testimony not so served, either with the consent of all parties present or after they have had a reasonable opportunity to examine it. Written testimony shall be incorporated in the transcript of the record as if read or, in the discretion of the presiding officer, may be offered and admitted in evidence as an exhibit. This paragraph does not apply to proceedings under Subpart B for modification, suspension, or revocation of a license.

* * * * *

(g) *Proceedings involving applications.* In any proceeding involving an application, there shall be offered in evidence by the regulatory staff any report submitted by the ACRS in the proceeding in compliance with section 182b of the Act, any safety evaluation prepared by the regulatory staff and any Detailed Statement on environmental considerations prepared by the Director of Regulation or his designee in the proceeding pursuant to Appendix D of Part 50 of this chapter.

* * * * *

(i) *Official notice.* (1) The Commission or the presiding officer may take official notice of any fact of which a court of the United States may take judicial notice or of any technical or scientific fact within the knowledge of the Commission as an expert body. Each fact officially noticed under this subparagraph shall be specified in the record with sufficient particularity to advise the parties of the matters which have been noticed or brought to the attention of the parties before final decision and each party adversely affected by the decision shall be given opportunity to controvert the fact.

(2) If a decision is stated to rest in whole or in part on official notice of a fact which the parties have not had a prior opportunity to controvert, a party may controvert the fact by exceptions to an initial decision or a petition for reconsideration of a final decision clearly and concisely setting forth the information relied upon to show the contrary.

20. Section 2.744 of 10 CFR Part 2 is revised to read as follows:

§ 2.744 Production of AEC records and documents.

(a) A request for the production of an AEC record or document not available pursuant to § 2.790 by a party to an initial licensing proceeding may be served on the General Manager or Director of Regulations, as appropriate, without leave of the Commission or the presiding officer. The request shall set forth the records or documents requested, either by individual item or by category, and shall describe each item or category with reasonable particularity and shall state why that record or document is relevant to the proceeding.

(b) If the General Manager or the Director of Regulation, as appropriate, objects to producing a requested record or document on the ground that (1) it is not relevant or (2) it is exempted from disclosure under § 2.790 and the disclosure is not necessary to a proper decision in the proceeding or the document or the information therein is reasonably

obtainable from another source, he shall so advise the requesting party.

(c) If the General Manager or Director of Regulation objects to producing a record or document, the requesting party may apply to the presiding officer, in writing, to compel production of that record or document. The application shall set forth the relevancy of the record or document to the issues in the proceeding. The application shall be processed as a motion in accordance with § 2.730 (a) through (d). The record or document covered by the application shall be produced for the in camera inspection of the presiding officer, exclusively, if requested by the presiding officer and only to the extent necessary to determine—

(1) The relevancy of that record or document;

(2) Whether the document is exempt from disclosure under § 2.790;

(3) Whether the disclosure is necessary to a proper decision in the proceeding;

(4) Whether the document or the information therein is reasonably obtainable from another source.

(d) Upon a determination by the presiding officer that the requesting party has demonstrated the relevancy of the record or document and that its production is not exempt from disclosure under § 2.790 or that, if exempt, its disclosure is necessary to a proper decision in the proceeding, and the document or the information therein is not reasonably obtainable from another source, he shall so advise the General Manager or Director of Regulation, as appropriate.

(e) If the General Manager or Director of Regulation, as appropriate, objects to producing a record or document after a determination under paragraph (d) of this section, the matter shall be certified to the Commission or to the Atomic Safety and Licensing Appeal Board, as appropriate, before any ruling ordering production thereof.

(f) A ruling by the presiding officer, the Atomic Safety and Licensing Appeal Board, or the Commission for the production of a record or document will specify the time, place, and manner of production.

(g) No request pursuant to this section shall be made or entertained before the matters in controversy have been identified by the Commission or the presiding officer, or after the beginning of the prehearing conference held pursuant to § 2.752 except upon leave of the Commission for good cause shown.

21. An undesignated center head and a new § 2.749 are added to 10 CFR Part 2 after § 2.744 to read as follows:

SUMMARY DISPOSITION ON PLEADINGS

§ 2.749 Authority of presiding officer to dispose of certain issues on the pleadings.

(a) Any party to an initial licensing proceeding may, at least ten (10) days before the time fixed for the hearing, move, with or without supporting affidavits, for a decision by the presiding officer in that party's favor as to all or any part of the matters involved in the proceeding. There shall be annexed to the motion a separate, short and concise statement of the material facts as to which the moving party contends that there is no genuine issue to be heard. Any other party may serve an answer opposing the motion, with or without affidavits, at least two (2) days before the date of the hearing. There shall be annexed to such answer a separate, short and concise statement of the material facts as to which it is contended that there exists a genuine issue to be heard. All material facts set forth in the statement required to be served by the moving party will be deemed to be admitted unless controverted by the statement required to be served by the opposing party. The presiding officer shall render the decision sought if the filings in the proceeding, depositions, answers to interrogatories, and admissions on file, together with the statements of the parties and the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a decision as a matter of law. However, in any proceeding involving a construction permit for a production or utilization facility, the procedure described in this section may be used only for the determination of specific subordinate issues and may not be used to determine the ultimate issue as to whether the permit shall be issued.

22. A new § 2.751a is added to 10 CFR Part 2 after § 2.751 to read as follows:

§ 2.751a Special prehearing conference in construction permit and operating license proceedings.

(a) In any proceeding involving an application for a construction permit or an operating license for a production or utilization facility, the Commission or the presiding officer will direct the parties and any petitioners for intervention, or their counsel, to appear at a specified time and place, within sixty (60) days after the notice of hearing is published, or such other time as the Commission or the presiding officer may deem appropriate, for a conference [4] to:

(1) Permit identification of the key issues in the proceeding;

(2) Take any steps necessary for further identification of the issues;

(3) Consider all intervention petitions to allow the presiding officer to make such preliminary or final determination as to the parties to the proceeding, as may be appropriate; and

(4) Establish a schedule for further actions in the proceeding.

(b) The Commission or presiding officer may order any further informal conferences among the parties, including telephone conferences, to the extent that it or he considers that such a conference would expedite the proceeding.

(c) A prehearing conference held pursuant to this section may be stenographically reported.

[4] This conference may be omitted in proceedings other than contested proceedings.

(d) The Commission or the presiding officer shall enter an order which recites the action taken at the conference, the schedule for further actions in the proceeding, any agreements by the parties, and which identifies the key issues in the proceeding, makes a preliminary or final determination as to the parties in the proceeding, and provides for the submission of status reports on discovery. The order shall be served upon all parties to the proceeding. Objections to the order may be filed by a party within five (5) days after service of the order, except that the regulatory staff may file objections to such order within ten (10) days after service. The board may revise the order in the light of the objections presented and, as permitted by § 2.718 (i), may certify for determination to the Commission or the Atomic Safety and Licensing Appeal Board, as appropriate, such matters raised in the objections as it deems appropriate. The order shall control the subsequent course of the proceeding unless modified for good cause.

23. In § 2.752 of 10 CFR Part 2, paragraphs (a) and (c) are amended to read as follows:

§ 2.752 Prehearing conference.

(a) The Commission or the presiding officer may direct the parties or their counsel to appear at a specified time and place for a conference to consider:

(1) Simplification, clarification, and specification of the issues;

(2) The necessity or desirability of amending the pleadings;

(3) The obtaining of stipulations and admissions of fact and of the contents and authenticity of documents to avoid unnecessary proof;

(4) Identification of witnesses and the limitation of the number of expert witnesses, and other steps to expedite the presentation of evidence;

(5) The setting of a hearing schedule;

(6) Such other matters as may aid in the orderly disposition of the proceeding.

A prehearing conference held under this section in a proceeding involving a construction permit or operating license shall be held within sixty (60) days after discovery has been completed,[5] or such other time as the Commission or the presiding officer may specify.

* * * * *

(c) The Commission or the presiding officer shall enter an order which recites the action taken at the conference, the amendments allowed to the pleadings and agreements by the parties, and which limits the issues or defines the matters in controversy to be determined in the proceeding. Objections to the order may be filed by a party within five (5) days after service of the order, ex-

[5] Discovery as used in this section does not include the production of the ACRS report, if any, the safety evaluation prepared by the regulatory staff, or any detailed statement on environmental considerations prepared by the Director of Regulation or his designee in the proceeding pursuant to Appendix D of Part 50 of this chapter.

cept that the regulatory staff may file objections to such order within ten (10) days after service. The board may revise the order in the light of the objections presented and, as permitted by § 2.718 (i), may certify for determination to the Commission or the Appeal Board, as appropriate, such matters raised in the objections as it deems appropriate. The order shall control the subsequent course of the proceeding unless modified for good cause.

24. Section 2.753 of 10 CFR Part 2 is amended to read as follows:

§ 2.753 Stipulations.

Apart from any stipulations made during or as a result of a prehearing conference, the parties may stipulate in writing at any stage of the proceeding or orally during the hearing, any relevant fact or the contents or authenticity of any document. Such a stipulation may be received in evidence.

25. Paragraph (b)(2) of § 2.754 of 10 CFR Part 2 is amended to read as follows:

§ 2.754 Proposed findings and conclusions.

* * * * *

(b) Except as otherwise ordered by the presiding officer:

* * * * *

(2) Other parties may file proposed findings, conclusions of law and briefs within twenty (20) days thereafter. However, the regulatory staff may file such proposed findings, conclusions of law and briefs within twenty-five (25) days thereafter.

* * * * *

26. A new § 2.757 is added to 10 CFR Part 2 to read as follows:

§ 2.757 Authority of presiding officer to regulate procedure in a hearing.

To prevent unnecessary delays or an unnecessarily large record, the presiding officer may:

(a) Limit the number of witnesses whose testimony may be cumulative;

(b) Strike argumentative, repetitious, cumulative, or irrelevant evidence;

(c) Take necessary and proper measures to prevent argumentative, repetitious, or cumulative cross-examination; and

(d) Impose such time limitations on arguments as he determines appropriate, having regard for the volume of the evidence and the importance and complexity of the issues involved.

27. A new § 2.758 is added to 10 CFR Part 2 to read as follows:

§ 2.758 Consideration of validity of Commission regulations in adjudicatory proceedings.

(a) Except as provided in paragraphs (b), (c), and (d) of this section, the validity of any regulation of the Commission, or any provision thereof, issued in its program for the licensing and regulation of production and utilization facilities, source material, special nuclear material, or byproduct material, shall not be subject to attack by way of discovery, proof, argument, or other means in any adjudicatory proceeding involving initial licensing subject to this subpart, other than a pending proceeding wherein a party has attacked the validity or has sought to attack the validity of such regulation, and the presiding officer, the Atomic Safety and Licensing Appeal Board or the Commission has ruled thereon before (effective date of amendment).

(b) A party to an adjudicatory proceeding involving initial licensing subject to this subpart may petition that the application of a specified Commission regulation or any provision thereof, of the type described in paragraph (a) of this section, be waived or an exception made for the particular proceeding. Before any discovery, offer of evidence, cross-examination, or argument directed thereto is made, or other consideration given with respect to the subject matter of such petition, the petitioning party shall file an affidavit that identifies the specific aspect or aspects of the subject matter of the proceeding as to which application of the regulation or provisions thereof raises a substantial question concerning protection of the public health and safety, the common defense and security, or the quality of the environment, and sets forth with particularity the matters on which he relies to support his position with respect thereto. Any other party may file a response thereto, by counter-affidavit or otherwise.

(c) If, on the basis of the affidavit and any response thereto provided for in paragraph (b) of this section, the presiding officer determines that the party submitting the affidavit has not made a prima facie showing that the application of the specific Commission regulation or provision thereof to a particular aspect or aspects of the subject matter of the proceeding raises a substantial question concerning protection of the public health and safety, the common defense and security, or the quality of the environment, no evidence may be received on that matter and no discovery, cross-examination or argument directed to the matter will be permitted, and the presiding officer may not further consider the matter.

(d) If, on the basis of the affidavit and any response provided for in paragraph (b) of this section, the presiding officer determines that such a prima facie showing has been made, the presiding officer shall, before ruling thereon, certify directly to the Commission [6] for determination the matter of whether the application of the Commission regulation or provision thereof to a particular aspect or aspects of the subject matter of the proceeding, in the context of this section, should be waived or an exception made.

(e) A party to an initial licensing proceeding may, in lieu of the procedure in paragraph (b) of this section, file a petition for rule making pursuant to § 2.802.

[6] The matter will be certified to the Commission notwithstanding the provisions of § 2.785.

28. A new § 2.759 is added to 10 CFR Part 2 to read as follows:

§ 2.759 Settlement in initial licensing proceedings.

The Commission recognizes that the public interest may be served through settlement of particular issues in a proceeding or the entire proceeding. Therefore, to the extent that it is not inconsistent with hearing requirements in section 189 of the Act (42 U.S.C. 2239) the fair and reasonable settlement of contested initial licensing proceedings is encouraged. It is expected that the presiding officer and all of the parties to those proceedings will take appropriate steps to carry out this purpose.

29. A new § 2.760a is added to 10 CFR Part 2 to read as follows:

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

In any initial decision in a contested proceeding on an application for an operating license for a production or utilization facility, the presiding officer shall make findings of fact and conclusions of law only on the matters actually put into controversy by the parties to the proceeding and which have been determined to be the issues in the proceeding by the Commission or the presiding officer. Depending on the resolution of those matters, the Director of Regulation, after making the requisite findings, will issue, deny, or appropriately condition the license.

30. Section 2.762 of 10 CFR Part 2 is amend to read as follows:

§ 2.762 Exceptions to initial decisions and briefs to the Commission.

(a) Except as provided in paragraph (c) of this section, within twenty (20) days after service of any initial decision any party may file exceptions to the decision and a brief in support of them with the Commission and shall serve copies of such exceptions and brief on all other parties. Each exception shall be separately numbered, shall identify the part of the initial decision to which objection is made; shall specify precisely the portions of the record relied upon; and shall state the grounds for the exceptions including the citation of authorities in support thereof. Any objection to a ruling, finding, or conclusion which is not made a part of the exceptions shall be considered to have been waived.

(b) Except as provided in paragraph (c) of this section, any party to a proceeding may file a brief in support of or in opposition to exceptions filed by any other party within ten (10) days after the service of exceptions.

(c) The regulatory staff may file exceptions to any initial decision and a brief in support of them within twenty-five (25) days after service of the initial decision. The regulatory staff may file a brief in support of or in opposition to exceptions filed by any other party within fifteen (15) days after the service of the exceptions.

31. Paragraph (b) of § 2.771 is amended to read as follows:

§ 2.771 Petition for reconsideration.

* * * * *

(b) The petition for reconsideration shall state specifically the respects in which the final decision is claimed to be erroneous, the grounds of the petition, and the relief sought. Within seven (7) days after a petition for reconsideration has been filed, any other party may file an answer in opposition to or in support of the petition. However, the regulatory staff may file such an answer within twelve (12) days after a petition for reconsideration has been filed.

* * * * *

32. The note following § 2.780 of 10 SFR Part 2 is amended to read as follows:

§ 2.780 Ex parte communications.

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NOTE: Matters certified to the Commission or to the Atomic Safety and Licensing Appeal Board pursuant to §§ 2.720(h) and 2.744(e) are not deemed to involve substantive matters at issue in a proceeding on the record as described in paragraph (a) of this section.

33. Section 2.790 of 10 CFR Part 2 is revised to read as follows:

§ 2.790 Public inspections, exemptions, requests for withholding.

(a) Subject to the provisions of paragraphs (b), (d), and (e) of this section, final AEC records and documents,[7] including but not limited to correspondence to and from the AEC, regarding the issuance, denial, amendment, transfer, renewal, modification, suspension, revocation, or violation of a license, permit, or order, or regarding a rule making proceeding subject to this part shall not, in the absence of a compelling reason for nondisclosure after a balancing of the interests of the person or agency urging nondisclosure and the public interest in disclosure, be exempt from disclosure and will be made available for inspection and copying in the AEC Public Document Room, except for:

(1) Records and documents specifically required by Executive order to be kept secret in the interest of national defense or foreign policy;

(2) Records and documents specifically exempted from disclosure by statute;

(3) Intra-agency or interagency documents or portions thereof containing opinions, advice, or recommendations;

(4) Records and documents related solely to the internal personnel rules and practices of the Commission;

(5) Identity of persons giving confidential information to the Commission and any part of the confidential information that would reveal the identity of such persons;

(6) Proprietary data;

(7) Files containing the names of individuals who have received exposure to radiation and personnel and medical files and similar files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(8) Investigatory files compiled for law enforcement purposes, including, but not limited to, (i) correspondence received by the AEC relating to an alleged or possible violation of any statute, regulation, order, license, or permit and (ii) files and correspondence pertaining to the antitrust matters described in § 2.104 (d) (2); or

(9) Intraagency or interagency memoranda or letters prepared for or by the Commissioners or the Advisory Committee on Reactor Safeguards (other than reports submitted by the Advisory Committee on Reactor Safeguards in compliance with section 182b of the Act).

(b) (1) A person who proposes that a document or a part be withheld in whole or in part from public disclosure on the ground that it contains proprietary data shall at the time of filing it submit an application for withholding or make timely application thereafter identifying the document or part, and making a full statement of the reasons on the basis of which it is claimed that the data is proprietary. He shall, as far as possible, incorporate in a separate paper any part sought to be withheld. In deciding whether the data claimed to be proprietary is entitled to withholding on that ground, it is the policy of the Commission to achieve an effective balance between legitimate concerns for protection of competitive positions and the right of the public to be fully apprised as to the bases for and effects of proposed licensing actions. (2) Withholding from public inspection shall not affect the right, if any, of persons properly and directly concerned to inspect the document. The Commission may require data claimed to be proprietary to be subject to inspection by the presiding officer in, and, under protective order, parties to a proceeding, pending a decision of the Commission on the matter of whether the data should be made publicly available or when a decision has been made that the data should be withheld from public disclosure. In such cases, in camera sessions of hearings may be held when the data claimed to be proprietary is produced or offered in evidence. If the Commission subsequently determines that the data should be disclosed, the data and the transcript of such in camera session will be made publicly available.

(c) If a request for withholding pursuant to paragraph (b) of this section is denied, the Commission will notify an applicant for withholding of the denial with a statement of reasons. The notice of denial will specify a time, not less than thirty (30) days after the date of the notice, when the document will be placed in the Public Document Room. If, within the time specified in the notice, the applicant requests withdrawal of the document, the document will not be placed in the Public Document Room.

(d) Correspondence and reports to or from the AEC which identify a licensee's or applicant's control and accounting procedures for safeguarding licensed special nuclear material or detailed security measures for the physical protection of a licensed facility, shall be deemed to be commercial or financial information within the meaning of § 9.5(a)(4) of this chapter and shall be subject to disclosure only in accordance with the provisions of § 9.10 of this chapter.

(e) The presiding officer, if any, or the Commission may, with reference to the AEC records and documents made available pursuant to this section, issue any order, consistent with the provisions of this section, which is appropriate and just for the purpose of protecting applicants, licensees, and other persons from annoyance, embarrassment, or oppression.

34. The title of Appendix A of 10 CFR Part 2 and the prefatory language in Appendix A are amended to read as follows:

APPENDIX A—STATEMENT OF GENERAL POLICY AND PROCEDURE: CONDUCT OF PROCEEDINGS FOR THE ISSUANCE OF CONSTRUCTION PERMITS AND OPERATING LICENSES FOR PRODUCTION AND UTILIZATION FACILITIES FOR WHICH A HEARING IS REQUIRED UNDER SECTION 189a. OF THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

The following statement of general policy and procedure explains in detail the procedures which the Atomic Energy Commission expects to be followed by atomic safety and licensing boards in the conduct of proceedings relating to the issuance of construction permits for nuclear power and test reactors and other production or utilization facilities for which a hearing is mandatory under section 189a. of the Atomic Energy Act of 1954, as amended (the Act).[1] The provisions are also applicable to proceedings for the issuance of operating licenses for such facilities, except as the context would otherwise indicate, or except as indicated in section VIII. Section VIII sets out the procedures specifically applicable to operating license proceedings. The statement reflects the Commission's intent that such proceedings be conducted expeditiously and its concern that its procedures maintain sufficient flexibility to accommodate that objective. This position is founded upon the recognition that fairness to all the parties in such cases and the obligation of administrative agencies to conduct their functions with efficiency and economy, require that Commission adjudications be conducted without unnecessary delays. These factors take on added importance in nuclear power reactor licensing proceedings where the growing national need for electric power and the companion need for protecting the quality of the environment call for decisionmaking which is both sound and timely. The Commission expects that its responsibilities under the Atomic Energy Act of 1954, the National Environmental Policy Act of 1969 and other applicable statutes, as set out in the statement which follows, will be carried out in a manner consistent with this position in the overall public interest.

Atomic safety and licensing boards are appointed from time to time by the Atomic Energy Commission to conduct hearings in licensing cases under the authority of section 191 of the Act. Section 191 authorizes the Commission to establish one or more

[7] Such records and documents do not include handwritten notes and drafts.

[1] Except as the context may otherwise indicate, this statement is also generally applicable to the conduct of authorization proceedings conducted under Part 115, Procedures for Review of Certain Nuclear Reactors Exempted from Licensing Requirements, and to licensing proceedings of the type described in the statement which may be conducted by a hearing examiner as the presiding officer.

atomic safety and licensing boards to conduct public hearings and to make intermediate or final decisions in administrative proceedings relating to granting, suspending, revoking, or amending licenses or authorizations issued by the Commission. It requires that each board consist of one member who is qualified in the conduct of administrative proceedings and two members who have such technical or other qualifications as the Commission deems appropriate to the issues to be decided. Members for each board may be appointed by the Commission from a panel selected from private life, the staff of the Commission or other Federal agencies.

35. In section I of Appendix A of 10 CFR Part 2, paragraphs (a) and (b) are amended, paragraphs (c) and (d) are revoked, paragraphs (e), (f), and (g) are redesignated paragraphs (c), (d), and (e) respectively, and redesignated paragraph (d) is amended to read as follows:

I. PRELIMINARY MATTERS

(a) A public hearing is announced by the issuance of a notice of hearing, published in the FEDERAL REGISTER as soon as practicable after the application has been docketed, signed by the Secretary of the Commission stating the nature of the hearing and the issues to be considered. The time and place of the first prehearing conference pursuant to § 2.751a. will ordinarily be stated in the notice of hearing. Unless the initial notice of hearing states the time and place of the hearing, and the chairman and other members of the atomic safety and licensing board that will conduct the hearing, those matters will be the subject of further notice in the FEDERAL REGISTER after publication of the initial notice of hearing. It is the Commission's policy and practice to begin the evidentiary hearing in the vicinity of the site of the proposed facility. The notice of hearing also states the procedures whereby persons may seek to intervene or make a limited appearance and explains the differences between those forms of participation in the proceeding, and states the times and places of the availability, in an appropriate office near the site of the proposed facility, of the notice of hearing, an updated copy of the application, the report of the Advisory Committee on Reactor Safeguards (ACRS), the applicant's summary of the application, the staff safety evaluation, the applicant's environmental report, the Commission's detailed statement on environmental considerations, the proposed construction permit or operating license and the transcripts of the prehearing conference and the hearing.

(b) In fixing the time and place of any conference, including prehearing conferences, or of any adjourned session of the evidentiary hearing, due regard shall be had for the convenience and necessity of the parties, petitioners for leave to intervene, or the representatives of such persons, as well as of the board members, the nature of such conference or adjourned session, and the public interest. Adjourned sessions of hearings may be held in the Washington, D.C. area if all parties so stipulate. If the parties disagree, and any party considers that there are valid reasons for holding such session in the Washington, D.C. area, the matter should be referred to the Atomic Safety and Licensing Appeal Board for resolution.

* * * * *

(d) Prior to a hearing, board members should review and become familiar with: The record of any relevant prior proceedings in the case including initial decisions and Commission orders, the application, the ACRS report, the staff safety evaluation, the applicant's environmental report, the Commission's detailed statement on environmental considerations, all other papers filed in the proceeding, the Commission's rules of practice, and other regulations or published statements of policy of the Commission as may be pertinent to the proceeding.

* * * * *

36. Section II of Appendix A of 10 CFR Part 2 is amended to read as follows:

II. PREHEARING CONFERENCES

(a) A special prehearing conference will be held, within sixty (60) days after the notice of hearing has been published, or such other time as the Commission or the board may deem appropriate, in addition to the standard prehearing conference provided by § 2.752. The special prehearing conference, authorized by § 2.751a, should be used to permit identification of key issues; take steps necessary for further identification of the issues, consider all intervention petitions to allow preliminary or final determination as to the parties; and establish a schedule for further actions in the proceeding.

(b) Within sixty (60) days after discovery has been completed,[3] or such other time as the presiding officer or the Commission deems appropriate, a second prehearing conference—the prehearing conference provided by § 2.752—is held to consider simplification, clarification, and specification of the issues; consider amendments to the pleadings; obtain stipulations and admissions of facts and of the contents and authenticity of documents to avoid unnecessary proof; identification of witnesses; the setting of a hearing schedule; and such other matters as may aid in the orderly disposition of the hearing.

(c) A transcript of each prehearing conference will be prepared. The board will issue an order after the conclusion of the special prehearing conference which recites the action taken at the conference and agreements by the parties, identifies the key issues in controversy, makes a preliminary or final determination as to the parties, and provides for submission of status reports on discovery by the parties. The board will also issue an order after the conclusion of the second prehearing conference that specifies the issues in controversy in the proceeding. Each order shall be served upon all parties to the proceeding. Objections to such order may be filed by a party within five (5) days, or, in the case of the regulatory staff, within ten (10) days. The board may revise the order in the light of the objections presented and, as permitted by § 2.718(i), may certify for determination to the Commission or the Appeal Board, as appropriate, such matters raised in the objections as it deems appropriate. As specified in § 2.752 the order shall control the subsequent course of the proceeding unless modified for good cause.

(d) Prehearing conferences are open to the public except under exceptional circumstances involving such matters as classified information and certain privileged information not normally a part of the hearing record.

(e) The applicant, the regulatory staff and other parties are required to provide each other and the board with copies of prepared testimony in advance of its being offered at the hearing. A schedule may be established at the second prehearing conference for exchange of prepared testimony. The applicant ordinarily files a summary of his application, including a summary description of the reactor and his evaluation of the considerations important to safety, prior to the hearing. The applicant's summary statement may constitute the testimony of witnesses sworn at the hearing. It is desirable for the applicant's summary statement to include, as appropriate, a discussion of the evolution of the proposed reactor design, including associated engineered safety features, from the design of reactors which have previously been approved or built. All of these documents and prepared testimony are filed in the Commission's Public Document Room and are available for public inspection. When the staff has reached its conclusions with respect to the application and prepared a safety evaluation, the safety evaluation will be made available—a point of time which may or may not be prior to the hearing. Similarly, although the applicant and other persons who have been admitted as parties to the proceeding will ordinarily be required by the prehearing conference order to file and exchange prepared testimony prior to the hearing, the staff may not have completed its consideration of the application, and may, therefore, not have prepared testimony to submit at that time.

[3] "Discovery" does not include production of the ACRS report, the regulatory staff's safety evaluation, or the detailed statement on environmental considerations prepared by the Director of Regulation or his designee.

37. Sections III, IV, V, VII, and VIII of Appendix A of 10 CFR Part 2 are redesignated as sections V, VI, VII, IX, and X, respectively.

38. New sections III and IV are added to Appendix A of Part 2 to read as follows:

III. INTERVENTION AND LIMITED APPEARANCES

(a) (1) As required by § 2.714, a person who wishes to intervene must set forth, in a petition for leave to intervene, his interest in the proceeding, how the interest may be affected by Commission action, and his contentions in reasonably specific detail. Petitions for leave to intervene shall, as a basis for enabling the board or the Commission to determine how the petitioner's interest may be affected by the proceeding, and what his contentions are, set forth (i) the nature of his right under the Act to be made a party to the proceeding; (ii) the nature and extent of the interest that may be affected by the proceeding; and (iii) the effect of any order which may be entered in the proceeding on the petitioner's interest. The petition must be accompanied by a supporting affidavit identifying the specific aspects as to which the petitioner wishes to intervene and setting forth with particularity the matters on which he relies to support his petition. After consideration of any answers to the petition, the board will rule on the petition. If the board finds that the petitioner's interest is limited to one or more of the issues in the proceeding, the intervenor's participation shall be limited to those issues. Petitions which set forth contentions relating only to matters outside the jurisdiction of the Commission will be denied. In any event, the granting of a petition for leave to intervene does not operate to enlarge the issues, or become a basis for receipt of evidence, with respect to matters beyond the jurisdiction of the Commission.

(2) Petitions for leave to intervene which are not filed within the time specified in the notice of hearing will not be granted unless the board determines that the petitioner has made a substantial showing of good cause for failure to file on time and with particular reference to (i) the availability of other means whereby the petitioner's interest will be protected, (ii) the extent to which petitioner's participation may reasonably be expected to assist in developing a sound record; (iii) the extent to which the petitioner's interest will be represented by existing parties, and (iv) the extent to which the petitioner's participa-

tion will broaden the issue or delay the proceeding.

(3) Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have all the rights of the applicant to participate fully in the conduct of the hearing, such as the examination and cross-examination of witnesses, with respect to their contentions related to the matters at issue in the proceeding.

(4) If more than one person who has been granted leave to intervene has substantially the same kind of interest that may be affected by the proceeding, and raises the same basic questions, the board or the Commission may order those persons to consolidate their presentation of evidence, cross-examination, briefs, proposed findings of fact and conclusions of law and argument, unless such consolidation cannot be accomplished without prejudice to the rights of a party.

(b) A person who does not wish to, or is not qualified to become a party may be permitted at the discretion of the board, to make a limited appearance pursuant to § 2.715. Persons permitted to make limited appearances do not become parties, but should be permitted to make statements at such stage of the proceeding as the board may consider appropriate. A person making a limited appearance may only make an oral or written statement on the record, and may not participate in the proceeding in any other way. The board may wish to limit the length of oral statements. A member of the public does not have the right to participate unless he has been granted the right to intervene as a party or the right of limited appearance for the purpose of making a statement.

IV. DISCOVERY

(a) Once the key issues in controversy are identified in the special prehearing conference order (§ 2.715a.(d)), discovery may proceed and will be limited to those matters. In no event should the parties be permitted to use discovery procedures to conduct a "fishing expedition" or to delay the proceeding.

(b) Under the Commission's rules of practice, discovery permitted by §§ 2.720, 2.740, 2.740a, 2.741, 2.742, and 2.744 must be completed by the second prehearing conference, except upon leave for good cause shown.

(c) Depositions, interrogatories, and document production between parties other than the regulatory staff are obtainable on notice or request to the other party and without leave of the Commission or the board, in line with the Federal Rules of Civil Procedure.

(d) In general, regulatory staff documents that are relevant to a proceeding will be publicly available as a matter of course unless there is a compelling justification for their nondisclosure. Therefore, document discovery directed at the staff will be tightly restricted, as provided in § 2.744, since most staff documents will be publicly available and should reasonably disclose the basis for the staff's position. Formal discovery of documents against the regulatory staff will be limited to cases where it concerns a matter necessary to a proper decision in a case and the information sought is not obtainable elsewhere. Discovery as a legitimate means of obtaining information will not be inhibited, but in view of the comprehensive body of information routinely available without request, there should be minimum need to resort to time consuming discovery procedures. Discovery against the staff (and other AEC personnel, including consultants) by way of deposition is not permitted, except on a showing of exceptional circumstances, and after certification of the matter to the Commission or the Atomic Safety and Licensing Appeal Board, as appropriate. Interrogatories may be addressed to the staff where the information is necessary to a proper decision in the case and not obtainable elsewhere.

39. Redesignated section V is amended to read as follows:

V. THE HEARING

The board should use its powers under §§ 2.718 and 2.757 to assure that the hearing is focused upon the matters in controversy among the parties and that the hearing process for the resolution of controverted matters is conducted as expeditiously as possible, consistent with the development of an adequate decisional record.

The following procedures should be observed in the conduct of public hearings:

(a) *Preliminary:*

(1) A verbatim transcript will be made of the hearing.

(2) The chairman should convene the hearing by stating the title of the proceeding and describing its nature.

(3) He should state the date, time, and place at which the prehearing conferences were held, and identify the persons participating in it. He should summarize the second prehearing conference order.

(4) He should explain the procedures for the conduct of the hearing. He should request that counsel for the parties identify themselves on the record, and provide them with the opportunity to make opening statements of their respective positions.

(5) He should describe, for the benefit of members of the public who may be present, the respective roles of the board, the ACRS and the staff, and the Commission procedures for review of the decision. He should also describe the continuing review and inspection surveillance conducted by the Commission after a construction permit or an operating license has been issued.

(b) (1) The chairman should call attention to the provisions of § 2.715 for participation by limited appearance. He should briefly explain these provisions and the rights of persons who are permitted to make limited appearances.

(2) The chairman should inquire of those in attendance whether there are any who wish to participate in the hearing by limited appearance.

(3) Should any person seek leave to intervene when the hearing has been convened, he must set forth, with particularity in a written petition the reasons why it was not possible to file a petition within the time prescribed in the notice of hearing, as described in section III, to afford a basis for the board to determine whether or not good cause has been shown for the untimely filing. In granting a petition for leave to intervene which is not timely filed, the board shall impose such conditions as are appropriate to minimize any delay in the proceeding.

(4) A person making a limited appearance may want not only to state his position, but to raise questions which he would like to have answered. This should be permitted to the extent the questions are within the scope of the proceeding as defined by the issues set out in the notice of hearing, the prehearing conference report, and any later orders. Usually such persons should be asked to make their statements and raise their questions early in the proceeding so that the board will have an opportunity to be sure that relevant and meritorious questions are properly dealt with during the course of the hearing.

(5) It is the Commission's view that the rules governing intervention and limited appearances are necessary in the interest of orderly proceedings. The Commission also believes that through these two methods of public participation all members of the public are assured of the right to participate by a method appropriate to their interest in the matter. This should be fully explained at the beginning of the hearing. In some cases the board may feel that it must deny an application to intervene but that it can still accommodate the desire of the person involved by allowing him to make a statement and raise questions under the limited appearance rule.

(6) Boards have considerable discretion as to the manner in which they accommodate their conduct of the hearing to local public interest and the desires of local citizens to be heard. Particularly in cases where it is evident that there is local concern as to the safety of the proposed plant, boards should so conduct the hearing as to give appropriate opportunity for local citizens to express their views, while at the same time protecting the legal interest of all parties and the public interest in an orderly and efficient licensing process.

(7) In some cases, argument and further hearing can add nothing to the filings of the parties. In those cases the board is authorized, pursuant to § 2.749, on motion, to render a decision, if the filings in the proceeding and other materials show that there is no genuine issue as to any material fact. However, in proceedings involving construction permits, this procedure may be used only for determining subordinate issues and not the ultimate issue as to whether the construction permit should be issued.

(c) Opening statements:

(1) It is anticipated that the applicant, who has the burden of proof, will, at an appropriate time early in the proceeding, make an oral statement describing in terms that will be readily understood by the public, the manner in which the safety of the public has been considered, by such provisions as siting, safety features of the reactor, including engineered safeguards, etc., and the manner in which nonradiological environmental impact has been considered. It may be that the "summary description of the reactor and * * * evaluation of the considerations important to safety" referred to in paragraph (e) of section II, will satisfactorily serve as the basis for the safety matters covered in such oral statement.

(2) Persons who have intervened in the proceeding may make an oral opening statement describing their position on the proposed licensing action.

(3) The staff will also, at such time as it has developed its position on the application, make an oral statement describing that position, including the staff's safety evaluation of the application and detailed statement on environmental considerations and the reasons for the conclusions reached by the staff, and summarizing the various steps taken by the staff and the ACRS in their review of the application.

(d) Evidence:

(1) Pursuant to § 2.732, the applicant has the burden of proof.

(2) The parties are required to submit direct testimony in written form and serve copies of such prepared written testimony on all parties pursuant to the schedule established at the second prehearing conference—in any event, at least 5 days in advance of the session of the hearing at which such testimony is to be presented, as provided by § 2.743(b), unless the board orders otherwise on the basis of objections presented. Generally, such testimony would be submitted before the hearing. The staff, however, would not submit such testimony until its position had been established. The use of advance written testimony is expected to expedite the hearing process.

(7) Objections may be made by counsel to any questions or any line of questioning, and to the admission of any document and should be ruled upon by the board. The board may admit the evidence, may sustain the objection, or may receive the evidence, reserving for later determination the ques-

tion of admissibility. In passing on objections, the board, while not bound to view proferred evidence according to its admissibility under strict application of the rules of evidence in judicial proceedings, should exclude evidence that is irrelevant to issues in the case as defined in the notice of hearing or the prehearing conference order, or that pertains to matters outside the jurisdiction of the board or the Atomic Energy Commission. Irrelevant material in prepared testimony submitted in advance under § 2.743(b) may be subject to a motion to strike under the procedures provided in § 2.730.

(8) Use of scientifically or technically trained persons who are not attorneys to conduct direct or cross-examination on behalf of a party is provided for in § 2.733. This procedure is a privilege, not a right and may be granted to further the conduct of the hearing. Before permitting such persons to conduct examination of witnesses, the board must determine (i) that he has technical or scientific qualifications, (ii) that he had read the written or oral testimony and any documents which are to be the subject of his examination, and (iii) that he has prepared himself to conduct a meaningful and expeditious examination. Permission to conduct examination will be limited to the areas in which the interrogator was shown to be qualified. The party on whose behalf the interrogator conducts the examination and his attorney are responsible for the interrogator's conduct of examination or cross-examination.

(3) The testimony of all witnesses will be given under oath. These witnesses may be collectively sworn at the opening of the hearing or if additional witnesses are called upon to testify at a subsequent stage they may be sworn at the time of their appearance. There is ordinarily no need for oral recital of prepared testimony unless the board considers that some useful purpose will be served.

(4) The proceedings should be conducted as expeditiously as practicable, without impairing the development of a clear and adequate record. The order of presenting testimony may be freely varied in the conduct of the hearing. The board may find it helpful to take expert testimony from witnesses on a roundtable basis after the receipt in evidence of prepared testimony.

(5) To prevent unnecessary delays and an unnecessarily large record, the board may, pursuant to § 2.757, limit cumulative testimony, strike argumentative, repetitious, cumulative, or irrelevant evidence, take other necessary and proper steps to prevent argumentative, repetitious, or cumulative cross-examination, and impose appropriate time limitations on arguments.

(6) Documentary evidence may be offered in evidence as provided in § 2.743. Such evidence offered during the course of the hearing should be described by counsel, and furnished to the reporter for marking. Documents offered for marking should be numbered in order of receipt. On identification of a document, it may be offered in evidence.

(9) The extent to which challenges to AEC regulations can be made in a hearing in a licensing proceeding is limited. A party may petition for waiver of or exception to the application of a specified AEC regulation to an aspect of the subject matter of the proceeding. Before any discovery, offer of evidence, cross-examination or argument on the point is made, the party must file an affidavit that identifies the specific aspect of the subject matter of the proceeding as to which application of the regulation raises a substantial question concerning protection of the public health and safety, the common defense and security, or the quality of the environment and that sets forth with particularity the matters on which he relies (§ 2.758). Upon a finding by the board, based on the affidavits and any material submitted by other parties, that the party has not made a prima facie case, no evidence, discovery, or argument will be allowed on the matter. If the board finds that such a showing has been made, it will certify the matter, without ruling, directly to the Commission for a determination as to whether the application of the regulation to a particular aspect of the subject matter of the proceeding should be waived or an exception made.

(10) The Commission has recognized the public interests in achieving fair and reasonable settlement of contested proceedings (§ 2.759). Therefore, to the extent not inconsistent with the Act, fair and reasonable settlements are encouraged, either as to particular issues in a proceeding or the entire proceeding.

(11) Unless testimony is being taken on a roundtable basis or there is some occasion for clarification of testimony as rendered, the board may wish to reserve its questions until the parties have completed questioning of the witnesses, since counsel for the respective parties will generally be prepared to develop the various lines of pertinent questions.

(12) Conferences for the clarification of matters between the board and the parties, or the formulation of more meaningful questions, may be used to expedite the hearing and simplify the record. Informal conferences, including telephone conferences, should be encouraged to this end.

(13) The board should ordinarily not adjourn the hearing once it has begun, except as the hearing may be divided into segments to permit consideration of discrete areas, such as (i) radiological health and safety or (ii) environmental impact. To the extent practicable, legal questions should be resolved prior to the hearing. If the board believes that additional information is required in the presentation of the case, it would be expected to request the applicant or other party to supplement the presentation. If a recess should prove necessary to obtain such additional evidence, the recess should ordinarily be postponed until available evidence has been received.

(14) Many of the time limitations prescribed in Part 2 were set to allow the maximum time for the parties to the proceedings to perform various activities. Where the activities covered by the limitations can be performed in less time, some of the time limits may be reduced by order of the board, where such action would not prejudice a party. Similarly, in any case in which a time limit is not set by Part 2, the board should impose reasonable time limits.

(e) Record:

(1) The transcript of testimony and the exhibits, together with all of the papers and requests filed in a proceeding, constitute the record for decision, except to the extent that official notice is taken.

(2) Generally speaking, a decision by a board must be made on the basis of evidence which is in the record of the proceeding. A board, however, is expected to use its expert knowledge and experience in evaluating and drawing conclusions from the evidence that is in the record. The board may also take account of and rely on certain facts which do not have to be "proved" since they are "officially noticed"; these facts do not have to be "proved" since they are matters of common knowledge. Pursuant to § 2.743(i) "official notice" may be taken of any fact of which judicial notice might be taken by the courts of the United States and of any technical or scientific fact within the knowledge of the Commission as an expert body. Each fact officially noticed must be specified in the record with sufficient particularity to advise the parties of the matters which have been noticed or brought to the attention of the parties before the final decision, and each party adversely affected by the decision afforded an opportunity to controvert the noticed fact. (For example, a board might take "official notice" of the fact that high level wastes are encountered mainly as liquid residue from fuel reprocessing plants.) Matters which are "officially noticed" by a board furnish the same basis for findings of fact as matters which have been placed in evidence and proved in the usual sense.

(f) Participation by board members:

(1) In contested proceedings, the board will determine controverted matters as well as decide whether the findings required by the Act and the Commission's regulations should be made and whether, in accordance with Appendix D of Part 50, the construction permit should be issued as proposed. Thus, in such proceedings, the board will determine the matters in controversy and may be called upon to make technical judgments of its own on those matters. As to matters pertaining to radiological health and safety which are not in controversy, boards are neither required nor expected to duplicate the review already performed by the regulatory staff and the applicant, and the conclusions of the ACRS, which are not controverted by any party. Thus, the board need not evaluate such matters already evaluated by the staff which are not in controversy.

(2) In an uncontested case, boards are neither required nor expected to duplicate the review already performed by the regulatory staff and the ACRS and they are authorized to rely upon the testimony of the regulatory staff and the applicant, and the conclusions of the ACRS, which have not been controverted by any party. The role of the board is to decide whether the application and the record of the proceeding contain sufficient information, and the review of the application by the Commission's regulatory staff, including the environmental review pursuant to the National Environmental Policy Act of 1969, has been adequate to support the findings proposed to be made by the Director of Regulation and the issuance of the construction permit proposed by the Director of Regulation. The board will not conduct a de novo evaluation of the application, but rather, will test the sufficiency of the information contained in the application and the record of the proceeding and the adequacy of the staff's review to support the proposals of the Director of Regulation. In doing so, the board is expected to be mindful of the fact that it is the applicant, not the regulatory staff, who is the proponent of the construction permit and who has the burden of proof.

(3) Whether the construction permit proceeding is contested or contested, the board will, as to environmental impact matters, (a) determine whether the requirements of section 102(2) (C) and (D) of the National Environmental Policy Act of 1969 and Appendix D of Part 50 of this chapter have been complied with; (b) independently consider the final balance among conflicting factors contained in the record, with a view to determining the appropriate action to be taken, and (c) determine whether the construction permit should be granted, denied, or appropriately conditioned to protect environmental values.

(4) A question may be certified to the Commission for its determination when the question is beyond the board's authority, or when a major or novel question of policy, law or procedure is involved which cannot be resolved except by the Commission and when the prompt and final decision of the question is important for the protection of the public interest or to avoid undue delay or serious prejudice to the interests of a party. For example, a board may find it appropriate to certify novel questions to the Commission as to the regulatory jurisdiction of the Commission or the right of persons to intervene.

(g) Close of hearing.

(1) If, at the close of the hearing, the board should have uncertainties with respect to the matters in controversy because of a need for a clearer understanding of the evidence which has already been presented, it is expected that the board would normally invite further argument from the parties—oral or written or both—before issuing its initial decision. If the uncertainties arise from lack of sufficient information in the record, it is expected that the board would normally require further evidence to be submitted in writing with opportunity for the other parties to reply or reopen the hearing for the taking of further evidence, as appropriate. If either of such courses is followed, it is expected that the applicant would normally be afforded the opportunity to make the final submission.

(2) A board should give each party the opportunity to make a brief closing statement.

(3) A schedule should be set by the board and recorded, either in the transcript or by written order, of the dates upon which the parties are directed by the board to file proposed findings of fact and conclusions of law. Proposed transcript corrections and proposed findings and conclusions are ordinarily filed in the first instance by the applicant, with opportunity for response by the regulatory staff and any intervenor. In uncontested cases, the proposed findings will ordinarily be extremely brief. In contested proceedings, proposed findings of fact and conclusions of law submitted by the parties may be more detailed. While brevity in such submissions is encouraged, the proposed findings and conclusions should be such as to reflect the position of the parties submitting them, and the technical and factual basis therefor.

(4) The board should dispose of any additional procedural requests.

(5) The chairman should formally close the hearing.

40. Redesignated section VI is amended to read as follows:

VI. POST-HEARING PROCEEDINGS, INCLUDING THE INITIAL DECISION

(a) A board, acting through the chairman, should dispose of procedural requests made after the close of the hearing, including motions of the parties for correction of the transcript. Responses to requests and motions of the parties are made part of the record by issuance of written orders.

(b) On receipt of proposed findings and conclusions from the parties, the board should prepare the initial decision. Under the Administrative Procedure Act and the Commission regulations, the decision should include:

(1) Findings, conclusions, and rulings, with the reasons or basis for them, on all material issues of fact, law, or discretion presented on the record;

(2) All facts officially noticed and relied on, if any, in making the decision;

(3) The appropriate ruling, order or denial of relief, with the effective date and time within which exceptions to the initial decision may be filed;

(4) The time when the decision becomes final.

(c) Issues to be decided by the board:

(1) In a contested proceeding for the issuance of a construction permit, the board will determine the following issues:

(i) Whether in accordance with the provisions of § 50.35(a) of this chapter:

(a) The applicant has described the proposed design of the facility, including, but not limited to, the principal architectural and engineering criteria for the design, and has identified the major features or components incorporated therein for the protection of the health and safety of the public;

(b) Such further technical or design information as may be required to complete the safety analysis and which can reasonably be left for later consideration, will be supplied in the final safety analysis report;

(c) Safety features or components, if any, which require research and development have been described by the applicant and the applicant has identified, and there will be conducted, a research and development program reasonably designed to resolve any safety questions associated with such features and components; and

(d) On the basis of the foregoing, there is reasonable assurance that

(1) such safety questions will be satisfactorily resolved at or before the latest date stated in the application for completion of construction of the proposed facility, and

(2) taking into consideration the site criteria contained in Part 100 of this chapter, the proposed facility can be constructed and operated at the proposed location without undue risk to the health and safety of the public.

(ii) Whether the applicant is technically qualified to design and construct the proposed facility;

(iii) Whether the applicant is financially qualified to design and construct the proposed facility;

(iv) Whether the issuance of a permit for the construction of the facility will be inimical to the common defense and security or to the health and safety of the public.

(v) Whether, with respect to the requirements of section 102(2) (C) and (D) of the National Environmental Policy Act, in accordance with Appendix D of Part 50, the construction permit should be issued as proposed.

(2) In an uncontested proceeding for the issuance of a construction permit, the board will, without conducting a de novo evaluation of the application, determine:

(i) Whether the application and the record of the proceeding contain sufficient information, and the review of the application by the Commission's regulatory staff has been adequate, to support the findings proposed to be made and required by the Act for the issuance of the construction permit proposed by the Director of Regulation, and

(ii) Whether the review conducted pursuant to the National Environmental Policy Act of 1969 has been adequate.

(3) Regardless of whether the proceeding is contested or uncontested, the board will, in its initial decision, in accordance with section A.11 of Appendix D of Part 50:

(i) Determine whether the requirements of section 102 (2) (C) and (D) of the National Environmental Policy Act and Appendix D of Part 50 have been complied with in the proceeding;

(ii) Independently consider the final balance among conflicting factors contained in the record of the proceeding with a view to determining the appropriate action to be taken; and

(iii) Determine whether the construction permit should be issued, denied, or appropriately conditioned to protect environmental values.

(d) It is expected that ordinarily a board will render its initial decision within 45 days after its receipt of proposed findings of fact and conclusions of law filed by the parties in a contested case and within 15 days after receipt of such proposed findings and conclusions in an uncontested case.

(e) The initial decision will be transmitted to the Chief, Public Proceedings Branch, Office of the Secretary, for issuance.

(f) After a board's initial decision is issued, the entire record of the hearing, including the board's initial decision, will be sent to the Commission for review. In the course of this review, the Commission may allow the board's decision to become the final decision of the Commission, may modify a board decision, or may send the case back to the board for additional testimony on particular points or for further consideration of particular issues.

41. Paragraph (c) of redesignated section VII is amended to read as follows:

VII. GENERAL

* * * * *

(c) Sections 2.719 and 2.780 specify the conditions on which there is permitted to be consultation between Commissioners and boards, on the one hand, and the staff, on the other hand, in initial licensing proceedings other than contested proceedings. Section 2.719 also permits a board, in the same type of proceeding, to consult with members of the panel from which members of the boards are drawn. Except for consultation by a board with the Chairman or Vice Chairman of the Atomic Safety and Licensing Board Panel, it is expected that such consultation by a board, when it occurs, will relate to specific technical matters rather than to matters of broad policy. Such intraagency consultation and communications are not permitted in contested proceedings. A board may, however, obtain information from the Chairman or Vice Chairman of the Atomic Safety and Licensing Board Panel for the purpose of identifying relevant decisions or statements of Commission policy. It should also be noted that the provisions of § 2.780 prohibiting intraagency consultation and communication in contested proceedings are not applicable to matters certified to the Commission or to the Atomic Safety and Licensing Appeal Board under the Commission's rules in §§ 2.720(h) and 2.744(e), since those matters are not deemed to involve substantive matters at issue in a proceeding on the record.

42. A new section VIII is added to Appendix A of 10 CFR Part 2 to read as follows:

VIII. PROCEDURES APPLICABLE TO OPERATING LICENSE PROCEEDINGS

(a) This section sets out certain differences in procedure from those described in sections I–VII above, which are required by the fact that the proceeding is for the issuance of an operating license rather than a construction permit. Otherwise, the provisions of sections I through VII of this statement of general policy also apply to an operating license proceeding, except as the context requires otherwise.

(b) In an operating license proceeding, the board will determine only the matters in controversy among the parties as the issues to be decided. Those issues will be specified either in the notice of hearing issued by the Commission, or in a prehearing conference order issued by the board. The issues will be the matters in controversy among the parties within the purview of the following:

(1) Whether there is reasonable assurance that construction of the facility will be substantially completed, on a timely basis, in conformity with the construction permit and the application as amended, the provisions of the Act, and the rules and regulations of the Commission;

(2) Whether the facility will operate in conformity with the application as amended, the provisions of the Act, and the rules and regulations of the Commission;

(3) Whether there is reasonable assurance (i) that the activities to be authorized by the operating license can be conducted without endangering the health and safety of the public, and (ii) that such activities will be

conducted in compliance with the Commission's regulations:

(4) Whether the applicant is technically and financially qualified to engage in the activities to be authorized by the operating license in accordance with the Commission's regulations;

(5) Whether the applicable provisions of 10 CFR Part 140 have been satisfied;

(6) Whether issuance of the license will be inimical to the common defense and security or to the health and safety of the public;

(7) Whether, with respect to the requirements of section 102(2) (C) and (D) of the National Environmental Policy Act, in accordance with Appendix D of Part 50, the operating license should be issued as proposed. If such an issue is raised, the board will also

(*i*) Determine whether the requirements of section 102(2) (C) and (D) of the National Environmental Policy Act and Appendix D of Part 50 have been complied with in the proceeding;

(*ii*) Independently consider the final balance among conflicting factors contained in the record of the proceeding with a view to determining the appropriate action to be taken, and

(*iii*) On the basis of the foregoing, determine whether the operating license should be issued, denied, or appropriately conditioned to protect environmental values.

(c) The board, in operating license proceedings, will make findings only on the matters in controversy. Depending on the resolution of those matters, the Director of Regulation would issue, deny, or appropriately condition the operating license.

(d) In operating license proceedings, the procedure for summary disposition of the proceeding on the pleadings described in § 2.749 may be used to determine the ultimate issue of whether the operating license should be issued.

43. In paragraph (a) of redesignated section IX of Appendix A of 10 CFR Part 2, the references to sections I(g), III(g)(2), and IV(g) are amended to refer to sections I(e), V(f)(4), and VI(f).

44. In paragraphs (e) and (j) of redesignated section X of Appendix A of Part 2, the references to sections I–VI are amended to refer to sections I–VIII.

45 In § 50.30 of 10 CFR Part 50, a new paragraph (c)(3) is added to read as follows:

§ 50.30 Number of copies of applications.

* * * * *

(c) * * *

(3) The copies required by subparagraphs (1) and (2) of this paragraph need not be filed until the application has been assigned a docket number or docketed, pursuant to § 2.101(a) of this chapter. Ten (10) copies shall be filed to enable a determination as to whether the application is sufficiently complete to permit the assignment of a docket number of docketing, as appropriate.

* * * * *

46. Paragraph (c) of § 50.57 of 10 CFR Part 50 is amended to read as follows:

§ 50.57 Issuance of operating license.

* * * * *

(c) An applicant may, in a case where a hearing is held in connection with a pending proceeding under this section, make a motion in writing for an operating license authorizing low-power testing (operation at not more than 1 percent of full power for the purpose of testing the facility), and further operations short of full power operation. Action on such a motion by the presiding officer shall be taken with due regard to the rights of the parties to the proceeding, including the right of any party to be heard to the extent that his contentions are relevant to the activity to be authorized. Prior to taking any action on such a motion which any party opposes, the presiding officer shall make findings on the matters specified in paragraph (a) of this section as to which there is a controversy, in the form of an initial decision with respect to the contested activity sought to be authorized. The Director of Regulation will make findings on all other matters specified in paragraph (a) of this section. If no party opposes the motion, the presiding officer will issue an order pursuant to § 2.730(e) of this chapter, authorizing the Director of Regulation to make appropriate findings on the matters specified in paragraph (a) of this section and to issue a license for the requested operation.

47. In Appendix D of 10 CFR Part 50, the first and sixth sentences of paragraph A.6, the second sentence of paragraph A.7, paragraph A.10, paragraph A.11, the heading of section C and paragraph C.3 are amended to read as follows:

APPENDIX D—INTERIM STATEMENT OF GENERAL POLICY AND PROCEDURE: IMPLEMENTATION OF THE NATIONAL ENVIRONMENTAL POLICY ACT OF 1969 (PUBLIC LAW 91–190)

* * * * *

A. *Basic procedures.* * * *

6. After receipt of any applicant's environmental report, the Director of Regulation or his designee will cause to be published in the FEDERAL REGISTER a summary notice of the availability of the report, and the report will be placed in the AEC's Public Document Room at 1717 H Street NW., Washington, DC, in the public document room established by the Commission in the vicinity of the site of the proposed facility where a file of documents pertaining to the proposed facility is maintained, and in State, regional and metropolitan clearinghouses in the vicinity of the site of the proposed facility, where documents pertaining to the environmental impact of the proposed facility are made available to members of the public, pursuant to the "Guidelines on Statements on Proposed Federal Actions Affecting the Environment" of the Council on Environmental Quality.[1] * * * The transmittal will request comment on the report and the draft detailed statement within forty-five (45) days or within such longer time as the Commission may deem appropriate. * * *

7. * * * The summary notice to be published pursuant to this paragraph will request, within forty-five (45) days or such longer period as the Commission may determine to be practicable, comment from interested persons on the proposed action and on the draft statement. * * *

* * * * *

10. In a proceeding for the issuance of a construction permit or an operating license for a production or utilization facility described in paragraph 1 in which a hearing is held, the regulatory staff will offer the detailed statement in evidence. Any party to the proceeding may take a position and offer evidence on environmental aspects of the proposed licensing action in accordance with the provisions of Subpart G of Part 2 of this chapter.

11. In a proceeding for the issuance of a construction permit for a production or utilization facility described in paragraph 1, the Atomic Safety and Licensing Board will (a) determine whether the requirements of section 102(2) (C) and (D) of the National Environmental Policy Act and this appendix have been complied with in the proceeding, (b) independently consider the final balance among conflicting environmental factors in the record of the proceeding for the permit with a view to determining the appropriate action to be taken; and (c) determine, after weighing the environmental, economic, technical and other benefits against environmental costs and considering available alternatives, whether the permit should be issued, denied, or appropriately conditioned to protect environmental values.

In a contested proceeding for the issuance of a construction permit for such a facility, the Atomic Safety and Licensing Board will also (d) decide any matters in controversy among the parties and (e) determine whether, in accordance with this appendix, the construction permit should be issued as proposed. In an uncontested proceeding for the issuance of a construction permit for such a facility, the atomic safety and licensing board will also determine whether the NEPA review conducted by the Commission's regulatory staff has been adequate.

In a proceeding for the issuance of an operating license for a production or utilization facility described in paragraph 1 in which a hearing is held and matters covered by this appendix are in issue, the Atomic Safety and Licensing Board will decide those matters in controversy among the parties.

The Atomic Safety and Licensing Board's initial decision may include findings and conclusions which affirm or modify the contents of the detailed statement described in paragraph 8. To the extent that findings and conclusions different from those in the detailed statement are reached, the detailed statement shall be deemed modified to that extent and, as modified, transmitted to the Council on Environmental Quality and made available to the public pursuant to paragraph 9. If the Commission or the Atomic Safety and Licensing Appeal Board, in a decision on review of the initial decision, reaches conclusions different from the Atomic Safety and Licensing Board with respect to environmental aspects, the detailed statement shall be deemed modified to that extent and, as modified, transmitted to the Council on Environmental Quality and made available to the public pursuant to paragraph 9.

* * * * *

C. *Procedures for review of certain construction permits for production or utilization facilities issued prior to January 1, 1970, for which operating licenses have not been issued.* * * *

3. (a) In any facility license proceeding subject to this section C in which the Commission estimates that construction of the facility will be completed by, or soon after, the completion of the review of environmental matters conducted in accordance with this section C, the environmental review will consider the effects of the operation, as well as the construction of, the facility and the Director of Regulation or his designee will, in the detailed statement described in paragraph 2, set forth his conclusion as respects the issuance or denial of an operating license or its appropriate conditioning to protect environmental values. In such a proceeding, a notice of consideration of is-

suance of operating license will be published in the FEDERAL REGISTER, in lieu of the notice described in paragraph 2 of this section, providing that, within thirty (30) days from the date of publication of the notice, any person whose interest may be affected by the proceeding may file a petition for leave to intervene in accordance with § 2.714 of this chapter and request a hearing with respect to the issuance of an operating license for the facility. Notwithstanding the provisions of section A, the provisions of section D, including paragraphs 2 and 3 of that section, will then be applicable to the proceeding.

(b) In any proceeding other than a proceeding described in subparagraph (a) of this paragraph 3., the review of environmental matters conducted in accordance with this section C will not be duplicated at the operating license stage, absent new significant information relevant to those matters.

* * * * *

(Sec. 161, 68 Stat. 948; sec. 102, 83 Stat. 853; 42 U.S.C. 2013, 2201)

Dated at Germantown, Md., this 1st day of May 1972.

For the Atomic Energy Commission.

W. B. MCCOOL,
Secretary of the Commission.

[FR Doc.72-6961 Filed 5-8-72;8:45 am]

FEDERAL POWER COMMISSION

[18 CFR Part 2]

[Docket No. R-441]

NEW PRODUCER SALES OF NATURAL GAS

Proposal and Statement of Policy Regarding Optional Certificating Procedures; Notice of Extension of Time

MAY 1, 1972.

Notice is hereby given that the time is extended to and including May 15, 1972, within which comments may be filed in the above-designated matter (37 F.R. 7345, April 13, 1972).

By direction of the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-6997 Filed 5-8-72;8:45 am]

OIL IMPORT APPEALS BOARD

[32A CFR Ch. XI]

RULES AND PROCEDURES

Proposed Clarification of Procedural Matters

Notice is hereby given that by virtue of Proclamation No. 3279 of March 10, 1959, as amended, 24 F.R. 1781, 10133, 28 F.R. 4077, 35 F.R. 4321; section 232 of the Trade Expansion Act of 1962, 76 Stat. 877; and Oil Import Regulation 1, as revised, 28 F.R. 14318, and amended (Amendment 19, 35 F.R. 163, Amendment 23, 35 F.R. 12759, and Amendment 24, 35 F.R. 16976), Chapter XI of Title 32A, Code of Federal Regulations, is proposed to be revised. The revision will be made to clarify procedural matters and will not alter any substantive legal rights.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rule making process. Accordingly, interested persons may submit written comments, suggestions, or objections with respect to the proposed revised regulations to the Chairman, Oil Import Appeals Board, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, VA 22203, within 30 days from the date of publication of this notice in the FEDERAL REGISTER.

JAMES M. DAY,
Director,
Office of Hearings and Appeals.

APRIL 26, 1972.

The proposed revised regulations read as follows:

OIAB—RULES AND PROCEDURES

Sec.
1 Purpose.
2 Establishment of Board.
3 Authority of the Board.
4 Representation before the Board.
5 Time and place to file petitions.
6 Form and content of petition.
7 Hearings on petitions.
8 Notice of hearing.
9 Unexcused absence of a petitioner.
10 Conduct of hearing.
11 Consolidation.
12 Briefs, memoranda of law, documentary evidence, and other information.
13 Statements by interested persons other than petitioner.
14 Private communications prohibited.
15 Participation by the Office of Oil and Gas.
16 In camera orders.
17 Decisions of the Board.
18 Reconsideration of decisions.
19 Reopening of proceedings.
20 Clerical mistakes.
21 Duty to inform the Board.
22 Record open for the public.

AUTHORITY: Proclamation No. 3279 of Mar. 10, 1959, as amended, 24 F.R. 1781, 10133, 28 F.R. 4077, 35 F.R. 4321; sec. 232 of the Trade Expansion Act of 1962, 76 Stat. 877; and Oil Import Regulation 1, as revised, 28 F.R. 14318, and amended (Amdt. 19, 35 F.R. 163, Amdt. 23, 35 F.R. 12759, and Amdt. 24, 35 F.R. 16976).

Section 1 Purpose.

These rules govern the procedures on petitions to the Oil Import Appeals Board, hereinafter referred to as the "Board." They shall be construed to secure the just, speedy and inexpensive determination of every proceeding.

Sec. 2 Establishment of Board.

Pursuant to section 4 of Presidential Proclamation 3279, dated March 10, 1959 (24 F.R. 1781), as amended, hereinafter referred to as the "Proclamation," the Board was established by section 21 of Oil Import Regulation 1 (24 F.R. 1907), as revised and amended. Oil Import Regulation 1 is hereinafter referred to as the "Regulation." The Board is comprised of a representative each from the Departments of the Interior, Justice, and Commerce, designated respectively by the heads of such Departments. The Department of the Interior Member serves as Chairman.

Sec. 3 Authority of the Board.

(a) The Board considers petitions for relief by persons claiming to be affected by the Regulation and may, within the limits of the maximum levels of imports established in section 2 of the Proclamation:

(1) Reverse or modify on grounds of error actions taken by the Director, Office of Oil and Gas, on applications for allocations under the Regulation;

(2) Modify any allocation made to any person under the Regulation on the grounds of exceptional hardship;

(3) Grant allocations of crude oil and unfinished oils in special circumstances to persons with importing histories who do not otherwise qualify for allocations under the Regulation;

(4) Grant allocations of finished products on the grounds of exceptional hardship to persons who do not otherwise qualify for allocations under the Regulation; and

(5) Review the revocation or suspension of any allocation or license.

(b) Only petitions relating to matters covered by paragraph (a) of this section may be considered by the Board. Petitions requesting a change or disregard of the Proclamation or the Regulation may not be considered.

Sec. 4 Representation before the Board.

Subject to the provisions contained in Part 1 of Title 43, Code of Federal Regulations, a petitioner may appear in person, by counsel or other qualified representative, and participate fully in any proceeding before the Board held pursuant to these rules.

Sec. 5 Time and place to file petitions.

(a) A petition requesting the reversal or modification of an action of the Director, Office of Oil and Gas, with reference to an allocation or the modification or grant of an allocation shall be filed with the Board not later than 30 calendar days after the beginning of the applicable allocation period or the date of the granting or denial of an allocation, whichever is later.

(b) A petition requesting review of the suspension or revocation of an allocation or license shall be filed with the Board not later than 30 calendar days after mailing of a notice of suspension or revocation by the Director, Office of Oil and Gas.

(c) The Board may consider a petition not filed within the time specified in paragraphs (a) and (b) of this section upon a showing of good cause.

(d) Petitions and related documents and exhibits shall be addressed to the Oil Import Appeals Board and filed with the Board (address: Oil Import Appeals Board, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, VA 22203).

Sec. 6 Form and content of petition.

A petition must be in writing, signed by the petitioner or his duly authorized representative or attorney, clearly

marked as "petition," and filed in sextuplicate. Each petition shall be organized under headings, as follows: (a) The relief sought by the petitioner, expressed in barrels per day (b/d) and in total barrels (bbls.) during the applicable allocation period; (b) the pertinent provisions of the Regulation under which the Board has authority to grant such relief; (c) the decision of the Director, Office of Oil and Gas involved in the petition, if any; (d) the relevant facts in support of the petition; and (e) the arguments in support of the petition.

Sec. 7 Hearings on petitions.

A petitioner may request a hearing before the Board on his petition by submitting an unqualified request therefor, in writing, with the filing of his petition. The Board in its discretion may grant a hearing. Where a hearing has not been requested by the petitioner, the Board may, in its discretion, schedule a hearing on the petition. Hearings will be scheduled in the discretion of the Board with due consideration to the regular order of filing of petitions and other pertinent factors. On request and for good cause shown, the Board may in its discretion advance a hearing. A party failing to request a hearing as provided in this section may be deemed to have submitted his case upon the Board record.

Sec. 8 Notice of hearing.

The petitioner shall be given at least 14 calendar days' notice of the time and place set for hearings, unless otherwise agreed. Such notice will apprise the petitioner of the requirements of section 12 for submission of briefs, memoranda of law, documentary evidence, or other necessary information. In scheduling hearings the Board will give due regard to the desires of the petitioners and to the requirement for just and prompt disposition of petitions. Public notice of the scheduling of a hearing will also be posted in the office of the Board.

Sec. 9 Unexcused absence of a petitioner.

The unexcused absence of a petitioner at the time and place set for hearing will not be occasion for delay. In the event of such absence the hearing will proceed and the case will be regarded as submitted by the absent petitioner on the record before the Board. The Board shall advise the absent petitioner of the content of the proceedings and that he has 5 days from the receipt of such notice within which to show cause why the petition should not be decided on the record made.

Sec. 10 Conduct of hearing.

(a) Any member of the Board may conduct a hearing.

(b) Hearings shall be as informal as may be reasonable and appropriate in the circumstances and shall be public. Petitioner may offer at a hearing such relevant evidence as he deems appropriate, subject to the sound discretion of the presiding member in supervising the extent and manner of presentation of such evidence and subject to the requirements of section 12(b). In general, admissibility will hinge on relevancy and materiality. Arguments bearing on the policy embodied in the Proclamation or in the Regulation shall not be received. Letters or copies thereof, affidavits, or other evidence not ordinarily admissible under the generally accepted rules of evidence, may be admitted in the discretion of the presiding member. The weight to be attached to evidence presented in any particular form will be within the discretion of the Board, taking into consideration all the circumstances of the particular case. Stipulations of fact agreed upon by a petitioner and the Director of the Office of Oil and Gas, or his representative, may be regarded and used as evidence at the hearing. The petitioner and the Office of Oil and Gas may stipulate the testimony that would be given by a witness if the witness were present. The Board may in any case require evidence in addition to that offered by a petitioner.

(c) Witnesses before the Board will be examined orally under oath or affirmation, unless the facts are stipulated or the Board shall otherwise order. If the testimony of a witness is not given under oath, the Board shall call to the attention of the witness the provisions of title 18, United States Code, sections 287 and 1001, prescribing penalties for knowingly making false representations in connection with claims against the United States or in any matter within the jurisdiction of any department or agency thereof. The Board may, in its discretion, permit government officials participating in the hearing to examine any witness.

(d) Hearings will be recorded verbatim and transcripts thereof shall be made, costs of transcripts to be borne by the requesting parties. Fees for transcripts, which will be prepared from recordings by Office of Hearings and Appeals employees, will be at rates which cover the cost of manpower, machine use and materials, plus 25 percent, adjusted to the nearest 5 cents.

Sec. 11 Consolidation.

Upon good cause shown, or upon its own initiative, the Board may at the same time hear or decide two or more petitions, if it determines that such action is appropriate.

Sec. 12 Briefs, memoranda of law, documentary evidence, and other information.

(a) The Board may on its own initiative require the filing, either before or after hearing, of briefs, memoranda of law, documentary evidence, or any other information it considers necessary for the disposition of a petition.

(b) Any briefs, memoranda, documents, statistics, and other data and statements, but not including witnesses' testimony, to be presented or used at a hearing, shall be filed in sextuplicate with the Board not later than 6 days, exclusive of Saturdays, Sundays, Federal legal holidays and other nonbusiness days, prior to the date of hearing.

Sec. 13 Statements by interested persons other than petitioner.

(a) Persons interested in opposing or supporting a petition, other than petitioner, may file in sextuplicate with the Board written statements on issues raised by the petition at any time prior to 14 calendar days before the scheduled date of the hearing on the petition. A copy of such statements shall be sent to the petitioner or his representative by the interested person. The petitioner may file in sextuplicate with the Board a written reply within 7 calendar days after receiving such statements.

(b) Persons interested in opposing or supporting a petition, other than petitioner, may file in sextuplicate with the Board written statements on issues raised by the hearing within 7 calendar days following said hearing, unless extension is granted by the Board for good cause. A copy of such statement shall be sent to the petitioner or his representative by the interested person. The petitioner may file in sextuplicate with the Board a written reply within 7 calendar days after receiving such statements, unless extension is granted by the Board for good cause.

(c) The Board will not consider statements made pursuant to paragraph (a) or (b) of this section, unless copies have been furnished to petitioners or their representatives by the interested persons.

Sec. 14 Private communications prohibited.

Oral or written communications by petitioners, interested private parties, or their agents, concerning the facts or law of a petition, or unpublished policy of the Board, will not be considered by individual members of the Board, unless such communications are made part of the record before the Board.

Sec. 15 Participation by the Office of Oil and Gas.

A copy of each petition filed with the Board and a copy of each written statement on issues raised by a petition filed pursuant to section 13 will be forwarded promptly to the Director, Office of Oil and Gas, for purposes of information and for any comment which the Director may deem appropriate and wish to submit to the Board. The Board, when possible, will advise the Director, at least 1 week in advance, of the time and place of any hearing which may be scheduled upon a petition and will request that the Director or his representative appear at the hearing and present information and arguments on behalf of the Office of Oil and Gas.

Sec. 16 In camera orders.

(a) Upon request by the petitioner the Board may order that oral testimony or written evidence which discloses trade

secrets or privileged commercial or financial information be placed in camera. The order shall include: (1) A description of the documents and testimony covered by it, and (2) a concise statement of the reasons for granting in camera treatment.

(b) Documents and transcripts of testimony subject to in camera orders shall be segregated from the public record and filed in a sealed envelope, bearing the title and docket number of the proceedings, and the notation "In camera record under section 16." Subject to the provisions of paragraph (c) of this section, documents and transcripts subject to an in camera order will be made accessible only to the petitioner, his counsel, authorized Board personnel, members of the Board, and court personnel concerned with judicial review. The right of the Board and of reviewing courts to disclose in camera data to the extent necessary for the proper disposition of the proceeding is specifically reserved.

(c) Documents and transcripts of testimony subject to an in camera order shall be released to third parties only if required by law.

Sec. 17 Decisions of the Board.

(a) The Board will take such action on petitions as it deems appropriate. Decisions of the Board will be made in writing. All Board members will participate in the decisionmaking; however, concurrence of any two Board members shall be sufficient to constitute a decision of the Board. Decisions of the Board shall be final and not subject to administrative review.

(b) Each decision upon a petition to the Board will contain a concise statement of the reasons for the Board's action.

(c) A copy of the decision shall be furnished promptly to the petitioner or his representative. All decisions of the Board shall be available for inspection by the public.

Sec. 18 Reconsideration of decisions.

Not later than 30 calendar days after issuance of a decision of the Board, a petitioner may file with the Board a petition for reconsideration of such decision, setting forth the relief desired and the grounds therefor. Such petition must clearly state the issues which the petitioner had no opportunity to argue before the Board. The Board, within its discretion, may decide the matter on the petition, or it may schedule a public hearing thereon in accordance with section 8. It may specify any issues on which the Board desires to hear arguments.

Sec. 19 Reopening of proceedings.

(a) *Reopening prior to decision.* At any time prior to its decision, the Board may reopen the proceeding for the reception of further evidence.

(b) *Reopening after decision.* Whenever, during the applicable allocation period, a petitioner subject to a decision of the Board is of the opinion that material changes of fact or of law, which occurred after issuance of the decision, warrant that such decision be altered, modified, or set aside, such petitioner may file with the Board a petition requesting a reopening of the proceeding for that purpose. Such petition shall state the relief desired, the specific changes of fact or of law warranting a reopening of the proceeding, and shall include such evidence and arguments as will provide the basis for a Board decision on the petition. The Board, in its discretion, may decide the matter on the petition, or it may serve upon the petitioner a notice for a public hearing thereon. Said notice shall indicate the time and place of hearing, and it may specify any issues on which the Board desires to receive further evidence or hear arguments.

Sec. 20 Clerical mistakes.

The Board may at any time, without advance notice to the petitioner and without hearing, make such changes in a Board decision as are required to correct clerical or other errors arising from oversight or omission which have no adverse effect on petitioner.

Sec. 21 Duty to inform the Board.

The petitioner shall promptly notify the Board of any change in its eligibility (according to the criteria contained in paragraphs (a) and (g) of section 4) occurring prior to the end of the applicable allocation period.

Sec. 22 Record open to the public.

The petition, transcript of hearing, exhibits, written statements filed by interested parties, all papers filed with the Board, and matters of official notice or record, shall constitute the record for decision and shall be open to the public, subject to the provisions of section 16.

[FR Doc.72-7010 Filed 5-8-72;8:47 am]

SMALL BUSINESS ADMINISTRATION

[13 CFR Part 107]

SMALL BUSINESS INVESTMENT COMPANIES

Fidelity Insurance

Notice is hereby given that pursuant to authority contained in section 308 of the Small Business Investment Act of 1958, as amended 15 U.S.C. 687, it is proposed to amend as set forth below, Part 107 of Chapter 1, Title 13 of the Code of Federal Regulations, revised as of January 1, 1972, and amended in 37 F.R. 3950, by amending § 107.1104(a). Prior to final adoption of such amendment consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, in triplicate, to the Office of the Associate Administrator for Operations and Investment, Small Business Administration, Washington, D.C. 20416, within a period of thirty (30) days of the date of publication of this notice in the FEDERAL REGISTER.

Information. The proposed amendment to § 107.1104(a) would accept compliance by small business investment companies registered under the Investment Company Act of 1940, 15 U.S.C. 80a–1 et seq., with proposed Rule 17g–1 of the rules and regulations promulgated under such Act, as compliance with the requirements of said § 107.1104. For proposed Rule 17g–1 see SEC Release IC–7107 (37 F.R. 7993).

SBA has determined that compliance with the requirements of said Rule 17g–1 would satisfy the purposes of § 107.1104 of the rules and regulations under the Small Business Investment Act of 1958.

It is proposed that Part 107 be amended by adding the following to § 107.1104(a):

§ 107.1104 Fidelity insurance.

(a) * * *

Provided, however, That compliance by 1940 Act Companies with Rule 17g–1 under the Investment Company Act of 1940 shall be deemed compliance with the provisions of this section.

* * * * *

Dated: May 1, 1972.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.72-7007 Filed 5-8-72;8:47 am]

Notices

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Pay Board Ruling 1972-32]

CONTRACTUALLY DEFERRED INCREASES IN WAGES AND SALARIES

Pay Board Ruling

Facts. Employer X and the union representing its employees execute an agreement after November 14, 1971, which provides for a 9-percent increase in wages and fringe benefits, effective May 1, 1972. It further provides that, in the event that any portion of the increase is denied by the Pay Board, when controls are lifted and when it becomes legally permissible to do so, the parties will agree upon such supplemental wage provision as will provide the full worth of the negotiated increase partially denied.

Issue. Does the above provision for a deferred increase constitute an increase in wages and salaries chargeable against the standard specified in § 201.10?

Ruling. Yes. Section 201.3 of the Pay Board's regulations defines wages and salaries as including "all forms of direct and indirect remuneration or inducement to employees * * *, which are reasonably subject to valuation including * * * deferred compensation * * *." Section 201.10 further provides that the standard "* * * shall apply to any wage and salary increase payable * * * pursuant to an employment contract entered into * * * after November 14, 1971."

The deferred increase constitutes an obligation to pay, effective on the date of agreement, a 9 percent increase, pursuant to a current contract. The agreement on its face, provides that the portion of the increase disallowed by the Pay Board will be paid as consideration for work currently being performed. Unlike a contract which might provide for an increase during the second year of its term as consideration for work performed during that second year, this provision expressly provides that the future payment will be in consideration for work performed during the first year of the contract. In effect, it is deferred compensation for work perfomed currently. As such it is a form of remuneration. (It is also a present additional "inducement" to employees, since they know that when controls are lifted they will be paid an increased amount for work being performed today.)

Furthermore, it is "reasonably subject to valuation." This term does not require precise measurement but rather some reasonable criteria by which a value can be placed on the form of remuneration. When a present value is placed on the deferred increase, it will be added to the increase permitted by the Board. Since this will exceed the permissible increase, the deferred compensation will probably be prohibited.

Criteria which could be used to arrive at a present valuation would include:

(1) An assumption that May 1, 1973, the present statutory expiration date of controls, would be the date when the contract provision is triggered;

(2) That money currently in hand is worth 6 percent more in terms of its investment value than the same amount deferred 1 year later;

(3) That if the disallowed portion of the increase were payable presently in equal periodic (weekly, monthly, etc.) installments, the employee will be losing over a period of 1 year an average of 3 percent of the value of the increase by not being able to receive it in equal installments commencing with the effective date of the contract.

Utilizing the above criteria in the instant case but recognizing that other criteria for evaluation might also be appropriate, the present value of the disallowed portion is 3.5 percent (assuming the Board will approve only a 5.5-percent increase) less 3 percent of 3.5 percent, which equals 3.4 percent. Therefore, the parties cannot keep the clause in the contract and remain within the 5.5 percent permissible increase.

If controls are not lifted on May 1, 1973, then the agreement could be reevaluated with a different trigger date and the consequent diminished value of the increase in 1972 would be taken into consideration by the Pay Board when it reviews the second or third year increase contained in the contract.

This ruling has been approved by the General Counsel of the Pay Board.

Dated: May 4, 1972.

LEE H. HENKEL, Jr.,
Acting Chief Counsel,
Internal Revenue Service.

Approved: May 4, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-7051 Filed 5-4-72;5:04 pm]

[Pay Board Ruling 1972-33]

DEFERRED WAGE AND SALARY INCREASES PROHIBITED BY PAY BOARD

Pay Board Ruling

Facts. Employer A and the union representing his employees agree to a 9 percent increase, effective immediately, on March 1, 1972. There is a further provision in the agreement which states that in the event the Pay Board disapproves any portion of the increase that portion will be payable retroactively to March 1, 1972, when controls are lifted. The Pay Board subsequently approves a 5.5 percent increase but expressly disapproves the provision of the agreement cited above, stating that it constitutes a 3.5 percent increase in wages and salaries payable as deferred compensation. The parties nevertheless decide to leave it in the agreement.

Issue. Does the action of the parties in leaving the deferred increase provision in effect constitute a violation within the meaning of § 201.17 of the Pay Board regulations?

Ruling. Yes. Section 201.17(d) provides that it is a violation to "Fail or refuse to comply with an order or decision of the Pay Board or to induce, solicit, encourage, force, or require any other person to fail or refuse to comply with an order or decision of the Board." This subsection makes clear that if the Board renders a decision, it is a violation for any person to refuse to comply with it.

Moreover, the language in § 201.17 providing that it shall not be a violation to "bargain for, request, contract for, or agree to a wage and salary increase in excess of the standard" does not remove the basis for a violation. This clause was included in § 201.17 to permit the parties to bargain freely prior to submitting their eventual agreement to the Pay Board for approval of an exception to the standard. Once the Board has decided that an agreement to pay an amount in excess of the standard constitutes an actual increase in wages and salaries, such agreement no longer comes within the proviso permitting agreements in excess of the standard. The Board has ruled that it is more than an agreement—it is a wage and salary increase payable as deferred compensation.

This ruling has been approved by the General Counsel of the Pay Board.

Dated: May 4, 1972.

LEE H. HENKEL, Jr.,
Acting Chief Counsel,
Internal Revenue Service.

Approved: May 4, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-7052 Filed 5-4-72;5:04 pm]

[Pay Board Ruling 1972-34]

ESCROW ACCOUNTS—CONSTRUCTION INDUSTRY WAGE INCREASES

Pay Board Ruling

Facts. To protect his bid price, a contractor desires to place negotiated wage increases (which represent the last increment in the current wage agreement) in an escrow account pending approval by the Construction Industry Stabilization Committee.

Issue. Would it constitute a violation of Economic Stabilization Regulations, 6 CFR 201.17, 37 F.R. 4899 (March 7, 1972), for an employer to place negoti-

ated wage increases in an escrow account pending approval by the Construction Industry Stabilization Committee?

Ruling. No. If the wording of the escrow agreement places delivery of the wage increases on the condition of approval by the Construction Industry Stabilization Committee, then until the performance of that condition, the legal title to the wages held in escrow remains in the employer grantor and no title or interest in the wages vests in the employee grantees. Section 201.17, among other things, prohibits the payment or receipt of any portion of a wage and salary increase not permitted by Pay Board regulation or decision. Accordingly, while the wage increases remain in the escrow account pending the condition of approval for delivery, no payment of wages is made by the employer nor is any portion of the wage increase received by the employees. Note, however, if the wording of the escrow agreement is such that title to the wages will flow to the employees at some future date even though the approval by CISC has not been obtained (e.g. "when controls are lifted * * *"), such wages and salaries would be considered paid in the year put in escrow.

This ruling has been approved by the General Counsel of the Pay Board.

Dated: May 4, 1972.

LEE H. HENKEL, Jr.,
Acting Chief Counsel,
Internal Revenue Service.

Approved: May 4, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-7050 Filed 5-4-72;5:04 pm]

[Price Commission Ruling 1972-130]

CONNECTION TO SEWER SYSTEM AS A CAPITAL IMPROVEMENT

Price Commission Ruling

Price Commission Ruling 1972-130, published at page 7719 in the issue dated Wednesday, April 19, 1972, is corrected by changing the expenditure for excavation from "$1,204.37" to "$2,304.37" in the first paragraph.

Dated: May 3, 1972.

LEE H. HENKEL, Jr.,
Acting Chief Counsel,
Internal Revenue Service.

Approved: May 3, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-7011 Filed 5-8-72;8:46 am]

[Price Commission Ruling 1972-155]

CONFLICT—DETERMINATION OF BASE RENT

Price Commission Ruling

Facts. A tenant entered into a 2-year lease in February 1970, effective April 1, 1970, through March 31, 1972. Tenant and landlord wish to enter into a new lease. Before a new lease can be executed, the base rent must be determined.

Issue. Which section controls the determination of base rent?

Ruling. Economic Stabilization Regulation, 6 CFR 301.203(b), 36 F.R. 25386 (December 30, 1971) refers to residences with terms of greater than month to month which become occupied before May 15, 1971. Economic Stabilization Regulation, 6 CFR 301.208, 36 F.R. 25386 (December 30, 1971) refers to residences which have not been occupied after May 25, 1970. Economic Stabilization Regulation, 6 CFR 301.8, 36 F.R. 25388 (December 30, 1971) defines occupied to mean when a residence becomes subject to a lease.

Both sections appear to encompass the fact situation. Base rent as calculated by regulation § 301.203(b) is the average transaction rent. Base rent as calculated by regulation § 301.208 is a computation based on the average arm's length monthly rent received by persons renting comparable property in the same area.

Base rent is determined by regulation § 301.203(b). Regulation § 301.208 only refers to residences after May 25, 1970, which were vacant or occupied by a landlord who later decided to offer the residence for rent. Vacant is defined to mean possession not held under a lease or implied contract of occupancy. Regulation § 301.203(b) refers to such residences in which a tenant is residing therein under a lease or implied contract of occupancy.

This ruling has been approved by the General Counsel of the Price Commission.

Dated: April 28, 1972.

LEE H. HENKEL, Jr.,
Acting Chief Counsel,
Internal Revenue Service.

Approved: April 28, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-7012 Filed 5-8-72;8:46 am]

[Price Commission Ruling 1972-156]

RENTS—NOTICE

Price Commission Ruling

Facts. A lessor, L, is undergoing serious financial difficulties. L believes that he can eliminate these difficulties if he increases the rent on the apartments he leases. However, such a rent increase would violate the provisions of Part 301 of the Economic Stabilization Regulations. L files for an exception under § 301.109 of the Economic Stabilization Regulations, 6 CFR 301.109, 36 F.R. 25386 (December 30, 1971). In order to take immediate advantage of the rent increase L gives his tenants 30-day notice of the increase at the same time that he files the exception request.

Issue. Whether a lessor who submits a request for an exception, pursuant to § 301.109 and gives 30-day notice of the proposed increase in rent pursuant to § 301.502 at the same time, has given adequate, timely notice under §§ 301.109 and 301.502?

Ruling. No. The lessor must give the required 30-day notice after request for exception is approved. Section 301.109, which governs requests for exceptions, provides that whenever a lessor is granted a rent adjustment or increase by way of exception, the 30-day notice requirement of § 301.502 applies. 6 CFR 301.109, 36 F.R. 25386 (December 30, 1971). The terms and conditions of the granted exception must be determined before all the information required by the § 301.502(b) can be disclosed in the 30-day notice. In addition, a lessor would be unable to make the entire declaration required by § 301.502(b)(7)(C) until the exception is approved.

It should be noted that although a lessee may not withhold the increased rent as specified in the invalid notice, he should file a report of an alleged violation in this case. 6 CFR 301.502(e), 36 F.R. 25386 (December 30, 1971).

This ruling has been approved by the General Counsel of the Price Commission.

LEE H. HENKEL, Jr.,
Acting Chief Counsel,
Internal Revenue Service.

Approved: May 1, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-7013 Filed 5-8-72;8:46 am]

[Price Commission Ruling 1972-157]

RENT—ALLOWABLE COST—TANGIBLE PERSONAL PROPERTY TAXES

Price Commission Ruling

Facts. A municipality M, has imposed a tangible personal property tax on equipment and furnishings (e.g. draperies, carpets, etc.) which a landlord provides in his rental units. A lessor L, provides carpets in his rental units and is subject to the tax.

Issue. Whether the tangible personal property tax is an allowable cost under § 301.102(b)(1) of the Economic Stabilization Regulations?

Ruling. No. Section 301.102(b)(1) provides in part that allowable costs means (i) State and local real estate taxes, and (ii) State and local fees, levies, and charges for all municipal services. 6 CFR 301.102(b)(1), 36 F.R. 25386 (December 30, 1971). Since a tangible personal property tax is not a real estate tax or fee for municipal services, it is not an allowable cost.

This ruling has been approved by the General Counsel of the Price Commission.

LEE H. HENKEL, Jr.,
Acting Chief Counsel,
Internal Revenue Service.

Approved: May 1, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-7014 Filed 5-8-72;8:46 am]

[Price Commission Ruling 1972–158]

RENT—AVERAGE TRANSACTION—SAME BUILDING OR COMPLEX

Price Commission Ruling

Facts. A lessor L, owns a complex of several six-unit one-bedroom apartment buildings, A, B, and C. L needs to determine the average transaction ren under § 301.206 for one of the apartments in building A. The only transactions which are eligible under § 301.206(b)(3) occurred with respect to apartment X and apartment Y which are located in A and B respectively.

Issue. Does L have to use X and not Y, since X involves a residence in the same building as the unit for which the average transaction rent is to be determined under § 301.206?

Ruling. Section 301.206(b)(1) provides in part that the transactions to be used in the computation of the average transaction rent are those which involved a residence in the same building or complex * * * 6 CFR 301.206(b)(1), 36 F.R. 25386 (December 30, 1971). In other words, all the eligible transactions which involved residences in the same building and complex must be used to determine the average transaction rent. L must use the eligible transactions involving both X and Y. Thus, L does not have to use just X even though X involves a residence in the same building as the unit for which the average transaction rent is to be determined. In addition, L does not have the option of using either a residence in the same building or residence in the same comple (i.e. X or Y).

This ruling has been approved by the General Counsel of the Price Commission.

LEE H. HENKEL, Jr.,
Acting Chief Counsel,
Internal Revenue Service.

Approved: May 1, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of The Treasury.

[FR Doc.72–7015 Filed 5–8–72;8:46 am]

[Price Commission Ruling 1972–159]

RENTAL INCREASE FOR INCREASE IN ALLOWABLE COSTS

Price Commission Ruling

Facts. Beginning April 1, 1971, lessor L leased newly constructed apartment units. The 1971 county real property tax, payable February 1, 1971, was $50 and was assessed solely upon the land. A school tax assessment on the improved property was $500, payable August 1, 1971. For calendar year 1972, the county assessed the improved property and the tax was $800, payable February 1, 1972. In establishing rent after April 1, 1971, L estimated the State and local taxes, fees, levies, and charges on the improved property.

Issue. To what extent can L increase rent under the provisions of § 301.102(a)(2)?

Ruling. An application of the provisions of § 301.102(b)(2) indicates that no increase in allowable costs occurred after August 15, 1971, which justifies an increase in rent under § 301.102(a)(2).

Under § 301.102(b)(2) the county real property tax is categorized as a subdivision (i) "allowable cost." On the other hand, unless State law classifies it as a State or local real property tax, the school tax assessment is a State or local fee, levy, or charge and, as such, is a subdivision (ii) "allowable cost." To compute any increase in allowable costs effectively under subparagraph (2) of § 301.102(b), individual computations must be timely made for each subdivided category as well as for each separately itemized assessment within the subdivided category.

Under the foregoing, no increase in allowable costs has occurred after August 15, 1971. The 1971 county real property tax bill assessed upon the land and the 1972 bill assessed upon improved property represents a difference in assessments upon unrelated items. In this regard, the regulations clearly indicate that the difference must relate to the same residence, same structure containing the residence, same complex, or same other real property. Economic Stabilization Regulations, 6 CFR 301.102(b)(2), 36 F.R. 25386 (December 30, 1971). Accordingly, L is not authorized to increase rent after February 1, 1972 (the date the 1972 county real property tax is payable), under § 301.102(a)(2), except to reflect any increase between the 1971 and 1972 county real property tax assessments on the land alone.

Furthermore, since the school tax assessment on the improved property occurred on August 1, 1971, no increase in rent pursuant to an increase in the school tax assessment is authorized until the next such assessment on August 1, 1972, and only if the latter assessment is in excess of $500.

This ruling has been approved by the General Counsel of the Price Commission.

Dated: May 1, 1972.

LEE H. HENKEL, Jr.,
Acting Chief Counsel,
Internal Revenue Service.

Approved: May 1, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72–7016 Filed 5–8–72;8:46 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[New Mexico 10805]

NEW MEXICO

Order Vacating Revocation of Power Site

MAY 1, 1972.

F.R. Document No. 72–5629 entitled "Revocation of Power Site" published in the FEDERAL REGISTER of April 13, 1972 (37 F.R. 7352) is hereby vacated.

W. J. ANDERSON,
State Director.

[FR Doc.72–7006 Filed 5–8–72;8:48 am]

DEPARTMENT OF COMMERCE

National Bureau of Standards

FLOWCHART SYMBOLS AND THEIR USAGE IN INFORMATION PROCESSING

Notice of Federal Information Processing Standard

Under the provisions of Public Law 89–306, the Secretary of Commerce is authorized to make appropriate recommendations to the President relating to the establishment of uniform Federal automatic data processing standards.

A proposed standard for flowchart symbols and their usage in information processing is being recommended by the National Bureau of Standards. This standard, at such time as it may be approved by the Office of Management and Budget, will be published as a Federal Information Processing Standard.

Prior to the submission of the final endorsement of this proposal to the OMB, it is essential to assure that proper consideration is given the needs and views of manufacturers, the public, and State and local governments. The purpose of this notice is to solicit such views.

Proposed Federal Information Processing Standards contain two basic sections: (1) An announcement section which provides information concerning the applicability, implementation, and maintenance of the standard, and (2) A specification section which details the technical requirements of the standard.

Since this proposed standard is an implementation of an American National Standard, only the announcement section is being published. The detail technical specifications for flowchart symbols and their usage are included in American National Standard X3.5–1970, flowchart symbols and their usage in information processing. Copies may be obtained from the American National Standards Institute, Inc., 1430 Broadway, New York, NY 10018. Cost $3.75 a copy.

Interested parties may submit comments to the Associate Director ADP Standards, Center for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234, within 60 days after publication of this notice in the FEDERAL REGISTER.

Dated: May 4, 1972.

LAWRENCE M. KUSHNER,
Deputy Director.

FEDERAL INFORMATION PROCESSING STANDARDS PUBLICATION (DATE) ANNOUNCING THE STANDARD FOR FLOWCHART SYMBOLS AND THEIR USAGE IN INFORMATION PROCESSING

Federal Information Processing Standards Publications are issued by the National Bureau of Standards under the direction of the

Office of Management and Budget (OMB) in accordance with the provisions of Public Law 89-306 and OMB Circular No. A-86.

Name of standard. Flowchart symbols and their usage in information processing.

Category of standard. Software standard, documentation.

Explanation. The purpose of this FIPS PUB is to establish standard flowchart symbols and to specify their use in the preparation of flowcharts in documenting information processing systems.

Approving authority. Office of Management and Budget.

Maintenance agency. Department of Commerce, National Bureau of Standards (Center for Computer Sciences and Technology).

Cross index. American National Standard X3.5-1970, Flowchart Symbols and Their Usage in Information Processing.

Applicability. This standard applies to any Federal information processing operation where symbolic representation is desirable to document the sequence of operations and the flow of data and paperwork.

Implementation schedule. This standard becomes effective upon date of publication. All new documentation involving use of flowcharts will utilize this standard. Existing documentation does not need to be modified to comply with this standard. In procurements involving systems design and programing, this standard will be cited in the solicitation document.

Waiver procedure. Agencies are permitted to waive the requirements of this FIPS PUB upon proper internal justification. These waivers need not be coordinated in advance with NBS. However, in order that NBS may be knowledgeable about the extent to which agencies find it necessary to deviate from the specifications of this standard in meeting their operational requirements, agencies are requested to provide NBS with the following information on each of the waivers:

a. Relevant documentation considered by the head of the agency (or his assignee) in authorizing the waiver.

b. Related to the waiver, a statement of any recommended action that NBS should take concerning future development or application of the standard.

Letters should be addressed to the Associate Director for ADP Standards, Center for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234.

Specifications. This standard adopts in whole American National Standard X3.5-1970, Flowchart Symbols and Their Usage in Information Processing.

Qualifications. Where the strict adherence to the width-length proportions of symbols specified in X3.5-1970 would create unwieldly sizes, or cramp the annotation associated with a symbol, the proportion specifications can be relaxed with care taken to maintain the distinctive shape of the symbols, or the annotation can be recorded outside the symbol using the annotation symbols.

Where to obtain copies of the specifications of the standard. a. Federal Government activities should obtain copies from established sources within each agency. When there is no established source, purchase orders should be submitted to the General Services Administration, Specifications Activity, Printed Materials Supply Division, Building 197, Washington Navy Yard Annex, Washington, DC 20407. Refer to Federal Information Processing Standard Number (FIPS ------). (Price ------ cents a copy.)

b. Others may obtain copies from the American National Standards Institute, 1430 Broadway, New York, NY 10018. Refer to American National Standard X3.5-1970, Flowchart Symbols and Their Usage in Information Processing. (Price $3.75 a copy. Discounts are available on quantity orders. See ANSI catalog.)

[FR Doc.72-7025 Filed 5-8-72;8:49 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[DESI 3590]

CERTAIN PARENTERAL PROTEIN SUPPLEMENTS CONTAINING PROTEIN HYDROLYSATE

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following drugs for parenteral use:

1. Amigen Injection containing protein hydrolysate; protein hydrolysate and dextrose; protein hydrolysate and fructose; protein hydrolysate, dextrose and alcohol; protein hydrolysate, fructose and alcohol; or protein hydrolysate, dextrose, sodium chloride, sodium lactate, potassium chloride, and calcium chloride; marketed by Baxter Laboratories, Inc., 6301 Lincoln Avenue, Morton Grove, Ill. 60053 (NDA 3-590).

2. Aminosol Injection containing protein hydrolysate; or protein hydrolysate and dextrose; Abbott Laboratories, Inc., 14th and Sheridan Road, North Chicago, Ill. 60064 (NDA 5-932).

3. 5 percent Hyprotigen-C containing protein hydrolysate; Don Baxter, Inc., 1015 Grandview Avenue, Glendale, Calif. 91201 (NDA 6-170).

4. C.P.H. Injection containing protein hydrolysate and dextrose; protein hydrolysate*; and protein hydrolysate, dextrose, and alcohol*; Cutter Laboratories, Inc., Fourth and Parker Streets, Berkeley, Calif. 94710 (NDA 6-726).

5. 5 percent Amigen (Modified Protein Hydrolysate Injection U.S.P.) with 5 percent Dextrose*; marketed by Don Baxter, Inc.

Such drugs are regarded as new drugs (21 U.S.C. 321 (p)). The effectiveness classification and marketing status are described below.

A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy's reports, as well as other available evidence, and concludes that preparations containing protein hydrolysate are probably effective for the indications described in the "Indications" section below.

B. *Marketing status.* 1. Marketing of such drug with labeling which recommends or suggests its use for indications for which it has been classified as probably effective may be continued for 12 months as described in paragraphs (c), (e), and (f) of the notice "Conditions for Marketing New Drugs Evaluated in Drug Efficacy Study," published in the FEDERAL REGISTER July 14, 1970 (35 F.R. 11273).

2. Within 60 days from publication hereof in the FEDERAL REGISTER, the holder of any approved new-drug application for such drug is requested to submit a supplement to his application to provide for revised labeling as needed, which, taking into account the comments of the Academy, furnishes adequate information for safe and effective use of the drug; is in accord with guidelines for uniform labeling published in the FEDERAL REGISTER of February 6, 1970 (21 CFR 3.74); and recommends use of the drug for the probably effective indications as follows:

INDICATIONS

As adjunctive therapy in partially reversing the negative nitrogen balance in patients:

(a) On prolonged parenteral therapy until oral feeding is feasible,

(b) With conditions characterized by interference with ingestion, digestion, or absorption of dietary protein.

The supplement should be submitted under the provisions of § 130.9 (d) and (e) of the new-drug regulations (21 CFR 130.9 (d) and (e)) which permit certain changes to be put into effect at the earliest possible time, and the revised labeling should be put into use within the 60-day period.

3. After 60 days following publication hereof in the FEDERAL REGISTER, any such drug on the market without an approved new-drug application and shipped within the jurisdiction of the Federal Food, Drug, and Cosmetic Act should be labeled in accord with this notice.

A copy of the Academy's report has been furnished to each firm referred to above. Communications forwarded in response to this announcement should be identified with the reference number DESI 3590, directed to the attention of the appropriate office listed below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Maryland 20852:

Supplements (identify with NDA number): Office of Scientific Evaluation (BD-100), Bureau of Drugs.

Original new-drug applications: Office of Scientific Evaluation (BD-100), Bureau of Drugs.

Requests for the Academy's report: Drug efficacy Information Control (BD-67), Bureau of Drugs.

All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD-60), Bureau of Drugs.

*Although the preparations identified by an asterisk were reviewed by the Academy they were not included in the respective, approved NDA's; however, the conclusions described in this announcement are applicable to them.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–53, as amended; 21 U.S.C. 352, 355) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: April 13, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-7002 Filed 5-8-72;8:46 am]

[Docket No. FDC-D-458; NDA 6-151, etc.]

CERTAIN PREPARATIONS CONTAINING DIHYPRYLONE OR PIPAZETHATE HYDROCHLORIDE

Notice of Opportunity for Hearing on Proposal To Withdraw Approval of New-Drug Applications

In a notice (DESI 6151) published in the FEDERAL REGISTER of June 17, 1971 (36 F.R. 11675), the Commissioner of Food and Drugs announced his conclusions pursuant to the evaluation of reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following drugs, stating that the drugs are regarded as possibly effective for the labeled indications.

1. NDA 6-151; Sedulon Syrup containing dihyprylone and extract of thyme; Roche Laboratories, Division Hoffmann-La Roche, Inc., Roche Park, 340 Kingsland Street, Nutley, N.J. 07110.

2. NDA 12-820; Theratuss Tablets, containing pipazethate hydrochloride; E. R. Squibb & Sons, 909 Third Avenue, New York, N.Y. 10022.

Six months were allowed for obtaining and submitting substantial evidence of effectiveness. The drugs have been reclassified as lacking substantial evidence of effectiveness in that such evidence has not been submitted.

Therefore, notice is given to the above-listed firms, and to any interested person who may be adversely affected, that the Commissioner proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355 (e)) withdrawing approval of the listed new-drug applications and all amendments and supplements thereto on the grounds that new information before him with respect to the drugs, evaluated together with the evidence available to him when the applications were approved, shows there is a lack of substantial evidence that the drugs will have the effects they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in the labeling.

In accordance with the provisions of section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Part 130), the Commissioner will give the applicant, and any interested person who would be adversely affected by an order withdrawing such approval, an opportunity for a hearing to show why approval of the new-drug applications should not be withdrawn. Any related drug for human use not the subject of an approved new-drug application may be affected by this action.

Within 30 days after publication hereof in the FEDERAL REGISTER, such persons are required to file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-88, 5600 Fishers Lane, Rockville, Md. 20852, a written appearance electing whether:

1. To avail themselves of the opportunity for a hearing; or

2. Not to avail themselves of the opportunity for a hearing.

If such persons elect not to avail themselves of the opportunity for a hearing, the Commissioner without further notice will enter a final order withdrawing approval of the new-drug applications. Failure of such persons to file a written appearance of election within said 30 days will be construed as an election by such persons not to avail themselves of the opportunity for a hearing.

The hearing contemplated by this notice will be open to the public except that any portion of the hearing that concerns a method or process the Commissioner finds entitled to protection as a trade secret will not be open to the public, unless the respondent specifies otherwise in in his appearance.

If such persons elect to avail themselves of the opportunity for a hearing, they must file, within 30 days after publication of this notice in the the FEDERAL REGISTER, a written appearance requesting the hearing, giving the reasons why approval of the new-drug application should not be withdrawn, together with a well organized and full factual analysis of the clinical and other investigational data they are prepared to prove in support of their opposition. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that a genuine and substantial issue of fact requires a hearing. When it clearly appears from the data in the application and from the reasons and factual analysis in the request for the hearing that no genuine and substantial issue of fact precludes the withdrawal of approval of the application, the Commissioner will enter an order on these data, making findings and conclusions on such data.

If a hearing is requested and justified by the response to this notice, the issues will be defined, a hearing examiner will be named, and he shall issue, as soon as practicable after the expiration of such 30 days, a written notice of the time and place at which the hearing will commence (35 F.R. 7250), May 8, 1970; 35 F.R. 16631, October 27, 1970).

Received requests for a hearing and/or elections not to request a hearing may be seen in the office of the Hearing Clerk (address given above) during regular business hours, Monday through Friday.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-53, as amended; 21 U.S.C. 355) and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: April 28, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-7003 Filed 5-8-72;8:47 am]

[Docket No. FDC-D-471]

E. R. SQUIBB & SONS, INC.

Neo-My-Sol Solution; Notice of Drug Deemed Adulterated

In an announcement in the FEDERAL REGISTER of January 19, 1971 (36 F.R. 837, DESI 11-315V), the Commissioner of Food and Drugs announced the conclusions of the Food and Drug Administration following evaluation of a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on Neo-My-Sol Solution. Said announcement provided E. R. Squibb & Sons, Inc., Georges Road, New Brunswick, N.J. 08903, and all interested parties a 6-month period in which to submit new animal drug applications.

E. R. Squibb & Sons, Inc., advised the Commissioner that the product is no longer marketed.

On the basis of the foregoing and the information before him the Commissioner concludes that the above-named drug is adulterated within the meaning of section 501(a)(5) of the Federal Food, Drug, and Cosmetic Act in that it is not the subject of an approved new animal drug application pursuant to section 512 of the act. Therefore, notice is given to E. R. Squibb & Sons, Inc., and all other interested persons that all stocks of said drug within jurisdiction of the Federal Food, Drug, and Cosmetic Act are deemed adulterated within the meaning of the act and are subject to appropriate regulatory action.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 501(a)(5), 512, 52 Stat. 1049 as amended, 82 Stat. 343-51; 21 U.S.C. 351(a)(5), 360b) and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: April 27, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-7004 Filed 5-8-72;8:47 am]

[Docket No. FDC-D-469]

PITMAN-MOORE, INC.

Entromycin Bolutab; Notice of Withdrawal of Approval of New Animal Drug Application

In the FEDERAL REGISTER of August 18, 1970 (35 F.R. 13155, DESI 0085), the Commissioner of Food and Drugs announced the conclusions of the Food and Drug Administration following evaluation of a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group on Entromycin Bolutab marketed

by Pitman-Moore, Inc., Post Office Box 344, Washington Crossing, N.J. 08560.

Pitman-Moore, Inc., advised the Commissioner that the above-named product is no longer marketed.

Based on the grounds set forth in said announcement and the firm's response, the Commissioner concludes that the antibiotic application for the above-named product should be withdrawn. Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343–51; 21 U.S.C. 360b) and under the authority delegated to the Commissioner (21 CFR 2.120), approval of the antibiotic application for the above product is hereby withdrawn effective on the date of publication of this document.

Dated: April 27, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-7005 Filed 5-8-72;8:47 am]

ATOMIC ENERGY COMMISSION

[Docket No. 50-285]

OMAHA PUBLIC POWER DISTRICT

Notice of Availability of Applicant's Environmental Report and Draft Detailed Statement on Environmental Considerations

Pursuant to the National Environmental Policy Act of 1969 and the Atomic Energy Commission's regulations in Appendix D to 10 CFR Part 50, notice is hereby given that a report entitled "Revised Environmental Report," for the Fort Calhoun Station, Unit No. 1, submitted by the Omaha Public Power District, is available for public inspection in the Commission's Public Document Room at 1717 H Street NW., Washington, DC, and in the Blair Public Library, 1665 Lincoln Street, Blair, NE 68008. The report is also available at the State Office of Planning and Programming, State Capitol, Box 94601, Lincoln, NE 68509.

This report discusses environmental considerations related to the Fort Calhoun Station, Unit No. 1, located in Washington County, Nebr.

The report has been analyzed by the Commission's Division of Radiological and Environmental Protection, and a draft detailed statement on the environmental considerations related to the Fort Calhoun Station, Unit No. 1, dated April 1972, has been prepared and has been made available for public inspection at the locations designated above. Copies of the Commission's April 1972, draft detailed statement on environmental considerations may be obtained upon request addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Director, Division of Radiological and Environmental Protection.

Pursuant to Appendix D to 10 CFR Part 50, interested persons may, within seventy-five (75) days from the date of publication of this notice in the FEDERAL REGISTER, submit comments for the Commission's consideration on the report, the draft detailed statement, and on the proposed issuance of an operating license for the Fort Calhoun Station, Unit No. 1. In addition, interested persons may, within thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER, submit comments for the Commission's consideration on the report, the draft detailed statement, and on whether the construction permit authorizing construction of the Fort Calhoun Station, Unit No. 1, should be continued, modified, terminated, or appropriately conditioned to protect environmental values.

Federal and State agencies are being provided with copies of the report and the draft detailed statement (local agencies may obtain these documents on request), and when comments thereon of the Federal, State, and local officials are received, they will be made available for public inspection at the above-designated locations. Comments on the draft detailed statement on environmental considerations from interested members of the public should be addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Director, Division of Radiological and Environmental Protection.

Dated at Bethesda, Md., this 4th day of May 1972.

For the Atomic Energy Commission.

R. C. DEYOUNG,
Assistant Director for Pressurized Water Reactors, Division of Reactor Licensing.

[FR Doc.72-7067 Filed 5-8-72;8:50 am]

CIVIL AERONAUTICS BOARD

[Docket No. 23333; Order 72-5-2]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Specific Commodity Rates Action

Issued under delegated authority May 1, 1972.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations, between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of the Joint Conferences of the International Air Transport Association (IATA) and adopted pursuant to the provisions of Resolution 590 dealing with specific commodity rates.

The agreement, adopted pursuant to unprotested notices to the carriers and promulgated in an IATA letter dated April 20, 1972, names an additional specific commodity rate, as set forth below, which reflects a reduction from the general cargo rates.

Item No.	
1925---	Animal intestines and gut (casings), 178 cents per kg., minimum weight 300 kgs., from Auckland to New York.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.14, it is not found, on a tentative basis, that the subject agreement is adverse to the public interest or in violation of the Act: *Provided*, That tentative approval thereof is conditioned as hereinafter ordered.

Accordingly, it is ordered, That: Action on Agreement CAB 22821, R-2, be and hereby is deferred with a view toward eventual approval: *Provided*, That approval shall not constitute approval of the specific commodity description contained therein for purposes of tariff publication: *Provided further*, That tariff filings shall be marked to become effective on not less than 30 days' notice from the date of filing.

Persons entitled to petition the Board for review of this order, pursuant to the Board's regulations, 14 CFR 385.50, may, within 10 days after the date of service of this order, file such petitions in support of or in opposition to our proposed action herein.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-7030 Filed 5-8-72;8:49 am]

[Docket No. 24057]

INTERNATIONAL JET AIR, LTD./ GREAT NORTHERN AIRWAYS, LTD.

Notice of Prehearing Conference and Hearing

International Jet Air, Ltd./Great Northern Airways, Ltd., foreign air carrier permit transfer and renewal (Canada-United States charter transportation).

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on June 6, 1972, at 10 a.m., local time, in Room 1031, North Universal Building, 1875 Connecticut Avenue NW., Washington, DC, before Examiner Hyman Goldberg.

Notice is also given that the hearing may be held immediately following conclusion of the prehearing conference unless a person objects or shows reason for postponement on or before May 30, 1972.

Dated at Washington, D.C., May 4, 1972.

[SEAL] RALPH L. WISER,
Chief Examiner.

[FR Doc.72-7032 Filed 5-8-72;8:49 am]

[Docket No. 23687; Order 72-4-143]

NORTHWEST AIRLINES, INC.

Order To Show Cause Regarding Public Convenience and Necessity Certificate

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 27th day of April 1972.

Northwest Airlines, Inc. (Northwest), has filed a petition seeking the issuance of an order to show cause why its con-

currently filed application to amend its certificate for route 3 so as to delete conditions (3), (4), and (5),[1] retaining only a prohibition against turnaround service in the Chicago-Detroit/New York markets, should not be granted. Essentially, grant of Northwest's application would eliminate long-haul restrictions and thus permit turnaround service in 40 markets.[2]

In support of its petition Northwest alleges, inter alia, that the long-haul restrictions were originally imposed (1) to assure service to and from its newly authorized points in the east, on the one hand, and points on its "grandfather" system—Minneapolis/St. Paul and points west thereof—on the other hand, and (2) to protect Pennsylvania-Central Airlines (PCA)—and, later on, its successor, Capital Airlines—from competition in markets east of the Twin Cities; that these purposes no longer have vitality since PCA and Capital no longer exist, and more importantly, since Northwest now holds turnaround authority in many markets located wholly east of Milwaukee; and that the restrictions, as amended and revised over the years so as to permit turnaround service in some short-haul Eastern markets, now, in fact, inhibit service improvements in some of the very east-west markets they were designed to protect. Northwest further asserts that deletion of the subject long-haul restrictions will have little impact on other carriers, and, in fact, should benefit the two local service carriers serving the area—Ozark Air Lines and North Central Airlines—by allowing Northwest to reduce uneconomic competition in certain short-haul markets, which service is required by the subject restrictions in order to provide service to other markets.[3] Finally, Northwest asserts that use of the show cause procedure is in keeping with Board precedent, and that the procedures under Subpart N of the Board's rules of practice are inappropriate because (1) in a few markets involved Northwest has not carried 20 percent of the traffic, and (2) Northwest cannot propose turnaround service in many of the markets in which it requests elimination of operating restrictions.

An answer requesting denial of Northwest's motion for a show cause order was filed by United Air Lines (United). United claims that Subpart N or a motion pursuant to Rule 18 rather than a petition to show cause, are the appropriate methods by which to obtain the requested relief.

Upon consideration of the foregoing and all the relevant facts, we have decided to grant, in part, Northwest's request for a show cause order. We tentatively find and conclude that the public convenience and necessity require the amendment of Northwest's certificate for route 3 so as to permit turnaround service in all markets in which such authority is requested, excluding the following: Cleveland-Seattle, Cleveland-Twin Cities, Cleveland-Portland, Pittsburgh-Milwaukee, Pittsburgh-Twin Cities, Pittsburgh-Portland, Pittsburgh-Seattle, and Cleveland-Milwaukee.

Preliminarily, we believe that it is more appropriate to process the instant application by show cause order rather than by Subpart N procedures. Subpart N was designed for and contemplates the expeditious treatment of certificate amendment applications involving specific proposals for individual markets. Accordingly, detailed economic analyses of the impact of an award in each market are required to be submitted with each application. By contrast, Northwest's application does not contemplate immediate new service in specific markets, but, for the most part, requests removal of service restrictions involving broad geographic areas, for the purpose of providing future operational and scheduling flexibility. Moreover, at this stage, we do not believe that an evidentiary hearing (such as contemplated by Subpart N) would be helpful in reaching a final decision with regard to elimination of the conditions as proposed herein, since the hearing is unlikely to provide any meaningful assistance in the decisionmaking process. The show cause procedure, however, will provide interested persons with an opportunity to be heard including the right to request a hearing, and the Board will remain free to set the matter for hearing should that course of action appear appropriate, or to amend or deny the application, after comments by interested persons are filed.

Turning to the merits, in support of our ultimate finding to grant Northwest's application, in part, we tentatively find and conclude that, with the exception of the Chicago-Washington/Pittsburgh markets (discussed below), Northwest is the dominant carrier serving the bulk of the single-carrier traffic in each of the markets in which long-haul restrictions are to be eliminated, and that there is no affirmative need for the retention of the operating restrictions in any of these markets.

We further tentatively find that the original purposes for which the restrictions were imposed have long since lost their vitality. As Northwest points out, the subject restrictions were originally imposed, in a different form, in 1944[4] when the carrier's authority was extended to the East, in order to prevent Northwest from shifting the focus of its attention from service between its grandfather system (Chicago/Minneapolis/St. Paul and points west thereof) and newly acquired eastern points, to purely local eastern service. Secondarily, the conditions were designed to protect PCA, which carrier provided local eastern service (specifically, markets east of Milwaukee).

Upon examination of present-day conditions, we have concluded that the restrictions are not needed to protect other carriers in those markets in which we propose amendments. Nor are the conditions needed to insure that Northwest concentrates on long-haul east-west service. As a result of many modifications to these conditions, Northwest presently holds turnaround authority in many of these local eastern markets, and the restrictions now have the undesirable effect of restricting Northwest's authority in long-haul, east-west markets which were never intended to be affected by these restrictions.[5] As a result, the restrictions operate to impede the economics and

With respect to the Chicago-Washington/Pittsburgh markets, Northwest holds restricted one-stop authority, while the other carriers serving these markets hold unrestricted nonstop authority and provide a substantial volume of nonstop service.[6] While removal of Northwest's long-haul restriction in these markets will give the carrier needed flexibility, its remaining one-stop authority would not be competitive with or have an adverse affect on the service of the other carriers in the markets.

We further tentatively find that removal of the long-haul restrictions in the

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[1] The conditions (3), (4), and (5) read as follows:

"(3) Flights serving Chicago, Ill., and Detroit, Mich., on segment 1 shall originate or terminate at New York, N.Y., Newark, N.J., or Minneapolis-St. Paul, Minn.

"(4) Flights over segment 2 serving (a) Chicago, Ill., and Pittsburgh, Pa., or (b) Milwaukee, Wis., or a point west thereof, on the one hand, and Detroit, Mich., Cleveland, Ohio, or Pittsburgh, on the other hand, shall originate or terminate at a point on segment 9: *Provided*, That this restriction shall not apply to turnaround flights between Detroit and Milwaukee or Minneapolis-St. Paul, Minn.

"(5) Flights over segment 1 or 2 serving (a) Chicago, Ill., and a point east thereof on segment 1 or 2 (other than Cleveland, Ohio), or (b) Milwaukee or Madison, Wis., or Rochester, Minn., on the one hand, and Detroit, Mich., or a point east thereof on segment 2, on the other hand, shall originate or terminate at Minneapolis-St. Paul, Minn., or a point west thereof: *Provided*, That this restriction shall not apply to turnaround flights between Milwaukee and Detroit."

[2] Washington: Chicago, Madison, and Rochester, Minn.

Pittsburgh: Chicago, Milwaukee, Madison, Rochester, Minn., Minneapolis/St. Paul, Fargo, Grand Forks, Jamestown, Bismarck, Billings, Great Falls, Bozeman, Butte, Helena, Missoula, Spokane, Portland, and Seattle.

Detroit: Madison and Rochester, Minn.

Cleveland: Milwaukee, Madison, Rochester, Minn., Minneapolis/St. Paul, Fargo, Grand Forks, Jamestown, Bismarck, Billings, Great Falls, Bozeman, Butte, Helena, Missoula, Spokane, Portland, and Seattle.

[3] For example, Northwest states that compliance with the long-haul restrictions requires the carrier to provide more flights in the Twin Cities-Milwaukee/Madison/Rochester markets, than is economically desirable and more flights than the local service carriers serving those points provide.

[4] Northwest Airlines, Inc., et al., Chicago-Milwaukee-New York Service, 6 C.A.B. 217 (1944).

[5] See footnote 2, supra.

[6] In the Chicago-Washington market, American and United have unrestricted nonstop authority and TWA holds restricted nonstop authority. These carriers provide more than 60 daily nonstop flights in the markets. In the Chicago-Pittsburgh market Allegheny, United, and TWA all hold unrestricted nonstop authority and provide over 40 daily nonstop flights.

subject markets will afford Northwest increased operating and scheduling flexibility, enabling the carrier to provide new and improved service benefits in many markets, without any significant adverse impact on any other carriers.[7] Moreover, removal of the operating restrictions in the foregoing markets is consistent with the Board's policy of removing or modifying conditions which serve no useful purpose and which are otherwise wasteful and undesirable.[8]

With respect to the eight markets in which we propose to retain the operating restrictions, we believe that the potential competitive impact on United which may result from grant of unrestricted authority to Northwest is sufficient so that requests for improved authority in these markets should not be granted by show cause procedures, without an evidentiary hearing. We do, however, propose to lessen the burden on Northwest of the existing operating restrictions by revising them so as to only prohibit turnaround service in the named markets. In this way, Northwest can achieve increased operating efficiencies while the interests of United will still be protected.

Interested persons will be given 20 days following service of this order to show cause why the tentative findings and conclusions set forth herein should not be made final. We expect such persons to direct these objections, if any, to specific markets, and to support such objections with detailed economic analysis. If an evidentiary hearing is requested, the objector should state in detail why such a hearing is necessary and what relevant and material facts he would expect to establish through such a hearing. General, vague, or unsupported objections will not be entertained.

During the same period prescribed above we will expect Northwest to file with the Board an estimate, with supporting data, of the annual gross transport revenue increase for the first full year of operations to result from the award proposed herein. This data is necessary for the purpose of computing the license fee pursuant to § 389(a)(2) of the Board's regulations.

Accordingly, it is ordered, That: 1. All interested persons are directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated herein and amending Northwest's certificate for route 3 so as to delete conditions (3); (4), and (5), renumber the remaining conditions accordingly and revise the existing condition (9) to read as follows:

The holder shall not provide turnaround service between the following pairs of points:

Atlanta, Ga., on the one hand, and Tampa-St. Petersburg-Clearwater or Miami, Fla., on the other hand.

Chicago, Ill., on the one hand, and Detroit, Mich., New York, N.Y., or Newark, N.J., on the other hand.

Cleveland, Ohio, or Pittsburgh, Pa., on the one hand, and Milwaukee, Wis., Minneapolis-St. Paul, Minn., Portland, Oreg., or Seattle, Wash., on the other hand.

2. Any interested person having objection to the issuance of an order making final any of the proposed findings, conclusions, or certificate amendments set forth herein shall, within 20 days after service of a copy of this order, file with the Board and serve in accordance with Rule 1407(a) of the Board's rules of practice a statement of objections together with a summary of testimony, statistical data, and other evidence expected to be relied upon to support the stated objections;

3. If timely and properly supported objections are filed, full consideration will be accorded the matters and issues raised by the objections before further action is taken by the Board;

4. In the event no objections are filed, all further procedural steps will be deemed to have been waived and the Board may proceed to enter an order in accordance with the tentative findings and conclusions set forth herein; and

5. A copy of this order shall be served upon Ozark Air Lines, Inc., North Central Airlines, Inc., United Air Lines, Inc., Trans World Airlines, Inc., American Airlines, Inc., and Allegheny Airlines, Inc., and all cities included in footnote 2, above.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-7031 Filed 5-8-72;8:49 am]

[7] Finally, we tentatively find that Northwest is a citizen of the United States within the meaning of the Act and is fit, willing, and able properly to perform the transportation herein proposed to be performed and to conform to the provisions of the Act and the Board's rules, regulations, and requirements thereunder.

[8] See, by way of example, Application of Frontier Airlines, Order 69-6-87, June 17, 1969.

FEDERAL MARITIME COMMISSION

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Notice of Certificates Revoked

Notice of voluntary revocation is hereby given with respect to Certificates of Financial Responsibility (Oil Pollution) which had been issued by the Federal Maritime Commission, covering the below-indicated vessels, pursuant to Part 542 of Title 46 CFR and section 11(p)(1) of the Federal Water Pollution Control Act, as amended.

Certificate No.	*Owner/operator and vessels*
01428---	The Ocean Steam Ship Co. Ltd.: Aeneas.
02543---	Societe Anonyme de Gerance et d'Armement: Cap d'Antibes. Cap Martin.
03397---	Hilmar Reksten: Valentinian.
03422---	Daiwa Kaiun K.K.: Hiei Maru.
03460---	Mibae Shosen K.K.: Shunko Maru. Asataka Maru.
03468---	Nihonkai Kisen K.K.: London Maru.
03479---	Okada Shosen K.K.: Kyomei Maru.
03877---	Ingram Contractors, Inc.: Derrick Barge 3. Dredge 3. Lay Barge 7. Lay Barge 8. Dredge 6. Lay Barge No. 4. Crane Barge 3. Offshore 106. Crane Barge 4. Offshore 100. Offshore 105. Dredge 7. Derrick Barge 6. Dredge 9. Dredge 5. Dredge 8. Derrick Barge 2.
04232---	B & B Marine & Construction Corp.: Bollinger No. 9. Bollinger No. 5.
04358---	Holland Bulk Transport, N.V.: Hollands Dreef.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-7036 Filed 5-8-72;8:49 am]

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Notice of Certificates Revoked

Notice of voluntary revocation is hereby given with respect to Certificates of Financial Responsibility (Oil Pollution) which had been issued by the Federal Maritime Commission, covering the below-indicated vessels, pursuant to Part 542 of Title 46 CFR and section 11(p)(1) of the Federal Water Pollution Control Act, as amended.

Certificate No.	*Owner/operator and vessels*
01014---	Robert Bornhofen Reederei: Elizabeth Bornhofen.
01025---	Bernhard Hanssen & Co.: Aramis.
01076---	D/S A/S Gudvin: Gudvor.
01233---	Buries Markes, Ltd.: Alberta.
01328---	Pergamos Shipping Co., Ltd.: Orient City.
01841---	Chas. Kurz & Co., Inc.: Bennington.
02712---	Tarpon Towing, Inc.: TC 6. TC 5.
02982---	The Shipping Corporation of India, Ltd.: Vishva Nayar.
03340---	Lloyds Africa, Ltd.: Greenport. Bayport.
03341---	General Navigation, Ltd.: African Lady.
03479---	Okada Shosen Kabushiki Kaisha: Kyomei Maru.
04004---	Koninklijke Java-China-Paketvaart Lijnen N.V.: Tjiliwong.
04084---	Ocean Messengers, Inc.: Seafarer.
04398---	Hapag-Lloyd Aktiengesellschaft: Darmstadt.

Certificate No.	*Owner/operator and vessels*
04423---	San Juan Carriers, Ltd.: San Juan Voyager.[1] San Juan Pioneer.[1] San Juan Trader.[1] San Juan Pathfinder.
04660---	Sociedade Geral de Comercio, Industria e Transportes, Sarl: Ana Mafalda.
05223---	Atlas Maritime S.A.: Atlas Enterprise.
05337---	Kentauros Development Corp.: Nicodemos.
05408---	Dolphin Navigation Co., Inc.: Dolphin.
06204---	Continental Explosives, Ltd.: Sigrid.

[1] Erroneously published on April 13, 1972 (37 F.R. 7361), as revoked under the name Marcona Corp.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-7034 Filed 5-8-72;8:48 am]

H. J. HOSEA & SONS CO. ET AL.

Independent Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(b)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

H. J. Hosea & Sons Co., Brighton St. & C. & O. R.R., Post Office Box 398, Newport, KY 41072.

Officers: Henry J. Hosea, president, William A. Hosea, vice president, David S. Hosea, sales/traffic supervisor, Carl H. Ebert, attorney, Charles R. Southerland, C.P.A., Veva Fisher, secretary.

North Carolina Shipping Co., 821 Arendell Street, Morehead City, NC 28557.

Officers: Gunter E. Bielefeld, president, Thomas D. Eure, vice president, Josiah Bailey, secretary and treasurer.

John W. Chai, doing business as Universal Shipping Co., 1005 East 14th Street, Los Angeles, CA 90021.

Officer: John W. Chai, president.

Dated: May 4, 1972.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-7035 Filed 5-8-72;8:48 am]

FEDERAL POWER COMMISSION

[Order 437A-10; Dockets Nos. R-427, etc.]

ECONOMIC STABILIZATION

10th Supplementary Order to Amended Statement of Policy and Order

APRIL 28, 1972.

Statement of policy implementing the Economic Stabilization Act of 1970 (Public Law 91-379, 84 Stat. 799, as amended by Public Law 92-15, 85 Stat. 38) and Executive Orders Nos. 11615 and 11627, Docket No. R-427; expansion of small producers from regulation, Docket No. R-393; temporary and permanent producer certificates, Docket No. CI71-869 et al.; suspended producer rates, Docket No. RI71-900, et al.

On November 16, 1971, the Commission issued Order No. 437A, effective as of 12:01 a.m., November 14, 1971, in which Part 2, General Policy and Interpretations, Subchapter A, Chapter I, Title 18, Code of Federal Regulations, was amended by adding a new § 2.90a. This new section was promulgated to implement Executive Order No. 11627 and 6 CFR 300.016.[1] In paragraph (c) of § 2.90a, the Commission announced "that its actions with respect to increases in rates or charges in orders heretofore issued containing a provision that they are subject to the policy announced in Order No. 437 will be reviewed for consistency with the purposes of the Economic Stabilization Act of 1970, as amended. After such review, increases in rates or charges approved as being consistent with such purposes will be reported as supplements to this order and shall be effective as of 12:01 a.m., November 14, 1971." The Commission in paragraph (d) of that same section indicated that it would undertake similar review of its prior actions with respect to rate increases where the applicability of Order No. 437 is not reflected in the Commission order relating thereto but the rate increases were affected by the policy announced in Order No. 437. The Commission also announced in paragraph (e) of that same section that it would also review and report as supplements to Order No. 437A those orders which did not authorize rate increases, but which contained a provision that they are subject to Order No. 437.

In our fourth supplementary order issued November 29, 1971, to Order No. 437A, we reviewed our previous rate determinations in the Southern Louisiana, Texas Gulf Coast, Other Southwest and Rocky Mountain Areas and concluded that such determinations were consistent with the economic goals in Executive Order No. 11615, as superseded by Executive Order No. 11627. The subject supplementary order relates to other actions taken by the Commission with respect to jurisdictional sales by producers.

By Order No. 428 issued on March 18, 1971, in Docket No. R-393, we provided that small producers, as defined therein, which obtained a blanket certificate under the provisions of that order "shall be authorized to make small producer sales nationwide pursuant to existing and future contracts at the price specified in each such contract." A number of blanket certificates have been issued since then pursuant to that general order. In addition, small producers certificates issued prior to the effectiveness of Order No. 428 were deemed under the terms of Order No. 428, as of May 2, 1971, to be blanket certificates authorizing all sales covered under the provisions of that general order.

We have also issued a number of temporary and permanent certificates which contain a provision that they are subject to the policy announced in Order No. 437. These are listed in Appendices A and B, respectively. The initial rates authorized in these certificates, with the exception of those in the Permian Basin Area[2] and two limited term certificates, are consistent with the just and reasonable rate determinations made by us in various areas, or, where there is none, the initial rates set forth in the Commission's Statement of General Policy No. 61-1, as amended. The two limited term certificates authorized initial rates above the otherwise applicable ceiling in light of the emergency involved in those cases.

We have determined that the rates authorized in the small producer, temporary, and permanent certificates involved here are consistent with the economic goals in Executive Order No. 11615, as superseded by Executive Order No. 11627. Moreover, those economic goals are not inconsistent with the Commission's regulatory functions and responsibilities under the Natural Gas Act.

This Commission has been confronted with conclusive evidence demonstrating a gas supply shortage. Every indication is that such a shortage will continue into the near future. The actions which we have taken in these certificate cases are designed to reverse this trend and to augment the Nation's dwindling proven gas reserves. To this extent the rates and other provisions in those de-

[1] Sec. 300.016 has since been changed to § 300.16.

[2] The just and reasonable rates for producer sales in the Permian Basin Area will be determined in Docket No. AR70-1. The ceilings in the policy statement for the Permian Basin were established in 1965 in Opinon No. 468 and have not been used in certificate cases for the past year or so.

terminations have used price as a tool to bring gas to the marketplace; in other words, to obtain for the public service the needed amount of gas. We have attempted to provide the proper economic climate to stimulate exploratory and developmental efforts in order to provide adequate service to the consumer at the lowest reasonable rate. An important policy consideration which we cannot ignore is the substantial burden which would fall upon the consumer if higher priced alternative energy supplies are required to alleviate the gas shortage. However, this does not mean that we will ignore these supplies where necessary to maintain adequacy of service. It is imperative that adequate sources of energy, including natural gas, be available to sustain the Nation's economic growth. Thus, we have balanced our regulatory responsibilities under the Natural Gas Act with the President's economic goals, and find they are not inconsistent.

We have also reviewed the suspension orders listed in Appendix C concerning producer rate increases. These orders were issued under the provisions of section 4(e) of the Natural Gas Act and generally contain a provision that they are subject to the policy announced in Order No. 437. Some of these rate increases which otherwise would have become effective, subject to refund, during the period from August 15, to November 13, 1971, may have been deferred as a result of the Economic Stabilization Act of 1970, as amended, and Executive Order No. 11615, as superseded by Executive Order No. 11627. Some other of these rate increases do not become effective subject to refund until after November 13, 1971, under the specific provisions of the suspension order involved.

While these rate increases were accepted by the Commission subject to refund, the Commission has not yet found such rate increases to be just and reasonable.[a] However, pursuant to the provisions of section 4(e) of the Natural Gas Act, the Commission shall give to the hearing and decision of such questions preference over other questions pending before it and decide the same as speedily as possible. In determining the justness and reasonableness of such rate increase filings, the regulatory standards which the Commission will implement pursuant to the provisions of the Natural Gas Act are consistent with the purposes of the Economic Stabilization Act of 1970. While consumers are protected from excessive charges since the increased rates will be collected subject to refund, with interest, the producers will not be deprived of revenues to which they may be entitled under the Constitution and applicable statutes pending the Commission's determination of the justness and reasonableness of their rate changes.

In view of all the facts and circumstances in these suspension proceedings, the Commission's action herein of permitting the subject rate increases to become effective, subject to refund, at the expiration of the respective suspension periods (or, where applicable, as of November 14, 1971) pending Commission determination of the justness and reasonableness of such rate increases is consistent with the Economic Stabilization Act of 1970, as amended.

The Commission orders:

(A) The small producer blanket certificates and the certificate orders listed in Appendices A and B were effective pursuant to the terms of each respective order, and, to the extent, if any, that the effective date of any provisions of any of these orders was deferred pursuant to Executive Order 11615, as superseded by Executive Order No. 11627, until 12 a.m. on November 14, 1971, the orders shall be effective in their entirety as of 12:01 a.m. November 14, 1971.

(B) To the extent, if any, that the effectiveness of any rate increase suspended by an order listed in Appendix C was deferred pursuant to Executive Order No. 11615, as superseded by Executive Order No. 11627, until 12 a.m. on November 14, 1971, the rate increase shall be effective, subject to refund, as of 12:01 a.m., November 14, 1971. Any rate increase suspended by an order listed in Appendix C which does not become effective, subject to refund, until November 14, 1971, or later, shall be effective, subject to refund, as of the date provided in the suspension order relating thereto.

(C) This order shall constitute the certification of consistency with the purposes of the Economic Stabilization Act of 1970, as amended, as required by § 300.16 of Chapter III, Title 6 of the Code of Federal Regulations.

(D) Nothing in this order is intended to relieve the producer of any obligation under the Natural Gas Act or the Commission's regulations thereunder, including the obligation to make refunds with interest of any portion of the increase when so required.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

APPENDIX A

TEMPORARY CERTIFICATES

Docket No.	Applicant	RS No.	Date issued
CI71-869	The California Co., Division of Chevron Oil Co.	71	8-16-71
G-14247	Sohio Petroleum Co	42	8-26-71
CI72-64	Southeastern Exploration, Ltd. (1970) (Operator), et al.	1	8-26-71
CI71-911	Phillips Petroleum Co	487	8-26-71
CI72-13	Petroleum Inc	70	8-26-71
CI72-41	Sun Oil Co	499	8-26-71
CI72-64	Southeastern Exploration, Ltd.	1	8-26-71
CI72-78	Cities Service Oil Co	345	8-26-71
CI72-79	Atlantic Richfield Co	242	8-26-71
CI63-608	Oklahoma Natural Gas Co. (Operator).	23	9- 3-71
CI71-778	J. M. Huber Corp	58	9- 3-71
CI71-795	Texaco, Inc	460	9- 3-71
CI71-796	do	461	9- 3-71
CI72-34	Champlin Petroleum Co	121	9- 3-71
CI72-100	Texas Oil & Gas Corp. (Operator) et al.	89	9- 3-71
CI71-806	Mobil Oil Corp	476	9- 9-71
CI71-866	Lamar Hunt	14	9- 9-71
CI71-867	Caroline Hunt Sands	18	9- 9-71
CI71-895	Skelly Oil Co	250	9- 9-71
CI72-20	Cities Service Oil Co	346	9- 9-71
CI72-30	Texas Oil & Gas Corp	86	9- 9-71
CI72-77	Anadarko Production Co	156	9- 9-71
CI72-92	Amoco Production Co	570	9- 9-71
CI72-98	The Ballard & Cordell Corp. (Operator) et al.	7	9- 9-71
CI72-101	Texas Oil & Gas Corp	90	9- 9-71
CI72-103	Gulf Oil Corp	426	9- 9-71
CI69-833	Phillips Petroleum Co	466	10- 5-71
CI71-663	do	485	10- 5-71
CI72-15	Texas Oil & Gas Corp	87	10- 5-71
CI72-70	Forest Oil Corp	53	10- 5-71
CI72-127	Pubco Petroleum Corp	20	10- 5-71
CI72-33	Amoco Production Co	569	10- 6-71
CI72-115	Texas Oil & Gas Corp	92	10- 6-71
CI71-110	Steeple Oil & Gas Corp	7	10- 8-71
CI72-809	Clinton Oil Co	45	10- 8-71
CI72-49	Perry R. Bass	24	10- 8-71
CI72-81	ArkLa Exploration Co	29	10- 8-71
CI67-248	Beacon Gasoline Co	15 & 26	10-13-71
CI71-777	Midwest Oil Corp	90	10-15-71
CI72-106	Exchange Oil & Gas Corp.	19	10-15-71
CI72-45	Texaco, Inc	464	10-21-71
CI72-46	do	465	10-21-71
CI72-108	Gulf Oil Corp	428	10-21-71
CI72-139	Imperial-American Management Co.	21	10-21-71
CI72-144	McCulloch Oil Co	20	10,21-71
CI72-160	Cities Service Oil Co	347	10-21-71
CI71-11	Petroleum Inc. (Operator) et al.	65	10-28-71
CI72-159	Monsanto Co	100	10-28-71
CI72-162	Edwin L. Cox	87	10-28-71
CI72-32	Texaco, Inc	459	10-29-71
CI72-50	Getty Oil Co	192	11- 3-71
CI72-185	Helmerich & Payne, Inc	40	11- 3-71
CI72-169	Phillips Petroleum Co	488	11- 5-71
G-2593	Tenneco Oil Co	141	11-12-71
CI68-155	Mobil Oil Corp	407	11-12-71
CI70-620	Exchange Oil & Gas Corp.	18	1- 2-71
CI72-122	Tonkawa Gas Processing Co. (Operator).	3	11-12-71
CI72-175	Tenneco Oil Co	275	11-12-71
CI72-213	Petroleum, Inc	71	11-12-71
CI72-225	Commonwealth Gas Corp.	25	11-12-71
CI72-234	Hunt Oil Co	68	11-12-71

APPENDIX B

PERMANENT CERTIFICATES

Docket No.	Lead applicant	Date order issued
G-4904, et al	Amoco Production Co., Operator et al.	8-16-71
CI71-791	Tenneco Oil Co	8-30-71
CI71-467	Ashland Oil Inc	9- 8-71
CI72-48	Mobil Oil Corp	9-13-71
CI71-786	do	9-14-71
CI72-97	Humble Oil & Refining Co	10- 4-71
CI72-136	Monsanto Co. (Operator) et al.	10-21-71
CI71-878	Harvey Broyles	10-19-71
CI72-86	Kerr-McGee Corp	11- 1-71
CI72-90	Stephens Production Co	11- 1-71
G-3270 et al	Annco Petroleum Inc. (Operator) et al.	11- 8-71
G-3894 et al	Atlantic Richfield Co. et al.	11-11-71
CI72-111	Gulf Oil Corp	11-11-71
CI72-133	Mobil Oil Corp	11-11-71
CI68-1381	King Resources Co	11-12-71
CI72-139	Imperial-American Management Co.	11-12-71
CI72-79	Atlantic Richfield Co	11-12-71
CI72-151	Jake L. Hamon	11-15-71
CI67-248 et al	Beacon Gasoline Co	11-19-71
CI72-124	Edwin L. Cox	11-19-71
CI72-160	Cities Service Oil Co	11-19-71
CI72-137	Amoco Production Co	11-19-71
CI72-162	Edwin L. Cox	11-22-71
CI72-165 et al	Superior Oil Co	11-22-71
G-18297	Cities Service Oil Co	11-22-71
CI60-686 et al	Beta Development Co	11-23-71

APPENDIX C

SUSPENSION ORDERS

Docket No.	Date of order	Respondent	RS No. and Supplement No.
RI71-900	3-31-71	Pennzoil Producing Co. et al.	224, 10

[a] Since the issuance of many of the suspension orders herein, the Commission in Opinion No. 607 did determine the just and reasonable rates for sales in the Other Southwest Area.

APPENDIX C—Continued

Docket No.	Date of order	Respondent	RS No. and Supplement No.
RI71-942	4-16-71	Atlantic Richfield Co. et al.	509, 5
RI71-744	4-16-71	Aztec Oil & Gas Co.	3, 29
RI71-964	4-16-71	The California Co.	30, 5
RI71-981	4-23-71	Getty Oil Co. et al.	105, 10
RI71-983	4-23-71	Gulf Oil Corp.	418, 8
RI71-986	4-23-71	W. A. Moncrief et al.	1, 2
			1, 3
RI71-994	4-30-71	Getty Oil Co.	68, 10
RI71-1002	4-30-71	Phillips Petroleum Co. et al.	435, 3
RI71-1014	5- 6-71	Bass Enterprises Production Co. et al.	1, 3
RI71-1054	5-28-71	Gulf Oil Corp.	418, 9
RI71-1061	5-28-71	Amerada Hess Corp. et al.	95, 8
RI71-1072	6- 2-71	Skelly Oil Co., et al.	123, 12
RI71-1078	6- 2-71	Texaco, Inc.	103, 4
RI71-1117	6-18-71	Murphy Oil Corp. et al.	5, 15
RI71-1153	6-25-71	Marathon Oil Co.	73, 5
RI71-1159	6-25-71	Amoco Production Co.	307, 34
RI72-10	7-14-71	Chevron Oil Co., Western Division.	27, 8
			28, 8
			29, 8
RI72-11	7-14-71	Belco Petroleum Corp.	1, 35
			2, 23
RI72-25	7-23-71	Texaco, Inc. et al.	313, 6
			38, 6
RI72-26	7-23-71	Atlantic Richfield Co.	232, 5
			442, 7
RI72-27	7-23-71	Gulf Oil Corp. et al.	192, 14
			193, 25
RI72-28	7-23-71	Gulf Oil Corp.	194, 13
			197, 17
			342, 13
RI72-29	7-23-71	Marathon Oil Co.	79, 14
RI72-30	7-23-71	Atlantic Richfield Co.	439, 10
			450, 10
RI72-31	7-23-71	Atlantic Richfield Co. et al.	566, 6
RI72-32	7-23-77	Sun Oil Co.	132, 9
RI72-33	7-23-71	Phillips Petroleum Co.	466, 5
RI72-40	8- 6-71	Union Oil Co. of California.	48, 8
			124, 9
RI72-41	8- 6-71	American Petrofina Co. of Texas.	32, 5
RI70-174	8- 6-71	Skelly Oil Co.	31, 1-6
RI70-288	8- 6-71	do	162, 1-5
RI70-175	8- 6-71	do	167, 1-3
RI72-42	8- 5-71	Mobil Oil Corp.	473, 12
RI72-43	8-13-71	King Resources Co.	33, 1
			34, 1
			37, 3
			38, 1
RI72-44	8-13-71	Texaco, Inc.	232, 6
RI72-45	8-13-71	Murphy Oil Corp.	11, 14
RI72-48	8-13-71	do	14, 9
			19, 7
RI72-49	8-13-71	Atlantic Richfield Co.	444, 9
RI72-53	8-27-71	Mobil Oil Corp.	471, 1
RI72-54	8-27-71	Warren Petroleum Corp.	52, 4
RI72-55	8-27-71	Perry R. Bass	19, 5
RI72-61	8-27-71	Miles Kimball Co.	6, 3
			8, 5
RI72-62	8-27-71	Phillips Petroleum Co.	427, 2
RI72-63	9- 1-71	Continental Oil Co.	220, 9
RI72-64	9- 3-71	R & G Drilling Co.	5, 6
RI72-65	9- 3-71	Amoco Production Co.	279, 11
RI72-66	9- 3-71	Great Lakes Natural Gas Corp.	1, 10
RI72-68	9- 3-71	American Petrofina Co. of Texas.	39, 5
RI72-73	9- 9-71	Gulf Oil Corp.	205, 8
RI72-76	9- 9-71	Humble Oil & Refining Co.	210, 11
RI72-77	9- 9-71	Continental Oil Co.	293, 2
RI72-83	9- 9-71	Union Oil Co. of California.	126, 15
RI72-84	9- 9-71	Pennzoil Producing Co.	210, 21
RI72-85	9- 9-71	Gulf Oil Corp.	180, 6
RI72-94	9-24-71	Mobile Oil Corp.	305, 4
			418, 6
			414, 7
RI72-95	9-24-71	Marathon Oil Co.	69, 18
RI72-96	9-29-71	Placid Oil Co.	30, 12
RI72-97	9-29-71	H. L. Hunt	4, 27
RI72-98	9-29-71	Humble Oil & Refining Co.	173, 17
RI72-99	9-29-71	Hassie Hunt Trust	4, 28
RI72-100	9-29-71	Hunt Oil Co.	28, 21
RI72-101	9-29-71	Sun Oil Co.	140, 5
RI72-103	9-29-71	Phillips Petroleum Co.	483, 1
RI72-104	9-29-71	Cities Service Oil Co.	345, 1
RI72-105	9-29-71	Tenneco Oil Co.	269, 2
RI72-106	9-29-71	Mobil Oil Corp.	217, 21
			367, 10

APPENDIX C—Continued

Docket No.	Date of order	Respondent	RS No. and Supplement No.
RI72-107	9-29-71	Sun Oil Co.	353, 10
RI72-108	9-29-71	Big Piney Oil & Gas Co.	1, 3
RI72-111	10- 8-71	Gibralter Oil Co.	3, 3
RI72-112	10- 8-71	Chevron Oil Co.	2, 52
RI72-113	10- 8-71	Anadarko Production Co.	115, 2
RI72-114	10- 8-71	Getty Oil Co.	109, 3
RI72-115	10- 8-71	Humble Oil & Refining Co.	278, 8
RI72-116	10- 8-71	Skelly Oil Co.	44, 13
RI72-117	10- 8-71	Sohio Petroleum Co.	35, 16
RI72-118	10-15-71	Atapaz Petroleum, Inc.	2, 4
RI72-123	10-29-71	Clinton Oil Co.	1, 9
RI72-125	10-29-71	Atlantic Richfield Co.	433, 13
RI72-126	10-29-71		436, 5
			227, 4
RI72-127	11-11-71	Terra Resources, Inc.	6, 5
RI72-128	11-11-71	Amoco Production Co.	236, 5
RI72-129	11-11-71	Humble Oil & Refining Co.	313, 7
			438, 10
RI72-131	11-11-71	Amoco Production Co.	569, 1
RI72-132	11-11-71	Humble Oil & Refining Co.	414, 3
RI72-136	11-11-71	Colorado Oil & Gas Corp.	49, 8
RI72-137	11-11-71	Pubco Petroleum Corp.	20, 1
RI72-138	11-11-71	Cities Service Oil Co.	18, 19
			19, 13
			20, 10
			21, 11
			22, 9
			23, 9
			24, 11
			26, 7
			27, 8
			28, 7
			43, 11
RI72-139	11-11-71	Sun Oil Co.	221, 4
RI72-140	11-11-71	Cities Service Oil Co.	51, 18
			105, 10
			124, 10
			135, 8
			177, 16
			199, 12
			210, 10
			213, 5
			214, 9
			218, 3
			219, 2
			305, 2
			317, 2
RI72-56	8-27-71	Belco Petroleum Corp.	3, 21
RI72-57	8-27-71	Aztec Oil & Gas Co.	1, 8
			28, 7
			29, 9
			30, 4
			35, 10
RI72-58	8-27-71	Pubco Petroleum Corp.	6, 5
			2, 5
			1, 32
			3, 6
			7, 10
RI72-70	9- 3-71	Amoco Production Co.	109, 12
			117, 32
			124, 13
			371, 25
			469, 6
			517, 7
RI72-72	9- 9-71	Mobil Oil Corp.	200, 9
			215, 22
			361, 12
RI72-74	9- 9-71	R & G Drilling Co., Inc.	2, 9
RI72-75	9- 9-71	Tenneco Oil Co.	37, 4
			47, 4
			157, 6
			196, 4
			230, 3
RI72-78	9- 9-71	Wayne Moore, et ux.	3, 31
RI72-79	9- 9-71	W. H. Gilmore	1, 1
RI72-80	9- 9-71	Marathon Oil Co.	24, 8
RI72-81	9- 9-71	William C. Russell	2, 12
RI72-82	9- 9-71	Northeast Blanco Development Corp.	1, 8
RI72-86	9- 9-71	Phillips Petroleum Co.	30, 12
RI72-87	9-22-71	Consolidated Oil & Gas, Inc.	2, 9
			5, 3
			7, 26
			11, 3
RI72-91	9-24-71	Southern Union Production Co.	1, 27
			3, 15
RI72-92	9-24-71	Thomas A. Dugan	4, 8
RI72-93	9-24-71	Dugan Production Corp.	7, 11
RI72-102	9-29-71	Texas Pacific Oil Co., Inc.	22, 10
RI72-109	10- 7-71	Mobil Oil Corp.	473, 13

APPENDIX C—Continued

Docket No.	Date of order	Respondent	RS No. and Supplement No.
RI72-110	10- 8-71	Amerada Hess Corp.	2, 7
			25, 6
			49, 10
RI72-119	10-15-71	Texaco, Inc.	26, 21
			197, 9
RI72-120	10-28-71	Skelly Oil Company	46, 23
			140, 10
RI72-121	10-29-71	do	47, 25
			90, 19
			116, 6
			141, 19
RI72-130	11-11-71	Mobil Oil Corp.	215, 23
			371, 7

[FR Doc.72-6932 Filed 5-8-72;8:49 am]

[Docket No. G-4904 etc.]

AMOCO PRODUCTIONS CO. ET AL.

Notice of Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

APRIL 27, 1972.

Amoco Production Co. (Operator) et al. (successor to John B. Hawley, Jr., et al.), and other applicants listed herein, Docket No. G-4904 et al.

Take notice that each of the applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before May 22, 1972, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests 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. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commision by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
G-4904 E 3-2-72	Amoco Production Co. (Operator) et al. (successor to John B. Hawley, Jr. et al.), Post Office Box 591, Tulsa, OK 74102.	Cities Service Gas Co., Hugoton Field, Finney County, Kans.	[1] 12.19375	14.65
G-4904 E 3-30-72	do	do	[1] 12.19375	14.65
G-4904 E 4-10-72	do	do	[1] 12.19375	14.65
G-4904 E 4-10-72	do	do	[1] 12.19375	14.65
G-4904 E 4-10-72	Amoco Production Co. (Operator) et al. (successor, to Harriet Hawley Fermaud), Post Office Box 591, Tulsa, OK 74102.	do	[1] 12.19375	14.65
G-4904 E 4-10-72	Amoco Production Co. (Operator) et al. (successor to Northern Pump Co.), Post Office Box 591, Tulsa, OK 74102.	do	[1] 12.19375	14.65
G-4904 E 4-10-72	Amoco Production Co. (Operator) et al. (successor to John B. Hawley, Jr. et al.), Post Office Box 591, Tulsa, OK 74102.	Cities Service Gas Co., Hugoton Field, Kearny County, Kans.	[2] 12.50375	14.65
G-4904 E 4-12-72	Amoco Production Co. (Operator) et al. (successor to Northern Pump Co.), Post Office Box 591, Tulsa, OK 74102.	Cities Service Gas Co., Hugoton Field, Finney County, Kans.	[1] 12.19375	14.65
G-4904 E 4-13-72	Amoco Production Co. (Operator) et al. (successor to John B. Hawley, Jr. et al.), Post Office Box 591, Tulsa, OK 74102.	do	[1] 12.19375	14.65
G-4904 E 4-14-72	do	do	[1] 12.19375	14.65
CI66-252 C 3-24-72	Union Oil Co. of California, Post Office Box 7600, Los Angeles, CA 90051.	Trunkline Gas Co., O'Brien Ranch Field, Goliad County, Tex.	[3] 19.0 [4] 24.0	14.65
CI67-248 C 3-29-72	Beacon Gasoline Co., Post Office Box 396, Minden, LA 71055.	East Dykesville Field, Claiborne and Webster Parishes, LA.[5]	1.5	15.025
CI71-916 B 11-4-71	TransOcean Oil, Inc. (Operator) et al., 1700 Houston Natural Gas Bldg., Houston, Tex. 77002.	Transcontinental Gas Pipeline Corp., Bancker Field, Vermilion Parish, La.	Depleted	
CI72-106 A 8-17-71	Exchange Oil & Gas Corp., 1010 Common St., 16th Floor, New Orleans, LA 70112.	Transcontinental Gas Pipe Line Corp., East Lake Decade Field, Terrebonne Parish, La.	[6] 26.0	15.025
CI72-371 B 12-17-71	Sohio Petroleum Co., 970 First National Center North, Oklahoma City, Okla. 73102.	El Paso Natural Gas Co., Spraberry Trend Area, Upton County, Tex.	Assigned	
CI72-390 A 1-3-72	Getty Oil Co., Post Office Box 1404, Houston, TX 77001.	United Gas Pipe Line Co., East Texas Field, Gregg County, Tex.	[7] 19 10	14.65
CI72-449 (CI65-419) F 3-10-72	Amoco Production Co. (successor to Dan R. Wager), Post Office Box 591, Tulsa, OK 74102.	Arkansas Louisiana Gas Co., Wilburton Field, Pittsburg County, Okla.	15.0	14.65
CI72-450 1-19-72	LVO Corp., Post Office Box 2848, Tulsa, OK 74101.	Northern Natural Gas Co., acreage in Beaver County, Okla.	[8] 18.775	14.65
CI72-524 A 2-23-72	Lone Star Producing Co., 301 South Harwood St., Dallas, TX 75201.	Arkansas Louisiana Gas Co., Whelan Field, Harrison County, Tex.	[9] 12.6	14.65
CI72-604 3-15-72 [10]	Petroleum, Inc. (Operator) et al., 300 West Douglas, Wichita, KS 67202.	Michigan Wisconsin Pipe Line Co. and Colorado Interstate Gas Co., a division of Colorado Interstate Corp., Laverne Field, Harper County Okla.	[11] 18.50	14.65
CI72-644 A 4-7-72	Texas Oil & Gas Corp., Fidelity Union Tower Bldg., Dallas, Tex. 75201.	Panhandle Eastern Pipe Line Co., West Teagarden Field, Woods County, Okla.	[12] 20.3	14.65
CI72-645 4-6-72 [13]	Colorado Oil & Gas Corp., Box 749, Denver, CO 80201.	Tennessee Gas Transmission Co., North Louise Field, Wharton County, Tex.	19.0	14.65
CI72-647 B 4-3-72	Fred W. Shield, Operator, 1442 Milam Bldg., San Antonio, Tex. 78205.	Trunkline Gas Co., Heard Ranch Field, Bee County, Tex.	Depleted	
CI72-648 B 4-10-72	C. H. Lyons, Sr. et al., 1500 Beck Bldg., Shreveport, La. 71101.	Transwestern Pipeline Co., Elmwood West Field, Beaver County, Okla.	[14]	
CI72-649 (G-4948) F 4-4-72	Nelson Janssen (successor to Sun Oil Co.), 207 Dundee St., Victoria, TX 77901.	United Gas Pipeline Co., Breeden Field, Goliad County, Tex.	18.6	14.65
CI72-650 B 4-10-72	Tribal Oil Co., Post Office Box 52343, Lafayette, LA 70501.	Trunkline Gas Co., Bearhead Creek Field, Beauregard Parish, La.	[15]	
CI72-651 A 4-10-72	Anadarko Production Co., Post Office Box 296, Liberal, KS 67901.	Panhandle Eastern Pipe Line Co., Abraham Granite Wash Field and North Buffalo Wallow Field, Hemphill County, Tex.	20.5 [16] 19.0	14.65
CI72-652 B 4-12-72	Arrowhead Petroleum, Inc., 220 West Douglas, Suite 320, Wichita, KS 67202.	Cities Service Gas Co., Kisling Gas Unit, Barber County, Kans.	[17]	
CI72-655 B 4-10-72	Cities Service Oil Co., Post Office Box 300, Tulsa, OK 74102.	Columbia Gas Transmission Corp., Cameron Field, Wetzel County, W. Va.	[18]	
CI72-656 B 4-12-72	The California Co., a division of Chevron Oil Co., 1111 Tulane Ave., New Orleans, LA 70112.	Texas Gas Pipeline Corp., East Mayes and Northeast Jackson Pasture Fields, Chambers County, Tex.	[19]	
CI72-659 B 4-13-72	Ashland Oil, Inc., Post Office Box 1503, Houston, TX 77001.	Panhandle Eastern Pipe Line Co., Cedardale Field, Woodward County, Okla.	Depleted	
CI72-660 A 4-12-72	Continental Oil Co., Post Office Box 2197, Houston, TX 77001.	Tennessee Gas Pipeline Co., a division of Tenneco Inc., Sarco Creek Field, Goliad County, Tex.	24.0	14.65

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.
See footnotes at end of table.

[1] Initial price includes 12.50050 cents per Mcf base rate (fractured), plus 0.00325 cents per Mcf tax reimbursement and minus 0.31 cents per Mcf downward B.t.u. adjustment.
[2] Initial price includes 12.50050 cents per Mcf base rate (fractured), plus 0.00325 cents per Mcf tax reimbursement.
[3] For all gas produced from wells drilled prior to Nov. 1, 1971, and not classified as production from new reservoirs.
[4] For all gas produced from wells drilled after Nov. 1, 1971, and produced from newly discovered reservoirs.
[5] Applicant proposes to gather and process the gas produced by Sun Oil Co.
[6] Application previously noticed Sept. 1, 1971 in CI68-676 et al., at a rate of 28 cents per Mcf, By letter filed Mar. 30, 1972, applicant states its willingness to accept a permanent certificate at an initial rate of 26 cents per Mcf.
[7] Application previously noticed Jan. 20, 1972 in G-5236 et al., at a rate of 23.5 cents per Mcf. By letter filed Mar. 13, 1972, applicant amended its application to reflect a rate of 19.10 cents per Mcf.
[8] Application previously noticed Mar. 2, 1972. By letter filed Mar. 2, 1972, applicant amended its application to include production from properties located in Beaver County, Oklahoma. The rate includes 0.275 cents per Mcf tax reimbursement.
[9] Application previously noticed Mar. 7, 1972 in G-3894 et al., at a rate of 14.0133 cents per Mcf. By Supplement filed Apr. 4, 1972, applicant amended its application to reflect a rate of 12.6 cents per Mcf.
[10] Applicant proposes to continue the sale of natural gas heretofore authorized in Docket No. CI68-661 to be made pursuant to Morgan Petroleum Co. (Operator) et al., FPC Gas Rate Schedules 1 through 6. Rate schedules 1 through 5, Michigan Wisconsin Pipe Line Co., buyer. Rate schedule 6, Colorado Interstate Gas Co., a division of Colorado Interstate Gas Corp., buyer.
[11] Rate schedules 1 through 5, the rate is 18.50 cents per Mcf, plus 1.95 cents per Mcf upward B.t.u. adjustment and 0.31 cents per Mcf tax reimbursement; however, the contract price is 22 cents per Mcf, plus 1.95 cents per Mcf upward B.t.u. adjustment and 0.36 cents per Mcf tax reimbursement. Rate schedule 6, the rate is 18.50 cents per Mcf, plus 3.61 cents per Mcf upward B.t.u. adjustment and 0.22 cents per Mcf tax reimbursement; however, the contract price is 17 cents per Mcf, plus 3.32 cents per Mcf upward B.t.u. adjustment and 0.20 cents per Mcf tax reimbursement.
[12] Applicant is willing to accept a certificate at an initial rate of 20.3 cents per Mcf; however, the contract price is 25 cents per Mcf, subject to upward and downward B.t.u. adjustment.
[13] Applicant proposes to continue the sale of natural gas heretofore authorized in Docket No. G-2648 to be made pursuant to Southeastern Public Service Co. (Operator) et al., FPC Gas Rate Schedule No. 3.
[14] Wells are no longer capable of producing gas into buyer's system.
[15] Cessation of production of gas.
[16] Applicant is willing to accept a certificate conditioned to an initial rate of 20.5 cents per Mcf for gas-well gas and 19 cents per Mcf for casinghead gas pursuant to Opinion No. 586; however, the contract price is 26 cents per Mcf, subject to upward and downward B.t.u. adjustment.
[17] Inability to produce gas in commercial quantities.
[18] Expiration of leases.
[19] Expiration of contract.

[FR Doc.72-6935 Filed 5-8-72;8:45 am]

[Docket No. G-4012 etc.]

HOLLANDSWORTH AND TRAVIS ET AL.

Findings and Order After Statutory Hearing

MARCH 30, 1972.

Hollandsworth and Travis (Operator) et al., and other applicants listed herein, Docket No. G-4012 et al. Findings and order after statutory hearings issuing certificates of public convenience and necessity, amending orders issuing certificates, permitting and approving abandonment of service, terminating certificates, canceling docket number, dismissing application, making successor co-respondent, redesignating proceedings, and accepting rate schedules for filing.

Each applicant herein has filed an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce or for permission and approval to abandon service or a petition to amend an order issuing a certificate, all as more fully set forth in the applications and petitions to amend.

Applicants have filed FPC gas rate schedules or supplements to rate schedules on file with the Commission and propose to initiate, abandon, continue, add, or discontinue in part natural gas service in interstate commerce as indicated in the tabulation herein.

Northwest Production Corp., applicant in Dockets Nos. CI71-769, CI71-770, and CI71-773, proposes to continue in part the sales of natural gas heretofore authorized in Dockets Nos. CI63-1050, CI63-1051, and CI63-1049, respectively, to be made pursuant to Northern Natural Gas Producing Co. FPC Gas Rate Schedules Nos. 27, 26, and 25, respectively. At the time of the transfer of the producing properties, the rates under said Rate Schedules Nos. 26 and 27 were in effect subject to refund in Docket No. RI69-432, and the rate under said Rate Schedule No. 25 was in effect subject to refund in Docket No. RI69-856; therefore, applicant will be made a co-respondent in said rate proceedings and those proceedings will be redesignated accordingly.

Amoco Production Co., applicant in Docket No. CI72-118, proposes to continue in part the sale of natural gas heretofore authorized in Docket No. G-5123 to be made pursuant to Sun Oil Co. (Operator) et al., FPC Gas Rate Schedule No. 261. At the time of the transfer of the producing properties the rate under said rate schedule was in effect subject to refund in Docket No. RI71-205. Therefore, applicant will be made a co-respondent in said proceeding and the proceeding will be redesignated accordingly.

Neil E. Hanson, applicant in Docket No. CI72-130, proposes to continue in part the sale of natural gas heretofore authorized in Docket No. G-11816 to be made pursuant to Marathon Oil Co. FPC Gas Rate Schedule No. 11. At the time of transfer of the producing properties, the rate under said rate schedule was in effect subject to refund in Docket No. RI66-59. Therefore, applicant will be made a co-respondent in said proceeding and the proceeding will be redesignated accordingly.

Atlantic Richfield Co., applicant in Docket No. CI72-147, proposes to continue in part the sale of natural gas heretofore authorized in Docket No. CI66-470 to be made pursuant to Sun Oil Co. FPC Gas Rate Schedule No. 435. At the time of transfer of the producing properties the rate under said rate schedule was in effect subject to refund in Dockets Nos. RI69-77 and RI71-1125. Therefore, applicant will be made a co-respondent in said proceeding and the proceeding will be redesignated accordingly.

Geological Exploration Co., applicant in Docket No. CI72-148, proposes to continue in part the sale of natural gas heretofore authorized in Docket No. CI65-134 to be made pursuant to Sun Oil Co. FPC Gas Rate Schedule No. 423. At the time of the transfer of the producing properties, the rate under said rate schedule was in effect subject to refund in Docket No. RI70-410. Therefore, applicant will be made a co-respondent in said proceeding and the proceeding will be redesignated accordingly.

The Commission's staff has reviewed each application and recommends each action ordered as consistent with all substantive Commission policies and required by the public convenience and necessity.

After due notice by publication in the FEDERAL REGISTER, no petition to intervene, notice of intervention, or protest to the granting of the applications has been filed.

At a hearing held on March 23, 1972, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the applications and petitions, as supplemented and amended, and exhibits thereto, submitted in support of the authorizations sought herein, and upon consideration of the record,

The Commission finds:

(1) Each applicant herein is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission or will be engaged in the sale of natural gas in interstate commerce for resale for ultimate public consumption, subject to the jurisdiction of the Commission, and will, therefore, be a "natural-gas company" within the meaning of the Natural Gas Act upon the commencement of service under the authorizations hereinafter granted.

(2) The sales of natural gas hereinbefore described, as more fully described in the applications in this proceeding will be made in interstate commerce subject to the jurisdiction of the Commission; and such sales by applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are subject to the requirements of subsections (c) and (e) of section 7 of the Natural Gas Act.

(3) Applicants are able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The sales of natural gas by applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are required by the public convenience and necessity; and certificates therefor should be issued as hereinafter ordered and conditioned.

(5) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the orders issuing certificates of public convenience and necessity in various dockets involved herein should be amended as hereinafter ordered.

(6) The sales of natural gas proposed to be abandoned, as hereinbefore described and as more fully described in the applications and in the tabulation herein, are subject to the requirements of subsection (b) of section 7 of the Natural Gas Act.

(7) The abandonments proposed by applicants herein are permitted by the public convenience and necessity and should be approved as hereinafter ordered.

(8) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the certificates heretofore issued to applicants relating to the abandonments hereinafter permitted and approved should be terminated or that the orders issuing said certificates should be amended by deleting therefrom authorization to sell natural gas from the subject acreage.

(9) The amounts collected subject to refund in Docket Nos. G-19660, RI61-113, RI62-113, RI64-210, and RI65-276 for the sale proposed to be abandoned by applicant in Docket No. CI71-408 are deminimis.

(10) The certificate application pending in Docket No. CI68-610 is moot.

(11) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the applicants listed below should be made co-respondents in the pending rate proceedings as indicated and that said proceedings should be redesignated accordingly:

Applicant	*Docket No.*
Northwest Production Corp	RI69-432 and RI69-856.
Amoco Production Co	RI71-205.
Neil E. Hanson	RI66-59.
Atlantic Richfield Co	RI69-77 and RI71-1125.
Geological Exploration Co	RI710-410.

(12) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the FPC gas rate schedules and supplements related to the authorizations hereinafter granted should be accepted for filing.

The Commission orders:

(A) Certificates of public convenience and necessity are issued upon the terms

and conditions of this order authorizing sales by applicants of natural gas in interstate commerce for resale, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, all as hereinbefore described and as more fully described in the applications and in the tabulation herein.

(B) The certificates granted in paragraph (A) above are not transferable and shall be effective only so long as applicants continue the acts or operations hereby authorized in accordance with the provisions of the Natural Gas Act and the applicable rules, regulations, and orders of the Commission.

(C) The grant of the certificates issued in paragraph (A) above shall not be construed as a waiver of the requirements of section 4 of the Natural Gas Act or of Part 154 or Part 157 of the Commission's regulations thereunder and is without prejudice to any findings or orders which have been or which may hereinafter be made by the Commission in any proceedings now pending or hereafter instituted by or against applicants. Further, our action in this proceeding shall not foreclose or prejudice any future proceedings or objections relating to the operation of any price or related provisions in the gas purchase contracts herein involved. The grant of the certificates aforesaid for service to the particular customers involved does not imply approval of all of the terms of the contracts, particularly as to the cessation of service upon termination of said contracts as provided by section 7(b) of the Natural Gas Act. The grant of the certificates aforesaid shall not be construed to preclude the imposition of any sanctions pursuant to the provisions of the Natural Gas Act for the unauthorized commencement of any sales of natural gas subject to said certificates.

(D) The orders issuing certificates of public convenience and necessity in Dockets Nos. G–4012, G–7009, G–10272, G–11229, G–13633, G–17979, CI60–153, CI60–722, CI61–713, CI61–979, CI61–1655, CI63–20, CI63–489, CI64–55, CI66–1264, CI69–1197, and CI70–620 are amended by adding thereto or deleting therefrom authorization to sell natural gas as more fully described in the applications and in the tabulation herein. In all other respects said orders shall remain in full force and effect.

(E) The orders issuing certificates of public convenience and necessity in the following dockets are amended to reflect the deletion of acreage where new certificates are issued herein by authorizing the continuation of service from the subject acreage, and in all other respects said orders shall remain in full force and effect:

Amend to delete acreage	*New certificate*
G–5123	CI72–118
G–11816	CI72–130
CI63–1049	CI71–773
CI63–1050	CI71–769
CI63–1051	CI71–770
CI66–470	CI72–147
CI65–134	CI72–148
CI62–792	CI72–183

(F) The order issuing a certificate of public convenience and necessity in Docket No. G–16218 is amended to permit applicant's filings to cover the interest of nonsignatory coowners, Mobil Oil Corp., Amoco Production Co., and Shell Oil Co.

(G) Applicants in the dockets indicated shall charge and collect the following rates, subject to B.t.u. adjustment where applicable:

Docket No.	Rate (cents per Mcf)	Pressure base (p.s.i.a.)
CI61–713	20.5	14.65
CI70–620	26.0	15.025

(H) The certificates of public convenience and necessity or the certificate authorizations granted in Dockets Nos. CI63–489, CI69–1197, CI70–620, CI71–496, CI71–508, CI72–118, CI72–148, and CI72–134 are subject to the Commission's findings and order accompanying Opinions Nos. 586, 595, 595–A, 598, 598–A, and 607, as applicable. If the quality of the gas deviates at any time from the quality standards set forth in the regulations under the Natural Gas Act so as to require a downward adjustment of the existing rates, notice of changes in rate shall be filed pursuant to section 4 of the Natural Gas Act: *Provided, however,* That adjustments reflecting changes in B.t.u. content of the gas shall be computed by the applicable formula and charged without the filing of notices of changes in rate.

(I) Applicants listed below are made co-respondents in the pending rate proceedings as indicated and said proceedings are redesignated accordingly:

Applicant	*Docket No.*
Northwest Production Corp.	RI69–432 and RI69–856.
Amoco Production Co.	RI71–205.
Neil E. Hanson	RI66–59.
Atlantic Richfield Co.	RI69–77 and RI71–1125.
Geological Exploration Co.	RI70–410.

The above applicants shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(J) The rate proceedings pending in Dockets Nos. G–19660, RI61–113, RI62–113, RI64–210, and RI65–276 are terminated insofar as they pertain to the sales authorized in Docket No. CI71–408 to be made pursuant to Mobil Oil Corp. FPC Gas Rate Schedule No. 152.

(K) The certificate authorization granted in Docket No. CI61–713 is subject to § 2.71 of the Commission's general policy and interpretations establishing charges for transporting liquids and liquefiable hydrocarbons.

(L) Within 90 days from the date of this order, applicants in Dockets Nos. CI72–157 and CI72–183 shall each file three copies of a rate schedule-equality statement in the form prescribed by Opinion No. 586. If the quality of the gas deviates at any time from the quality standards set forth in § 154.106(d) of the regulations under the Natural Gas Act so as to require a downward adjustment of the existing rates, notices of changes in rate shall be filed pursuant to section 4 of the Natural Gas Act: *Provided, however,* That adjustments reflecting changes in B.t.u. content of the gas shall be computed by the applicable formula and charged without the filing of notices of changes in rate.

(M) Within 90 days from the date of initial delivery, applicants in Dockets Nos. CI63–489 and CI72–134 shall each file three copies of a rate schedule-quality statement in the form prescribed by the Commission.

(N) Within 90 days from the date of this order applicants in Dockets Nos. CI71–496, CI71–508, and CI72–148 shall each file three copies of a rate schedule-quality statement in the form prescribed by the Commission.

(O) The certificates issued in Dockets Nos. CI71–769, CI71–770, and CI71–773 determine the rate which legally may be paid by the buyer to the seller but are without prejudice to any action which the Commission may take in any rate proceeding involving applicant in those dockets.

(P) Docket No. CI72–113 is canceled.

(Q) Permission for and approval of the abandonment of service by applicants, as hereinbefore described and as more fully described in the applications and tabulation, are granted.

(R) As a result of the abandonments authorized herein, applicant in Docket No. CI68–610 is not relieved of any refund obligation in the rate suspension proceeding in Docket No. RI70–442 and applicant in Docket No. CI72–161 is not relieved of any refund obligation in the rate suspension proceeding in Docket No. RI68–424.

(S) The certificate application pending in Docket No. CI68–610 is dismissed, the temporary certificate issued in said docket is terminated, and the related FPC gas rate schedules are canceled.

(T) The certificates issued in Dockets Nos. G–6193 and G–6194 are terminated and the related FPC gas rate schedules are cancelled.

(U) The certificates issued in Dockets Nos. G–11877, G–14907, G–19047, CI64–402, CI64–992, CI65–432, and CI68–520 are terminated.

(V) The rate schedules and rate schedule supplements related to the authorizations granted herein are accepted for filing or are redesignated, all as set forth in the tabulation herein. Applicants having date of initial delivery as the effective date for their respective rate schedules or rate schedule supplements shall advise the Commission in writing of such date within 10 days thereof.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

Docket No. and date filed	Applicant	Purchaser and location	FPC gas rate schedule [1] Description and date of document	No.	Supp.
G-4012 D 8/23/71 [2]	Hollandsworth and Travis (Operator) et al.	Mississippi River Transmission Corp., Woodlawn Field, Harrison County, Tex.	Notice of partial cancellation, 8/18/71. (Effective date: Date of order).	2	24
G-6193 [3]	Sun Oil Co	Pennsylvania Gas Co., Elk County Field, Elk County, Pa.	Assignment, 5/28/69 [4] (cancels FPC Gas Rate Schedule No. 264). (Effective date: 6/1/69)	264	2
G-6194 [3]	do	do	Assignment, 5/28/69 [4] (cancels FPC Gas Rate Schedule No. 265). (Effective date: 6/1/69)	265	2
G-7009 D [5]	Cities Service Oil Co	Columbia Gas Transmission Corp., Perry County, Ky.	Assignment, 3/24/71 [6] (Effective date: 3/24/71)	235	33
			Assignment, 7/21/71 [6] (Effective date: 7/21/71)	235	34
G-10272 D [7]	Union Oil Co. of California.	Colorado Interstate Gas Co., Mocane Field, Beaver County, Okla.	Assignment, 1/2/69 [8] (Effective date: 1/2/69)	110	27
G-11229 D [7]	Atlantic Richfield Co. (Operator) et al.	Southern Natural Gas Co., Carthage Field, Panola County, Tex.	Assignment, 7/9/70 [9] (Effective date: 5/20/70)	381	10
			Assignment, 7/24/70 [9] (Effective date: 7/24/70)	381	11
G-13633 D [7]	Pennzoil Producing Co	United Gas Pipe Line Co., Sugar Creek Field, Claiborne Parish, La.	Assignment, 4/14/65 [10] (Effective date: 3/4/65)	[11] 210	22
G-13633 D 11/10/70	do	United Gas Pipe Line Co., Monroe Field, Ouachita, Union, and Morehouse Parishes, La.	Notice of partial cancellation, 11/6/70.[12] (Effective date: Date of order).	113	18
G-16218 8/11/71 [13]	Gulf Oil Corp. (operator) et al.	Transwestern Pipeline Co., Laverne Field, Harper County, Okla.		(14)	
G-17979 D [7]	Atlantic Richfield Co. (Operator) et al.	Transwestern Pipeline Co., Campcreek Field, Beaver County, Okla.	Assignment, 1/23/69 [15] (Effective date: 1/23/69)	[16] 434	20
CI60-153 D [7]	Cabot Corp	Cities Service Gas Co., Hugoton Field, Seward County, Kans.	Assignment, 4/7/70 [17] (Effective date: 4/7/70)	48	11
CI60-722 D [7]	Amoco Production Co	Panhandle Eastern Pipe Line Co., Mocane Field, Beaver County, Okla.	Assignment, 1/27/70 [18] (Effective date: 1/27/70)	[19] 276	8
CI61-713 C 8/31/70 9/30/70	Monsanto Co	Transwestern Pipeline Co., Ochiltree County, Tex.	Compliance, 10/14/70 [20] (Effective date: initial delivery).	43	12
CI61-979 D [7]	Union Texas Petroleum, a division of Allied Chemical Corp.	Cities Service Gas Co., North Norman Prue Field, Cleveland County, Okla.	Assignment, 12/28/67 [21] Effective date: 12/31/67	59	1
CI61-1655 D [7]	Union Texas Petroleum, a division of Allied Chemical Corp. et al.	Oklahoma Natural Gas Gathering Corp. and National Fuels Corp., Ringwood Field, Major County. Okla.	Assignment, 12/28/67 [21] (Effective date: 12/31/67)	61	5
CI63-20 D [7]	Humble Oil & Refining Co. (Operator) et al.	Arkansas Louisiana Gas Co., Pittsburg County, Okla.	Assignment, 6/19/68 [22] (Effective date: 6/19/68)	337	65
CI63-489 C 9/10/71	Ashland Oil, Inc. (Operator) et al.	Michigan Wisconsin Pipe Line Co., South Lonewolf Field, Major County, Okla .	Amendatory agreement, 8/16/71.	81	29
CI63-1049 D 10/19/70 2/12/71 2/19/71 4/14/71 4/14/71 [23]	Northern Natural Gas Producing Co.	El Paso Natural Gas Co., Basin Dakota Field, San Juan County, N. Mex.	Assignment, 8/7/70 [24]	25	14
			Assignment, 11/16/70 [25]	25	15
			Assignment, 4/22/68 [25]	25	16
			Assignment, 12/9/70 [24]	25	17
			Assignment, 1/6/71 [26]	25	18
			(Effective date: Date of order).		
CI63-1050 D 10/19/70 2/12/71 2/19/71 4/14/71 4/14/71 [27]	do	do	Assignment, 8/7/70 [24]	27	14
			Assignment, 11/16/70 [25]	27	15
			Assignment, 4/22/68 [25]	27	16
			Assignment, 12/9/70 [24]	27	17
			Assignment, 1/6/71 [26]	27	18
			(Effective date: Date of order).		
CI63-1051 D 10/19/70 2/12/71 2/19/71 4/14/71 4/14/71 [28]	do	do	Assignment, 8/7/70 [24]	26	13
			Assignment, 11/16/70 [25]	26	14
			Assignment, 4/22/68 [25]	26	15
			Assignment, 12/9/70 [24]	26	16
			Assignment, 1/6/71 [26]	26	17
			(Effective date: Date of order).		
CI64-55 D [29]	Union Oil Co. of California.	Arkansas Louisiana Gas Co., Southwest Waukomis Field, Garfield County, Okla.	Assignment, 10/19/67 [30] (Effective date: 10/19/67)	148	6
CI66-1264 D 6/26/69 4/24/70	Shell Oil Co. (Operator) et al.	Panhandle Eastern Pipe Line Co., Tangier Field, Woodward and Ellis Counties, Okla.	Assignment, 1/9/69 [31] (Effective date: 1/9/69)	335	11
			Assignment, 1/22/69 [31] [32] (Effective date: 1/22/69)	335	12
			Assignment, 1/22/69 [31] [33] (Effective date: 1/22/69)	335	13
			Assignment, 1/28/70 [34] (Effective date: 1/20/70)	335	14
CI68-610 B 9/22/71 [35]	Amoco Production Co. (Operator) et al.	Texas Eastern Transmission Corp., Riggan Field, Willacy County, Tex.	Notice of cancellation, 9/20/71 [36] (cancels FPC Gas Rate Schedule No. 504). (Effective date: Date of order).	504	3
CI69-1197 C 10/19/70	Petroleum, Inc	Arkansas Louisiana Gas Co., Pittsburg County, Okla.	Compliance, 1/12/71 [37] (Effective date: Initial delivery).	56	7
CI70-171 B 8/18/69 [38]	Martin Wunderlich (Operator) et al.	Clinton Oil Co., Airport Lease, Cowley County, Kans.	Notice of cancellation, 8/4/69.[39] (Effective date: Date of order).	1	2
CI70-620 C 8/19/71 9/2/71	Exchange Oil & Gas Corp.	Southern Natural Gas Co., North Kings Ridge Field, Lafourche, Parish, La.	Letter Agreement, 7/8/71	18	3
CI71-408 B 11/12/70 [40]	Mobil Oil Corp	Hassie Hunt Trust, Lisbon Field, Claiborne Parish, La.	Notice of Cancellation, 11/10/70 [41] (cancels FPC Gas Rate Schedule No. 152). (Effective date: Date of order).	152	17
CI71-496 12/23/70 [42]	Sun Oil Co	Cities Service Gas Co., Eureka Area, Grant and Alfalfa Counties, Okla.	Contract, 12/1/62	491	
			Agreement, 3/11/64 (Effective date: No specific date).	491	1
CI71-508 12/29/70 [43]	do	Cities Service Gas Co., Winchester Field, Woods County, Okla.	Contract, 11/8/62 (Effective date: No specific date).	492	

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.
See footnotes at end of table.

Docket No. and date filed	Applicant	Purchaser and location	FPC gas rate schedule [1]		
			Description and date of document	No.	Supp.
CI71-769 F 4/19/71 [44] [45]	Northwest Production Corp. (successor to Northern Natural Gas Producing Co.).	El Paso Natural Gas Co., Dakota Field, San Juan County, N. Mex.	Contract, 7/27/59 [46]	6	
			Supplemental agreement, 1/18/61.	6	1
			Supplemental agreement, 5/29/61.	6	2
			Letter agreement, 2/22/62.	6	3
			Amendatory agreement, 10/8/68.	6	4
			Letter agreement, 4/1/69	6	5
			Letter agreement, 2/9/70	6	6
			Assignment, 8/7/70	6	7
			Assignment, 12/9/70	6	8
			Assignment, 1/6/71	6	9
			(Effective date: Date of order).		
CI71-770 F 4/19/71 [45] [47]	do	do	Contract, 9/13/60 [48]	5	
			Supplemental agreement, 1/18/61.	5	1
			Supplemental agreement, 5/29/61.	5	2
			Letter agreement, 2/22/62	5	3
			Amendatory agreement, 10/8/68.	5	4
			Letter agreement, 4/1/69	5	5
			Letter agreement, 2/9/70	5	6
			Assignment, 8/7/70	5	7
			Assignment, 12/9/70	5	8
			Assignment, 1/6/71	5	9
			(Effective date: Date of order).		
CI71-773 F 4/19/71 [45] [49]	do	do	Contract, 7/24/59 [50]	4	
			Supplemental agreement, 1/18/61.	4	1
			Supplemental agreement, 5/29/61.	4	2
			Letter agreement, 2/22/62	4	3
			Amendatory agreement, 10/8/68.	4	4
			Letter agreement, 4/1/69	4	5
			Letter agreement, 2/9/70	4	6
			Assignment, 8/7/70	4	7
			Assignment, 12/9/70	4	8
			Assignment, 1/6/71	4	9
			(Effective date: Date of order).		
CI72-102 B 8/13/71 [51]	Tenneco Oil Co	Cities Service Gas Co., Hardtner Field, Barber County, Kans.	Notice of cancellation, undated [52] (cancels FPC Gas Rate Schedule No. 34).	34	4
			(Effective date: Date of order).		
CI72-104 B 8/16/71 [53]	Et Al, Inc. (Operator) et al.	Panhandle Eastern Pipe Line Co., Freemyer Field, Kingman County, Kans.	Notice of cancellation, 8/13/71 (cancels FPC Gas Rate Schedule No. 1).	1	5
			Effective date: Date of order).		
CI72-118 F 8/23/71 [54]	Amoco Production Co. (successor to Sun Oil Co., Operator et al.).	Tennessee Gas Pipeline Co., a division of Tenneco Inc., East Placedo Field, Victoria County, Tex.	Contract, 1/1/49 [55]	573	
			Supplement agreement, 6/1/49.	573	1
			Letter agreement, 7/20/54	573	2
			Letter agreement, 5/2/58	573	3
			Supplement agreement, 9/6/57.	573	4
			Letter agreement, 1/15/59	573	5
			Letter agreement, 3/20/61	573	6
			Letter agreement, 3/27/62	573	7
			Supplemental agreement, 5/21/63.	573	8
			Letter agreement, 6/4/63	573	9
			Letter agreement, 6/11/64	573	10
			Supplemental agreement, 3/1/65.	573	11
			Letter agreement, 12/15/65	573	12
			Unilateral agreement, 11/25/69. [56]	573	13
			Assignment, undated [57]	573	14
			Quality statement, 8/12/71	573	15
			(Effective date: 6/1/71)		
CI72-130 F 8/19/71 [58]	Neil E. Hanson (successor to Marathon Oil Co.).	Tennessee Gas Pipeline Co., a division of Tenneco Inc., North Garwood Field, Colorado County, Tex.	Contract, 11/3/53 [59]	4	
			Letter agreement, 6/4/63	4	1
			Letter agreement, 9/20/68	4	2
			Quality statement, 6/7/71	4	3
			Assignment, 4/14/71 [60]	4	4
			(Effective date: 4/14/71)		
CI72-134 A 9/1/71	Amoco Production Co	Northern Natural Gas Co., Northeast Gage Field, Ellis County, Okla.	Contract, 7/30/71	572	
			(Effective date: Initial delivery).		
CI72-147 F 9/7/71 [61]	Atlantic Richfield Co. (successor to Sun Oil Co. (Operator) et al.).	Arkansas Louisiana Gas Co., Arkoma Area, Pittsburg County, Okla.	Contract, 11/4/65 [62]	645	
			Assignment, 11/20/70 [63]	645	1
			(Effective date: 11/20/70)		
CI72-148 F 9/7/71 [64]	Geological Exploration Co. (Operator) et al. (successor to Sun Oil Co.).	Lone Star Gas Co., Penn Griffith Field, Rusk County, Tex.	Contract, 6/3/64 [65]	3	
			Conveyance, 7/15/71 [66]	3	1
			(Effective date: 7/1/71)		
CI72-150 A 6/14/71 [67]	Louise Y. Locke	El Paso Natural Gas Co., Pictured Cliffs, San Juan County, N. Mex.	Contract, 11/7/51	2	
			Amendatory agreement, 10/12/53.	2	1
			(Effective date: No specific date).		
CI72-152 B 9/13/71 [68]	Sun Oil Co	Kansas Nebraska Natural Gas Co., Inc., Minto Field, Logan County, Colo.	Notice of cancellation, 9/7/71 [69] (cancels FPC Gas Rate Schedule No. 453).	453	2
			(Effective date: Date of order).		
CI72-153 B 9/13/71 [70]	do	Texas Eastern Transmission Corp., Dial Field, Goliad County, Tex.	Notice of cancellation, 9/7/71 [71] (cancels FPC Gas Rate Sshedule No. 425).	425	4
			(Effective date: Date of order).		

Docket No. and date filed	Applicant	Purchaser and location	FPC gas rate schedule [1]		
			Description and date of document	No.	Supp.
CI72-157 F 9/13/71 [72]	Kerr-McGee Corp. (successor to Clark M. Clifford).	Arkansas Louisiana Gas Co., Northwest Okeene Area, Blaine County, Okla.	Contract, 7/19/61 [73]	115	
			Contract, 12/30/60 [73]	115	1
			Assignment, 1/31/68 [74]	115	2
			Assignment, 7/12/68 [74]	115	3
			(Effective date: 7/16/71)		
CI72-158 B 9/16/71 [75]	Alma M. Schrader, agent for L. D. Nutter et al.	Equitable Gas Co., Copen Field, Salt Lick District, Braxton County, W. Va.	(76)		
CI-72-161 B 9/20/71 [77]	Sun Oil Co	Columbia Gas Transmission Corp., Cole's Gully Field, Acadia Parish, La.	Notice of cancellation, 9/14/71 [78] (cancels FPC Gas Rate Schedule No. 333).	333	17
			(Effective date: Date of order).		
CI72-163 F 9/20/71 [79]	Texas Pacific Oil Co., Inc. (successor to Amini Oil Corp.).	El Paso Natural Gas Co., Spraberry Trend and Texon West Fields, Reagan County, Tex.	Contract, 6/30/67 [80]	99	
			Supplemental agreement, 3/12/68.	99	1
			Supplemental agreement, 7/22/68.	99	2
			Supplemental agreement, 4/3/69.	99	3
			Supplemental agreement, 10/27/69.	99	4
			Letter agreement, 2/9/70	99	5
			Memorandum of assignment, 12/1/69. [81]	99	6
			Assignment, 3/24/71 [82]	99	7
			(Effective date: 2/1/71)		
CI72-183 F 9/27/71 [83]	Sun Oil Co. (successor to Marathon Oil Co.).	Michigan Wisconsin Pipe Line Co., Laverne Field, Harper County, Okla.	Agreement, 6/5/61 [84]	501	
			Assignment, 6/8/71 [85]	501	1
			(Effective date: 6/1/71)		
CI72-217 7/26/71 [86]	Reading & Bates Production Co. (Operator) et al.	Northern Natural Gas Co., Northeast Harmon Field, Woodward County, Okla.	Agreement, 7/7/71 [87]		
			Effective date: Date of order).		

[1] Where no effective date is indicated, the rate schedule filing has heretofore been accepted.
[2] Application was erroneously assigned Docket No. CI72-113; said docket number should be canceled.
[3] No filing by applicant is necessary. (18 CFR 2.64) Applicant assigned the subject acreage to James and Knight Thornton, d.b.a. Fords Brook Drilling Co., a small producer certificate holder by virtue of Order No. 411, issued Oct. 2, 1970 in Docket No. R-371. Applicant's certificate should be terminated and the related FPC gas rate schedule canceled.
[4] From applicant to James and Knight Thornton, d.b.a. Fords Brook Drilling Co.
[5] No application made or required. (18 CFR 2.64) Applicant assigned subject acreage to L. W. D. Exploration Co., Inc., which operates under a small producer certificate by virtue of Order No. 411, issued Oct. 2, 1970 in Docket No. R-371.
[6] To L. W. D. Exploration Co., Inc.
[7] No application made or required. (18 CFR 2.64) Applicant assigned subject acreage to assignee operating under a small producer certificate.
[8] Conveys interest from applicant to Lear Petroleum Corp., which has received a small producer certificate by order, issued May 5, 1971 in Docket No. CS71-26.
[9] Conveys interest from applicant to Bruce Wilson, who received a small producer certificate by order, issued Oct. 21, 1971 in Docket No. CS71-995.
[10] Conveys interest from applicant to Franks Petroleum, which operates under a small producer certificate issued in Docket No. CS71-1111.
[11] Formerly Union Producing Co. FPC Gas Rate Schedule No. 210.
[12] Includes partial release agreement, dated Oct. 30, 1970 between applicant and buyer.
[13] Petition to amend certificate to include interest of nonsignatory coowners, Mobil Oil Corp., Amoco Production Co. and Shell Oil Co.
[14] Documents authorizing applicant under its related FPC Gas Rate Schedule No. 196 to make filings for Mobil, Shell, and Amoco are being made part of interest statement to the rate schedule.
[15] Conveys interest from applicant to May Petroleum, Inc., which operates under a small producer certificate issued in Docket No. CS71-62.
[16] Formerly Sinclair Oil Corp. (Operator) et al., FPC Gas Rate Schedule No. 193.
[17] Conveys interest from applicant to Crown Petroleum, Inc.; the latter's successor, Coral Gas & Oil, Inc., operates under a small producer certificate issued in Docket No. CS71-28.
[18] Conveys interst from applicant to John H. Hill, who operates under a small producer certificate issued in Docket No. CS71-68.
[19] Formerly Pan American Petroleum Corp. FPC Gas Rate Schedule No. 276.
[20] Accepts temporary certificte and states that applicant is willing to accept a permanent certificate conditioned to the base area rate of 20.5 cents per Mcf at 14.65 p.s.i.a.
[21] Conveys interest from applicant to Rocket Oil and Gas Co., and Singer-Fleischaker Oil Co.; the latter operates under a small producer certificte issued in Docket No. CS71-343.
[22] Conveys interest from applicant to A. C. Black, who has received a small producer certificate by order issued Nov. 4, 1971 in Docket No. CS72-32.
[23] Reflects deletion of acreage assigned upon conversion of overriding royalty interest of applicant in Docket No. CI71-773 herein to working interest.
[24] Filing converts interest of Northwest Production Corp. from overriding royalty to working interest.
[25] Filing converts interest of El Paso Natural Gas Co. from overriding royalty to working interest.
[26] Filing converts interest of Atlas Corp. and Northwest Production Corp. from overriding royalty to working interest.
[27] Reflects deletion of acreage assigned upon conversion of overriding royalty interest to applicant in Docket No. CI71-769 herein to working interest.
[28] Reflects deletion of acreage assigned upon conversion of overriding royalty interest of applicant in Docket No. CI71-770 herein to working interest.
[29] No application made or required. (18 CFR 2.64) Applicant assigned subject acreage to assignee operating under a small producer certificate.
[30] Conveys interest from applicant to Blaik Oil Co., which has received a small producer certificate by order, issued Nov. 4, 1971 in Docket No. CS71-1115.
[31] Conveys interest from applicant to Samedan Oil Corp. which operates under a small producer certificate issued in Docket No. CS71-430.
[32] Applies to acreage in Woodward County, Okla.
[33] Applies to acreage in Ellis and Woodward Counties, Okla.
[34] Conveys interest from applicant to Robert P. Lammerts.
[35] Application for permission and approval to abandon the sale of natural gas commenced under a temporary certificate issued in Docket No. CI68-610.
[36] Includes letter from buyer canceling the subject contract.
[37] Accepts temporary certificate and states that applicant is willing to accept a permanent certificate conditioned to the area ceiling price of 15 cents per Mcf at 14.65 p.s.i.a.
[38] Application for permission and approval to abandon the sale of natural gas commenced under a certificate issued in Docket No. G-19047.
[39] Applicant states that buyer concurs in the abandonment.
[40] Application for permission and approval to abandon the sale of natural gas commenced under a certificate issued in Docket No. G-14907.
[41] Includes letter agreement, dated May 11, 1970, between applicant and buyer canceling the contract.
[42] Applicant is filing for certificate to cover its interest previously covered by operator's certificate in Docket No. CI63-826. Operator, J. Lee Youngblood, has received a small producer certificate in Docket No. CS71-76.
[43] Applicant is filing for certificate to cover its interest previously covered by operator's certificate in Docket No. CI63-986. Operator, J. Lee Youngblood, has received a small producer certificate in Docket No. CS71-76.
[44] Applicant proposes to continue in part the sale of natural gas authorized in Docket No. CI63-1050 to be made pursuant to Northern Natural Gas Producing Co. FPC Gas Rate Schedule No. 27.
[45] Applicant filed to reflect conversion of its overriding royalty interest to a working interest in the subject acreage.
[46] Also on file as Northern Natural Gas Producing Co. FPC Gas Rate Schedule No. 27 and Atlas Corp. FPC Gas Rate Schedule No. 10.
[47] Applicant proposes to continue in part the sale of natural gas authorized in Docket No. CI63-1051 to be made pursuant to Northern Natural Gas Producing Co. FPC Gas Rate Schedule No. 26.
[48] Also on file as Northern Natural Gas Producing Co. FPC Gas Rate Schedule No. 26 and Atlas Corp. FPC Gas Rate Schedule No. 9.
[49] Applicant proposes to continue in part the sale of natural gas authorized in Docket No. CI63-1049 to be made pursuant to Northern Natural Gas Producing Co. FPC Gas Rate Schedule No. 25.
[50] Also on file as Northern Natural Gas Producing Co. FPC Gas Rate Schedule No. 25 and Atlas Corp. FPC Gas Rate Schedule No. 8.
[51] Application for permission and approval to abandon the sale of natural gas commenced under a certificate issued in Docket No. CI64-992.
[52] Release and termination agreement between applicant and buyer.
[53] Application for permission and approval to abandon the sale of natural gas commenced under a certificate issued in Docket No. CI64-402.
[54] Applicant proposes to continue in part the sale of natural gas authorized in Docket No. G-5123 to be made pursuant to Sun Oil Co. (Operator) et al., FPC Gas Rate Schedule No. 261.
[55] Between Buyer and Barnsdiall Oil Co. on file as Sun Oil Co. (Operator) et al., FPC Gas Rate Schedule No. 261.
[56] Originally filed by Sun Oil Co. stating that it would continue selling gas to buyer although contract expired.
[57] Assignment of producing acreage from Sun Oil Co. to applicant.
[58] Applicant proposes to continue in part the sale of natural gas authorized in Docket No. G-11816 to be made pursuant to Marathon Oil Co. FPC Gas Rate Schedule No. 11.
[59] Formerly on file as Marathon Oil Co. FPC Gas Rate Schedule No. 11.
[60] Transfers acreage from Marathon Oil Co. to applicant.
[61] Applicant proposes to continue in part the sale of natural gas authorized in Docket No. CI66-470 to be made pursuant to Sun Oil Co. FPC Gas Rate Schedule No. 435.
[62] Currently on file as Sun Oil Co. FPC Gas Rate Schedule No. 435.
[63] From Sun Oil Co. to applicant.
[64] Applicant proposes to continue in part the sale of natural gas authorized in Docket No. CI65-134 to be made pursuant to Sun Oil Co. FPC Gas Rate Schedule No. 423.
[65] Currently on file as Sun Oil Co. FPC Gas Rate Schedule No. 423.
[66] From Sun Oil Co. to applicant and David A. Wilson.
[67] Sale was being made on June 7, 1954, and has continued without certificate authorization.
[68] Application for permission and approval to abandon the sale of natural gas commenced under a certificate issued in Docket No. CI68-520.
[69] Includes letter from buyer canceling the contract.
[70] Application for permission and approval to abandon the sale of natural gas commenced under a certificate issued in Docket No. CI65-432.
[71] Includes letter agreement canceling the contract.
[72] Applicant is filing for its own interest which was previously covered by Marv J. in Coles, agent et al., FPC Gas Rate Schedule No. 2. Marvin J. Coles now operates under a small producer certificate issued in Docket No. CS72-41.
[73] No longer on file; predecessor's interest previously covered by Marvin J. Coles, agent et al., FPC Gas Rate Schedule No. 2.

[74] Assigns acreage from Clark M. Clifford to applicant.
[75] Application for permission and approval to abandon the sale of natural gas commenced under a certificate issued in Docket No. G-5741.
[76] Applicant currently is a small producer certificate holder by virtue of Order No. 411, issued Oct. 2, 1970, in Docket No. R-371.
[77] Application for permission and approval to abandon the sale of natural gas commenced under a certificate issued in Docket No. G-11877.
[78] Includes letter from buyer canceling subject contract.
[79] Applicant is filing for its own interest which was previously covered by Amini Oil Corp. which operates under a small producer certificate issued in Docket No. CS68-1.
[80] Contract between Amini Oil Corp. and El Paso Natural Gas Co.
[81] Covers one assignment, dated June 28, 1969, and six assignments, dated June 1, 1969, which transfer a portion of the subject acreage from K. K. Amini to Amini Oil Corp.
[82] From Amini Oil Corp. to applicant.
[83] Applicant proposes to continue in part the sale of natural gas authorized in Docket No. CI62-792 to be made pursuant to Marathon Oil Co. FPC Gas Rate Schedule No. 62.
[84] Currently on file as Marathon Oil Co. FPC Gas Rate Schedule No. 62.
[85] From Marathon Oil Co. to Shell Oil Co., Amoco Production Co. and applicant.
[86] Application for permission and approval to abandon the sale of natural gas commenced under a small producer certificate issued in Docket No. CS71-590.
[87] Cancels contract, dated June 6, 1966.

[FR Doc.72-6934 Filed 5-8-72;8:45 am]

[Docket No. E-7708]

NEVADA POWER CO.

Notice of Proposed Changes in Electric Rate Schedules

May 4, 1972.

Take notice that Nevada Power Co. (Nevada Power), on April 19, 1972, tendered for filing proposed changes to its FPC Electric Rate Schedules Nos. 1 and 2, applicable to wholesale sales to California-Pacific Utilities Co. The proposed changes would increase rates and charges to become effective on April 1, 1972, in the annual amount of $43,387 (approximately 6.8 percent), based upon jurisdictional sales for the 12-month period ended November 30, 1971, as adjusted under the rate schedules applicable to Large General Service (LGS). Nevada Power states that the proposed rate changes also would eliminate the fuel adjustment clause and simplify the load factor clause.

In support of the proposed increase in rates, Nevada Power states that the increase is necessary to cover increased operating costs and increased costs of new equipment. The company also included in its rate filing the order of the Public Service Commission of Nevada, issued on December 27, 1971, which permitted Nevada Power to increase its rates and charges 6.7 percent, reflecting an overall rate of return on invested capital of 8.13 percent, including 12 percent allowance on common equity.

Nevada Power's rate filing had been originally tendered on February 3, and supplemented on March 22, 1972, but was not accepted by the Commission Secretary for the reason that it failed to meet the requirements of the Commission's regulations under the Federal Power Act.

Copies of the rate filing have been served upon California Public Utilities Co. and upon the interested State regulatory agencies.

Any person desiring to be heard or make protest with reference to said application should on or before May 16, 1972, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests 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. Persons wishing to become parties to a proceeding or to participate in any hearing therein, must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-6996 Filed 5-8-72;8:45 am]

[Docket No. CP72-244]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Application

MAY 1, 1972.

Take notice that on April 11, 1972, Transcontinental Gas Pipe Line Corp. (applicant), Post Office Box 1396, Houston, TX 77001, filed in Docket No. CP72-244 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing applicant to transport natural gas, construct and operate certain natural gas transmission facilities and render additional service to its customers, all as more fully set forth in the appendix hereto and in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport natural gas for Consolidated Gas Supply Corp. (Con Gas) from two points on its transmission system in southern Louisiana to an existing point of interconnection between the systems of the two companies in Clinton County, Pa., beginning November 1, 1972. Applicant states that part of the proposed transportation service would be on a firm basis and the remainder would be interruptible. Applicant further states that the contractual level of service in the third year and thereafter will be 71,548 Mcf of gas per day firm and up to 30,663 Mcf of gas per day interruptible.

In order to render the firm transportation service for Con Gas, applicant proposes to install a 5,500 horsepower compressor unit at its Compressor Station No. 90 in Marengo County, Ala., and a 6,800 horsepower compressor unit at its Compressor Station No. 100 in Chilton County, Ala.

Applicant states that in consideration for the proposed transportation, Con Gas has contracted to render additional long-term storage service to it in the amount of 45,095 Mcf of gas per day with a related capacity in the third year of 5,010,204 Mcf of gas per day. Applicant indicates that it intends to make this additional service available to its customers under its GSS Rate Schedule as shown below.

The proposed facilities are estimated to cost $5,510,000. Applicant states that the facilities will be financed initially through short-term borrowings and cash on hand, with long-term financing to be accomplished at a later date.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 22, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

Customer	Additional Term GSS Service	
	Demand	Capacity
Alexander City, Ala.	35	1,750
Atlanta Gas Light Co.	3,065	153,250
Bowman, Ga.	5	250
Brooklyn Union Gas Co.	4,845	242,250
Buford, Ga.	35	1,750
Carolina Pipe Line Co.	300	15,000
Consolidated Edison Co. of N.Y.	3,255	162,750
Danville, Va.	420	21,000
Delmarva Power & Light Co.	1,080	54,000
Eastern Shore Natural Gas Co.	350	17,500
Elizabethtown Gas Co.	1,255	62,750
Fort Hill Natural Gas Authority	170	8,500
Fountain Inn, S.C.	20	1,000
Greenwood, S.C.	75	3,750
Hartwell, Ga.	30	1,500
Laurens, S.C.	105	5,250
Lexington, N.C.	190	9,500
Long Island Lighting Co.	3,010	150,500
Madison, Ga.	10	500
Monroe, Ga.	40	2,000
North Carolina Gas Service	150	7,500
Pennsylvania Gas & Water Co.	2,220	111,000
Philadelphia Electric Co.	3,005	150,250
Philadelphia Gas Works	2,710	135,500
Piedmont Natural Gas Co.	4,040	202,000
Public Service Co of N.C.	2,880	144,000
Public Service Electric & Gas Co.	8,715	435,750
Shelby, N.C.	120	6,000
Social Circle, Ga.	10	500
South Jersey Gas Co.	1,945	97,250
Southwestern Virginia Gas Co.	100	5,000
Sugar Hill, Ga.	10	500
Tri-County Natural Gas Co.	20	1,000
UGI Corp. (Hazleton)	150	7,500
Union, S.C.	70	3,500
Union Gas Co.	225	11,250
United Cities Gas Co.—Georgia Division	320	16,000
Wedowee, Ala.	10	500
Winder, Ga.	60	3,000
Totals	45,055	2,252,75

[FR Doc.72-6931 Filed 5-8-72;8:49 am]

FEDERAL RESERVE SYSTEM

CENTRAL BANCOMPANY

Acquisition of Bank

Central Bancompany, Jefferson City, Mo., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 55 percent or more of the voting shares of the First National Bank of Clayton, Clayton, Mo. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than May 22, 1972.

Board of Governors of the Federal Reserve System, May 2, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary.

[FR Doc.72-6988 Filed 5-8-72;8:47 am]

CENTRAL BANCORPORATION, INC.

Acquisition of Bank

The Central Bancorporation, Inc., Cincinnati, Ohio, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to First National Bank of Canton, Canton, Ohio. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Cleveland. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than May 23, 1972.

Board of Governors of the Federal Reserve System, May 2, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary.

[FR Doc.72-6987 Filed 5-8-72;8:47 am]

FIDELITY AMERICAN BANKSHARES, INC.

Order Approving Acquisition of Bank

Fidelity American Bankshares, Inc., Lynchburg, Va., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1482(a)(3)) to acquire 100 percent of the voting shares of Tidewater Bank and Trust Co., Williamsburg, Va., (Bank), a proposed new bank.

Notice of receipt of the application has been given in accordance with section 3(b) of the Act, and the time for filing comments and views has expired. The Board has considered the application and all comments received in the light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)) and finds that:

Applicant controls seven banks with aggregate deposits of $352.9 million, representing 4.2 percent of the total commercial bank deposits in the State, and is the eighth largest banking organization in Virginia. (All banking data are as of June 30, 1971, and reflect holding company formations and acquisitions approved through February 29, 1972.) Since Bank is a proposed new bank, no existing competition would be eliminated nor would concentration be increased in any relevant area.

Bank will be located in the city of Williamsburg and will represent the initial entry by applicant into the Williamsburg banking market.[1] Applicant's closest subsidiary to Bank is located 17 miles away and competes in a different market. The Williamsburg market is now served by only two banks, one of which holds 80.9 percent of market deposits. Thus, applicant's acquisition of Bank would have a procompetitive effect as it would provide a third banking alternative and likely establish a basis for increased competition and reduced concentration in Bank's market area. Accordingly, the Board concludes that consummation of the proposed acquisition would not adversely affect competition in any relevant area.

The financial and managerial resources of applicant and its subsidiary banks are deemed satisfactory, and projected growth and earnings for the group appear favorable. Bank, as a proposed new bank, has no financial or operating history; however, its prospects under applicant's management appear favorable. A "management incentive plan" negotiated by applicant with the directors of Bank could have an adverse effect on the condition of Bank. Despite this aspect of applicant's proposal, the acquisition is approved inasmuch as applicant is to acquire 100 percent of the voting shares of Bank, and there will be no minority shareholders whose interests could be prejudiced by the management incentive plan. Bank will commence operations with total initial capital of $750,000, which appears adequate to provide capital for Bank as well as to permit payment under the management incentive plan. Banking factors as they concern applicant's group and the proposed new bank are consistent with approval of the application. It appears that the major banking needs of the area are being adequately served at the present time. However, Bank would provide an additional source of convenient banking services to the area. Considerations under convenience and needs aspects of the proposal are consistent with approval and lend some weight thereto. It is the Board's judgment that consummation of the proposed acquisition would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the 30th calendar day following the effective date of this order, or (b) later than 3 months after that date; and (c) Tidewater Bank and Trust Co., Williamsburg, Va., shall be opened for business not later than 6 months after the effective date of this order. Each of the periods described in (b) and (c) may be extended for good cause by the Board, or by the Federal Reserve Bank of Richmond pursuant to delegated authority.

By order of the Board of Governors,[2] effective May 2, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-6989 Filed 5-8-72;8:48 am]

FIRST NATIONAL CHARTER CORP.

Order Approving Acquisition of Bank

First National Charter Corp., Kansas City, Mo., a bank holding company within the meaning of the Bank Holding Com-

[1] Approximated by city of Williamsburg, western portion of James City County, and northeast portion of York County.

[2] Voting for this action: Chairman Burns and Governors Robertson, Daane, Brimmer and Sheehan. Absent and not voting: Governors Mitchell and Maisel.

pany Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to the Livestock National Bank, Kansas City, Mo. (Bank). The bank into which Bank is to be merged has no significance except as a means of acquiring all of the shares of Bank. Accordingly, the proposed acquisition of the shares of the successor organization is treated herein as the proposed acquisition of shares of Bank.

Notice of receipt of the application has been given in accordance with section 3(b) of the Act, and the time for filing comments and views has expired. The Board has considered the application and all comments received in the light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)) and finds that:

Applicant, the fifth largest banking organization in Missouri, controls seven banks with aggregate deposits of $498.4 million, representing approximately 4.3 percent of total deposits in commercial banks in the State.[1] Upon acquisition of Bank ($19.7 million in deposits) Applicant will increase its share of statewide deposits by 0.2 percent and will become the fourth largest banking organization in the State.

Applicant, through three of its subsidiary banks, controls approximately 11 percent of the total commercial bank deposits in the Kansas City Standard Metropolitan Statistical Area and is the second largest banking organization in that area. Applicant's ranking in the SMSA will remain unchanged as a result of this proposal, and applicant's share of deposits will increase by less than 0.6 percent.

Bank, which specializes in livestock and farm lending, was organized in 1955 by shareholders of applicant's lead bank, the First National Bank of Kansas City, Mo. (First National). Because of the specialized services offered by Bank, Bank's lengthy affiliation with First National and the fact that disaffiliation between the two institutions is unlikely, no existing nor significant potential competition will be foreclosed upon consummation of the proposed transaction.

The financial and managerial resources and future prospects of applicant and Bank are satisfactory and consistent with approval. Applicant proposes to diversify Bank's operations thereby providing another alternative for full banking services in the community. Considerations relating to convenience and needs of the community are consistent with approval. It is the Board's judgment that the proposed transaction would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the 30th calendar day following the effective date of this order, or (b) later than 3 months after the effective date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Kansas City pursuant to delegated authority.

By order of the Board of Governors,[2] effective May 2, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-6990 Filed 5-8-72;8:48 am]

GRAHAM-MICHAELIS FINANCIAL CORP.

Formation of Bank Holding Company

Graham-Michaelis Financial Corp., Wichita, Kans., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 80 percent or more of the voting shares of Wichita State Bank, Wichita, Kans. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than May 26, 1972.

Board of Governors of the Federal Reserve System, May 2, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary.

[FR Doc.72-6992 Filed 5-8-72;8:48 am]

MERCANTILE BANCORPORATION INC.

Order Approving Acquisition of Bank

Merchantile Bancorporation, Inc., St. Louis, Mo., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 90 percent or more of the voting shares of the Trenton National Bank, Trenton, Mo. (Bank).

Notice of receipt of the application has been given in accordance with section 3(b) of the Act, and the time for filing comments and views has expired. The Board has considered the application and all comments received in the light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)) and finds that:

Applicant, Missouri's largest banking organization and its largest bank holding company, controls seven subsidiary banks with aggregate deposits of $1.2 billion, representing approximately 10 percent of the total commercial bank deposits in the State.[1] Consummation of applicant's proposal would not have a significant effect on the concentration of commercial bank deposits in Missouri, increasing applicant's share of commercial bank deposits by less than two-tenths of a percentage point.

Bank ($18.5 million deposits) is the larger of two banks in Trenton and the largest of five banks in the Trenton banking market (approximated by Grundy County), and holds 45.5 percent of market deposits. Even though Bank is the largest in the area, the other area banks appear to be viable and aggressive competitors, and the record indicates that the Bank does not occupy a dominant position, as evidenced by a slight decline in its percentage of market deposits held while other area banks increased their share of such deposits. Applicant's closest subsidiary to Bank is over 85 miles away, and neither it nor any of applicant's other subsidiaries competes with Bank to any meaningful extent. The development of any competition between Bank and any of applicant's subsidiaries is considered unlikely because of the distances separating the banks and the restrictive Missouri branching laws. It does not appear, therefore, that consummation of applicant's proposal would eliminate any existing competition, nor foreclose the development of significant potential competition, or that there would be adverse effects on any bank in the area involved.

The financial and managerial resources and prospects of applicant, its present subsidiaries, and Bank are all regarded as satisfactory and consistent with approval of the application. It appears that the major banking needs of Bank's service area are presently being met by the existing banking institutions; however, applicant proposes to expand Bank's services, including its credit and trust operations, in order to make Bank more responsive to the needs of the community. Thus, considerations relating to the convenience and needs are consistent with approval of the application. It is the Board's judgment that the transaction would be in the public interest, and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the 30th calendar day following the effective date of this order, or (b) later than 3 months after the effective date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of St. Louis pursuant to delegated authority.

[1] Unless otherwise noted, all banking data are as of June 30, 1971, adjusted to reflect holding company applications approved by the Board through Apr. 7, 1972.

[2] Voting for this action: Chairman Burns and Governors Robertson, Daane, Brimmer, and Sheehan. Absent and not voting: Governors Mitchell and Maisel.

[3] Voting for this action: Chairman Burns and Governors Robertson, Daane, Brimmer, and Sheehan. Absent and not voting: Governors Mitchell and Maisel.

By order of the Board of Governors,[3] effective May 2, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-6991 Filed 5-8-72;8:48 am]

R.I.H.T. CORP.

Order Denying Participation in Slater Mall Urban Renewal Project

R.I.H.T. Corp., Providence, R.I., a bank holding company registered under the Bank Holding Company Act of 1956, as amended, has applied for the Board's approval under section 4(c)(8) of the Act and § 225.4(b)(1) of the Board's Regulation Y to participate, through Washington Row Co. (WRC), its wholly owned subsidiary, as a limited partner in Slater Mall Associates (SMA), a Rhode Island limited partnership, in the development of a parcel of real estate in the urban renewal project known as the "Slater Mall Urban Renewal Area Project, R.I. R-11" in the city of Pawtucket, R.I. Notice of the application, affording opportunity for interested persons to submit comments and views, was duly published (37 F.R. 310). Time for filing comments and views has expired and none have been received.

Making equity and debt investments in corporations or projects designed primarily to promote community welfare, such as the economic rehabilitation and development of low-income areas is an activity that the Board has determined to be closely related to banking (12 CFR 225.4(a)(7)). The issue raised by this application is whether participation in the development of a shopping and office complex on a parcel of real estate in the Slater Mall urban renewal project constitutes investment in a project designed primarily to promote community welfare.

The Slater Mall urban renewal area encompasses approximately 57 acres in the downtown business district of Pawtucket, R.I. Applicant proposes to participate as a limited partner in SMA in the development of one parcel of real estate in the Slater Mall urban renewal area. SMA intends to construct a five-story retail-commercial-restaurant complex on that parcel at an estimated construction cost of approximately $3.4 million, of which $2 million will be provided in the form of a loan from applicant's banking subsidiary, Rhode Island Hospital Trust National Bank (Bank), secured by a first mortgage and a loan of $0.7 million from WRC secured by a second mortgage. Under the limited partnership agreement, the partners have contributed $15,000 to SMA's capital account, and additional funds would be provided to SMA by the partners in the form of unsecured subordinated loans to the partnership. The proposed shopping and office complex would be occupied by various retail and commercial tenants, as well as by a branch office of Bank.

The commercial nature of development and ownership of a shopping and office complex and the projected rate of return raise the question as to whether the project is designed primarily to promote community welfare or whether it is primarily designed as a profitmaking venture.

The mere fact that an investment relates in some manner to an urban renewal project is not sufficient to justify a conclusion that it is designed primarily to promote community welfare. Urban renewal refers to the use of the eminent domain power to remove slums and blighted areas from our cities through the acquisition of large tracts of land, the demolition of existing structures, and the sale of that land for development purposes at subsidized prices to those willing to construct new buildings and facilities on that land. New structures erected in an urban renewal project need not be for the benefit of low- or moderate-income persons, and may, in fact, be exclusively devoted to luxury or commercial uses. An investment by a bank holding company to develop a commercial structure to be constructed on urban renewal land therefore is viewed no differently than an investment to develop a commercial structure on nonurban renewal land. This should not be considered a disparagement of the efforts of Federal, State, or local agencies involved in solving our urban problems but rather is a recognition that the Board must consider other factors in charting the course of bank holding company development. Of course, construction of a five-story shopping and office complex should stimulate the local economy and, to that extent, promote community welfare. However, to conclude that every activity that has such effect is a permissible activity for bank holding companies would be to create a loophole in the Act through which a bank holding company could engage in virtually any activity thereby nullifying Congress', basic intent to separate banking from commerce. To avoid such a consequence, the Board requires that promotion of community welfare be the primary thrust of a proposed activity under § 225.4(a)(7) rather than a mere collateral effect of the activity.

Based on the foregoing and other considerations reflected in the record before us, the Board concludes that the primary purpose of applicant's proposal is to enter into a potentially highly profitable commercial venture and is not within the scope of the activity permitted by § 225.4(a)(7) of Regulation Y.

Accordingly, the application is denied. By order of the Board of Governors,[1] effective May 2, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-6993 Filed 5-8-72;8:48 am]

[1] All banking data are as of June 30, 1971, adjusted to reflect holding company acquisitions and formations approved by the Board through Mar. 31, 1972.

[1] Voting for this action: Chairman Burns and Governors Robertson, Daane, Brimmer, and Sheehan. Absent and not voting: Governors Mitchell and Maisel.

GENERAL SERVICES ADMINISTRATION

[Federal Property Management Regs.; Temporary Reg. D-34]

ATTORNEY GENERAL

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Attorney General of the United States to continue to lease certain space in Ramona, San Diego County, Calif.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, authority is hereby delegated to the Attorney General of the United States to perform all functions in connection with the continued leasing of two radio transmitting and receiving sites at Ramona, Calif., for an additional period not to exceed 5 years.

b. This delegation includes authority to lease the required properties and to assign, reassign, operate, maintain, control, and protect the demised properties. This authority shall extend to leasing space under authority contained in section 210(h)(1) of the above-cited Act.

c. The Attorney General of the United States may redelegate this authority to any officer or employee of the Department of Justice (40 U.S.C. 486(d)).

d. This authority shall be exercised in accordance with the limitations and requirements of the above-cited Act, section 322 of the Act of June 30, 1932 (40 U.S.C. 278a), as amended, and other applicable statutes and regulations.

Dated: May 1, 1972.

HAROLD S. TRIMMER, Jr.,
Acting Administrator of General Services.

[FR Doc.72-6998 Filed 5-8-72;8:48 am]

SECURITIES AND EXCHANGE COMMISSION

[811-2182]

CALCAP VENTURE GROUP, INC.

Notice of Filing of Application for Order Declaring That Company Has Ceased To Be an Investment Company

MAY 3, 1972.

Notice is hereby given that Calcap Venture Group, Inc. (Applicant), 2192 Du Pont Drive, Irvine, CA 92664, registered under the Investment Company Act of 1940 (Act), as a closed-end investment company, has filed an application pursuant to section 8(f) of the Act for an order of the Commission declaring that Applicant has ceased to be an investment company. All interested persons are re-

ferred to the application for a statement of the representations contained in the application, which are summarized below.

Applicant was incorporated in the State of Delaware on November 4, 1970. Initially applicant issued 10,000 shares of its common stock to nine shareholders for an aggregate price of $100,000. On April 7, 1971, Applicant filed Form N–8A, and on April 15, 1971, Applicant filed Form N–8B–1. On the later date, Applicant also filed a registration statement on Form S–4 under the Securities Act of 1933. Such registration statement never became effective nor were any shares sold to the public pursuant to such statement. Applicant's registration statement was withdrawn on February 3, 1972.

Applicant represents that it has made no investments since its inception and has not commenced the business or activity for which it was created.

Applicant represents that it has returned the consideration of $100,000 paid for its shares, and all issued share certificates have been surrendered and canceled. Further, Applicant represents that a majority of its directors have executed and verified a certificate of dissolution before beginning business pursuant to the provisions of the General Corp. of the State of Delaware, and that said certificate has been mailed to the Secretary of the State of Delaware for filing. On December 1, 1971, Applicant's directors unanimously passed a resolution instructing Applicant's President to take such action as necessary to terminate Applicant's registration as an investment company under the 1940 Act.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the taking effect of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than May 23, 1972, submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by a certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments 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.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72–7017 Filed 5–8–72;8:47 am]

DEPARTMENT OF LABOR

Office of the Secretary

C. G. CONN, LTD.

Investigation Regarding Certification of Eligibility of Workers To Apply for Adjustment Assistance

The Department of Labor has received a Tariff Commission report containing an affirmative finding under section 301 (c)(2) of the Trade Expansion Act of 1962 with respect to its investigation of a petition for determination of eligibility to apply for adjustment assistance filed on behalf of workers of C. G. Conn, Ltd., Elkhart, Ind. (TEA–W–133). In view of the report and the responsibilities delegated to the Secretary of Labor under section 8 of Executive Order 11075 (28 F.R. 473), the Acting Director, Office of Foreign Economic Policy, Bureau of International Labor Affairs, has instituted an investigation, as provided in 29 CFR 90.5 and this notice. The investigation relates to the determination of whether any of the group of workers covered by the Tariff Commission report should be certified as eligible to apply for adjustment assistance, provided for under title III, chapter 3, of the Trade Expansion Act of 1962, including the determination of related subsidiary subjects and matters, such as the date unemployment or underemployment began or threatened to begin and subdivision of the firm involved to be specified in any certification to be made, as more specifically provided in subpart B of 29 CFR Part 90.

Interested persons should submit written data, views, or arguments relating to the subjects of investigation to the Acting Director, Office of Foreign Economic Policy, U.S. Department of Labor, Washington, D.C., on or before May 10, 1972.

Signed at Washington, D.C., this 1st day of May, 1972.

GLORIA G. VERNON,
Acting Director, Office of Foreign Economic Policy.

[FR Doc.72–7037 Filed 5–8–72;8:49 am]

INTERSTATE COMMERCE COMMISSION

ASSIGNMENT OF HEARINGS

MAY 4, 1972.

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.

FD 26883, George P. Baker, Richard C. Bond, Jervis Langdon, Jr., and Williard Wirtz, trustees of the property of Penn Central Transportation Co., debtor. abandonment between Newton Falls & Alliance, in Portage, Trumbull, Stark, and Mahoning Counties, Ohio, now assigned May 22, 1972, at Alliance, Ohio, canceled and reassigned to Fellowship Hall, First Christian Church, Center Street, Newton Falls, Ohio, same day and time.

MC 98499, Subs 9 and 10, White Truck Line, Inc., continued to June 5, 1972, in the South Room, Quality Hotel Central, 100 10th Street NW., Atlanta, GA.

I&S M 25477, General increase, east-south territory, now assigned May 15, 1972, at Washington, D.C., hearing postponed to May 17, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

I&S M 25477, Sub 1, General increase, within Southern territory, now assigned May 15, 1972, at Washington, D.C., hearing postponed to May 17, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 121082, Sub 3, Allied Delivery System, Inc., now assigned hearing, July 10, 1972, at Lansing, Mich., hearing room later to be designated.

MC 113567 Sub 4, La Crosse and Western Stages, Inc., doing business as Hiawatha Coaches, now assigned June 19, 1972, at La Crosse, Wis., canceled. An attempt will be made to handle this proceeding under the modified procedure.

I&S 8711, Grain Transit Accounts, SWL & WTL territories, now assigned May 9, 1972, at Washington, D.C., hearing postponed to July 11, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 135736 Sub 1, Fleet Services, Inc., now assigned May 31, 1972, at Washington, D.C., hearing postponed indefinitely.

MC 61592 Sub 239, Jenkins Truck Line, Inc., application dismissed.

ISM–25603, Bus fares, between New York, N.Y., and New Jersey points, now assigned June 5, 1972, at New York, N.Y., canceled. Proceeding is being discontinued.

MC–F–11345, Brown Transport Corp.—investigation of control—Pool Freight Lines, Inc., MC 56679 Subs 41, 48, 50, and 63, Brown Transport Corp., now assigned July 17, 1972, at Jacksonville, Fla., will be held at the Holiday Inn, I–95 North, 881 Golfair Boulevard (junction I–95 and Golfair Boulevard), instead of Holiday

Inn Downtown, 2300 Phillips Highway (junction I–95 and U.S. Highway 1 South), Jacksonville, FL.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72–7047 Filed 5–8–72;8:50 am]

[Notice 64]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MAY 3, 1972.

The following are notices of filing of applications[1] for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC–67 (49 CFR Part 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

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 field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 87720 (Sub-No. 130 TA), filed April 19, 1972. Applicant: BASS TRANSPORTATION CO., INC., Post Office Box 391, Flemington, NJ 08822. Applicant's representative: Bert Collins, 140 Cedar Street, New York, NY 10006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic foam*, from Rockaway, Carlstadt, and East Rutherford, N.J., to Danbury, Conn., Biddeford, Maine, Boston, Everettt, Haverhill, Lawrence, Newton, Northbridge, and Stoughton, Mass., for 180 days. Supporting shipper: Tenneco Chemicals, Inc., General Foam Division, 13 Manor Road, East Rutherford, NJ 07073. Send protests to: Richard M. Regan, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 428 East State Street, Room 204, Trenton, NJ 08608.

No. MC 103051 (Sub-No. 250 TA), filed April 20, 1972. Applicant: FLEET TRANSPORT COMPANY, INC., 934 44th Avenue North, Post Office Box 90408, Nashville, TN 37209. Applicant's representative: William G. North (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt*, in bulk, in tank or hopper type vehicles, from Cairo, Ga., to points in Alabama and Flordia, for 180 days. Supporting shipper: Cargill, Inc., Salt Division, Cargill Building, Minneapolis, Minn. Send protests to: Joe J. Tate, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 803 1808 West End Building, Nashville, Tenn. 37203.

No. MC 103993 (Sub-No. 708 TA), filed April 24, 1972. Applicant: MORGAN DRIVE AWAY, INC., 2800 West Lexington Avenue, Elkhart, IN 46514. Applicant's representative: Ralph H. Miller (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Campers and motor homes*, in initial movements, in truckaway service, from points in Yamhill County, Oreg., to points in California, Idaho, Montana, Nevada, Utah, and Washington, for 180 days. Supporting shipper: Skyline Corp., 2520 Bypass Road, Elkhart, IN 46514. Send protests to: District Supervisor J. H. Gray, Interstate Commerce Commission, Bureau of Operations, Room 204, 345 West Wayne Street, Fort Wayne, IN 46802.

No. MC 107496 (Sub-No. 845 TA), filed April 19, 1972. Applicant: RUAN TRANSPORT CORPORATION, Keosauqua Way at Third Street, Post Office Box 855, 50304, Des Moines, IA 50309. Applicant's representative: H. L. Fabritz (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lignin sulfinate*, in bulk, in tank vehicles, from Green River, Wyo., to Kemmerer, Wyo., for 150 days. Supporting shipper: FMC Corp., 633 Third Avenue, New York, NY 10017. Send protests to: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 677 Federal Building, Des Moines, Iowa 50309.

No. MC 107496 (Sub-No. 846 TA), filed April 13, 1972. Applicant: RUAN TRANSPORT CORPORATION, Keosauqua Way at Third Street, Post Office Box 855, 50304, Des Moines, IA 50309. Applicant's representative: H. L. Fabritz (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry phosphates*, in bulk, in tank vehicles, from Lawrence, Kans., to points in Texas, for 150 days. Supporting shipper: FMC Corp., 633 Third Avenue, New York, NY 10017. Send protests to: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 677 Federal Building, Des Moines, Iowa 50309.

No. MC 109689 (Sub-No. 233 TA), filed April 20, 1972. Applicant: W. S. HATCH CO., 643 South 800 West Street, Woods Cross, UT 84087, Post Office Box 1825, Salt Lake City, UT 84110. Applicant's representative: Mark K. Boyle, 345 South State Street, Salt Lake City, UT 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Molten benzoic acid*, in bulk, from Kalama, Wash., to Chattanooga, Tenn., for 180 days. Supporting shipper: Kalama Chemical, Inc., Post Office Box 427, Kalama, WA 98625 (Robert A. Kirchner, vice president—operations). Sent protests to: John T. Vaughan, District Supervisor, Interstate Commerce Commission, Bureau of Opertaions, 5239 Federal Building, Salt Lake City, Utah 84111.

No. MC 110525 (Sub-No. 1035 TA), filed April 18, 1972. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, Downingtown, PA 19335. Applicant's representative: Thomas J. O'Brien (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Adipic acid*, dry, in bulk, in tank vehicles, from Hopewell, Va., to Neville Island, Pa., for 180 days. Supporting shipper: Allied Chemical Corp., Post Office Box 2365R, Morristown, NJ 07960. Send protests to: Peter R. Guman, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 1518 Walnut Street, Room 1600, Philadelphia, PA 19102.

No. MC 111401 (Sub-No. 363 TA), filed April 18, 1972. Applicant: GROENDYKE TRANSPORT, INC. 2510 Rock Island Boulevard, Post Office Box 632, Enid, OK 73701. Applicant's representative: Vic Comstock (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum naphtha*, in bulk, from Cleveland and Wynnewood, Okla., to Nellis AFB and Hill AFB, Utah, for 180 days. Supporting shipper: Ray F. Fischer, transportation manager, Kerr-McGee Corp., Oklahoma City, Okla. 73102. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240, Old Post Office Building, 215 Northwest Third, Oklahoma City, OK 73102.

No. MC 115669 (Sub-No. 131 TA), filed April 18, 1972. Applicant: HOWARD N. DAHLSTEN, doing business as DAHLSTEN TRUCK LINE, Post Office Box 95, Clay Center, NE 68933. Applicant's representative: Howard N. Dahlsten (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Catalyst*, in bulk, in tank vehicles, from McPherson, Kans., to Scottsbluff, Nebr., for 180 days. Supporting shipper: Clifford H. DeKesel, manager, Transportation Services, Farmland Industries, Inc., Post Office Box 7305, Kansas City, MO 64116. Send protests to: Max H. Johnston, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 320 Federal Building and Courthouse, Lincoln, Nebr. 68508.

No. MC 123674 (Sub-No. 6 TA), filed April 18, 1972. Applicant: ARCTIC STORAGE OF UTICA, INC., Truck Route 5–A, Yorkville (Oneida County), N.Y. 13493. Applicant's representative: Murray J. S. Kirshtein, 103 Oriskany Street East, Utica, NY 13501. Authority

[1] 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.

sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Whitestown, N.Y., to Stroudsburg, Pa., for 180 days. Supporting shipper: Frank L. Powell, vice president, secretary, and controller, Victory Markets, Inc., Norwich, N.Y. 13815. Send protests to: Morris H. Gross, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 104, O'Donnell Building, 301 Erie Boulevard West, Syracuse, NY 13202.

No. MC 124554 (Sub-No. 9 TA), filed April 17, 1972. Applicant: HILARD F. LANG (VIOLA LANG, JOHN F. LANG, AND FRANK J. LANG, TRUSTEES) and MEDARD SCHMITZ, doing business as LANG CARTAGE, 338 South 17th Street, Milwaukee, WI 53233. Applicant's representative: William C. Dineen, 412 Empire Building, 710 North Plankinton Avenue, Milwaukee, WI 53203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale drug business houses, from West Allis, Wis., to points in Boone, De Kalb, Du Page, Kane, Lake, McHenry, Ogle, Stephenson, and Winnebago Counties, Ill., for the account of McKesson & Robbins Drug Co., a division of Foremost-McKesson, Inc., for 180 days. Supporting shipper: McKesson & Robbins Drug Co., 1535 South 101st Street, Post Office Box 2697 (John G. Wilcox—division manager/vice president). Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, WI 53203.

No. MC 129537 (Sub-No. 10 TA) (Correction), filed March 3, 1972, published in the FEDERAL REGISTER, issue of March 21, 1972, corrected and republished in part as corrected this issue. Applicant: REEVES TRANSPORTATION CO., Route 5, Dew's Pond Road, Calhoun, Ga. 30701. Applicant's representative: John C. Vogt, Jr., 523 East Madison Street, Tampa, FL 33802. NOTE: The purpose of this partial republication is to state that applicant intends to interline with other carriers at Pensacola, Fla., Dallas, Tex., Little Rock and West Memphis, Ark., which was inadvertently omitted in previous publication. The rest of the application remains as previously published.

No. MC 133565 (Sub-No. 1 TA) (Notice of filing of Petition to Modify Temporary Authority To Permit Interlining), filed May 1, 1972. Petitioner: TRUE TRANSPORT, INC., Edgewater, N.J. Petitioner's representative: Charles J. Williams, 47 Lincoln Park, Newark, NJ 07102. Petitioner holds authority in No. MC 133565 (Sub-No. 1 TA) authorizing the transportation of general commodities, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, in containers or trailers, over irregular routes, between Edgewater and Weehawken, N.J., on the one hand, and, on the other, points in Connecticut, Delaware, Maryland, Massachusetts, New Hampshire, New Jersey, and those in that part of Pennsylvania on and east of a line beginning at the Pennsylvania-New York State line at or near Lawrenceville, Pa., and extending along U.S. Highway 15 to junction U.S. Highway 11 at or near Camp Hill, Pa., thence along U.S. Highway 11 to the Pennsylvania-Maryland State line, those in that part of New York on and east of a line beginning at the New York-Pennsylvania State line at or near Lawrenceville, Pa., and extending along U.S. Highway 15 to Corning, N.Y., and thence along New York Highway 17 to Horseheads, N.Y., thence along New York Highway 13 to Cortland, N.Y., thence along U.S. Highway 11 to Syracuse, N.Y., thence along New York Highway 5 to Schenectady, N.Y., thence along New York Highway 50 to Saratoga Springs, N.Y., thence along U.S. Highway 9 via Glens Falls, N.Y., to junction New York Highway 149, thence along New York Highway 149 to junction U.S. Highway 4, at or near Fort Ann, N.Y., thence along U.S. Highway 4 to the New York-Vermont State line at or near Fair Haven, Vt., and points in Rhode Island, on traffic having a prior or subsequent movement by water. The above authority has been extended indefinitely pending the final determination of No. MC 133565 (Sub-No. 2). By the instant petition, petitioner seeks to have the Sub-No. 1 TA grant of authority modified so as to permit it to interline freight exclusively at Syracuse, N.Y., with other motor carriers for further movements to points in that part of New York State which it is not authorized to serve. Any interested person desiring to participate may file an original and six copies of his written representations, views, or argument in support of or against the petition within 15 days from the date of publication in the FEDERAL REGISTER. Send to: Motor Carrier Board, Interstate Commerce Commission, Washington, D.C. 20423.

No. MC 136637 (Sub-No. 1 TA), filed April 20, 1972. Applicant: J & J TRUCKING, INC., Route 7, Box 55–F, Morgantown, WV 26505. Applicant's representative: D. L. Bennett, 129 Edgington Lane, Wheeling, WV 26003. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, from King Knob Coal Co., strip mine at or near Taylortown, Greene County, Pa., to Arkright Tipple, Granville, W. Va., for 180 days. Supporting shipper: Consolidation Coal Co., Morgantown, W. Va. 26505. Send protests to: Joseph A. Niggemyer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 416 Old Post Office Building, Wheeling, W. Va. 26003.

No. MC 136642 TA, filed April 21, 1972. Applicant: BEAUMONT TRANSPORT, INC., 672 Marechal Street, Longueuil, PQ, Canada. Applicant's representative: Adrien R. Paquette, 200, rue St. Jacques, Montreal 126, PQ, Canada. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Rough and dressed lumber*, from the ports of entry on the international boundary line between the United States and Canada at or near Champlain, N.Y., to points in New York, Vermont, Maine, Massachusetts, Connecticut, New Hampshire, Rhode Island, Delaware, New Jersey, Pennsylvania, Maryland, Virginia, West Virginia, Kentucky, and Tennessee; and (2) *dressed lumber*, from Potsdam, N.Y., to the international boundary line between the United States and Canada at or near Champlain, N.Y., to Montreal, P.Q., Canada. Restriction: All of the above restricted to traffic originating and destined to points in the Province of Quebec, Canada, for 180 days. Supporting shippers: Elliott Hardwood Co., 2 Madrid Street, Potsdam, NY; Abbott, Mading & Tardif, Inc., Williamsville, N.Y.; Canflo Division des Industries Zodiac, 1304 Beaumont Street, Montreal, PQ, Canada. Send protests to: District Supervisor Martin P. Monaghan, Jr., Interstate Commerce Commission, Bureau of Operations, 52 State Street, Room, 5, Montpelier, VT 05602.

No. MC 136644 TA, filed April 19, 1972. Applicant: U.W.S. MATERIALS AND SUPPLY CO., 2001 Broadway, Vallejo, CA 94590. Applicant's representative: Norman Sorensen (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum wallboard*, including *materials and supplies* used in the installation and application thereof, in interstate or foreign commerce, from the plantsite of the National Gypsum Co., at or near Richmond, Calif., to points in Washoe, Ormsby, and Douglas Counties, Nev., for 180 days. Supporting shipper: Gold Bond Building Products, division of National Gypsum Co., Post Office Box 1888, Long Beach, CA 90801. Send protests to: District Supervisor Wm. E. Murphy, Bureau of Operations, Interstate Commerce Commission, 450 Golden Gate Avenue, Box 36004, San Francisco, CA 94102.

MOTOR CARRIERS OF PASSENGERS

No. MC 107583 (Sub-No. 51 TA), filed April 14, 1972. Applicant: SALEM TRANSPORTATION CO., INC., 133–03 35th Avenue, Flushing, NY 11354. Applicant's representative: George H. Rosen, 265 Broadway, Monticello, NY 12701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage, express and newspapers* in the same vehicle with passengers, from Philadelphia, Pa., to Atlantic City, N.J., and adjacent areas and return; and from Fort Dix, McGuire Air Force Base, Wrightstown, N.J., and surrounding townships and return over ir-

regular routes as set forth post, for 150 days. Supporting shippers: Not attached. Send protests to: Marvin Kampel, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, New York, NY 10007.

No. MC 136641 TA, filed April 18, 1972. Applicant: HUDSON VALLEY BUS CO., INC., Englewood Terrace, Mahopac, N.Y. Applicant's representative: Sidney J. Leshin, 501 Madison Avenue, New York, NY 10022. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in special round-trip operations, between the towns of Carmel and Yorktown, N.Y., on the one hand, and, on the other, Philadelphia, Pa., for 180 days. Supported by: There are approximately 26 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Joseph M. Barnini, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 518 Federal Building, Albany, N.Y. 12207.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-7048 Filed 5-8-72;8:50 am]

ASSIGNMENT OF WORK, BUSINESS AND FUNCTIONS

Organization

At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 27th day of April 1972.

Section 17 of the Interstate Commerce Act, as amended (49 U.S.C. 17), and other provisions of law being under consideration with a view to expediting the processing of unopposed applications under section 1(18)-(20) for authority to abandon railroad lines, or the operation thereof.

It is ordered, That the organization minutes of the Interstate Commerce Commission relating to the organization of divisions and boards and assignment of work, issue of July 27, 1965, as amended, be further amended as follows:

1. Under the heading Assignment of Duties to Individual Commissioners, the present Item 6.5 is amended by adding paragraph (c) as follows:

(c) Applications under section 1(18)-(20) for authority to abandon railroad lines, or the operation thereof to which no opposition is filed and which do not warrant the taking of evidence at oral hearing or by the modified procedure.

2. Under the heading Assignment to Boards, the present Item 7.12(f) is amended by striking the period after the word "affidavits" and adding the following: "* * *, except applications under section 1(18)-(20) for authority to abandon railroad lines, or the operation thereof, to which no opposition is filed and which do not warrant the taking of evidence at oral hearing or by the modified procedure."

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-7045 Filed 5-8-72;8:50 am]

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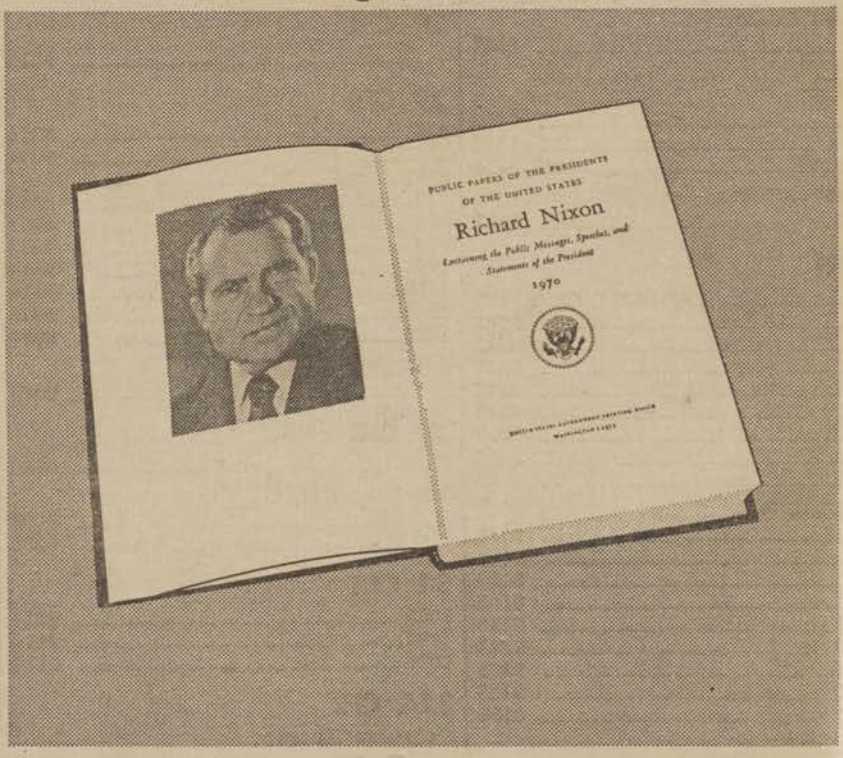

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