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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.

(Continued inside)

REMINDERS

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

Rules Going Into Effect Today

This list includes only rules that were published in the FEDERAL REGISTER after October 1, 1972.

37 FR page no. and date

JANUARY 29, 1973

FCC—Establishment of Regional Spectrum Management Center at Chicago, Ill 28419; 12–23–72

FCC—FM broadcast stations in various States 28137; 28138; 12–21–72

USDA, Commodity Exchange Authority—reports by clearing members, futures commission merchants, and traders; reporting required information by data processing media 8616; 12–28–72

USDA, Commodity Exchange Authority—reports by futures commission merchants and foreign brokers; information to be furnished regarding special account designation and identification 28616; 12–28–72

USDA, Commodity Exchange Authority—reports by traders; spreads between different types of contracts; information to be furnished 28617; 12–21–72

FDA—Methicillin, recodification of regulations 28620; 12–28–72

FDA—Sodium cloxacillin monographs; recodification of regulations 28621; 12–28–72

Coast Guard—Temporary closing of drawbridge across Humble Canal, Point Barre, La., for repairs 25167; 12–28–72

FAA—Transportation by civil aircraft of dangerous articles and magnetized materials; broadening of authority to grant deviations 25159; 11–28–72

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Contents

(*Continued on next page*)

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. In the last issue of the month the cumulative list will appear at the end of the issue.

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, 1973, and specifies how they are affected.

Presidential Documents

Title 3—The President

EXECUTIVE ORDER 11701

Employment of Veterans by Federal Agencies and Government Contractors and Subcontractors

On June 16, 1971, I issued Executive Order No. 11598 to facilitate the employment of returning veterans by requiring Federal agencies and Federal contractors and their subcontractors to list employment openings with the employment service systems. Section 503 of the Vietnam Era Veterans' Readjustment Assistance Act of 1972 (Public Law 92-540; 86 Stat. 1097) added a new section 2012 to Title 38 of the United States Code which, in effect, provides statutory authority to extend the program developed under that order with respect to Government contractors and their subcontractors.

NOW, THEREFORE, by virtue of the authority vested in me by section 301 of Title 3 of the United States Code and as President of the United States, it is hereby ordered as follows:

SECTION 1. The Secretary of Labor shall issue rules and regulations requiring each department and agency of the executive branch of the Federal Government to list suitable employment openings with the appropriate office of the State Employment Service or the United States Employment Service. This section shall not be construed as requiring the employment of individuals referred by such office or as superseding any requirements of the Civil Service Laws. Rules, regulations, and orders to implement this section shall be developed in consultation with the Civil Service Commission.

SEC. 2. The Secretary of Labor is hereby designated and empowered to exercise, without the approval, ratification, or other action of the President, the authority of the President under Section 2012 of Title 38 of the United States Code.

SEC. 3. The Secretary of Labor shall gather information on the effectiveness of the program established under this order and Section 2012 of Title 38 of the United States Code and of the extent to which the employment service system is fulfilling the employment needs of veterans. The Secretary of Labor shall, from time to time, report to the President concerning his evaluation of the effectiveness of this order along with his recommendations for further action which the Secretary believes to be appropriate.

SEC. 4. Appropriate departments and agencies shall, in consultation with the Secretary of Labor, issue such amendments or additions to

procurement rules and regulations as may be necessary to carry out the purposes of this order and Section 2012 of Title 38 of the United States Code. Except as otherwise provided by law, all executive departments and agencies are directed to cooperate with the Secretary of Labor, to furnish the Secretary of Labor with such information and assistance as he may require in the performance of his functions under this order, and to comply with rules, regulations, and orders of the Secretary.

SEC. 5. Executive Order No. 11598 of June 16, 1971, is hereby superseded.

Richard Nixon

THE WHITE HOUSE,
January 24, 1973.

[FR Doc.73-1716 Filed 1-24-73;3:06 pm]

LETTER OF JANUARY 22, 1973

[Authority to Issue Reports on Impounded Funds]

THE WHITE HOUSE,
Washington, January 22, 1973.

DEAR MR. WEINBERGER:

By virtue of the authority vested in me by section 301 of title 3 of the United States Code, I hereby designate and empower the Director of the Office of Management and Budget to exercise the authority conferred upon the President by section 203 of the Budget and Accounting Act of 1950, as added by section 402 of the Federal Impoundment and Information Act, to prepare, transmit, and publish the reports required by section 203.

This document shall be published in the FEDERAL REGISTER.

Sincerely,

Richard Nixon

Honorable Caspar W. Weinberger,
Director,
Office of Management and Budget,
Washington, D.C. 20503.

[FR Doc.73-1695 Filed 1-24-73;3:06 pm]

Rules and Regulations

Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS; EXTRAORDINARY EMERGENCY REGULATION OF INTRASTATE ACTIVITIES

PART 73—SCABIES IN CATTLE

Areas Quarantined

The purpose of this amendment is to quarantine Curry, De Baca, and Roosevelt Counties in New Mexico because of the existence of cattle scabies. The restrictions pertaining to the interstate movement of cattle from quarantined areas as contained in 9 CFR Part 73, as amended, will apply to the areas quarantined.

Therefore, pursuant to provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of March 3, 1905, as amended, and the Act of July 2, 1962 (21 U.S.C. 111–113, 115, 117, 120, 121, 123–126, 134b, 134f), Part 73, Title 9, Code of Federal Regulations, restricting the interstate movement of cattle because of scabies, is hereby amended in the following respects:

In § 73.1a, paragraph (c) relating to the State of New Mexico is revised to read:

§ 73.1a Notice of quarantine.

* * * * *

(c) Notice is hereby given that cattle in certain portions of the State of New Mexico are affected with scabies, a contagious, infectious, and communicable disease; and, therefore, the following areas in such State are hereby quarantined because of said disease:

NEW MEXICO

(1) Curry County.
(2) De Baca County.
(3) Guadalupe County.
(4) Harding County.
(5) Lincoln County.
(6) Roosevelt County.
(7) Torrance County.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111–113, 115, 117, 120, 121, 123–126, 134b, 134f; 37 FR 28464, 28477)

Effective date. The foregoing amendment shall become effective January 23, 1973.

The amendment imposes certain further restrictions necessary to prevent the interstate spread of cattle scabies and must be made effective immediately to accomplish its purpose in the public interest. It does not appear that public participation in this rule making proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable, unnecessary and contrary to the public interest, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 23d day of January 1973.

G. H. WISE,
Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc.73-1614 Filed 1-26-73;8:45 am]

Title 10—Atomic Energy

CHAPTER 1—ATOMIC ENERGY COMMISSION

PART 50—LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

Interim Policy Statement on Implementation, Federal Water Pollution Control Act Amendments of 1972

On October 18, 1972, the Federal Water Pollution Control Act Amendments of 1972, Public Law 92-500, 86 Stat. 816 (hereinafter FWPCA), became law. These amendments completely restructured the Federal Water Pollution Control Act previously in effect and also modified Federal agencies' responsibilities and authorities under the National Environmental Policy Act of 1969 (hereinafter NEPA). Section 511 of the Federal Water Pollution Control Act as restructured provides in pertinent part as follows:

SEC. 511. (a) This Act shall not be construed as (1) limiting the authority or functions of any officer or agency of the United States under any other law or regulation not inconsistent with this Act * * *

* * * * *

SEC. 511. (c)

(2) Nothing in the National Environmental Policy Act of 1969 (83 Stat. 852) shall be deemed to—

(A) Authorize any Federal agency authorized to license or permit the conduct of any activity which may result in the discharge of a pollutant into the navigable waters to review any effluent limitation or other requirement established pursuant to this Act or the adequacy of any certification under section 401 of this Act; or

(B) Authorize any such agency to impose, as a condition precedent to the issuance of any license or permit, any effluent limitation other than any such limitation established pursuant to this Act.

Set forth below is a Commission interim statement of policy concerning the effect of section 511 of the FWPCA upon the Commission's regulatory responsibility and authority under NEPA in licensing actions covered by 10 CFR Part 50, Appendix D. In developing this interim statement of policy the Commission has viewed the provisions of the FWPCA in conjunction with the mandate of NEPA, as construed in Calvert Cliffs' Coordinating Committee v. AEC, 449 F. 2d 1109 (D.C. Cir. 1971), and embodied in 10 CFR Part 50, Appendix D, i. e., that in regard to major Federal actions having a significant effect on the environment, environmental costs be evaluated and balanced along with benefits and that alternatives be considered that could affect this balancing. The Commission has paid particular attention to the interrelationship between sections 511(a)(1) and 511(c)(2) and the interim statement of policy has as its central premise that AEC's authority and responsibility under NEPA (as implemented by Appendix D to 10 CFR Part 50) remain unaffected except to the extent that there is a conflict with implementing actions taken under the FWPCA. In general, the Commission would continue to exercise its NEPA authority and responsibility in the interim period before various implementing actions are taken under the FWPCA, so that there would be no hiatus in Federal responsibility and authority respecting environmental matters embraced by both NEPA and FWPCA. In addition, the Commission has been mindful of section 101(f) of the FWPCA and has endeavored to avoid to the maximum extent possible needless duplication of regulatory effort.

In summary, the interim statement of policy provides as follows:

(1) If and to the extent that there are applicable limitations or other requirements imposed pursuant to the FWPCA, the Commission will not (with certain exceptions relating to matters of State law) impose different limitations or requirements pursuant to NEPA as a condition to any license or permit. The Commission will itself determine compliance with limitations or requirements promulgated pursuant to FWPCA where no prior compliance determination has been made under FWPCA or where a certain type of interim certification under section 401 of FWPCA has been provided.

(2) The Commission will not consider various alternatives where such action would constitute a review of similar consideration of alternatives under FWPCA and upset a limitation or requirement imposed as a result thereof or where a particular alternative has been required to be adopted pursuant to FWPCA.

(3) In considering the costs and benefits of a proposed action pursuant to NEPA, the Commission will continue to evaluate and give full consideration to environmental impact: *Provided* That, with certain exceptions relating to matters of State law, such evaluation and consideration will be conducted on the basis of discharges or other activities which are at the level of limitations or

requirements promulgated or imposed pursuant to FWPCA.

To the extent that there is a conflict between any of the provisions of the interim statement of policy and the provisions of 10 CFR Part 50, Appendix D, the provisions of the statement will govern.

Because these modifications to the Commission's regulations implementing NEPA are necessary to comply with the FWPCA, the Commission has found that good cause exists for omitting notice of proposed rule making and public procedure thereon as unnecessary and impracticable and for making the interim statement of policy effective upon publication in the FEDERAL REGISTER without the customary 30-day notice.

Accordingly, pursuant to NEPA, FWPCA, the Atomic Energy Act of 1954, as amended, and sections 552 and 553 of Title 5 of the United States Code, the following interim statement of policy is published as a document subject to codification, to be effective on January 29, 1973.

The Commission invites all interested persons who desire to submit written comments or suggestions for consideration in connection with the statement to send them to the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Staff, on or before March 15, 1973. Consideration will be given to such submissions with the view to possible further amendments. The Commission expects in any event to make conforming changes to the language in 10 CFR Part 50, Appendix D, in the near future after March 15, 1973. Copies of comments received by the Commission may be examined at the Commission's Public Document Room, 1717 H Street NW., Washington, DC.

INTERIM POLICY STATEMENT ON IMPLEMENTATION OF SECTION 511 OF THE FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS OF 1972 (FWPCA)

1. *Applicability.* This statement is effective immediately and shall apply to all licensing proceedings subject to 10 CFR Part 50, Appendix D, involving facilities or activities which may result in the discharge of a pollutant into the navigable waters, as defined in section 502(12)(A) of the FWPCA, and as to which no final Commission action had been taken prior to enactment of the FWPCA.

2. *Definition of terms.* As used in this statement:

a. Limitations or other requirements promulgated or imposed pursuant to the FWPCA means effluent limitations or other requirements promulgated or imposed pursuant to sections 208(e), 301, 302, 303(e), 304(b), 306, 307, 316, 318, 401, 402, 403, or 404 of the FWPCA. It also includes (i) Water quality standards continued in effect or promulgated pursuant to sections 303(a), 303(b), or 303(c) of the FWPCA; (ii) maximum daily loads for pollutants and maximum daily thermal loads, promulgated pursuant to section 303(d) of the FWPCA; and (iii) limitations or other requirements of State law under authority preserved by section 510 of the FWPCA, but only if and to the extent that such limitations or other requirements covered by this subpart (iii) are imposed and set forth in a certification pursuant to section 401(d) of the FWPCA or are imposed and set forth as a condition in a permit issued pursuant to section 402 of the FWPCA. It does not include (i) effluent limitations or other requirements regarding source, byproduct or special nuclear materials, which are subject to regulation by the Commission pursuant to the Atomic Energy Act of 1954, as amended, or (ii) limitations or other requirements promulgated or imposed pursuant to any other Federal law.

b. Pollutant discharge system means equipment or a mode of operation or procedure designed or intended for the control of discharge of pollutants, as that last phrase is defined in section 502(12) of the FWPCA. It does not include equipment or mode of operation or procedure designed or intended for the control of source, byproduct or special nuclear materials, which are subject to regulation by the Commission pursuant to the Atomic Energy Act of 1954, as amended.

c. Cooling water intake structure location, design, construction, and capacity means cooling water intake structure location, design, construction, and capacity within the meaning of section 316(b) of the FWPCA.

3. *Authority to impose requirements or limitations pursuant to National Environmental Policy Act of 1969 (NEPA).* If and to the extent that there are applicable limitations or other requirements promulgated or imposed pursuant to the FWPCA, different limitations or requirements will not be imposed by the Commission pursuant to NEPA as a condition to any permit or license, provided however, that limitations or other requirements of State law under authority preserved by section 510 of the FWPCA which are imposed and set forth in a certification pursuant to section 401(d) of the FWPCA or imposed and set forth as a condition in a permit issued pursuant to section 402 of the FWPCA, shall be regarded as only minimum limitations or requirements and the Commission shall retain any authority under NEPA to impose more stringent limitations or requirements.

4. *Alternatives.* a. Neither alternative cooling water intake structure location, design, construction, and capacity, nor alternative pollutant discharge systems will be considered by the Commission pursuant to NEPA (i) if a permit has been received for the facility or activity pursuant to section 402 of the FWPCA and a detailed statement with respect to issuance of that permit has been prepared pursuant to section 102(2)(C) of NEPA, or (ii) if and to the extent that conditions imposed as a part of the license or permit for the facility or activity pursuant to section 401(d) of the FWPCA require that a particular alternative be adopted, or (iii) if and to the extent that a permit or determination with a condition requiring the adoption of a particular alternative has been issued for the facility or activity pursuant to sections 208(b)(2)(C)(ii) and 303(e)(3)(B), 318, 402 or 404 of the FWPCA.

b. Alternative pollutant discharge systems will not be considered by the Commission pursuant to NEPA where effluent limitations have been imposed on the facility or activity under sections 301(c) or 302 of the FWPCA.

c. Neither alternative sites, facilities, or activities, nor alternative systems will be considered by the Commission pursuant to NEPA if and to the extent that a determination made with respect to the facility or activity under sections 208(b)(2)(C)(ii) and 303(e)(3)(B) of the FWPCA requires as a condition that a particular site, facility, or activity, or system be adopted.

d. To the maximum extent practicable any alternatives considered by the Commission pursuant to NEPA shall be considered by following procedures similar to those described in paragraph 5.

5. *Cost-benefit balances.* a. Except as provided in paragraphs b. and c., if and to the extent that there are applicable limitations or other requirements promulgated or imposed pursuant to the FWPCA, in considering the costs and benefits of a proposed action pursuant to NEPA, the Commission will determine whether the facility or activity that is the subject of the licensing action will comply with such limitations or other requirements.

(1) If it is determined that the facility or activity, or any part thereof, will not comply with such limitations or other requirements, then the facility or activity, or particular part in question, shall not be approved in the AEC license or permit.

(2) If it is determined that the facility or activity will comply with such limitations or other requirements, then the Commission will evaluate environmental impact on the basis of discharges or other activities associated with the facility or activity to be licensed which are at the level of such limitations or other requirements.

In making a determination in regard to compliance, as provided hereinabove, AEC will give due regard to the views on this matter of the Environmental Protection Agency and, where appropriate, of cognizant State and interstate agencies which exercise authority derived from the FWPCA.

b. Where limitations or other requirements of State law under authority preserved by section 510 of the FWPCA are imposed and set forth in a certification under section 401(d) of the FWPCA or are imposed and set forth as a condition in a permit issued pursuant to section 402 of the FWPCA, the Commission will, in considering costs and benefits of a proposed action pursuant to NEPA, evaluate environmental impact on the basis of discharges or other activities associated with the facility or activity which are in compliance with said limitations or other requirements. In considering the costs and benefits of a proposed action pursuant to NEPA the Commission will accord due consideration to the fact that the facility or activity, or part thereof, will meet limitations or other requirements more stringent than such limitations or other requirements of State law by evaluating and giving consideration to environmental impact of the facility or activity accordingly.

c. (1) The Commission will not determine whether applicable limitations or other requirements promulgated or imposed pursuant to the FWPCA will be complied with if and to the extent that such a determination has been made (i) under sections 208(b)(2)(C)(ii) and 303(e)(3)(B), or (ii) sections 301(c), 302, 318, 401, or 402, or (iii) section 404 of the FWPCA. In such cases, the Commission will accept the determination made under these provisions, *Provided, however,* That the Commission will determine whether applicable limitations or other requirements promulgated or imposed pursuant to the FWPCA will be complied with notwithstanding that a determination has been made under section 401 of the FWPCA where there has been provided a certification that there is not an applicable limitation under sections 301(b) and 302 of the FWPCA and there is not an applicable standard under sections 306 and 307 of the FWPCA.

6. *Effect on Appendix D.* To the extent that there is a conflict between any of the provisions of this interim statement of policy and

the provisions of 10 CFR Part 50, Appendix D, the provisions of this statement shall govern.

(Sec. 102, 83 Stat. 853; secs. 101, 401, 511, 86 Stat. 817, 877, 893; sec. 161, 68 Stat. 948, as amended; 42 U.S.C. 2013, 2201)

Dated at Germantown, Md., this 12th day of January 1973.

For the Atomic Energy Commission.

PAUL C. BENDER,
Secretary of the Commission.

[FR Doc.73-1635 Filed 1-26-73;8:45 am]

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 D—Food Additives Permitted in Food for Human Consumption

O,O-DIMETHYL 2,2,2-TRICHLORO-1-HYDROXYETHYL PHOSPHONATE

A petition (FAP 2H5012) was filed by Chemagro Corp., Post Office Box 4913, Kansas City, MO 64120, in accordance with provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348), proposing establishment of a food additive tolerance (21 CFR Part 121) for residues of the insecticide *O,O*-dimethyl 2,2,2-trichloro-1-hydroxyethyl phosphonate in dried citrus pulp at 25 parts per million resulting from application of the insecticide to growing citrus fruit.

Subsequently, the petitioner amended the petition by reducing the requested tolerance to 2.5 parts per million. (For a related document, see this issue of the FEDERAL REGISTER, page 2688).

When present in processed food or feed, the subject insecticide is a food additive, as defined by the Federal Food, Drug, and Cosmetic Act (sec. 201(s), 72 Stat. 1784; 21 U.S.C. 321(s)). Pesticide tolerances for the insecticide have been previously established.

The Reorganization Plan No. 3 of 1970, published in the FEDERAL REGISTER of October 6, 1970 (35 FR 15623), transferred (effective December 2, 1970) to the Administrator of the Environmental Protection Agency the functions vested in the Secretary of Health, Education, and Welfare for establishing tolerances for pesticide chemicals under sections 406, 408, and 409 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346, 346a, and 348).

Having evaluated the data in the petition and other relevant material, it is concluded that the tolerance should be established.

Therefore, pursuant to provisions of the Act (sec. 409(c)(1), (4), 72 Stat. 1786; 21 U.S.C. 348(c)(1), (4)), the authority transferred to the Administrator of the Environmental Protection Agency (35 FR 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs (36 FR 9038), Part 121 is amended by adding the following new section to Subpart D:

§ 121.1247 *O,O* - Dimethyl 2,2,2 - trichloro-1-hydroxyethyl phosphonate.

A tolerance of 2.5 parts per million is established for residues of the insecticide *O,O*-dimethyl 2,2,2-trichloro-1-hydroxyethyl phosphonate in dried citrus pulp when present therein as a result of application of the insecticide to growing citrus fruit.

Any person who will be adversely affected by the foregoing order may at any time on or before February 28, 1973, file with the Hearing Clerk, Environmental Protection Agency, Room 3902A, 4th and M Streets SW., Waterside Mall, Washington, D.C. 20460, 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.

Effective date. This order shall become effective on January 29, 1973.

(Sec. 409(c)(1), (4), 72 Stat. 1786; 21 U.S.C. 348(c)(1), (4))

Dated: January 22, 1973.

HENRY J. KORP,
Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.73-1622 Filed 1-26-73;8:45 am]

Title 29—Labor

CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

PART 1977—DISCRIMINATION AGAINST EMPLOYEES EXERCISING RIGHTS UNDER THE WILLIAMS-STEIGER OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

Pursuant to section 8(g)(2) of the Williams-Steiger Occupational Safety and Health Act of 1970 (29 U.S.C. 657(g)(2)) and Secretary of Labor's Order No. 12-71 (36 FR 8754), Title 29 of the Code of Federal Regulations is hereby amended by adding thereto a new part, designated Part 1977. The new Part 1977 contains a statement of policy, interpretations, and procedures concerning the Department of Labor's application of section 11(c) of the Act. Section 11(c) provides in effect that no person shall discharge or discriminate in any manner against any employee because the employee has: (1) Filed a complaint under or related to the Act; (2) instituted or caused to be instituted any proceeding under the Act or related to the Act, or (3) has testified or is about to testify in any proceeding under the Act or related to the Act, or (4) exercised on his own behalf or others any right afforded by the Act.

The new Part 1977 reads as follows:

GENERAL

AUTHORITY: Sec. 8(g)(2), Public Law 91-596, 84 Stat. 1600 (29 U.S.C. 657). Interpret or apply sec. 11(c), Public Law 91-596, 84 Stat. 1603 (29 U.S.C. 660).

GENERAL

§ 1977.1 Introductory statement.

(a) The Occupational Safety and Health Act of 1970 (29 U.S.C. 651, et seq.), hereinafter referred to as the Act, is a Federal statute of general application designed to regulate employment conditions relating to occupational safety and health and to achieve safer and healthier workplaces throughout the Nation. By terms of the Act, every person engaged in a business affecting commerce who has employees is required to furnish each of his employees employment and a place of employment free from recognized hazards that are causing or likely to cause death or serious physical harm, and, further, to comply with occupational safety and health standards promulgated under the Act. See Part 1975 of this chapter concerning coverage of the Act.

(b) The Act provides, among other things, for the adoption of occupational safety and health standards, research and development activities, inspections and investigations of workplaces, and recordkeeping requirements. Enforcement procedures initiated by the Department of Labor, review proceedings before an independent quasi-judicial agency (the Occupational Safety and Health Review Commission), and express judicial review are provided by the Act.

In addition, States which desire to assume responsibility for development and enforcement of standards which are at least as effective as the Federal standards published in this chapter may submit plans for such development and enforcement of the Secretary of Labor.

(c) Employees and representatives of employees are afforded a wide range of substantive and procedural rights under the Act. Moreover, effective implementation of the Act and achievement of its goals depend in large part upon the active but orderly participation of employees, individually and through their representatives, at every level of safety and health activity.

(d) This part deals essentially with the rights of employees afforded under section 11(c) of the Act. Section 11(c) of the Act prohibits reprisals, in any form, against employees who exercise rights under the Act.

§ 1977.2 Purpose of this part.

The purpose of this part is to make available in one place interpretations of the various provisions of section 11(c) of the Act which will guide the Secretary of Labor in the performance of his duties thereunder unless and until otherwise directed by authoritative decisions of the courts, or concluding, upon reexamination of an interpretation, that it is incorrect.

§ 1977.3 General requirements of section 11(c) of the Act.

Section 11(c) provides in general that no person shall discharge or in any manner discriminate against any employee because the employee has: (a) Filed any complaint under or related to the Act; (b) Instituted or caused to be instituted any proceeding under or related to the Act; (c) Testified or is about to testify in any proceeding under the Act or related to the Act; or (d) Exercised on his own behalf or on behalf of others any right afforded by the Act. Any employee who believes that he has been discriminated against in violation of section 11(c) of the Act may, within 30 days after such violation occurs, lodge a complaint with the Secretary of Labor alleging such violation. The Secretary shall then cause appropriate investigation to be made. If, as a result of such investigation, the Secretary determines that the provisions of section 11(c) have been violated civil action may be instituted in any appropriate United States district court, to restrain violations of section 11(c)(1) and to obtain other appropriate relief, including rehiring or reinstatement of the employee to his former position with back pay. Section 11(c) further provides for notification of complainants by the Secretary of determinations made pursuant to their complaints.

§ 1977.4 Persons prohibited from discriminating.

Section 11(c) specifically states that "no person shall discharge or in any manner discriminate against any employee" because the employee has exercised rights under the Act. Section 3(4) of the Act defines "person" as "one or more individuals, partnerships, associations, corporations, business trusts, legal representatives, or any group of persons." Consequently, the prohibitions of section 11(c) are not limited to actions taken by employers against their own employees. A person may be chargeable with discriminatory action against an employee of another person. Section 11(c) would extend to such entities as organizations representing employees for collective bargaining purposes, employment agencies, or any other person in a position to discriminate against an employee. See, Meek v. United States, 136 F. 2d 679 (6th Cir., 1943); Bowe v. Judson C. Burns, 137 F. 2d 37 (3rd Cir., 1943).

§ 1977.5 Persons protected by section 11(c).

(a) All employees are afforded the full protection of section 11(c). For purposes of the Act, an employee is defined as "an employee of an employer who is employed in a business of his employer which affects commerce." The Act does not define the term "employ." However, the broad remedial nature of this legislation demonstrates a clear congressional intent that the existence of an employment relationship, for purposes of section 11(c), is to be based upon economic realities rather than upon common law doctrines and concepts. See, U.S. v. Silk, 331 U.S. 704 (1947); Rutherford Food Corporation v. McComb, 331 U.S. 722 (1947).

(b) For purposes of section 11(c), even an applicant for employment could be considered an employee. See, NLRB v. Lamar Creamery, 246 F. 2d 8 (5th Cir., 1957). Further, because section 11(c) speaks in terms of any employee, it is also clear that the employee need not be an employee of the discriminator. The principal consideration would be whether the person alleging discrimination was an "employee" at the time of engaging in protected activity.

(c) In view of the definitions of "employer" and "employee" contained in the Act, employees of a State or political subdivision thereof would not ordinarily be within the contemplated coverage of section 11(c).

§ 1977.6 Unprotected activities distinguished.

(a) Actions taken by an employer, or others, which adversely affect an employee may be predicated upon nondiscriminatory grounds. The proscriptions of section 11(c) apply when the adverse action occurs because the employee has engaged in protected activities. An employee's engagement in activities protected by the Act does not automatically render him immune from discharge or discipline for legitimate reasons, or from adverse action dictated by non-prohibited considerations. See, NLRB v. Dixie Motor Coach Corp., 128 F. 2d 201 (5th Cir., 1942).

(b) At the same time, to establish a violation of section 11(c), the employee's engagement in protected activity need not be the sole consideration behind discharge or other adverse action. If protected activity was a substantial reason for the action, or if the discharge or other adverse action would not have taken place "but for" engagement in protected activity, section 11(c) has been violated. See, Mitchell v. Goodyear Tire & Rubber Co., 278 F. 2d 562 (8th Cir., 1960); Goldberg v. Bama Manufacturing, 302 F. 2d 152 (5th Cir., 1962). Ultimately, the issue as to whether a discharge was because of protected activity will have to be determined on the basis of the facts in the particular case.

Specific Protections

§ 1977.9 Complaints under or related to the Act.

(a) Discharge of, or discrimination against, an employee because the employee has filed "any complaint * * * under or related to this Act * * *" is prohibited by section 11(c). An example of a complaint made "under" the Act would be an employee request for inspection pursuant to section 8(f). However, this would not be the only type of complaint protected by section 11(c). The range of complaints "related to" the Act is commensurate with the broad remedial purposes of this legislation and the sweeping scope of its application, which entails the full extent of the commerce power. (See Cong. Rec., vol. 116 p. P. 42206 Dec. 17, 1970).

(b) Complaints registered with other Federal agencies which have the authority to regulate or investigate occupational safety and health conditions are complaints "related to" this Act. Likewise, complaints made to State or local agencies regarding occupational safety and health conditions would be "related to" the Act. Such complaints, however, must relate to conditions at the workplace, as distinguished from complaints touching only upon general public safety and health.

(c) Further, the salutary principles of the Act would be seriously undermined if employees were discouraged from lodging complaints about occupational safety and health matters with their employers. (Section 2(1), (2), and (3)). Such complaints to employers, if made in good faith, therefore would be related to the Act, and an employee would be protected against discharge or discrimination caused by a complaint to the employer.

§ 1977.10 Proceedings under or related to the Act.

(a) Discharge of, or discrimination against, any employee because the employee has "instituted or caused to be instituted any proceeding under or related to this Act" is also prohibited by section 11(c). Examples of proceedings which could arise specifically under the Act would be inspections of worksites under section 8 of the Act, employee contest of abatement date under section 10(c) of the Act, employee initiation of proceedings for promulgation of an occupational safety and health standard under section 6(b) of the Act and part

1911 of this chapter, employee application for modification of revocation of a variance under section 6(d) of the Act and part 1905 of this chapter, employee judicial challenge to a standard under section 6(f) of the Act and employee appeal of an Occupational Safety and Health Review Commission order under section 11(a) of the Act. In determining whether a "proceeding" is "related to" the Act, the considerations discussed in § 1977.9 would also be applicable.

(b) An employee need not himself directly institute the proceedings. It is sufficient if he sets into motion activities of others which result in proceedings under or related to the Act.

§ 1977.11 Testimony.

Discharge of, or discrimination against, any employee because the employee "has testified or is about to testify" in proceedings under or related to the Act is also prohibited by section 11(c). This protection would of course not be limited to testimony in proceedings instituted or caused to be instituted by the employee, but would extend to any statements given in the course of judicial, quasi-judicial, and administrative proceedings, including inspections, investigations, and administrative rule making or adjudicative functions. If the employee is giving or is about to give testimony in any proceeding under or related to the Act, he would be protected against discrimination resulting from such testimony.

§ 1977.12 Exercise of any right afforded by the Act.

(a) In addition to protecting employees who file complaints, institute proceedings, or testify in proceedings under or related to the Act, section 11(c) also protects employees from discrimination occurring because of the exercise "of any right afforded by this Act." Certain rights are explicitly provided in the Act; for example, there is a right to participate as a party in enforcement proceedings (sec. 10). Certain other rights exist by necessary implication. For example, employees may request information from the Occupational Safety and Health Administration; such requests would constitute the exercise of a right afforded by the Act. Likewise, employees interviewed by agents of the Secretary in the course of inspections or investigations could not subsequently be discriminated against because of their cooperation.

(b) (1) On the other hand, review of the Act and examination of the legislative history discloses that, as a general matter, there is no right afforded by the Act which would entitle employees to walk off the job because of potential unsafe conditions at the workplace. Hazardous conditions which may be violative of the Act will ordinarily be corrected by the employer, once brought to his attention. If corrections are not accomplished, or if there is dispute about the existence of a hazard, the employee will normally have opportunity to request inspection of the workplace pursuant to section 8(f) of the Act, or to seek the assistance of other public agencies which have responsibility in the field of safety and health. Under such circumstances, therefore, an employer would not ordinarily be in violation of section 11(c) by taking action to discipline an employee for refusing to perform normal job activities because of alleged safety or health hazards.

(2) However, occasions might arise when an employee is confronted with a choice between performing assigned tasks or subjecting himself to serious injury or death arising from a hazardous condition at the workplace. If the employee, with no reasonable alternative, refuses in good faith to expose himself to the dangerous condition, he would be protected against subsequent discrimination. The condition causing the employee's apprehension of death or injury must be of such a nature that a reasonable person, under the circumstances then confronting the employee, would conclude that there is a real danger of death or serious injury and that there is insufficient time, due to the urgency of the situation, to eliminate the danger through resort to regular statutory enforcement channels. In addition, in such circumstances, the employee, where possible, must also have sought from his employer, and been unable to obtain, a correction of the dangerous condition.

Procedures

§ 1977.15 Filing of complaint for discrimination.

(a) *Who may file.* A complaint of section 11(c) discrimination may be filed by the employee himself, or by a representative authorized to do so on his behalf.

(b) *Nature of filing.* No particular form of complaint is required.

(c) *Place of filing.* Complaint should be filed with the Area Director (Occupational Safety and Health Administration) responsible for enforcement activities in the geographical area where the employee resides or was employed.

(d) *Time for filing.* (1) Section 11(c)(2) provides that an employee who believes that he has been discriminated against in violation of section 11(c)(1) "may, within 30 days after such violation occurs," file a complaint with the Secretary of Labor.

(2) A major purpose of the 30-day period in this provision is to allow the Secretary to decline to entertain complaints which have become stale. Accordingly, complaints not filed within 30 days of an alleged violation will ordinarily be presumed to be untimely.

(3) However, there may be circumstances which would justify tolling of the 30-day period on recognized equitable principles or because of strongly extenuating circumstances, e.g., where the employer has concealed, or misled the employee regarding the grounds for discharge or other adverse action; where the employee has, within the 30-day period, resorted in good faith to grievance-arbitration proceedings under a collective bargaining agreement or filed a complaint regarding the same general subject with another agency; where the discrimination is in the nature of a continuing violation. In the absence of circumstances justifying a tolling of the 30-day period, untimely complaints will not be processed.

§ 1977.16 Notification of Secretary of Labor's determination.

Section 11(c)(3) provides that the Secretary is to notify a complainant within 90 days of the complaint of his determination whether prohibited discrimination has occurred. This 90-day provision is considered directory in nature. While every effort will be made to notify complainants of the Secretary's determination within 90 days, there may be instances when it is not possible to meet the directory period set forth in section 11(c)(3).

§ 1977.17 Withdrawal of complaint.

Enforcement of the provisions of section 11(c) is not only a matter of protecting rights of individual employees, but also of public interest. Attempts by an employee to withdraw a previously filed complaint will not necessarily result in termination of the Secretary's investigation. The Secretary's jurisdiction cannot be foreclosed as a matter of law by unilateral action of the employee. However, a voluntary and uncoerced request from a complainant to withdraw his complaint will be given careful consideration and substantial weight as a matter of policy and sound enforcement procedure.

§ 1977.18 Arbitration or other agency proceedings.

(a) *General.* (1) An employee who files a complaint under section 11(c) of the Act may also pursue remedies under grievance arbitration proceedings in collective bargaining agreements. In addition, the complainant may concurrently resort to other agencies for relief, such as the National Labor Relations Board. The Secretary's jurisdiction to entertain section 11(c) complaints, to investigate, and to determine whether discrimination has occurred, is independent of the jurisdiction of other agencies or bodies. The Secretary may file action in U.S. district court regardless of the pendency of other proceedings.

(2) However, the Secretary also recognizes the national policy favoring voluntary resolution of disputes under procedures in collective bargaining agreements. See, e.g., Boy's Markets, Inc. v. Retail Clerks, 398 U.S. 235 (1970); Republic Steel Corp. v. Maddox, 379 U.S. 650 (1965); Carey v. Westinghouse Electric Co., 375 U.S. 261 (1964); Collier Insulated Wire, 192 NLRB No. 150 (1971). By the same token, due deference should be paid to the jurisdiction of other forums established to resolve disputes which may also be related to section 11(c) complaints.

(3) Where a complainant is in fact pursuing remedies other than those provided by section 11(c), postponement of the Secretary's determination and de-

ferral to the results of such proceedings may be in order. See, Burlington Truck Lines, Inc., v. U.S., 371 U.S. 156 (1962).

(b) *Postponement of determination.* Postponement of determination would be justified where the rights asserted in other proceedings are substantially the same as rights under section 11(c) and those proceedings are not likely to violate the rights guaranteed by section 11(c). The factual issues in such proceedings must be substantially the same as those raised by section 11(c) complaint, and the forum hearing the matter must have the power to determine the ultimate issue of discrimination. See Rios v. Reynolds Metals Co., F.2d (5th Cir., 1972), 41 U.S.L.W. 1049 (Oct. 10, 1972); Newman v. Avco Corp., 451 F.2d 743 (6th Cir., 1971).

(c) *Deferral to outcome of other proceedings.* A determination to defer to the outcome of other proceedings initiated by a complainant must necessarily be made on a case-to-case basis, after careful scrutiny of all available information. Before deferring to the results of other proceedings, it must be clear that those proceedings dealt adequately with all factual issues, that the proceedings were fair, regular, and free of procedural infirmities, and that the outcome of the proceedings was not repugnant to the purpose and policy of the Act. In this regard, if such other actions initiated by a complainant are dismissed without adjudicatory hearing thereof, such dismissal will not ordinarily be regarded as determinative of the section 11(c) complaint.

SOME SPECIFIC SUBJECTS

§ 1977.21 Walkaround pay disputes.

(a) Complaints involving claims of discrimination based upon employer failure to pay employees who participate in section 8(e) Federal walkaround inspections of a workplace will require close scrutiny of the facts in each instance. However, as a general rule, such refusal to compensate for time so spent is not per se discriminatory. On the other hand, there may be situations in which a finding of discrimination would be warranted on the basis of specific facts in the proceeding. For example, an employer's past practice respecting payment for certain other safety and health activities on regular working time may result in a determination that the failure to compensate for walkaround is discriminatory. Such past practice must entail, however, activities which are closely analogous to walkaround inspection activities. The practice of compensating attendees at safety committee or other safety meetings is not generally to be regarded as evidence of closely analogous practices where such committees and meetings are purely educational and advisory in nature.

(b) It should be emphasized that an employer is in no way precluded by the Act from making voluntary agreements to pay employees for time spent by them while participating in walkaround inspections.

§ 1977.22 Employee refusal to comply with safety rules.

Employees who refuse to comply with occupational safety and health standards or valid safety rules implemented by the employer in furtherance of the Act are not exercising any rights afforded by the Act. Disciplinary measures taken by employers solely in response to employee refusal to comply with appropriate safety rules and regulations, will not ordinarily be regarded as discriminatory action prohibited by section 11(c). This situation should be distinguished from refusals to work, as discussed in § 1977.12.

§ 1977.23 State plans.

A State which is implementing its own occupational safety and health enforcement program pursuant to section 18 of the Act and Parts 1902 and 1952 of this chapter must have provisions as effective as those of section 11(c) to protect employees from discharge or discrimination. Such provisions do not divest either the Secretary of Labor or Federal district courts of jurisdiction over employee complaints of discrimination. However, the Secretary of Labor may refer complaints of employees adequately protected by State Plans' provisions to the appropriate state agency. The basic principles outlined in § 1977.18, supra will be observed as to deferrals to findings of state agencies.

Signed at Washington, D.C., this 19th day of January 1973.

RICHARD F. SCHUBERT,
Solicitor of Labor.

[FR Doc.73-1653 Filed 1-26-73;8:45 am]

Title 32A—National Defense, Appendix

CHAPTER XI—OIL IMPORT APPEALS BOARD

OIAB—RULES AND PROCEDURES

On May 9, 1972, there was published in the FEDERAL REGISTER (37 FR 9347-9349) a notice and text of proposed rule making by the Oil Import Appeals Board, acting through the Office of Hearings and Appeals, Department of the Interior, proposing a revision of its rules and procedures found at Chapter XI of Title 32A, Code of Federal Regulations. On May 20, 1972, there was published in the FEDERAL REGISTER (37 FR 10405) a notice of editorial correction to the proposed revision.

Interested persons were invited to submit written comments, suggestions, or objections regarding the proposed revision within 30 days from the date of publication of the original notice of proposed rule making in the FEDERAL REGISTER. All comments received have been carefully considered by the Oil Import Appeals Board in adopting the revision to Chapter XI of Title 32A, Code of Federal Regulations, as set forth below.

Changes made in the final revision, other than minor editorial changes, follow:

Section 7 now provides that upon request and for good cause shown, the Oil Import Appeals Board may postpone as well as advance the date of a hearing on a petition.

Section 13 has been revised to clarify the time periods during which interested persons may file statements in support of or in opposition to a petition before and after a hearing on the petition. Also, section 13 now extends to comments submitted by the Director, Office of Oil and Gas, Department of the Interior, the prohibition that the Oil Import Appeals Board may not consider statements of interested persons on a petition unless copies have been furnished to the petitioner or his representative.

Section 15 is revised to require the Director, Office of Oil and Gas, Department of the Interior, to send to the petitioner, or his representative, a copy of any comments that he may submit to the Oil Import Appeals Board on a petition.

Effective date. This revision of the rules and procedures of the Oil Import Appeals Board shall be effective on January 29, 1973.

The revised text of chapter XI reads as follows:

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 to the public.

AUTHORITY: Proclamation No. 3279 of March 10, 1959, as amended, 24 FR 1781, 10133, 28 FR 4077, 35 FR 4321; sec. 232 of The Trade Expansion Act of 1962, 76 Stat. 877; and Oil Import Regulation 1, as revised, 28 FR 14318, and amended (Amendment 19, 35 FR 163, Amendment 23, 35 FR 12759, and Amendment 24, 35 FR 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 FR 1781), as amended, hereinafter referred to as the "Proclamation," the Board was established by section 21 of Oil Import Regulation 1 (24 FR 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 Depart-

ments 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 modification, or a 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 or postpone 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 admissable 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 those transcripts 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 7 calendar days before the scheduled date of the hearing on the petition. At the same time such statement is filed with the Board, a copy 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. At the same time such a statement is filed with the Board, a copy 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 or section 15, unless copies have been furnished to petitioners or their representatives in a timely fashion 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 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 deems appropriate and wish to submit to the Board. Any comment submitted to the Board by the Director must be filed with the Board and sent to the petitioner or his representative. 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.

Dated: January 17, 1973.

STANLEY NEHMER,
Member.
GEORGE H. SCHUELLER,
Member.
LEWIS S. FLAGG, III,
Chairman.

[FR Doc.73-1630 Filed 1-26-73;8:45 am]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 72-96RC]

PART 92—ANCHORAGE AND NAVIGATION REGULATIONS

St. Marys River, Mich.

This amendment more accurately defines three reference points of land (mentioned in 33 CFR 92.49, appearing on p. 23540 of the FEDERAL REGISTER of Nov. 4, 1972) along the St. Marys River that serve as bounds within which various vessel speed limits are enforced. The

three reference points are Sweets Point, Point Aux Frenes, and Point Louise. This amendment designates a specific aid to navigation at each of these areas as the exact reference point to be used in determining where a speed limit commences or terminates.

The purpose of the amendment is to redefine the three reference points with sufficient precision to remove any uncertainties in the description of the actual locations.

Because this amendment is required to insure immediate, fair, and effective law enforcement action under 33 U.S.C. 474 for violations of 33 CFR 92.49, and because the amendment is minor in nature, notice and public procedure thereon have been determined to be both impracticable and unnecessary.

Accordingly, Part 92 of Title 33 of the Code of Federal Regulations is amended by revising § 92.49 (b) and (e) (3) to read as follows:

§ 92.49 Speed limits for vessels of 50 gross tons or over.

* * * * *

(b) Detour Reef Light to Point Aux Frenes Passing Range South Front Light: The speed limit between—

(1) Detour Reef Light and Sweets Point Light is 17 miles per hour; and

(2) Round Island Light and Point Aux Frenes Passing Range South Front Light is 14 miles per hour.

* * * * *

(e) Lake Nicolet Light 80 to Pointe Aux Pins Main Light: The speed limit between—

* * * * *

(3) The upper limit of the St. Marys Falls Canal and Pointe Aux Pins Main Light is 12 miles per hour.

* * * * *

(Secs. 1-3, 29 Stat. 54, as amended, sec. 6(b), 80 Stat. 937; 33 U.S.C. 474, 49 U.S.C. 1655(b); 49 CFR 1.46(b))

Effective date. This amendment becomes effective on January 26, 1973.

Dated: January 19, 1973.

T. R. SARGENT,
Vice Admiral, U.S. Coast Guard,
Vice Commandant.

[FR Doc.73-1652 Filed 1-26-73;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER E—PESTICIDES PROGRAMS

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Captan

In response to a petition (PP 2E1215) submitted by Dr. C. C. Compton, Coordinator, Interregional Research Project No. 4, State Agricultural Experiment Station, Rutgers University, New Brunswick, N.J. 08903, a notice was published by the Environmental Protection Agency in the FEDERAL REGISTER of November 23, 1972 (37 FR 24908), proposing establishment of a tolerance for residues of the fungicide captan (N-trichloromethylthio - 4-cyclohexene-1,2-dicarboximide) in or on the raw agricultural commodity taro at 0.25 part per million. No comments or requests for referral to an advisory committee were received.

It is concluded that the proposal should be adopted.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(e), 68 Stat. 514; 21 U.S.C. 346a(e)), the authority transferred to the Administrator of the Environmental Protection Agency (35 FR 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs (36 FR 9038), § 180.103 is amended by revising the introductory paragraph and by inserting a new paragraph after the paragraph "2 parts per million in or on beets * * *", as follows:

§ 180.103 Captan; tolerances for residues.

Tolerances for residues of the fungicide captan (N-trichloromethylthio-4-cyclohexene-1,2-dicarboximide) in or on the raw agricultural commodities from preharvest and postharvest uses or combinations of such uses are established as follows:

* * * * *

0.25 part per million in or on taro (corm).

* * * * *

Any person who will be adversely affected by the foregoing order may at any time on or before February 28, 1973, file with the Hearing Clerk, Environmental Protection Agency, Room 3902A, 4th & M Streets SW., Waterside Mall, Washington, DC 20460, 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.

Effective date. This order shall become effective on January 29, 1973.

(Sec. 408(e), 68 Stat. 514; 21 U.S.C. 346a(e))

Dated: January 22, 1973.

HENRY J. KORP,
Deputy Assistant Administrator
for Pesticides Programs.

[FR Doc.73-1623 Filed 1-26-73;8:45 am]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Diuron

A notice in response to a petition (PP 2E1263) submitted by Dr. C. C. Compton, Coordinator, Interregional Research Project No. 4, State Agricultural Experiment Station, Rutgers University, New Brunswick, N.J. 08903, was published by the Environmental Protection Agency in the FEDERAL REGISTER of November 29, 1972 (37 FR 25344), proposing establishment of a tolerance for residues of the herbicide diuron (3-(3,4-dichlorophenyl)-1,1-dimethylurea) in or on the raw agricultural commodity peaches at 0.1 part per million. No comments or requests for referral to an advisory committee were received.

It is concluded that the proposal should be adopted.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(e), 68 Stat. 514; 21 U.S.C. 346a(e)), the authority transferred to the Administrator of the Environmental Protection Agency (35 FR 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs (36 FR 9038), § 180.106 is amended by revising the paragraph "0.1 part per million * * *" as follows:

§ 180.106 Diuron; tolerances for residues.

* * * * *

0.1 part per million (negligible residue) in or on bananas, nuts, and peaches.

Any person who will be adversely affected by the foregoing order may at any time on or before February 28, 1973, file with the Hearing Clerk, Environmental Protection Agency, Room 3902A, 4th and M Streets SW., Waterside Mall, Washington, DC 20460, 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 hearings. 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.

Effective date. This order shall become effective on January 29, 1973.

(Sec. 408(e), 68 Stat. 514; 21 U.S.C. 346a(e))

Dated: January 22, 1973.

HENRY J. KORP,
Deputy Assistant Administrator
for Pesticides Programs.

[FR Doc.73-1624 Filed 1-26-73;8:45 am]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

O,O-Dimethyl 2,2,2-Trichloro-1-Hydroxyethyl Phosphonate

A petition (PP 2F1242) was filed by Chemagro Corp., Post Office Box 4913, Kansas City, MO 64120, in accordance with provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a), proposing establishment of tolerances for

residues of the insecticide *O,O*-dimethyl 2,2,2-trichloro-1-hydroxyethyl phosphonate in or on the raw agricultural commodities lima beans and vines at 12 parts per million and citrus fruit at 0.1 part per million. (For a related document, see this issue of the FEDERAL REGISTER, page 2681).

Based on consideration given data submitted in the petition and other relevant material, it is concluded that:

1. The pesticide is useful for the purpose for which the tolerances are being established.

2. There is no reasonable expectation of residues in eggs, meat, milk, or poultry, and § 180.6(a)(3) applies.

3. The tolerances established by this order will protect the public health.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)), the authority transferred to the Administrator of the Environmental Protection Agency (35 FR 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs (36 FR 9038), § 180.198 is amended by revising the paragraphs "12 parts per million * * *" and "0.1 part per million * * *", as follows:

§ 180.198 *O,O*-Dimethyl 2,2,2-trichloro-1-hydroxyethyl phosphonate; tolerances for residues.

* * * * *

12 parts per million in or on alfalfa (fresh), barley (green fodder and straw), clover (fresh), flax straw, lima beans, lima bean vines, lima bean vine hay, oats (green fodder and straw), sugar beet tops, and wheat (green fodder and straw).

* * * * *

0.1 part per million (negligible residues) in or on artichokes, barley (grain), beans (dried), beets (garden), brussels sprouts, cabbage, carrots, cauliflower, citrus fruit, collards, corn fodder and forage, corn (kernels plus cob with husk removed), cottonseed, cowpeas, flaxseed, lettuce, meat, fat, and meat byproducts of cattle, oats (grain), peppers, pumpkins, safflower seed, snap beans, sugar beets, tomatoes, and wheat (grain).

* * * * *

Any person who will be adversely affected by the foregoing order may at any time on or before February 28, 1973, file with the Hearing Clerk, Environmental Protection Agency, Room 3902A, 4th & M Streets SW., Waterside Mall, Washington, DC 20460, 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.

Effective date. This order shall become effective on January 29, 1973.

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: January 22, 1973.

HENRY J. KORP,
Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.73-1625 Filed 1-26-73;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 5A—FEDERAL SUPPLY SERVICE, GENERAL SERVICES ADMINISTRATION

PROCUREMENT ASSIGNMENTS

The following amendment to the GSA/Federal Supply Service Procurement Regulations is to provide instructions to FSS personnel on the criteria for making procurement assignments and on the procurement responsibilities of the National Buying Center and FSS regional buying activities.

PART 5A-5—SPECIAL AND DIRECTED SOURCES OF SUPPLY

Part 5A-5 is amended by the addition of new Subpart 5A-5.70, as follows:

Subpart 5A-5.70—Procurement Assignments

AUTHORITY: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); 41 C.F.R. 5-1.101(c).

Subpart 5A-5.70—Procurement Assignments

§ 5A-5.7001 Scope.

This subpart sets forth the procurement assignments and related procurement responsibilities of the National Buying Center (NBC) and regional procuring activities.

§ 5A-5.7002 General.

Procurement Planning and Assignments Division is responsible for assignments of procurement responsibility to the National Buying Center and the regional offices. Future procurement assignments will be published in Subpart 5A-76.4 or on interim bases in numbered FSS Procurement Letters.

§ 5A-5.7003 Criteria for making procurement assignments.

Procurement assignments are made based on the following criteria:

(a) Experience in contracting for the commodity or service;

(b) Resource capability to absorb additional workload;

(c) Geographical location of sources of supply;

(d) Administrative costs of contracting; and

(e) Other factors relevant to specific commodities or services.

§ 5A-5.7004 Changes in procurement assignments.

To ensure an orderly transfer of functions when a commodity or service is assigned from one procuring activity to another, the office which is relieved of such procurement responsibility shall transmit the following information to the procuring activity to which the assignment is transferred:

(a) Any listing of prospective bidders not yet included in the current national bidders mailing lists;

(b) All solicitations and amendments thereto that cover the present contract period;

(c) GSA Form 419, Stock Item Purchase Description, where applicable;

(d) GSA Form 1584, Contract Summary, or Federal Supply Schedule covering the present contract period; and

(e) Any other available procurement information, such as related historic files and vendors' performance records.

§ 5A-5.7005 Central records for stock item assignments.

(a) *GSA Form 419, Stock Item Purchase Description.* FPN shall record assignments on GSA Form 419, Stock Item Purchase Description.

(b) *Master Data File (MDF).* Procurement assignments for stock items are also recorded on the MDF which is maintained at central office by FXC. This information appears as a two-digit code under the Method of Purchase (MOP) column.

§ 5A-5.7006 Current procurement assignments.

Procurement assignments for national or zonal purchases are listed in Subpart 5A-76.4. This listing includes assignments for stock items, Federal Supply Schedules, and other term contracts which are available for use beyond the boundaries of a particular CSA region.

PART 5A-76—EXHIBITS

The table of contents for Part 5A-76 is amended to add the following new Subpart 5A-76.4.

Subpart 5A-76.4—Procurement Assignments

NOTE: The exhibits identified in this Subpart 5A-76.4 are filed with the original document.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); 41 CFR 5-1.101(c))

Effective date. These regulations are effective on January 15, 1973.

Dated: January 15, 1973.

M. S. MEEKER,
Commissioner,
Federal Supply Service.

[FR Doc.73-1632 Filed 1-26-73;8:45 am]

Title 47—TELECOMMUNICATION

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 19281; FCC 73-83]

PART 1—PRACTICE AND PROCEDURE

PART 15—RADIO FREQUENCY DEVICES

Class I TV Device Operations; Extension of Effective Date

In the matter of amendment of Part 15 of the Commission's rules to regulate the operation of a Class I TV device—a new restricted radiation device which produces an RF carrier modulated by a TV signal, Docket No. 19281; and amendment of Part 1 to provide a fee schedule for type approval of such devices.

1. Prior to adopting the Report and Order[1] in the subject docket, the Commission waived §§ 2.805 and 15.7 of our rules to permit several companies to legally market Class I TV devices. These devices were first tested at our laboratory and found to comply with the technical standards proposed[2] for such equipment.

2. The waivers granted to these manufacturers, to permit the sale and shipment of these devices, were to originally terminate on the effective date of the rules adopted in this proceeding. The rules adopted specify type approval (equipment to be submitted to the Commission for testing) as a prerequisite for marketing Class I TV devices. Therefore, the waivers were extended to March 1, 1973, in the Report and Order to provide the necessary time for the manufacturer to procure type approval for devices currently being marketed under waivers granted.

3. The Commission has received a Petition for Reconsideration from the Matsushita Electric Corporation of America, 200 Park Avenue, New York, N.Y. 10017, requesting a further extension of the termination date of the waiver of §§ 2.805 and 15.7, which permitted marketing of Class I TV devices and simultaneously requesting an extension of the effective date of § 15.407 of our rules. Section 15.407 requires a Class I TV device to be equipped with a receiver transfer switch having 60 dB isolation; this switch requirement was not included in the proposed rules for Class I TV devices. Matsushita states that unless their Petition for Reconsideration is granted it will "necessitate discontinuance of production and scrapping of considerable transfer switches which have not been designed to embody 60 dB isolation." The petitioner also claims that the March 1, 1973, termination date for waivers does not provide adequate time in which to produce a Class I TV device which complies with our Rules.

4. Matsushita requests that the effective date of § 15.407 and the termination date of the waiver be extended until July 1, 1973. The Commission finds that the schedule presented by Matsushita for development and design, type approval, and manufacturing procurement to support this request is reasonable and provides for an orderly incorporation of the receiver transfer switch as part of Class I TV devices. The Commission further finds that retaining the effective date of January 19, 1973, would work a hardship on the manufacturers of Class I TV devices and that extending this date for 6 months would be in the public interest. The effective date of the rules for Class I TV devices, Subpart H of Part 15, is hereby extended to July 1, 1973.

5. No action is required with respect to the waivers, since these waivers, by their terms, are valid until the final rules for Class I TV devices become effective, which is now July 1, 1973. The waivers are thus automatically extended by this action.

6. In view of the foregoing, *It is ordered*, That the above-described petition is granted and the effective date of the Rules adopted in the Report and Order in this proceeding be extended until July 1, 1973.

Adopted: January 18, 1973.

Released: January 19, 1973.

FEDERAL COMMUNICATIONS COMMISSION,[3]
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.73-1639 Filed 1-26-73;8:45 am]

[Docket No. 18930; FCC 73-63]

PART 73—RADIO BROADCAST SERVICES

Operator Requirements for AM and FM Broadcast Stations

Memorandum opinion and order. In the Matter of amendment of §§ 73.93, 73.265 and 73.565 of the Commission's rules concerning operator requirements for standard (AM) and FM broadcast stations, Docket No. 18930, RM-1576, RM-1627.

1. The Commission has before it a petition, filed July 7, 1972, by the National Association of Broadcasters (NAB), requesting reconsideration and amendment of certain of the rules adopted pursuant to the Report and Order in the above-entitled proceeding, which was released on June 7, 1972 (FCC 72-467) and published in the FEDERAL REGISTER on June 8, 1972 (volume 37, number 111, 37 F.R. 11538).

2. In particular, NAB takes exception to these rules in three respects: Each exception is separately set forth and discussed hereunder:

(1) Section 73.93(f)(5) establishes the technical requirements for the system employed to switch between directional, or between directional and nondirectional modes of operation when lesser grade operators perform this function. NAB objects to the requirement that: "The switching equipment shall be so arranged that the failure of any relay in the directional antenna system to activate properly will cause the emissions the station to terminate."

3. NAB argues that switching failure should not automatically result in a cessation of station operation, but, rather, that the consequences of the failure must be weighed against the licensee's obligation to continue to provide service to the public. It notes that previously, where station operation was only under the continuous surveillance of first class radiotelephone operators, the operator on duty would take immediate steps to correct the switching failure, and would shut the station down only in an instance in which on-air corrections could not be made feasibly, and the effects of continued operation with the radiation pattern not properly established were considered so serious as to require the station to cease operation forthwith. NAB cites the following example:

A situation may readily be envisioned in which a single market [station] exists which utilizes a very elementary directional antenna system. The failure of a relay in the directional antenna switching system and the resulting termination of transmissions in such situations must be considered in the light of the public service to that community. We suggest that there are many situations, circumstances and conditions which dictate the continuation of service even though there may be a technical malfunction in the transmission system. It is the NAB position that the licensee should make the judgment in determining the severity and impact of the failure and take whatever steps are deemed necessary.

4. NAB's arguments appear to be predicated on the assumption that, at the time of a switching failure, personnel will be presented at the station competent to decide upon and to take immediate action appropriate in the particular circumstances. This also was our intention, when, in the Notice of Proposed Rule Making in this matter, we proposed that while lesser grade operators might be permitted to perform routine duty assignments at stations with directional antennas, to require a first class radiotelephone operator to be on duty at the time when each station begins directional operation or changes directional patterns. This proposal was opposed generally as being impractical and burden-

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[1] Docket 19281, Order adopted December 6, 1972 (37 FR 26601, Dec. 14, 1972).

[2] Docket 19281, Notice of Proposed Rule Making, adopted July 14, 1971 (36 FR 13793). Second Notice of Proposed Rule Making, adopted September 8, 1971 (36 FR 18656).

[3] Commissioner H. Rex Lee absent.

some, and it was abandoned. However, faced with an alternative in which operators without technical knowledge or training would be entrusted with the antenna switching function, we adopted § 73.93(f)(5), to establish the conditions and safeguards which we considered necessary under such circumstances.

5. Because of the serious consequences which may result from improper switching of directional systems,[1] we believe that when such malfunctioning occurs and no one is present who is qualified to correct the condition, or to evaluate the seriousness of the malfunction, there is little alternative but to terminate operation. It is appropriate to note that, in such circumstances, even if facilities for automatic termination of operation were not required and provided, the lesser grade operator would be obligated to manually shut down the station, pursuant to the requirements of § 73.93(g) of the rules, which reads, in part:

* * * The emissions of the station shall be terminated immediately whenever the transmitting system is observed operating beyond the posted parameters, or in any other manner inconsistent with the rules, and the above adjustments are ineffective in correcting the condition of improper operation, and a first class radiotelephone operator is not present.[2]

The incorporation of automatic circuitry in the system to achieve this result, however, relieves the lesser grade operator of a responsibility he may be loath to exercise.

6. In view of the above, we believe all of the requirements of § 73.93(f)(5) are necessary when antenna pattern switching is not supervised by a first class radiotelephone operator. Accordingly, we are unwilling to change these requirements.

(2) NAB believes that the partial proof of performance of the directional antenna, which a station employing lesser grade operators is required to make at yearly intervals (§ 73.93(e)(4)) is unnecessarily complicated and extensive from a technical standpoint, and the requirement imposes a hardship on some stations. It notes that when stations with directional antennas operate by remote control a yearly skeleton proof has been considered sufficient to verify the proper operation of the directional antenna, and it sees no reason why a more stringent requirement should be imposed when lesser grade duty operators are utilized. It suggests that Note 2 to § 73.93(e)(4) be amended to specify the same number of measurements on each radial as is required for the skeleton proof for remotely controlled stations.

7. Both the partial proof and the skeleton proof, which NAB would specify in its stead, require that field strength measurements be made at locations which were utilized for such measurements in the previous complete proof of performance. However, the partial proof not only includes measurements at many more of these points than does the skeleton proof ("at least 10" on each radial, as contrasted with "at least three") but also requires a graphical analysis of the measurements, pursuant to procedures prescribed in § 73.186 of the rules. An analysis of this nature determines the inverse field from the directional antenna in the direction of each radial, and permits verification that the radiation from the antenna in each direction approximates that established by the original proof. No such analysis is required in a skeleton proof, and, indeed, no meaningful analysis could be made with the limited measurement data which a skeleton proof makes available. Thus, while the partial proof can be expected to reveal any substantial distortion of the originally established radiation pattern, the skeleton proof serves little purpose other than to establish that the monitoring points specified in the station's authorization have not been degraded by changes in their immediate environment (certainly an important function, but one which does not permit a definitive evaluation of radiation pattern characteristics).

8. There are many cases in which there has been no occasion for the station licensee to reestablish the performance of his directional antenna subsequent to the original authorization. In some instances, many years have elapsed since this has been done. On the other hand, there are a number of factors which may adversely affect antenna performance, including the deterioration of antenna components with time, and the erection or modification of nearby structures which alter the environment in which the antenna operates.

9. We believe that if an operator with little technical training is to be entrusted with the day-to-day surveillance of a directional station, it should be only under circumstances where any deficiencies or anomalies in its operation have been brought under control. Thus, we adhere to the view that when a licensee engages to use such operators, a partial proof is necessary, and should subsequently be repeated periodically.

10. However, we recognize that the procurement of the many measurements required in such a proof may be arduous and time consuming, and the analysis of these measurements is a specialized procedure for which the licensee may need to engage the services of a consulting engineer—a substantial expense. Thus, we should not require the execution of a partial proof any more often than we consider vitally necessary to insure the continued satisfactory performance of the directional antenna.

11. In the light of these considerations, we are amending present § 73.93(e)(4)[3] so as to require that a partial proof be made every 3 years, the first of these proofs to be completed within 1 year of the date the engineer in charge is notified of the appointment of a chief operator (see § 73.93(h)), with skeleton proofs to be performed in each of the intervening years. We have added a new Note 3 at the end of § 73.93, defining the skeleton proof. We have also somewhat revised the wording of Note 2, describing a partial proof, in the interest of specificity.

(3) NAB seeks amendment of § 73.92(h)(3) (the standard broadcast rule) and § 73.265(d)(4) (the FM broadcast rule), which require the separate designation of an acting chief operator each time the designated chief operator is temporarily absent. § 73.565(d)(4) is the corresponding provision of the noncommercial educational FM broadcast rules, and, while not cited by NAB, presumably would be subject to the changes which NAB suggests.) NAB notes that while many licensees may wish to follow the course of action prescribed by this rule, others, who have more than one first class operator in regular employment, would prefer, if the rules so permitted, to designate, on a permanent basis, an assistant chief operator, who would automatically become acting chief operator during absences of the chief operator. NAB points out that the designation of an acting chief operator would obviate the necessity for notifying the Commission concerning each absence of the chief operator, and reduce the burdens imposed by the present rule, both on the Commission and the licensee.

12. We agree that this option should be made available to broadcast station licensees, and are adopting appropriate amendments to the rules for this purpose. The basic changes to accomplish this, however, have been made in §§ 73.93(h), 73.265(d)(1), and 73.565(d)(1), the rules governing the designation of the chief operator, rather than in the rules specifically cited by NAB.

13. In the above paragraphs we have disposed of the specific requests made by NAB for reconsideration of certain of the rules adopted as a result of the proceeding in Docket 18930. Insofar as NAB further requests expedited action in Dockets 18471 and 18455, which, it points out, concern matters which are interrelated, to some extent, with the subject matter of Docket 18930, this request is moot. Appropriate orders were adopted in Dockets 18471 and 18455 on January 10, 1973.

14. In the light of action taken in these proceedings, we find that certain amendments to § 73.93 should be made. Furthermore, our initial experience with the application of the amended radio operator rules, and informal comments and questions we have received, indicate that other minor amendments are desirable. We will, therefore, on our own motion, take this opportunity to deal with these matters. The nature of the changes we are making is not such as to require prior notice and comment prior to their adoption. These rule changes are discussed in the following paragraphs.

15. *Sections 73.93(b), 73.265(b), 73.565(b).* These rules, for the standard, FM, and noncommercial educational FM broadcast services, respectively, are similar in purpose, and are intended to preclude lesser grade operators from attempting technical procedures beyond their competence. Accordingly, each of

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[1] Not only can a switching failure result in the production of serious interference to other stations, but the functioning of the transmitter may be severely disrupted.

[2] This rule has been carried forward, with some minor revision, from rules which for many years have governed the performance by lesser grade operators of duty assignments at aural broadcast stations.

[3] This appears as § 73.93(e)(3) in the amended rules.

the cited rules requires specified technical duties to be performed by a first class radiotelephone operator. An unintended result of the rules, as drafted, would be to preclude professional consulting engineers who do not hold operator licenses of the requisite grade from performing those engineering services for broadcast stations for which they customarily have been retained by station licensees. Accordingly, we are amending §§ 73.93(b) and 73.265(b) by the addition of the following:

> * * * or, during periods of operation when a first class radiotelephone operator is in charge of the transmitter, by or under the direction of a broadcast consultant regularly engaged in the practice of broadcast station engineering.

An amendment having the same effect is also made to § 73.565(b).

16. *Sections 73.93(c), 73.265(c), 73.565(c).* These similar rules are intended to specify the basic operator requirements for stations without directional antennas (standard broadcast only) and within specified power ceilings, which, even under previous rules, have been permitted to employ lesser grade duty operators. However, while the first class operator requirements are spelled out in the rules (second class operators are specified for certain categories of noncommercial educational FM stations), we inadvertently neglected to specify any requirement for lesser grade duty operators. Amendments to the above listed rules for the purpose of correcting this omission are adopted herein.

17. *Section 73.93(e)(3).* This rule, which requires a first class radiotelephone operator to observe the base currents and certain other parameters of a directional antenna system 5 days each week, and to enter the results of these observations in the maintenance log, is being deleted in toto. Its presence in the operator rules perhaps has generated more misunderstandings and inquiries than any other provision of these rules, because it presents inconsistencies, both apparent and real, with the logging requirements of §§ 73.113 and 73.114, and with conditions contained in the instruments of authorization of individual stations. This problem was before us when we amended the rules pursuant to decisions reached in the report and order in Docket 18455. While that proceeding primarily is concerned with the inspection and logging requirements for stations with directional antennas operated by remote control, the rules as adopted therein involved extensive revision of §§ 73.113 *Operating Log* and 73.114 *Maintenance Log*. When this revision was undertaken, the need to resolve the above-mentioned problem was kept in mind. In consequence, the substance of § 73.93(e)(3) has been incorporated in § 73.114 and made applicable to all stations with directional antennas which are not operated by remote control. Specifically, the once a day, 5 days a week schedule for the observations and log entries specified in § 73.93(e)(3) is established for all such stations, regardless of any provision in a station's instrument of authorization requiring more frequent action. Since this is the case, it is appropriate to delete the substance of § 73.93(e)(3) from the operator rules at this time.

18. The rule amendments adopted in Docket 18471 specify a schedule pursuant to which the various categories of stations with directional antennas will be required to install type approved antenna monitors. Note 1 in § 73.93 has been amended to specify an effective date for the implementation of (e)(2) consistent with that schedule.

19. We are continuing actively to pursue our examination of the regulations governing radio and television broadcasting, a project initiated pursuant to our public notice of April 6, 1972. As we study this matter further, and as more experience is gained in the application of the radio operator rules, as now amended, some additional modification and mitigation of those requirements of the rules intended to insure satisfactory station functioning with lesser grade operators may appear feasible. Under such circumstances, we will, on our own motion, take appropriate action.

20. The petition for reconsideration by the National Association of Broadcasters is granted to the extent discussed above, and as reflected in rule amendments which we now adopt. In all other respects it is denied.

21. In view of the foregoing, and pursuant to authority contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, *It is ordered*, That, effective April 27, 1973, §§ 73.93, 73.265, and 73.565 of the Commission's Rules and Regulations are amended as set forth below.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Adopted: January 17, 1973.

Released: January 24, 1973.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

1. In § 73.93, paragraphs (b), (c), and (h), and the notes at the end of this section are amended to read as set forth below. Present paragraph (e)(3) is deleted, and subparagraph (4) is amended and redesignated as (3), and subparagraph (5) is redesignated as (4).

§ 73.93 Operator requirements.

* * * * *

(b) With the exceptions set forth in paragraph (f) of this section, adjustments of the transmitting system, an inspection, maintenance, required equipment performance measurements, and required field strength measurements shall be performed only by a first-class radiotelephone operator, or, during periods of operation when a first-class radiotelephone operator is in charge of the transmitter, by or under the direction of a broadcast consultant regularly engaged in the practice of broadcast station engineering.

(c) A station using a non-directional antenna with nominal power of 10 kilowatts or less may employ first-class operators, second-class operators, or operators with third-class permits endorsed for broadcast station operation for routine operation of the transmitting system if the station has at least one first-class radiotelephone operator readily available at all times. This operator may be in full-time employment, or, as an alternative, the licensee may contract in writing for the services, on a part-time basis, of one or more such operators. Signed contracts with part-time operators shall be kept in the files of the station and shall be made available for inspection upon request by an authorized representative of this Commission.

* * * * *

(e) * * *

(3) Within 1 year of the date on which the Commission is notified, pursuant to § 73.93(h), of the designation of a chief operator, the station shall complete a partial proof of performance, as defined in Note 2 at the end of this section, and shall complete subsequent partial proofs of performance at 3-year intervals thereafter. A skeleton proof of performance, as defined in Note 3 at the end of this section, shall be completed during each year that a partial proof of performance is not required. Not less than 10, nor more than 14 months shall elapse between the completion dates of successive proofs of performance. The results of such proofs shall be prepared and filed as specified in paragraph (b) of § 73.47.

* * * * *

(h) When lesser grade operators are used, in accordance with paragraph (d) or (e) of this section, for any period of operation with nominal power in excess of 10 kilowatts, or with a directional radiation pattern, the station licensee shall designate one first-class radiotelephone operator in full-time employment as the chief operator who, together with the licensee, shall be responsible for the technical operation of the station. The licensee also may designate another first-class radiotelephone operator as assistant chief operator, who shall assume all responsibilities of the chief operator during periods of his absence. The station licensee shall notify the engineer in charge of the radio district in which the station is located of the name(s) and license number(s) of the operator(s) so designated. Such notification shall be made within 3 days of the date of such designation. A copy of the notification shall be posted with the license(s) of the designated operator(s).

* * * * *

(3) At such time as the regularly designated chief operator is unavailable or unable to act as chief operator (e.g., vacations, sickness), and an assistant chief operator has not been designated, or, if designated, for any reason is unable to assume the duties of the chief operator,

the licensee shall designate another first class radiotelephone operator as acting chief operator on a temporary basis. Within 3 days of the date such action is taken, the engineer in charge of the radio district in which the station is located shall be notified by the licensee by letter of the name and license number of the acting chief operator, and shall be notified by letter, again within 3 days of the date when the regularly designated chief operator returns to duty.

* * * * *

NOTE 1: The effectiveness of paragraph (e)(2) of this section is suspended until June 1, 1974.

NOTE 2: The partial proof of performance shall consist of at least 10 field strength measurements on each of the radials established in the latest complete adjustment of the directional antenna system. These measurements shall be made at locations, all within 2 to 10 miles from the antenna, which were utilized in such adjustments, and include on each radial, the point, if any, designated as a monitoring point in the station authorization. Measurements shall be analyzed in the manner prescribed in § 73.186 of the rules of this part.

NOTE 3: The skeleton proof of performance shall consist of field strength measurements, at least three on each of the radials established in the latest complete adjustment of the directional antenna system, made at measurement locations utilized in such adjustment, and include, on each radial, the point, if any, designated as a monitoring point in the station authorization.

2. In § 73.265, paragraphs (b), (c), and (d) (1) and (4) are amended to read as follows:

§ 73.265 **Operator requirements.**

* * * * *

(b) With the exceptions set forth in paragraph (e) of this section, adjustments of the transmitting system, and inspection, maintenance, and required equipment performance measurements shall be performed only by a first-class radiotelephone operator, or, during periods of operation when a first-class radiotelephone operator is in charge of the transmitter, by, or under the direction of a broadcast consultant who is regularly engaged in the practice of broadcast station engineering.

(c) A station with authorized transmitter output power of 25 kilowatts or less may employ first-class operators second-class operators, or operators with third-class permits endorsed for broadcast station operation for routine operation of the transmitting system if the station has at least one first-class radiotelephone operator readily available at all times. This operator may be in full-time employment, or, as an alternative, the licensee may contract in writing for the services, on a part-time basis, of one or more such operators. Signed contracts with part-time operators shall be kept in the files of the station and shall be made available for inspection upon request by an authorized representative of the Commission.

(d) * * *

(1) The station licensee shall designate one first-class radiotelephone operator in full-time employment as the chief operator who, together with the licensee, shall be responsible for the technical operation of the station. The licensee may also designate another first-class radiotelephone operator as assistant chief operator, who shall assume all responsibilities of the chief operator during periods of his absence. The station licensee shall notify the engineer in charge of the radio district in which the station is located of the name(s) and license number(s) of the operator(s) so designated. Such notification shall be made within 3 days of the date of such designation. A copy of the notification shall be posted with the license(s) of the designated operator(s).

* * * * *

(4) At such times as the regularly designated chief operator is unavailable or unable to act as chief operator (e.g., vacations, sickness), and an assistant chief operator has not been designated, or, if designated, for any reason is unable to assume the duties of chief operator, the licensee shall designate another first-class radiotelephone operator as acting chief operator on a temporary basis. Within 3 days of the date such action is taken, the engineer in charge of the radio district in which the station is located shall be notified by the licensee by letter of the name and license number of the acting chief operator, and shall be notified by letter, again within 3 days of the date when the regularly designated chief operator returns to duty.

* * * * *

3. In § 73.565, paragraphs (b), (c), and (d) (1) and (4) are amended to read as follows:

§ 73.565 **Operator requirements.**

* * * * *

(b) With the exceptions set forth in paragraph (e) of this section, adjustments of the transmitting system, and inspection, maintenance, and required equipment performance measurements shall be performed only by an operator holding the class of license specified below, or during periods of operation when the transmitter is in the charge of an operator of the specified class, by or under the direction of a broadcast consultant regularly engaged in the practice of broadcast station engineering.

* * * * *

(c) A noncommercial educational FM station with authorized transmitter output power not in excess of 25 kilowatts may employ first-class operators, second-class operators or operators with third-class permits endorsed for broadcast station operation, for the routine operation of the transmitting system, if the station has at least one operator of a class specified for the station's power category in paragraph (b) of this section, readily available at all times. This operator may be in full-time employment, or, as an alternative, the licensee may contract in writing for the services, on a part-time basis, of one or more such operators. Signed contracts with part-time operators shall be kept in the files of the station and shall be made available for inspection upon request by an authorized representative of the Commission.

(1) The station licensee shall designate one first-class radiotelephone operator in full-time employment as the chief operator who, together with the licensee, shall be responsible for the technical operation of the station. The licensee may also designate another first-class radiotelephone operator as assistant chief operator, who shall assume all responsibilities of the chief operator during periods of his absence. The station licensee shall notify the engineer in charge of the radio district in which the station is located of the name(s) and license number(s) of the operator(s) so designated. Such notification shall be made within 3 days of the date of such designation. A copy of the notification shall be posted with the license(s) of the designated operator(s).

* * * * *

(4) At such times as the regularly designated chief operator is unavailable or unable to act as chief operator (e.g., vacations, sickness), and an assistant chief operator has not been designated, or, if designated, for any reason is unable to assume the duties of chief operator, the licensee shall designate another first-class radiotelephone operator as acting chief operator on a temporary basis. Within 3 days of the date such action is taken, the engineer in charge of the radio district in which the station is located shall be notified by the licensee by letter of the name and license number of the acting chief operator, and shall be notified by letter, again within 3 days of the date when the regularly designated chief operator returns to duty.

* * * * *

[FR Doc.73-1640 Filed 1-26-73;8:45 am]

Title 49—Transportation

SUBTITLE A—OFFICE OF THE SECRETARY OF TRANSPORTATION

[OST Docket No. 1; Amdt. 1-68]

PART 1—ORGANIZATION AND DELEGATION OF POWERS AND DUTIES

Revocation of Certain Delegations

The purpose of this amendment is to revoke the delegations to the Federal Aviation Administrator to carry out the civil administration of Wake Island under the agreement between the Secretary of Interior and the Secretary of Transportation of August 26, 1967, and to the Federal Highway and Federal Railroad Administrators to carry out the Act of February 23, 1905, as amended (33 Stat. 743, 49 U.S.C. 1201 et seq.), relating to medals for heroism, so far as it pertains to motor vehicles and railroads, respectively.

Since this amendment relates to departmental management, procedures, and practices, notice and public procedure thereon are unnecessary and it may be made effective in less than 30 days

after publication in the FEDERAL REGISTER.

In consideration of the foregoing, Part 1 of Title 49, Code of Federal Regulations, is amended, effective December 18, 1973, as follows:

1. Section 1.47 is amended by revoking the delegation in paragraph (c), as follows:

§ 1.47 Delegations to Federal Aviation Administrator.

* * * * *

(c) [Revoked]

* * * * *

2. Section 1.48 is amended by revoking the delegation in paragraph (c), as follows:

§ 1.48 Delegations to Federal Highway Administrator.

* * * * *

(c) [Revoked]

* * * * *

3. Section 1.49 is amended by revoking the delegation in paragraph (e), as follows:

§ 1.49 Delegations to Federal Railroad Administrator.

* * * * *

(e) [Revoked]

* * * * *

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

Issued in Washington, D.C., on December 18, 1972.

JOHN A. VOLPE,
Secretary of Transportation.

[FR Doc.73-1604 Filed 1-26-73;8:45 am]

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 72-30; Notice 2]

PART 555—TEMPORARY EXEMPTION FROM MOTOR VEHICLE SAFETY STANDARDS

This notice amends Title 49 of the Code of Federal Regulations by adding a new Part 555, "Temporary Exemption from Motor Vehicle Safety Standards," effective January 29, 1973. A notice of proposed rule making on this subject was published December 1, 1972 (37 FR 25533), and opportunity afforded for comment.

On October 25, 1972, Public Law 92-548 was enacted, amending section 123 of the National Traffic and Motor Vehicle Safety Act of 1966 to provide four bases upon which a manufacturer of motor vehicles might apply for a temporary exemption from one or more Federal motor vehicle safety standards. The legislative intent is clearly expressed as to the information required to substantiate an application on each basis. A discussion follows of each basis, the required information and the principal issues raised in response to the proposal.

1. *Substantial economic hardship.* A manufacturer whose total motor vehicle production in his most recent year of manufacture did not exceed 10,000 may petition for relief on grounds that compliance would cause him substantial economic hardship and that he has, in good faith, attempted to comply with the standards. Hardship exemptions are granted for periods not to exceed 3 years. Section 123 of the Act and the proposed regulations require an applicant to include in his petition a complete financial statement showing the basis of the economic hardship and a complete description of his good faith effort to comply with the standards. Although it was not required by the Act, the NHTSA also proposed to require a description of the steps a manufacturer proposes to take during the exemption period to achieve full compliance and the estimated date by which full compliance is to be achieved.

Submissions on the issue of economic hardship were received from Senator Warren Magnuson, Chairman of the Senate Committee on Commerce, the Public Interest Research Group, the Center for Auto Safety, Freightliner Corp., and Lotus Cars, Ltd. Senator Magnuson and the Research Group have suggested that the NHTSA should adopt application guidelines modeled after those of the Environmental Protection Agency for requests for suspension of the effective date of motor vehicle emission standards. The Research Group has drafted a model application form using the EPA guidelines as a departure point. Senator Magnuson also suggested that cost data concerning the affected component should be required, as well as a chronological analysis by the petitioner of its efforts to comply with the standard following issuance of the notice of proposed rule making. Finally, he urged that a company be required to submit an analysis of the effects on its economic stability of the absence of an exemption. The Center for Auto Safety believes that all financial data should be presented in dollar figures. Lotus Cars, Ltd., suggested that, if a manufacturer has no plans to achieve conformity because the production run of a model is nearing its end, the regulations should specifically permit him to so state. Freightliner Corp. commented that hardship should be considered in relation to the total economic picture "including the purchaser" and the particular job a vehicle is intended to perform. It expressed fear that the legislation was not enacted with multistage manufacturers in mind. Freightliner appears to be concerned about hardship situations that may occur to manufacturers whose total annual volume exceeds 10,000 units and who are called upon to provide costly custom equipment.

In formulating the regulations for hardship applications the NHTSA has adopted many of the suggestions of Senator Magnuson and the Public Interest Research Group. Engineering and financial data that must be submitted with the application will include a list or description of each component that would have to be modified in order to achieve compliance, together with an itemization of the estimated cost to the petitioner to modify each such component if required to do so on an emergency basis, or at the end of 1-, 2-, and 3-year periods. The manufacturer will also include what it estimates as the price increase per vehicle to balance the total costs incurred were it to achieve compliance, and a statement of the anticipated effect of the price increase. Corporate balance sheets for the 3 fiscal years immediately preceding the application must be submitted, as well as a projected balance sheet for the fiscal year following any denial of the petition. The financial data must be in dollar figures, as the Center for Auto Safety suggested. The manufacturer would also be allowed to discuss other hardship factors that a denial would cause, such as loss of market. In its description of compliance efforts a manufacturer will be required to submit a chronological analysis showing the relationship of those efforts to the rule making history of the standard, and to discuss alternate means of compliance that may have been considered, and the reasons for the rejection of each. As proposed, a manufacturer must also describe the steps to be taken while the exemption is in effect to achieve full compliance, and the estimated date by which full compliance will be achieved.

The NHTSA did not adopt the format and informational content of the EPA guidelines for several reasons. There is a basic difference in the Clean Air Act and the Traffic Safety Act. Under the former, the public health is paramount. All motor vehicles must meet certain emission standards by the 1975 model year. A 1-year suspension is possible, but only upon technoiogical grounds, and not for economic hardship. Suspensions are granted on the basis of fulfilling four criteria: (1) That it is essential to the public interest and public health of the United States, (2) That all good faith efforts have been made to meet the established standards, (3) That effective emission control technology is not available, or has not been available for a sufficient time to achieve compliance prior to the effective date of such standard and (4) That the study and investigation of the National Academy of Sciences and other available information has not indicated that technology or other alternatives are available to meet the emission standards. By the 1976 model year all vehicles will comply and no further suspension is possible. The proof to support an emission standard suspension thus differs substantially from that required for hardship. On the other hand, under the Traffic Safety Act, motor vehicle safety must be balanced with other factors of the public interest including the desirability of affording a continuing and wide choice of vehicles to meet differing needs, and encouraging the continuation of relatively small manufacturers. In some instances, the safety exemption sought may be limited in time and scope, and

extensively detailed information such as EPA requires may be unnecessary to document the request.

With reference to the comments by Freightliner, the NHTSA does take into account the vehicle purchaser, in that it is concerned with the effect of a denial upon the availability of vehicles and their retail prices. Moreover, throughout its existence this agency has been aware of the problems of custom-truck manufacturers and has tried to accommodate them, consistent with considerations of motor vehicle safety.

2. *Other bases for exemption.* A manufacturer may apply for an exemption for a period not to exceed 2 years and covering up to 2,500 vehicles for any 12-month period that the exemption is in effect on any one of three additional bases: That it would assist in the develment or field evaluation of new motor vehicle safety features, that it would assist in the development or field evaluation of a low-emission vehicle, or that, in the absence of an exemption, it would be unable to sell a motor vehicle whose overall level of safety is equivalent to or exceeds the overall level of safety of non-exempted motor vehicles. To substantiate the development of safety features, it was proposed that the applicant establish the innovational nature of the safety feature and that it would provide a level of safety at least equivalent to the level of safety established in the standard from which exemption is sought. To substantiate the development of a low-emission vehicle, it was proposed that the applicant establish the emission feature of his vehicle and that an exemption would aid in its development as well as evidence that a temporary exemption would not unreasonably degrade the safety of the vehicle. Finally, to substantiate that failure to provide an exemption would prevent the sale of an otherwise safe vehicle, it was proposed that an applicant submit evidence that the vehicle could not otherwise be sold, and provide an analysis of how the vehicle provides an overall level of safety equal to or exceeding the overall level of safety of non-exempted vehicles.

The Public Interest Research Group again suggested that the proposal be amplified to provide guidelines similar to those of EPA, and supplied formats for each of the three bases. The NHTSA concurs with the Research Group to the extent that it has expanded the proposal so that the regulation includes some of the information and data suggested, but it has not adopted the format in detail, for the reasons previously discussed.

A manufacturer who wishes to develop or evaluate new safety features must document the innovational nature of the features. He must also submit an analysis establishing that the safety level provided by the feature equals or exceeds the level of safety established in the standard from which exemption is sought, including a description of how complying and noncomplying vehicles differ, the results of tests that demonstrate performance which meets or exceeds the safety levels of the standard, and substantiation that a temporary exemption would facilitate the development or field evaluation of the vehicle. The manufacturer is also required to indicate his intent at the end of the exemption period to conform to the standard, or to petition for rulemaking to amend the standard so that the feature might be incorporated into it.

Somewhat similar information is required of a manufacturer who wishes to develop or evaluate a low emission vehicle, although in this instance the NHTSA is also interested in a manufacturer's test results showing how far the vehicle deviates from the standard, as part of the manufacturer's showing that the exemption would not unreasonably degrade the safety of the vehicle.

A manufacturer who petitions on the basis that the overall level of safety is equivalent to or exceeds the overall level of non-exempted vehicles must describe how exempted and non-exempted vehicles differ, describe safety features that the vehicle offers as standard equipment that are not required by the Federal standards, and submit both comparative test results showing how far the vehicle deviates from the standard, and the results of any tests showing that the vehicle exceeds the minimum requirements of any Federal standard. The manufacturer must also state whether he intends to comply at the end of the exemption period. Petitions for renewal of an exemption under each of these three bases are required to state the number of exempted vehicles sold in the United States under the prior exemption.

3. *Miscellaneous comments.* The Public Interest Research Group and the Center for Auto Safety requested that § 555.7, Processing of petitions, be rewritten to include a provision for informal public hearings to be held at the discretion of the Administrator. Such a provision, in the opinion of the Research Group, "might well preclude protracted litigation by fully addressing issues in an informal public hearing." The requested provision has not been included in the final rule as it is considered unnecessary. Such a power is inherent in the Administrator's general powers and may be invoked in any appropriate occasions. It is not specifically required by the legislation, which deems notice and an opportunity to comment in writing a sufficient forum and means of assuring informed administrative action and of protecting the public interest.

The Center for Auto Safety requested that § 555.8, Termination of temporary exemptions, include a provision that the Administrator will entertain petitions for termination from interested persons. Although such a provision is not necessary since the agency would consider any information brought to its attention that is relevant to its regulatory functions, a section to this effect has been added for public information. It provides that petitions for termination of an exemption will be handled in accordance with the procedures of §§ 553.31 and 553.33 on petitions for rule making. The center also asked whether the civil penalty provisions of section 109 could apply in the event it was determined that an exemption had been granted on the basis of fraudulent information. The NHTSA believes that civil penalties could apply in this instance, through the application of sections 108, 109, and 112. In addition, the general fraud provisions of 18 U.S.C. 1001 provide both criminal and civil penalties for submission of false information.

Senator Magnuson, Lotus, and the Research Group commented that the temporary exemption labels (§ 555.9) should include the title of the standard as a matter of clearer public disclosure. The comments have merit and the labels, both windshield and certification, must state the title of any exempted standard. The Research Group has further commented that the NHTSA has ignored the provision of section 123(b) that written notification of the exemption be delivered to the dealer and first purchaser. The agency does not agree with the Research Group and believes that the windshield label constitutes written notification, fulfilling this discretionary requirement.

Finally, comments were addressed to the adequacy of § 555.10, Availability for public inspection. The NHTSA has adopted the Center for Auto Safety's comment that subsection (a) should be revised to provide availability of memoranda of all meetings held pursuant to § 555.7(a). However, the NHTSA has not agreed with the center's suggestion that the agency commit itself to make such memoranda available within a specified time limit "such as 5 working days". The agency will use its best efforts to place memoranda of this nature in the dockets as soon as practicable. The Center, Senator Magnuson, and the Research Group pointed out that section 123(b) of the Act authorizes the Secretary to withhold only information "not relevant to the application for exemption". This agency concurs and minor rewording of § 555.10(b) clarifies this. Senator Magnuson encourages the agency "as a general policy, to release information contained in applications for exemptions on the basis that all such information is revelant to the application or it would not have been included by the manufacturer". The NHTSA agrees with this general policy. It will carefully scrutinize requests for confidential treatment of information and liberally interpret the relevancy of that information to the petition.

In consideration of the foregoing, Title 49 Code of Federal Regulations is amended by adding Part 555, Temporary Exemption from Federal Motor Vehicle Safety Standards, as set forth below.

Effective date: January 29, 1973.

Issued on January 22, 1973.

DOUGLAS W. TOMS,
Administrator.

Sec.

Sec.
555.4 Definitions.
555.5 Petition for exemption.
555.6 Basis for petition.
555.7 Processing of petitions.
555.8 Termination of temporary exemptions.
555.9 Temporary exemption labels.
555.10 Availability for public inspection.

AUTHORITY: Sec. 3, Public Law 92-548, 86 Stat. 1159; sec. 119, Public Law 89-563 (15 U.S.C. 1410, 1407), 80 Stat. 718, delegation of authority at 49 CFR 1.51.

§ 555.1 Scope.

This part establishes requirements for the temporary exemption, by the National Highway Traffic Safety Administration (NHTSA), of certain motor vehicles from compliance with one or more Federal motor vehicle safety standards in accordance with section 123 of the National Traffic and Motor Vehicle Safety Act of 1966, 15 U.S.C. 1410.

§ 555.2 Purpose.

The purpose of this part is to provide a means by which manufacturers of motor vehicles may obtain temporary exemptions from Federal motor vehicle safety standards on the basis of substantial economic hardship, facilitation of the development of new motor vehicle safety or low-emission engine features, or existence of an equivalent overall level of motor vehicle safety.

§ 555.3 Application.

This part applies to manufacturers of motor vehicles.

§ 555.4 Definitions.

"Administrator" means the National Highway Traffic Safety Administrator or his delegate.

"United States" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Canal Zone, and American Samoa.

§ 555.5 Petition for exemption.

(a) A manufacturer of motor vehicles may petition the NHTSA for a temporary exemption from any Federal motor vehicle safety standard or for a renewal of any exemption on the bases of substantial economic hardship, facilitation of the development of new motor vehicle safety or low-emission engine features, or the existence of an equivalent overall level of motor vehicle safety.

(b) Each petition filed under this part for an exemption or its renewal must—

(1) Be written in the English language;

(2) Be submitted in three copies to: Administrator, National Highway Traffic Safety Administration, Washington, D.C. 20590;

(3) State the full name and address of the applicant, the nature of its organization (individual, partnership, corporation, etc.) and the name of the State or country under the laws of which it is organized;

(4) State the number and title, and the text or substance of the standard or portion thereof from which the temporary exemption is sought, and the length of time desired for such exemption;

(5) Set forth the basis for the petition and the information required by § 555.6 (a), (b), (c), or (d) as appropriate; and

(6) Specify any part of the information and data submitted which petitioner requests be withheld from public disclosure and the reason for the request;

(c) The knowing and willful submission of false, fictitious or fraudulent information will subject the petitioner to the civil and criminal penalties of 18 U.S.C. 1001.

§ 555.6 Basis for petition.

(a) If the basis of the petition is substantial economic hardship the petitioner shall provide the following information.

(1) Engineering and financial information demonstrating in detail how compliance or failure to obtain an exemption would cause substantial economic hardship, including—

(i) A list or description of each item of motor vehicle equipment that would have to be modified in order to achieve compliance;

(ii) The itemized estimated cost to modify each such item of motor vehicle equipment if compliance were to be achieved—

(*a*) As soon as possible,

(*b*) At the end of a 1-year exemption period (if the petition is for 1 year or more),

(*c*) At the end of a 2-year exemption period (if the petition is for 2 years or more),

(*d*) At the end of a 3-year exemption period (if the petition is for 3 years),

(iii) The estimated price increase per vehicle to balance the total costs incurred pursuant to paragraph (a)(1)(ii) of this section and a statement of the anticipated effect of each such price increase;

(iv) Corporate balance sheets for the 3 fiscal years immediately preceding the filing of the application;

(v) Projected balance sheet for the fiscal year following a denial of the petition; and

(vi) A discussion of any other hardships (e.g. loss of market) that the petitioner desires the agency to consider.

(2) A description of its efforts to comply with the standards, including—

(i) A chronological analysis of such efforts showing its relationship to the rule making history of the standard from which exemption is sought;

(ii) A discussion of alternate means of compliance considered and the reasons for rejection of each;

(iii) A description of the steps to be taken, while the exemption is in effect, and the estimated date by which full compliance will be achieved either by design changes or termination of production of nonconforming vehicles; and

(iv) The total number of motor vehicles produced by or on behalf of the petitioner in the 12-month period prior to filing the petition, and the inclusive dates of the period. (Section 123 of the Act limits eligibility for exemption on the basis of economic hardship to manufacturers whose total motor vehicle production does not exceed 10,000.)

(b) If the basis of the petition is the development or field evaluation of new motor vehicle safety features, the petitioner shall provide the following information:

(1) A description of the safety features, and research, development, and testing documentation establishing the innovational nature of such features.

(2) An analysis establishing that the level of safety of the features is equivalent to or exceeds the level of safety established in the standard from which exemption is sought, including—

(i) A detailed description of how a motor vehicle equipped with the safety features differs from one that complies with the standard;

(ii) If applicant is presently manufacturing a vehicle conforming to the standard, the results of tests conducted to substantiate certification to the standard; and

(iii) The results of tests conducted on the safety features that demonstrate performance which meets or exceeds the requirements of the standard.

(3) Substantiation that a temporary exemption would facilitate the development or field evaluation of the vehicle.

(4) A statement whether, at the end of the exemption period, the manufacturer intends to conform to the standard, apply for a further exemption, or petition for rulemaking to amend the standard to incorporate the safety features.

(5) A statement that not more than 2,500 exempted vehicles will be sold in the United States in any 12-month period for which an exemption may be granted pursuant to this paragraph. A petition for renewal of such an exemption shall also include the total number of exempted vehicles sold in the United States under the existing exemption.

(c) If the basis of the petition is the development or field evaluation of a low-emission motor vehicle, the petitioner shall provide—

(1) Substantiation that the motor vehicle is a low-emission vehicle as defined by section 123(g) of the Act.

(2) Research, development, and testing documentation establishing that a temporary exemption would not unreasonably degrade the safety of the vehicle, including—

(i) A detailed description of how the motor vehicle equipped with the low-emission engine would, if exempted, differ from one that complies with the standard;

(ii) If applicant is presently manufacturing a vehicle conforming to the standard, the results of tests conducted to substantiate certification to the standard;

(iii) The results of any tests conducted on the vehicle that demonstrate its failure to meet the standard, expressed as comparative performance levels; and

(iv) Reasons why the failure to meet the standard does not unreasonably degrade the safety of the vehicle.

(3) Substantiation that a temporary exemption would facilitate the development or field evaluation of the vehicle.

(4) A statement whether, at the end of the exemption period, the manufacturer intends to conform with the standard.

(5) A statement that not more than 2,500 exempted vehicles will be sold in the United States in any 12-month period for which an exemption may be granted pursuant to this paragraph. A petition for renewal of an exemption shall also include the total number of exempted vehicles sold in the United States under the existing exemption.

(d) If the basis of the petition is that the petitioner is otherwise unable to sell a motor vehicle whose overall level of safety is equivalent to or exceeds the overall level of safety of nonexempted motor vehicles, the petitioner shall provide—

(1) A detailed analysis of how the vehicle provides an overall level of safety equivalent to or exceeding the overall safety of nonexempted vehicles, including—

(i) A detailed description of how the motor vehicle, if exempted, differs from one that conforms to the standard;

(ii) A detailed description of any safety features that the motor vehicle offers as standard equipment that are not required by the Federal motor vehicle safety standards;

(iii) The results of any tests conducted on the vehicle demonstrating that it fails to meet the standard, expressed as comparative performance levels;

(iv) The results of any tests conducted on the vehicle demonstrating that its overall level of safety exceeds that which is achieved by conformity to the standards.

(v) Other arguments that the overall level of safety of the vehicle equals or exceeds the level of safety of nonexempted vehicles.

(2) Substantiation that compliance would prevent the sale of the vehicle.

(3) A statement whether, at the end of the exemption period, the manufacturer intends to comply with the standard.

(4) A statement that not more than 2,500 exempted vehicles will be sold in the United States in any 12-month period for which an exemption may be granted pursuant to this paragraph. A petition for renewal of any exemption shall also include the total number of exempted vehicles sold in the United States under the existing exemption.

§ 555.7 Processing of petitions.

(a) The NHTSA publishes a notice of each petition in the FEDERAL REGISTER and affords an opportunity to comment.

(b) No public hearing, argument, or other formal proceeding is held directly on a petition filed under this part before its disposition under this section.

(c) Any interested person may, upon written request, appear informally before an appropriate official of the NHTSA to discuss a petition for exemption or the action taken in response to a petition.

(d) If the Administrator determines that the petition does not contain adequate justification, he denies it and notifies the petitioner in writing.

(e) If the Administrator determines that the petition contains adequate justification, he grants it, and notifies the petitioner in writing. He also publishes in the FEDERAL REGISTER a notice of the grant and the reasons for it.

§ 555.8 Termination of temporary exemptions.

(a) A temporary exemption from a standard granted on the basis of substantial economic hardship terminates according to its terms but not later than 3 years after the date of issuance unless terminated sooner pursuant to paragraph (c) of this section.

(b) A temporary exemption from a standard granted on a basis other than substantial economic hardship terminates according to its terms but not later than 2 years after the date of issuance unless terminated sooner pursuant to paragraph (c) of this section.

(c) Any interested person may petition for the termination of an exemption granted under this part. The petition should be submitted, and will be processed, in accordance with the procedures of §§ 553.31 and 553.33 of this chapter.

(d) The Administrator terminates a temporary exemption if he determines that—

(1) The temporary exemption is no longer consistent with the public interest and the objectives of the Act; or

(2) The temporary exemption was granted on the basis of false, fraudulent, or misleading representations or information.

§ 555.9 Temporary exemption labels.

A manufacturer of an exempted vehicle shall—

(a) Submit to the Administrator, within 30 days after receiving notification of the grant of an exemption, a sample of the certification label required by part 567 of this chapter and paragraph (c) of this section;

(b) Affix securely to the windshield or side window of each exempted vehicle a label in the English language containing the statement required by paragraph (c)(1) or (c)(2) of this section, and with the words "Shown above" omitted.

(c) Meet all applicable requirements of part 567 of this chapter, except that—

(1) Instead of the statement required by § 567.4(g)(5) of this chapter, the following statement shall appear:

This vehicle conforms to all applicable Federal motor vehicle safety standards in effect on the date of manufacture shown above except for standard Nos. (listing the standards by number and title for which an exemption has been granted). Exempted pursuant to NHTSA Exemption No. _____.

(2) Instead of the statement required by § 567.5(a)(7) of this chapter, the following statement shall appear:

This vehicle conforms to all applicable Federal motor vehicle safety standards in effect in (month, year) except for standard Nos. (listing the standards by number and title for which an exemption has been granted). Exempted pursuant to NHTSA Exemption No. _____.

§ 555.10 Availability for public inspection.

(a) Information relevant to a petition under this part, including the petition and supporting data, memoranda of informal meetings with the petitioner or any other interested person, and the grant or denial of the petition, is available for public inspection, except as specified in paragraph (b) of this section, in the Docket Section, Room 5221, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590. Copies of available information may be obtained, as provided in part 7 of the regulations of the Office of the Secretary of Transportation (49 CFR Part 7).

(b) Information made available for inspection shall not include materials not relevant to the petition that are to be withheld from the public in accordance with sections 112 and 113 of the Act (15 U.S.C. 1401, 1402) and section 552(b) of title 5 of the United States Code.

[FR Doc.73-1636 Filed 1-26-73;8:45 am]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 351—REDUCTION IN FORCE

Responsibility of Agency and Authority of Commission

Part 351 is amended by adding two new sections to Subpart B: one, to state the responsibility of the agencies to follow and apply the regulations in reduction in force; the other, to state the Commission's authority to examine any agency's preparations for reduction in force and to require appropriate corrective action.

Effective January 29, 1973, §§ 351.204 and 351.205 are added as set out below.

§ 351.204 Responsibility of agency.

Each agency covered by this part is responsible for following and applying the regulations in this part when the agency determines that a reduction in force is necessary.

§ 351.205 Authority of Commission.

The Civil Service Commission may examine an agency's preparations for reduction in force at any stage. When the Commission finds that an agency's preparations are contrary to the spirit and intent of these regulations or that they would result in violation of employee rights or equities, the Commission shall require appropriate corrective action.

(5 U.S.C. secs. 1302, 3502)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.73-1714 Filed 1-26-73;8:45 am]

Title 7—Agriculture

SUBTITLE A—OFFICE OF THE SECRETARY OF AGRICULTURE

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

Office of Communication

Departmental Delegations of Authority are revised to include the Office of Communication and amended to include the Director of Communication as a General Officer of the Department. Specific changes are described below:

1. Section 2.4, Subpart A, Part 2, Subtitle A of Title 7 of the Code of Federal Regulations is amended to include the Director of Communication as a General Officer of the Department as follows:

§ 2.4 General officers.

The work of the Department is under the supervision and control of the Secretary, who is assisted by the following General Officers: The Under Secretary, the Assistant Secretary for Marketing and Consumer Services, the Assistant Secretary for Rural Development and Conservation, the Assistant Secretary for International Affairs and Commodity Programs, the Assistant Secretary for Administration, the Director of Agricultural Economics, the Director of Science and Education, the General Counsel, the Inspector General, the Judicial Officer, and the Director of Communication.

2. Subpart D, Part 2, Subtitle A of Title 7 of the Code of Federal Regulations is revised to add a new § 2.32 as follows:

§ 2.32 Delegations of Authority to the Director of Communication.

The following delegations of authority are made by the Secretary of Agriculture to the Director of Communication:

(a) Advise the Secretary and his General Officers in the planning, development, and execution of Department policies and programs.

(b) Direct and coordinate the overall formulation and development of policies, programs, plans, procedures, standards, and organization structures and staffing patterns for the information activities of the Department and its agencies, both in Washington and in the field.

(c) Exercise final review and approval of all public information material prepared by the Department and its agencies and select the most effective method and audience for distributing this information.

(d) Determine policy for all Departmental communication activities and provide leadership and centralized operational direction for Department and agency information activities so that all material shall effectively support Departmental policies and programs.

(e) Represent the Department with the Joint Committee on Printing of the Congress, the Government Printing Office, and other Federal and State agencies on information matters.

(f) Cooperate with and secure the cooperation of commercial, industrial and other nongovernmental agencies and concerns regarding information work as required in the execution of the Department's programs.

(g) Plan and direct communication research and training for the Department and its agencies.

(h) Advise General Officers and Agency Heads on application of information policies to comply with provisions of the "Freedom of Information Act" (5 U.S.C. 552), and provide consultation to General Officers when there is a recommendation within the Department or its agencies to deny written requests for information under the Freedom of Information Act.

(i) Supervise and provide leadership and final clearance for the planning, production, and distribution of visual information material for the Department of Agriculture, and its agencies in Washington, D.C., and the field, and provide such information services as the Director of Communication may deem necessary.

(j) Organize and direct the activities of a public affairs office to include the personal press relations of the Secretary of Agriculture and other executive functions and services for the General Officers of the Department of Agriculture.

Effective date. This revision shall become effective on January 29, 1973.

Done at the city of Washington in the District of Columbia, this January 22, 1973.

EARL L. BUTZ,
Secretary of Agriculture.

[FR Doc.73-1650 Filed 1-26-73;8:45 am]

CHAPTER VII—AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE (AGRICULTURAL ADJUSTMENT), DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

[Amdt. 5]

PART 722—COTTON

Subpart—Base Acreage Allotments for 1971, 1972, and 1973 Crops of Upland Cotton

CLOSING DATES FOR TRANSFER, RELEASE, AND REAPPORTIONMENT

The purpose of this amendment is to exclude from this subpart the closing dates for release, requests for reapportionment, final date for reapportionment, and the closing dates for filing a record of transfer of cotton base acreage allotments. Such closing dates have been established in a new Part 731 of this chapter published in the FEDERAL REGISTER on December 21, 1972 (37 FR 28124). This amendment is issued pursuant to and in accordance with applicable provisions of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281 et seq.).

Since the only purpose of this amendment is to delete provisions which are now set forth in Part 731 of this chapter, it is hereby found and determined that compliance with the notice, public procedure and 30-day effective date requirements of 5 U.S.C. 553 is unnecessary and contrary to the public interest. This amendment shall become effective January 29, 1973.

The subpart—Base Acreage Allotments for 1971, 1972, and 1973 Crops of Upland Cotton (36 FR 4853, 6733, 7509, 10772, 37 FR 3420, 24427) is amended as follows:

1. Section 722.408 is amended by revising paragraph (b)(7) to read as follows:

§ 722.408 Release and reapportionment of cotton base acreage allotment.

* * * * *

(b) * * *

(7) *Closing dates.* The State committee shall establish applicable closing dates in accordance with Part 731 of this chapter.

2. Paragraph (b) of § 722.419 is revised to read as follows:

§ 722.419 Records of transfer.

* * * * *

(b) *When records are to be filed.* Records of transfers may be filed during the period beginning on the date original notices of base acreage allotment are mailed to farm operators and ending on the date provided for in Part 731 of this chapter.

(Secs. 301, 344a, 350, 375, 52 Stat. 38, as amended, 79 Stat. 1197, as amended, 79 Stat. 1193, as amended, 52 Stat. 66, as amended; 7 U.S.C. 1301, 1344b, 1350, 1375)

Effective date: January 29, 1973.

Signed at Washington, D.C., on January 19, 1973.

GLENN A. WEIR,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.73-1610 Filed 1-26-73;8:45 am]

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Lemon Reg. 570]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

This regulation fixes the quantity of California-Arizona lemons that may be shipped to fresh market during the weekly regulation period January 28–February 3, 1973. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 910. The quantity of lemons so fixed was arrived at after consideration of the total available supply of lemons, the quantity of lemons currently available for market, the fresh market demand for lemons, lemon prices, and the relationship of season average returns to the parity price for lemons.

§ 910.870 Lemon Regulation 570.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and

Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, 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) The need for this section to limit the quantity of lemons that may be marketed during the ensuing week stems from the production and marketing situation confronting the lemon industry.

(i) The committee has submitted its recommendation with respect to the quantity of lemons it deems advisable to be handled during the ensuing week. Such recommendation resulted from consideration of the factors enumerated in the order. The committee further reports the demand for lemons continues to be good, though it is easing on size 235's. Average f.o.b. price was $5.20 per carton the week ended January 20, 1973, compared to $5.04 per carton the previous week. Track and rolling supplies at 124 cars were down 30 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the quantity of lemons which may be handled should be fixed as hereinafter set forth.

(3) 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 section until 30 days after publication hereon in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on January 23, 1973.

(b) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period January 28, 1973, through February 3, 1973, is hereby fixed at 200,000 cartons.

(2) As used in this section, "handled", and "carton(s)" have the same meaning as when used in the said amended marketing agreement and order.

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

Dated: January 24, 1973.

CHARLES R. BRADER,
Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.73–1832 Filed 1–26–73;1:45 pm]

Proposed Rule Making

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[8 CFR 103, 211, 223a, 235, 242, 299]

IMMIGRATION REGULATIONS

Refugee Travel Documents

Pursuant to section 553 of Title 5 of the United States Code (80 Stat. 383), notice is hereby given of the proposed issuance of the following rules pertaining to the issuance of travel documents to refugees in implementation of Article 28, United Nations Convention of July 28, 1951, and Protocol Relating to the Status of Refugees Between the United States and Other Governments entered into force with respect to the United States on November 1, 1968. This notice supersedes the notice of proposed rule making which was published in the FEDERAL REGISTER on February 19, 1970 (35 FR 3172), and in which there were set forth proposed rules pertaining to the issuance of travel documents to refugees.

To incorporate into the regulations provisions authorizing the issuance of travel documents to refugees under the Protocol Relating to the Status of Refugees, a new Part 223a is added. Proposed Part 223a specifies the eligibility requirements to apply for and to be issued a refugee travel document; designates the procedure for applying for issuance or extension of a refugee travel document and provides for the right to appeal from a decision denying an application; specifies the period of validity of a refugee travel document, the conditions under which the document shall be invalid, and the conditions under which it shall be surrendered. Proposed Part 223a also provides that every alien returning to the United States who presents a valid unexpired refugee travel document shall be permitted to come physically within the territory of the United States, requires that upon arrival he shall be examined as to his admissibility, and provides that exclusion proceedings shall be instituted against him only on certain specified grounds of inadmissibility and under certain specified conditions.

Numerous corollary amendments, some nonsubstantive in nature, are made as the result of the addition of Part 223a. The most significant ones are the amendment to § 103.7(b)(1) which provides for a $10 fee for filing an application for issuance or extension of a refugee travel document, and the amendment to § 242.1 which provides that deportation proceedings shall be instituted against a refugee described therein only on certain grounds of deportability and under certain conditions specified therein.

In accordance with section 553 of Title 5 of the United States Code (80 Stat. 383), interested persons may submit to the Commissioner of Immigration and Naturalization, Room 757, 119 D Street NE., Washington, DC 20536, written data, views, or arguments, in duplicate, relative to the proposed rules. Such representations may not be presented orally in any manner. All relevant material received before March 1, 1973, will be considered.

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

1. In § 103.1, paragraph (e) is amended by adding a new subparagraph (12a) to read as follows:

§ 103.1 Delegations of authority.

* * * * *

(e) *Regional commissioners.* * * *

(12a) Decisions on applications for refugee travel documents, as provided in § 223a.4;

* * * * *

2. In § 103.7(b), subparagraph (1) is amended by adding the following fee after the existing 12th fee and when taken with the introductory material, it will read as follows:

§ 103.7 Fees.

* * * * *

(b) *Amounts of fees.* (1) The following fees and charges are prescribed:

* * * * *

For filing applications for issuance or extension of refugee travel document	$10.00

* * * * *

PART 211—DOCUMENTARY REQUIREMENTS: IMMIGRANTS; WAIVERS

§ 211.1 [Amended]

1. Subparagraph (2) Reentry permit of paragraph (b) Aliens returning to an unrelinquished lawful permanent residence of § 211.1 Visas is amended by adding at the end thereof the following sentence: "A refugee travel document issued pursuant to Part 223a of this chapter to a lawful permanent resident shall be regarded as a reentry permit."

2. Section 211.3 is amended by adding the words "refugee travel document" after the words "reentry permit" wherever they appear in the heading and in the first sentence thereof. As amended, § 211.3 reads, in pertinent part, as follows:

§ 211.3 Expiration of immigrant visas, reentry permits, refugee travel documents, and Forms I–151.

An immigrant visa, reentry permit, refugee travel document, or Form I–151 shall be regarded as unexpired if the rightful holder embarked or enplaned before the expiration of his immigrant visa, reentry permit or refugee travel document or, with respect to Form I–151, before the first anniversary of the date on which he departed from the United States, provided that the vessel or aircraft on which he so embarked or enplaned arrives in the United States or foreign contiguous territory on a continuous voyage. * * *

PART 223a—REFUGEE TRAVEL DOCUMENT

Part 223a is added to read as follows:

Sec.

AUTHORITY: Secs. 103, 211, 212, 235, 242; 8 U.S.C. 1103, 1181, 1182, 1225, 1252, and Protocol Relating to the Status of Refugees (TIAS 6577).

§ 223a.1 Definition of refugee.

For the purposes of this part, the term "refugee" shall be as defined in Art. 1 of the United Nations Convention of July 28, 1951, relating to the status of refugees (as modified by Article 1 of the Protocol Relating to the Status of Refugees of January 31, 1967), which provides in pertinent part as follows:

ARTICLE 1

DEFINITION OF THE TERM "REFUGEE"

A. For the purposes of the present Convention, the term "refugee" shall apply to any person who:

(1) Has been considered a refugee under the Arrangements of 12 May 1926 and 30 June 1928 or under the Conventions of 28 October 1933 and 10 February 1938, the Protocol of 14 September 1939 or the Constitution of the International Refugee Organization;

Decisions of non-eligibility taken by the International Refugee Organization during the period of its activities shall not prevent the status of refugee being accorded to persons who fulfil the conditions of paragraph 2 of this section;

(2) Owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence, is unable or, owing to such fear, is unwilling to return to it.

In the case of a person who has more than one nationality, the term "the country of his nationality" shall mean each of the countries of which he is a national, and a person shall not be deemed to be lacking the protection of the country of his nationality if, without any valid reason based on

well-founded fear, he has not availed himself of the protection of one of the countries of which he is a national.

* * * * *

C. This Convention shall cease to apply to any person falling under the terms of section A if:

(1) He has voluntarily re-availed himself of the protection of the country of his nationality; or

(2) Having lost his nationality, he has voluntarily reacquired it; or

(3) He has acquired a new nationality, and enjoys the protection of the country of his new nationality; or

(4) He has voluntarily re-established himself in the country which he left or outside which he remained owing to fear of persecution; or

(5) He can no longer, because the circumstances in connexion with which he has been recognized as a refugee have ceased to exist, continue to refuse to avail himself of the protection of the country of his nationality;

Provided that this paragraph shall not apply to a refugee falling under section A(1) of this article who is able to invoke compelling reasons arising out of previous persecution for refusing to avail himself of the protection of the country of nationality;

(6) Being a person who has no nationality he is, because the circumstances in connexion with which he has been recognized as a refugee have ceased to exist, able to return to the country of his former habitual residence;

Provided that this paragraph shall not apply to a refugee falling under section A(1) of this article who is able to invoke compelling reasons arising out of previous persecution for refusing to return to the country of his former habitual residence.

D. This convention shall not apply to persons who are at present receiving from organs or agencies of the United Nations other than the United Nations High Commissioner for Refugees protection or assistance.

When such protection or assistance has ceased for any reason, without the position of such persons being definitively settled in accordance with the relevant resolutions adopted by the General Assembly of the United Nations, these persons shall ipso facto be entitled to the benefits of this convention.

E. This convention shall not apply to a person who is recognized by the competent authorities of the country in which he has taken residence as having the rights and obligations which are attached to the possession of the nationality of that country.

F. The provisions of this convention shall not apply to any person with respect to whom there are serious reasons for considering that:

(a) he has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes;

(b) he has committed a serious nonpolitical crime outside the country of refuge prior to his admission to that country as a refugee;

(c) he has been guilty of acts contrary to the purposes and principles of the United Nations.

§ 223a.2 Definition of refugee travel document.

As used in this chapter, the term "refugee travel document" means a document issued by the Service on Form I–571 in implementation of article 28 of the United Nations Convention of July 28, 1951 and in accordance with the provisions of this Part.

§ 223a.3 Eligibility.

Any alien in the United States may apply for a refugee travel document if he believes he is a refugee. A refugee travel document shall be issued to a refugee lawfully staying in the United States unless compelling reasons of national security or public order otherwise require. A refugee travel document may be issued, in the exercise of discretion, to a refugee unlawfully in the United States unless reasons of national security or public order otherwise require; sympathetic consideration shall be given to such an application unless the Service intends to expel or exclude the alien from the United States. For reasons of national security, a refugee travel document shall not be issued to an alien who intends to travel to, in, or through Cuba or communist portions of Korea or Viet Nam, unless the restriction with respect to any such place or places has been waived as provided in § 223a.5(b)(2).

§ 223a.4 Application.

Application for a refugee travel document shall be submitted on Form I–570 at least 45 days prior to the proposed date of departure from the United States. The application shall be submitted to the district director having jurisdiction over the applicant's place of residence and shall be accompanied by his Form I–94 or Form I–151. The applicant shall be notified of the decision on his application. If the application is approved, the refugee travel document shall be issued and the immigration status which may be accorded to the alien upon his return to the United States shall be specified therein. Unless the applicant is in the United States as a conditional entrant or lawful permanent resident, the status of "Parolee" shall be specified. If he is in the United States as a conditional entrant, that status shall be specified; if he is a lawful permanent resident, that status shall be specified. If the application is denied, the applicant shall be notified of the reasons therefor and of his right to appeal in accordance with the provisions of Part 103 of this chapter.

§ 223a.5 Validity of refugee travel document.

(a) *General.* A refugee travel document shall be valid for a period not to exceed 1 year from date of issuance and its validity may be extended for a period not to exceed 1 additional year. The document may be used for one or more applications for admission to the United States. It shall have no effect under the immigration laws except to show that during the period of its validity the lawful holder thereof may be accorded the status specified in the refugee travel document upon returning to the United States.

(b) *Invalidity*—(1) False application. A refugee travel document shall be invalid if the alien obtained it by making a material false representation or concealment in his application.

(2) *Area restrictions.* A refugee travel document shall be invalid if the alien during his absence abroad travels to, in, or through Cuba or communist portions of Korea or Viet Nam, unless the document bears an endorsement, or the alien presents a letter issued to him by the Department of State, stating that the restriction with respect to any such place or places has been waived. The waiver shall not be endorsed in the document unless the Secretary of State has granted the alien permission to travel to, in, or through any such place or places.

(3) *Exclusion or deportation proceedings.* A refugee travel document shall be invalid if the alien is ordered excluded as the result of proceedings instituted pursuant to § 235.6(c) of this chapter or ordered deported as the result of proceedings instituted pursuant to § 242.1(b–1) of this chapter.

§ 223a.6 Return to the United States.

(a) *General.* Every alien returning to the United States who presents a valid unexpired refugee travel document shall be permitted to come physically within the territory of the United States.

(b) *Inspection and immigration status.* Upon arrival, an alien who presents a valid unexpired refugee travel document shall be examined as to his admissibility under the Act, and under the United Nations Convention of July 28, 1951, and the protocol of January 31, 1967, except that any question of admissibility as a lawful permanent resident or as a conditional entrant shall be determined solely in accordance with the provisions of the Act. An alien who is not excludable as provided in paragraph (c) of this section shall be accorded the immigration status endorsed in his refugee travel document, except that in the case of an endorsement indicating status as a conditional entrant or as a lawful permanent resident the alien shall be paroled as a refugee if he has become inadmissible and it is inappropriate to preserve his status through the exercise of waivers. Also, in the case of an endorsement indicating that the alien may be accorded the status of a parolee upon return to the United States, if the alien has been approved under the Act for admission as a conditional entrant or as a lawful permanent resident he shall be admitted accordingly notwithstanding such endorsement.

(c) *Exclusion.* If an alien who presents a valid unexpired refugee travel document appears to the examining immigration officer to be excludable as provided in this paragraph, he shall be referred for proceedings under sections 236 and 237 of the Act. Section 235(c) of the Act shall not be applicable. Exclusion proceedings shall be instituted only if the alien is inadmissible under section 212(a)(9), (10), (12), (23), (27), (28), or (29) of the Act and it is alleged that on the basis of the acts for which he is inadmissible there are compelling reasons of national security or public order for his exclusion. An exclusion decision shall not be valid unless it upholds one or more of the above-mentioned grounds and includes and express determination that compelling reasons of national security or public order require exclusion.

§ 223a.7 Extension.

An application for extension of a refugee travel document shall be submitted on Form I–570, 60 to 90 days prior to the expiration of the document's validity. The application shall be submitted to the immigration office having jurisdiction over the applicant's place of residence in the United States, or, if the applicant is temporarily sojourning abroad, he may submit the application to a United States immigration or consular officer as specified in § 223.2 of this chapter. An extension application mailed during the document's validity is considered as timely submitted, even though received by a Service or consular officer after the document's validity has expired. If the extension application is granted, the document shall be noted to show the extension and returned to the applicant; if denied, the applicant shall be notified of the decision, and the document returned to him if the remaining period of its validity permits its use for return to the United States. The application may be denied only for compelling reasons of public order or national security. No appeal shall lie from a decision denying an application for extension of a refugee travel document.

§ 223a.8 Surrender of document.

(a) *Expired document.* Upon expiration of the period of validity of a refugee travel document, it shall be surrendered to an immigration officer or to the issuing office of the Service. If an alien's expired refugee travel document has not been surrendered to the Service, no subsequent refugee travel document shall be issued to him unless he shall first surrender the expired document or satisfactorily account for his failure to do so. A refugee travel document shall also be surrenderd if the alien's immigration status has changed so that upon return to the United States he may not be accorded the status endorsed in the document.

(b) *Invalid document.* An invalid refugee travel document shall be surrendered to an immigration officer except that an alien traveling abroad shall be permitted to retain it until his return to the United States prior to its expiration date. A refugee travel document shall be surrendered provisionally upon notification within the United States that its validity is being investigated or upon notification of institution of exclusion or deportation proceedings, and it shall be returned to the alien if the outcome of the investigation is favorable to him or the final order issued under the instituted proceedings does not result in the document becoming invalid pursuant to § 223a.5(b)(3).

PART 235—INSPECTION OF PERSONS APPLYING FOR ADMISSION

Section 235.6 is amended by adding a new paragraph (c) to read as follows:

§ 235.6 Referral to special inquiry officer.

* * * * *

(c) *Refugees.* Exclusion proceedings shall be instituted against aliens who are refugees within the protection of article 32 of the United Nations Convention of July 28, 1951, and against aliens who are the holders of valid unexpired refugee travel documents only if they are inadmissible under section 212(a)(9), (10), (12), (23), (27), (28), or (29) of the Act, and it is alleged that on the basis of the acts for which they are inadmissible there are compelling reasons of national security or public order for their exclusion.

PART 242—PROCEEDINGS TO DETERMINE DEPORTABILITY OF ALIENS IN THE UNITED STATES: APPREHENSION, CUSTODY, HEARING, AND APPEAL

Section 242.1 is amended by adding a new paragraph (b–1) to read as follows:

§ 242.1 Order to show cause and notice of hearing.

* * * * *

(b–1) *Refugees.* Deportation proceedings shall be instituted against aliens who are refugees within the protection of Article 32 of the United Nations Convention of July 28, 1951, and against aliens who are the holders of valid unexpired refugee travel documents only if they are deportable under section 241(a)(1), (4), (6), (7), (11), (12), (14), (17), or (18) of the Act and it is alleged that on the basis of the acts for which they are deportable there are compelling reasons of national security or public order for their expulsion.

* * * * *

PART 299—IMMIGRATION FORMS

§ 299.1 [Amended]

The list of forms in § 299.1 *Prescribed forms* is amended by adding the following forms and references thereto in alphabetical and numerical sequence:

Form No.	*Title and description*
I–570	Application for Issuance or Extension of Refugee Travel Document.
I–571	Refugee Travel Document.

(Sec. 103, 66 Stat. 173; 8 U.S.C. 1103)

Dated: January 23, 1973.

RAYMOND F. FARRELL,
Commissioner of Immigration and Naturalization.

[FR Doc.73–1641 Filed 1–26–73;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR PART 928]

HANDLING OF PAPAYAS GROWN IN HAWAII

Notice of Proposed Rule Making With Respect to Expenses, Rate of Assessment, and Carryover of Unexpended Funds

PREAMBLE

This proposal, if accepted, would fix the maximum amount of expenses, $182,330, that could be incurred by the Papaya Administrative Committee in the administration of the program. It would also establish the assessment for the same period of 6½ mills ($0.0065) per pound of papayas handled and provide for the transfer of unexpended assessment funds from the previous fiscal period to the program's reserve.

Consideration is being given to the following proposals submitted by the Papaya Administrative Committee, established under the marketing agreement, and Order No. 928 (7 CFR Part 928), regulating the handling of papayas grown in Hawaii, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), as the agency to administer the terms and provisions thereof:

(a) That expenses which are reasonable and likely to be incurred by the Papaya Administrative Committee, during the period January 1, 1973, through December 31, 1973, will amount to $182,330.

(b) That there be fixed, at 6½ mills ($0.0065) per pound of papayas, the rate of assessment payable by each handler in accordance with § 928.41 of the aforesaid marketing agreement and order during the fiscal year beginning January 1, 1973.

(c) That unexpended assessment funds in excess of expenses incurred during the initial fiscal period ended December 31, 1972, shall be carried over as a reserve in accordance with the applicable provisions of § 928.42 of the marketing agreement and order.

Terms used in the marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said marketing agreement and order.

All persons who desire to submit written data, views, or arguments, in connection with the aforesaid proposals should file the same, in quadruplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, on or before February 13, 1973. 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)).

Dated: January 22, 1973.

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

[FR Doc.73–1609 Filed 1–26–73;8:45 am]

DEPARTMENT OF COMMERCE

Maritime Administration

[46 CFR Part 278]

FOREIGN-TO-FOREIGN COMMERCE

Notice of Proposed Rule Making

Notice is hereby given that the Maritime Subsidy Board, acting pursuant to section 204(b) of the Merchant Marine Act, 1936, as amended (the Act) (46 U.S.C. 1101), and for purposes of subsection 905(a) of the Act proposes to establish regulations that allow U.S.-flag operators of bulk vessels built with the aid of construction-differential subsidy to engage in trade between foreign ports

under time charters of no more than 5 years duration.

This notice supersedes and replaces the notice of proposed rule making dated March 23, 1972 (37 FR 5956–7 (1972)), concerning regulations on this subject, and all such previous notices.

Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing (preferably three copies) to the Secretray, Maritime Subsidy Board, Department of Commerce, Washington, DC 20035, by the close of business on February 26, 1973.

Therefore, notice is hereby given that the Maritime Subsidy Board proposes to add the following new Part 278 to Title 46, Chapter II, Code of Federal Regulations.

By order of the Maritime Subsidy Board.

Dated: January 22, 1973.

JAMES S. DAWSON, Jr.,
Secretary.

PART 278—FOREIGN-TO-FOREIGN COMMERCE

Sec.

AUTHORITY: Section 905(a), Merchant Marine Act, 1936, as amended (46 U.S.C. 1244).

§ 278.0 Statutory provision; section 905(a), Merchant Marine Act, 1936, as amended.

SEC. 905(a)—*Definition of foreign commerce.* When used in this Act—

(a) The words "foreign commerce" or "foreign trade" mean commerce or trade between the United States, its territories or possessions, or the District of Columbia, and a foreign country, except that in the context of section 607 of this Act concerning capital construction funds and title V of this Act concerning construction-differential subsidy, the said words "foreign commerce" or "foreign trade" shall also include, in the case of liquid and dry bulk cargo carrying services, trading between foreign ports in accordance with normal commercial bulk shipping practices in such manner as will permit U.S.-flag bulk vessels freely to compete with foreign-flag bulk carrying vessels in their operation or in competing for charters, subject to rules and regulations promulgated by the Secretary of Commerce pursuant to section 204(b) of this Act.

§ 278.1 Scope and purpose of section 905(a) of the Act, as amended, and of these regulations.

(a) *Section 905(a) and the construction subsidy program.* The term "foreign commerce" as that term is used in Title V of the Merchant Marine Act, 1936, as amended, determines the trade in which a vessel must be engaged if the shipyard that builds the vessel is to receive the benefits of the construction-differential subsidy available under that title. In 1970 the definition of foreign commerce was amended to permit American dry and liquid bulk carriers to be built with the aid of construction-differential subsidy and thereafter compete for service between foreign ports. The definition was amended once again in 1972 to clarify the language previously adopted and to declare that bulk carriage between foreign ports is permissible by vessels built with subsidy under title V, subject to uniform regulations promulgated by the Secretary of Commerce. The Secretary of Commerce has delegated his authority to promulgate and administer these regulations to the Maritime Subsidy Board and the Assistant Secretary of Commerce for Maritime Affairs, respectively, by Department of Commerce organizational orders.

(b) *Scope of these regulations.* These regulations determine the extent to which U.S.-flag bulk vessels, on which construction-differential subsidy has been paid under title V, may engage in trade between foreign ports under section 905(a).

§ 278.2 Assistant Secretary shall administer.

The Assistant Secretary of Commerce for Maritime Affairs shall administer these regulations pursuant to Department of Commerce Organizational Order No. 10–8 (June 19, 1972), as amended, section 3.01(a); and Order No. 25–2 (Mar. 24, 1972), as amended, section 3.01.

§ 278.3 Definitions.

For the purpose of this part:

(a) *Agreement, operating agreement, charter.* "Agreement," "operating agreement," and "charter" have the same meaning, and are defined as any agreement between two or more parties which governs the service in which the vessel will operate, including any subcharter executed under the initial operating agreement between the owner and another party or parties.

(b) *Assistant Secretary.* "Assistant Secretary" means the Assistant Secretary of Commerce for Maritime Affairs.

(c) *Foreign-to-foreign commerce.* "Foreign-to-foreign commerce" is that portion of foreign commerce referred to in section 905(a), Merchant Marine Act, 1936, as amended, in which cargo is carried by U.S.-flag bulk vessels between foreign ports, provided that:

(1) The transshipment of cargo at any port will not affect the definition of its carriage as foreign-to-foreign commerce or U.S. foreign commerce if the cargo unloaded is subsequently reloaded, in the same form in which it was unloaded, for shipment to its ultimate destination;

(2) Carriage of crude petroleum from a foreign port to the Bahamas Islands for refinement there into petroleum products is hereby defined as carriage between a U.S. port and a foreign port; and

(3) Carriage of cargoes between a port of the U.S. Virgin Islands and any U.S. or foreign port is hereby defined as carriage between a U.S. port and a foreign port.

(d) *Statutory life.* "Statutory life" means the statutory life of a vessel under section 503, Merchant Marine Act, 1936, as amended, and Public Law 86–518, as amended by Public Law 88–225.

(e) *U.S. foreign commerce.* "U.S. foreign commerce" is that portion of foreign commerce referred to in section 905(a), Merchant Marine Act, 1936, as amended, in which cargo is carried by U.S.-flag bulk vessels between a U.S. port and any foreign port, and includes carriage to and from any offshore terminal facilities of the United States and any foreign port.

§ 278.4 Application of this part to U.S.-flag bulk vessels.

The provisions of this part shall apply to all U.S.-flag bulk vessels built with the aid of construction-differential subsidy. For the purpose of this part a bulk vessel is a vessel which is built to carry solid, liquid, or gaseous commodities not normally shipped in bags or rigid containers and which are normally contained in the vessel's storage spaces bounded by the ship's structure only.

§ 278.5 Operating agreements of greater than 5 years duration to be submitted for approval.

Every charter or other agreement which extends to more than 5 years duration and every agreement which may by its terms be extended to more than 5 years duration, which governs the operation of a vessel on which a construction-differential subsidy is or will be paid under Title V of the Merchant Marine Act, 1936, as amended, shall, at least 60 days prior to its execution by the parties, be submitted by the owner or operator of the vessel to the Assistant Secretary for his approval.

§ 278.6 No operating agreements involving foreign-to-foreign commerce of greater than 5 years duration to be approved.

No charter or other agreement which provides for the possibility of operations in foreign-to-foreign commerce by a vessel on which a construction-differential subsidy is or will be paid shall be approved by the Assistant Secretary if such agreement extends or may be extended by its terms to more than 5 years duration, except as provided in § 278.7.

§ 278.7 Exceptions to the restriction on operating agreements involving foreign-to-foreign commerce of more than 5 years duration.

(a) *General grounds for an exception to § 278.6.* Except as further provided by paragraph (b) of this section the Assistant Secretary may, prior to execution by the parties, approve an operating agreement which involves operations in foreign-to-foreign commerce and which extends or may extend to more than 5 years duration if he determines that such agreement is in the best interests of the United States, based on the following considerations:

(1) Each of the following factors during the duration of the proposed agreement and the remaining statutory life of the owner's vessel:

(i) Projected needs of U.S. foreign commerce for ships of that type,

(ii) Overall projected availability from the U.S. merchant marine of vessels of that type for use in U.S. foreign commerce, and,

(iii) Availability of the owner's vessel for such use;

(2) The amount and nature of operations by the vessel in U.S. foreign commerce concurrent with its operations in foreign-to-foreign commerce under the proposed agreement;

(3) Possible economic or national defense benefits accruing to the United States as a result of operations in foreign-to-foreign commerce under the proposed agreement;

(4) Possible needs of the United States to use the vessel for national defense purposes as provided by section 501(b) of the Merchant Marine Act, 1936, as amended;

(5) Availability to vessels trading in U.S. foreign commerce of port facilities of the United States with sufficient size, draft, and technical advancement to permit the safe, efficient, and commercially feasible operation of such vessels in U.S. foreign commerce;

(6) The time period exceeding 5 years duration for which the operating agreement is proposed to extend; and

(7) The extent that the agreement would allow the accrual of earnings from the agreement sufficient to amortize all or part of the indebtedness incurred from the vessel's construction and all or part of any original equity investment in the vessel: *Provided*, That the accrual of at least the minimum pro rata share of the indebtedness shall be required for the agreement's duration.

(b) *Operating agreements of more than 5 years duration involving dedicated foreign-to-foreign commerce.* (1) Dedicated foreign-to-foreign commerce is hereby defined as that foreign-to-foreign commerce, as defined in § 278.3 (c), in which the owner or any operator of the vessel uses the vessel or allows the vessel to be used only in a single bulk carriage project for the duration of such use, without interruption or availability of the vessel for any other bulk carriage service.

(2) The Assistant Secretary may, prior to execution by the parties, approve an operating agreement involving dedicated foreign-to-foreign commerce which extends or may extend to more than 5 years duration if he determines that such agreement will result in unique benefits to the maritime or other national policies of the United States, based on but not limited to the following:

(i) Each of the following factors during the duration of the proposed agreement and the remaining statutory life of the owner's vessel:

(a) Overall projected availability from the U.S. merchant marine of vessels of that type for use in U.S. foreign commerce,

(b) Availability of the owner's vessel for such use, and,

(c) Projected needs of U.S. foreign commerce for ships of that type;

(ii) The profitability of the proposed agreement to the parties and the owner of the vessel, projected over its duration, and other aspects of the agreement in comparison to the availability and terms of agreements involving operations in U.S. foreign commerce, agreements involving any foreign commerce of less than 5 years duration, and agreements involving foreign-to-foreign commerce under paragraph (a) of this section;

(iii) Possible economic or national defense benefits accruing to the United States as a result of operations in dedicated foreign-to-foreign commerce under such an agreement;

(iv) Possible needs of the United States to use the vessel for national defense purposes as provided by section 501 (b) of the Merchant Marine Act, 1936, as amended;

(v) Availability to vessels trading in U.S. foreign commerce of port facilities of the United States with sufficient size, draft, and technical advancement to permit the safe, efficient, and commercially feasible operation of such vessels in U.S. foreign commerce;

(vi) The time period exceeding 5 years duration for which the operating agreement is proposed to extend;

(vii) The extent that the agreement would allow the accrual of earnings from the agreement sufficient to amortize all or part of the indebtedness incurred from the vessel's construction and all or part of any original equity investment in the vessel: *Provided*, That the accrual of at least the minimum pro-rata share of the indebtedness shall be required for the agreement's duration; and

(viii) The likelihood that an extended operating agreement would contribute to the design or construction of vessels of unique new design or special capabilities which advance the development of the U.S. Merchant Marine.

§ 278.8 Penalties for violation of this part.

(a) *Proportionate payment of amounts representing construction-differential subsidy.* Any owner or operator of a vessel who executes an agreement or operates a vessel in violation of this part shall pay to the United States an amount equal to the construction-differential subsidy paid on the vessel under title V of the Merchant Marine Act, as amended, times the percentage of the vessel's statutory life represented by the time in excess of 5 years for which the agreement was executed.

(b) *Assistant Secretary may mitigate.* The Assistant Secretary may, in his discretion, remit or mitigate any penalty imposed under paragraph (a) of this section on such terms as he deems proper.

§ 278.9 Reports and submissions under this part.

(a) *Submissions required with each application for approval.* The owner shall submit, as part of any application for the approval of an operating agreement under § 278.7, the reasons why such application should be approved under the applicable portion of § 278.7, and factual information in support of such reasons. The Assistant Secretary may request such additional information from the owner or operator as he may require to act on the application.

(b) *Use of business records.* The Assistant Secretary may from time to time request that any owner or operator of a bulk vessel submit records of ship movements and bulk cargoes carried which relate to the considerations for approval of operating agreements under § 278.7.

(c) *Certification of compliance.* Within 15 days after December 31 of each calendar year every owner or operator of a bulk vessel shall certify that during the previous calendar year the vessel has been operated in compliance with these regulations and with the provisions of any operating agreement required by these regulations to which the vessel may be subject.

The provisions of this part shall be effective from and after ----------.

[FR Doc.73-1654 Filed 1-26-73;8:45 am]

National Oceanic and Atmospheric Administration

[50 CFR Part 240]

GROUNDFISH FISHERIES

Quarterly Quotas for Yellowtail Flounder

At its 22d Annual Meeting held in Washington, D.C., May 25 through June 2, 1972, the International Commission for the Northwest Atlantic Fisheries recommended that member governments adopt national allocation of regulated species in the Northwest Atlantic.

Among the regulated species, an annual allocation for the United States of 24,000 metric tons of yellowtail flounder was made for Subarea 5. This allocation is further subdivided into the area east and west of 69° west longitude. Allocation in the area east of 69° is 15,000 metric tons and for the area west of 69° is 9,000 metric tons. During the past 2

years, the area allocations have been divided into quarterly quotas. Informal contact has been made with members of the fishing industry and, accordingly, a tentative quarterly quota has been made which can be adjusted at a later date.

Therefore, it is proposed to amend § 240.6(b) (1) and (2) to provide quarterly quotas for yellowtail flounder for 1973. Before final adoption of the proposed amendment, consideration will be given to any data, views, or arguments, pertaining thereto which are submitted in writing to the Director, National Marine Fisheries Service, Washington, D.C. 20235, on or before February 8, 1973.

The proposed amendment is issued under the authority contained in subsection (a) of section 7 of the Northwest Atlantic Fisheries Act of 1950 (64 Stat. 1069; 16 U.S.C. 986) as modified by Reorganization Plan No. 4, effective October 3, 1970 (35 FR 15627).

The proposed amendment is described below:

1. Amend paragraph (b) and subparagraphs (1) and (2) of § 240.6 to read as follows:

§ 240.6 Catch limits.

* * * * *

(b) An annual limitation of 24,000 metric tons is placed on yellowtail flounder in 1973 taken by fishing vessels of contracting governments in Subarea 5.

(1) The annual catch (landings plus discards) of yellowtail flounder in Subarea 5 from the area west of 69°00′ W., shall not exceed 9,000 metric tons to be taken in quarterly increments as follows:

	Metric tons
January 1 to March 31	2,750
April 1 to June 30	1,500
July 1 to September 30	2,000
October 1 to December 31	2,750

(2) The annual catch (landings plus discards) of yellowtail flounder in Subarea 5 from the area east of 69°00′ W., shall not exceed 15,000 metric tons to be taken in quarterly increments as follows:

	Metric tons
January 1 to March 31	2,950
April 1 to June 30	3,850
July 1 to September 30	4,900
October 1 to December 31	3,300

* * * * *

Issued at Washington, D.C., and dated January 24, 1973.

PHILIP M. ROEDEL,
Director, National Marine Fisheries Service.

[FR Doc.73-1758 Filed 1-26-73;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 72-EA-107]

BENDIX AIRCRAFT ENGINE MAGNETOS

Proposed Airworthiness Directives

The Federal Aviation Administration is considering amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to issue an airworthiness directive applicable to Bendix (Scintilla) S20, S200, S600 and S1200 magnetos.

There have been failures of ignition coils and rotating magnets in these magnetos that could result in engine power loss or failure. Since this condition is likely to exist or develop in other magnetos of the same design, the proposed airworthiness directive would require identification of magnetos containing the ignition coils and rotating magnets and replacement of such coils and magnets on Bendix (Scintilla) S20, S200, S600, and S1200 magnetos.

Interested parties are invited to participate in the making of the proposed rule by submitting written data and views. Communications should identify the docket number and be submitted in duplicate to the Office of Regional Counsel, FAA, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430.

All communications received on or before February 28, 1973, will be considered before taking action upon the proposed rule. The proposals contained in this notice may be changed in light of comments received. All comments will be available in the Office of Regional Counsel for examination by interested parties.

In consideration of the foregoing, it is proposed to issue a new airworthiness directive as hereinafter set forth:

BENDIX ELECTRICAL COMPONENTS DIVISION: Applies to all Bendix Electrical Components Division of the Bendix Corp. (Bendix Scintilla) S20, S200, S600, and S1200 series magnetos except the following:

1. Magnetos identified with the Bendix Blue name plate (Bendix remanufactured magnetos) having serial No. 231001 or higher.

2. Magnetos identified with the Bendix Red name plate (new magnetos) having a serial number with the prefix "A" and No. 16058 or higher.

Compliance required as indicated after the effective date of this A.D. unless previously accomplished.

To prevent failure of these magnetos due to malfunction or failure of the ignition coil or rotating magnet, accomplish the following:

a. On magnetos having 1,800 or less hours in service since new or last overhaul on the effective date of this A.D., accomplish paragraph "d" before accumulation of 2,000 hours in service.

b. On magnetos having more than 1,800 hours in service since new or last overhaul, acomplish paragraph "d" within the next 200 hours service after the effective date of this A.D.

c. Magnetos whose time in service since new or last overhaul is unknown will be assumed to have a total of 1,800 hours minimum and thus fall within the requirements of paragraph (b).

d. Identify magnetos per instructions contained in Bendix Electrical Components Division Service Bulletin No. 560, dated August 1972 or later. Magnetos having ignition coils as described in paragraph A, or rotating magnets as described in paragraph B or shown in figure 2 of Bendix Electrical Components Division's Service Bulletin No. 560, dated August 1972 or later, must have these components removed and replaced with serviceable parts as listed in the applicable Bendix Electrical Components Division Service Parts List, numbered and dated as follows or subsequent:

Magneto model	Parts list designation	Parts list date
S4LN-20 series (ignition coil no. 10-160886 or subsequent).	L-227-9	December 1963.
S6LN-20 series (ignition coil no. 10-160886 or subsequent).	L-223-14	October 1963.
S-200 series (ignition coil no. 10-160887 or subsequent).	L-528-5	October 1963.
S-600 series (magnet rotor only).	L-552-3	December 1964.
S-1200 series	L-608-3	September 1971.

e. Upon completion of paragraph d, identify each magneto as follows:

S-20, S-200, and S-600 series magnetos—Metal stamp .010 deep maximum the letter "A" 3/16 inches high, midway and centered between the timing plug boss and the curved surface at the rear of distributor housing.

S-1200 series magnetos—Metal stamp .010 deep maximum the letter "A" 3/16 inches high, centered between the timing plug boss and data plate, adjacent to the magneto housing rib.

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

Issued in Jamaica, N.Y., on January 19, 1973.

ROBERT H. STANTON,
Acting Director, Eastern Region.

[FR Doc.73-1602 Filed 1-26-73;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 72-SW-78]

VOR AIRWAYS

Proposed Alteration and Revocation

The Federal Aviation Administration (FAA) is considering an amendment to Part 71 of the Federal Aviation Regulations that would modify several VOR Federal airways in the Houston, Tex., terminal area, and would revoke those not normally used. This action would significantly reduce chart clutter and provide controllers with greater flexibility in control of arriving and departing aircraft.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southwest Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, P. O. Box 1689, Fort Worth, Tex. 76101. All communications received on or before February 28, 1973, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules

Docket, 800 Independence Avenue, SW., Washington, D.C. 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The FAA is considering the following changes:

1. In V–13:

a. Extend V–13 from Humble, Tex., to Palacios, Tex., thence via Palacios 223°M (241°T) and Corpus Christi, Tex., 030°M (038°T) radials to Corpus Christi.

b. Revoke V–13 from Houston, Tex., to Humble.

c. Revoke V–13E from Houston, to Daisetta, Tex.

d. Revoke V–13W from Humble, to Lufkin, Tex., via New Waverly, Tex., INT.

e. Realign V–13E from Humble, to Daisetta.

2. In V–15:

a. Realign V–15 in part from Houston, Tex., to Navasota, Tex., via Humble, Tex.

b. Revoke V–15 from Houston, to Navasota.

c. Revoke V–15E between Houston and Navasota.

3. In V–20:

a. Revoke V–20N between Corpus Christi, Tex., and Beaumont, Tex.

b. Revoke V–20S between Palacios, Tex., and Lake Charles, La.

4. In V–70: Revoke V–70N between Palacios, Tex., and Sabine Pass, Tex.

5. In V–76: Revoke V–76 from Houston, Tex., to Scholes, Tex.

6. In V–180: Revoke V–180 between San Antonio, Tex., and Scholes, Tex.

7. In V–198: Revoke V–198N between Eagle Lake, Tex., and Sabine Pass, Tex.

8. In V–222: Realign V–222 between Industry, Tex., and Humble, Tex., via INT Industry 093°M (101°T) and Humble 250°M (257°T) radials.

9. In V–477:

a. Revoke V–477 from Houston, Tex., to Humble, Tex.

b. Revoke V–477E between Humble, Tex., and Leona, Tex.

c. Revoke V–477W from Houston, to Navasota, Tex.

d. Designate V–477W from Humble, Tex., to Navasota.

10. In V–306: Designate V–306S from Navasoto, Tex., to Daisetta, Tex., via Humble, Tex.

The existing airway configuration in the Houston terminal area is concentrated and complex. Air Traffic Control is confronted with traffic congestion and control problems. Restructuring of the airways in this area should improve safety, lessen air traffic delays and improve the flow of arriving and departing traffic.

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

Issued in Washington, D.C., on January 19, 1973.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.73-1601 Filed 1-26-73;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Parts 45, 46, 48]

TRAINING GRANTS AND FELLOWSHIPS

Proposed Rule Making

Notice is hereby given that the regulations set forth in tentative form below are proposed by the Environmental Protection Agency. The proposed regulations are designed to assist qualified applicants in applying for training grants and fellowships.

Section 103 of the Clean Air Act, as amended, 42 U.S.C. 1857b; sections 104, 109, 110, and 111 of the Federal Water Pollution Control Act, as amended; sections 204 and 210 of the Solid Waste Disposal Act, as amended, 42 U.S.C. 3253 and 3254d; section 23(a) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended by Public Law 92–516; and the Public Health Service Act, as amended, 42 U.S.C. 241, 243, and 246 authorize the Environmental Protection Agency to make grants to qualified applicants for training programs to:

(a) Assist in planning, implementing, and improving environmental training programs;

(b) Increase the number of adequately trained pollution control and abatement personnel;

(c) Upgrade the level of training among State and local environmental control personnel; and

(d) Bring new people into the environmental control field.

Section 103 of the Clean Air Act as amended, 42 U.S.C. 1857b and sections 104(b)(5) and 104(g)(3)(B) of the Federal Pollution Control Act of 1972, authorizes the Environmental Protection Agency to make grants to qualified applicants for fellowships to encourage and promote the specialized training of individuals as practitioners in pollution abatement and control.

Publication of these proposed rules is a continuation of an effort to coordinate and conform grant award and administration policies, procedures, and terms for the various EPA grant programs, to improve administration of these grant programs and to furnish applicants, grantees, and the public, with a more explicit statement of grant award and administrative requirements. Newly enacted legislation and changes in program emphasis have resulted in the following major revisions in the training grant and fellowship regulations.

1. Student support for training grants will be changed from traineeship to scholarships (tuition and fees only);

2. Special stipends will be established to provide additional support where needed to attract students to specific progarms; and

3. A pilot fellowship program will be developed to promote attractiveness of State and local employment.

Prior to the adoption of the proposed regulations, consideration will be given to comments, suggestions, or objections, which may be submitted in writing to: Director, Grants Administration Division, Office of Planning and Management, Waterside Mall, Fourth and M Streets SW., Washington, DC 20460. All comments, suggestions, or objections received before February 28, 1973, will be considered.

WILLIAM D. RUCKELSHAUS,
Administrator.

JANUARY 23, 1973.

PART 45—TRAINING GRANTS

Sec.

§ 45.100 Purpose of regulation.

This part establishes and codifies policies and procedures governing the award of training grants by the Environmental Protection Agency.

§ 45.101 Applicability and scope.

This part establishes mandatory policies and procedures for all EPA training grants. The provisions of this part supplement the EPA general grant regulations and procedures (40 CFR Part 30). Accordingly, all EPA training grants are awarded subject to the EPA general grant regulations and procedures (40 CFR Part 30) and to the applicable provisions of this Part 45.

§ 45.102 Authority.

The Environmental Protection Agency is authorized to award training grants under the following statutes:

(a) Section 103 of the Clean Air Act, as amended; 42 U.S.C. 1857b.

(b) Sections 104, 109, 110, and 111 of the Federal Water Pollution Control Act, as amended.

(c) Public Health Service Act, as amended; 42 U.S.C. 241, 243, and 246.

(d) Sections 204 and 210 of the Solid Waste Disposal Act, as amended; 42 U.S.C. 3253 and 3254d.

(e) Section 23(a) of the Federal Insecticide, Fungicide, and Rodenticide Act as amended by Public Law 92–516.

§ 45.103 Objectives.

Grants awarded under this part are intended for occupational and professional training and to develop career-oriented personnel qualified to work in pollution abatement and control.

Training grants will be awarded:

(a) To assist in planning, implementing, and improving environmental training programs;

(b) To increase the number of adequately trained pollution control and abatement personnel;

(c) To upgrade the level of training among State and local environmental control personnel; and

(d) To bring new people into the environmental control field.

§ 45.105 Definitions.

As used throughout this part, the words and terms defined in this section shall have the meanings set forth below.

§ 45.105–1 Professional training.

Training of individuals, at the post baccalaureate level, in subjects which pertain to pollution abatement and control.

§ 45.105–2 Scholarship.

Financial assistance to students enrolled in a training program, limited to tuition and fees only.

§ 45.105–3 Stipend.

Supplemental financial assistance to students who are recipients of scholarships.

§ 45.105–4 Technician training.

Training of individuals, at the post high school, junior college, and baccalaureate levels, in the practical technical details and special techniques of occupations in the environmental areas.

§ 45.115 Eligibility.

Training grants may be awarded to any responsible applicant as follows:

(a) *Clean Air Act.* (1) Section 103(b)(3): Air pollution control agencies, public and nonprofit private agencies, institutions, organizations, and individuals. No grant may be made under this Act to any private profitmaking organization.

(2) Section 103(b)(5): Personnel of air pollution control agencies and other qualified persons. No grant may be made under this Act to any profitmaking organization.

(b) *Federal Water Pollution Control Act.* (1) Section 104(b)(3): State water pollution control agencies, interstate agencies, other public or nonprofit private agencies, institutions, organizations, and individuals.

(2) Section 104(g)(3)(A): Public or private agencies and institutions, and individuals.

(3) Sections 104(g)(1) and 104(g)(3)(C): State and interstate agencies, municipalities, educational institutions, and other organizations and individuals.

(4) Sections 109, 110, and 111: Institution of higher education or combinations of such institutions.

(c) *Solid Waste Disposal Act.* Sections 204(b)(3) and 210(a): State or interstate agencies, municipalities, educational institutions, and other nonprofit organizations. No grant may be made under this Act to any private profitmaking organization.

(d) *Public Health Service Act.* Grants will be made only to a university, hospital, laboratory, other public and private institutions, and individuals. No grant may be made under this Act to any profit-making organization.

(e) *Federal Insecticide, Fungicide, and Rodenticide Act.* Section 23(a): States.

§ 45.125 Application requirements.

Applications shall be submitted in accordance with 40 CFR Part 30, Subpart B.

§ 45.130 Evaluation of applications.

Evaluations shall be conducted by EPA staff and outside consultants, as appropriate, with technical knowledge and experience relevant to the individual application. Such evaluations will determine the desirability, extent of funding, and relative merit of an application. Consideration will be given to the following criteria:

(a) Relevance of proposal to agency objectives, priorities, achievement of national goals and technical merit;

(b) Competency of the proposed staff in relation to the type of project involved;

(c) Feasibility of the proposal;

(d) Adequacy of applicant's resources available for the project;

(e) Amount of grant funds necessary for the completion of the project.

(f) In addition, grants awarded under section 104(g)(1) of the Federal Water Pollution Control Act, shall be subject to the following criteria:

(1) Assessment of need for training in a State or municipality based on such problems as violation of discharge permit conditions, and faulty or improper operation and/or maintenance of existing plants.

(2) Wastewater treatment works construction grant activities in the State.

§ 45.135 Supplemental grant conditions.

In addition to the EPA general grant conditions (Appendix A to Subchapter B of 40 CFR), each training grant shall be subject to the following conditions:

(a) The grantee shall not require the performance of personal services by individuals receiving training as a condition for assistance.

(b) Recipients of assistance under training grants shall be entitled to the normal student holidays observed by an academic institution, or the holiday and vacation schedule applicable to all trainees at a nonacademic institution.

(c) Recipients of assistance under training grants must be citizens of the United States, its territories, or possessions, or lawfully admitted to the United States for permanent residence.

(d) Generally training grants will provide for student support only through scholarships. Stipends are permitted when, in the judgment of the grantee, they are needed to attract qualified students provided that not more than $10,000 may be used for such stipends within a budget period and further provided that no stipend may be less than $1,000 or more than $3,000.

(e) Training grants awarded under section 111 of the Federal Water Pollution Control Act will be subject to the following condition: Grantees must obtain the following agreement in writing from persons awarded scholarships under section 111 for undergraduate study of the operation and maintenance of treatment works:

> I agree to enter and remain in an occupation involving the design, operation, or maintenance of waste treatment works for a period of 2 years after the satisfactory completion of my studies under this program. I understand that if I fail to perform this obligation I may be required to repay the amount of my scholarship.

The grantee agrees to take such action as may reasonably be required to enforce the foregoing agreement. Any sums received by the grantee shall be credited or paid to the United States in accordance with 40 CFR 30.603.

§ 45.140 Project period.

The project period for a training grant may not exceed 3 years.

§ 45.145 Allocation and allowability of costs.

(a) Allocation and allowability of costs will be determined in accordance with 40 CFR 30.701.

(b) Costs incurred for the purchase of land or the construction of buildings are not allowable.

§ 45.150 Reports.

§ 45.150–1 Interim progress report.

An application for continued support shall include a brief (less than five pages) progress report. This progress report must show the progress achieved and should explain special problems or delays.

§ 45.150–2 Final progress report.

A final progress report is required 30 days prior to conclusion of the project period. The report shall briefly document project activities during the entire project period and shall set forth the extent to which the project objectives have been achieved.

§ 45.150–3 Report of expenditures.

No later than 90 days following the end of each budget period the grantee must submit a report of project expenditures. Final report of expenditures must reflect cumulative project expenditures.

§ 45.150–4 Equipment report.

No later than 90 days following the end of the project period the grantee must submit a listing of all (a) excess personal property furnished by the Federal Government for the performance of the project and (b) equipment acquired with grant funds with an acquisition cost of $200 or more.

§ 45.155 Continuation grant.

To be eligible for a continuation grant within the approved project period, the grantee must:

(a) Have demonstrated satisfactory performance during all previous budget periods.

(b) Submit a continuation application including an interim progress report and an estimated report of expenditures.

PART 46—FELLOWSHIPS

§ 46.100 Purpose of regulation.

This part establishes and codifies policies and procedures governing the award of fellowships by the Environmental Protection Agency.

§ 46.101 Applicability and scope.

This part establishes mandatory policies and procedures for all EPA fellowships.

§ 46.102 Authority.

The Environmental Protection Agency is authorized to grant fellowship awards under the following statutes:

(a) Section 103 of the Clean Air Act as amended; 42 U.S.C. 1857b.

(b) Section 104(b)(5) and 104(g)(3)(B) of the Federal Pollution Control Act, as amended.

§ 46.103 Objectives.

Fellowships awarded under this part are intended to encourage and promote the specialized training of individuals as practitioners in pollution abatement and control.

§ 46.104 Type of fellowships.

(a) Agency fellowships are awarded to present or prospective employees of a regional, State or local environmental pollution control or regulatory agency to provide training for and upgrading of personnel in the areas of pollution abatement and control.

(b) Special fellowships are awarded to individuals for study in specialty areas which are supportive of pollution abatement and control efforts, e.g. environmental law, land use, urban planning, transportation and environmental economics.

§ 46.105 Definitions.

§ 46.105–1 Full-time fellow.

An individual duly enrolled in an educational program directly relating to pollution abatement and control, and taking a minimum of 12 semester or quarter hours for credit or an academic workload otherwise defined by the institution as a full-time curriculum.

§ 46.105–2 Part-time fellow.

An individual duly enrolled in an educational program directly relating to pollution abatement and control, and taking not less than 3 credit hours per academic term. The follow need not be pursuing an advanced degree.

§ 46.110 Benefits.

(a) Recipients of assistance under this part shall be entitled to tuition and fees, an allowance for books and supplies up to a maximum of $250, and the normal student holidays observed by an academic institution.

(b) In addition, full-time fellows who are employees of regional, State or local environmental pollution control or regulatory agencies may receive a stipend in an amount not to exceed $6,500 from EPA: *Provided*, That such employing agency agrees to supplement such stipend in an amount negotiated by such employing agency and EPA. Part-time fellows may receive a small stipend when justified by extraordinary needs related to the purpose of the fellowship.

§ 46.115 Eligibility.

All applicants for fellowships under this part must be (a) citizens of the United States, its territories, or possessions, or lawfully admited to the United States for permanent residence, and (b) accepted by an accredited educational institution for full- or part-time enrollment for academic credit in an educational program which, for agency fellowships, directly relates to pollution abatement and control, and for special fellowships, directly relates to, or is supportive of, pollution abatement and control. Applicants for agency fellowships must be present or prospective employees of a regional, State, or local environmental pollution control or regulatory agency. Present employees must be recommmended for a fellowship by their employing agency. Prospective employees must have a written commitment from such an agency for employment upon completion of the fellowship.

§ 46.120 Application requirements.

All applications for EPA fellowships shall be submitted upon such forms as the Administrator shall prescribe and shall include copies of transcripts of undergraduate and graduate courses, as appropriate. The applicant must arrange for the submission of supporting documents which substantiate his eligibility under § 46.115. In addition, the applicant shall submit such further information as may be required. Instructions for filing are contained in the application kit.

§ 46.122 Evaluation of application.

Evaluation shall be conducted by EPA staff and such outside consultants as necessary, with technical knowledge and experience relevant to the individual application. Such evaluation will determine the desirability, extent of funding, and relative merit of an application. Consideration will be given to the following criteria:

(a) Appropriateness of the fellow's proposed course of study to the objectives and mission of the Agency.

(b) Evaluation of the applicant in terms of his potential for study, as evidenced by his academic record, letters of reference, training plans, and other available information.

§ 46.135 Award and duration of fellowship.

Generally, within 90 days after receipt of a completed application (excluding suspension periods for submission of supplemental information), the application will be (a) approved for fellowship award; (b) deferred due to lack of funding or other specified reason; or (c) disapproved. The applicant shall be promptly notified in writing of any deferral or disapproval. A disapproval of an application shall not preclude reapplication. The applicant shall not be notified of an approval or fellowship award prior to transmittal of the fellowship agreement for execution by the applicant pursuant to § 46.140. Generally, fellowships will not exceed 1 year.

§ 46.136 Activation date.

Study must be initiated pursuant to an approved fellowship within 6 months following the date of the award notice or the fellowship will be terminated.

§ 46.140 Fellowship agreement.

The fellowship agreement is the written agreement, and amendments thereto, between EPA and a fellowship applicant in which the terms and conditions governing the fellowship are stated and agreed to by both parties. Upon approval of a fellowship for award, the fellowship agreement will be transmitted by certified mail (return receipt requested) to the applicant for execution. The fellowship agreement must be executed by the applicant and returned to the Grants Officer within 3 weeks after receipt, or within any extension of such time that may be permitted by the Grants Officer. The fellowship shall constitute an obligation of Federal funds in the amount and for the purposes stated in the fellowship instrument only upon execution of the fellowship agreement by the parties thereto. No costs may be incurred prior to the execution of the fellowship agreement by the parties thereto.

§ 46.141 Fellowship agreement amendment.

A fellowship amendment shall be effected only by a written amendment to the fellowship agreement executed by the Grants Officer on behalf of the Government and by the fellow on his own behalf entered into after the effective date of the fellowship.

§ 46.145 Payment.

All payments will be initiated at the time of activation of the fellowship.

(a) Stipend allowance will be made directly to the fellow on a monthly basis.

(b) Institutional allowances will be made directly to the sponsoring institution.

§ 46.150 Publications and thesis.

If appropriate, all publications including a thesis developed as a result of support under the EPA fellowship shall be submitted to the Grants Officer. No prior approval by EPA is required for publication of a thesis. A copy of any thesis must be filed with the Grants Officer upon publication. Any such written publications shall acknowledge Federal grant assistance by including a statement substantially as follows:

This project has been financed in part with Federal funds from the Environmental Protection Agency under fellowship number ---------- The contents do not necessarily reflect the views and policies of the Environmental Protection Agency, nor does mention of trade names or commercial products constitute endorsement or recommendation for use.

§ 46.155 Deviations.

Procedures of 40 CFR 30.1001 of the EPA general grant regulations shall be applicable to fellowships.

§ 46.165 Termination.

Fellow must notify EPA in writing when he terminates or changes his status as a student as approved under the fellowship. An EPA fellowship may be terminated only for good cause, which shall include but not be limited to termination of studies by the fellow, or failure of the fellow to comply with the terms and conditions of the fellowship agreement: *Provided*, That a termination action may not be taken unless the fellow has received written notice of the bases for the proposed action and has been afforded an opportunity to confer with appropriate EPA officials concerning the proposed action. Any termination action may be appealed in accordance with the Disputes Article of the EPA General Grant Conditions (Appendix A to Subchapter B of Title 40 CFR).

PART 48—MANPOWER FORECASTING [RESERVED]

[FR Doc.73-1612 Filed 1-26-73;8:45 am]

[40 CFR Part 180]

TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Sodium and Potassium Arsenite; Proposed Tolerances

The U.S. Department of Agriculture submitted a petition (PP 0E0908) proposing establishment of tolerances for residues of the insecticide sodium arsenite (expressed as As_2O_3) in kidney and liver of cattle, goats, horses, and sheep at 2.7 parts per million and in meat, fat, and meat byproducts of the animals at 0.7 part per million; such residues resulting from dermal application of sodium arsenite solution to these animals.

Subsequently, the petitioner withdrew the request for tolerances pertaining to goats and sheep and requested that both sodium arsenite and potassium arsenite formulations be approved.

Based on consideration given the data submitted in the petition and other relevant material, it is concluded that:

1. The pesticide is useful for the purpose for which the tolerances are proposed.

2. The proposed tolerances are safe and will protect the public health.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(e), 68 Stat. 514; 21 U.S.C. 346a(e)), the authority transferred to the Administrator of the Environmental Protection Agency (35 FR 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs (36 FR 9038), it is proposed that Part 180 be amended by adding the following two new sections to Subpart C:

§ 180.334 Potassium arsenite; tolerances for residues.

(a) Tolerances for residues of the insecticide potassium arsenite (expressed as As_2O_3) resulting from dermal application to animals under the supervision of the U.S. Department of Agriculture are established in or on raw agricultural commodities as follows:

2.7 parts per million in kidney and liver of cattle and horses.

0.7 part per million in meat, fat, and meat byproducts (except kidney and liver) of cattle and horses.

(b) The U.S. Department of Agriculture will issue a certificate to the owner of the animals showing the composition of the pesticide formulation and dates of treatment, and also specifying a minimum preslaughter interval of 14 days.

§ 180.335 Sodium arsenite; tolerances for residues.

(a) Tolerances for residues of the insecticide sodium arsenite (expressed as As_2O_3) resulting from dermal application to animals under the supervision of the U.S. Department of Agriculture are established in or on raw agricultural commodities as follows:

2.7 parts per million in kidney and liver of cattle and horses.

0.7 part per million in the meat, fat, and meat byproducts (except kidney and liver) of cattle and horses.

(b) The U.S. Department of Agriculture will issue a certificate to the owner of the animals showing the composition of the pesticide formulation and dates of treatment, and also specifying a minimum preslaughter interval of 14 days.

Any person who has registered or submitted an application for the registration of an economic poison under the Federal Insecticide, Fungicide, and Rodenticide Act containing any of the ingredients listed herein may request, on or before February 28, 1973, that this proposal be referred to an advisory committee in accordance with section 408(e) of the act.

Interested persons may, on or before February 28, 1973, file with the Hearing Clerk, Environmental Protection Agency, Room 3902A, Fourth and M Streets SW., Waterside Mall, Washington, DC 20460, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. All written submissions made pursuant to this proposal will be made available for public inspection at the office of the Hearing Clerk.

Dated: January 22, 1973.

HENRY J. KORP,
Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.73-1626 Filed 1-26-73;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 19644]

FM BROADCAST STATION IN COLORADO SPRINGS, COLO.

Proposed Table of Assignments; Extension of Time for Comments

Order extending time for filing comments and reply comments. In the matter of amendment of § 73.202(b), *Table of Assignments, FM Broadcast Station*, (Colorado Springs, Colo.), Docket No. 19644, RM-1886.

1. On December 6, 1972, the Commission adopted a Notice of Proposed Rule Making in the above captioned proceeding. Publication in the FEDERAL REGISTER was given on December 15, 1972, 37 FR 26740. Comment and reply comment dates are presently designated as January 19, and January 29, 1973, respectively.

2. On January 17, 1973, Western Broadcasting Co., licensee of Station KPIK-FM, Colorado Springs, Colo., and proponent in this proceeding, filed a petition for extension of time in which to submit comments and reply comments to and including January 29, and February 12, 1973, respectively. Counsel states that consulting engineer for Western has been working on a preclusion study but will be unable to meet the present deadline date. Counsel for KYSN Broadcasting Co., the only other party herein, has advised Western's counsel that he has no objection to the grant of this requested extension.

3. We are of the view that the requested extension is warranted and would serve the public interest. *Accordingly, it is ordered*, That the time for filing comments and reply comments in docket 19644 (RM-1886), is extended to and including January 29, and February 12, 1973.

4. This action is taken pursuant to authority found in sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended and § 0.281(d)(8) of the Commission's rules.

Adopted: January 19, 1973.

Released: January 22, 1973.

[SEAL] HAROLD L. KASSENS,
Acting Chief, Broadcast Bureau.

[FR Doc.73-1637 Filed 1-26-73;8:45 am]

VETERANS ADMINISTRATION

[38 CFR Part 36]

FLOOD INSURANCE REQUIREMENTS

Special Flood Hazard Areas

The Veterans Administration is considering amending § 36.4326, Title 38 of the Code of Federal Regulations to specifically require flood insurance coverage on properties securing a loan guaranteed by the Veterans Administration in a special flood hazard area, as designated by the Secretary of Housing and Urban Development. The proposed amendment is issued pursuant to the authority of section 210(c), Title 38, United States Code.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans Affairs (232H), Veterans Administration Central Office, 810 Vermont Avenue NW., Washington, DC 20420. All relevant material received before February 26, 1973, will be considered. All written comments received will be available for public inspection at the above address only between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays) during the mentioned 30-day period and for 10 days thereafter. Any person visiting central office for the purpose of inspecting any such comments will be received by the Central Office Veterans Assistance Unit in Room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in central office and furnished the address and the above room number.

Notice is also given that it is proposed to make any regulation that is adopted effective 30 days after the date of approval by the Administrator.

It is proposed to amend § 36.4326, Title 38 of the Code of Federal Regulations to read as follows:

§ 36.4326 Hazard insurance.

The holder shall require insurance policies to be procured and maintained in an amount sufficient to protect the security against the risks or hazards to which it may be subjected to the extent customary in the locality. Flood insurance will be considered customary in the locality if the security is located in a special flood hazard area, as designated by the Secretary of Housing and Urban Development. The amount of flood insurance required will be equal to the outstanding loan balance of the mortgage or the maximum limit of coverage authorized for the particular type of security, or a sum designated by the Administrator, whichever is less. An exception to the flood insurance requirement may be made if it is determined by the Administrator in an individual case that the security, although situated in a special flood hazard area designated by the Secretary of Housing and Urban Development, is clearly not subject to flood damage because of its particular location, elevation, or construction. All moneys received under such policies covering payment of insured losses shall be applied to restoration of the security or to the loan balance.

Approved: January 22, 1973.

By direction of the Administrator.

[SEAL] FRED B. RHODES,
Deputy Administrator.

[FR Doc.73-1627 Filed 1-26-73;8:45 am]

Notices

DEPARTMENT OF COMMERCE

Maritime Administration

U.S. MERCHANT MARINE ACADEMY ADVISORY BOARD

Notice of Public Meeting

Notice is hereby given of a meeting of the U.S. Merchant Marine Academy Advisory Board (the Board) on January 31, 1973, at 9:30 a.m. in the Board Room of Wiley Hall U.S. Merchant Marine Academy, Kings Point, Long Island, New York.

The Advisory Board to the United States Merchant Marine Academy was established by the Secretary of Commerce under the authority of 46 U.S.C. 1126d to examine the course of instruction and the overall management of the U.S. Merchant Marine Academy (the Academy) and advise the Assistant Secretary of Commerce for Maritime Affairs with respect thereto.

The Board consists of not more than seven members appointed by the Secretary of Commerce, selected from segments of the Maritime industry, labor, educational institutions and other fields relating to the objectives of the Academy.

The purpose of the meeting is to discuss the Academic Evaluation Study, Departmental Evaluations, the Facilities Plan, the Admission Standards and FY–74 Budget and projections.

The names of the Board, Agenda and other information pertaining to the meeting may be obtained from Miss Kathleen A. Shetler, Special Assistant to the Assistant Secretary of Commerce for Maritime Affairs, Dept. of Commerce, Maritime Administration, 14th & E Streets, NW., Washington, D.C. 20235, Room 3731, Telephone No. Area Code 202/967–2852.

Signed at Washington, D.C., on January 24, 1973.

HOWARD F. CASEY,
Deputy Assistant Secretary for Maritime Affairs.

[FR Doc.73–1814 Filed 1–26–73;11:03 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institute of Education

GRANTS FOR RESEARCH IN EDUCATION

Notice of Educational Research Areas and Closing Dates

Notice is hereby given that, pursuant to section 405 of the General Education Provisions Act, the National Institute of Education will conduct field-initiated studies grants for research in education program in fiscal year 1973. The program will make awards in support of original research proposals offering benefit to education and will encourage research in selected disciplines. It will respond to educationally relevant research ideas from all eligible persons and organizations, as provided in proposed §§ 1403.2(a) and 1400.4(e) of 45 CFR.

General regulations for the National Institute of Education, which will be codified as subchapter A, chapter XIV of 45 CFR, have been published in proposed form in the FEDERAL REGISTER. (38 FR 1020 Jan. 8, 1973)

Proposed § 1400.4(b) of 45 CFR provides that the Director may issue and publish announcements directed toward the award of grants or contracts. In addition, proposed § 1400.2 provides that the regulations of chapter XIV, subchapter A will be supplemented by special substantive and procedural rules and policies. This notice is made in accordance with these provisions. The procedures and substantive rules contained herein are not proposed for codification in chapter XIV of 45 CFR because they are intended to apply only for fiscal year 1973.

It is anticipated that field-initiated studies projects will be funded primarily through grant awards. However, as provided in proposed § 1400.4(c), procurement contracts may be used in other than the small grants competition based upon criteria set forth in subpart 3–1.53 of title 41 of the Code of Federal Regulations.

A. The following six funding activities will be conducted under the field-initiated studies program in fiscal year 1973:

1. *Grants for Research in Education.* (a) This activity covers proposals for educationally relevant applied and basic research by competent, established investigators in all fields of study except the disciplines selected below.

(b) *Scope.* The range of eligible studies covers preexperimental, historical, and philosophical review and syntheses, pilot explorations, empirical research on processes and phenomena; and exploratory development to include empirical identification of a developmental need, feasibility testing of alternative versions or a prototype, and development of design specifications. Consideration will be given also to proposals for integrative reviews of a field or area to provide state-of-the-art analyses, investigations, or improved research methodologies, studies in psychometrics, as well as research on educational research and development management.

(c) The research should show promise of contributing toward one or more of the following goals:

(1) To expand and strengthen the foundations of scientific knowledge about the processes and conditions of education.

(2) To provide tested solutions to specific practical problems of American education.

(3) To provide a perspective and clarification of the goals and issues of American education.

2. *Grants for Research in Education—Small Grants.* This activity considers proposals for educationally relevant applied and basic research by investigators who have not had time to establish an extensive record of research productivity. Federal funds requirements must be limited to $10,000 or less.

3. *Anthropology.* A special program to encourage research in Anthropology relevant to American education.

4. *Economics.* A special program to encourage research in economics relevant to American education.

5. *Political Science.* A special program to encourage research in political science relevant to American education.

6. *Legal Research.* A special program to encourage research on legal issues of American education.

B. *Project Duration.* The duration of approved projects shall be limited to 3 years, with the exception of the small grants program whose project period shall be limited to eighteen months.

C. *Award Procedures.* 1. *Evaluation Criteria.* Evaluation of proposals will be based upon criteria published in the NIE proposed general provisions for grant research programs. Awards will be made by the Director. (45 CFR 1403.10)

2. *Panel Review.* All proposals will be reviewed by NIE staff, with the assistance of the following panels composed of expert nongovernmental consultants:

(a) Learning and instruction.
(b) Human development.
(c) Objectives, measurement, evaluation and research methodology.
(d) Social thought and processes.
(e) Organization and administration.
(f) Anthropology.
(g) Economics.
(h) Political science and legal research.
(i) Small grants.

Applicants are invited to designate the panel to which they wish their proposal assigned for review. In the absence of such designation, NIE staff will make the assignment.

3. *Grants for Research in Education and Small Grants.* Applications for these activities will be filed in accordance with 45 CFR 1403.4.

4. *Selected Disciplines.* (a) The application and review procedures for the four selected disciplines (anthropology, political science, economics and legal research) will consist of two steps:

(1) The applicant will submit a three- to five-page prospectus for initial review;

(2) Applicants submitting the most highly rated prospectuses will be invited to submit formal research proposals for evaluation.

(b) *Prospectus Format.* The prospectus should provide the following information:

(1) Name, address, telephone number, present position, institutional affiliation, and social security number;

(2) A statement describing the proposed research problem and its significance to the relevant discipline and to American education;

(3) A summary of the proposed research design;

(4) A proposed budget, showing direct costs and indirect costs for the entire project.

D. *Closing Dates.* 1. The postmark deadline for submission of proposals for grants for research in education and small grants activities is March 1, 1973.

2. The postmark deadline for submission of prospectuses in selected disciplines activities is February 17, 1973.

E. Further information may be obtained from:

Field Initiated Studies Program
National Institute of Education
Code 600
Washington, D.C. 20202

F. It is the general policy of the Institute to provide opportunity for interested parties to take part in its rulemaking process. However, this notice is given without such opportunity based upon the Director's finding that public comment is impracticable in view of the time pressures which dictate publication of a final rule at this time. Such finding is premised on the following reasons:

1. It is not possible to publish a general notice of proposed rule making to be followed by a 30-day comment period and still afford present and prospective applicants sufficient time for preparation of a prospective or application, as appropriate between publication of a final rule and the applicable closing date; and

2. It is not feasible to delay the closing date in view of the large number of proposals anticipated for this program, the complexities of the proposal review process, the necessity for obligating funds by June 30, 1973, and the Director's desire to give each proposal full consideration.

(Sec. 405 of the General Education Provisions Act, as added by Sec. 301(a)(2) of P.L. 92-318, 85 Stat. 328, 20 U.S.C. 1221e)

Effective date. This notice is effective on January 29, 1973.

Dated: January 11, 1973.

THOMAS K. GLENNAN, Jr.,
Director, National Institute of Education.

[FR Doc.73-1678 Filed 1-26-73;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

WASHINGTON NATIONAL AIRPORT AND DULLES INTERNATIONAL AIRPORT

Policy Regarding Roles

Notice is hereby given that the Federal Aviation Administration (FAA) intends to refine its policy concerning the present and future roles of Washington National Airport (DCA) and Dulles International Airport (IAD) in meeting the needs for air transportation in the Washington area.

Notwithstanding the unqualified language in section 553(b) (A) of title 5, United States Code, exempting the formulation of general statements of policy from all requirements for notice and opportunity for publice participation, the FAA considers this to be an instance in which public participation will be especially helpful in formulating its policy. It is also in line with the Department of Transportation's policy of regular consultation with users of the National Airspace System, the aviation industry, State and local government agencies, and the general public regarding major changes in policy and planning. For these reasons, the FAA is inviting interested persons to express their views or comments on the subject.

The FAA believes it is desirable to refine and make explicit its policy on the role of DCA and IAD. In addition to providing an explicit policy, a clear statement of the relative roles of the airports should be useful to the traveling public, the airlines, the affected communities, and any succeeding owner of the airports.

This policy recognizes the existence of the Metropolitan Council of Government's planning effort known as the "Regional Air Facilities Plan." When the results of this study are available, probably in late 1974, they will be evaluated in regard to possible application to this policy.

A. *Current characteristics of the airports.* In examining the two airports as a unified transportation system, it is necessary to delineate the most significant physical and operational characteristics of each airport. A brief discussion of these follows:

1. *Washington National Airport (DCA).* DCA, located 4½ miles from downtown Washington, is currently the most utilized Washington airport. Nearly 10.4 million air carrier passengers used DCA during fiscal year 1972. Airside capacity of DCA is approximately 60 Instrument Flight Rule operations per hour, of which 40 have been allocated to air carrier operations and 20 to other aircraft operations. The air carrier allocation is fully utilized during most hours of the day. Present terminal capacity of DCA is estimated to be approximately 3,500 passengers per hour. The present capacity is occasionally approached during peak hours. Metro service will facilitate handling of passengers at the airport. To reduce the effects of noise in the surrounding residential areas during the night, jet air carrier flights are not scheduled at DCA between 10 p.m. and 7 a.m.

The two major access roads to DCA, Route No. 1 and the George Washington Parkway, are also major commuting routes and are operating at or near capacity during peak hours. Frequent congestion occurs within the internal traffic system at DCA.

The main terminal building at DCA was constructed in the early 1940's, and the north terminal building was added in 1958. Although some significant modernization has been accomplished recently by several air carriers, the aesthetic appearance and internal circulation systems are in need of improvement and modernization.

2. *Dulles International Airport (IAD).* IAD, designed by Eero Saarinen, is generally recognized as one of the most beautiful and efficient airports in the country. The airport is located 26 miles from downtown Washington. Since its opening in November 1962, passenger use of IAD has grown to a level of just over 2.2 million air carrier passengers in fiscal year 1972.

Airside capacity of IAD is approximately 100 Instrument Flight Rule Operations per hour. Current peak hour air carrier utilization is approximately 20 operations per hour. Terminal capacity of approximately 1,800 passengers per hour is currently approached only during the peak hours. In contrast to DCA where air terminal utilization is high throughout the day, off-peak usage of IAD typically falls far below 50 percent of capacity.

B. *Differentiation of roles of the two airports.* When IAD was opened in November 1962, it was designated as the International and long-haul airport for the Washington area, and DCA was defined as the area's short-haul airport. In 1966, to help accomplish these roles, non-stop flights from DCA were limited to a radius of 650 miles with the exception of seven "grandfather" cities (Minneapolis, St. Louis, Memphis, Tampa, Orlando, Miami, and West Palm Beach).

The rationale underlying the short-haul versus long-haul differentiation stems from the close proximity of DCA to the Washington, D.C., central business district, as opposed to the much more distant location of IAD.

For most Washington area origins and destinations, particularly those within the District of Columbia, the access time to and from IAD is greater than that to and from DCA. Conversely, the greater access time between IAD and the central business district imposes a relatively lesser burden on the long-haul traveler since ground travel time represents a smaller percentage of the total time involved in long-haul trips. These considerations were responsible for the FAA's initial adoption of the short-haul versus long-haul differentiation.

It has been several years since the policy regarding the role of the two Washington airports was first established. Significant technical, economic, and social changes have occurred in the interim which call for a reconsideration of this policy. These include, among other things: (a) Increasing community concern over the environmental impact of the airports in the local area; (b) recent indications that use of the new wide-bodied DC-10's and L-1011's at DCA might be desirable as a means of reducing noise and air pollution around the airports; and (c) anticipated increases in air travel to and from the

Washington area, which will require expansion and/or more efficient utilization of existing airport capacity in the Washington area.

C. *Policy objectives.* The FAA's review and consideration of possible changes to or refinements of its policy concerning the Washington area airports has been undertaken with the following basic objectives in mind:

1. To rationalize the role and use of the airports from an overall transportation viewpoint;

2. To achieve fuller utilization of existing and planned capacity at the airports;

3. To reduce unnecessary constraints on the use of equipment at the airports;

4. To insure that the gorwth, use, and role of the airports are compatible with the changing demands and expectations of the community, especially with respect to environmental quality.

DCA and IAD are currently owned and operated by the Federal Government. It is the FAA's policy that the Federal Government should cease to own and operate DCA and IAD.

D. *Proposed policy decisions.* To achieve the basic policy objectives stated above, an overall policy encompassing the following points is proposed for adoption:

1. DCA will be operated solely as a short-haul airport insofar as air carrier operations are concerned. To accomplish this, DCA will permit nonstop air carrier service only within a radius of 650 miles. One-stop service will be limited to an origin and destination radius of 1,000 miles. These restrictions will be totally implemented by January 1, 1974. This policy will increase the utilization of Dulles by shifting longer haul flights from DCA to IAD.

2. The FAA will not seek any significant expansion of DCA. The FAA will, however, propose to undertake a modernization program for DCA aimed primarily at improving airport access and egress (including roadways to and from the airport and at the terminal building), baggage handling, and overall esthetics.

3. Air carriers will not be permitted to operate a new aircraft type into DCA unless the new aircraft is quieter and results on an average day in less emissions on a per-passenger-seat basis than the aircraft it replaces and is to be used for service within the range of the short-haul provisions of this policy. On the other hand, there will not be any restriction at DCA on any type of aircraft that is more acceptable in these terms, except as may be dictated by safety considerations or the physical limitations of the airfield.

4. The limitation of 60 flights per hour, including 40 air carrier operations per hour, as prescribed in section 93.123 of the Federal Aviation Regulations, will continue at DCA. In order to remain within the passenger capacity of the airport, the upper limitation of 40 air carrier operations per hour will be reduced as necessary as new large aircraft are scheduled into DCA.

5. The air carriers will be expected to continue their agreement not to schedule jet service in or out of DCA from 10 p.m. to 7 a.m.

6. Regular customs and associated international flight services will not be provided at DCA.

E. *Explanation of proposed policy decisions.* Official FAA projections indicate that growth in commercial air travel in the Washington area is expected to increase significantly in the next decade, rising from an actual level of 12.6 million enplanements and deplanements in fiscal year 1972, to an estimated 16.7 million in fiscal year 1976. The FAA has carefully considered (a) the roles which each airport might be able to take in accommodating this projected growth, and (b) the most desirable way to allocate the future growth in light of various economic, environmental, and social considerations.

1. *The short-haul role of DCA.* With respect to the utilization and roles of DCA and IAD, there are several important considerations:

(a) Because IAD is located much further from major residential areas than is DCA, any adverse environmental impact on residential areas resulting from increased airport use will be less at IAD than at DCA.

(b) IAD was constructed with later expansion in mind, whereas DCA has already been expanded about as far as it can go without incurring major new expenditures.

(c) Air travelers, as a group, have demonstrated a clear preference for use of DCA rather than IAD. This is attributable in part to its closer proximity to most origins and destinations in the area, but also to the fact that more flights and better connecting service have been made available by the airlines at DCA.

(d) The distances and ground travel times between IAD and the Washington central business district are greater than the corresponding distances and times at most major U.S. airports, but are approximately equal to those at three of the largest U.S. airports (Chicago O'Hare, New York John F. Kennedy International, and Atlanta).

(e) The distinct ground travel time advantage of DCA will be reduced by the development of a high speed transportation link between Dulles and the Washington central business district sometime in the future.

Although nonstop flights to and from DCA are currently restricted to points within a 650-mile radius (with the exception of the seven grandfather cities previously mentioned), DCA has been used increasingly by some air carriers to provide "long-haul" service to points beyond the 650-mile radius. This is done by scheduling a stop within that radius and then proceeding to the long-haul destination. In many cases, this one-stop service to a point beyond a 650-mile radius of DCA is either the only service available between the Washington area and the points involved, or is superior to service between that point and IAD. This practice circumvents the purpose of the short haul policy applicable to DCA.

To assure that DCA's limited capacity is devoted to short-haul service, it will be necessary to eliminate (1) nonstop service to the seven grandfather cities, and (2) one-stop flights between DCA and points beyond a radius of 1,000 miles. The FAA proposes to accomplish this on a time-phased basis (to be announced later and to be completed by January 1, 1974). A major consequence of this action will be to shift medium and long-haul service to IAD and other area airports.

2. *Improvement of DCA.* Both the existing and the proposed new limitations at DCA are designed to reduce any adverse environmental impact which might result from future operations of DCA. Therefore, a principal element of the proposed policy is to avoid any significant expansion of capacity at DCA but, at the same time, to enhance the efficiency, convenience and comfort of the airport through improvements in airport access and egress, passenger and baggage handling, overall aesthetic appearance, and compatibility with the surrounding community.

3. *Removal of existing equipment restriction at DCA.* At the present time, the wide bodied jets (DC–10's and L–1011's) have not been introduced at DCA. Recent tests indicate they are significantly quieter than other jet airplanes now in service at DCA. Moreover, the operating expense per available seat-mile for these aircraft is less than for other jets now in service at that airport. There are inherent advantages in increased usage of larger aircraft, particularly in relation to the Air-Shuttle operations. Extra sections on the Shuttle amounted to a significant 4,531 during Fiscal Year 1972. If the 270-seat DC–10's or L–1011's were used on the regular Shuttle flights, a noticeable reduction in the number of extra sections would result. Any such decrease would be both environmentally and economically beneficial, particularly during peak hours. Similar benefits would, of course, occur at LaGuardia and Newark Airports.

These benefits warrant removing the existing equipment restrictions at DCA, subject to appropriate environmental and safety considerations. The existing equipment restrictions will be removed in phase with the imposition of the new distance restrictions. The continued relaxation of the present equipment restrictions will be contingent upon the continued maintenance of the new distance restrictions.

The FAA believes that implementation of this proposed policy will give the airlines greater flexibility in the use and scheduling of aircraft. The FAA will expect, however, that the airlines will operate in such a way that the existing hourly capacity of DCA will be utilized for the benefit and convenience of the traveling public and without creating undue peak hour congestion. Further operating restrictions will be implemented by the FAA if a problem should arise.

The FAA intends to monitor events closely at both airports as the proposed

policy is being implemented and on a regular basis thereafter and will consider further changes in operating procedures as may be required. This policy will be reviewed in depth by the end of 1976, and a revised policy issued at that time, if warranted.

F. *Effective date and submission of comments.* It is proposed that this policy become effective June 1, 1973. Any interested person who wishes to express his views or comment with respect to this policy may do so by submitting them in writing to the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, GC-24, 800 Independence Avenue SW., Washington, DC 20591. All communications received prior to March 30, 1973, will be considered by the Administrator in the formulation of a final policy.

A Draft Environmental Impact Statement on the expected consequences of this proposed policy has been prepared in compliance with the National Environmental Policy Act of 1969. A copy of the draft Environmental Impact Statement may be reviewed at the FAA, Office of Environmental Quality, 800 Independence Avenue SW., Washington, DC 20591. Following review of all comments on the proposed policy and the draft Environmental Impact Statement, a final Environmental Statement will be prepared and submitted to the Council of Environmental Quality and the final policy statement will be published in the FEDERAL REGISTER upon adoption by the Administrator.

This policy is proposed under the authority of section 1301 of title 7 of the District of Columbia Code; 1961 Edition, section 2 of the Act of June 29, 1940, as amended (72 Stat. 731), section 4 of the Act of September 7, 1950, as amended (72 Stat. 731), and section 6(C) of the Department of Transportation Act (49 U.S.C. 1655(c)) and § 1.47(a) of the Regulations of the Office of the Secretary of Transportation.

Issued in Washington, D.C., on January 24, 1973.

ROBERT F. BACON,
Director, Office of Aviation, Policy and Plans, Federal Aviation Administration.

[FR Doc.1703 Filed 1-26-73;8:55 am]

Atomic Energy Commission

[Dockets Nos. 50-295, 50-304]

COMMONWEALTH EDISON CO.

Notice and Order Changing Date of Prehearing Conference

JANUARY 23, 1973.

Take notice that because of the officially scheduled National Day of Mourning in honor of former President Lyndon B. Johnson, it has become necessary to cancel the originally scheduled date for the prehearing conference in the above captioned case, which was originally scheduled for January 25, 1973, in Chicago, Ill., and to reschedule said prehearing conference for February 1, 1973. This prehearing conference will commence at 10 a.m. local time at the following address: Everett McKinley Dirksen Building, Court Room 2119, 21st floor, 219 South Dearborn Street, Chicago, IL 60604.

The subject matter of this newly scheduled prehearing conference will be the same as that set forth in the original Notice and Order for Prehearing Conference dated January 3, 1973.

All members of the public are entitled to attend the prehearing conference, as well as the evidentiary hearing itself.

It is so ordered.

Issued at Washington, D.C. this 23d day of January 1973.

For the Atomic Safety and Licensing Board.

THOMAS W. REILLY, Esq.,
Chairman.

[FR Doc.73-1665 Filed 1-26-73;8:45 am]

FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS OF 1972

Memorandum of Understanding Regarding Implementation of Certain Complementary Responsibilities

The Environmental Protection Agency (EPA) has authority under the Federal Water Pollution Control Act Amendments of 1972, Public Law 92-500 (FWPCA), over, among other things, certain discharges into navigable waters of pollutants from nuclear facilities and other activities requiring a license or permit from the Atomic Energy Commission (AEC). The AEC, under the National Environmental Policy Act of 1969 (NEPA), also has certain responsibility and authority to consider and take action with respect to environmental impact of discharges of pollutants. This responsibility and authority of AEC under NEPA is in turn affected by section 511 of the FWPCA. For the purpose of implementing NEPA and the FWPCA in a manner consistent with both acts and the public interest, EPA and AEC agree pursuant to their respective statutory authorities as follows:

1. AEC will exercise its responsibility and authority under NEPA as modified by section 511 of the FWPCA in accordance with the Interim Policy Statement appearing under 10 CFR Part 50 at 38 FR 2679 *supra*. This Statement of Policy requires, among other things, that AEC in its licensing actions accept decisions under specified sections of the FWPCA with respect to compliance with limitations or other requirements promulgated or imposed pursuant to the FWPCA. Where no decisions under these sections have been made, AEC will give due regard to EPA's views as expressed in comments on AEC draft environmental statements.

2. EPA will to the maximum extent practicable expedite the issuance of effluent limitations and the processing of applications for permits under section 402 of the FWPCA for nuclear facilities and other activities requiring an AEC license or permit which are subject to the requirements of 10 CFR Part 50, appendix D.

3. It seems certain that many licensing decisions by AEC will have to be made prior to the time that effluent limitations or other requirements have been established or discharge permits have been issued, as prescribed by the recent amendments to the FWPCA and that, conversely, many decisions with respect to establishment of effluent limitations or other requirements or issuance of discharge permits will be made after licenses for affected nuclear facilities or other activities have been issued by AEC. It is clear from the recent amendments to the FWPCA (section 304(b) and 306(b)) that Congress intended that EPA, in establishing effluent limitations and other requirements, give consideration not only to water quality, but also to such other factors as cost, the age of equipment and facilities involved, control techniques, process changes, nonwater quality environmental impact and energy requirements. These factors are also appropriate for consideration, to the extent authorized by the FWPCA and consistent with any applicable effluent limitations, in regard to issuance of discharge permits pursuant to section 402 of the FWPCA for facilities and activities previously licensed by AEC, as contemplated hereinabove.

4. Nothing in this memorandum is intended to restrict the statutory authority of either agency.

5. This Memorandum of Understanding shall take effect upon the signing by authorized representatives of the respective agencies and approval by the Council on Environmental Quality. The Memorandum of Understanding shall thereafter by published in the FEDERAL REGISTER.

For the United States Atomic Energy Commission.

L. MANNING MUNTZING,
Director of Regulation.

JANUARY 15, 1973.

For the United States Environmental Protection Agency.

JOHN R. QUARLES, Jr.,
Assistant Administrator for Enforcement and General Counsel.

JANUARY 19, 1973.

Approved by the Council on Environmental Quality for the Council.

TIMOTHY ATKESON,
General Counsel.

JANUARY 22, 1973.

[FR Doc.73-1634 Filed 1-26-73;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 24944]

SOUTH AFRICAN AIRWAYS, INC.

Foreign Air Carrier Permit Amendment, Johannesburg-Sal Island-Las Palmas-New York; Notice of Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on February 21, 1973, at 10 a.m. (local time) in Room

1027, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before Administrative Law Judge Ross I. Newmann.

In order to facilitate the conduct of the conference, parties are instructed to submit to the administrative law judge and other parties (1) proposed statements of issues; (2) proposed stipulations; (3) requests for information; (4) statement of positions of parties; and (5) proposed procedural dates. The Bureau of Operating Rights will circulate its material on or before February 6, 1973, and the other parties on or before February 13, 1973. The submissions of the other parties shall be limited to points on which they differ with the Bureau of Operating Rights.

Dated at Washington, D.C., January 23, 1973.

[SEAL] RALPH L. WISER,
Chief Administrative Law Judge.

[FR Doc.73-1651 Filed 1-26-73;8:45 am]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

CERTAIN COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN COSTA RICA

Entry or Withdrawal from Warehouse for Consumption

JANUARY 22, 1973.

On November 28, 1972, the U.S. Government requested the Government of Costa Rica to enter into consultations under Articles 3 and 6(c) of the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, concerning exports to the United States of cotton textile products in Category 51 produced or manufactured in Costa Rica. Public notice of this request was published in the FEDERAL REGISTER on December 7, 1972 (37 FR 26056). Since no solution has been mutually agreed upon, the U.S. Government, in furtherance of the objectives of, and under the terms of the Long-Term Arrangement Regarding International Trade in Cotton Textile done at Geneva on February 9, 1962, including Articles 3 and 6(c), which relate to nonparticipants, is establishing a restraint at the requested level of 17,747 dozen for the period beginning November 28, 1972, and extending through November 27, 1973. This restraint does not apply to cotton textile products in Category 51, produced or manufactured in Costa Rica and exported to the United States prior to November 28, 1972.

There is published below a letter of January 22, 1973, from the chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, directing that the amount of cotton textile products in Category 51, produced or manufactured in Costa Rica, which may be entered or withdrawn from warehouse for consumption in the United States for the 12-month period beginning November 28, 1972, be limited to 17,747 dozen.

STANLEY NEHMER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary and Director, Bureau of Resources and Trade Assistance.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

JANUARY 22, 1973.

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20226

DEAR MR. COMMISSIONER: Under the terms of the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, including Article 6(c) thereof relating to nonparticipants, and in accordance with the procedures of Executive Order 11651 of March 3, 1972, you are directed to prohibit, effective as soon as possible, and for the 12-month period beginning November 28, 1972, and extending through November 27, 1973, entry into the United States for consumption and withdrawal from warehouse for consumption, of cotton textile products in Category 51, produced or manufactured in Costa Rica, in excess of a level of restraint for the period of 17,747 dozen.[1]

Entries of cotton textile products in Category 51, produced or manufactured in Costa Rica and which have been exported to the United States from Costa Rica prior to November 28, 1972, shall not be subject to this directive.

Cotton textile products in Category 51 which have been released from the custody of the Bureau of Customs under the provisions of 19 U.S.C. 1448(b) prior to the effective date of this directive shall not be denied entry under this directive.

A detailed description of Category 51 in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on April 29, 1972 (37 FR 8802).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Costa Rica and with respect to imports of cotton textile products from Costa Rica have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

STANLEY NEHMER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary and Director, Bureau of Resources and Trade Assistance.

[FR Doc.73-1655 Filed 1-26-73;8:45 am]

[1] This level has not been adjusted to reflect any entries made on or after November 28, 1972.

COUNCIL ON ENVIRONMENTAL QUALITY

FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS OF 1972

Memorandum of Understanding Regarding Implementation

CROSS REFERENCE: For a memorandum of understanding regarding implementation of the Federal Water Pollution Control Act Amendments of 1972 issued jointly by the Atomic Energy Commission, the Environmental Protection Agency, and CEQ, see FR Doc. 73-1634, *supra*.

ENVIRONMENTAL PROTECTION AGENCY

FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS OF 1972

Memorandum of Understanding Regarding Implementation

CROSS REFERENCE: For a memorandum of understanding regarding implementation of the Federal Water Pollution Control Act Amendments of 1972 issued jointly by the Atomic Energy Commission, EPA and the Council on Environmental Quality, see FR Doc. 73-1634, *supra*.

FEDERAL POWER COMMISSION

[Docket No. E-7942]

NANTAHALA POWER & LIGHT CO.

Notice of Proposed Changes in Rates and Charges

JANUARY 19, 1973.

Take notice that Nanatahala Power & Light Co. (Nantahala) on December 29, 1972, tendered for filing proposed changes in its FPC Electric Tariff, Original Volume No. 1. The proposed changes would increase revenues from jurisdictional sales and service by $35,325 based upon sales for the 12-month period ending December 31, 1971, to become effective February 1, 1973. The company cites rising costs and a low rate of return as reasons for the increase.

Copies of the filing were served on Nanatahala's jurisdictional customers.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 441 G Street, NW., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 26, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-1658 Filed 1-26-73;8:48 am]

PETROLEUM CORP.

[Docket No. CI73-472]

Notice of Application

JANUARY 22, 1973.

Take notice that on January 11, 1973, The Petroleum Corp. (Applicant), 3303 Lee Parkway, Dallas, TX 75219, filed in Docket No. CI73-472 an application pursuant to section 7(c) 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 to El Paso Natural Gas Co. from the Dublin-Ellenburger Field, Lea County, N. Mex., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to sell up to 2,000 Mcf of gas per day at 38 cents per Mcf at 14.65 p.s.i.a., subject to upward and downward B.t.u. adjustment, for 1 year within the contemplation of § 2.70 of the Commission general policy and interpretations (18 CFR 2.70).

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before February 2, 1973, 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). 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 section 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-1606 Filed 1-26-73;8:45 am]

[Docket No. CI73-449]

TEXAS GULF, INC.

Notice of Application

JANUARY 22, 1973.

Take notice that on December 18, 1972, Texas Gulf, Inc. (Applicant), Room 1803, 811 Rusk Avenue, Houston, TX 77002, filed in Docket No. CI73-449 an application pursuant to section 7(c) of the Natural Gas Act and § 2.75 of the Commission's general policy and interpretations (18 CFR 2.75) for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Columbia Gas Transmission Corp. (Columbia) from block 146, West Cameron area, offshore Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes under the optional gas pricing procedure to sell natural gas to Columbia at an initial rate of 35 cents per Mcf at 15.025 p.s.i.a. subject to upward and downward B.t.u. adjustment. The basic contract for the subject sale, dated September 12, 1972, provides for price escalations of 2 cents per Mcf every 2 years and a contract term of 20 years.

Applicant asserts that the 35-cent initial rate is reasonable in today's interstate market, particularly in light of recently negotiated intrastate contracts in Louisiana and in other areas at higher rates, such as the sales reported at 52 cents and 73 cents per Mcf in Oklahoma and Ohio, respectively. Applicant believes that this sale will assist in assuring that Columbia will have adequate supplies of natural gas to meet the demands of its customers during the term of the instant contract.

In the alternative, if the optional pricing procedure is not available, Applicant requests that the subject sale be authorized under paragraph 12 of the Commission's notice of July 17, 1970, in Docket No. R-389A, initial rates for future sales of natural gas for all areas. In said notice the Commission said that it would consider applications by independent producers notwithstanding that the proposed price may be in excess of the area ceiling or guideline rates.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 9, 1973, 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). 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.

[FR Doc.73-1607 Filed 1-26-73;8:45 am]

[Docket No. CI73-448]

TEXAS GULF, INC.

Notice of Application

JANUARY 22, 1973.

Take notice that on December 18, 1972, Texas Gulf, Inc. (Applicant), filed in Docket No. CI73-448 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the continuation of sales for resale of natural gas in interstate commerce to Columbia Gulf Pipe Line Co. (Columbia), Michigan Wisconsin Pipe Line Co. (Michigan), and Natural Gas Pipeline Co. (Natural), from acreage in the Orange Grove Area, Terrebonne Parish, La.; Jeanerette (North) Field, St. Mary Parish, La.; and Block 144, West Cameron Area, offshore Louisiana, respectively, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant is holder of a small producer certificate in Docket No. CS71-383 and states that it has sold natural gas pursuant to three contracts involving the aforesaid sales under said certificate. Applicant further states that the current price for gas sold under the Orange Grove Area contract to Columbia is 21.1 cents per Mcf at 15.025 p.s.i.a. subject to downward B.t.u. adjustment, under the Jeanerette (North) Field contract to Michigan is 21.625 cents per Mcf at 15.025 p.s.i.a. subject to downward B.t.u. adjustment, and the Block 144 contract to Natural is 29.0 cents per Mcf at 15.025 p.s.i.a. including 1.0 cent per Mcf upward B.t.u. adjustment.

On December 12, 1972, in Docket No. 71-1560, et al. the U.S. Court of Appeals for the District of Columbia Circuit ordered that Commission Order No. 428, which promulgated small producer regulations, be set aside. As the certificate authority under which Applicant made the three sales described herein is now called into question. Applicant requests authorization to continue said sales under paragraph 12 of the Commission's

notice issued July 17, 1970, in Docket No. R–389A. In that notice the Commission said that it would consider applications by independent producers for sales of natural gas notwithstanding that the proposed price may be in excess of the area ceiling or guideline rates.

Applicant asserts that the contract rates for the subject sales are below current rates for substitute gas supplies and that any reduction in revenues from these sales would have the inevitable effect of lessening Applicant's ability to explore for and develop gas reserves at a time of severe gas shortage when that ability needs to be increasing.

Any person desiring to be heard or to make any protest with reference to said application should, on or before February 9, 1973, 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 1.18 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal 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.

[FR Doc.73–1608 Filed 1–26–73;8:45 am]

FEDERAL RESERVE SYSTEM

FIRST STEUBEN BANCORP, INC.

Order Approving Acquisition of Bank

First Steuben Bancorp, Inc., Steubenville, Ohio, 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 all of the voting shares (less directors' qualifying shares) of the successor by merger to The First National Bank of Hopedale, Hopedale, Ohio (Bank). The bank into which Bank is to be merged has no significance except as a means to facilitate the acquisiton of the voting shares of Bank. Accordingly, the proposed acquisition of shares of the successor organization is treated herein as the proposed acquisition of the shares of Bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and none has been timely received. The Board has considered the application in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant controls one bank, The First National Bank and Trust Company in Steubenville, Steubenville, Ohio (First National), with total deposits of $80.6 million, representing 0.3 percent of the total commercial deposits in Ohio.[1] Consummation of the proposal herein would increase its proportion of State deposits by only 0.02 percent and accordingly would not result in a significant increase in the concentration of banking resources in Ohio.

Bank ($5.8 million in deposits) is the only banking institution in the village of Hopedale (population 916), a rural community located in the southeastern portion of Ohio, 18 miles west of Steubenville. It is the second largest of three commercial banks in the Cadiz banking market (the relevant market) and controls 25.8 percent of area deposits. The largest competitor therein holds 59.7 percent of market deposits and is a subsidiary of the largest multibank holding company in the State. From the facts of record, it appears that consummation of the proposed transaction would have no present or future adverse competitive effect on the banks in the market, but rather, should stimulate additional competition among them.

Bank and First National essentially operate in separate banking markets[2] and the closest banking offices of the two are 8.5 miles apart. Although their adjoining service areas slightly overlap, it does not appear that a significant amount of existing competition would be eliminated by consummation of this proposal. Further, the restrictive branching laws in Ohio and the fact that Hopedale is not attractive as a de novo bank site preclude any potential for increased future competition between Applicant and Bank. On the basis of the foregoing, the Board concludes that the competitive considerations with respect to this transaction are consistent with approval of the application.

The financial condition and managerial resources of Applicant, its subsidiary bank, and Bank are considered upon consummation, are favorable. It to be satisfactory and prospects for all, appears that Bank has generally satisfied the needs of the community. Applicant proposes to expand the operations of Bank and to improve the quality of services now being rendered by offering trust services, larger loans, data processing services, and an improved student loan program. Accordingly, considerations relating to the convenience and needs of the community to be served are consistent with, and lend weight toward, approval of the application. 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 the effective date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Cleveland pursuant to delegated authority.

By order of the Board of Governors,[3] effective January 18, 1973.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.73–1633 Filed 1–26–73;8:45 am]

[1] Banking data are as of June 30, 1972.

[2] First National operates 7 offices, holding 26.9 percent of total deposits, in the Steubenville-Weirton banking market.

[3] Voting for this action: Chairman Burns and Governors Robertson, Mitchell, Daane, Brimmer, Sheehan, and Bucher.

GENERAL SERVICES ADMINISTRATION

[Federal Property Management Regs. Temporary Reg. F–165]

SECRETARY OF DEFENSE

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in a natural gas rate proceeding.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the interests of the executive agencies of the Federal Government before the Public Service Commission of Utah in a proceeding (Docket No. 6668) involving natural gas rates of the Mountain Fuel Supply Co.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General

Services Administration, and, further, shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

ARTHUR F. SAMPSON,
Acting Administrator of General Services.

JANUARY 19, 1973.

[FR Doc.73-1631 Filed 1-26-73;8:45 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (73-8)]

GEORGE C. MARSHALL SPACE FLIGHT CENTER

Final Environmental Impact Statement; Public Notice Regarding Availability

Notice is hereby given of the public availability of the final Environmental Impact Statement for the George C. Marshall Space Flight Center and the Mississippi Test Facility.

Comments on the draft Environmental Statement for the above installation were previously solicited from State and local agencies and members of the public through a notice in the FEDERAL REGISTER of March 18, 1971.

Copies of the draft statement were sent to the Environmental Protection Agency, the Office of Management and Budget, and the Council on Environmental Quality.

Copies of the final statement will be furnished to the Office of Management and Budget, the Council on Environmental Quality, and the Environmental Protection Agency.

Copies of the final statement may be obtained or examined at any of the following locations:

(a) National Aeronautics and Space Administration, Public Documents Room (Room 126), 600 Independence Avenue, SW. Washington, DC 20546.

(b) Ames Research Center, NASA (Building 201, Room 17), Moffett Field, Calif. 94035.

(c) Flight Research Center, NASA (Building 4800, Room 1017), Post Office Box 273, Edwards, CA 93523.

(d) Goddard Space Flight Center, NASA (Building 8, Room 150), Greenbelt, Md. 20771.

(e) John F. Kennedy Space Center, NASA (Headquarters Building, Room 1207), Kennedy Space Center, Fla. 32899.

(f) Langley Research Center, NASA (Building 1219, Room 304), Hampton, Va. 23365.

(g) Lewis Research Center, NASA (Administration Building, Room 120), 21000 Brookpark Road, Cleveland, OH 44135.

(h) Manned Spacecraft Center, NASA (Building 1, Room 136), Houston, Tex. 77058.

(i) George C. Marshall Space Flight Center, NASA (Building 4200, Room G-11), Huntsville, Ala. 35812.

(j) Mississippi Test Facility, NASA (Building 1100, Room A-213), Bay St. Louis, Miss. 39520.

(k) NASA Pasadena Office (Jet Propulsion Laboratory, Building 180, Room 600), 4800 Oak Grove Drive, Pasadena, CA 91103.

(l) Wallops Station, NASA (Library Building, Room E-105), Wallops Island, Va. 23337.

Done at Washington, D.C., this 19th day of January 1973.

By direction of the Administrator.

HOMER E. NEWELL,
Associate Administrator, National Aeronautics and Space Administration.

[FR Doc.73-1648 Filed 1-26-73;8:45 am]

DEPARTMENT OF THE TREASURY

Office of the Secretary

LOAN TO THE GOVERNMENT OF ISRAEL

Invitation To Bid

I. *Invitation to bid—classes of bidders.* The Secretary of the Treasury, acting for the Secretary of Defense by this notice and under the terms and conditions hereof invites bids on the interest rate on a $100 million loan to the Government of Israel. The loan is described in section II hereof. Bidding hereunder shall be subject to the "Regulations Governing the Sales of Treasury Bonds Through Competitive Bidding" (31 CFR 340) insofar as applicable.

The purpose of the loan is to provide private financing for the purchase by the Government of Israel of defense articles and services from U.S. sources under the Foreign Military Sales Act, as amended, Public Law 90-626, October 22, 1968, 82 Stat. 1326; 22 U.S.C. 2571-2793 and Executive Order 11501, December 22, 1969, 34 FR 20169.

Bids will be received only from incorporated banks, trust companies, recognized dealers in investment securities, and other financial institutions doing business in the United States. Bids must be submitted to the Federal Reserve Bank of New York in accordance with the provisions of the last section hereof.

II. *Description of loan agreement committee fee.* (a) The attached Model Loan Agreement contains all of the principal provisions of the loan except that after the award of bids it will be filled in to reflect that:

(1) The amount of the loan is $100 million;

(2) Each aggregate drawdown on the loan, except the last, will be at least $500,000;

(3) The initial drawdown is anticipated to be made on or before April 1, 1973;

(4) There will be a commitment period from the date of the execution of the loan agreement to and including March 31, 1974, or such earlier date as the entire commitment of the lender shall have been availed of;

(5) The principal of the loan will be repayable in 10 consecutive semiannual installments of $10 million, payable on January 31 and July 31 of each year commencing on January 31, 1974;

(6) Interest will be payable semiannually on January 31 and July 31 of each year commencing on July 31, 1973;

(7) Interest payable on and after January 31, 1974 will be paid with the principal.

(b) There will be a commitment fee, payable semiannually, of one-quarter of 1 percent (¼ of 1 percent) per annum on the daily average unused amount of the commitment commencing April 1, 1973, or the initial drawdown on the loan, whichever is earlier. The commitment fee will be calculated on a 365-day basis and actual days elapsed.

III. *U.S. Government guaranty of loan—guaranty fee.* The loan agreement provides that the obligation of the lender is to be conditioned upon the issuance by the United States of a guaranty of timely payment of principal and interest by the borrower. The guaranty will further provide that the United States agrees that any claim which it may now or hereafter have against any beneficiary for any reason whatsoever shall not affect in any way the right of any other beneficiary to receive full and prompt payment of any amount otherwise due under this guaranty.

In addition, the borrower covenants at section 5(b) of the loan agreement that:

> Any claim which it may now or hereafter have against any person, corporation, firm, or association or other entity (including without limitation, the United States, DOD, any bank, any assignee of any bank, and any supplier of the Defense items) in connection with any transaction, for any reason whatsoever, shall not affect the obligation of the borrower to make the payments required to be made to the undersigned under this loan agreement, or under the notes, and shall not be used or asserted as a defense to the payment of such obligation or as a setoff, counterclaim, or deduction against such payments.

The guaranty, which is authorized by the Foreign Military Sales Act, will be made by the Government of the United States acting through the Department of Defense. The Act provides that "any guaranties issued hereunder shall be backed by the full faith and credit of the United States".

The maximum liability of the Government of the United States under the guaranty will be $105 million, and that sum will be so stated in Article II of the attached guaranty agreement.

The aggregate guaranty fee will be $262,500, one-quarter of 1 percent (¼ of 1 percent) of the aforesaid maximum liability to be paid by the lender as a conduit of the borrower.

IV. *Tax exemptions.* (a) There will be no—

(1) Federal income tax resulting from section 7.1 of the loan agreement which will provide that the borrower shall pay to the lender the guaranty fee charged to the latter by the Department of Defense. (The lender will be acting merely as a conduit.)

(2) Federal stamp tax;

(3) Interest equalization tax; or

(4) Tax imposed by the Government of Israel.

(b) The interest paid on the loan by the Government of Israel will constitute income from sources without the United States in the hands of the lender or any holder of the promissory notes or participations in the loan. Since the interest is foreign source income, there will be no U.S. withholding under any circumstances.

V. *The loan, promissory notes, participations—eligibility for purchase by national banks as collateral for treasury tax and loan accounts, etc.* (a) Because of the guaranty, the loan, the promissory notes and the participations are deemed to be fully and unconditionally guaranteed obligations of the United States backed by its full faith and credit. Accordingly, they will not be subject to the lending limits of national banks or to the limitations and restrictions concerning dealing in, underwriting and purchase of investment securities.

(b) Section 1.4 of the loan agreement authorizes the sale of participations to legal entities doing business in the United States. Such participations will be acceptable from special depositaries of public money at their face amount to secure deposits under Department of the Treasury Circular No. 92, current revision (31 CFR 203), provided that they adequately identify the loan and meet the following conditions:

(1) The participation certificate contains the following provisions: "Participant may assign or endorse over this participation certificate to the (Name of the Federal Reserve Bank or Branch of the territory in which the participant is located) in connection with a pledge of colateral security to protect a Treasury tax and loan account under Treasury regulations published at Title 31, Code of Federal Regulations, Part 203. In the event that this participation certificate is assigned to (Same bank or branch as above), it shall not be further assigned or subdivided without prior written notice to that bank and the prior written consent of this bank."

(2) The participation certificate is supported by the original or certified copies of the guaranty agreement relating to the basic loan and the necessary power of attorney and resolution in favor of the Reserve Bank as prescribed in 31 CFR 203.8(d).

(3) The guaranty agreement provides that the guaranty referred to therein is transferable to any participant or beneficiary.

VI. *Submission of bids—acceptance and opening of bids.* Each bid shall be submitted in triplicate on the letterhead of the bidder and shall specify a single annual rate of interest which shall apply on a 365-day basis only to the portions of the loan in use. The rate shall be expressed as a percent per annum not to exceed three decimals, for example, 5.125 percent. Each bidder may submit a bid for the entire amount of the loan or portions thereof in multiples of $5 million.

The bids must be enclosed and sealed in envelopes and must be received in the Securities Department of the Federal Reserve Bank of New York, 33 Liberty Street, New York, NY 10045, not later than 11 a.m., e.s.t., on February 9, 1973. By having submitted a bid, any bidder receiving an award will be deemed conclusively to have accepted all the provisions of the loan agreement and upon receipt of an award will be required to sign, at the aforesaid address, three copies of the agreement. The Government of the United States will thereafter, in Washington, D.C., promptly secure the signature of the borrower to three copies and return one of them to any such bidder.

Bids will be opened at the Federal Reserve Bank at 11 a.m., e.s.t., on February 9, 1973. In determining successful bids, those specifying the lowest rate of interest will be accepted to the extent required to attain the aggregate amount of the loan.

[SEAL] GEORGE P. SHULTZ,
Secretary of the Treasury.

JANUARY 26, 1973.

MODEL LOAN AGREEMENT

Loan agreement made and entered into the _____ day of _____, 19____, between the Government of _____ (hereinafter sometimes referred to as the "Borrower") and _____, (hereinafter sometimes referred to as the "Undersigned").

Whereas by public notice (which notice is incorporated in this agreement as if fully set forth herein) the Secretary of the Treasury has invited bids on a loan in the amount of $_____ to the Borrower at the lowest basis cost of money;

Whereas the Undersigned has submitted a bid for the hereinafter more fully described loan at an annual rate of _____ percent per annum, payable semiannually;

Now, therefore, in consideration of the premises and of the mutual covenants hereinafter set forth, the parties hereto agree as follows:

SECTION 1. *Commitment.* 1.1 Subject to the terms and conditions of this Loan Agreement the Undersigned agrees to make loans to the Borrower at any time and from time to time from the date of this Loan Agreement to and including (or such earlier date as the entire loan offered herein by the Undersigned shall have been availed of), in an aggregate principal amount up to the amount of U.S. Dollars (U.S. $_____).

1.2 Each borrowing hereunder shall be made on such date (hereinafter referred to as a 'Disbursement Date") as may be designated by the Borrower upon three (3) days' concurrent written notice from the Borrower to the Undersigned. The initial borrowing hereunder shall be made prior to _____, 19____. Except for the last borrowing, each such notice shall request a borrowing aggregating at least _____ (U.S. $_____). Each notice requesting disbursement (a) shall specify the amount of the loan to be made by the Undersigned on the Disbursement Date; (b) shall be delivered to the Undersigned at its address set forth in section 7.3 hereof; (c) shall specify the account of the Borrower at such Bank to which the proceeds of each loan are to be credited; and (d) shall have annexed thereto the documentation set forth in Exhibit A (Disbursement Procedures) annexed hereto.

1.3 The Borrower hereby agrees to pay to the Undersigned a commitment fee computed at the rate of one-quarter of one percent (¼ percent) per annum on the daily average unused amount of the Commitment from _____ to and including _____ (or such earlier date as the entire Commitment of the Undersigned shall have been availed of). Such commitment fee shall be calculated on a 365-day basis and actual days elapsed.

1.4 The Undersigned may sell participations in the loan to legal entities doing business in the United States.

1.5 At the time at which the Borrower shall send the notices required by section 1.2 above to the Undersigned it shall deliver thereto a promissory note (which shall be substantially in the form of Exhibit B annexed hereto (with the blanks appropriately filled in)) evidencing the obligation of the Borrower to repay the amount of the loan from the Undersigned with interest thereon as hereinafter set forth. Upon request by the Undersigned at any time, the Borrower shall deliver to the Undersigned, in place of any such promissory note, two or more separate promissory notes in such amounts, aggregating not more than the amount of the note such notes shall replace, as shall be specified by the Undersigned. The promissory notes hereinabove referred to are hereinafter referred to as the "Notes" and individually as a "Note".

SEC. 2. *Repayment.* 2.1 The Borrower hereby agrees:

(a) To pay interest on the outstanding balance of the principal of the loans made under this Loan Agreement on a fixed semiannual basis, such interest payments to begin _____, 19____, and thereafter on _____, 19____, and each _____ and _____ following, until the entire principal of the loans shall have been repaid; and

(b) To repay the principal of the loans made under this Loan Agreement in accordance with the Principal Repayment Schedule set forth in Exhibit C annexed hereto.

(i) If on any installment repayment date set forth in the Principal Repayment Schedule the Borrower shall not have availed itself of the Commitment of the Undersigned in an aggregate amount (less repayments previously made) equal to the aggregate installment of principal which is repayable on such date to the Undersigned, the Borrower shall, on such installment repayment date, repay to the Undersigned the full amount (less repayments previously made) to which it has availed itself of the Commitment of the Undersigned to such date, together with the interest accrued thereon. If at any time thereafter the Borrower shall avail itself of the Commitment of the Undersigned in an amount which would have been payable on a prior installment repayment date but for the provisions of the immediately preceding sentence, such amount, together with interest accrued thereon, shall be repayable on the next succeeding installment date of the Principal Repayment Schedule occurring after the disbursement of such amount and the said aggregate installment of principal repayable under the Principal Repayment Schedule to the Undersigned on that date shall be increased by such amount.

(ii) If by the date specified in paragraph 1.1 above, the Borrower shall not have availed itself of the entire amount of the Commitment, the installments of principal repayable to the Undersigned set forth in the Principal Repayment Schedule shall be reduced in the inverse order of the maturity thereof to the extent of the unused balance of the Commitment.

2.2 The Undersigned may sell or assign, at any time, in whole or in part, any one or more of the Notes and/or its rights to receive repayments.

2.3 Each Note shall be dated the Disbursement Date of the loan which such Note evidences and shall bear interest at a rate of _____ percent (_____%) per annum on the

unpaid principal amount of such Note until such amount shall be paid in full. Such interest on each Note shall be payable with the principal as provided in 2.1. The Notes shall be completed by the Borrower in such a manner that repayment of such loans shall be made in the order of their disbursement, utilizing the Principal Repayment Schedule set forth in Exhibit C (as the same may be adjusted in accordance with sections 2.1(b)(i) and 2.1(b)(ii) hereof), and, in determining whether a particular loan is payable in one or more installments, utilizing a particular installment payment date only after the full utilization of the next preceding installment date.

2.4 The Borrower may, with the prior written consent of the Undersigned, which consent will not be unreasonably withheld, prepay any of the Notes held by the Undersigned, in whole or in part, on any repayment date, with accrued interest to the date of such prepayment on the amount prepaid.

2.5 Whenever any payments hereunder or under any Note shall be due on a Saturday, Sunday or public holiday under the laws of the District of Columbia, such payment may be made on the next succeeding business day, and such extension of time shall, in such case, be included in computing interest in connection with such payment, but excluded from the next interest period.

2.6 All payments by the Borrower to the Undersigned under this Loan Agreement and on the Notes, including without limitation payments of principal of, and interest on, the Notes and payment of any commitment fees or other fees or expenses hereunder, shall be payable to the Undersigned at the address set forth in section 7.3 hereof in U.S. dollars and in immediately available funds.

SEC. 3. *Representations and warranties.* The Undersigned has entered into this Loan Agreement and will make the loans provided for herein on the basis of the following representations and warranties of the Borrower.

3.1 The Borrower has full power, authority and legal right to incur the indebtedness contemplated in this Loan Agreement on the terms and conditions contained herein, and to execute, deliver and perform this Loan Agreement and the Notes;

3.2 The execution, delivery and performance of this Loan Agreement and the Notes will not violate any provisions of, and have been duly and validly authorized under, the laws of the Borrower, and all actions necessary to authorize the borrowings hereunder and the execution, delivery and performance of this Loan Agreement and the Notes have been duly taken; and

3.3 This Loan Agreement has been, and each of the Notes when issued will be, duly executed and delivered by persons thereunto duly authorized, and this Loan Agreement constitutes, and each of the Notes when issued will constitute, the valid, legally binding, direct and unconditional general obligation of the Borrower, enforceable in accordance with its respective terms.

SEC. 4. *Conditions of lending.* 4.1 The obligation of the Undersigned to make the initial loan to be made by it hereunder is subject to the condition precedent that, prior to the first Disbursement Date, it shall have received an opinion in the English language of the Legal Adviser to the Ministry of Defense of the Government of ----------, dated the date of the initial Disbursement Date, to the same effect as sections 3.1, 3.2, and 3.3 hereof, and to the further effect that specified officials of the Borrower identified by name and title in such opinion are duly authorized to execute and deliver this Loan Agreement, the Notes and such other documents as may be required hereunder on behalf of the Borrower, to establish and draw upon an account of the Borrower at the Bank to which account the Undersigned shall disburse the proceeds of all borrowings hereunder, and to certify to such Bank on behalf of the Borrower the identity, names and titles of any other or additional officials of the Borrower who thereafter may be so authorized.

4.2 The obligation of the Undersigned to make the initial loan to be made by it hereunder is subject to the further conditions precedent that, prior to the first disbursement, it shall have received:

(a) The guaranty of the United States (the "Guaranty"), executed by DOD, guarantying it against all political and credit risks of nonpayment of the obligations of the Borrower to the Undersigned hereunder (including the entire amount of the principal loaned by the Undersigned hereunder and interest thereon at the rate determined as specified herein, but excluding any amounts owing for commitment fees or other fees or expenses), up to a maximum aggregate liability to the Undersigned under the Guaranty on the part of the United States of $---------- dollars (US$----------), pursuant to the Act; and

(b) An opinion of the General Counsel of DOD, to the effect that (i) DOD has full power, authority, and legal right to execute, deliver and perform the Guaranty, (ii) the Guaranty has been executed in accordance with and pursuant to the terms and provisions of the Act and DOD has not, in issuing the guaranty, exceeded the maximum amount of guaranties authorized to be issued under the Act, (iii) the Guaranty has been duly executed and delivered by a duly authorized representative of DOD, and (iv) the Guaranty constitutes the valid and legally binding obligation of the United States, enforceable in accordance with the terms thereof and backed by the full faith and credit of the United States.

4.3 The obligation of the Undersigned to make any loan to be made by it hereunder, including the initial loan, is subject to the further conditions precedent that:

(a) No event of default within the meaning of section 6 of this Loan Agreement, and no other default with respect to any of the Notes, shall have occurred;

(b) The Undersigned shall have received a Note or Notes payable to its order (or to the order of such other person or persons as the Undersigned may specify) in the amount of the particular loan, executed by the duly authorized representatives of the Borrower;

(c) The Undersigned shall have received the documentation specified in Exhibit A annexed hereto, executed by the duly authorized representatives of the Borrower; and

(d) All legal matters incident to the Guaranty and the transactions contemplated by this Loan Agreement shall be satisfactory to the counsel of the Undersigned.

SEC. 5. *Covenants.* The Borrower covenants and agrees that from and after the date of this Loan Agreement and so long as any amounts remain unpaid on account of the Notes or otherwise under this Loan Agreement:

(a) All payments on account of the principal of, and interest on, the Notes, commitment fees and other fees and expenses shall be made free and clear of, and without deduction for, any and all taxes, levies, imposts, duties, fees, charges, deductions, withholdings, restrictions, or conditions of any nature whatsoever now or hereafter imposed, levied, collected, or assessed with respect thereto by the Borrower of any central or local authority thereof or therein;

(b) Any claim which it may now or hereafter have against any person, corporation, firm, or association or other entity (including without limitation, the United States, DOD, any Bank, any assignee of any Bank, and any supplier of the Defense Items) in connection with any transaction, for any reason whatsoever, shall not affect the obligation of the Borrower to make the payments required to be made to the Undersigned under this Loan Agreement, or under the Notes, and shall not be used or asserted as a defense to the payment of such obligation or as a setoff, counterclaim, or deduction against such payments;

(c) It will pay any and all stamp taxes and other taxes of similar character, if any, now or hereafter in effect, imposed with respect to this Loan Agreement or the Notes (including, without limitation, any U.S. Interest Equalization Tax or similar future tax), and will save the holder of any Note harmless from any and all losses or liabilities with respect to or resulting from any delay or omission to pay such taxes.

(d) Any legal action or proceeding against it by the Undersigned with respect to this Loan Agreement or the Notes may be brought in the Superior Court of the District of Columbia or in the U.S. District Court for the District of Columbia or in the Courts of the Borrower, as the Undersigned may elect, and by execution and delivery of this Loan Agreement, the Borrower submits to each such jurisdiction. In the case of the Superior Court of the District of Columbia or of the U.S. District Court for the District of Columbia, the Borrower consents to the service of process out of said Courts by mailing copies of such process by registered United States mail, postage paid, to it at its address set forth in section 7.3 hereof; and

(e) All loans made hereunder shall be utilized solely for the procurement of the Defense Items pursuant to Purchase Arrangements authorized by DOD.

SEC. 6. *Defaults.* Upon the occurrence of any of the following events or default:

(a) If the Borrower fails for a period of ten (10) days to make any payment of principal of, or interest on, any Note or of any commitment fee hereunder, when due; or

(b) If any representation or warranty made by the Borrower herein or in any certificate furnished by the Borrower pursuant hereto, proves to be at any time incorrect in any material respect; or

(c) If the Borrower defaults in the performance of any other term, convenant or agreement contained in this Loan Agreement, and such default shall continue unremedied for thirty (30) days after written notice thereof shall have been given to the Borrower by the Undersigned;

then, and in any such event, the holder of any Note may declare immediately due and payable the unpaid principal of, and accrued interest on, all Notes held by such holder and such amounts shall become immediately due and payable without protest, presentment, notice or other demand of any kind, all of which are hereby expressly waived by the Borrower, and the Undersigned may terminate its Commitment hereunder.

SEC. 7. *Miscellaneous.* 7.1 Upon the execution of this Loan Agreement, the Borrower shall pay to the Undersigned the aggregate sum of $---------- in payment of the fee charged by DOD with respect to the Guaranty.

7.2 No failure to exercise and no delay in exercising on the part of the Undersigned, any right, power, or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power, or privilege preclude any other or further exercise thereof, or the exercise of any other power or right. The rights and remedies herein provided are cumulative and not exclusive of any rights or remedies provided in this Loan Agreement.

7.3 Except as otherwise provided in this Loan Agreement, all notices, requests, or demands hereunder shall be deemed to have

been given or made upon the mailing of the same by airmail, postage prepaid, or in the case of telegraphic notice, on delivery to the telegraph company, addressed in the case of the Borrower to the Director, Defense Mission, Government of Israel, with a copy to the Treasury Representative of the Government of Israel, both at 850 Third Avenue, New York, N.Y., 10022, and in the case of the Undersigned to or to such other addresses as any party may from time to time hereafter designate in writing to the other.

7.4 This Loan Agreement and the Notes shall be construed and interpreted in accordance with the laws of the District of Columbia, United States of America, unless prior to the execution of this Loan Agreement and the Notes the parties hereto have by written stipulation agreed that the laws of another jurisdiction of the United States shall be applied.

7.5 This Loan Agreement shall be binding upon and inure to the benefit of the Borrower and the Undersigned and their respective successors and assigns, except that the Borrower may not assign its rights hereunder without the prior written consent of the Undersigned. All agreements, covenants, representations, and warranties made herein shall survive the delivery of the Notes and the making of the loans hereunder.

7.6 This Loan Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be an original, but all the counterparts shall together constitute a single instrument. Exhibits A and B attached hereto are, by this reference, made a part of this Loan Agreement.

7.7 In case any one or more of the provisions contained in this Loan Agreement or in any of the Notes should be invalid, illegal, or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein and therein shall not in any way be affected or impaired thereby.

In Witness whereof, the parties hereto have caused this Loan Agreement to be executed and sealed by their duly authorized officers and representatives on the day and year first above written.

---------- [Seal]
---------- [Seal]

DISBURSEMENT PROCEDURES

The following procedures and conditions shall be complied with prior to each disbursement to be made by the Undersigned to the Borrower:

1. The designated representative of the Government of ---------- shall execute and deliver each request for disbursement to the Undersigned at its address set forth in section 7.3 of the foregoing Loan Agreement.

2. Each request shall be accompanied by a copy of the written communication from DOD authorizing the Borrower to enter into the Purchase Arrangement(s) pursuant to which the disbursement is requested.

3. Each request also shall be accompanied by a certification of the Borrower as follows:

"The Government of ---------- confirms that the proceeds of this disbursement will be applied entirely to the payment of amounts that have become properly due pursuant to the Purchase Arrangement(s) authorized by the Department of Defense of the United States of America in the attached written communication. This disbursement is requested by the Government of ---------- pursuant to the terms of the Loan Agreement of ---------- between the Government of ---------- and the Undersigned, and confirms that the said Purchase Arrangement(s) (was/were) authorized by the Department of Defense of the United States of America pursuant to the aforesaid Loan Agreement. The Government of ---------- further confirms that the Borrower to which this certification is addressed is authorized to make this disbursement by crediting the amount thereof to Account Number ----, at such Bank, and that ----------, whose signature appears below, is (and, until further written notice, shall continue to be) authorized to draw upon such account on behalf of the Government of ----------.

"Signature of the representative of the Government of ---------- who is authorized to draw upon its account:

"----------

"Government of ----------
"By ----------"
(Name and Title Typed)

PROMISSORY NOTE

NEW YORK, N.Y. ----------
(Date)

US $----------

FOR VALUE RECEIVED, the Undersigned, the Government of ----------, hereby promises to pay to the order of ----------, or its assigns, the principal sum of ---------- United States dollars (US $----------) as follows:

(Amounts)	(Dates)

together with interest on any and all amounts remaining unpaid hereunder from time to time from the date hereof until this Note shall be paid in full, payable semiannually on ---------- and ---------- of each year from the date hereof, commencing ----------, 197--, at the rate of ------ percent (------%), per annum. Such interest shall be calculated using a 365-day factor, both principal and interest to be payable in immediately available funds in lawful money of the United States of America at the office of the payee at ----------, or at the principal place of business of the assignee. All payments made on account of the principal amount hereunder shall be endorsed by the payee, or its assigns, on the reverse side of this Note.

henever any payment to be made shall be due on a Saturday, Sunday, or a public holiday under the laws of the District of Columbia, such payment shall be made on the next succeeding business day, and such extension of time shall in such case be included in computing interest in connection with such payment, but excluded from the next interest period.

This Note is one of the Notes referred to in the Loan Agreement dated ----------, 197--, between the Government of ---------- and ----------. It is entitled to the benefits of and may be prepaid on the terms and conditions specified in said Loan Agreement. Prepayments shall be applied to the installments hereof in the inverse order of their maturity.

All payments of principal of, and interest on, this Note are payable free and clear of, and without deduction for, any taxes, levies, imposts, duties, fees, charges, deductions, withholdings, restrictions or conditions of any nature whatsoever now or hereafter imposed, levied, collected or assessed with respect thereto by the Government ---------- or any central or local authority thereof or therein.

Upon the occurrence of any event of default specified in said Loan Agreement, the entire unpaid principal hereof and interest hereon to the date of payment may be declared to be forthwith due and payable as provided in said Loan Agreement. The Government of ---------- promises to pay all out-of-pocket costs and expenses (including the reasonable fees and out-of-pocket expenses of counsel) in connection with collection after default of this Note.

Government of

By----------[Seal]
(Name and Title Typed)

PRINCIPAL REPAYMENT SCHEDULE

The first $------ of disbursements are repayable on ------.
The next $------ of disbursements are repayable on ------.
The next $------ of disbursements are repayable on ------.
The next $------ of disbursements are repayable on ------.
The next $------ of disbursements are repayable on ------.
The next $------ of disbursements are repayable on ------.
The next $------ of disbursements are repayable on ------.
The last $------ of disbursements are repayable on ------.

GUARANTY AGREEMENT

This guaranty agreement, made and entered into on the ---- day of ----------, 197--, (hereinafter called the "Guaranty"), between the ---------- organized and existing under the laws of the United States of America, (hereinafter called the "Lender(s)"), on the one part, and the Government of the "United States", acting through the Department of Defense of the United States (hereinafter called "DOD"), on the other part;

WITNESSETH:

Whereas, the Government of---------- ------ (hereinafter called the "Borrower") desires to purchase certain defense articles and defense services (hereinafter called "defense items") from United States sources; and

Whereas, the Lender(s) has entered into a Loan Agreement dated ----------, (hereinafter called the "Loan Agreement"), with the Borrower to provide for the extension of credit to the Borrower of up to U.S. ------ dollars; and

Whereas, the Lender(s) obligation under the Loan Agreement to make the initial loan thereunder is conditioned upon the issuance of a guaranty from the United States against all political and credit risks of nonpayment by the Borrower of its obligations under the Loan Agreement to pay the principal of and interest on all extensions of credit by the Lender(s) under the Loan Agreement; and

Whereas, it is intended that each loan under the Loan Agreement will be repaid by the Borrower in ------ substantially equally consecutive semi-annual installments on ---------- during the term thereof commencing on the first such date which occurs not less than ---- days after the date of such loan, together with interest on each installment payment at the

interest rate set forth in the Notes; and

Whereas, the aforesaid credit will be available only to finance the purchase of defense items from United States sources; and

Whereas, the Loan Agreement will provide for the issuance by the Borrower to the Lender(s) of promissory notes evidencing the loans made by the Lender(s) from time to time under the Loan Agreement (herein called the "Notes"); and

Whereas, the Loan Agreement by the Lender(s) will facilitate and will be in furtherance of the purposes of the Foreign Military Sales Act, Public Law 90-629, as amended (hereinafter called the "Act").

Now, therefore, in consideration of the premises and of the mutual covenants hereinafter set forth, the parties hereto agree as follows:

ARTICLE I

The United States, acting through DOD, in consideration of the fee specified in Article IV of this Guaranty Agreement, and except as otherwise specified in this Guaranty Agreement, hereby unconditionally and irrevocably guarantees, under the authority of section 24 of the Act, the due and punctual payment in U.S. dollars of all amounts payable by the Borrower as principal of all loans made by the Lender(s) under the Loan Agreement and as interest at the rate set forth in the Notes whether or not such obligations are evidenced by Notes. Any disbursement by the Lender(s) shall be considered for the purpose of this Guaranty, to be a loan made by the Lender(s) under the Loan Agreement if in fact the funds so disbursed are applied to the purchase of articles or services approved in writing by the Department of Defense for purchase by the Borrower under the Loan Agreement, or if such disbursement is made in accordance with the procedures to be specified in the Loan Agreement and the Lender(s) is in receipt of documents that on their face conform to such requirements and indicate that DOD has approved in writing the purchase by the Borrower for which the disbursement is requested.

This Guaranty is a guaranty of payment covering all political and credit risks of nonpayment, including any nonpayments arising out of any claim which the Borrower may now or hereafter have against any person, corporation, firm, or association, or other entity (including, without limitation, the United States, the Lender(s) and any supplier of Defense Items) in connection with any transaction, for any reason whatsoever. This Guaranty shall inure to the benefit of and shall be enforceable by the Lender(s), its respective successors by operation of law, or its respective endorsees, assignees, or transferees (the Lender(s) and any such successor by operation of law, endorsee, assignee, or transferee being hereinafter individually sometimes called a "Beneficiary" and collectively the "Beneficiaries"). All provisions of this Guaranty shall be severally applicable to any Beneficiary acting in its own right in connection with the Notes, the Loan Agreement or this Guaranty.

The United States hereby waives diligence, demand, protest, presentment, and any requirement that any Beneficiary of this Guaranty exhaust any right or power to take any action against the Borrower and any notice of any kind whatsoever other than the demand for payment required to be given to DOD hereunder in the event of default on a payment due under the Notes.

The United States further agrees that any claim which it may now hereafter have against any Beneficiary for any reason whatsoever shall not affect in any way the right of any other Beneficiary to receive full and prompt payment of any amount otherwise due under this Guaranty.

The full faith and credit of the United States is pledged to the performance of this Guaranty.

The United States represents and warrants that (a) it has full power, authority and legal right to execute, deliver and perform this Guaranty, (b) this Guaranty has been executed in accordance with and pursuant to the terms and provisions of the Act and DOD has not, in issuing this Guaranty, exceeded the maximum amount of guarantees authorized to be issued under the Act, (c) this Guaranty has been duly executed and delivered by a duly authorized representative of DOD, and (d) this Guaranty constitutes the valid and legally binding obligation of the United States, enforceable in accordance with the terms thereof.

ARTICLE II

Notwithstanding the provisions of Article I above, the maximum liability of DOD under this guaranty shall not exceed----------

ARTICLE III

Payment by DOD in the event of a default in the payment of any Note, or any portion thereof, by the Borrower shall be made promptly to the Beneficiary in New York Federal Reserve Funds at the address specified by the Beneficiary (which in the case of the Lender(s) shall be its address set forth opposite its signature below) upon demand to DOD by the Beneficiary after such default has continued for more than 15 days. The amount payable under this Guaranty shall be the amount of any principal and interest then in default, together with interest at the rate then applicable to the defaulted note from the date of default to the date of payment by DOD. No interest shall be payable by DOD for any period following 30 days after default if the Beneficiary fails to make such demand within 30 days after default. DOD reserves the right to make payments due to a Beneficiary from the Borrower whether or not demand to DOD by the Beneficiary therefor has been made. Upon payment by DOD to a Beneficiary, such Beneficiary will assign to the United States, without recourse to or warranty by such Beneficiary, the corresponding amount of such Beneficiary's rights to such payment from the Borrower.

ARTICLE IV

DOD acknowledges receipt from the Lender(s) of payment of a guaranty fee of ------

ARTICLE V

So long as this Guaranty Agreement is in effect and the United States is not in default hereunder, in the event of a default under the Loan Agreement or in the payment of any Note, or any portion thereof, by the Borrower

(a) The Lender(s) shall not accelerate or reschedule payment of the principal amount of or interest on any of the Notes except with the written approval of DOD; and

(b) Lender(s) shall, if so directed by DOD, invoke the default provisions of the Loan Agreement, and shall suspend any further disbursements to, or on behalf of the Borrower until the Lender(s) has been advised by DOD that it may resume payments under its Commitment.

ARTICLE VI

The Lender(s) will not agree to any material amendment of the Loan Agreement or consent to any material deviation from the provisions thereof without the prior written consent of DOD.

ARTICLE VII

Any Beneficiary's rights under this Guaranty may be assigned to any individual, corporation, partnership, or other association doing business in the United States of America. In the event of such assignment DOD shall be promptly notified.

ARTICLE VIII

Any notice, demand, request or the like on behalf of the United States hereunder will be effective for the purposes hereof if signed by the Director, or Deputy Director, Defense Security Assistance Agency, or their respective successors in office and delivered to the Lender(s) at its address set forth opposite its signature below. Any notice, demand, request or the like on behalf of any Beneficiary of this Guaranty will be effective for the purpose hereof if signed by an authorized official of any such Beneficiary and delivered to the Director, Defense Security Assistance Agency.

In witness whereof, the parties hereto have caused this Guaranty to be duly executed and sealed on the date first mentioned above.

Address:

GOVERNMENT OF THE UNITED STATES OF AMERICA ACTING THROUGH THE DEPARTMENT OF DEFENSE

By ----------(seal)
Director, Defense Security Assistance Agency

Accepted:

By----------

[FR Doc.73-1821 Filed 1-26-73;11:35 am]

INTERSTATE COMMERCE COMMISSION

[Notice 164]

ASSIGNMENT OF HEARINGS

JANUARY 23, 1973.

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. No amendments will be entertained after the date of this publication.

MC 2890 Sub 43, American Buslines, Inc., extension—Sterling, Colo., now assigned February 6, 1973, at Sidney, Nebr., will be held at the City Council Chambers, 1115 13th Street.

MC-C-7938, Fergus Bus Service, Inc., investigation and revocation of certificate, now assigned February 21, 1973, at St. Paul, Minn., will be held in Judge Larsens Courtroom No. 4, Federal Bldg., & U.S. Courthouse, 316 N. Robert Street.

MC-124606 Sub 3, Ford Truck Line, Inc., now being assigned continued hearing February 26, 1973, at the Captain Shreve Hotel, 408 Market Street, Shreveport, La.

NO. 35632, Nebraska Intrastate Freight Rates and Charges, 1972, now assigned January 29, 1973, will be held in the Liquor Commission Hearing Room, 1st floor, 1324 M Street, Lincoln, Nebr.

MC 136611, Red & White Market & Transfer, Inc., now assigned February 1, 1973, at Hastings, Nebr., will be held in Judge Norris Chadderdon's Courtroom, District Court House.

MC 66886 Sub 34, Belger Cartage Service, Inc., now assigned February 26, 1973, MC 87476 Sub 11, Carl Schaefer, Jr., Truck Line, Inc., now assigned February 27, 1973, MC 107295 Sub 631, Pre-Fab Transit Co., now assigned February 28, 1973, MC-F-11603, W. L. Mead, Inc.,—Purchase—North Fairfield Transfer Co., MC 109265 Sub 24, W. L. Mead, now assigned March 5, 1973, at Columbus, Ohio, will be held in Room 4, State Office Building, 65 South Front Street.

MC 109448 Sub 16, Parker Transfer Co., now assigned March 1, 1973, MC 5623 Sub 19, Arrow Trucking Co., now assigned March 2, 1973, at Columbus, Ohio, will be held in Room 2, State Office Building, 65 South Front Street.

AB 5 Sub 64, George P. Baker, Richard C. Bond, Jervis Langdon, Jr., and Willard Wirtz, trustees of the property of Penn Central Transportation Co., debtor, abandonment between Bradford and East Greenville, Miami and Darke Counties, Ohio, AB 5 Sub 65, George P. Baker, Richard C. Bond, Jervis Langdon, Jr., and Willard Wirtz, trustees of the property of Penn Central Transportation Co., debtor, abandonment between Greenville and New Paris, Darke and Preble Counties, Ohio, now assigned March 7, 1973, at Greenville, Ohio, will be held in the Assembly Room Basement, Darke County, Courthouse on Broadway.

MC 56679 Sub 64, Brown Transport Corp., now assigned February 21, 1973, will be held in Room 305, 1252 West Peachtree Street, NW., Atlanta, Ga.

MC 87720 Sub 131, Bass Transportation Co., Inc., now being assigned hearing March 8, 1973, at St. Louis, Mo., in a hearing room to be later designated.

MC 133655 Sub 58, Trans-National Truck, Inc., now being assigned hearing March 9, 1973 (1 day), at St. Louis, Mo., in a hearing room to be later designated.

MC-108884 Sub 21, Rogers Transfer, Inc., now assigned February 7, 1973, at New York, N.Y., is canceled and application dismissed.

AB 5 Sub 100, George P. Baker, Richard C. Bond, Jervis Langdon, Jr., Willard Wirtz, trustees of the property of Penn Central Transportation Co., debtor, abandonment portion Springfield branch between Arcanum and Glen Karn, Darke County, Ohio, now assigned March 12, 1973, at Greenville, Ohio, will be held in the assembly room basement, Darke County Courthouse.

AB 5 Sub 101, George P. Baker, Richard C. Bond, Jervis Langdon, Jr., and Willard Wirtz, trustees of the property of Penn Central Transportation Co., debtor, abandonment portion Springfield branch between Shirley and Wilkinson, Hancock County, Ind., now asigned March 15, 1973, at Shirley, Ind., will be held at the Town Hall, Main Street.

MC 5812, John P. Sorice, doing business as John P. Sorice Trucking, now assigned March 7, 1973, at Columbus, Ohio, will be held in Room 2, State Office Building, 65 South Front Street.

MC 43246 Sub 15, Buske Lines, Inc., now being assigned hearing March 12, 1973 (1 day), at St. Louis, Mo., in a hearing room to be later designated.

MC 51146 Subs 276 and 277, Schneider Transport, Inc., now being assigned hearing March 13, 1973 (2 days), at St. Louis, Mo., in a hearing room to be later designated.

MC 76032 Sub 292, Navajo Freight Lines, Inc., MC 115331 Sub 325, Truck Transport, Inc., and MC 136354, Lizza Trucking Co., now being assigned hearing March 15, 1973 (2 days), at St. Louis, Mo., in a hearing room to be later designated.

MC 112989 Sub 22, West Coast Truck Lines, Inc., now being assigned March 20, 1973 (3 days), at San Francisco, Calif., in a hearing room to be later designated.

MC 60066 Sub 8, Bee Line Motor Freight, Inc., now assigned February 27, 1973, at Lincoln, Nebr., will be held at the Public Service Commission, 1342 M Street.

MC-134847 Sub 3, Bessette Transport, Inc., extension-Bedford Slate, now being assigned hearing March 19, 1973 (1 day), at Boston, Mass., in a hearing to be later designated.

MC-136343 Sub 3, Milton Transportation, Inc., now being assigned hearing March 20, 1973 (1 day), at Boston, Mass., in a hearing room to be later designated.

MC-113843 Sub 184, Refrigerated Food Express, Inc., now being assigned hearing March 23, 1973 (3 days), at Boston, Mass., in a hearing room to be later designated.

FD-27218, George P. Baker, Richard C. Bond, Jervis Langdon, Jr., and Willard Wirtz, trustees of the property of Penn Central Transportation Co., debtor, discontinuance trains Nos. 441, 442, 449, and 490 between Boston & Framingham, Mass., now being assigned hearing March 26, 1973 (2 days) at Boston, Mass., in a hearing room to be later designated.

FD-27222, George P. Baker, Richard C. Bond, Jervis Langdon, Jr., and Willard Wirtz, trustees of the property of Penn Central Transportation Co., debtor, discontinuance trains Nos. 431 and 432 between Boston and Worcester, Mass., now being assigned hearing March 26, 1973 (2 days), at Boston, Mass., in a hearing room to be later designated.

AB-6 Sub 5, Burlington Northern, Inc., abandonment between Amazonia and Savannah, Andrews County, Mo., now being assigned hearing March 5, 1973 (2 days), at St. Joseph, Mo., in a hearing room to be later designated.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-1643 Filed 1-26-73;8:45 am]

[No. MC 97127 (Sub-No. 6)]

BATESVILLE TRUCK LINE, INC.

Order for Hearing

In regard Batesville Truck Line, Inc., Batesville, Ark., common carrier application.

It is ordered, That the above-entitled proceeding be, and it is hereby, referred to Joint Board No. 247 for hearing on the 19th day of March 1973 (2 weeks), at 9:30 a.m., United States Standard Time, at Little Rock, Ark., and for the recommendation of an appropriate order thereon, accompanied by the reasons therefor. Location of hearing room will be by subsequent notice. A tentative time allowance is shown for this hearing.

Dated at Washington, D.C., this 12th day of January 1973.

By the Commission, Commissioner Murphy.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-1646 Filed 1-26-73;8:45 am]

[No. MC 136790]

HALL DISTRIBUTORS, LTD.

Order for Hearing

In regard Hall Distributors, Ltd., Kelowna, B.C., Canada.

It is ordered, That the above-entitled proceeding be, and it is hereby, referred to Joint Board No. 5 for hearing on the 14th day of March, 1973 (2 days), at 9:30 a.m. United States Standard Time, at Olympia, Washington, and for the recommendation of an appropriate order thereon, accompanied by the reasons therefor. A tentative time allowance is shown for this hearing. Location of hearing room will be by subsequent notice.

Dated at Washington, D.C., this 12th day of January, 1973.

By the Commission, Commissioner Murphy.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-1644 Filed 1-26-73;8:45 am]

[Notice 8]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JANUARY 22, 1973.

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 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of these applications must be filed with the field official named in the FEDERAL REGISTER publication, on or before February 12, 1973. 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 (6) 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 14125 (Sub-No. 6 TA), filed January 9, 1973. Applicant: PIQUA TRANSFER & STORAGE CO., 524-530 Young Street, Piqua, OH 45356. Applicant's representative: David L. Pemberton, 50 W. Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Buildings, complete, knocked down, or in sections, and component parts, materials, supplies*

[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.

and fixtures used in the erection or assembly thereof, from the plantsite of Inland Homes, Division of Inland Systems, Inc., at Piqua, Ohio to points in Illinois, Indiana, Iowa, Kentucky, Michigan, New York, Pennsylvania, and West Virginia, for 180 days. Supporting shipper: Inland Homes, Division of Inland Systems, Inc., 1950 Covington Avenue, Piqua, OH 45356. Send protests to: Paul J. Lowry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5514–B Federal Building, 550 Main Street, Cincinnati, OH 45202.

No. MC 34156 (Sub-No. 4 TA), filed January 8, 1973. Applicant: NIEDERT MOTOR SERVICE, INC., 1300 Oakwood Avenue, Des Plaines, IL 60018. Applicant's representative: Daniel Sullivan, 327 South LaSalle Street, Chicago, IL 60604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *General commodities* (except commodities in bulk, household goods as defined by the Commission, classes A and B explosives and commodities requiring special equipment), between Chicago, Ill., and Lake, McHenry, Boone, Cook, DuPage, Kane, DeKalb, Will, Kendall, and La Salle Counties, Ill.; (2) *general commodities* (except commodities in bulk, household goods as defined by the Commission, classes A and B explosives and commodities requiring special equipment), between points in (1) above on the one hand, and, on the other, points in Illinois; and (3) *general commodities* (except commodities in bulk, household goods as defined by the Commission, classes A and B explosives and commodities requiring special equipment), from points in Cook, DuPage, and Lake Counties, Ill., to points in Lake and Porter Counties, Ind., for 180 days. NOTE: Applicant states that it will interline with approximately 115 carriers absolutely necessary to continue service. Supported by: There are approximately 14 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: William J. Gray, Jr., Area Supervisor, Bureau of Operations, Interstate Commerce Commission, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

No. MC 43246 (Sub-No. 16 TA), filed January 10, 1973. Applicant: BUSKE LINES, INC., 123 West Tylet Street, Litchfield, IL 62056. Applicant's representative: Harold W. Buske (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Canned chili, chili mix, chili hot dog sauce and canned evaporated milk*, from (1) Litchfield, Ill., to Seneca, Mo., and W. Seneca, Okla., and points in Arkansas, Kansas, Iowa, Texas, and Kentucky; and (2) from Seneca, Mo., and W. Seneca, Okla., to points in Arkansas, Kansas, Iowa, Texas, Kentucky, Oklahoma, and Missouri, for 180 days. Supporting shipper: Robert P. Ogle, Director of Sales, Litchfield Creamery Co., Litchfield, Ill. 62056. Send protests to: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 518 Leland Office Building, 527 East Capitol Avenue, Springfield, IL 62701.

No. MC 59570 (Sub-No. 36 TA), filed December 27, 1972. Applicant: HECHT BROTHERS, INC., 2075 Lakewood Road, Route 9, Toms River, NJ 08753. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Limestone*, natural, ground, in bulk, in dump and pneumatic vehicles, from Perth Amboy, N.J., to points in Pennsylvania, Delaware, Maryland, Connecticut, New York, and Rhode Island, for 180 days. Supporting shipper: Ocean Industries, Inc., Post Office Box 1130, 920 State Street, Perth Amboy, NJ 08862. Send protests to: Richard M. Regan, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 428 East Street, Room 204, Trenton, NJ 08608.

No. MC 109637 (Sub-No. 389 TA), filed January 8, 1973. Applicant: SOUTHERN TANK LINES, INC., 10 West Baltimore Avenue, Lansdowne, PA 19050. Applicant's representative: John Nelson (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquified petroleum gas*, in bulk, in tank vehicles, from Crossville, Ill., and points within five (5) miles thereof, to points in Kentucky, for 180 days. Supporting shipper: C. McIntosh, Warren Petroleum Co., a Division of Gulf Oil Corp., Post Office Box 1589, Tulsa, OK 74102. Send protests to: Ross A. Davis, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1518 Walnut Street, Room 1600, Philadelphia, PA 19102.

No. MC 117427 (Sub-No. 64 TA), filed January 11, 1973. Applicant: G. G. PARSONS TRUCKING CO., Post Office Box 1085, North Wilkesboro, NC 28659. Applicant's representative: Henry L. Moore (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rough lumber*, from Wilkesboro, N.C., to Sumter, S.C., for 180 days. Supporting shipper: Ray Shepherd Lumber Co., Box 941, North Wilkesboro, NC Send protests to: Frank H. Wait, Jr., Bureau of Operations, Interstate Commerce Commission, Suite 417, BSR Building, 316 E. Morehead Street, Charlotte, NC 28202.

No. MC 117613 (Sub-No. 14 TA), filed January 11, 1973. Applicant: DONALD M. BOWMAN, JR., Office: 15 East Oak Ridge Drive, Residence: 5 North Clifton Drive, Williamsport, MD 21795, Route 3, Box 26, Hagerstown, MD 21740. Applicant's representative: Charles E. Creager, Suite 523, 816 Easley Street, Silver Spring, MD 20910. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Brick and tile*, from Winchester, Va., and its Commercial Zone, to points in Maryland and the District of Columbia, for 180 days. Supporting shipper: Shenandoah Brick and Tile Corp., Post Office Box 32, Winchester, VA 22601. Send protests to: Robert D. Caldwell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 12th Street and Constitution Avenue NW., Washington, DC 20423.

No. MC 123887 (Sub-No. 5 TA), filed January 12, 1973. Applicant: L. J. NAVY TRUCKING CO., 2300 Eighth Avenue, Huntington, WV 25703. Applicant's representative: John M. Friedman, 2930 Putnam Avenue, Hurricane, WV 25526. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Columbus, Ohio to Northfork, W. Va., and *empty used containers on return*, for 180 days. Supporting shipper: Elkhorn Valley Grocery Co., Keystone, W. Va. 24852. Attention: Elio M. Pais, president. Send protests to: H. R. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 3108 Federal Office Building, 500 Quarrier Street, Charleston, WV 25301.

No. MC 124212 (Sub-No. 67 TA), filed January 9, 1973. Applicant: MITCHELL TRANSPORT, INC., Mailing: Post Office Box 22183, 2111 Chagrin Boulevard, Cleveland, OH 44122. Applicant's representative: Thompson, Hine and Flory, National City Bank Building, Cleveland, OH 44114. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement* in bulk, from Middlebranch, Ohio, to points in Allegheny, Cattaraugus, Chautauqua, Erie, Genesee, Niagara, Orleans, and Wyoming Counties, N.Y., points in that part of Pennsylvania in and west of Cambria, Clearfield, Elk, Fayette, Indiana, McKean, Somerset, and Westmoreland Counties, and points in Indiana, Kentucky, the Lower Peninsula of Michigan and West Virginia, for 180 days. Supporting shipper: The Flintkote Co., Middlebranch, Ohio 44652. Send protests to: Franklin D. Bail, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 181 Federal Office Building, 1240 East Ninth Street, Cleveland, OH 44199.

No. MC 134872 (Sub-No. 5 TA), filed January 11, 1973. Applicant: GOSSELIN EXPRESS LTD., 141 Smith Boulevard, Thetford Mines, PQ Canada. Applicant's representative: John J. Brady, Jr., 75 State Street, Albany, NY 12207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Snowmobiles*, from ports of entry on the international boundary lines between the United States and Canada located in Michigan and New York to Salt Lake City, Utah and Idaho Falls, Idaho, for 180 days. Supporting shippers: Skiroule Ltee, Route 13, Wickham (Drummond), Que.; Sno Jet, Inc., Post Office Box 850, Thetford Mines, PQ. Send protests to: District Supervisor Ross J.

Seymour, Bureau of Operations, Interstate Commerce Commission, 424 Federal Building, Concord, NH 03301.

No. MC 135185 (Sub-No. 13 TA), filed January 12, 1973. Applicant: COLUMBINE CARRIERS, INC., 4971 South Emporia, Englewood, CO 80110. Applicant's representative: Charles J. Kimball, 2310 Colorado State Bank Building, Denver, Colo. 80202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Razors and razor blades, toilet articles and toilet preparations, and ball point and felt tip pens* (except commodities in bulk), from Andover, Mass., to points in Pennsylvania, Ohio, Illinois (except East St. Louis), Minnesota and points in New York on and west of Interstate Highway 87 beginning at the international boundary line to the junction of Interstate Highway 87 and New York Highway 17, thence on and west of New York Highway 17 to the New Jersey State line; (2)(a) *materials, supplies and equipment*, except commodities in bulk, utilized in the manufacture, sale and distribution of the commodities named in (1) above, from the destination area in (1) above to Andover, Mass.; (b) *materials, supplies and equipment*, except commodities in bulk, utilized in the manufacture, sale and distribution of razors and razor blades, from the destination area in (1) above to Boston, Mass.; (3) *toilet articles and toilet preparations and hair curlers*, except commodities in bulk, from St. Paul, Minn., to points in Illinois (except East St. Louis and those located on and north of U.S. Highway 6), and Newark, N.J., Baltimore, Md., and the District of Columbia.; and (4) *materials, supplies and equipment*, except commodities in bulk, utilized in the manufacture, sale and distribution of the commodities named in (3) above, from points in Illinois (except East St. Louis), and Newark, N.J., Baltimore, Md., and the District of Columbia to St. Paul, Minn. Restriction: Restricted in (1), (2), (3), and (4) above to the transportation of traffic originating at or destined to the facilities of The Gillette Company located at Andover, Mass., and St. Paul, Minn., for 180 days. Supporting shipper: The Gillette Co., Andover, Mass. Send protests to: District Supervisor, Herbert C. Ruoff, Interstate Commerce Commission, Bureau of Operations, 2022 Federal Building, Denver, Colo. 80202.

No. MC 138097 (Sub-No. 1 TA) (Correction), filed October 30, 1972, published in the FEDERAL REGISTER November 21, 1972, corrected and republished in part as corrected this issue. Applicant: PERCY KAGEL, doing business as KAGEL TRUCKING, 404 Fifth Avenue, Ironton, MN 56455. Applicant's representative: A. R. Fowler, 2288 University Avenue, St. Paul, MN 55114. NOTE: The purpose of this partial republication is to include four supporting shippers which were inadvertently omitted in previous publication. Boundary Forest Products, Inc., Ely Minn. 55731; Hamdorf Lumber Co., Ironton, Minn. 56455; Kainz Logging Co., Ely, Minn. 55731; Burns Kneeland Lumber Co., Aikin, Minn. 56431. The rest of the application remains the same.

No. MC 138302 TA, filed January 11, 1973. Applicant: MORVEN A. POWELL, doing business as POWELL TRANSPORT REG'D., 10 Massawippi Street, Lennoxville, Que. Applicant's representative: Morven A. Powell (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer*, from Lyndonville, Vt., to ports of entry on the international boundary line between the United States and Canada located at Beecher Falls, Derby Line, Norton, North Troy, and Richford, Vt., restricted to a transportation service to be performed under a continuing contract with Old Fox Chemical, Inc., of East Providence, R.I., for 180 days. Supporting shipper: Old Fox Chemical, Inc., 66 Valley Street, East Providence, RI 02914. Send protests to: District Supervisor Ross J. Seymour, Bureau of Operations, Interstate Commerce Commission, 424 Federal Building, Concord, N.H. 03301.

No. MC 138303 TA, filed January 12, 1973. Applicant: K.R.L. TRANSIT, INC., 430 South 31st Street, Springfield, IL 62705. Applicant's representative: Robert T. Lawley, 300 Reisch Building, 4 West Old State Capitol Plaza, Springfield, IL 62701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fabricated structural steel and component parts thereof and fabricated steel reinforcing rods*, from the plantsite of Birdco Fabricators, Inc., at Alexandria, Ill., to points in Indiana, Iowa, and Missouri for the account of Birdco Fabricators, Inc., for 180 days. Supporting shipper: Everett T. Birdsell, Jr., president, Birdco Fabricators, Inc., 924 North Prairie Street, Jacksonville, IL 62650. Send protests to: Harold C. Jolliff, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Leland Office Building, 527 East Capitol Avenue, Springfield, IL 62701.

No. MC 138304 TA, filed January 10, 1973. Applicant: NATIONAL PACKERS EXPRESS, INC., 29 South LaSalle Street, Chicago, IL 60603. Applicant's representative: Craig B. Sherman (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages, malt beverage dispensing equipment and advertising materials and supplies* (except commodities in bulk), from New York, N.Y., Newark and Hoboken, N.J., to points in Ohio, Indiana, Illinois, Wisconsin, Minnesota, Iowa, Nebraska, Kansas, Missouri, Colorado, Michigan, Kentucky, Tennessee, Maryland, District of Columbia, North Dakota, and South Dakota; and (2) *empty malt beverage containers and malt beverage dispensing equipment*, from points in Ohio, Indiana, Illinois, Wisconsin, Minnesota, Iowa, Nebraska, Kansas, Missouri, Colorado, Michigan, Kentucky, Tennessee, North Dakota, South Dakota, Maryland, District of Columbia, to New York, N.Y., and Newark and Hoboken, N.J., for 180 days. Supporting shipper: Vincent DeMichele, traffic manager, Van Munching & Co., Inc., 51 West 51st Street, New York, N.Y. Send protests to: Richard O. Chandler, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-1642 Filed 1-26-73;8:45 am]

[No. MC-136519]

JOHN RICHARDS ET AL.

Denial of Application

At a session of the Interstate Commerce Commission, Operating Rights Board, held at its office in Washington, D.C., on the 22d day of December 1972.

It appearing, that by application filed March 7, 1972, as amended, John Richards, Beth Richards, and David Jones, a partnership, doing business as Trans-Way Co., of Moscow, Pa., seeks a permit authorizing operations, in interstate or foreign commerce, as a contract carrier by motor vehicle, over irregular routes, of the commodities and between the points substantially as indicated below;

It further appearing, that on May 26, 1972, and May 31, 1972, George W. Brown, Inc., jointly for itself and as operator of both K. M. Transportation, Inc., and R. C. Motor Lines, Inc., Worster Motor Lines, Inc., respectively, filed protests to the application;

It further appearing, that by order entered July 11, 1972, protestants were directed to comply with the provisions of Rule 247(e)(3) of the Commission's rules of practice, and that September 21, 1972, was fixed as the date on or before which protestants might file verified statements in opposition to the application, which time was subsequently extended to October 20, 1972;

It further appearing, that protestants did not file verified statements in opposition to the application and, therefore, in accordance with Rule 46(b) of the Commission's general rules of practice, are deemed to be in default and to have waived any further hearing, and the proceeding may now be disposed of without other formal proceedings as to the defaulting parties;

It further appearing, that the application is now unopposed, has not involved the taking of testimony at a public hearing, or the submission of evidence by opposing parties in the form of affidavits, and the public interest will best be served by disposition of the matter without issuance of a report and recommended order;

It further appearing, that although named in the OP-OR-9 application form

filed herein, Newark, N.Y., was omitted from the FEDERAL REGISTER publication as a point to be served in the base radial territory;

It further appearing, That the evidence of record demonstrates a need for such service, and the grant of authority will, therefore, be accordingly modified;

It further appearing, That although the shipper evidence refers to movements from and to points in Maryland and the District of Columbia, such points have been deleted from the application by amendment and that otherwise the evidence shows a need only for radial service between shipper's New York and Pennsylvania facilities on the one hand, and on the other, points in Connecticut;

It further appearing, That because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings of this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a permit in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate pleading setting forth in detail the manner in which it has been so prejudiced;

It further appearing, That applicant is under common control with Trans-Way Co., a corporation, the holder of Permit No. MC-135182 (Sub-No. 1), and the said common management has not been subject to prior Commission approval;

It further appearing, that inasmuch as the evidence submitted in the form of verified statements in support of the application fails to disclose whether applicant is in compliance with the pertinent statutory requirements relative to common control or management, our grant of authority herein will be conditioned upon the person or persons engaging in such common control or management filing an application for approval thereof under section (5)(2) of the Interstate Commerce Act or filing an affidavit indicating why such approval is unnecessary;

And it further appearing, that the evidence submitted in the form of verified statements in support of the application amply warrants the grant of authority set forth below, which has been rephrased to conform to current Commission practice; therefore:

We find, that operation by applicant, in interstate or foreign commerce, as a contract carrier by motor vehicle, over irregular routes, of materials, supplies and products used in or produced by the food processing industry (except in bulk), between Erie and North East, Pa., and Westfield, Dunkirk, Buffalo, and Newark, N.Y., on the one hand, and, on the other, points in Connecticut, under a continuing contract with Welch Foods, Inc.; will be consistent with the public interest and the national transportation policy; that applicants is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder, that a permit authorizing such operations should be granted, (1) subject to the conditions that the person or persons who control the operations both of the applicant, the partnership, and Trans-Way Co., a corporation, shall first obtain approval of such control under the provisions of section 5(2) of the Act or if such approval is not needed, shall so inform the Commission by affidavit, and (2) subject to the further condition described below; that this decision is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969; and that the application in all other respects should be denied.

It is ordered, That said application, except to the extent granted herein, be, and it is hereby, denied.

It is further ordered, That upon compliance by applicant with the requirements of sections 215, 218, and 221(c) of the Interstate Commerce Act, with the Commission's rules and regulations thereunder, with the requirements established in Contracts of Contract Carriers, 1 M.C.C. 628, and with the conditions outlined below within the time specified below, and the grant of the Commission's approval, if such approval is in fact necessary, an appropriate permit will be issued subject to the prior publication in the FEDERAL REGISTER of a notice of the authority actually granted herein;

It is further ordered, That unless the person or persons engaged in the common control or management of applicant and any other carrier operating in interstate or foreign commerce apply for approval thereof under section 5(2) of the Act, or submit an affidavit indicating why such approval is unnecessary, on or before April 23, 1973, or within such additional time as may be authorized by the Commission, the grant of authority made herein shall be considered as null and void, and the application shall stand denied in its entirety effective upon the expiration of said compliance time.

It is further ordered, That unless compliance is made by applicant with the requirements of sections 215, 218, and 221(c) of the act within 90 days after the aforementioned application under section 5(2) of the act shall have been approved or dismissed or determined to be unnecessary, the grant of authority made herein shall be considered as null and void and the application shall stand denied in its entirety effective upon the expiration of the said compliance time.

It is further ordered, That should the Commission determine that the aforementioned approval is necessary and withholds such approval, the grant of authority made herein shall be considered as null and void and the application shall stand denied in its entirety.

And it is further ordered, That this order shall be effective on January 23, 1973.

By the Commission, Operating Rights Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-1647 Filed 1-26-73;8:45 am]

[No. MC 96612 (Sub-No. 12)]

SEA-LAND FREIGHT SERVICE, INC.

Order for Hearing

In regard Sea-Land Freight Service, Inc., Elizabeth, N.J.

It is ordered, That the above-entitled proceeding be, and it is hereby, referred to Joint Board No. 80 for hearing on the 6th day of March 1973 (3 days), at 9:30 a.m. U.S. standard time, at Olympia, Wash., and for the recommendation of an appropriate order thereon, accompanied by the reasons therefor. A tentative time allowance is shown for this hearing. Location of hearing room will be by subsequent notice.

Dated at Washington, D.C., this 12th day of January 1973.

By the Commission, Commissioner Murphy.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-1645 Filed 1-26-73;8:45 am]

CUMULATIVE LIST OF PARTS AFFECTED—JANUARY

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during January.

3 CFR

Page

PROCLAMATIONS:

3279 (amended by Proc. 4178) 1719
3548 (see Proc. 4177) 7
3558 (see Proc. 4177) 7
3562 (see Proc. 4177) 7
3597 (see Proc. 4177) 7
3709 (see Proc. 4177) 7
3790 (see Proc. 4177) 7
3822 (see Proc. 4177) 7
3856 (see Proc. 4177) 7
3870 (see Proc. 4177) 7
3884 (see Proc. 4177) 7
4026 (see Proc. 4177) 7
4138 (see Proc. 4177) 7
4177 7
4178 1719
4179 2319
4180 2321

EXECUTIVE ORDERS:

July 26, 1911 (partially revoked by PLO 5327) 2429
July 10, 1913 (partially revoked by PLO 5327) 2429
Dec. 15, 1914 (partially revoked by PLO 5327) 2429
Feb. 23, 1915 (partially revoked by PLO 5327) 2429
3256 (see PLO 5323) 735
11248 (amended by EO 11699) 2323
11582 (see EO 11696) 1722
11588 (superseded by EO 11695) 1473
11598 (superseded by EO 11701) 2675
11615 (see EO 11695) 1473
11627 (see EO 11695) 1473
11640 (superseded by EO 11695) 1473
11660 (superseded by EO 11695) 1473
11674 (superseded by EO 11695) 1473
11694 729
11695 1473
11696 1722
11697 1723
11698 2207
11699 2323
11700 2325
11701 2675

PRESIDENTIAL DOCUMENTS OTHER THAN PROCLAMATIONS AND EXECUTIVE ORDERS:

Letter of January 22, 1973 2677

5 CFR

213 953, 1115, 1269, 1635, 2327
351 2696
352 2327

6 CFR

101 962
130 1479
300 1173, 1269, 1377
Rulings 1115, 1270, 1497–1499

7 CFR

Page

2 2697
10 963
32 964
51 2439
52 1640
53 2209
301 843, 1725
354 1377
401 1726
711 967
722 967, 2697
730 844, 2439
811 844
812 845
814 846
818 2328
907 744, 1270, 1500, 1728, 2209, 2441
910 847, 1115, 1378, 1575, 2169, 2329, 2697
912 847, 1378, 1920
913 848
915 1640, 1921
971 1116, 1641
1050 849
1421 968, 1379, 1575
1474 1575
1822 1174
1832 2169
1864 1174

PROPOSED RULES:

44 885
51 798
722 1053
Ch. IX 1197
918 1395
928 1395, 2701
982 2178
1032 1202
1040 2374
1043 2374
1049 1892
1050 1202
1062 1202, 1281
1064 1202
1065 1202
1421 1054
1427 1053
1430 799
1434 2334
1701 1055, 1395, 2178, 2464

8 CFR

212 1379
299 1379

PROPOSED RULES:

103 2699
211 2699
223a 2699
235 2699
242 2699
299 2699

9 CFR

73 2679
76 849, 1116, 1577, 1578, 1922, 2441
82 1578
92 1578
94 1729
97 1380, 2442

9 CFR—Continued

Page

PROPOSED RULES:

92 2463
317 1746
318 1746
445 1104
446 1104
447 1104

10 CFR

0 1271
1 2330
2 1500, 2330
4 2330
20 1271
30 1271, 2330
31 1271
32 1271
34 1271
35 1272
36 1272
40 1272, 2330
50 1272, 2679
55 1272
70 1272, 2330
73 1272
100 1273
115 1273
140 1273
150 1273, 2330

PROPOSED RULES:

19 802
20 805
50 49

12 CFR

201 2330
220 1500
265 2442

PROPOSED RULES:

21 31
216 54
326 51
545 891
546 1334
563 1334
563a 53
563b 1334
571 1334
613 2336
614 2336
619 2336

13 CFR

123 2209
Ch. III 2260
301 1174

14 CFR

39 850, 851, 1117, 1381, 1501, 1579, 2210, 2330, 2331
71 298, 851, 852, 1118, 1273, 1381, 1382, 1501, 1579–1581, 1730, 1922, 1923, 2170, 2331, 2332, 2443
73 298, 1273, 1501, 1502, 1923, 2210

32 CFR—Continued

Page

811a 983
872 984
889 986
890 989
905 990
907 991
1604 731, 2428
1621 731
1622 731, 732, 2428
1623 732, 733, 2428
1625 731, 2428
1628 731, 2428
1630 733, 2428
1631 732, 733, 2428
1660 734
1680 733, 2428
1705 1927
1710 2333

PROPOSED RULES:

1460 2219

32A CFR

Ch. X:
OI Reg. 1 1274, 1928
Ch. XI 2684

33 CFR

3 860
92 1587, 2686
110 23, 1928
117 2428
209 1637, 1928

PROPOSED RULES:

110 1937
117 1510, 2466

36 CFR

175 887

PROPOSED RULES:

7 1122

38 CFR

3 871, 872
13 872

PROPOSED RULES:

1 1058
14 1058
21 2337
36 2709

39 CFR

122 1931
134 1566
510 1275
520 1275
530 1275
540 1275
550 1275
560 1275
570 1275
601 1275
619 1275

40 CFR

6 1696
80 1254
180 23, 1275, 1742, 2428, 2687

PROPOSED RULES:

45 2705
46 2705
48 2705

40 CFR—Continued

Page

PROPOSED RULES—Continued

51 1464
52 2194
80 1258
125 1362
180 2708

41 CFR

1–7 991
1–16 993
1–19 993
3–1 1392
3–3 1392, 2212
3–75 2214
5A–2 1931
5A–3 735
5A–5 2688
5A–16 1932
5A–53 735
5A–76 1932, 2688
5B–2 1276
5B–16 1276
9–5 2429
9–7 1276
9–59 1276
60–1 1932
60–50 1932
101–26 2176

PROPOSED RULES:

15–16 1219
60–1 1124

42 CFR

78 1933

43 CFR

2800 1587

PUBLIC LAND ORDERS:

5322 735
5323 735
5324 736
5325 1588
5326 1588
5327 2429
5328 2429
5329 2429
5330 2430

PROPOSED RULES:

3110 1281, 1746
3540 1591

45 CFR

82 997
177 24, 1509
1060 736

PROPOSED RULES:

233 49
1400 1021
1403 1022
1406 1023
1408 1025
1410 1026
1412 1027
1414 1031

46 CFR

25 1000
146 1276
184 1000
294 1277
310 2215
390 2430

46 CFR—Continued

Page

PROPOSED RULES:

Ch. I 2467
146 1937
278 2701
Ch. IV 2468
505 892
506 2468

47 CFR

0 998, 1505
1 1913, 2689
15 2689
17 739
25 1180
73 26, 27, 739, 1195, 1913, 1918, 2180, 2430, 2689
74 743
76 1195
78 1920
81 1196, 1505
83 1196
97 1505

PROPOSED RULES:

1 1511
2 1513, 1941
61 1223
73 805, 1223, 1511, 1516, 1941, 2180, 2708
74 1941
78 807
81 1513, 1941
83 1513, 1941
89 808, 1516
91 1513, 1516
93 1516, 1517

49 CFR

1 2692
172 1507
173 1507
213 873, 1508
252 2435
392 1589
394 2177
395 1589, 1934
555 2693
571 743
577 2215
1033 876–878, 1508, 1742, 2217
1280 1393
1311 2177

PROPOSED RULES:

215 2467
393 800
571 1055, 1645

50 CFR

10 879
18 1743
28 879, 1743, 1744, 2437
32 2437
33 880, 881, 1279, 1280, 1744, 1745, 1934, 2438
240 882

PROPOSED RULES:

12 1936
17 1521, 2178
240 2703
275 1122
280 1521

FEDERAL REGISTER PAGES AND DATES—JANUARY

Pages	Date	Pages	Date
1–721	Jan. 3	1491–1567	Jan. 15
723–835	4	1629–1712	17
837–945	5	1713–1905	18
947–1107	8	1907–2164	19
1109–1165	9	2165–2200	22
1167–1261	10	2201–2311	23
1263–1370	11	2313–2410	24
1371–1490	12	2411–2668	26
1569–1627	16	2669–2729	29

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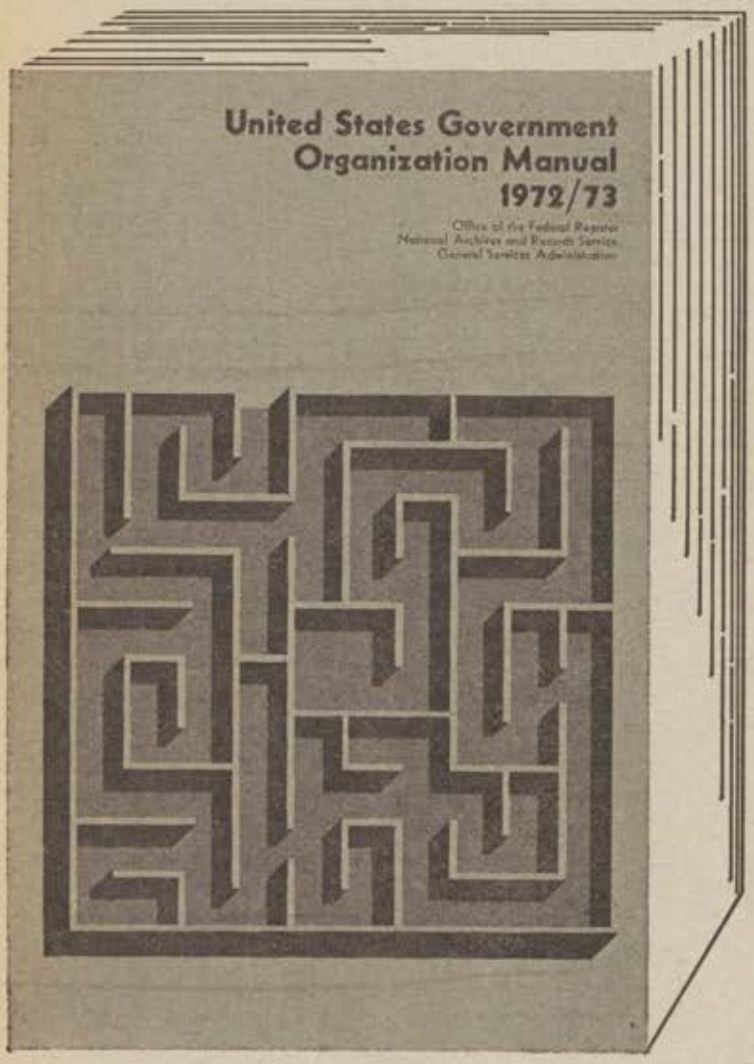

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