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PART I

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HIGHLIGHTS OF THIS ISSUE

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

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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.)

NOTE: There were no items published after October 1, 1972, that are eligible for inclusion in the list of RULES GOING INTO EFFECT TODAY.

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List of CFR Parts Affected

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

Rules and Regulations

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of Agriculture

Section 213.3313 is amended to show that one position of Private Secretary to the Deputy Assistant Secretary for Rural Development is excepted under schedule C.

Effective on May 22, 1973, § 213.3313(a) (33) is added as set out below.

§ 213.3313 Department of Agriculture.

(a) *Office of the Secretary.* * * *

(33) One Private Secretary to the Deputy Assistant Secretary for Rural Development.

* * * * *

(5 U.S.C. secs. 3301, 3302, Executive Order 10577; 3 CFR 1954–58 Comp. p. 218.)

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

[FR Doc.73-10174 Filed 5-21-73;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Commerce

Section 213.3114 is amended to show that the expiration date of the schedule A authority covering temporary positions of field agent employed in connection with the 1972 Census of Governments has been extended from December 31, 1973, to June 30, 1974. This section is further amended to show that seven additional positions are excepted under the schedule A authority.

Effective on May 22, 1973, § 213.3114 (d) (3) is amended as set out below.

§ 213.3114 Department of Commerce

* * * * *

(d) *Bureau of the Census.* * * *

(3) Not to exceed 32 positions of field agent to compile data on taxable property values, governmental finance, and governmental employment in connection with the 1972 Census of Governments. Employment under this authority may not exceed June 30, 1974.

* * * * *

(5 U.S.C. secs. 3301, 3302; Executive Order 10577, 3 CFR 1954–58 Comp. p. 218.)

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

[FR Doc.73-10176 Filed 5-21-73;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Health, Education, and Welfare

Section 213.3316 is amended to show that one position of Administrator, National Institutes of Health, and one position of Special Assistant to the Assistant Secretary for Education are excepted under schedule C.

Effective on May 22, 1973, paragraphs (h) (11) and (r) are added to § 213.3316 as set out below.

§ 213.3316 Department of Health, Education, and Welfare.

* * * * *

(h) *Office of the Assistant Secretary for Health and Scientific Affairs.* * * *

(11) Administrator, National Institutes of Health.

* * * * *

(r) *Office of the Assistant Secretary for Education.*—(1) One Special Assistant to the Assistant Secretary.

(5 U.S.C. secs. 3301, 3302; Executive Order 10577, 3 CFR 1954–58 Comp., p. 218.)

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

[FR Doc.73-10175 Filed 5-21-73;8:45 am]

Title 7—Agriculture

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

PART 981—HANDLING OF ALMONDS GROWN IN CALIFORNIA

Revision of Salable and Reserve Percentages for 1972–73 Crop Year

Notice was published in the April 18, 1973, issue of the FEDERAL REGISTER (38 FR 9592) regarding a proposal to revise the salable and reserve percentages for California almonds for the 1972–73 crop-year, from 55 and 45 percent, respectively, to 66 and 34 percent. No change was proposed in the export percentage of 100 percent also established for the 1972–73 crop-year at 37 FR 16678. The 1972–73 crop-year began July 1, 1972.

The percentages are based on the unanimous recommendation of the Almond Control Board and other available information in accordance with the applicable provisions of the marketing agreement, as amended, and the order No. 981, as amended (7 CFR pt. 981), regulating the handling of almonds grown in California. The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The notice afforded interested persons opportunity to submit written data, views, or arguments with respect to the proposal. One comment was submitted within the prescribed time.

Until 1973 crop almonds become available, a number of domestic users do not have access to sufficient almonds to meet their current requirements. In fact, in the 1972–73 crop-year, demand generally was greater than supply. At the beginning of the season, the 1972 crop was officially estimated at 180 million pounds. The crop now is estimated at 145 million pounds.

With 1971–72 carryover stocks also in short supply, some handlers met part of their 1971–72 commitments with 1972 crop almonds or were forced to make other adjustments in their shipments. For example, at least one handler prorated both domestic and export sales at only a portion of his existing customers' previous year's purchases.

The purpose of this action is to make an additional quantity of 1972 crop California almonds available for disposition in domestic outlets during the remainder of this crop-year and the beginning of the 1973–74 crop-year until the 1973 crop becomes available.

In making its recommendation, the Board gave consideration to the following revised estimates (kernel weight basis) for the 1972–73 crop-year:

(1) Production of 145 million pounds;

(2) Trade demand for domestic almonds of 75 million pounds (which is based on a total demand of 75.2 million pounds less 200,000 pounds of imports for consumption);

(3) Handler carryover of 18.7 million pounds on July 1, 1972;

(4) Desirable handler carryover of 39.7 million pounds on June 30, 1973; and

(5) Trade demand and desirable handler carryover requirements for 1972 crop almonds of 96 million pounds (items 2 plus 4 minus 3).

The salable percentage is computed by dividing item (5) trade demand and desirable handler carryover, by item (1) production. The reserve percentage is equal to 100 percent minus the salable percentage. The percentages have been rounded to the nearest whole percent.

After consideration of all relative matter presented, including that in the notice, the written comment received pursuant to the notice, the information and recommendation submitted by the Board, and other available information, it is found that to establish revised salable and reserve percentages as hereinafter

set forth will tend to effectuate the declared policy of the act. Therefore, the salable, reserve, and export percentages for almonds received by handlers for their own accounts during the 1972–73 crop-year are established as follows:

Section 981.222 is revised to read as follows:

§ 981.222 Salable, reserve, and export percentages for almonds during the crop-year beginning July 1, 1972.

The salable, reserve, and export percentages during the crop-year beginning July 1, 1972, shall be 66, 34, and 100 percent, respectively.

It is further found that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) The relevant provisions of said marketing agreement and this part require that salable, reserve, and export percentages shall be applicable to all almonds received by handlers for their own accounts during such year, and (2) the current crop-year began on July 1, 1972, and the percentages established herein will apply to all such almonds beginning with such date.

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

Dated May 16, 1973.

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

[FR Doc.73-10107 Filed 5-21-73;8:45 am]

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

Subpart—Supplementary Orders Regulating Handling

DELETION OF CERTAIN PROVISIONS

This action deletes § 989.202 of Subpart—Supplementary Orders Regulating Handling (7 CFR 989.201–229) because the requirements therein are prescribed in the U.S. Standards for Grades of Processed Raisins (7 CFR 52.1841–52.1852).

This action was unanimously recommended by the Raisin Administrative Committee and is pursuant to the marketing agreement, as amended, and Order No. 989, as amended (7 CFR 989; 37 FR 19621, 20022), hereinafter referred to collectively as the "order," regulating the handling of raisins produced from grapes grown in California. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

Section 989.202 was published in the FEDERAL REGISTER on April 27, 1968 (33 FR 6462), and became effective on September 1, 1968. Said section changed the minimum grade standards prescribed under the order with respect to maturity and substandard raisins for packed raisins of the following varietal types: Natural Thompson Seedless, Golden Seedless, Sulfur Bleached, and Soda Dipped raisins.

Subsequently, an identical change (33 FR 11629) was made in the U.S. Standards for Grades of Processed Raisins (7 CFR 52.1841–52.1852). These standards are applicable under the order to such varietal types of raisins. Since § 989.59(a) of the order provides that no handler shall ship or otherwise make final disposition of packed raisins of such varietal types unless they at least meet U.S. Grade C as defined in the U.S. Standards for Grades of Processed Raisins, the change in § 989.202 became unnecessary when such standards were changed. Thus, § 989.202 should be deleted, effective July 1, 1973.

It is therefore ordered, that effective July 1, 1973, § 989.202 of the Subpart—Supplementary Orders Regulating Handling is deleted.

It is hereby found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice of this action and engage in public rulemaking procedure (5 U.S.C. 553) in that this action deletes requirements from the rules and regulations of the order which are contained in the U.S. Standards for Grades of Processed Raisins, hence, no useful purpose would be served by giving preliminary notice.

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

Dated May 16, 1973, to become effective July 1, 1973.

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

[FR Doc.73-10108 Filed 5-21-73;8:45 am]

Title 9—Animals and Animal Products

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

SUBCHAPTER E—VIRUSES, SERUMS, TOXINS, AND ANALOGOUS PRODUCTS: ORGANISMS AND VECTORS

PART 112—PACKAGING AND LABELS

Diluent Labels

Correction

In FR Doc 73-9213 appearing at page 12093 in the issue for Wednesday, May 9, 1973, in the second line of § 112.3(c), "(cm³)" should read "(cc)".

CHAPTER III—ANIMAL AND PLANT HEALTH INSPECTION SERVICE (MEAT AND POULTRY PRODUCTS INSPECTION), DEPARTMENT OF AGRICULTURE

SUBCHAPTER A—MANDATORY MEAT INSPECTION

PART 317—LABELING, MARKING DEVICES, AND CONTAINERS

Declaration of Smoke Flavoring or Artificial Smoke Flavoring in the Ingredients Statement on the Labeling

The Department of Agriculture, pursuant to the authority conferred by the Federal Meat Inspection Act, as amended (21 U.S.C. 601 et seq.), hereby amends § 317.2 of the meat inspection regulations (9 CFR 317.2) to extend ingredients statement labeling requirements for meat products containing approved smoke flavoring.

Statement of considerations.—Paragraph 317.2(j) of the meat inspection regulations (9 CFR 317.2(j)) requires that when smoke flavoring or artificial smoke flavoring is used as an ingredient in the formula of a meat food product, its presence must be declared on the label, contiguous to the name of the product, and when artificial smoke flavoring is used, it must also be listed in the ingredients statement on the labeling.

In compliance with sections 1(n) (7), (9), and (12) of the act, § 317.2(c) of the regulations is intended to require that smoke flavoring so used also be listed in the ingredients statement but this intent should be clarified. Administratively, the requirement to declare smoke flavoring in the ingredients statement has been enforced in the past and is being enforced at the present time. In the interest of clarification, § 317.2(j)(3) of the regulations is amended as set forth below:

§ 317.2 Labels: Definition; required features.

* * * * *

(j) * * *

(3) When an approved artificial smoke flavoring or an approved smoke flavoring is added as an ingredient in the formula of a meat food product, as permitted in part 318 of this subchapter, there shall appear on the label, in prominent letters and contiguous to the name of the product, a statement such as "Artificial Smoke Flavoring Added" or "Smoke Flavoring Added," as may be applicable, and the ingredient statement shall identify any artificial smoke flavoring or smoke flavoring so added as an ingredient in the formula of the meat food product.

* * * * *

(Sec. 21, 34 Stat. 1264, as amended, 21 U.S.C. 621; 37 FR 28464, 28477.)

The amendment is necessary to clarify the regulations and effectuate more fully the objectives of the applicable legislation, and should be made effective as soon as possible. Therefore, it is found upon good cause, under the administrative provisions in 5 U.S.C. 553, that notice and other public procedure with respect to this document are impracticable, unnecessary, and contrary to the public interest.

This amendment shall become effective June 24, 1973.

Done at Washington, D.C., on May 16, 1973.

JAMES H. LAKE,
Deputy Assistant Secretary.

[FR Doc.73-10109 Filed 5-21-73;8:45 am]

Title 12—Banks and Banking

CHAPTER V—FEDERAL HOME LOAN BANK BOARD

SUBCHAPTER B—FEDERAL HOME LOAN BANK SYSTEM

[No. 73-670]

PART 526—LIMITATIONS ON RATE OF RETURN

Return on Certificates of $100,000 or More

MAY 17, 1973.

The Federal Home Loan Bank Board, after consulting with the Board of Governors of the Federal Reserve System and the Board of Directors of the Federal Deposit Insurance Corporation, considers it desirable to amend § 526.5–1 of the regulations for the Federal Home Loan Bank System (12 CFR 526.5–1) in order to remove the limitations contained in paragraph (a) of that section on the rate of return which a member institution may pay on certificate accounts of $100,000 or more. Accordingly, the Federal Home Loan Bank Board hereby amends said § 526.5–1 by deleting the word "Maximum" from the caption thereof and by revising paragraph (a) thereof to read as set forth below, effective May 17, 1973.

Since affording notice and public procedure on the above amendment would delay it from becoming effective for a period of time and since it is in the public interest that such amendment become effective as soon as possible, the Board hereby finds that notice and public procedure thereon are contrary to the public interest under the provisions of 12 CFR 508.11 and 5 U.S.C. 553(d); and the Board hereby finds that publication of such amendment for the 30-day period specified in 12 CFR 508.14 and 5 U.S.C. 553(d) prior to the effective date thereof is unnecessary since it relieves restriction; and the Board hereby provides that such amendments shall become effective as hereinbefore set forth.

§ 526.5–1 Rate of return payable on certificate accounts of $100,000 or more.

(a) *Rate of return.*—Subject to the limitations contained in paragraph (b) of this section, no maximum rate of return is prescribed on any certificate account of $100,000 or more with a fixed or minimum term or qualifying period of not less than 60 days.

* * * * *

(Sec. 5B, 47 Stat. 727, as added by sec. 4, 80 Stat. 824, as amended by Public Law 91–151, sec. 2(b), 83 Stat. 371; sec. 17, 47 Stat. 736, as amended; 12 U.S.C. 1425b, 1437. Reorganization Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp., p. 1071.)

By the Federal Home Loan Bank Board.

[SEAL] JACK CARTER, *Secretary.*

[FR Doc.73-10190 Filed 5-21-73;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 73-SO-30; Amdt. 39-1640]

PART 39—AIRWORTHINESS DIRECTIVES

Luscombe Model 8 Airplanes

Airworthiness directive 55–24–1 published in 21 FR 9540 on December 4, 1956, as amended in 22 FR 2416 on April 11, 1957, and 37 FR 25486 on December 1, 1972, requires inspection of Luscombe 8 series airplanes for corrosion inside the fuselage spar carrythrough structures. After issuing this AD (airworthiness directive), the Administration determined that further clarification is necessary. Therefore, the AD is being further amended to provide for compliance times stated in terms of calendar months rather than annual inspections.

Since this amendment provides only a change in wording of compliance requirements and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of the Federal Aviation regulations, AD 55–24–1 is further amended by revising the first paragraph to read as follows:

To be accomplished by March 1, 1956 and thereafter at intervals not to exceed 12 calendar months from last inspection.

This amendment becomes effective May 22, 1973.

(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 East Point, Ga., on May 8, 1973.

P. M. SWATEK, *Director, Southern Region.*

[FR Doc.73-10106 Filed 5-21-73;8:45 am]

[Airworthiness Docket No. 73-WE-1-AD; Amdt. 39-1642]

PART 39—AIRWORTHINESS DIRECTIVES

International Inflatables Co. Regulator, Model No. 70003

A proposal to amend part 39 of the Federal Aviation regulations to include an airworthiness directive (AD) requiring a repetitive inspection of all International Inflatables Co. regulators, model 70003, installed in civil aircraft was published in 38 FR 6396.

Interested persons have been afforded an opportunity to participate in the making of this amendment, and due consideration has been given to all comments received in response to the above notice, insofar as they relate to matters within the scope of the notice.

One comment suggested that AD action requiring additional inspections is unwarranted. This suggestion was based on the results of the operator's inspections and planned retrofit program. The agency does not agree. One operator's experience will not necessarily be the same as another's. Therefore, it is necessary to issue an AD. To account for such experience as the operator's the AD allows "an equivalent inspection" be approved by the Chief, Aircraft Engineering Division, FAA, Western Region.

With a view to securing additional service information from a broad spectrum of operators, the agency is adding a reporting requirement as to corroded regulators only. This information will be evaluated for future AD action.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of the Federal Aviation regulations is amended by adding the following new airworthiness directive:

INTERNATIONAL INFLATABLES CO.: Applies to aircraft incorporating International Inflatables Co. regulator, P/N 70003.

NOTE: This regulator has been FAA-approved as a replacement for International Inflatables regulator P/N 68240, the subject of AD 71–14–3. Both regulators are used on various International Inflatables passenger evacuation slides, installed in but not limited to, BAC 1–11, B–707, B–720, B–727, DC–8, DC–9, and L–188 aircraft.

Compliance required as indicated.

To determine the presence of corrosion in regulator P/N 70003, accomplish the following:

(a) Within the next 60 days after the effective date of this AD, unless already accomplished within the last 60 days, and thereafter at intervals not to exceed 120 days from the last inspection, visually inspect the International Inflatables Co. regulator P/N 70003 for any evidence of corrosion both inside and outside of the regulator assembly, or an equivalent inspection approved by the Chief, Aircraft Engineering Division, FAA, Western Region. If there is any evidence of corrosion, replace the regulator prior to further flight with a previously inspected (per this AD) and corrosion-free regulator or an FAA-approved regulator. Do not return to service any regulator exhibiting evidence of corrosion.

(b) After the effective date of this AD, and prior to the installation of an International Inflatables Co. regulator P/N 70003 in an aircraft, inspect that regulator per (a), above.

(c) Submit a written report of the inspection results of each corroded regulator to the Chief, Aircraft Engineering Division, FAA, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, Calif. 90009. The report should include: serial number, date of manufacture, time in service, shelf time, date of last overhaul or inspection, and description of the corrosion. Inspection reports of regulators that are not corroded are not required. (Reporting approved by the Bureau of the Budget under BOB No. 04–R0174.)

This amendment becomes effective June 22, 1973.

(Secs. 313(a), 601, 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 Los Angeles, Calif., on May 10, 1973.

ARVIN O. BASNIGHT,
Director, FAA Western Region.

[FR Doc.73-10084 Filed 5-21-73;8:45 am]

[Airspace Docket No. 72-WA-55]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED ZONES AIRSPACE AND REPORTING POINTS

Alteration of VOR Federal Airways

Correction

In FR Doc. 73-8192 appearing on the page 10439 in the issue for Friday, April 27, 1973, and corrected in the issue for Friday, May 11, 1973 on page 12327, amendatory paragraph 1 (§ 71.123) should read as follows:

1. In V-3 "Kennebunk, Maine; Augusta, Maine;" is deleted and "INT Boston 015° and Pease, N.H. 185° radials; Pease; INT Pease 004° and Augusta, Maine 228° radials; Augusta;" is substituted therefor.

Title 18—Conservation of Power and Water Resources

CHAPTER I—FEDERAL POWER COMMISSION

SUBCHAPTER A—GENERAL RULES

[Docket No. R-442; Order No. 474]

PART 2—GENERAL POLICY AND INTERPRETATION

SUBCHAPTER E—REGULATIONS UNDER NATURAL GAS ACT

PART 157—APPLICATIONS FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY AND FOR ORDERS PERMITTING AND APPROVING ABANDONMENT UNDER SECTION 7 OF THE NATURAL GAS ACT

Budget-type Applications, Field Gas Compression Facilities

MAY 9, 1973.

By notice issued May 5, 1972, and published in the FEDERAL REGISTER on May 11, 1972 (37 FR 9497), in docket No. R-442 pursuant to section 553 of title 5 of the United States Code, and sections 7 (b), (c), (d), and (e) and 16 of the Natural Gas Act, as amended,[1] the Commission proposed to amend § 157.7 of "Part 157—Applications for Certificates of Public Convenience and Necessity and for Orders Permitting and Approving Abandonment under section 7 of the Natural Gas Act," "Subchapter E—Regulations under the Natural Gas Act," chapter 1, title 18 of the Code of Federal Regulations, by adding a new subsection[2] which would permit natural gas companies to file budget-type applications for certificates of public convenience and necessity authorizing relocation and construction of certain gas purchase facilities and for orders permitting and approving abandonment of facilities under section 7 of the Natural Gas Act.

Budget-type certificates are presently issued by the Commission authorizing construction for a limited period of time and operation of gas purchase, gas sales, and underground storage facilities, pursuant to paragraphs (b), (c), and (d), respectively, of § 157.7 of the regulations under the Natural Gas Act. Budget-type orders are also issued by the Commission under paragraph (e) of § 157.7 of the regulations permitting and approving abandonment of service and direct sales facilities during a given 12-month period. There is no provision, under the Commission's regulations for budget-type certificates specifically authorizing relocation and construction of gas purchase field compression facilities. Although the Commission has occasionally certificated the relocation and construction of such facilities for a limited period of time and permitted abandonment thereof, pursuant to paragraph (b) of § 157.7, such action by the Commission will be discontinued in view of the present action promulgating an appropriate rule in this area.[3]

This proceeding was instituted because it has become apparent to the Commission that such a rule is needed. The Commission therefore proposed the amendment herein which will permit natural gas companies to file budget-type applications authorizing the relocation and construction of field gas compression facilities and for orders permitting and approving abandonment and removal of such facilities. The new rule will provide the much needed flexibility for jurisdictional pipelines to adapt rapidly to changing conditions in producing fields by the deployment of facilities necessary to maintain adequate field line pressures.

Responses to the notice of proposed rulemaking have been received from Southern Natural Gas Co., Panhandle Eastern Pipe Line Co., El Paso Natural Gas Co., Columbia Gas Transmission Corp., Columbia Gulf Transmission Co., Northern Natural Gas Co., Cities Service Gas Co., Tennessee Gas Pipeline Co., and Transcontinental Gas Pipe Line Corp. All of the responding companies express support for the proposed rule but request modifications as set forth below.

Most of the respondents propose that the amendment under consideration include construction of new or additional field compressors, as well as relocation of existing compressors, in fields already attached to the company's system. It is contended by these respondents that they may not have sufficient compressors on hand to meet compression requirements in the areas of relocation. In addition to the proposed abandonment of existing compressors, they request that the removal, relocation, and construction of measuring stations and appurtenances be permitted where related to such compressors.

Such suggestions are acceptable; however, we emphasize that the Commission is not here authorizing attachment of new producers and new sources of supply. Such attachments are now permitted under the existing gas purchase budget regulations in § 157.7(b). The new rule relates only to changes in facilities at existing sources of natural gas supply, which are gas producing fields, reservoirs, wells or formations from which the company was receiving gas at the date of filing its application, except those used exclusively for emergency gas delivered under §§ 157.22 and 157.29 of the regulations under the Natural Gas Act and §§ 2.68 and 2.70 of the Commission's general policy and interpretations. It is further emphasized that budget authorization to abandon or relocate compressor and related facilities under the new rule does not imply authority to abandon completely an existing source of supply or service from a producer. Such an abandonment will continue to require separate authority under section 7(b) of the Natural Gas Act.

Several respondents request that the rule apply to fields where pipeline companies produce and exchange gas, as well as purchase gas, including offshore areas. The Commission agrees. Declining field pressures occur in all producing areas and the proposed amendment is intended to alleviate such a situation as rapidly as possible.

The cost limitation of $1 million was considered too low by virtually all of the respondents for most of the companies that will seek to use the budget-type authorization. A sliding scale similar to that found in § 157.7(b) of the regulations was suggested by some of the companies; other suggested limitations ranging between $2 million and $5 million. Specific language for waiver of the cost limitation when necessary was also proposed. One respondent stated that the cost limitation should be applied only to the out-of-pocket expenses and not to the original cost of relocated or abandoned facilities. It was also suggested that the proposed amendment's limitation on the methods or means of financing the costs should be removed.

The Commission agrees that the cost limitation of $1 million may be on the low side for those companies that will make most use of the rule based on certificate applications filed in the past. The suggestion of some respondents that the Commission adopt a cost limitation based upon a sliding scale similar to that found in § 157.7(b) of the regulations is appropriate. We will therefore provide that the total cost of construction of new or additional field compression and related metering and appurtenant facilities and the total out-of-pocket cost of abandoning, removing, and relocating existing compression and related metering and appurtenant facilities will not exceed in aggregate 2 percent of an applicant's gas plant account (Account 101, Uniform System of Accounts Prescribed for Natural Gas Companies) or $3 million, whichever is less. An applicant with less than $10 million in its gas

[1] 52 Stat. 824, 825, 830 (1938); 56 Stat. 83, 84 (1942); 61 Stat. 459 (1947); 15 U.S.C. 717f, 717o.

[2] The notice of this proceeding designated the proposed amendment as subsection (f). However, prior to issuance of this order, the designation (f) was pre-empted in Commission Order No. 415-C, issued December 18, 1972. Accordingly, the amendment prescribed herein is entitled paragraph (g).

[3] Opinion No. 409, East Tennessee Natural Gas Co., docket No. CP73-212 (30 FPC 1197).

plant account may spend a total of $500,000. Out-of-pocket costs will exclude the original cost of facilities abandoned, removed, or relocated. Total cost for any single project to be installed during the authorized period will not exceed 25 percent of the total budget amount or $500,000, whichever is less The Commission believes that no restriction should be placed on the means of financing the cost of the facilities.

Several companies indicated that they should not be required to estimate the maximum number of field compressor facilities involved in the budget application, as they could not forecast this in advance and it restricts the flexibility of the rule. The Commission concedes that this provision should be eliminated. The dollar cost limitation provides the necessary restriction.

Several companies objected to the proposed requirement of reporting the names of the producers or other sellers involved, the dates of their sales contracts, FPC rate schedule numbers and their related certificate docket numbers. They contend that this reporting requirement would be unduly burdensome because in some cases such information could involve hundreds of producers and contracts. The Commission believes that in some situations this information is absolutely essential. This is the only check the Commission has on the necessity for small producers and others to apply for abandonment authority and to clear the many records and files. The argument that it is a reporting burden is not sufficient justification to delete the requirement. However, we shall limit the requirement to projects involving abandonment of facilities.

Commission Order No. 415–C, issued December 18, 1972, prescribes regulations for the implementation of the National Environmental Policy Act of 1969 (83 Stat. 852), by revising, inter alia, § 2.82(a) of the general policy and interpretations, by promulgating § 157.7(f) of the regulations under the Natural Gas Act, and by amending § 157.14(a)(6–d) of the regulations under the Natural Gas Act. Section 2.82(a), as revised, provides that all certificate applications filed under section 7(c) of the Natural Gas Act shall be accompanied by a detailed report from the applicant concerning the environmental factors designated in § 2.80; however, it exempts from this requirement certain producer applications, and abbreviated applications filed pursuant to §§ 157.7(b), (c), and (d) of the regulations under the Natural Gas Act. Such exemption should be extended to the new abbreviated application permitted herein by including paragraph (g) within the provisions of § 2.82(a). Similarly, new § 157.7(f) and amended § 157.14(a)(6–d), relating to Exhibit F–IV (Applicant's Environmental Statement), should be extended to include new paragraph (g). These amendments were not proposed in the notice of this proceeding because it was issued, as previously indicated (note 2, supra), prior to issuance of order 415–C. We do not believe that such amendments require further notice, since they are minor in nature, and consistent with the purpose of order 415–C in implementing the National Environmental Policy Act of 1969.

Except as noted above, the proposed amendment is adopted without change.

The Commission finds

(1) The notice and opportunity to participate in this proceeding through the submission in writing of data, views, comments, and suggestions in the manner described above are consistent and in accordance with the procedural requirements in 5 U.S.C. 553.

(2) The amendment hereinafter set forth is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the National Environmental Policy Act.

(3) Since the revisions made herein do not represent substantial departures from the amendment as proposed or impose additional burdens on persons subject to these regulations, further notice prior to adoption is unnecessary.

(4) Since the modifications to the amendments prescribed herein which were not included in the notice of this proceeding are of a minor nature and are consistent with the purpose of Commission Order 415(C) and with the provisions of the National Environmental Policy Act of 1969, further notice thereof is unnecessary.

(5) The amendment adopted herein will tend to affect economies and expedite the processing of the aforementioned applications without imposing additional burdens upon jurisdictional pipelines or adversely affecting their customers and should be made effective upon issuance of this order.

The Commission, acting pursuant to authority granted pursuant to the Natural Gas Act, as amended, particularly sections 7(b), 7(c), 7(d), 7(e) and 16 thereof (52 Stat. 824, 825, 830 (1938); 56 Stat. 83, 84 (1942); 15 U.S.C. 717f, 717o), and in accordance with 5 U.S.C. 553, orders:

(A) Section 2.82, the statement of general policy to implement procedures for compliance with the National Environmental Policy Act of 1969 in "Part 2—General Policy and Interpretations" is revised to read as follows:

§ 2.82 Compliance with the National Environmental Policy Act of 1969 under the Natural Gas Act.

(a) All certificate applications filed under section 7(c) of the Natural Gas Act (15 U.S.C. 717f(c)) for the construction of pipeline facilities, except abbreviated applications filed pursuant to §§ 157.7 (b), (c), (d), and (g) of Commission regulations and producer applications for the sale of gas filed pursuant to §§ 157.23–29 of Commission regulations, shall be accompanied by the applicant's detailed report of the environmental factors specified in § 2.80. Notice of all such applications shall continue to be made as prescribed by law.

* * * * *

(B) Sections 157.7(f) and 157.14(a)(6–d), part 157, subchapter E, regulations under the Natural Gas Act, chapter I, title 18 of the Code of Federal Regulations are amended to read as follows:

§ 157.7 Abbreviated applications.

* * * * *

(f) All applications filed in accordance with paragraphs (b), (c), (d) and (g) of this section shall include an exhibit F–IV as prescribed in § 157.14(a)(6–d).

§ 157.14 Exhibits.

(a) To be attached to each application. * * *

(6–d) Exhibit F–IV—Statement by the Applicant Concerning the Requirements of the National Environmental Policy Act of 1969, Public Law 91–190, 83 Stat. 852, title I, section 102. All applications governed by §§ 157.7 (b), (c), (d), and (g) shall include a brief statement concerning the following factors:

* * * * * *

(C) Part 157, subchapter E, chapter I, title 18 of the Code of Federal Regulations is amended by adding a new paragraph (g) which reads as follows:

§ 157.7 Abbreviated applications.

* * * * *

(g) *Field gas compression facilities—budget-type application.*—An abbreviated application requesting budget-type authoriztaion to permit (1) abandonment of field compression and related metering and appurtenant facilities, (2) construction of new or additional field compression and related metering and appurtenant facilities and (3) removal and relocation of existing field compression and related metering and appurtenant facilities during a given twelve-month period and operation of said facilities may be filed when:

(i) The proposed construction, relocation, removal, and abandonment will not result in changing applicant's system salable capacity or service from that authorized prior to the date of filing the budget application, but will permit the applicant more effectively to utilize the facilities to take gas into its system from existing sources of supply for use in meeting the requirements of its customers. Existing sources of supply are those gas producing fields, reservoirs, wells, or formations from which applicant was receiving gas at the date of filing the budget application, except those producing fields, reservoirs, wells, or formations used exclusively for making emergency sales under §§ 2.68 and 2.70 of this chapter or §§ 157.22 and 157.29.

(ii) The facilities involved in the budget application are those used or to be used to transport natural gas into applicant's interstate system, pursuant to Commission authorization, from existing sources of natural gas supply, as defined above, including its own producing fields, or purchase from other producers or sellers or receipts of gas under exchange arrangements in producing fields, onshore or offshore.

(iii) The total cost of constructing the new or additional field compression and related metering and appurtenant facilities and the total out-of-pocket cost of abandoning, removing and relocating existing compression and related metering and appurtenant facilities shall not exceed in aggregate 2 percent of the applicant's gas plant account (Account 101, Uniform System of Accounts Prescribed for Natural Gas Companies) or $3 million, whichever is less, except that an applicant with less than $10 million in such gas plant account may spend a total of $500,000 under this authorization. Out-of-pocket costs excludes the original cost of facilities abandoned, removed, or relocated. The cost for any single project to be installed during the authorized period shall not exceed 25 percent of the total budget amount or $500,000, whichever is less.

(iv) The applicant agrees to file with the Commission within 60 days after the expiration of the authorized budget period:

(a) A statement showing for each individual project a description of the facilities constructed, removed, relocated and abandoned including the docket numbers of the prior proceedings in which the facilities were certificated permitting attachment of the source of supply to the system or augmenting applicant's ability to take gas from such source of supply.

(b) A statement indicating in each case the reason for the construction, relocation, removal or abandonment of the facilities.

(c) A concise description for each individual project of the changes in property made under the budget authority indicating the costs of any new or additional construction and all out-of-pocket costs involved in relocating property, abandoning property, removing property and salvaging property, together with the relevant information required by paragraph (f) of § 157.18.

(d) A geographical map or maps of suitable scale and detail showing the location of the abandoned facilities, the locations from which facilities were removed, the new location of the relocated facilities and the location of any new or additional facilities constructed pursuant to this budget authority.

(e) A statement showing for each individual project, where facilities were abandoned, the names of the independent producers or other sellers from whom the natural gas was purchased or exchanged, together with the respective dates or their gas sales contracts, FPC gas rate schedule designations and related certificate docket numbers.

Existing facilities of the nature cited above may be reclaimed and put into stock or may be taken from stock and put into field operation, as deemed necessary.

(D) The regulation promulgated herein shall be effective June 1, 1973.

(E) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-10158 Filed 5-21-73;8:45 am]

[Docket No. R-420; Order 484]

PART 141—STATEMENTS AND REPORTS (SCHEDULES)

Report of Changes in Retail Rates

MAY 14, 1973.

Order amending FPC Retail Form No. 82.—Reporting of retail rate changes by electric utilities, amendment of FPC form 82 to require additional information.

On April 22, 1971, this Commission issued a notice of proposed rulemaking in docket No. R-420 (36 FR 8059, April 29, 1971) proposing to amend FPC form 82 to require reporting electric utilities to provide specific reference to any retail rate change subject to possible refund by order of a State regulatory commission or local regulatory authority, or to any retail rate change resulting from such a refund order.

The reason for requiring the additional information is to assist the Commission in the proper administration of the Federal Power Act generally, to aid in the evaluation of the information which is presently being submitted on FPC form 82 and to clarify the reporting of such information.

The notice provided that on or before June 7, 1971, any interested party could submit comments and request a conference in the proposed rulemaking. On June 8, 1971, the Detroit Edison Co. filed a comment stating it had no objection to the proposed amendment and did not desire a conference. No other comments were received.

Upon further review and consideration of the proposed amendments to FPC form 82, we find that such amendments are necessary and appropriate to the proper administration of the Federal Power Act, and the subject amendments will accordingly be implemented.

A copy of FPC form 82 as revised is attached as appendix A.[1]

The Commission finds

The notice and opportunity to participate in this proceeding with respect to the matters presently before this Commission through the submission, in writing, of data, views, comments, and suggestions in the matter as described above are consistent and in accordance with all procedural requirements as prescribed in section 553 of title 5 of the United States Code.

The Commission orders

FPC Form 82—Retail Rate Level Change, as prescribed by § 141.27, in part 141, Subchapter D—Approved Forms, Federal Power Act, chapter 1, Title 18 of the Code of Federal Regulations, is amended by:

1. Inserting, immediately following the third sentence in the "Instructions," a new sentence to read as follows:

If the change is an increase subject to possible refund by order of the State commission or local regulatory authority, or if the change is a reduction as a result of such a refund order, so state in block J, "Remarks."

2. Adding a new narrow column entitled "FPC use only" next to column (F), "Class of service." This new column is solely for FPC use in ADP coding.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-10156 Filed 5-21-73;8:45 am]

[1] Appendix A is filed as part of the original document.

Title 19—Customs Duties

CHAPTER I—BUREAU OF CUSTOMS, DEPARTMENT OF THE TREASURY

[T.D. 73-136]

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

Articles Exported and Returned

Notice of proposed rulemaking to amend § 10.9(a) of the Customs regulations to enable the exporter or owner of metal affected by item 806.30, "Tariff Schedules of the United States" (19 U.S.C. 1202), in cases where the name and address of the U.S. processor is not known at the time of exportation, to state on the certificate of registration (Customs Form 4455), the basis for belief that the metal will be returned for further processing in the United States, was published in the FEDERAL REGISTER (38 FR 1936), on January 19, 1973. All except one of the comments submitted in regard to this notice were favorable. The objections raised by this commentator had previously been considered before the notice of proposed rulemaking was issued. No changes in the amendment were deemed necessary.

Section 10.9(a), which pertains to articles of metal exported for processing and returned for further processing under item 806.30, "Tariff Schedules of the United States" (19 U.S.C. 1202), presently provides that the exporter or owner shall furnish on the reverse side of the certificate of registration (Customs Form 4455), at the time of exportation, the name and address of the person who will further process the article upon return to the United States. This requirement has adversely affected some members of the metal trade who at the time of exportation have prospective customers in the United States, and who intend to reimport the metal, but do not have at that time specific orders for the merchandise.

Accordingly, the proposed amendment to § 10.9(a) of the Customs regulations is adopted as set forth below.

Effective date.—This amendment shall become effective June 21, 1973.

[SEAL] EDWIN F. RAINS,
Acting Commissioner of Customs.

Approved May 11, 1973.

EDWARD L. MORGAN,
Assistant Secretary of the Treasury.

Paragraph (a) of § 10.9, is amended to read as follows:

§ 10.9 Articles exported for processing.

(a) Before the exportation of articles subject, on return to the United States, to duty on the value of the processing performed abroad as provided for in item 806.30, a certificate of registration (top portion of Customs Form 4455), shall be filed (in an original only), by the owner or exporter with the District Director of Customs at a time prior to the departure of the exporting conveyance which will permit an examination of the articles. A statement shall be included on the reverse side of Customs Form 4455 by the exporter or owner substantially as follows:

The articles described in this certificate were manufactured in the United States by
---
(Name and address)
or, if of foreign origin, were subjected to

(show processes of manufacture, such as molding, casting, machining, etc.)
in the United States by ---
(Name and address)
The articles in their changed conditions will be returned for further processing by ---
---; or, if further
(Name and address)
processing of the articles in the United States will be performed by a person not presently known, the reasons for believing the articles will be returned for further processing are
---
---
and the reason the person is not presently known is ---

* * * * *

(R.S. 251, as amended, sec. 624, 46 Stat. 759, 77A Stat. 14; 19 U.S.C. 66, 1202 (Gen. Hdnte. 11, Tariff Schedules of the United States), 1624.)

[FR Doc.73-10088 Filed 5-21-73;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 128a—FISH AND SEAFOOD PRODUCTS

Subpart A—Smoked and Smoke-Flavored Fish

GOOD MANUFACTURING PRACTICE; REQUIREMENTS FOR BRINING PROCEDURE

In the matter of amending the current good manufacturing practice regulations to provide for a change in the requirements for the brining procedure that may be employed in the manufacture of smoked and smoke-flavored fish (21 CFR 128a.7):

A notice of proposed rulemaking in the above-identified matter was published in the FEDERAL REGISTER of December 23, 1972 (37 FR 28426), and was based on a request by the National Fisheries Institute, Inc. (NFI), suite 314, 1225 Connecticut Avenue NW., Washington, D.C. 20036, to amend § 128a.7(c)(3) (21 CFR 128a.7(c)(3)) in order to provide for a brining procedure in which the temperature of the fish and the brine shall not exceed 60° F at the start of brining and shall not be permitted to rise above 38° F after reaching 38° F or below either prior to or during brining. In addition to the above, it was proposed that if the temperature of the fish and brine is between 38° F and 50° F at the start of brining, it shall be either continuously lowered to 38° F or below within 12 hours; it was also proposed that if the temperature of the fish and brine is between 50° F and 60° F at the start of brining, it shall be continuously lowered to 50° F or below within 2 hours and to 38° F or below within the following 10 hours.

Four letters have been received in response to the published proposal. Three letters were from firms engaged in the manufacture of smoked fish; these comments favored adoption of the proposed amendment. The fourth response was from a consumer; that comment was critical of the safety aspect as described in the preamble to the proposed amendment. These comments and the Commissioner's conclusions based on his evaluation of the comments are as follows:

1. The three industry respondents stated that the proposed brining procedure is a workable procedure and is a procedure with which the operating firms could comply. They urged that the amendment be adopted as proposed.

2. The consumer respondent indicated dissatisfaction with the wording in the preamble of the proposal which to him indicated less than 100 percent assurance that the botulism hazard was completely eliminated. The Commissioner concludes that since the safety of the proposed brining procedure was carefully considered prior to publication of the proposal, and since neither this nor other comments received in response to the proposal offered any additional data on the public health aspect of the proposal, the amendment will be adopted as proposed.

Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 402(a)(4), 701(a), 52 Stat. 1046, 1055; 21 U.S.C. 342(a)(4), 371(a)) and under authority delegated to the Commissioner (21 CFR 2.120), part 128a (21 CFR 128a) is amended in § 128a.7 by revising paragraph (c)(3) as follows:

§ 128a.7 Processes and controls.

* * * * *

(c) * * *

(3) All fish shall be dry-salted at a temperature not to exceed 38° F throughout the fish, or shall be brined in such a manner that the temperature of the fish and the brine:

(i) Does not exceed 60° F at the start of brining, and

(ii) If between 38° F and 50° F at the start of brining, is continuously lowered to 38° F or below within 12 hours, and

(iii) If between 50° F and 60° F at the start of brining, is continuously lowered to 50° F or below within 2 hours and to 38° F or below within the following 10 hours, and

(iv) Does not rise above 38° F after reaching that temperature or below either prior to or during the brining operation.

* * * * *

Effective date.—This order shall become effective on June 21, 1973.

(Secs. 402(a)(4), 701(a), 52 Stat. 1046, 1055, 21 U.S.C. 342(a)(4), 371(a).)

Dated May 16, 1973.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.73-10160 Filed 5-21-73;8:45 am]

Title 24—Housing and Urban Development

CHAPTER IX—OFFICE OF INTERSTATE LAND SALES REGISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-73-229]

PART 1700—INTRODUCTION

Subpart B—Delegations of Basic Authority and Functions

MISCELLANEOUS AMENDMENTS

On July 1, 1972 (37 FR 13097), the Department amended 24 CFR part 1700 to delete §§ 1700.80 and 1700.85. These sections are now being readopted without change in the original text.

Since their adoption relates to internal management of the Department, comment and public procedure are unnecessary and good cause exists for making the change effective May 22, 1973.

Accordingly, 24 CFR part 1700 is amended by adding in appropriate order §§ 1700.80 and 1700.85 to read as follows:

§ 1700.80 Director of the Examination Division, Office of Interstate Land Sales Registration, and Deputy.

To the position of Director of the Examination Division, Office of Interstate Land Sales Registration, and under his supervision to the position of Deputy Director there are delegated and assigned the following authorities and responsibilities.

(a) To receive and examine all statements of record and property reports filed under the provisions of the Interstate Land Sales Full Disclosure Act and all amendments and corrections to such statements.

(b) To determine the adequacy of disclosure of statements of record and property reports and amendments thereto and to effect corrections, additions, and deletions in such statements and reports deemed necessary to achieve the pur-

poses of the Interstate Land Sales Full Disclosure Act.

(c) To find effective or to recommend to the Administrator that he declare not effective statements of record filed under the Interstate Land Sales Full Disclosure Act and to prepare and present evidence in connection with hearings and other administrative proceedings relative to statements of record declared not effective.

§ 1700.85 Director of the Administrative Proceedings Division, Office of Interstate Land Sales Registration, and Deputy.

To the position of Director of the Administrative Proceedings Division, Office of Interstate Land Sales Registration, and under his supervision to the position of Deputy Director, there are delegated and assigned the following authorities and responsibilities:

(a) To receive, examine, and make determinations with respect to complaints arising from the alleged failure of a developer subject to the Interstate Land Sales Full Disclosure Act to comply with the requirements of such Act and regulations issued thereunder and to negotiate resolution of such complaints and compliance by such developers.

(b) To recommend action by the Administrator to achieve compliance by developers deemed subject to the Act who have not complied with any or all of the requirements of the act and regulations issued thereunder.

(c) To conduct, on his own initiative or in response to information received, reviews to determine the existence of such noncompliance and secure compliance with the requirements of the Interstate Land Sales Full Disclosure Act and regulations thereunder.

(d) To recommend suspension by the Administrator of statements of record on a determination of noncompliance with the requirements of the Interstate Land Sales Full Disclosure Act and regulations thereunder.

(e) To recommend action to secure permanent or temporary injunctions or restraining orders to prevent acts or practices in violation of the provisions of the Interstate Land Sales Full Disclosure Act and regulations thereunder and to require compliance therewith.

(f) To prepare and present evidence in connection with hearings or other administrative proceedings or injunctions or restraining orders in connection with suspensions of statements of record or other action in connection with noncompliance under the Interstate Land Sales Full Disclosure Act and regulations thereunder.

(Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).)

Effective date.—This amendment is effective May 22, 1973.

GEORGE K. BERNSTEIN,
Interstate Land Sales Administrator.

[FR Doc.73-10173 Filed 5-21-73;8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Depreciation Based on Class Lives and Asset Depreciation Ranges for Property Placed in Service After December 31, 1953

Correction

In FR Doc.73-9332 appearing on page 12919 in the issue of Thursday, May 17, 1973, in the second line of (1) the section designation now reading "§ 1.167(a)-11(f)(1)(iii)(b)" should read "§ 1.167(a)-11(f)(1)(i)(b)".

Title 29—Labor

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

PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

Approval of New York Plan

1. *Background.*—Part 1902 of title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) whereby the several States may submit for approval, under the requirements of that section, plans to assume responsibilities for the development and enforcement of State occupational safety and health standards.

The State of New York submitted a comprehensive developmental Occupational Safety and Health plan in accordance with these procedures on September 28, 1972, and on January 24, 1973 a notice was published in the FEDERAL REGISTER (38 FR 2360) concerning the submission of the plan to the Assistant Secretary and the fact that the question of its approval was in issue before him.

The plan provides for the enactment and implementation of legislation which will establish a comprehensive occupational safety and health program in New York that will apply to all industries in the State except "Marine Cargo Handling" and "Shipbuilding and Repairing" as described in standard industry classifications Nos. 4463 and 3731 of the "Standard Industrial Classification Manual" of the Office of Management and Budget. The major provisions of the plan and the proposed schedule for its development are summarized in the new subpart L of 29 CFR part 1952 set forth below.

Interested persons were given until February 22, 1973, to submit written comments concerning the plan. Further, interested persons were afforded an opportunity to request an informal hearing with respect to the plan or any part thereof upon the basis of particularized written objections to the contents of the plan.

2. *Issues.*—Pursuant to this notice, several comments and requests to be heard orally were received from interested persons and organizations including the AFL-CIO Standing Committee on Safety and Occupational Safety and Health; Garlock, Inc.; U.S. Steel Corp.; Kodak Corp.; Rochester Fire Fighters Association; Jones Chemicals, Inc.; the Building Industry Employers of New York State; New York State AFL-CIO; Union Carbide Corp.; the Birkett Mills; Voice of the Voter, Inc.; Associated Industries of New York State, Inc.; Consulting Engineers Council of New York, Inc.; Norton Co.; George W. Bryant Core Sands, Inc.; the Civil Service Employees Association, Inc.; the Bendix Corp.; the Brooklyn Union Gas Co.; International Association of Fire Fighters, AFL-CIO; Hooker Chemical Corp.; Amsterdam Area Chamber of Commerce; and Bossert Manufacturing Corp. These comments and our review of the plan raised several significant issues which were addressed by New York in supplementary letters from Gerald E. Dunn, executive deputy industrial commissioner, dated March 14, 1973, March 23, 1973, April 5, 1973, April 10, 1973, and April 16, 1973, which clarified and modified the plan and are incorporated as part of the plan.

Although these comments demonstrate strong preferences for widely differing methods of administration from those that have been proposed, they did not indicate that the plan failed in any material way to meet the criteria for acceptability as set forth in section 18(c) of the Federal act or 29 CFR part 1902. For these reasons requests for an informal hearing are denied as not being sufficiently substantial. On the basis of an analysis of the material received and in light of the differences between the New York proposed program and the Federal safety and health program, a discussion of the following major issues is appropriate.

Under the Federal program only employer and employees have responsibilities for providing safe and healthful places of employment. The New York program, however, also provides that the owner, lessee, agent or manager of a building where persons are employed must comply with the standards applicable to the parts of the building under his control and not under the control of the employer. While not relieving the employer of his responsibility, this provision will permit the citation of owners and others for hazards under their control. Since this provision is directed to safety in the workplace, it enhances rather than detracts from the effectiveness of the plan. Owners and others have the same rights as employers under the plan.

The proposed New York legislation states that one of its purposes is the protection of "persons lawfully frequenting the workplace." The New York industrial commissioner is authorized to promulgate standards which protect both employees and such persons. Since under the plan only places where an employee is employed will be inspected, protection of the public may be essentially incidental to the protection of employees.

The authority of the industrial commissioner to require the submission for

approval of plans for the installation or modification of a ventilating system and of building plans has been questioned. Such plan review provides a method of assuring safety which is not available under Federal law. It also makes possible the avoidance of future citations and expensive alterations.

Some of the standards included in the New York plan are designed for the protection of both employees and the public. These include code rules 32 (ski tows and other passenger tramways), 45 (amusement devices and temporary structures at carnivals, fairs, and amusement parks), 36 (State standard building code for places of public assembly) and 43 (coin-operated machines).

Although the aspects of the plan described above do not appear to detract in any way from the acceptability of the plan, some of the activities may in many respects concern matters that only indirectly and perhaps remotely affect occupational safety and health. Therefore, it will be necessary to determine in considering any grant application under section 23(g) of the Federal act what portion of these program components substantially relate to employees and their places of employment in issues covered by the Federal standards [1] because the Federal share of the funding of the State program will have to be based on an amount not exceeding the cost of this base. In addition, other sources of funding would operate to reduce the Federal share.[2]

The New York proposed law provides what is commonly known as the red-tag method of coping with imminent dangers. In addition to the court injunction available under the Federal program, the industrial commissioner may post a notice prohibiting the presence of any individual in locations where the imminent danger exists. In addition, the commissioner may impound equipment for a reasonable period of time for purposes of investigating an accident. The employer may apply to the Board of Standards and Appeals for a stay which must be acted upon within 72 hours. These methods proposed by the State to enforce its orders to cope with imminent dangers appear reasonably calculated both to insure compliance and to protect employers against abuse of agency power.

One of the functions of the Board of Standards and Appeals is the review and approval of any product, material, device, equipment, or apparatus as required by safety and health standards. If the U.S. Secretary of Labor requires approval of the same product the State will no longer require its approval. If it is a product used or distributed in interstate commerce and the Secretary of Labor does not require approval, the State may require approval providing that the standards tests and testing procedures are at least as effective as the Federal standards tests and testing procedures and that they do not constitute a burden on interstate commerce. If the product is custom built or used solely in New York State, the State may require approval of that product. Over the next 3 years all products previously approved by the Board will be reviewed according to the above criteria to determine their validity. Any approvals not reviewed at the end of the 3-year period will be deemed terminated.

In addition to its approval function and the function of review of contested citations for violations of standards, the Board of Standards and Appeals has the responsibility for deciding applications for variances; the industrial commissioner has the function of issuing standards. Under the Federal law, the U.S. Department of Labor issues both standards and variances. Nothing in the Federal law prohibits the New York scheme. However, because the technical competence required in the review of petitions for variances is similar to that needed in the promulgation of standards, the industrial commissioner will be afforded the opportunity to review and comment on petitions for variances. This opportunity will also provide the industrial commissioner with data which may be useful in modifying the affected standard. In addition to the advice provided by the industrial commissioner, the Board of Standards and Appeals will require a technical staff of its own to determine whether the alternate means proposed in the application will secure safety and health as effectively as if there were compliance with the standard.

During the developmental period, State inspectors will review variances granted before the effective date of the plan during the inspection of an establishment. If the standard or part of a standard from which a variance was granted has been changed, or if the employer has failed to comply with the variance, the variance is deemed void; if the standard is unchanged and the employer is in compliance with the variance, the Board of Standards and Appeals may affirm or modify the variance, after notice to employees and affording an opportunity for a hearing in accordance with normal variance procedures. If the variance is not acted upon during the 3-year developmental period, it is to be deemed void.

Under this transitional procedure, as well as under the normal variance procedure, in each instance a hearing is requested by the employees, the request will be granted and the employer will have the burden of establishing by the preponderance of the evidence that the alternate means proposed will secure safety and health as effectively as the standard. The proposed law also requires the Board of Standards and Appeals to find that practical difficulties and unnecessary hardship exist in complying with the standard. This additional requirement does not appear in the Federal law. However, since a variance would not normally be applied for unless this condition is met, the requirement does not seem to impose a significant burden on employers.

The plan contains a provision that the period to contest a citation is 30 working days following the receipt of the citation. The Federal program allows only 15 working days. The State will use this additional period of time to avoid unnecessary contests of citations and increase the use of informal conferences where differences may be resolved.

In response to public comments, the proposed legislation has been modified with respect to coverage of public employee. The proposed law now recognizes the need to extend to public employees health and safety protection comparable to that extended to other employees. It also specifies that the program for public employees shall comply with each of criteria and indices contained in 29 CFR part 1902, including: "(1) Regular inspections of work places, including inspections in response to complaints; (2) a means for employees to bring possible violations to the attention of inspectors; (3) notification to employees when no violations are found in a complaint-response inspection; (4) information for employees about their protections and responsibilities under the program; (5) protection for employees against employer retaliation for exercising their rights under the program;)(6) information for employees about their exposure to toxic materials, especially when exposures are above levels specified by standards; (7) procedures for prompt restraint or elimination of imminent danger situations; (8) a means of notifying employers and employees when an alleged violation has been found; (9) a means of establishing timetables for correction of violations, and for notifying employers and employees about them; and (10) a program for encouraging voluntary compliance."

To achieve this objective, the legislation directs the industrial commissioner to undertake a study of the occupational safety and health requirements of public employees and to recommend the necessary legislation. The plan and legislation for the coverage of State employees is to be submitted no later than February 15, 1975, and for coverage of employees of political subdivisions, agencies and instrumentalities no later than February 15, 1976. The content of the studies to be made is indicated in a letter dated March 22, 1973, which is incorporated into the plan as appendix D.

In accordance with 29 CFR 1902.2(b), the New York developmental plan includes satisfactory assurances that it will take the necessary steps to bring the State into conformity with the criteria within the 3-year period following the commencement of the plan's operation. In addition, the plan includes an adequate description of the content of the legislation which must be recommended by the industrial commissioner for coverage of public employees. In effect, the Governor by supporting this legislation

[1] Such standards when applicable to a class of persons larger than employees are themselves limited in application to employees and their places of employment. See 29 CFR 1910.5(d).

[2] See 29 CFR pt. 1951, in particular § 1951.22; also sec. 104(a), Revenue Sharing Act of 1972 (Public Law 92-512).

has delegated his authority to the industrial commissioner to recommend legislation with this support and with the specified content in two stages. Moreover, it should be clear that, in accord with our regulations, the New York legislation on public employees, providing a program as effective as the standards applicable to private employees, must be enacted and implemented within 3 years of the commencement of operation of the plan. (29 CFR 1902.2(b).) If New York fails to meet its commitment in this, or any other respect within the 3-year period, the plan would be subject to the provisions of 29 CFR 1902.2(b): *Providing:* "If at the end of 3 years from the date of commencement of the plan's development, the State is found by the Assistant Secretary, after affording the State notice and opportunity for a hearing, not to have substantially completed the developmental steps of the plan, the Assistant Secretary shall withdraw the approval of the plan." While the details of such legislation depend upon the outcome of studies, we cannot find the proposed time schedule outside the reasonable expectations of fulfillment required under 29 CFR 1902.2(b).

3. Decision. After careful consideration of the New York plan and comments submitted regarding the plan, the plan is hereby approved under section 18 of the Act and part 1902.

This decision incorporates requirements of the Act and implementing regulations applicable to State plans generally. It also incorporates intentions as to continued Federal enforcement of Federal standards in areas covered by the plan, and the State's developmental schedule as set out in § 1952.183 below.

Pursuant to § 1902.20(b)(iii) of title 29, Code of Federal Regulations, the present level of Federal enforcement in New York will not be diminished. Among other things, the U.S. Department of Labor will continue to inspect catastrophes and fatalities, investigate valid complaints under section 8(f), continue its target safety and target health programs, and inspect a cross section of all industries on a random basis. About 6 months following this approval, an evaluation of the State plan, as implemented, will be made to assess the appropriate level of Federal enforcement activity. Federal enforcement activity will continue to be exercised to the degree necessary to assure occupational safety and health protection to employees in the State of New York.

Part 1952 is hereby amended by adding thereto a new subpart L reading as follows:

Subpart L—New York

Sec.

AUTHORITY.—Sec. 18, Public Law 91-596, 84 Stat. 1608 (29 U.S.C. 667).

Subpart L—New York

§ 1952.180 Description of the plan.

(a) The plan identifies the Department of Labor of the State of New York (hereafter called the State agency) as the agency designated by the Governor of the State to administer the plan. It will cover all places of private employment except "Marine Cargo Handling" and "Shipbuilding and Repairing" as described in Standard Industry Classification Nos. 4463 and 3731 of the Standard Industry Classification Manual of the Office of Management and Budget.

(b)(1) The plan requires employers of one or more employees to furnish them employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm, and to comply with all safety and health standards, and rules and orders promulgated or issued by the State agency. The plan also directs employees to comply with all occupational safety and health rules and orders that are applicable to their own actions and conduct.

(2) The plan also requires every owner, lessee, agent, or manager of a building to comply with the safety and health standards, and rules and orders applicable to the parts of the building under his control. This provision does not relieve the employer of his duty under the law

(c) The plan contains a procedure for the promulgation of standards which is similar to that provided under Federal law. Existing standards will be reviewed during the developmental period. Any standard found to be less effective than the comparable Federal standard will be revised. If such standards are not revised by March 1976, the Federal standards will be adopted, at least on a temporary basis.

(d) The plan provides that the State agency is to have full authority to administer and enforce all laws, rules, and orders protecting employee safety and health in all places of employment in the State. It also proposes procedures for providing prompt and effective standards for the protection of employees against new and unforeseen hazards and for furnishing information to employees on hazards, precautions, symptoms, and emergency treatment; and procedures for variances. The plan provides employer and employee representatives an opportunity to accompany inspectors and call attention to possible violations before, during, and after inspections; protection of employees against discharge or discrimination in terms and conditions of employment; notice to employees or their representatives when no compliance action is taken upon complaints, including informal review; notice to employees of their protections and obligations; adequate safeguards to protect trade secrets; prompt notice to employers and employees of alleged violations of standards and abatement requirements; effective remedies against employers and owners; and the right to review alleged violations, abatement periods, and proposed penalties with opportunity for employee participation in the review proceedings; procedures for prompt restraint or elimination of imminent danger conditions; and procedures for inspection in response to complaints. In addition, efforts to achieve voluntary compliance will include both onsite and offsite consultations with employers. The State's proposed consultation program should not detract from its enforcement program and the plan meets the conditions set forth in the issues discussed in the Washington decision (38 FR 2421, Jan. 26, 1973).

(e) The plan includes a statement of the Governor's support for the proposed legislation and a statement of legal opinion that it will meet the requirements of the Occupational Safety and Health Act of 1970, and is consistent with the constitution and laws of New York. The plan sets out goals and provides a timetable for bringing it into full conformity with part 1902 upon enactment of the proposed legislation by the State legislature. A merit system of personnel administration will be used.

(f) The plan is supplemented by letters from Gerald E. Dunn, Executive Deputy Industrial Commissioner, dated March 14, 1973, March 23, 1973, April 5, 1973, April 10, 1973, and April 16, 1973.

§ 1952.181 Where the plan may be inspected.

A copy of the complete plan may be inspected and copied during normal business hours at the following locations: Office of Federal and State Operations, Occupational Safety and Health Administration, room 305, Railway Labor Building, 400 First Street NW., Washington, D.C. 20210; Office of the Regional Administrator, Occupational Safety and Health Administration, room 3445, 1515 Broadway, New York, N.Y. 10036; and the offices of the New York State Department of Labor in room 579, Building No. 12, State Office Building Campus, Albany, N.Y. 12201 and room 616 B, 80 Centre Street, New York, N.Y. 10013.

§ 1952.182 Level of Federal enforcement.

Pursuant to § 1902.20(b)(iii) of this chapter, the present level of Federal enforcement in New York will not be diminished. Among the other things, the U.S. Department of Labor will continue to inspect catastrophies and facilities, investigate valid complaints under section 8(f) of the Act, continue its target safety and target health programs, and inspect a cross-section of all industries on a random basis.

§ 1952.183 Developmental schedule.

The New York plan is developmental. The schedule of developmental steps is described in the plan and includes:

(a) Introduction of enabling legislation in January 1973;

(b) Passage of enabling legislation in April 1973;

(c) Promulgation of regulations concerning the review of citations and employer records and reports in December 1973;

(d) Enabling legislation becomes effective in January 1974;

(e) Revision of procedures for promulgation of standards and variances in January 1974;

(f) Review of one-third of existing standards and revision as necessary by January 1974;

(g) Plan and proposed legislation covering employees of the State submitted in February 1975;

(h) Plan and proposed legislation covering employees of political subdivisions, agencies, and instrumentalities submitted in February 1976;

(i) Review of existing variations and approvals completed in March 1976;

(j) All new and revised standards promulgated by April 1976.

Signed at Washington, D.C., this 14th day of May 1973.

JOHN H. STENDER,
Assistant Secretary of Labor.

[FR Doc.73-10185 Filed 5-21-73;8:45 am]

Title 32—National Defense

CHAPTER VII—DEPARTMENT OF THE AIR FORCE

SUBCHAPTER A—ADMINISTRATION

PART 809—ISSUE AND CONTROL OF IDENTIFICATION (ID) CARDS

Miscellaneous Amendments

Correction

In FR Doc. 73-8381, appearing at page 10934 in the issue of Thursday, May 3, 1973, make the following changes:

1. In the fourth line of § 809.11(d)(2), the word "elegibility" should read "eligibility".

2. In the second line of § 809.11(d)(2)(iii)(D), the word *"parents"* should be followed by a comma; and in the sixth line, the number "1171" should read "1172".

3. In the table for § 809.71 (p. 10939), the number "20" should appear as a heading for the last column and the lines of "X"s should be divided horizontally by broken rules, as in the part of the table which appears on page 10938.

CHAPTER XVI—SELECTIVE SERVICE SYSTEM

PART 1631—ALLOCATION OF INDUCTIONS

Amendments to Action by Local Regulations

Whereas, on April 16, 1973, the Director of Selective Service published a notice of proposed amendments to selective service regulations, 38 FR 9444, April 16, 1973; and

Whereas such a publication complied with the publication requirement of section 13(b) of the Military Selective Service Act (50 App. U.S.C. sec. 451 et seq.) in that more than 30 days have elapsed subsequent to such publication during which period no comment from the public has been received; and I certify that I have requested the views of officials named in section 2(a) of Executive Order 11623 and none of them has timely requested that the matter be referred to the President for decision.

These amendments will establish new definitions for the various selection groups and provide for the selection for induction among registrants in all of the various groups of nonvolunteers on the basis of random selection (lottery). The final texts of amendments are as proposed except for a clarification in the language in § 1631.6(c)(4).

Now therefore by virtue of the authority vested in me by the Military Selective Service Act, as amended (50 App. U.S.C. sec. 451 et seq.) and Executive Order 11623 of October 12, 1971, the Selective Service Regulations, constituting a portion of chapter XVI of title 32 of the Code of Federal Regulations, are hereby amended, effective 11:59 p.m., e.d.s.t., on May 26, 1973, as follows:

Section 1631.6 (b), (c), (d), is amended to read as follows:

§ 1631.6 Action by local board upon receipt of allocation.

* * * * *

(b) Registrants shall be selected and ordered to report for induction in the following categories and in the order indicated:

(1) Volunteers who have not attained the age of 26 years in the sequence in which they have volunteered for induction.

(2) Nonvolunteers in the extended priority selection group who have not not attained the age of 26 years in the order in which their random sequence number had been reached.

(3) Nonvolunteers in the first priority selection group for the current calendar year in the order of their random sequence number established by random selection procedures prescribed in accordance with § 1631.1.

(4) Nonvolunteers who have not attained the age of 26 years in each of the lower priority selection groups, in turn, within the group in the order of their random sequence number established by random selection procedures prescribed in accordance with § 1631.1.

(5) Nonvolunteers who have attained the age of 19 years during the calendar year but who have not attained the age of 20 years, in the order of their random sequence number established by random selection procedures prescribed in accordance with § 1631.1.

(6) Nonvolunteers who have attained the age of 26 years and each year thereafter in turn, most recent year first, within the year group in the order of their random sequence number established by random selection procedures prescribed in accordance with § 1631.1: *Provided*, That the random sequence number established on December 1, 1969, will apply to any registrant born prior to January 1, 1944.

(7) Nonvolunteers who have attained the age of 18 years and 6 months and who have not attained the age of 19 years in the order of the random sequence number established by random selection procedures prescribed in accordance with § 1631.1 for registrants who during the current calendar year have attained the age of 19 years but who have not attained the age of 20 years.

(c) Definitions:

(1) Extended priority selection group consists of registrants who were members of the first priority selection group for the calendar year 1973 or for any subsequent calendar year and who were not inducted when their random sequence number was reached.

(2) First priority selection group for each calendar year consists of registrants who prior to January of such calendar year have attained the age of 19 years but not of 20 years.

(3) Lower priority selection groups: One or more priority selection groups lower than the first priority selection group in a given year.

(4) "Reached" random sequence number: A registrant's random sequence number will be deemed to have been "reached" if such number is equal to or lower than the highest random sequence number set by the Director of Selective Service for induction for that calendar year for registrants in that priority selection group.

(d) Procedures:

(1) Local boards shall identify registrants in the appropriate groups as provided in this section.

(2) Members of the first priority selection group on December 31 in any calendar year whose random sequence number had been reached but who had not been inducted during the calendar year shall be assigned to the extended priority selection group.

(3) Members of the first priority selection group on December 31 in any calendar year whose random sequence number had not been reached shall be assigned to a lower priority selection group.

(4) On December 31 of each year, each priority selection group below the first priority selection group shall be reduced one step further in priority. In this manner the second priority selection group would become the third, the third would become the fourth, and so on.

(5) Whenever the Secretary of Defense fails to place a call for the induction of men into the Armed Forces in any calendar year, registrants in the extended priority selection group who were members of the first priority selection group in the immediately preceding calendar year shall be assigned to a lower priority selection group.

§ 1631.6 [Revoked]

Section 1631.6(e) is revoked.

JOHN D. DEWHURST,
Acting Director.

MAY 17, 1973.

[FR Doc.73-10178 Filed 5-21-73;8:45 am]

Title 49—Transportation

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

[Docket No. 73-7; Notice 1]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

New Pneumatic Tires, Tire Selection and Rims for Passenger Cars; Correction

In FR Doc. 73-6189, published April 3, 1973, on page 8515, in table I-M the sec-

tion width for the NR78–15 tire size designation should read "9.70".

(Secs. 103, 119, 201, and 202, Public Law 89–563, 80 Stat. 718, 15 U.S.C. 1392, 1407, 1421, and 1422; delegations of authority 49 CFR 1.51 and 49 CFR 501.8.)

Issued on April 17, 1973.

ROBERT L. CARTER,
Associate Administrator,
Motor Vehicle Programs.

[FR Doc.73–10067 Filed 5–21–73;8:45 am]

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S.O. 1137]

PART 1033—CAR SERVICE

Chicago, Rock Island & Pacific Railroad Co.

MAY 16, 1973.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 15th day of May 1973.

It appearing, that rehabilitation of the line of the Chicago, Rock Island & Pacific Railroad Co. (RI) between Fort Worth, Tex., and Dallas, Tex., is necessary; that operation of trains over this track during the period track rehabilitation is in process will result in excessive delays and congestion at adjacent terminals; that the Texas & Pacific Railway Co. (TP) has consented to the use of its tracks between Fort Worth, Tex., and Dallas, Tex., by the RI; that use of such TP tracks by the RI is necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than 30 days' notice.

It is ordered, That:

§ 1033.1137 Service Order No. 1121.

(a) *Chicago, Rock Island & Pacific Railroad Co. authorized to operate over tracks of the Texas & Pacific Railway Co.*— The Chicago, Rock Island & Pacific Railroad Co. (RI) be, and it is hereby, authorized to operate over tracks of the Texas & Pacific Railway Co. (TP) between Fort Worth, Tex., and Dallas, Tex.

(b) *Application.*—The provisions of this order shall apply to intrastate, interstate, and foreign traffic.

(c) *Rates applicable.*—Inasmuch as this operation by the RI over tracks of the TP is deemed to be due to carrier's disability, the rates applicable to traffic moved by the RI over these tracks of the TP shall be the rates which were applicable on the shipments at the time of shipment as originally routed.

(d) *Effective date.*—This order shall become effective at 11:59 p.m., May 20, 1973.

(e) *Expiration date.*—The provisions of this order shall expire at 11:59 p.m., August 15, 1973, unless otherwise modified, changed, or suspended by order of this Commission.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended; 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2).)

It is further ordered, That copies of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line RR. Association; and that notice of this order shall be given to the general public by depositing a copy in the office of the secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73–10170 Filed 5–21–73;8:45 am]

Title 45—Public Welfare

CHAPTER XV—FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 1501—SUPPORT FOR IMPROVEMENT OF POSTSECONDARY EDUCATION

A proposal was published in the FEDERAL REGISTER on March 27, 1973 (vol. 38, No. 58, p. 8002) to add a new chapter XV, and part 1501 thereof, to title 45 of the Code of Federal Regulations, to implement the authority contained in section 404 of the General Education Provisions Act (20 U.S.C. 1221d), "Support for improvement of postsecondary education." Interested persons were invited to comment on the proposed regulations for this program by April 26, 1973.

The few comments received did not warrant changes in the proposed regulations. However, § 1501.9(d) of the regulations is being modified to make inapplicable to State and local government recipients of funds under the program the requirement that each recipient of funds use a single auditor for all of its expenditures under Federal education assistance programs.

In light of the foregoing, the regulations are hereby adopted as set forth below.

Effective date.—These regulations are effective as of May 22, 1973.

Dated May 18, 1973.

FRANK CARLUCCI,
Acting Secretary of Health,
Education, and Welfare.

Title 45 of the Code of Federal Regulations is amended by adding a new chapter XV, which contains a new Part 1501, to read as follows:

Sec.
1501.1 Purpose.
1501.2 Applicability of civil rights provisions.
1501.3 Definitions.
1501.4 Eligibility for assistance.
1501.5 Types of assistance.
1501.6 Criteria for evaluating applications.
1501.7 Applications for assistance.
1501.8 Retention of records.
1501.9 Audits.
1501.10 Limitations on costs.
1501.11 Reporting.
1501.12 Final accounting.

AUTHORITY: Sec. 404 of the General Education Provisions Act, as added by sec. 301(a)(2) of Public Law 92–318, 86 Stat. 327 (20 U.S.C. 1221d), unless otherwise noted.

§ 1501.1 Purpose.

The purpose of the regulations in this part is to implement the provisions of section 404 of the General Education Provisions Act, as amended, which provides for grants to, and contracts with, institutions of postsecondary education and other public and private educational institutions and agencies to improve postsecondary educational opportunities. The program is administered by the Fund for the Improvement of Postsecondary Education, a unit within the Office of the Assistant Secretary for Education of the Department of Health, Education, and Welfare, with the advice of a Board of Advisors.

(20 U.S.C. 1221d)

§ 1501.2 Applicability of civil rights provisions.

(a) Federal financial assistance under this part is subject to the regulations in part 80 of this title, issued by the Secretary of Health, Education, and Welfare and approved by the President, to effectuate the provisions of title VI of the Civil Rights Act of 1964 (Public Law 88–352).

(42 U.S.C. 2000d)

(b) Federal financial assistance under this part is also subject to the provisions of title IX of the Education Amendments of 1972 (prohibition of sex discrimination), and any regulations issued thereunder.

(20 U.S.C. 1681–86; Public Law 92–318, section 906)

§ 1501.3 Definitions.

As used in this part—

"Fiscal year" means a period beginning on July 1 and ending on the following June 30. (A fiscal year is designated in accordance with the calendar year in which the ending date of the fiscal year occurs.)

"Fund" means the Fund for the Improvement of Postsecondary Education, the unit within the Office of the Assistant Secretary for Education of the Department of Health, Education, and Welfare which administers the program covered by this part.

"Institution of postsecondary education" means an educational institution which admits as regular students only persons who have completed or left elementary or secondary school.

"Local government" means a local unit of government including specifically a county, municipality, city, town, township, local public authority, special district, intrastate district, council of governments, sponsor group representative organization, and other regional or interstate government entity, or any agency or instrumentality of a local government, exclusive of institutions of postsecondary education and hospitals.

"Nonexpendable personal property" means tangible personal property, including equipment, having a useful life of more than 1 year and an acquisition cost of $300 or more per unit.

"Nonprofit" means owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

"Personal property" means property of any kind, tangible or intangible, except real property.

"Private" means not under public supervision or control.

"Public," as applied to an institution or agency, means that the institution or agency is a legally constituted organization of government under public administrative control and direction, except that an institution or agency of the Federal Government shall not be considered a public institution or agency.

"Recipient" means an applicant receiving assistance under this part.

"State" means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of a State exclusive of State institutions of postsecondary education and hospitals.

(20 U.S.C. 1221d)

§ 1501.4 Eligibility for assistance.

Institutions of postsecondary education, combinations thereof, and other public and private educational institutions and agencies are eligible to receive assistance under this part. The fact that an applicant has been only recently established will not in itself prejudice such applicant's application.

(20 U.S.C. 1221d)

§ 1501.5 Types of assistance.

Public and nonprofit applicants may receive assistance in the form of grants or contracts, depending on the nature and objectives of their proposals. An applicant which is not public or nonprofit may receive assistance only in the form of contracts. Grants may be made to a combination of institutions of postsecondary education only if all institutions in the combination are public or nonprofit. Assistance may support a proposal in its entirety or may be conditioned upon the provision of funds from other sources, including the applicant itself. Assistance may be awarded in one payment or in a number of payments, not necessarily equal, over a period of time.

(20 U.S.C. 1221d)

§ 1501.6 Criteria for evaluating applications.

An application for assistance under this part shall be evaluated in terms of the extent to which the proposal therein:

(a) Has the potential for advancing one or more of the following general aims and objectives of the Fund:

(1) To provide effective educational options not generally available;

(2) To increase the cost-effectiveness of educational services;

(3) To achieve far-reaching improvements in postsecondary education;

(4) To promote learner-centered improvements in postsecondary education;

(b) Is directed at furthering one or more of the following program objectives:

(1) To provide new approaches to teaching and learning, specifically through projects which:

(i) Focus on one or more of the following purposes: (*a*) Education for social responsibility, (*b*) education for productive lives through career preparation, or (*c*) education for the enhancement of personal satisfaction; and

(ii) (*a*) Employ one or more of the following techniques or processes to achieve these purposes: (*1*) The integration of learning experiences, (*2*) the individualization of educational services, or (*3*) the improvement of teaching/learning techniques; or

(*b*) Develop and implement new kinds of education assessment to measure and achieve these purposes;

(2) To provide educational services for new clientele, specifically through projects which:

(i) Serve one or more of the following groups: (*a*) Young people who academically ranked in the lower half of the high school population or, if they did not attend high school, the elementary school population, (*b*) adults and part-time learners, (*c*) minorities, or (*d*) women; and

(ii) Employ programs and services responsive to new clientele, specifically efforts to achieve: (*a*) Accommodation of education to the needs and potentials of the clientele, (*b*) remediation of the clientele's skills and knowledge, or (*c*) access of the clientele to existing programs and services.

(3) To revitalize institutional missions, specifically through projects involving one or more of the following activities:

(i) The introduction of new structures or activities designed to channel institutional energies more effectively toward the implementation or refinement of an institution's existing mission, or

(ii) The phasing out of programs or activities no longer central to an institution's mission. A proposal directed at furthering this objective will be evaluated by the Fund in terms of the extent to which it (*a*) will serve an important social objective, (*b*) will be central to the institution's principal mission, (*c*) will have a long-term effect on the institution, and (*d*) will actively involve and be supported by constituencies relevant to the institution's mission.

(4) To implement new missions, specifically through projects which:

(i) Redirect missions of existing institutions, or

(ii) Create new institutions.

(5) To encourage openness in postsecondary education, specifically through projects involving the improvement of one or more of the following:

(i) The nature of information about postsecondary education and the ways in which such information is communicated to students, educational institutions, and makers of educational policy.

(ii) The standards, practices, and structures used in recognizing and evaluating the performance of individuals and institutions in postsecondary education, and the utilization of the judgments thereby made by other educational and social institutions and agencies.

(iii) The forms and techniques by which financial support for postsecondary education is provided, particularly those which affect incentives for teachers and structure relationships among teachers and learners.

(iv) The ways in which postsecondary education is regulated by public agencies.

(c) Meets the following criteria:

(1) Is feasible, has sound project design, and is likely to attain expected results with expected expenditures;

(2) Will, if appropriate, be supported financially by sources other than the Fund, including the applicant itself; and

(3) Has the potential for having available financial resources for continuation beyond the period of Fund support, if appropriate.

(20 U.S.C. 1221d)

§ 1501.7 Applications for assistance.

(a) An application for assistance under this part must be filed with the Fund on or before the closing date or dates announced by the Fund for each fiscal year.

(b) Except as provided in paragraph (d) of this section, an application must have a title page providing the following information:

(1) Name and address of applicant.

(2) Name, address, title, phone number, and signature of applicant's authorizing officer.

(3) Name, address, title, and phone number of proposed project director.

(4) Dates of proposed project, including evaluation time.

(5) Amount of assistance requested.

(6) Proposal title.

(7) A brief, one-paragraph description of the proposal.

(c) Except as provided in paragraph (d) of this section, an application must contain the following information, in a format to be selected by the applicant:

(1) A diagnosis of the problem addressed, including a description of the problem and, as applicable, a discussion of pertinent empirical data and past attempts to deal with the problem.

(2) A description of the proposed project, including its methodology and schedule, qualifications of the persons who would conduct it, its short-term and

long-term objectives, and its specific allocation of available funds in the form of a budget.

(3) A statement as to (i) expected financial support, if any, during the period of Fund support from sources other than the Fund, including the applicant itself, and (ii) if appropriate, expected sources of financial support, including that of the applicant itself, after the period of Fund support has elapsed.

(4) A statement of the significance of the proposed project, with specific reference to the manner in which the project relates to the Fund's objectives.

(5) An evaluation plan, including the criteria by which the project will be evaluated, the methods and schedules for such evaluation, and the cost of such evaluation.

(d) A State or local government seeking assistance under this part must apply in accordance with such procedures, and using such forms, as the Fund may specially prescribe in conformity with pertinent directives of the Office of Management and Budget. Much of the material required of such applicants pursuant to such directives is similar to the material required of applicants proceeding under paragraphs (b) and (c) of this section.

(e) Prior to its disposition of applications for assistance under this part, the Fund may obtain the review and advice of qualified persons not employed by the Department of Health, Education, and Welfare. Any such review shall be in addition to the review of applications by the Fund in accordance with such procedures as it may establish, including consultation with the Board of Advisors to the Fund.

(f) No application for assistance under this part to an institution of postsecondary education shall be approved until the Fund has submitted it to the State postsecondary education commission, if there is one, established or designated pursuant to section 1202 of the Higher Education Act of 1965 in the State in which the institution is located and afforded the commission an opportunity to submit its comments and recommendations as to the application to the Fund.

(g) No application for assistance under this part shall be approved until the procedure for implementing the evaluation plan required under paragraph (c) of this section or, as applicable, paragraph (d) of this section has been established and a schedule for the submission of reports on such evaluation by the applicant to the Fund has been agreed upon.

(20 U.S.C. 1221d; OMB Circular No. A-102, Attachment M)

§ 1501.8 Retention of records.

(a) *Records.* Each recipient shall keep intact and accessible records relating to the receipt and expenditure of Federal funds (and to the expenditure of the recipient's contribution to the cost of the project, if any), including all accounting records and related original and supporting documents that substantiate direct and indirect costs charged to the award.

(b) *Period of retention.* (1) Except as provided in paragraph (b)(2) and (d) of this section, the records specified in paragraph (a) of this section shall be retained for 3 years after the date of the submission of the final expenditure report or, with respect to a grant or contract which is renewed annually, for 3 years after the date of the submission of an annual expenditure report.

(2) Records for nonexpendable personal property which was acquired with Federal funds shall be retained for 3 years after its final disposition.

(c) *Microfilm copies.* Recipients may substitute microfilm copies in lieu of original records in meeting the requirements of this section.

(d) *Audit questions.* The records involved in any claim or expenditure which has been questioned by Federal audit shall be further retained until resolution of any such audit questions.

(e) *Audit and examination.* The Secretary of Health, Education, and Welfare and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to all such records and to any other pertinent books, documents, papers, and records of the recipient.

(OMB Circular No. A-73; OMB Circular No. A-102, Attachment C; 20 U.S.C. 1221d)

§ 1501.9 Audits.

(a) All expenditures by recipients shall be audited by the recipient or at the recipient's direction to determine, at a minimum, the fiscal integrity of financial transactions and reports, and the compliance with laws and regulations.

(b) The recipient shall schedule such audits with reasonable frequency, usually annually, but not less frequently than once every 2 years, considering the nature, size, and complexity of the activity.

(c) Copies of audit reports shall be made available to the Fund to assure that proper use has been made of the funds expended. The results of such audits will be used to review the recipient's records and shall be made available to Federal auditors. Federal auditors shall be given access to such records or other documents as may be necessary to review the results of such audits.

(d) Each recipient which is not a State or local government shall use a single auditor for all of its expenditures under Federal education assistance programs, regardless of the number of Federal agencies providing such assistance.

(20 U.S.C. 1221d; OMB Circular No. A-102, Attachment G, 2, Attachment C, 1)

§ 1501.10 Limitations on costs.

The amount of the award shall be set forth in the grant award or contract document. The total cost to the Federal Government will not exceed the amount set forth in the grant award or contract document. The Federal Government shall not be obligated to reimburse the recipient for costs incurred in excess of such amount unless and until the Fund has notified the recipient in writing that such amount has been increased and has specified such increased amount in a revised grant award or contract document. Such revised amount shall thereupon constitute the revised total cost of the performance of the grant or contract that may be borne by the Federal Government.

(31 U.S.C. 200)

§ 1501.11 Reporting.

The recipient shall comply with the schedule for reporting on its evaluation of the project agreed upon pursuant to § 1501.7(g).

(20 U.S.C. 1221d; OMB Circular No. A-102, Attachment M)

§ 1501.12 Final accounting.

(a) In addition to such other accounting as the Fund may require the recipient shall render, with respect to the project, a full account of funds expended, obligated, and remaining.

(b) A report of such accounting shall be submitted to the Fund within 90 days of the expiration or termination of the grant or contract, and the recipient shall remit within 30 days of the receipt of a written request therefor any amounts found by the Fund to be due. Such period may be extended at the discretion of the Fund upon the written request of the recipient.

(20 U.S.C. 1221d; 31 U.S.C. 628)

[FR Doc.73-10272 Filed 5-21-73;8:45 am]

Title 15—Commerce and Foreign Trade

CHAPTER III—BUREAU OF EAST-WEST TRADE, DEPARTMENT OF COMMERCE

[13th Gen. Rev., Export Regs., Amdt. 53]

SUBCHAPTER B—EXPORT REGULATIONS

PART 377—SHORT SUPPLY CONTROLS

Ferrous Scrap

Reporting Requirements for Ferrous Scrap.—In order to assist the Department of Commerce in monitoring, on a current basis, the foreign demand and actual exports of ferrous scrap, as defined below, the Export Control regulations are revised to require each U.S. exporter to report, no later than June 1, 1973, all unfilled or partially filled orders for export of 500 short tons or more of ferrous scrap accepted as of May 22, 1973. The report will provide the aggregated tonnage of such orders, unfilled as of the date of the report, by schedule B number, by country of ultimate destination, and by month of scheduled or anticipated export. The report shall be submitted on form DIB-632P in an original and one copy to the Office of Export Control (attention 534), U.S. Department of Commerce, Washington, D.C. 20230.

U.S. exporters who have no unfilled accepted orders for ferrous scrap as of May 22, 1973, but subsequently accept in any week thereafter one or more export orders of 500 short tons or more, are required to report such order or orders on the first business day of the week following the week in which such order or orders were accepted. The report shall be on form DIB-632P and be submitted in the same detail and in the same manner as indicated above.

Additionally, each U.S. exporter who has filed an initial report is required to submit a followup report on form DIB-

632P in an original and one copy on the first business day of each week thereafter as provided below. Whenever any of the information set forth in the initial report or most recent followup report has changed as a result of exports, cancellation or changes in scheduled or anticipated exports, or acceptance of new export orders for 500 short tons or more, the aggregates of unfilled orders reported in the preceding report shall be revised to reflect such changes. If there has been no change in the aggregates reported in the last report, such aggregates need not be repeated, but form DIB–632P shall nevertheless be submitted with the statement "no change" entered on its face.

The Export Control regulations also are revised to require each U.S. exporter to submit on the first business day of each week following May 22, 1973, a report of exports of ferrous scrap, by schedule B number, country of ultimate destination, quantity, and Customs district of exportation, made during the preceding week against an order required to be reported above. Any export of 500 short tons or more, although not made against a reported order, should likewise be reported. The report shall be submitted on form IA–1094, Report of Exports, in an original and one copy on the first business day of the week following the week during which such exports were made. The report shall be submitted to the Office of Export Control, attention 534, U.S. Department of Commerce, Washington, D.C. 20230.

The date of export, for purposes of preparing form IA–1094, Report of Exports, shall be the date the exporting carrier was expected to depart from the United States, and shall be included in the export report for the period covering the expected departure date. However, if, because of a carrier's earlier or delayed departure or for other reasons, data previously reported are found to have been incorrect, a replacement form IA–1094, Report of Exports, shall be submitted, marked "Revised", with corrected data for each preceding reporting period affected.

In order to prevent duplication as well as to insure complete and accurate coverage of pending orders and shipments, the Export Control regulations are revised to specify that the exporter, as the principal party in interest in the export transaction, will have the sole responsibility of reporting any and all orders for the export of ferrous scrap, whether the order is received from a U.S. order party or directly from the foreign buyer. The exporter will have the sole responsibility of reporting the shipments, whether the exporter employs a freight forwarder to handle the shipping of the material or delivers the material to a carrier for export out of the country.

The ferrous scrap subject to these reporting requirements is defined as follows:

Schedule B number	*Commodity description*
282.0010----	No. 1 heavy-melting steel scrap, except stainless.
282.0020----	No. 2 heavy-melting steel scrap, except stainless.
282.0030----	No. 1 bundles steel scrap, except stainless.
282.0040----	No. 2 bundles steel scrap, except stainless.
282.0050----	Borings, shoveling, and turnings, iron or steel, except stainless.
228.0060----	Stainless steel scrap.
282.0065----	Shredded steel scrap.
228.0078----	Other steel scrap, including tin-plated and terne-plate.
282.0080----	Iron scrap, except borings, shoveling, and turnings.
282.0090----	Rerolling material of iron or steel.

Accordingly, § 377.1(c) and supplement No. 2 to part 377 are revised to read as set forth below.

§ 377.1 General provisions * * *

* * * * *

(c) *Commodities requiring monitoring.*

(1) *Unfilled orders and exports of ferrous scrap.*—(i) *Initial report of unfilled orders.*—No later than May 1973, each U.S. exporter shall report unfilled or partially filled orders for export of 500 short tons or more of ferrous scrap, as defined in supplement No. 2 of this part 377, accepted as of May 1973. Such report will provide the aggregated tonnage of such orders, unfilled as of the date of the report, by schedule B number, by country of ultimate destination, and by month of scheduled or anticipated export. The report shall be submitted on form DIB–632P in an original and one copy to the Office of Export Control, U.S. Department of Commerce, Washington, D.C. 20230. U.S. exporters who have no unfilled accepted orders for ferrous scrap as of May 1973, but subsequently accept in any week thereafter one or more export orders of 500 short tons or more, shall report such order or orders, on the first business day of the week following the week in which such order or orders were accepted The report shall be on form DIB–632P and be submitted in the same detail and in the same manner as indicated above.

(ii) *Followup reports.*—Each U.S. exporter who has filed an initial report, as required in (i) above, shall submit a followup report on form DIB–632P in an original and one copy on the first business day of each week thereafter, as provided below. Whenever any of the information set forth in the initial report or most recent followup report has changed as a result of exports, cancellation or changes in scheduled or anticipated exports, or acceptance of new export orders for 500 short tons or more, the aggregates of unfilled orders reported in the preceding report shall be revised to reflect such changes. If there has been no change in the aggregates reported in the last report, such aggregates need not be repeated, but form DIB–632P shall nevertheless be submitted with the statement "no change" entered in its face.

(iii) *Report of exports*—(a) *"Manner of reporting."*—Each U.S. exporter shall submit on the first business day of each week following May 1973, a report of exports of ferrous scrap, by schedule B number, country of ultimate destination, quantity and Customs district of exportation, made during the preceding week against an order required to be reported under (i) or (ii) above. Any export of 500 short tons or more, although not made against a reported order, should likewise be reported. The report shall be submitted on form IA–1094, Report of Exports, in an original and one copy on the first business day of the week following the week during which such exports were made. The report shall be submitted to the Office of Export Control, U.S. Department of Commerce, Washington, D.C. 20230.

(b) *Date of export.*—For purposes of § 377.1(c) only, an export shall be considered as to be made (or as having been made) on the date the exporting carrier is (or was) expected to depart from the United States and shall be included in the export report for the period covering the expected departure date.

(c) *Corrections.*—If, because of a carrier's earlier or delayed departure or for other reasons, data reported pursuant to (a) above are found to have been incorrect, a replacement form IA–1094, Report of Exports, shall be submitted, marked "Revised," with corrected data for each preceding reporting period affected.

(iv) *Who shall file reports.*—For purposes of § 377.1(c) only, in order to prevent duplication as well as to insure complete and accurate coverage of pending orders and shipments, the exporter as the principal party in interest in the export transaction will have the sole responsibility of reporting any and all orders whether the order is received from a U.S. order party or directly from the foreign buyer. The exporter will have the sole responsibility of reporting the shipments whether the exporter employs a freight forwarder to handle the shipping of the material or delivers the material to a carrier for export out of the country.

SUPPLEMENT NO. 2 TO PART 377

COMMODITIES SUBJECT TO MONITORING

Schedule B number	*Commodity description, ferrous scrap*
282.0010----	No. 1 heavy-melting steel scrap, except stainless.
282.0020----	No. 2 heavy-melting steel scrap, except stainless.
282.0030----	No. 1 bundles steel scrap, except stainless.
282.0040----	No. 2 bundles steel scrap, except stainless.
282.0050----	Borings, shovelings, and turnings, iron or steel, except stainless.
282.0060----	Stainless steel scrap.
282.0065----	Shredded steel scrap.
282.0078----	Other steel scrap, including tin-plated and terne plate.
282.0080----	Iron scrap, except borings, shoveling, and turnings.
282.0090----	Rerolling material of iron or steel.

(50 U.S.C. App. §§ 2402(2)(B), 2403(b), and 22 U.S.C. § 287C.)

Effective date.—May 22, 1973.

RAUER H. MEYER,
Director,
Office of Export Control.

[FR Doc.73–10287 Filed 5–21–73;8:45 am]

Proposed Rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rulemaking prior to the adoption of the final rules.

DEPARTMENT OF THE INTERIOR

National Park Service

[36 CFR Part 7]

YELLOWSTONE NATIONAL PARK, WYO.

Camping Requirements

Notice is hereby given that pursuant to the authority contained in section 3 of the act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 3), as amended, and the act of May 7, 1894 (28 Stat. 73; 16 U.S.C. 26), as amended, 245 DMI (34 FR 13879), National Park Service Order No. 77 (38 FR 7478), Director, Midwest Region, Order No. 4 (31 FR 5769), as amended, it is proposed to amend § 7.13 of title 36 of the Code of Federal Regulations.

The purpose of this amendment is to make minor changes in the language of the regulation for clarification, including a more particular listing of the food containers affected by the regulations. The result should be better safeguarding of foods from wildlife in the park's campgrounds.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections on this proposal to the Superintendent, Yellowstone National Park, Yellowstone National Park, Wyo. 82190, on or before June 6, 1973. The period for comment and other responses has been reduced to 15 days because there is an urgent need for adoption of the regulation prior to the heavy visitor season.

Paragraph (g) (3) of § 7.13 is amended to read as follows:

§ 7.13 Yellowstone National Park.

(g) *Camping.*—* * *

(3) All food and similar organic material as well as all ice chests, cooking utensils, and food containers must be kept in a closed vehicle that is constructed of solid, nonpliable material or must be suspended at least 10 feet above the ground and 4 feet horizontally from any post or tree; except when food is being eaten or prepared for eating, or when food and similar organic material is being transported.

* * * * *

RAYMOND L. FREEMAN,
Acting Director,
National Park Service.

[FR Doc.73-10069 Filed 5-21-73;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 206]

PROPOSED PLANT SANITATION REQUIREMENTS FOR CERTAIN PROCESSED FRUITS AND VEGETABLES

Extension of Comment Period

Notice is hereby given that the U.S. Department of Agriculture will receive additional data, views, or arguments with respect to the propsal to amend the plant sanitation requirements relating to its purchases of processed fruits and vegetables, olive oil, honey, nuts, and nut products. The proposal was published in the FEDERAL REGISTER of March 22, 1973, and required that data, views, or arguments be filed with the Hearing Clerk, room 112, U.S. Department of Agriculture, Washington, D.C. 20250, not later than April 21, 1973.

It has been determined that additional opportunity for comments should be provided. Therefore, interested parties may submit data, views, or arguments to the hearing clerk at the address referred to above not later than October 1, 1973, in order to be sure of consideration. Written submissions received 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)).

It is anticipated that the final plant sanitation requirements will become effective January 1, 1974, and will apply to products packed in 1974.

Dated May 17, 1973.

E. L. PETERSON,
Administrator,
Agricultural Marketing Service.

[FR Doc.73-10055 Filed 5-21-73;8:45 am]

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[49 CFR Part 571]

[Dockets Nos. 2-1, 2-3, 2-4, 70-3]

INTERIOR IMPACT STANDARDS

Continuation of Rulemaking Proceeding

Notices of proposed rulemaking have been issued to amend existing motor vehicle safety standards on the subjects of occupant protection in interior impack (Docket No. 2-1, 35 FR 14936, Sept. 25, 1970), impact protection for driver from steering control system (dockets Nos. 2-3 and 2-4, 35 FR 14940, Sept. 25, 1970), and steering control rearward displacement (docket No. 70-3, 35 FR 16805, Oct. 30, 1970).

The NHTSA intends to continue rulemaking activity on these standards. However, upon review of the comments to the notices and upon consideration of subsequent developments, the agency has concluded that the proposals should be revised and that further opportunity for comment should be afforded before issuance of final rules. Accordingly, the agency will issue new notices of proposed rulemaking upon which it will receive comments before it amends the subject standards.

(Secs. 103, 119 Public Law 89-563, 80 Stat. 718, 15 U.S.C. 1392, 1407; delegation of authority at 38 FR 12147.)

Issued on May 15, 1973.

JAMES E. WILSON,
Associate Administrator,
Traffic Safety Programs.

[FR Doc.73-9998 Filed 5-21-73;8:45 am]

COST OF LIVING COUNCIL

[6 CFR Part 102]

PUBLIC ACCESS TO RECORDS

Hearing on Proposed Regulations

The Cost of Living Council will hold a public hearing at 9:30 a.m., June 6, 1973, in the auditorium on the second floor at 2000 M Street NW., Washington, D.C. 20508, to receive the views of interested persons concerning the proposed regulations that would govern public disclosure of information or data in quarterly reports submitted to the Cost of Living Council. The proposed regulations were set forth in a notice of proposed rulemaking published in the FEDERAL REGISTER on May 11, 1973 (38 FR 12413).

As proposed in the May 11 notice, part 102 of title 6, Code of Federal Regulations, would be amended by adding a new subpart F which would define what information or data are "proprietary" as required by section 6 of the Economic Stabilization Act Amendments of 1973 (Public Law 93-28). Interested persons have been afforded an opportunity to participate in the rulemaking through the submission of written comments by May 30, 1973.

The Cost of Living Council has decided that it would be in the public interest to give interested parties an opportunity to

comment orally on the proposed regulations. The hearing will be an informal hearing conducted by the General Counsel of the Cost of Living Council. It will not be a judicial- or evidentiary-type hearing and there will be no cross-examination of persons presenting statements. The statements should be responsive to the notice of proposed rulemaking and directed toward proper implementation of section 6 of the Economic Stabilization Act Amendments of 1973.

Any person who wishes to make an oral statement at the hearing should notify the Cost of Living Council by May 30, 1973. Requests to make oral presentations at the hearing should be identified with the designation "Hearing on Proposed Rule 73–1," include a telephone number at which the requestor can be reached, and be submitted to the Executive Secretariat, Cost of Living Council, 2000 M Street NW., Washington, D.C. 20508. Persons wishing to make oral statements are also encouraged to advise the Executive Secretariat of the Council by telephone as soon as possible on 202–254–8610.

As soon as possible after May 30, 1973, the Council will notify each person who will be scheduled to appear and the order of his appearance. The Council reserves the right to select the persons to be heard at the hearing to schedule their respective appearances and to establish the procedures governing the conduct of the hearing. Persons making statements at the hearing must provide the Executive Secretariat of the Council with written copies of their statement by noon, Monday, June 4, 1973.

A transcript of the hearing will be made and anyone may purchase a copy of the transcript from the reporter. A copy of the transcript will be made available for public inspection in the Council's press room, room B–120, 2000 M Street NW., Washington, D.C. 20508, between the hours of 8:30 a.m. and 5 p.m., Monday through Friday. Copies of written comments being submitted in response to the May 11 notice of proposed rulemaking are being made available for public inspection in the press room as soon as possible after receipt.

The Council's decision with respect to the proposed rulemaking will be made on the basis of all information available to the Council and will not be based solely on the oral statements made at the hearing.

(Economic Stabilization Act of 1970, as amended, Public Law 92–210, 85 Stat. 743; Public Law 93–28, 87 Stat. 27; Executive Order 11695, 38 FR 1473, Cost of Living Council Order No. 14, 38 FR 1489.)

Issued in Washington, D.C., on May 18, 1973.

WILLIAM N. WALKER,
Acting Deputy Director,
Cost of Living Council.

[FR Doc.73–10267 Filed 5–18–73;2:55 pm]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 19739; FCC 73–493]

TELEVISION BROADCAST STATIONS

Proposed Table of Assignments: East Lansing, Mich.

In the matter of amendment of § 73.606 (b), table of assignments, television broadcast stations (East Lansing, Mich.).

1. The Commission has before it for consideration a petition filed by the board of trustees of Michigan State University seeking the designation of television channel 23 at East Lansing, Mich., as an educational assignment.

2. In its petition, the board of trustees points out that it is now operating a noncommercial educational station on UHF channel 23. (Although it was not mentioned, formerly it shared time in the operation of VHF channel 10.) In effect, the petition seeks recognition of the actual use of the channel. In addition to channel 23, channel 69 is also assigned to East Lansing, and the board of trustees urges us to leave the educational designation of this channel undisturbed.

3. Since channel 23 is already being put to educational use, the proposal to give de jure status to this de facto situation presents no complication. As to continuing the reserved status of channel 69, however, the situation is less simple. If the reservation were terminated, the channel would still be available for educational use, and for the first time it would become available for commercial use as well. On the other hand, since East Lansing has only two assignments, the proposal to maintain the reservation would effectively preclude the establishment of any commercial operation in East Lansing. Ordinarily, we would not be disposed to follow a procedure that would lead to allowing a channel to remain fallow for some period while interest in its educational use develops, when at the same time no commercial channel is available and an educational operation already exists. However, the situation involved here is atypical because of the proximity of Lansing which has three channel assignments. Only channel 6 of the three is in use; channels 36 and 53 are vacant. Lansing is the far larger of the two communities and quite probably the more logical choice for locating a commercial station. In addition, lower UHF channels tend to be selected first, further suggesting that anxiety over foreclosing commercial use of channel 69 is premature. Under these circumstances, we believe it appropriate to consider proceeding along the lines proposed in the petition. However, we express no fixed views on the subject. Interested parties are invited to provide any comments relevant to this subject, and should feel free to question the appropriateness of the steps we here propose.

4. In accordance with the provisions of sections 4(i), 303 (g) and (r), and 307 (b) of the Communications Act of 1934, as amended, it is proposed to amend the television table of assignments, § 73.606 (b) of the Commission's rules, insofar as the community listed, to read as follows:

City	Channel number	
	Present	Proposed
East Lansing, Mich.....	23, *69	*23, *69

5. Pursuant to applicable procedures set out in § 1.415 of the Commission's rules and regulations, interested parties may file comments on or before June 22, 1973, and reply comments on or before July 3, 1973. All submissions by parties to this proceeding, or persons acting on behalf of such parties, must be made in written comments, reply comments, or other appropriate pleadings.

6. In accordance with the provisions of § 1.419 of the Commission's rules and regulations, an original and 14 copies of all written comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission. Responses filed in this proceeding will be available for public inspection during regular business hours in the Commission's public reference room at its headquarters in Washington, D.C. (1919 M Street NW.).

Adopted May 9, 1973.

Released May 10, 1973.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.73–10179 Filed 5–21–73;8:45 am]

FEDERAL POWER COMMISSION

[18 CFR Parts 141, 260]

[Docket No. R–443]

ANNUAL REPORT FORMS

Information on Future Finance Requirements

MAY 10, 1973.

Revisions of FPC Annual Report Forms Nos. 1 and 2 to obtain information of future finance requirements.

A notice of proposed rulemaking in the above docketed proceeding was issued May 26, 1972 (37 FR 11192, June 3, 1972). The deadline for filing comments was July 10, 1972, but this deadline was extended to August 14, 1972, at the request of the parties. A public conference was held in the offices of the Federal Power Commission on December 12, 1972, to obtain any additional comments that members of the public wished to make concerning this rulemaking.

[1] Chairman Burch absent.

Those opposing the issuance of the proposed rulemaking acknowledge that most companies make financial forecasts for internal corporate purposes. The respondents however oppose the requirement to submit these projections to the Commission for publication. First, it is indicated that most companies make not one but a series of such projections based on varying assumptions with respect to underlying variables such as sales, revenues, and degrees of inflationary influence. The results are then both speculative and inaccurate with respect to any single forecast in the series. The published results of such a forecast would be, at best, misleading and uninformative in any meaningful way.

Furthermore, the premature release of information concerning future financing can have little, if any, beneficial effect and substantially greater adverse impact. While companies strive over the long run to maintain a balanced capital structure, the form of an individual security issue is for the most part dictated by conditions existing immediately prior to the flotation of such issue. Assuming no adverse restrictive indenture provisions, the state of the money market itself with respect to the comparative costs of various securities exerts a strong influence on the kind and amount of financing which will be done. Long range projections cannot therefore be accurate. However, the abandonment of published plans would surely raise questions as to why alternate financing was done.

The companies over which we have varying degrees of regulatory responsibility must compete in the money markets with all others who seek the use of investment capital. To require the publications of forecasted need for the issuance of various types of securities will doubtless put those companies subject to our jurisdiction at a disadvantage with their competitors in the money markets—to the ultimate detriment of the very consumers we are responsible for protecting.

We evince no desire to minimize recognition of the financing problems facing the industries we regulate. The financial integrity of these industries is an essential aspect of our regulatory responsibility to the Nation's consumers. The Commission, in addition to our day-to-day economic regulatory role, is currently examining the financial needs and problems of the natural gas and electric power industries in the National Gas Survey and the new National Power Survey, respectively. The National Gas Survey, which was undertaken in 1971 and will be concluded this year, and the new National Power Survey which was launched in June 1972, are reviewing in depth the financial needs and problems of the respective industries. Information will be obtained which will enable us to discharge our responsibilities to the consuming public with no resulting detriment from premature disclosure of individual financing plans and no potential misleading of the investing public from preliminary and inexact projections. We prefer to take positive steps to aid in meeting future financial needs. The actions of the Federal Power Commission include the National Power Survey and the National Gas Survey in which we have enlisted some of the best talent in the Nation to assist in studying the financial requirements of these two important energy sectors and to develop guidelines for their future growth.

The Commission finds

(1) The public interest would be disserved by issuance of the proposed rule.

(2) The proceeding in docket No. R–443 should be terminated for the reasons stated herein.

The Commission orders

The proceeding in docket No. R–443 is hereby terminated.

By the Commission.[1]

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.73–10150 Filed 5–21–73;8:45 am]

[1] Chairman Nassikas, dissenting, filed a separate statement which is filed as part of the original document.

Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF THE TREASURY

Office of the Secretary

MICROWAVE OVENS FROM JAPAN

Antidumping; Determination of Sales at Not Less Than Fair Value

MAY 17, 1973.

On April 3, 1973, there was published in the FEDERAL REGISTER a "Notice of Tentative Negative Determination" (38 FR 8535), that microwave ovens from Japan are not being, nor are likely to be, sold at less than fair value within the meaning of section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)) (referred to in this notice as the Act).

The statement of reasons for the tentative determination was published in the above-mentioned notice and interested parties were afforded an opportunity to make written submissions and to present oral views in connection with the tentative determination.

No written submissions or requests to present oral views having been received, I hereby determine that, for the reasons stated in the tentative determination, microwave ovens from Japan are not being, nor are likely to be, sold at less than fair value (sec. 201(a) of the Act; 19 U.S.C. 160(a)).

This determination is published pursuant to section 201(c) of the Act (19 U.S.C. 160(c) and § 153.33(b), Customs regulations (19 CFR 153.33(b)).

[SEAL] EDWARD L. MORGAN,
Assistant Secretary of the Treasury.

[FR Doc.73-10237 Filed 5-21-73;8:45 am]

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[INT FES 73-27]

CARLSBAD CAVERNS NATIONAL PARK, NEW MEX.

Notice of Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental statement on the Pollution Abatement project, Carlsbad Caverns National Park, N. Mex.

The environmental statement considers the impacts on the physical and social environment, the construction of and operation of this facility that would entail.

Copies of the final environmental statement are available from or for inspection at the following locations:

Southwest Regional Office, National Park Service, Old Santa Fe Trail, Santa Fe, N. Mex. 87501.

Superintendent, Carlsbad Caverns National Park, Carlsbad, N. Mex. 88220.

Dated May 15, 1973.

LAURENCE E. LYNN, Jr.,
Assistant Secretary of the Interior.

[FR Doc.73-10142 Filed 5-21-73;8:45 am]

DEPARTMENT OF AGRICULTURE

Forest Service

USE OF HERBICIDES IN VEGETATION MANAGEMENT

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the Use of Herbicides in Vegetation Management, Forest Service Report No. USDA-FS-DES (Adm.) 73-66.

The environmental statement concerns the proposed use of picloram, silvex, dicamba, 2,4-D, 2,4,5-T, MSMA, diphenamid, atrazine, and simazine on approximately 10,000 acres of National Forest System lands in eastern Washington, northern Idaho, Montana, North Dakota, and South Dakota. The programs in which the use of herbicides may be employed as part of a total management plan are: (1) Range improvement, (2) roadside and recreation area maintenance, (3) rights-of-way maintenance, (4) conifer tree management, and (5) nursery management.

This draft environmental statement was filed with CEQ May 15, 1973.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., room 3230, 12th St. and Independence Ave. SW., Washington, D.C. 20250.

USDA, Forest Service, Northern Region, 200 East Broadway, room 3077, Missoula, Mont. 59801.

Copies are also available at each of the 16 National Forest headquarters in region 1.

A limited number of single copies are available upon request to:

Regional Forester, USDA, Forest Service, Region 1, Federal Bldg., Missoula, Mont. 59801.

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151. Please refer to the name and number of the environmental statement above when ordering.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the Council on Environmental Quality Guidelines.

Comments are invited from the public and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Steve Yurich, Regional Forester, USDA Forest Service, Region 1, Federal Building, Missoula, Mont. 59801. Comments must be received by June 29, 1973, in order to be considered in the preparation of the final environmental statement.

PHILIP L. THORNTON,
Deputy Chief, Forest Service.

MAY 15, 1973.

[FR Doc.73-10111 Filed 5-21-73;8:45 am]

SKYLINE BASIN WINTER SPORTS DEVELOPMENT

Notice of Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for the Skyline Basin Winter Sports Development, USDA-FS-FES-ADM-73-32.

The environmental statement concerns a proposal to develop a major winter sports complex 22 miles south of Dayton, Wash. Initially, the proposal is to provide the necessary winter recreation facilities to accommodate 2,000 people per day with ski runs and lifts to accommodate 1,500 skiers per day.

This final environmental statement was filed with CEQ May 16, 1973.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Building, room 3230, 12th Street and Independence Avenue SW., Washington, D.C. 20250.

Regional Forester, Multnomah Building, 319 Southwest Pine Street, mail: P.O. Box 3623, Portland, Oreg. 97208.

Forest Supervisor, Umatilla National Forest, 2517 Southwest Hailey Avenue, Pendleton, Oreg. 97801.

A limited number of single copies are available upon request to Herbert B. Rudolph, Forest Supervisor, 2517 Southwest Hailey Avenue, Pendleton, Oreg. 97801.

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151. Please refer to the name and number of the environmental statement above when ordering.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the Council on Environmental Quality Guidelines.

PHILIP L. THORNTON,
Deputy Chief, Forest Service.

MAY 16, 1973.

[FR Doc.73-10189 Filed 5-21-73;8:45 am]

Office of the Secretary

UTAH

Designation of Area for Emergency Loans

It has been determined that a general need for agricultural credit which temporarily cannot be met by private, cooperative, or other responsible sources exists in certain counties in Utah as a result of a natural disaster caused by severe drought during the spring and summer of 1972. The following county in Utah is affected by such natural disaster:

WAYNE

Therefore, this county is designated eligible for emergency loans, pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Public Law 93-24. Applications for emergency loans must be received by this Department prior to July 16, 1973, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans.

The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 16th day of May 1973.

J. PHIL CAMPBELL,
Acting Secretary.

[FR Doc.73-10110 Filed 5-21-73;8:45 am]

Soil Conservation Service

BEAVERDAM CREEK WATERSHED PROJECT, SOUTH CAROLINA

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Soil Conservation Service, U.S. Department of Agriculture, has prepared a draft environmental statement for the Beaverdam Creek Watershed project, Anderson and Oconee Counties, S.C., USDA-SCS-ES-WS-(ADM)-73-53(D).

The environmental statement concerns a plan for watershed protection and flood prevention. The planned works of improvement include conservation land treatment throughout the watershed, supplemented by (1) four floodwater retarding structures and (2) 9 miles of channel work.

This draft environmental statement was transmitted to CEQ on May 15, 1973.

Copies are available during regular working hours at the following locations:

Soil Conservation Service, USDA, South Agriculture Building, room 5227, 14th and Independence Avenue SW., Washington, D.C. 20250.

Soil Conservation Service, USDA, 901 Sumter Street, Columbia, S.C. 29201.

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151. Please use name and number of statement above when ordering. The estimated cost is $3.

Copies of the draft environmental statement have been sent for comment to various Federal, State, and local agencies as outlined in the Council on Environmental Quality Guidelines. Comments are also invited from others having knowledge of or special expertise on environmental impacts.

Comments concerning the proposed action or requests for additional information should be addressed to G. E. Huey, State Conservation, Soil Conservation Service, 901 Sumter Street, Columbia, S.C. 29201.

Comments must be received within 60 days of the date the statement was transmitted to CEQ in order to be considered in the preparation of the final environmental statement.

Dated May 16, 1973.

W. B. DAVEY,
Deputy Administrator for Water Resources, Soil Conservation Service.

[FR Doc.73-10187 Filed 5-21-73;8:45 am]

UPPER SALT CREEK WATERSHED PROJECT, ILLINOIS

Notice of Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Soil Conservation Service, U.S. Department of Agriculture, has prepared a final environmental statement for the Upper Salt Creek watershed project, Cook, Lake, and Du Page Counties, Ill., USDA-SCS-ES-WS-(ADM)-73-26-(F).

The environmental statement concerns a plan for watershed protection, flood prevention, and recreation. The planned works of improvement include conservation land treatment supplemented by one floodwater retarding-recreation structure, five floodwater retarding structures, 1.8 miles of channel modification and 261 acres of flood plain preserves.

Copies are available for inspection during regular working hours at the following locations:

Soil Conservation Service, USDA, South Agriculture Building, room 5227, 14th and Independence Avenue SW., Washington, D.C. 20250.

Soil Conservation Service, USDA, P.O. Box 678, 200 West Church Street, Champaign, Ill. 61820.

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151. Please order by name and number of statement. The estimated cost is $5.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the Council on Environmental Quality Guidelines.

Dated May 16, 1973.

WM. B. DAVEY,
Deputy Administrator for Water Resources, Soil Conservation Service.

[FR Doc.73-10186 Filed 5-21-73;8:45 am]

DEPARTMENT OF COMMERCE

Office of Import Programs

UNIVERSITY OF CALIFORNIA

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 FR 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket No. 72-00278-70-41700. Applicant: University of California, Lawrence Livermore Laboratory, P.O. Box 808, Livermore, Calif. 94550. Article: Laser equipment consisting of: amplifier heads, beam expanding telescopes, Farady effect optical isolator and various spare parts. Manufacturer: Compagnie Generale d'electricite, France. Intended use of article: The article is intended to be used in determining their suitability for use as elements of an optical amplifier system of 1.06 μm wavelength laser pulses, the duration of which will vary between 40 and 200 ps. The laser system is intended to be a diffraction-limited, laser medium damage-limited apparatus for the production of highly-ionized plasmas.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manuactured in the United States.

Reasons: The applicant's use in research on controlled fusion requires the highest laser power attainable. The foreign article provides the capability for laser power above 400 J in a 30 $\pm$5 ns pulse. The National Bureau of Standards (NBS) advised in its memorandum

dated May 3, 1973, that the capability for the highest laser power attainable is pertinent to the applicant's research purposes. NBS also advised that it knows of no compabable domestic instrument or apparatus which can match the power attainable from the article.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

B. BLANKENHEIMER,
Acting Director,
Office of Import Programs.

[FR Doc.73-10117 Filed 5-21-73;8:45 am]

UNIVERSITY OF CALIFORNIA

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 FR 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket No. 73-00382-98-34040. Applicant: University of California, Lawrence Berkeley Laboratory, east end of Hearst Avenue, Berkeley, Calif. 94720. Article: Carcinotron tube, type CO-40B. Manufacturer: Thomson CSF, France. Intended use of article: The article will serve as a replacement tube for three existing tubes in a polarized proton target used in high energy physics experiments in conjunction with the Laboratory's Bevatron Accelerator and the Stanford Linear Accelerator. The article energizes a microwave cavity, and in so doing polarizes the proton in the solid hydrogen crystals.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a tube center frequency of 70 GHz and a minimum of 2 W of output power across the entire tuneable range with a minimum of 10 W output in the range of approximately 69 to 70 GHz. The National Bureau of Standards (NBS) advised in its memorandum dated April 24, 1973, that the capability described above is pertinent to the applicant's high energy physics research. NBS also advises that it knows of no comparable domestically manufactured instrument of equivalent scientific value to the foreign article for the purposes for which the article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

B. BLANKENHEIMER,
Acting Director,
Office of Import Programs.

[FR Doc.73-10119 Filed 5-21-73;8:45 am]

UNIVERSITY OF ILLINOIS

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 FR 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket No. 72-00605-00-77040. Applicant: University of Illinois at Urbana, Champaign, Purchasing Division, 223 Administration Building, Urbana, Ill. 61801. Article: Ion probe and scan control unit. Manufacturer: AEI Scientific Apparatus, Ltd., United Kingdom. Intended use of article: The article is intended to be used as an accessory to an existing mass spectrometer being used in suppport of graduate research. This research includes crystal structure, diffusion of atoms and ions, superconductivity, properties of liquid helium, semiconductors, high pressure phenomena, crystal defects, and radiation damage, magnetic properties including electron and nuclear magnetic resonance, optical properties including infrared for ultraviolet absorption and Raman scattering, mechanical properties, phase transformations, properties of thin films, and recrystallization of glasses.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The application relates to compatible accessories for an instrument that had been previously imported for the use of the applicant institution. The article is being furnished by the manufacturer which produced the instrument with which the article is intended to be used, and is pertinent to the applicant's purposes.

The Department of Commerce knows of no similar accessories being manufactured in the United States, which is interchangeable with or can be readily adapted to the instrument with which the foreign article is intended to be used.

B. BLANKENHEIMER,
Acting Director,
Office of Import Programs.

[FR Doc.73-10116 Filed 5-21-73;8:45 am]

UNIVERSITY OF MONTANA

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 FR 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket No. 72-00422-91-35000. Applicant: University of Montana, Missoula, Mont. 59801. Article: Single crystal coniometer, Wooster type CS 25. Manufacturer: Crystal Structures Ltd., United Kingdom. Intended use of article: The article is intended to be used for instruction in the course, geology 445 crystallography and analytical mineralogy. The article will also be used for research, primarily for the X-ray study of silicate minerals, and for rapid alinement of single crystals for use on other types of X-ray goniometers.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The applicant requires a single crystal goniometer suitable for instruction in the basic principles of crystallography. The foreign article is a relatively simple single crystal goniometer designed for confident use by beginning students with a minimum of programing. The National Bureau of Standards (NBS) advised in its memorandum dated May 3, 1973, that the above characteristic of the foreign article is pertinent to the applicant's intended educational purposes. NBS also advised that it knows of no domestically manufactured instrument of equivalent scientific value to the article for the applicant's intended use.

B. BLANKENHEIMER,
Acting Director,
Office of Import Programs.

[FR Doc.73-10118 Filed 5-21-73;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

DENTAL DRUG PRODUCTS ADVISORY COMMITTEE

Notice of Cancellation of Meeting

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Public Law 92-463, 86 Stat. 770-776), the Food and Drug Administration announced in a notice published in the FEDERAL REGISTER of May 14, 1973 (38 FR 12640), public advisory committee meetings and other required information in accord-

ance with provisions set forth in section 10(a) (1) and (2) of the act.

Notice is hereby given that the meeting of the Dental Drug Products Advisory Committee scheduled for May 23 is canceled.

Dated May 15, 1973.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.73-10159 Filed 5-21-73;8:45 am]

Office of the Secretary

DEPUTY UNDER SECRETARY FOR REGIONAL AFFAIRS

Statement of Organization, Functions, and Delegations of Authority

Part 1 of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health, Education, and Welfare is hereby amended to add a new chapter 1B40, Deputy Under Secretary for Regional Affairs. This chapter supersedes those parts of chapter 1L which pertain to regional operations. The new chapter reads as follows:

1B40.00 *Mission.*—The Deputy Under Secretary for Regional Affairs: Serves as the principal staff assistant to the Under Secretary in providing coordination of regional activities. Provides headquarters liaison for regional offices on matters affecting all programs of the Department. Maintains relationships with other Federal departments and agencies at the headquarters level and consults with operating agencies and staff offices. Provides budget and other administrative services and controls for programs under the supervision of the regional directors. Fosters development of regional management information system.

1B40.10 *Organization.*—A. The Deputy Under Secretary for Regional Affairs reports directly to the Under Secretary.

B. The Office of Regional Affairs includes:

1. Departmental liaison staff.
2. Interdepartmental liaison staff.
3. Management and budget analysis staff

1B40.20 *Functions.*—A. *The departmental liaison staff.*—Represents regional input into agencies program development and operations, as well as OS planning, budgeting, and legislative processes. Identifies conflicts, problems, and issues among agencies, Office of the Secretary, and the regions. Develops solutions and alternative courses of action. Prepares directives for carrying out the decisions of the Secretary and monitors implementation of the Secretary's directives to assure completed actions. Consults with regional offices to determine new, continuing, and unresolved issues of mutual concern. Develops systems to assist regional offices to monitor progress in the implementation of directives and evaluation of accomplishments. Works with the regional offices to develop positions on secretarial initiatives, such as services integration and intergovernmental relations. Acts as surrogate for the regional directors in negotiating with agency heads and Office of the Secretary staff offices at the headquarters level.

B. *The interdepartmental liaison staff.* Identifies issues of mutual concern among Federal Departments. Strengthens existing functions and develops new relationships with Federal Regional Council Agencies to promote more and better joint development of efforts, such as integrated grants. Provides headquarters liaison with the Office of Management and Budget through the Assistant Secretary, Comptroller and the Assistant Secretary for Administration and Management on behalf of regional directors. Advises the Deputy Under Secretary for Regional Affairs of potential problem areas among departments and prepares secretarial initiatives to avert or resolve problems. Determines regional office positions on broad governmental problems for consideration by the Secretary. Acts as surrogate for the Secretary and the regional directors in representing the department on interdepartmental committees to assure continuing regional inputs on national issues. Provides headquarters liaison on behalf of the Secretary and the regional offices with special interest groups concerning HEW regional programs.

C. *The Management and Budget analysis staff.*—Provides program and budget guidance to regional directors and their staffs. Reviews and analyzes budget estimates and consolidates regional budgets. Submits, explains, and defends budget estimates to Assistant Secretary, Comptroller and others. Exercises budget control and analyzes expenditure rates and trends. Provides guidance and liaison assistance in areas of administrative services and controls. Fosters the development of a comprehensive management information covering both operational and administrative data to serve the day-to-day and long-range needs of regional directors. Facilitates the flow of management and program information to regions, handles preparations for regional directors participation in other meetings and conferences as needed.

Dated May 15, 1973.

FRANK CARLUCCI,
Acting Secretary.

[FR Doc.73-10183 Filed 5-21-73;8:45 am]

ATOMIC ENERGY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS

Notice of Meeting

MAY 18, 1973.

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the Advisory Committee on Reactor Safeguards Subcommittee on the Newbold Island Nuclear Generating Station will hold a meeting on June 6, 1973, in room 1046 at 1717 H Street, Washington, D.C. The purpose of this meeting will be to review matters relating to the application of Public Service Electric & Gas Co. for a permit to construct units 1 and 2 located near Trenton, N.J.

The following constitutes that portion of the Subcommittee's agenda for the above meeting which will be open to the public:

Wednesday, June 6, 1973, 9:30 a.m.–4 p.m.—Review of matters relating to the application for a construction permit (presentations by the AEC regulatory staff and Public Service Electric & Gas Co. and its consultants, and discussions with these groups).

In connection with the above agenda items, the Subcommittee will hold an executive session at 8:30 a.m. which will involve a discussion of its preliminary views, and executive session at the end of the day, consisting of an exchange of opinions of the Subcommittee members and internal deliberations and formulations of recommendations to the ACRS.

I have determined, in accordance with subsection 10(d) of Public Law 92-463, that the executive sessions at the beginning and end of the meeting will consist of an exchange of opinions and formulation of recommendations, the discussion of which, if written, would fall within exemption (5) of 5 U.S.C. 552(b). It is essential to close such portions of the meeting to protect the free interchange of internal views and to avoid undue interference with Agency or Committee operation.

Practical considerations may dictate alterations in the above agenda or schedule.

The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that in his judgment will facilitate the orderly conduct of business.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda item may do so by mailing 25 copies thereof, postmarked no later than May 31, 1973, to the Executive Secretary, Advisory Committee on Reactor Safeguards, U.S. Atomic Energy Commission, Washington, D.C. 20545. Such comments shall be based upon the application for a construction permit and related documents on file and available for public inspection at the Atomic Energy Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20545, and at the Trenton Free Public Library, 120 Academy Street, Trenton, N.J. 08608.

(b) Those persons submitting a written statement in accordance with paragraph (a) above may request an opportunity to make oral statements concerning the written statement. Such requests shall accompany the written statement and shall set forth reasons justifying the need for such oral statement and its usefulness to the Subcommittee. To the extent that the time available for the meeting permits, the Subcommittee will receive oral statements during a period of no more than 30 minutes at an appro-

priate time, chosen by the Chairman of the Subcommittee, between the hours of 1:30 p.m. and 3 p.m. on the day of the meeting.

(c) Requests for the opportunity to make oral statements shall be ruled on by the chairman of the Subcommittee, who is empowered to apportion the time available among those selected by him to make oral statements.

(d) Information as to whether the meeting has been canceled or rescheduled and in regard to the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted, can be obtained by a prepaid telephone call on June 4, 1973, to the office of the Executive Secretary of the Committee, telephone 301-973-5651, between 8:30 a.m. and 5:15 p.m. e.d.t.

(e) Questions may be propounded only by members of the Subcommittee and its consultants.

(f) Seating for the public will be available on a first-come-first-served basis.

(g) Copies of minutes of public sessions will be made available for inspection on or after July 23, 1973, at the Atomic Energy Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Copies may be obtained upon payment of appropriate charges.

JOHN C. RYAN,
Acting Advisory
Committee Management Officer.

[FR Doc.73-10309 Filed 5-21-73;9:58 am]

[Dockets Nos. 50-373, 50-374]

COMMONWEALTH EDISON CO.

Amended Order and Notice of Environmental Hearing

In the matter of the Commonwealth Edison Co. (La Salle County Nuclear Power Station, Units 1 and 2).

On May 2, 1973, the Board issued an order which included a schedule relative to discovery, trial briefs, etc., and the date for the evidentiary hearing on environmental issues. Due to the fact that counsel for the intervenors is committed to an extended court appearance during that time and there was an inadvertent delay of several days in the issuance of subpoenas, the schedule is revised as follows:

1. All discovery in the proceeding will be concluded on June 11, 1973.

2. Trial briefs, the resumes and statements of direct testimony of witnesses and answers to the Board's question will be in the hands of the Board and the parties by June 11, 1973.

Take notice, the evidentiary hearing on environmental issues will commence at 1:30 p.m., local time, on June 18, 1973, in the large conference room, Holiday Inn, junction of Highways I-80 and Route 47, Morris, Ill. 60450.

It is so ordered.

Issued at Washington, D.C., this 17th day of May 1973.

The Atomic Safety and Licensing Board.

ELIZABETH S. BOWERS,
Chairman.

[FR Doc.73-10122 Filed 5-21-73;8:45 am]

[Docket No. 50-336]

CONNECTICUT LIGHT & POWER CO. ET AL.

Notice and Order for Prehearing Conference

MAY 17, 1973.

The Atomic Energy Commission, by a notice of hearing dated March 14, 1973, and published in the FEDERAL REGISTER on March 20, 1973, at volume 38, page 7357, gave notice that a hearing would be held, at a time and place to be established by an Atomic Safety and Licensing Board, to consider the application filed by the applicants, Connecticut Light & Power Co., Hartford Electric Light Co., Western Massachusetts Electric Co., and Millstone Point Co., for a license to operate the pressurized water reactor identified as the Millstone Nuclear Power Sation, Unit No. 2 (the facility), located at the Millstone Nuclear Power Station in the town of Waterford, Conn. As indicated in that notice of hearing, the issues to be determined by the Atomic Safety and Licensings Board are those identified in the notice of hearing, pursuant to the National Environmental Policy Act of 1969.

A notice dated February 9, 1973, and published in the FEDERAL REGISTER on February 15, at volume 38, page 4530, announced the appointment of an Atomic Safety and Licensing Board in this proceeding consisting of Dr. A. Dixon Callihan, Dr. Frederick P. Cowan, and Sidney G. Kingsley, chairman, with Dr. John H. Manley as a technically qualified alternate and Thomas W. Reilly as alternate chairman.

The notice of hearing announced that the date and place of a prehearing conference and of the hearing would be scheduled by the Atomic Safety and Licensing Board and would be published in the FEDERAL REGISTER.

Please take notice that a prehearing conference, constituting both the special prehearing conference pursuant to § 2.751a of the Commission's rules of practice (title 10, Code of Federal Regulations, pt. 2) and the prehearing conference pursuant to § 2.752 of the rules of practice, will be held at 10 a.m. local time, on June 19, 1973, at the complex meeting room, first floor, Public Works Complex, 1000 Hartford Road, Waterford, Conn., to consider:

1. Identification, simplification, and clarification of the issues;
2. The necessity or desirability of amending the pleadings;
3. The need for discovery, if any, and the time required therefor;
4. Stipulations, and admissions of fact and of the contents and authenticity of documents in order to avoid unnecessary proof;
5. Identification of witnesses and the limitation of the number of expert witnesses, and other steps to expedite the presentation of evidence;
6. Procedures, including rules of evidence, to be followed in the presentation of evidence at the evidentiary hearing;
7. Establishment of a schedule for further action, including a hearing schedule; and
8. Such other matters as may aid in the orderly disposition of the proceeding.

Members of the public are invited to attend the prehearing conference and any later prehearing conferences, as well as the evidentiary hearing to be held at a later date to be fixed by the Atomic Safety and Licensing Board.

The prehearing conference will be limited to the purposes specified, in preparation for the later evidentiary hearing. No evidence will be received at the prehearing conference, and there will not be an opportunity at the prehearing conference to present statements by members of the public who wish to make limited appearances for that purpose. Applications for permission to make limited appearances for the purpose of making such statements will be ruled upon by the atomic safety and licensing board at the evidentiary hearing to be held later.

It is ordered, That counsel shall conduct informal conferences, including telephone conferences, to the extent that they may be practicable, to expedite the proceeding and in particular to advance the purposes of the prehearing conference.

Dated this 17th day of May 1973, at Washington, D.C.

The Atomic Safety and Licensing Board.

SIDNEY G. KINGSLEY,
Chairman.

[FR Doc.73-10121 Filed 5-21-73;8:45 am]

[Docket No. 50-302]

FLORIDA POWER CORP.

Availability of Final Environmental Statement

Pursuant to the National Environmental Policy Act of 1969 and the Atomic Energy Commission's regulations in appendix D to 10 CFR part 50, notice is hereby given that a Final Environmental Statement prepared by the Commission's Directorate of Licensing, related to proposed issuance of an operating license to Florida Power Corp. for the Crystal River Unit 3 Nuclear Generating Plant, located in Citrus County, Fla., is available for inspection by the public in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C., and in the Crystal River Public Library, Crystal River, Fla. 32629. The Final Environmental Statement is also being made available at the Department of Administration, Division of State Planning, 725 South Bronough, Tallahassee, Fla. 32304.

The notice of availability of the Draft Environmental Statement for the Crystal River Unit 3 Nuclear Generating Plant, and requests for comments from interested persons was published in the FEDERAL REGISTER on September 12, 1972 (37 FR 18486). The comments received from Federal, State, and local officials and interested members of the public have been included as appendixes to the Final Environmental Statement.

Single copies of the Final Environmental Statement may be obtained by

writing the U.S. Atomic Energy Commission, Washington, D.C. 20545, attention: Deputy Director for Reactor Projects, Directorate of Licensing.

Dated at Bethesda, Md., this 15th day of May 1973.

For the Atomic Energy Commission.

WM. H. REGAN, Jr.,
Chief, Environmental Projects Branch No. 4, Directorate of Licensing.

[FR Doc.73-9941 Filed 5-21-73;8:45 am]

[Docket No. 50-263]

NORTHERN STATES POWER CO.

Notice of Reconstitution of Board

In the matter of Northern States Power Co. (Monticello Nuclear Generating Plant, Unit 1).

Mr. Warren E. Nyer was a member of the Atomic Safety and Licensing Board established to consider the above application. Mr. Nyer is unable to continue in his duties as a member of this Board.

Accordingly, Dr. Walter H. Jordan, the alternate, is appointed a member of the Board. Reconstitution of the Board in this manner is in accordance with § 2.721 of the rules of practice, as amended.

Dated at Washington, D.C., this 15th day of May 1973.

NATHANIEL H. GOODRICH,
Chairman, Atomic Safety and Licensing Board Panel.

[FR Doc.73-10098 Filed 5-21-73;8:45 am]

[Docket No. 50-423]

MILLSTONE POINT CO. ET AL.

Establishment of Atomic Safety and Licensing Board

On March 23, 1973, the Commission published in the FEDERAL REGISTER, 38 FR 7595, a notice of hearing to consider the application filed by the Millstone Point Co. et al., for a construction permit for the Millstone Nuclear Power Station Unit No. 3. The notice indicated that the Safety and Licensing Board for this proceeding would be designated at a later date, and that notice of its membership would be published in the FEDERAL REGISTER.

Pursuant to the Atomic Energy Act of 1954, as amended, the regulations of title 10, Code of Federal Regulations, part 2 (rules of practice) and the notice of hearing referred to above, notice is hereby given that the Safety and Licensing Board in this proceeding will consist of Mr. Lester Kornblith, Jr., Dr. John R. Lyman, and Edward Luton, Esq., Chairman. Dr. Forrest J. Remick has been designated as a technically qualified alternate and Jerome Garfinkel, Esq., has been designated as an alternate qualified in the conduct of administrative proceedings.

The positions and mailing addresses of the Board members are as follows:

1. Edward Luton, Esq., chairman, as attorney member of the Atomic Safety and Licensing Board Panel, U.S. Atomic Energy Commission, Washington, D.C. 20545.

2. Mr. Lester Kornblith, Jr., a technical member of the Atomic Safety and Licensing Board Panel, U.S. Atomic Energy Commission, Washington, D.C. 20545.

3. Dr. John R. Lyman, Department of Environmental Sciences and Engineering, University of North Carolina, Chapel Hill, N.C., mailing address: 404 Clay Road, Chapel Hill, N.C. 27514.

4. Jerome Garfinkel, Esq., alternate chairman, an attorney member of the Atomic Safety and Licensing Board Panel, U.S. Atomic Energy Commission, Washington, D.C. 20545.

5. Dr. Forrest J. Remick, alternate, Director of the Institute for Science and Engineering, Pennsylvania State University, 207 Old Main Building, University Park, Pa. 16802.

As provided in the notice of hearing, the date and place of a prehearing conference and of a hearing will be scheduled by the Board and will be published in the FEDERAL REGISTER.

Dated at Washington, D.C., this 15th day of May 1973.

NATHANIEL H. GOODRICH,
Chairman, Atomic Safety and Licensing Board Panel.

[FR Doc.73-10099 Filed 5-21-73;8:45 am]

[Dockets Nos. 50-272 and 50-311]

PUBLIC SERVICE ELECTRIC & GAS CO.

Notice of Hearing on Facility Operating License

Pursuant to the Atomic Energy Act of 1954, as amended (the Act), the National Environmental Policy Act of 1969 (NEPA), and the regulations in title 10, Code of Federal Regulations, part 50, "Licensing of Production and Utilization Facilities," and part 2, "Rules of Practice," notice is hereby given that, pursuant to a memorandum and order of May 17, 1973, a hearing will be held on the two pressurized water reactors identified as the Salem Nuclear Generating Station, Units 1 and 2 (the facilities) of the applicant, Public Service Electric & Gas Co. The hearing to consider the issuance of operating licenses for the facilities will be held at a time and place to be established by the Atomic Safety and Licensing Board named in this notice, to begin in the vicinity of the facilities in Salem County, N.J. Construction of the facilities was authorized by construction permits Nos. CPPR-52 and CPPR-53, issued by the Atomic Energy Commission on September 5, 1968. Unit 1 is subject to the provisions of section C.3, and unit 2 is subject to the provisions of section C.2, of appendix D to 10 CFR part 50, which sets forth procedures applicable to review of environmental considerations for production and utilization facilities for which construction permits were issued prior to January 1, 1970. The Atomic Safety and Licensing Board, designated by the Chairman of the Atomic Safety and Licensing Board Panel, will consist of Dr. Emmeth A. Luebke, Dr. Harry Foreman, and Edward Luton, Chairman. Dr. Forrest J. Remick has been designated as a technically qualified alternate, and Max Paglin as an alternate qualified in the conduct of administrative proceedings.

A "Notice of Consideration of Issuance of Facility Operating Licenses; Notice of Opportunity for Hearing" was published in the FEDERAL REGISTER on October 20, 1972 (37 FR 22637). The notice provided, among other things, that within 30 days from the date of publication any person whose interest may be affected by the proceeding might file a petition for leave to intervene in accordance with the requirements of 10 CFR, Part 2, "Rules of Practice." A petition to intervene was thereafter filed by Citizens Opposed to Radiation Pollution, a voluntary association. As provided in the memorandum and order of May 17, 1973, a public hearing will be held.

A prehearing conference or conferences will be held by the Atomic Safety and Licensing Board, at dates and places to be set by it, to consider pertinent matters in accordance with the Commission's rules of practice. The date and place of the hearing will be set by the board at or after a prehearing conference. Notices of the dates and places of prehearing conferences and of the hearing will be published in the FEDERAL REGISTER. The specific issues to be considered at the hearing will be determined by that board.

For further details, see the application for the facility operating licenses, dated March 1, 1971, as amended; the applicant's environmental report dated June 30, 1971, as supplemented; and other pertinent documents; which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Salem Free Public Library, 112 West Broadway, Salem, N.J. As they become available, the following documents also will be available at the above locations: (1) The report of the Advisory Committee on Reactor Safeguards on the application for facility operating licenses; (2) the Commission's final detailed statement on environmental considerations; (3) the proposed facility operating licenses; and (4) the technical specifications, which will be attached to the proposed facility operating licenses. Copies of items (1) and (2) may also be obtained by request to the Deputy Director for Reactor Projects, Directorate of Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545.

Any person who wishes to make an oral or written statement in this proceeding, but who has not filed a petition for leave to intervene, may request permission to make a limited appearance pursuant to 10 CFR 2.715 of the Commission's rules of practice. Limited appearances will be permitted at the time of the hearing in the discretion of the board, within such limits and on such conditions as may be fixed by it. A person desiring to make a limited appearance is

requested to inform the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, not later than June 21, 1973. A person permitted to make a limited appearance does not become a party, but may state his position and raise questions which he would like to have answered to the extent that the questions are within the scope of the hearing. A member of the public does not have the right to participate unless he has been granted the right to intervene as a party or the right of limited appearance.

An answer to this notice, pursuant to 10 CFR 2.705 of the Commission's rules of practice, must be filed by the parties to this proceeding (other than the regulatory staff) not later than June 11, 1973.

Papers required to be filed in this proceeding may be filed by mail or telegram addressed to the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Staff, or may be filed by delivery to the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

Pending further order of the board, parties are required to file, pursuant to the provisions of 10 CFR 2.708 of the Commission's rules of practice, an original and 20 conformed copies of each such paper with the Commission.

It is so ordered.

The Atomic Safety and Licensing Board designated to rule on petitions for leave to intervene.

Issued at Washington, D.C., this 17th day of May 1973.

SIDNEY G. KINGSLEY,
Chairman.

[FR Doc.73-10123 Filed 5-21-73;8:45 am]

[Docket No. 50-244]

ROCHESTER GAS & ELECTRIC CORP.

Establishment of Atomic Safety and Licensing Board

Pursuant to delegation by the Commission dated December 29, 1972, published in the FEDERAL REGISTER (37 FR 28710) and §§ 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717, and 2.721 of the Commission's regulations, all as amended, an Atomic Safety and Licensing Board is being established to rule on petitions and/or requests for leave to intervene in the following proceeding:

Rochester Gas & Electric Corp., R.E. Ginna Nuclear Power Plant, Unit No. 1.

This action is in reference to the "Notice of Consideration of Conversion of Conversion of Provisional Operating License to Full-Term Operating License; Notice of Opportunity for Hearing Pursuant to 10 CFR part 50, appendix D" published by the Commission in the above matter (37 FR 26144), December 8, 1972.

The members of the Board are:

James R. Yore, Esq., Chairman.
Robert M. Lazo, Esq., Member.
Dr. Marvin M. Mann, Member.

Dated at Washington, D.C., this 15th day of May 1973.

ATOMIC SAFETY AND LICENSING BOARD PANEL,
NATHANIEL H. GOODRICH,
Chairman.

[FR Doc.73-10090 Filed 5-21-73;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket 24488; Order 73-5-86]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Passenger Fares

MAY 16, 1973.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and part 261 of the Board's Economic regulations between various air carriers, foreign air carriers and other carriers embodied in the resolutions of traffic conference 3 of the International Air Transport Association (IATA). The agreement, which was adopted by mail vote, has been assigned the above-designated CAB agreement number, and would modify the tour provisions of group inclusive tour fares between Sydney/Noumea and Port Vila.

Pursuant to authority duly delegated by the Board in the Board's regulations 14 CFR 385.14:

It is not found that Resolution 300(Mail 402)084z, which is incorporated in Agreement CAB 23643 affects air transportation within the meaning of the Act.

Accordingly, *It is ordered*, That jurisdiction is disclaimed with respect to Agreement CAB 23643.

Persons entitled to petition the Board for review of this order pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within 10 days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review thereof is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

[SEAL] PHYLLIS T. KAYLOR,
Acting Secretary.

[FR Doc.73-10182 Filed 5-21-73;8:45 am]

[Dockets 24068 and 24832]

VIKING INTERNATIONAL AIRFREIGHT, INC., ET AL.

Notice of Prehearing Conference

Viking International Airfreight, Inc., and Eugene Pikovsky (docket 24068) and Virginia Air Cargo Co., Inc., and Wilson Trucking Corporation (docket 24823).

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on June 29, 1973, at 10 a.m., local time, in room 911, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Administrative Law Judge William H. Dapper.

In order to facilitate the conduct of the conference parties are instructed to submit one copy to each party and four copies to the judge of: (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 June 15, 1973, and the other parties on or before June 25, 1973. The submissions of the other parties shall be limited to points on which they differ with the Bureau of Operating Rights, and shall follow the numbering and lettering used by the Bureau to facilitate cross-referencing.

Dated at Washington, D.C., May 16, 1973.

[SEAL] RALPH L. WISER,
Chief Administrative Law Judge.

[FR Doc.73-10181 Filed 5-21-73;8:45 am]

CIVIL SERVICE COMMISSION

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Health, Education, and Welfare to fill by noncareer executive assignment in the excepted service the position of Deputy Assistant Secretary (Policy Development), Office of the Assistant Secretary for Community and Field Services, Office of the Secretary.

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

[FR Doc.73-10177 Filed 5-21-73;8:45 am]

COMMITTEE FOR PURCHASE OF PRODUCTS AND SERVICES OF THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST

Addition to Procurement List 1973

Notice of proposed addition to the Initial Procurement List, August 26, 1971 (36 FR 16982), was published in the FEDERAL REGISTER on December 14, 1972 (37 FR 26628).

Pursuant to the above notice the following commodity is added to Procurement List 1973, March 12, 1973 (38 FR 6742).

COMMODITY	Each
Class 7920:	
Handle, paint roller (IB) 7920-682-6512	$0.246

By the Committee.

CHARLES W. FLETCHER,
Executive Director.

[FR Doc.73-10239 Filed 5-21-73;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

4-CHLORO-5-(METHYLAMINO)-2-(α,α,α-TRIFLUORO-m-TOLYL)-3(2H)-PYRIDAZINONE

Notice of Establishment of Temporary Tolerance

Sandoz-Wander, Inc., P.O. Box 1489, Homestead, Fla. 33030, submitted a petition (PP 3G1310) requesting establishment of a temporary tolerance for combined negligible residues of the herbicide 4 - chloro - 5-(methylamino)-2-(α,α,α - trifluoro - *m* - tolyl) - 3(2*H* - pyridazinone and its desmethyl metabolite 4-chloro - 5 - (amino)-2-(α,α,α-trifluoro-*m* - tolyl) - 3(2*H*) - pyridazinone in or on the raw agricultural commodity cottonseed at 0.1 p/m.

It has been determined that a temporary tolerance for combined negligible residues of the herbicide and its desmethyl metabolite in or on cottonseed at 0.1 p/m is safe and will protect the public health. It is therefore established as requested on condition that the herbicide be used in accordance with the temporary permit being issued concurrently and which provides for distribution under the Sandoz-Wander, Inc., name.

This temporary tolerance expires May 8, 1974.

This action is taken pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(j), 68 Stat. 516; 21 U.S.C. 346a(j)), 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 Pesticide Programs (36 FR 9038).

Dated May 8, 1973.

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

[FR Doc.73-10114 Filed 5-21-73;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Canadian List No. 309]

CANADIAN STANDARD BROADCAST STATIONS

Notification List

MAY 7, 1973.

List of new stations, proposed changes in existing stations, deletions, and corrections in assignments of Canadian standard broadcast stations modifying the assignments of Canadian broadcast stations contained in the appendix to the recommendations of the North American Regional Broadcasting Agreement Engineering Meeting, January 30, 1941.

Call letters	Location	Power, kW	Antenna	Schedule	Class	Antenna height (ft)	Ground system: Number of radials	Ground system: Length (ft)	Proposed date of commencement of operation
CKEK	Cranbrook, British Columbia, N. 49°28'13", W. 115°45'13" (daytime power increase and correction of coordinates—PO 570 kHz, DA-1, 1 kW).	10D/1N	DA-1	570 kHz, U	III				
CJAT	Trail, British Columbia, N. 49°06'48", W. 117°44'-19" (PO 610 kHz, 1 kW, ND).	10D/1N	DA-D, ND-N-475	610 kHz, U	III				
CFEK	Fernie, British Columbia, N. 49°31'36", W. 115°-02'40" (PO 1240 kHz, 1D/0.25N, ND).	1D/0.5N	DA-1	1,240 kHz, U	IV				
CFJR	Brockville, Ontario, N. 44°36'22", W. 75°43'09" (change in daytime radiation pattern).	1D/.25N	DA-D, ND-N-190	1,450 kHz, U	IV				

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.73-10180 Filed 5-21-73;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. E-8169]

NEW ENGLAND POWER SERVICE CO.

Proposed Changes in Rates and Charges

MAY 15, 1973.

Take notice that on April 30, 1973, New England Power Service Co. (NEPCO) tendered for filing an agreement dated April 27, 1973, between NEPCO and its affiliate the Narragansett Electric Co. (Narragansett) which amends exhibit D of NEPCO's contract for primary service for resale to Narragansett. NEPCO states that in accordance with § 35.13(b)(4)(i), we are enclosing statements A through I and statements K and N and that the other statements were found to be not applicable in an earlier similar filing on December 9, 1970, and NEPCO requests waiver for them in accordance with § 35.13(b)(4)(iii). Additionally, NEPCO requests that § 35.11 of the Commission's regulations requiring prior notice be waived and that the rate schedule charges be allowed to become effective as of January 1, 1973, and if the notice requirements are not previously waived, NEPCO requests that the rate schedule change become effective no later than 60 days after filing. NEPCO states that the major differences between this filing and the one now in effect result from the substantial increase in transmission investment, basically 345 KV, an increase in the property taxes, and the rate of return used. NEPCO states further that in order to expedite the acceptance of this change it is willing to stipulate that it will refund, back to the effective date, the difference between the requested return of 7.94 percent and whatever it is allowed in the Narragansett rate case presently pending with the RIPUC.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before May 25, 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 application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-10135 Filed 5-21-73;8:45 am]

[Docket No. RP72-127]

NORTHERN NATURAL GAS CO.

Extension of Time and Postponement of Prehearing Conference and Hearing

MAY 15, 1973.

On May 4, 1973, Staff Counsel filed a motion for a further extension of the procedural dates as established by the notice issued March 6, 1973, in the above designated matter, pending disposition by the Commission of the proposed stipulation and agreement filed in this proceeding and docket No. RP-71-107 (phase 2). The motion states that no parties to the proceeding object to this motion.

Upon consideration, notice is given that the procedural dates are further modified as follows:

Staff service date, July 3, 1973.
Intervener service date, July 24, 1973.
Northern Natural's rebuttal service date, August 7, 1973.

Prehearing conference and hearing date, August 29, 1973.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-10134 Filed 5-21-73;8:45 am]

[Docket No. RP71-119]

PANHANDLE EASTERN PIPE LINE CO.

Filing in Compliance With Commission Order

MAY 15, 1973.

Take notice that Panhandle Eastern Pipe Line Co. (Panhandle) has made a filing pursuant to the order issued by the Commission on February 9, 1973, in this proceeding requiring Panhandle to file revised tariff sheets modifying its tariff in order to incorporate provisions to define and delimit emergency procedures.[1] Panhandle initially attempted to comply with the aforementioned order of the Commission by a filing that it submitted on February 28, 1973. The latter filing made by Panhandle was rejected by order issued on March 28, 1973, as being inconsistent with the Commission's directives.

Panhandle deleted the sentence that the Commission objected to and has filed two copies of a substitute second revised interim sheet No. 42-H, which it believes is in accordance with the Commission's order of February 9, 1973, referred to above. The presently proposed change is the addition of § 16.9 to the general terms and conditions of its tariff which provides as follows:

16.9 *Emergency situations requiring supplemental deliveries.*—In the event an emergency situation, including an environmental emergency, should arise in which supplemental supplies of gas are required in order to forestall irreparable injury to life or property, Seller shall have the right to authorize supplemental daily and monthly quantities for a Customer whose deliveries are being curtailed under § 16.2 upon receipt of proof that such emergency exists, but the aggregate of seller's deliveries to such customer shall not exceed the customer's contract quantity applicable to such period. In each instance in which such authorization is requested by the customer and granted by the seller, such quantity of supplemental gas actually delivered by seller shall be repaid by means of a reduction in customer's base period volume during the next 6 months of curtailment following the end of the period of emergency deliveries hereunder with the minimum monthly repayment being equal to one-sixth of the aggregate supplemental quantity delivered by seller during the period of emergency deliveries.

Any person desiring to be heard or to make any protest with reference to said filing should on or before May 25, 1973, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or 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. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

[1] See order issued by the Commission granting the city of Monroe City's petition for extraordinary relief on Feb. 9, 1973.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-10136 Filed 5-21-73;8:45 am]

[Docket No. CI73-736]

PHILLIPS PETROLEUM CO.

Notice of Application

MAY 9, 1973.

Take notice that on April 30, 1973, Phillips Petroleum Co. (Applicant), Bartlesville, Okla. 74004, filed in docket No. CI73-736 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 Panhandle Eastern Pipe Line Co. from the Powder River Basin Area, Campbell County, Wyo., 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 approximately 75,000 M ft^3 of gas per month for 1 year at 40c/M ft^3 at 14.65 lb/in^2a within the contemplation of § 2.70 of the Commission's 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 May 25, 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 appropriation 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.73-10128 Filed 5-21-73;8:45 am]

[Project 2685]

POWER AUTHORITY OF THE STATE OF NEW YORK

Availability of Staff Final Environmental Impact Statement

Notice is hereby given that on May 21, 1973, as required by the Commission rules and regulations under order No. 415-C, issued December 18, 1972, a final environmental statement prepared by the Commission's staff pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (Public Law 91-100) was placed in the public files of the Federal Power Commission. This statement deals with an application for approval of exhibits for the routing of a proposed transmission line filed by the Power Authority of the State of New York pursuant to article 34 of the License for the Blenheim-Gilboa Pumped Storage Project No. 2685 (41 FPC 712, 718).

The statement is available for public inspection in the Commission's Office of Public Information, room 1000, Union Center Plaza Building, 825 North Capitol Street NE., Washington, D.C., and the Commission's New York Regional Office, 26 Federal Plaza, 22d floor, New York, N.Y. 10007. Copies will be available from the National Technical Information Service, Department of Commerce, Springfield, Va. 22151.

The Commission, on June 6, 1969 (41 FPC 712), issued a license to the Power Authority of the State of New York (PASNY) to construct and operate the Blenheim-Gilboa Pumped Storage Project No. 2685 including, as part of the project works, three 345-kV transmission lines. By its order issued April 10, 1970 (43 FPC 521), the Commission approved exhibits authorizing construction of the Gilboa-Fraser and Gilbo-New Scotland lines only (now in operation). The Commission reserved decision as to the design and the routing of the Gilboa-Leeds line in view of opposition thereto.

The subject application and proceeding involve PASNY's request for approval of exhibits to authorize the route prior to construction of the Gilboa-Leeds 345-kV transmission line. Exhibits J, K, and M show the design and alternative routes "A-1" and "B-1" for the Leeds line which will originate at the project switchyard adjacent to the powerhouse in Schoharie County, N.Y., and extend about 35 miles into Albany (Route "B-1") and

Greene Counties (Routes "A–1" and "B–1") to the Leeds substation near Catskill, N.Y.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73–10129 Filed 5–21–73;8:45 am]

[Docket No. CI73–694]

RODMAN CORP.

Notice of Application

MAY 10, 1973.

Take notice that on April 16, 1973, the Rodman Corp. (Applicant), P.O. Box 3826, Odessa, Tex. 79760, filed in docket No. CI73–694 an application, as supplemented on April 19, 1973, 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 Cities Service Gas Co. (Cities) from the Sooner Trend Field, Blaine, Garfield, Major, and Kingfisher Counties, Okla., all as more fully set forth in the application, as supplemented, which is on file with the Commission and open to public inspection.

Applicant proposes under the optional gas pricing procedure to sell gas at an initial rate of 55c/M ft³ at 14.65 lb/in²a, subject to upward and downward British thermal unit adjustment, pursuant the terms of an amendment dated April 5, 1973, to contracts dated August 4, 1967, September 19, 1969, and March 1, 1971. Said amendment provides for price escalations of 1c/M ft³ every year. Applicant expects initially under this proposal to deliver approximately 572,786 M ft³ of gas per month to Cities at the tailgates of Applicant's North and South Plants, in Oklahoma.

Applicant states that it is presently selling gas to Cities from certain acreage in Garfield, Major, Blaine, and Kingfisher Counties under authorization granted in dockets Nos. CI68–255, CI70–573, and CI71–784 at rates of 21.9, 21.9, and 23.5734 c/M ft², respectively, under the terms of the aforesaid contracts. Applicant also states that it is selling to Cities under those certificates gas which it has obtained from small producers. Applicant states that it is collecting from Cities 9 c/M ft² more than it pays the small producer for low pressure gas, but not more than 30 c/M ft², and 5 c/M ft² more than it pays the small producer for low pressure gas, but more than 30 c/M ft², and 5 c/M ft² more than it pays the small producer for high pressure gas, but no more than 35 c/M ft². Applicant alleges that the prices which it must pay small producers for this gas from recently completed wells are in excess of the prices which it may collect from Cities for such gas.

Applicant herein requests authorization to sell gas committed to the three aforesaid contracts as amended on April 5, 1973, from wells commenced on or after April 6, 1972. In the alternative, Applicant requests that the orders issuing certificates in dockets Nos. CI68–255, CI70–573, and CI71–784 be amended to accomplish the same result.

Applicant asserts that the original prices in the aforesaid contracts are insufficient incentive for it to develop the Sooner Trend Field further by investing substantial new capital in drilling. Applicant states that in return for the 55.0-c/M ft² initial price and other escalations, it is obligated to drill or cause to be drilled 100 new wells within 5 years on the acreage covered by the April 5, 1973, amendment, if the price provided in the amendment is approved by the Commission. Applicant further asserts that intrastate sales in other areas are being made at even higher prices as evidenced by reports of sales at 73c/M ft³ in Ohio and 76c/M ft³ in Alabama-Florida. Applicant submits that the assurance on a long-term supply of natural gas produced domestically and delivered at the contract prices herein is beneficial to consumers faced with the prospect of paying in excess of $1 (initial price) per thousand cubic feet for gas imported from countries with uncertain political futures or transported over long distances from Alaska.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 29, 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 this 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.73–10148 Filed 5–21–73;8:45 am]

[Docket No. E–8052]

SOUTH CAROLINA ELECTRIC & GAS CO.

Order Accepting Proposed Rate Changes for Filing

MAY 15, 1973.

On February 27, 1973, South Carolina Electric & Gas Co. (S.C.E. & G.) tendered a filing which proposed changes in its FPC Electric Tariff Original Volume No. 1. This filing was not in compliance with § 35.2(b) of the Commission's regulations under the Federal Power Act as it did not contain unexecuted service agreements for all customers. On April 17, 1973, S.C.E. & G. supplemented and completed its filing by submitting the unexecuted service agreements for all customers. The proposed changes increase the rates for wholesale electric service rendered to municipal, public power, and rural cooperative systems, and provide general terms and conditions for wholesale electric power service to those customers. The proposed rates would constitute a revenue increase of $1,121,766.

S.C.E. & G.'s present contracts with its wholesale customers do not have uniform expiration dates. One contract expired on December 31, 1972. Three contracts contemplate rate increases during the term of the contract; S.C.E. & G. proposes an effective date of May 1, 1973, for these three, Orangeburg, Winnsboro, and South Carolina Public Service Authority, and for those contracts that have expired prior to that date. However, since S.C.E. & G.'s filing was not completed until April 17, 1973, we deem that S.C.E. & G.'s proposed tariff is accepted for filing to be effective May 18, 1973, as hereinafter ordered. S.C.E. & G. proposes that for the remaining customers the new rates become effective upon expiration of the existing contracts, at which time new contracts which conform to the tariff will be executed.[1]

S.C.E. & G. avers that under the present rates, based on the test year 1971, it is earning a rate of return from service to the municipal customers of only 3.6 and 3.7 percent from the rural cooperative customers. S.C.E. & G. further states that the proposed rates will enable the company to earn a rate of return more nearly appropriate to that required to attract the necessary amounts of capital to continue to provide adequate service. The proposed rate of return is 8.71 percent.

S.C.E. & G. also states that it is seeking by way of this filing to establish a uniformity of terms and conditions and to provide a tariff form of filing in lieu

[1] Contracts expired with the Town of McCormick, S.C., and Broad River Electric Cooperative, Inc., on May 1, 1973. Expiration dates for the other four contracts are as follows: Palmetto Electric Cooperative, Inc., Oct. 1, 1973, Little River Electric Cooperative, Inc., Jan. 1, 1974, Berkeley Electric Cooperative, Inc., July 1, 1973, and Central Electric Power Cooperative, Inc., June 26, 1973.

of the present individual contract type filings.

The notice of proposed increase, issued on March 9, 1973, provided that the closing date for petitions to intervene, protests, and comments was March 30, 1973. Petitions to intervene were received on March 30, 1973, from Saluda Electric Cooperative, Inc. (Saluda), Berkeley Electric Cooperative, Inc. (Berkeley), and the city of Orangeburg, S.C.

Petitioners, Saluda and Berkeley, allege that the rate increases will result in increased wholesale power costs and that the proposed rates are not required in order to give a rate of return sufficient to attract capital. The city of Orangeburg further alleges that the proposed rate increases may unlawfully disadvantage Orangeburg in competition at the retail level of industry.

In order that the Commission will have a full, complete and up to date record on all of the issues presented, we shall require S.C.E. & G. to file a complete updated cost of service for a calendar year 1972.

Our review of S.C.E. & G.'s filing indicates that certain issues are raised which may require development in an evidentiary proceeding. The proposed increases in rates and charges have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful.

The Commission finds

(1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Federal Power Act that the Commission enter upon a hearing concerning the lawfulness of the rates and charges contained in S.C.E. & G.'s FPC Electric Tariff Original Volume No. 1, as proposed in this docket, and that the tendered tariff sheets be suspended as hereinafter provided.

(2) The disposition of this proceeding should be expedited in accordance with the procedure set forth below.

(3) In the event this proceeding is not concluded prior to the termination of the suspension period herein ordered, the placing of the rate changes applied for in this proceeding into effect, subject to refund with interest while pending Commission determination as to their justness and reasonableness, is consistent with the purpose of the Economic Stabilization Act of 1970, as amended.

(4) Participation of the above-named petitioners for intervention in this proceeding may be in the public interest.

The Commission orders

(A) Pursuant to the authority of the Federal Power Act, particularly section 205(e) thereof, the Commission's rules of practice and procedure, and the regulations under the Federal Power Act (18 CFR, ch. I), a public hearing shall be held on September 25, 1973, at 10 a.m., e.d.t., in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, concerning the lawfulness of the rates, charges, classifications, and services contained in S.C.E. & G.'s FPC Electric Tariff Original Volume No. 1.

(B) On or before June 18, 1973, S.C.E. & G. shall file a complete updated cost of service for the 1972 calendar year. On or before August 20, 1973, the Commission Staff shall serve its prepared testimony and exhibits. The prepared testimony and exhibits of all intervenors shall be served on or before September 4, 1973. Any rebuttal evidence by S.C.E. & G. shall be served on or before September 18, 1973. The public hearing herein ordered shall convene on September 25, 1973, at 10 a.m., e.d.t.

(C) A presiding administrative law judge to be designated by the Chief Administrative Law Judge for that purpose (see Delegation of Authority, 18 CFR 3.5 (d)), shall preside at the hearing in this proceeding, shall prescribe relevant procedural matters not herein provided, and shall control this proceeding in accordance with the policies expressed in the Commission's rules of practice and procedure.

(D) Pending hearing and a final decision thereon, S.C.E. & G.'s proposed tariff sheets are suspended for 1 day and the use thereof deferred until May 18, 1973, and until such further time as they are made effective in the manner provided by the Federal Power Act.

(E) The above-named petitioners are hereby permitted to intervene in these proceedings, subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such intervenors shall be limited to matters affecting rights and interests specifically set forth in the petitions to intervene and *Provided, further,* That the admission of such intervenors shall not be construed as recognition that they might be aggrieved because of any order or orders issued by the Commission in these proceedings.

(F) In accordance with the Commission's regulations under the Federal Power Act, 18 CFR 35.15, S.C.E. & G. shall file notices of termination of those subject contracts that have not expired prior to the issuance of this order. The form of the notice required by § 35.15 is set out in § 131.53 of the Commission's regulations.

(G) The Secretary shall cause prompt publication in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.73-10140 Filed 5-21-73;8:45 am]

[Docket No. E-8160]

SOUTHERN CALIFORNIA EDISON CO.

Initial Rate Schedules

MAY 15, 1973.

Take notice that on April 27, 1973, Southern California Edison Co. (Applicant), filed with the Federal Power Commission, pursuant to § 35.13 of the regulations under the Federal Power Act, initial rate schedules relating to transmission services available to its large resale customers.

The application states that the transmission service agreement is the form of contract proposed for such service and provides for the transmission by Applicant, under certain conditions thereunder and in accompanying rate schedules, of power acquired by its large resale customers and delivery of an equivalent amount of power, less transmission losses, to the customer. Service will be over Applicant's electric system in the amounts and for such periods as indicated in specific contracts to be negotiated with individual customers and filed with the Commission.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 7, 1973, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The amendments are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-10137 Filed 5-21-73;8:45 am]

[Docket No. CP73-290]

SOUTHERN NATURAL GAS CO.

Notice of Application

MAY 10, 1973.

Take notice that on April 25, 1973, Southern Natural Gas Co. (Applicant), P.O. Box 2563, Birmingham, Ala. 35202, filed in docket No. CP73-290 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the simultaneous exchange of natural gas in interstate commerce, with Michigan Wisconsin Pipe Line Co. (Michigan Wisconsin), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to cause natural gas to be delivered to Michigan Wisconsin at a point of existing deliveries to the latter company at Atlantic Richfield Co.'s Bayou Sale Plant, St. Mary Parish, La., with simultaneous, gas-for-gas redeliveries to be made to Applicant by Michigan Wisconsin at a point of interconnection between the facilities of Michigan Wisconsin and Applicant in St. Mary Parish, near Applicant's Shadyside Compressor Station, or at such other points of delivery and redelivery as are mutually

agreeable to the two companies under a gas exchange agreement, dated January 29, 1973.

Applicant states that it purchases gas from Texaco Inc. in the Bayou Sale and Horseshoe Bayou Fields, St. Mary Parish, and that part of the gas covered by the gas purchase agreement has not been available to Applicant because of a lack of connection with Applicant's pipeline facilities. The application indicates that this Texaco gas is gathered by Atlantic Richfield and processed in the latter's Bayou Sale Plant; that Michigan Wisconsin has a connection with Atlantic Richfield's plant, and that the exchange herein proposed will permit Applicant to receive the Texaco gas to which it is entitled.

The application further indicates that deliveries of Texaco gas under the proposed exchange would be approximately 10,000 M ft³/d for a 2-year period, and thereafter approximately 7,000 M ft³/d for the balance of the 10-year term of the agreement, and for such further time as the exchange agreement remains in effect. Applicant states that other volumes as may be mutually agreeable to the parties may be simultaneously delivered and redelivered under the exchange agreement.

The application does not seek authority for any new or additional facilities in order to effect the proposed exchange. Applicant states that any expenses of delivering gas to Michigan Wisconsin will be borne by Applicant. Further, Applicant states that Michigan Wisconsin will own, operate, and maintain at its sole expense the facilities necessary to receive and meter deliveries at the point of delivery to it and that Applicant will operate and maintain the facilities for redelivery of gas at its sole expense.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 29, 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) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-10149 Filed 5-21-73;8:45 am]

[Docket No. RP73-94]

VALLEY GAS TRANSMISSION, INC.

Order Accepting for Filing and Suspending Revised Tariff Sheets and Providing for Hearing

MAY 14, 1973.

On March 30, 1973, Valley Gas Transmission, Inc. (Valley Gas) tendered for filing a proposed increase in its currently effective rates to 21.33 c/M ft³, which the company states will affect its jurisdictional sales under its FPC Gas Tariff, original volume No. 1. Also tendered for filing by Valley Gas were amendments to gas purchase contracts between Valley Gas, as seller and Iroquois Gas Corp., Tennessee Gas Pipeline Co., and United Pipeline Co., as buyers as supplements to said rate schedules. In addition, Valley Gas filed a proposed purchased gas cost adjustment provision to be incorporated in its tariff. The proposed effective date for the change in rate is May 14, 1973.

Valley Gas indicates that the contract amendments permit it to make unilateral rate increase filings to recover its costs. According to the company, the proposed increase will recover approximately $400,000 annually, providing a rate of return of 9.3 percent, yielding 12 percent on equity.

Valley Gas requests that the Commission waive the requirements of § 154.63(b)(3) of the regulations, which require the filing of statement P material within 15 days of the date of filing of the notice of change in rate. Valley Gas further requests that in the event the Commission suspends the proposed changes in rate, the company be permitted to file the statement P material within 15 days after the date of such suspension.

The filing was noticed on April 6, 1973, with comments due by April 24, 1973. Timely applications for intervention were received by Iroquois Gas Corp. (Iroquois), Tennessee Gas Pipeline Co. (Tennessee), and United Gas Pipe Line Co. (United). Both Iroquois and United indicated their support of the Valley Gas filing. A timely notice of intervention was received from the Public Service Commission for the State of New York. None of the petitioners for intervention requested a hearing.

Our review of the filing indicates that it raises questions which may need resolution in an evidentiary hearing. The rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. The company's proposed rate of return may need further investigation, and we note that there is a reduction in gas reserves and an increase in depreciation rate which might require further study. The company indicates in its operating statement that it was in a loss position for calendar 1972. We conclude, therefore, that a 1 day suspension is proper in this instance.

Finally, we note that the company's proposed PGA clause provides for a base cost of purchased gas and base tariff rates determined from overall company operations and systemwide gas purchases in a manner consistent with our order No. 452. However, subsequent PGA rate changes would be determined on a segregated basis under each purchasers' rate schedule as contemplated in order No. 452-B. We find it inconsistent and inappropriate to establish base tariff rates and base cost of purchased gas on a systemwide basis while computing PGA rate changes on a segregated basis. We shall therefore reject the Valley Gas' original sheet No. 24, Notice of Purchased Gas Cost Adjustment Rate Change, and original sheets Nos. 177, 178, 179, and 180, entitled Purchased Gas Cost Adjustment Provision as they relate to the PGA provision, without prejudice to Valley Gas refiling sheets which would provide a consistent basis for establishing the base tariff rate and for computing PGA rate changes.

The Commission finds

(1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission accept the proposed tariff sheets, except with respect to the PGA provisions therein, and enter upon a hearing concerning the lawfulness of the rates and charges contained in the Valley Gas FPC Gas Tariff as proposed to be amended in this docket and suspend such rates and charges as hereinafter provided.

(2) The disposition of this proceeding should be expedited in accordance with the procedure set forth below.

(3) Prior to the conclusion of this proceeding, the placing of the tariff changes applied for, subject to the conditions herein, into effect subject to refund with interest while pending Commission determination as to their justness and reasonableness, is consistent with the purpose of the Economic Stabilization Act of 1970, as amended.

(4) The Valley Gas Original PGA-1, Notice of Purchased Gas Cost Adjustment Rate Change, and original sheets Nos. 177, 178, 179, and 180, entitled Purchase Gas Cost Adjustment Provision, should be rejected without prejudice to the company refiling sheets which would provide a consistent basis for establishing the base tariff rate and for computing PGA rate changes.

(5) Valley Gas should be directed to refile tariff sheets which reflect the rates proposed in the company's filing.

(6) Participation of the above-named petitioners for intervention in this proceeding may be in the public interest.

(7) Waiver of § 154.63(b)(3) of the Commission's regulations subject to the conditions herein specified may be in the public interest.

The Commission orders

(A) The tendered tariff sheets are rejected with respect to the proposed PGA provision without prejudice to Valley Gas' right to refile sheets which would provide a consistent basis for establishing the base tariff rate and for computing PGA rate changes.

(B) Valley Gas shall file new tariff sheets reflecting the rates as proposed in the company's filing.

(C) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 5 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR, ch. I), a public hearing shall be held, commencing with a prehearing conference on July 30, 1973, at 10 a.m., e.d.t., in a hearing room of the Federal Power Commission, Washington, D.C. 20426, concerning the lawfulness of the rates, charges, classification, and services contained in the Valley Gas FPC Gas Tariff, as proposed to be amended herein, and as may be further amended in accordance with the provisions of this order.

(D) At the prehearing conference on July 30, 1973, the Valley Gas prepared testimony (statement P) together with its entire rate filing shall be admitted to the record as its complete case-in-chief subject to appropriate motions, if any, by parties to the proceeding. All parties will be expected to come to this conference prepared to effectuate the provisions of §§ 1.18 and 2.59 of the Commission's rules of practice and procedure.

(E) On or before July 13, 1973, the Commission staff shall serve its prepared testimony and exhibits. The prepared testimony and exhibits of all intervenors shall be served on or before July 19, 1973. Any rebuttal evidence by Valley Gas shall be served on or before August 1, 1973. The public hearing herein ordered shall convene on August 9, 1973, at 10 a.m., e.d.t.

(F) A presiding administrative law judge to be designated by the Chief Administrative Law Judge for that purpose (see Delegation of Authority, 18 CFR 3.5(d)), shall preside at the hearing in this proceeding, shall prescribe relevant procedural matters not herein provided, and shall control this proceeding in accordance with the policies expressed in § 2.59 of the Commission's rules of practice and procedure.

(G) Pending hearing and a decision thereon the Valley Gas tariff sheets are accepted, except with respect to the proposed PGA provision, and shall be suspended for 1 day and the use thereof deferred until May 15, 1973, and until further time as they are made effective in the manner provided in the Natural Gas Act.

(H) The aforementioned petitioners for intervention are hereby permitted to intervene in this proceeding subject to the rules and regulations of the Commission: *Provided, however,* That participation of the intervenors shall be limited to the matters affecting asserted rights and interests specifically set forth in the petitions to intervene: *and provided, further,* That admission of the intervenors shall not be construed as recognition by the Commission that the intervenors may be aggrieved by any order entered in the proceeding.

(I) Waiver of § 154.63(b)(3) of the Commission's regulations is hereby granted to Valley Gas, subject to the conditions specified herein. Statement P shall be filed 15 days from the date of this order.

(J) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-10153 Filed 5-21-73;8:45 am]

[Docket No. CI73-749]

WESTERN OIL PRODUCERS, INC.

Notice of Application

MAY 14, 1973.

Take notice that on May 3, 1973, Western Oil Producers, Inc. (Applicant), P.O. Box 2055, Roswell, N. Mex. 88201, filed in docket No. CI73-749 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 Osudo Morrow 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 approximately 60,000 M ft³ of gas per month for 2 years at 52c/M ft³ at 14.65 lb/in²a, subject to Btu adjustment, within the contemplation of § 2.70 of the Commission's 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 May 25, 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.73-10126 Filed 5-21-73;8:45 am]

[Docket No. E-8128]

WISCONSIN ELECTRIC POWER CO.

Notice of Interconnection Agreement

MAY 15, 1973.

Take notice that on April 16, 1973, the Wisconsin Electric Power Co. (Applicant) filed with the Federal Power Commission, pursuant to § 35.13 of the regulations under the Federal Power Act, an interconnection agreement dated April 1, 1973, between Applicant and Commonwealth Edison Co. (Commonwealth). This agreement supersedes the interconnection agreement between these parties, dated February 9, 1961, as amended, and presently designated in Applicant's Rate Schedule FPC No. 14 and Commonwealth's Rate Schedule FPC No. 3.

The application states that the major changes set forth in the new agreement are:

(a) Each point of interconnection with its varying terms and conditions is included as an appendix to the agreement.

(b) The several classes of power and energy covered by the agreement are set forth in service schedules, a part of and under said agreement.

(c) A new class of power, service schedule A, described as follows: Limited term power—Power and associated energy from temporarily surplus generating capacity in either party's system that may from time to time be sold to the other party for the purpose of providing increased flexibility in the planning and installation of generating capacity additions.

(d) Compensation for Emergency Energy, Service Schedule B, has been amended to provide for the return of equivalent energy or at the option of the supplying party at the rate of 110 percent of supplier's out-of-pocket cost with a minimum of 17½ mil/kWh.

(e) Compensation for Short-Term Energy, Schedule D, has been amended to provide for a demand charge of 40c/kW per week, or the cost per kilowatt to the

supplying party of capacity purchased from other systems, whichever is greater, or in lieu of payment the parties may mutually agree to a return reservation of short-term power equivalent to that supplied. The Energy Charge was amended to include as an option the return of equivalent energy as mutually agreed to by the parties.

(f) Compensation for Maintenance Energy, Schedule E, was amended to include an optional payment of 110 percent of supplier's out-of-pocket cost.

(g) A new class of energy, service schedule F, described as follows: General purpose energy—energy that is not covered by circumstances contemplated under other service schedules which one party is willing to make available from surplus capacity either/or its own system or on an interconnected system, or both, that can be utilized advantageously for short intervals by the other party for use on its own system or for delivery to another interconnected system.

The effective date of the new interconnection agreement will be May 1, 1973, and Applicant requests pursuant to section 205(d) of the Federal Power Act and § 35.11 of the regulations thereunder, that the Commission waive its 30-day notice requirement and allow this filing to become effective on aforementioned date.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 4, 1973, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-10139 Filed 5-21-73;8:45 am]

[Docket No. E-8158]

WISCONSIN POWER & LIGHT CO.

Proposed Changes in Rates and Charges

MAY 10, 1973.

Take notice that on April 27, 1973, Wisconsin Power & Light Co. (Wisconsin) tendered for filing revised rate schedules W-2, W-3, and W-3.5 rider. The proposed effective date of these changes is July 1, 1973. According to Wisconsin the following is a brief description of the proposed changes in the rate schedule:

1. The various blocks of the demand charge and the energy charge have each been increased to obtain about 9 percent additional revenue from all wholesale customers.

2. The "coal clause" was retitled "Fuel Cost Adjustment Clause" and revised to reflect the current system fuel costs and system heat rate, and conforms with the requirements of § 35.14 of the regulations under the Federal Power Act.

Wisconsin states that the proposed new rate schedules will produce added revenues of about $926,000 based on test-year 1972, as compared with a cost-of-service study which indicates a deficiency of $928,000 for this same period.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 22, 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 are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-10145 Filed 5-21-73;8:45 am]

[Project No. 2317]

APPALACHIAN POWER CO.

Notice of Location of Scheduled Hearing

MAY 14, 1973.

Notice is given that the hearing scheduled to convene in a hearing room of the Federal Power Commission in the above-entitled matter on July 18, 1973, will convene in a room at the new Federal Power Commission location on the second floor of the Union Center Plaza Building at 825 North Capitol Street NE., Washington, D.C., 20426, at the time heretofore prescribed.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-10152 Filed 5-21-73;8:45 am]

[Docket No. E-8161]

ARKANSAS POWER & LIGHT CO.

Notice of Amendment to Rate Schedule

MAY 15, 1973.

Take notice that on April 27, 1973, Arkansas Power & Light Co. (Applicant) filed with the Federal Power Commission the second amendment to the Power Coordination, Interchange, and Transmission Agreement between Applicant and the Arkansas Electric Cooperative Corp. (AECC), dated April 20, 1972, and designated as Applicant's rate schedule FPC No. 67.

The aforementioned second amendment provides for the addition of six new points of delivery which are as follows:

1. Humnoke point of delivery, AECC No. 30-369 for the Riceland Electric Cooperative Corp., with an effective date of June 1, 1973.
2. Wilmont point of delivery, AECC No. 31-396 for the Ashley—Chicot Electric Cooperative Corp., with an effective date of July 1, 1973.
3. Green Forest point of delivery, AECC No. 18-334 for the Carroll Electric Cooperative Corp., with an effective date of June 1, 1973.
4. Wonderview point of delivery, AECC No. 28-330 for the Petit Jean Electric Cooperative Corp., with an effective date of July 1, 1973.
5. Midway point of delivery, AECC No. 26-027 for the North Arkansas Electric Cooperative Corp. with an effective date of June 1, 1974.
6. Marianna point of delivery, AECC No. 15-345 for the Woodruff Electric Cooperative Corp. with an effective date of June 1, 1973.

The second amendment to Applicant's rate schedule FPC No. 67 also provides for the relocation of the NAD point of delivery, AECC No. 27-351 to the McClellan plantsite. This point of delivery would be redesignated the McClellan point of delivery, AECC No. 27-015 for the Ouachita point of delivery with an effective date of December 1, 1973. Applicant will be required to provide additional facilities, except at the Marianna and McClellan points of delivery, in order to effectuate delivery for AECC.

Any person desiring to be heard or to make any protest with reference to said applications should, on or before June 8, 1973, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. These applications are on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-10132 Filed 5-21-73;8:45 am]

[Docket No. CI73-530]

CHAMPLIN PETROLEUM CO., ET AL.

Order Granting Intervention Setting Hearing Date and Prescribing Procedure

MAY 15, 1973.

On February 5, 1973, Champlin Petroleum Co. (Champlin) filed a petition in docket No. CI73-530 for waiver of § 154.109(c) of the Commission's regulations under the Natural Gas Act, so as to authorize petitioner to charge a base rate in excess of the other Southwest area ceiling rate for a sale of residue gas to Cities Service Gas Co. (Cities) from the Witcher Processing Plant, Oklahoma County, Okla.; or, in the alternative, Champlin requests in an application filed in docket No. CI73-530

approval to abandon the sales of gas to Cities pursuant to section 7(b) of the Natural Gas Act.

Champlin presently sells 78 percent of the residue delivered from the Witcher Plant to Cities at the applicable area rate of 19.4 c/m ft³. Champlin now proposes to sell 100 percent of the plant residue to Cities at a rate of 35 c/m ft³ in accordance with the terms of a contract amendment which modifies the pricing provisions and dedicates all deliveries from the plant to Cities.

Champlin states that it is economically unable to pay higher rates for casinghead gas or bid competitively for new and uncommitted supplies of gas in the area. Because of its inability to offer producers a higher wellhead price, Champlin asserts that it has been unsuccessful in persuading producers to undertake measures necessary to sustain the deliverability of needed volumes to the plant or to contract for new gas supplies. Due to the decrease in volumes, Champlin alleges that continuation of its sales to Cities, at the present rate, is uneconomical.

Accordingly, Champlin desires a higher resale rate in order to pay more to its plant suppliers (whose contracts are expiring), which it believes will avoid premature abandonment of the plant sale.

A timely petition requesting permission to intervene in this proceeding was filed by Cities on March 12, 1973. Cities supports the petition based on the considerations set forth in Champlin's petition for waiver.

Due to the lack of sufficient information of Champlin's Witcher operations such as costs, payouts, reserves dedicated, liquid recovery and revenues, which is necessary to properly evaluate the proposal, we believe that the petition and abondonment application warrants a full evidentiary hearing.

The Commission finds

(1) It is desirable and in the public interest to allow Cities to intervene in this proceeding.

(2) It is necessary and proper in the public interest to aid in the enforcement of the provisions of the Natural Gas Act that the issues in this proceeding be scheduled for hearing in accordance with the procedures set forth below.

The Commission orders

(A) Cities is hereby permitted to intervene in this proceeding subject to the rules and regulations of the Commission: *Provided, however*, that their participation shall be limited to matters affecting asserted rights and interests as specifically set forth in said petition for leave to intervene; and *Provided, further*, That the admission of said intervener shall not be construed as recognition by the Commission that they might be aggrieved by any order or orders of the Commission entered in this proceeding.

(B) Pursuant to the authority of the Natural Gas Act, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act, a public hearing shall be held on June 18, 1973, at 10 a.m., e.d.t., in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426. An administrative law judge to be designated by the Chief Administrative Law Judge shall preside at, and control, this proceeding in accordance with the policies expressed in the Commission's rules of practice and procedure.

(C) On or before June 8, 1973, the Applicant and any supporting party shall prepare and serve their testimony and exhibits in support of their position. All evidence shall be filed with the Commission and served on all parties and the Commission staff.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-10141 Filed 5-21-73;8:45 am]

[Docket No. R-432]

MONTHLY REPORT OF COST AND QUALITY OF FUELS FOR STEAM ELECTRIC PLANT

Order Accepting Filing of Offer of Proof and Denying Application for Rehearing

MAY 9, 1973.

On April 9, 1973, Consolidated Edison Co. of New York (Petitioner) filed an offer of proof and petition for rehearing of a Commission order issued March 27, 1973, which granted Petitioner intervention in the matter of docket No. R-432, denied Petitioner's motion for confidential treatment of form No. 423 and amendment of the Commission's regulations with respect to form No. 423, and afforded Petitioner the opportunity to file an offer of proof to support its allegations of injury.

In its request for rehearing, Petitioner alleges: (1) That the Commission's regulations have the harmful effect of restraining competition among fuel suppliers to the electric utility industry, (2) that Commission orders should be consistent with policies expressed in the antitrust laws unless an overriding public purpose would be served by an inconsistent policy, and (3) that the Commission must demonstrate compelling reasons of public interest for the publication of fuel prices of electric utilities.

Petitioner's application for rehearing raises no issues which were not previously considered by the Commission or which having now been considered would necessitate any change in our order of March 2, 1973.

The offer of proof sets forth no facts to show that Petitioner has been injured or that the exigencies of Petitioner's circumstance outweighs the public benefit from full disclosure.

The Commission finds

(1) Acceptance for filing of the offer of proof submitted by Petitioner may be in the public interest.

(2) Petitioner's application for rehearing of the order issued March 27, 1973, denying the motion for confidential treatment of form 423 and amendment of the Commission's regulations with respect to form No. 423 should be denied.

The Commission orders

(A) The offer of proof submitted by Petitioner is is hereby accepted for filing.

(B) Petitioner's application for rehearing of the order issued March 27, 1973, is hereby denied.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-10151 Filed 5-21-73;8:45 am]

NATIONAL POWER SURVEY TECHNICAL ADVISORY COMMITTEES

Order Designating Additional Members

MAY 14, 1973.

The Federal Power Commission, by orders issued September 28, 1972, and December 7, 1972, established certain Advisory Committees.

Membership. Additional members of the following Advisory Committees and Task Forces, as selected by the Chairman of the Commission, with the approval of the Commission, are as follows:

TECHNICAL ADVISORY COMMITTEE ON CONSERVATION OF ENERGY

Dr. Duane Chapman, member, Associate Professor of Economics, Cornell University.

TECHNICAL ADVISORY COMMITTEE ON CONSERVATION OF ENERGY TASK FORCE—TECHNICAL ASPECTS

Dr. Talbot Page, member, resources for the future.

TECHNICAL ADVISORY COMMITTEE ON CONSERVATION OF ENERGY TASK FORCE—ENVIRONMENTAL ASPECTS

Dr. Robert Sacolow, member, Center for Environmental Studies, Princeton University.

TECHNICAL ADVISORY COMMITTEE ON CONSERVATION OF ENERGY TASK FORCE—PRACTICES AND STANDARDS

Dr. Eric Hirst, member, Energy Program Staff, Oak Ridge National Laboratory.

TECHNICAL ADVISORY COMMITTEE ON FUELS

Dr. Charles J. Cicchetti, member, Visiting Associate Professor of Economics and Environmental Studies, University of Wisconsin.

TECHNICAL ADVISORY COMMITTEE ON FUELS TASK FORCE—ENVIRONMENTAL CONSIDERATIONS AND CONSTRAINTS

Dr. Glenn Paulson, member, Natural Resources Defense Council.

TECHNICAL ADVISORY COMMITTEE ON RESEARCH AND DEVELOPMENT

Dr. Ron Doctor, member, Engineering Sciences Department, the Rand Corp.

Dr. Charles Olson, member, Associate Professor of Business Administration, University of Maryland.

TECHNICAL ADVISORY COMMITTEE ON RESEARCH AND DEVELOPMENT TASK FORCE—ENERGY CONVERSION RESEARCH

Dr. Thomas B. Cochran, member, Natural Resources Defense Council.

TECHNICAL ADVISORY COMMITTEE ON RESEARCH AND DEVELOPMENT TASK FORCE—ENERGY DISTRIBUTION RESEARCH

Dr. Mark F. Sharefkin, member, Jack Paucett Associates.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-10154 Filed 5-21-73;8:45 am]

[Docket No. E-7563]

MONONGAHELA POWER CO. ET AL.

Order Approving Rate Settlement

MAY 15, 1973.

On January 22, 1973, the Monongahela Power Co., the Potomac Edison Co., and West Penn Power Co. (Allegheny System Companies) tendered for filing an offer of settlement, with supporting cost data, which would resolve all issues in the above referenced proceeding. The offer of settlement would reduce the 9 percent rate of return reflected in the rate in effect, subject to refund, to 8 percent for computing fixed charges for capacity reserve equalization and transmission service among the three Allegheny System Companies. In the letter of transmittal accompanying the offer of settlement, the company states that the Commission staff supports the proposed settlement and the People's Counsel of Maryland (Maryland), the sole intervenor, has stated no objection thereto. The offer of settlement was noticed on January 26, 1973, and no responses were received.

This proceeding commenced on June 29, 1970, when the Allegheny System Companies tendered for filing proposed supplements to Monongahela rate schedule FPC No. 27, Potomac rate schedule FPC No. 29 and West Penn rate schedule FPC No. 25, which proposed to increase from 6.5 to 9 percent, the rate of return used to compute fixed charges for capacity reserve equalization and transmission service, to become effective November 1, 1970. On September 29, 1970, notice of the filing was issued but no responses were received. On October 30, 1970, the Commission suspended the filing for 1 day to become effective on November 2, 1970, subject for refund, and provided for hearing thereon. On January 19, 1972, Maryland filed a petition to intervene which was granted by Commission order issued February 18, 1972. On August 1, 1972, settlement discussions were held which resulted in the offer of settlement filed on January 22, 1973.

The offer of settlement is based on the following combined capitalization of the Allegheny Power System, Inc., which is the parent of the three Allegheny System Companies:

Allegheny Power System, Inc., Capitalization and Rate of Return, Mar. 31, 1972, as published

	Capital amounts[1]	Capital ratios (percent)	Cost factor (percent)	Weighted totals (percent)
Long term debt	$656,416	52.76	6.01	3.170
Preferred stock	147,066	11.82	6.17	.730
Common equity	425,310	34.18	12.00	4.100
Deferred taxes, account/amortized	15,454	1.24	0	0
Total	1,244,246	100.00		8.000

[1] Does not include preferred stock and long-term debt financings by system subsidiaries after Mar. 31, 1972.

Our review of the offer of settlement indicates that it provides a reasonable and appropriate resolution of the issues in this proceeding and that the public interest would be served by our approval of the settlement.

The Commission finds

(1) The settlement of this proceeding on the basis of the offer of settlement filed on January 22, 1973, and subject to the terms and conditions of this order is reasonable and appropriate in the public interest in carrying out the provisions of the Federal Power Act, and should be approved and made effective.

(2) The rate increase granted in this proceeding has been reviewed in light of the Economic Stabilization Act of 1970, as amended, Executive Order 11695, and the rules and regulations issued thereunder and is consistent therewith.

The Commission orders

(A) The offer of settlement submitted by the Allegheny System Companies on January 22, 1973, is incorporated herein by reference, and is approved and made effective on the day of issuance of this order subject to the terms and conditions provided herein.

(B) The Allegheny System Companies shall fully comply with each of the provisions of the settlement agreement and the terms and conditions of this order.

(C) This order is without prejudice to any findings or orders which have been made or may hereafter be made by the Commission, and is without prejudice to any claims or contentions which may be made by the Commission, its staff, the Allegheny System Companies, or any other party or person affected by this order, in any proceeding now pending or hereafter instituted by or against the Allegheny System Companies or any other person or party.

(D) Within 30 days of the issuance of this order, the Allegheny System Companies shall file rate schedule supplements conforming to the terms and provisions of the settlement agreement.

(E) Within 30 days of the issuance of this order, the Allegheny System Companies will refund with 7.5 percent interest, the difference between capacity reserve equalization and transmission service charges computed at 9 percent rate of return and the settlement rate of 8 percent for the time period between November 2, 1970, and the date of issuance of this order.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-10130 Filed 5-21-73;8:45 am]

[Dockets Nos. E-8144, E-8145]

DUKE POWER CO.

Notice of Supplementary Exhibits to Service Contracts

MAY 10, 1973.

Take notice that on April 19, 1973, the Duke Power Co. (Applicant) filed with the Federal Power Commission: (1) In docket No. E-8144 an application for authorization to increase contract demand from 18,000 to 24,000 kW in respect to the Federal Power Commission: (1) In FPC Schedule No. 243, between Applicant and the city of Gaffney S.C. (City); and (2) in docket No. E-8145 an application requesting authorization for a new delivery point supplementing Applicant's electric power contract, designated in FPC Schedule No. 136, with Haywood Electric Membership Corp., Waynesville, N.C. (HEMC).

The application in docket No. E-8144 indicates that pursuant to an agreement between Applicant and the city the contract demand will be increased, as stated above, to become effective on May 21, 1973.

The application in docket No. E-8144 indicates that the proposed delivery point will be established pursuant to an "all requirements" provision in the existing contract between Applicant and HEMC. There is no contract demand at any given delivery point. Service will commence at this delivery point on May 21, 1973, at HEMC's delivery structure adjacent to County Road No. 1102 off U.S. Highway 276 in or near Connestee Falls, N.C., by providing a tap into Applicant's 12 kV line.

Any person desiring to be heard or to make any protest with reference to said applications should on or before May 30, 1973, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The amendments are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-10146 Filed 5-21-73;8:45 am]

[Docket No. CI73-748]

DALCO OIL CO.

Notice of Application

MAY 14, 1973.

Take notice that on May 3, 1973, Dalco Oil Co., 1200 Mercantile Bank Building, Dallas, Tex. 75201, filed in docket No. CI73-748 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 Texas Gas Transmission Corp. from the West Rayne Area, Acadia Parish, La., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it commenced the sale of natural gas on April 18, 1973, within the contemplation of § 157.29 of the regulations under the Natural Gas Act and proposes to continue said sale for 1 year from said date within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70). Applicant proposes to sell approximately 19,000 M ft³ of gas per month at 45c/M ft³ at 15.025 lb/in²a.

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 May 25, 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.73-10125 Filed 5-21-73;8:45 am]

[Docket No. CI73-745]

CONTINENTAL OIL CO.

Notice of Application

MAY 9, 1973.

Take notice that on May 1, 1973, Continental Oil Co. (Applicant), P.O. Box 2197, Houston, Tex. 77001, filed in docket No. CI73-745 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 Transcontinental Gas Pipe Line Corp. from the Moss Heirs No. 1 Well, Bancker Block, Vermilion Parish, La., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that on April 13, 1973, it advised the Commission that it commenced the sale of natural gas within the contemplation of § 157.29 of the regulations under the Natural Gas Act and that it proposes to continue said sale for 1 year from the end of the 60-day-emergency period within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70). Applicant proposes to sell approximately 45,000 M ft³ of gas per month at 35c/M ft³ at 15.025 lb/in²a.

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 May 25, 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.73-10127 Filed 5-21-73;8:45 am]

[Docket No. CP73-216]

EL PASO NATURAL GAS CO.

Notice of Amendment to Application

MAY 15, 1973.

Take notice that on May 4, 1973, El Paso Natural Gas Co. (Applicant), P.O. Box 1492, El Paso, Tex. 79978, filed in docket No. CP73-216 an amendment to the application filed February 12, 1973, in said docket pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon side tap facilities and sales and deliveries of natural gas to Pioneer Natural Gas Co. (Pioneer) for resale from said taps, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

In its application of February 12, 1973, Applicant proposes to abandon three taps serving irrigation customers of Pioneer and to use a single existing tap to continue the service rendered by the taps to be abandoned. At the request of Pioneer, Applicant now proposes to abandon the Halsell Farms Tap No. 2 in lieu of the Sand Hills Group Line Tap previously proposed to be abandoned and to use the latter tap to provide the service rendered by the three taps proposed to be abandoned. Both taps are located in Lamb County, Tex.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before June 4, 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) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules. Persons who have heretofore filed protests and petitions to intervene need not file again.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-10131 Filed 5-21-73;8:45 am]

[Docket No. E-8094]

EMPIRE DISTRICT ELECTRIC CO.

Notice of Supplemental Letter of Agreement

MAY 15, 1973.

Take notice that on March 28, 1973, the Empire District Electric Co. (Applicant) filed with the Federal Power Commission, pursuant to § 35.13 of the regulations under the Federal Power Act, a

letter of agreement, dated February 6, 1973, between Applicant and the Associated Electric Cooperative, Inc. (AEC). The aforementioned agreement is proposed to supplement the Missouri Participation Agreement, designated as FPC No. 72 A.

The agreement provides for the sale and delivery of 25 mW of capacity and related energy from Applicant's Asbury No. 1 generating unit to AEC for the term beginning June 1, 1973, and ending May 31, 1974. The application states that Applicant desires to sell the 25 mW capacity to reduce its excess reserves, and that AEC desires to purchase said capacity to meet its service obligations during the term of the agreement. The rates set forth in the agreement were arrived at through direct negotiation between parties and are stated to be typical for similar service in the area.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 28, 1973, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-10133 Filed 5-21-73;8:45 am]

[Docket No. CI73-726]

GETTY OIL CO.

Notice of Application

MAY 14, 1973.

Take notice that on April 30, 1973, Getty Oil Co. (Applicant), P.O. Box 1404, Houston, Tex. 77001, filed in docket No. CI73-726 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 Texas Eastern Transmission Corp. from the Church Point Field, Acadia Parish, La., 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 4,000 M ft^3 of gas per day for 2 years commencing not prior to June 22, 1973, at 45r/M ft^3 at 15.025 lb/in^2a, subject to upward and downward British thermal unit adjustment, within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70). Initial upward British thermal unit adjustment is estimated at 6.3r/M ft^3.

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 May 25, 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.73-10124 Filed 5-21-73;8:45 am]

[Docket No. E-8116]

GULF STATES UTILITIES CO.

Proposed Changes in Rates and Charges

MAY 15, 1973.

Take notice that on April 9, 1973, Gulf States Utilities Co. (Gulf) tendered for filing a letter agreement dated August 30, 1972, between Sam Rayburn Dam Electric Cooperative, Inc., and Gulf States Utilities Co. According to Gulf the subject matter of this letter agreement relates to increased changes to Sam Rayburn Dam Electric Cooperative, Inc., by Southwestern Power Administration for power from Sam Rayburn Dam which increased charges are the subject of litigation between the two parties. Gulf states that the letter agreement provides that if Sam Rayburn Dam Electric Cooperative, Inc., does not prevail in the litigation the increased charges by Southwestern Power Administration would be borne by Sam Rayburn Dam Electric Cooperative, Inc., and not Gulf States Utilities Co. Gulf states further that since the litigation will extend for an undetermined period of time into the future, it is requested that the notice requirement of § 35.3 be waived to the extent that they are in conflict with this filing.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before May 29, 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 application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-10138 Filed 5-21-73;8:45 am]

[Docket No. E-8127]

ILLINOIS POWER CO.

Notice of Application

MAY 10, 1973.

Take notice that on April 16, 1973, Illinois Power Co. (Applicant) filed an agreement for participation power transaction, dated March 30, 1973, with Union Electric Co. (Union), which provides for a unit participation power sale of up to 200 MW from Applicant to Union from May 20, 1973, through September 19, 1973. The agreement would supplement the interconnection agreement between the parties and Central Illinois Public Service Co. dated February 18, 1972, which is currently designated as Illinois Power Co.'s rate schedule FPC No. 50. The agreement is proposed to become effective on May 20, 1973.

Any person desiring to be heard or to make any protest with reference to said filing should on or before May 30, 1973, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The applications are on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-10144 Filed 5-21-73;8:45 am]

[Docket No. E-8163]

KANSAS POWER & LIGHT CO.

Proposed Changes in Rates and Charges

MAY 15, 1973.

Take notice that on April 30, 1973, the Kansas Power & Light Co. (Kansas) tendered for filing a newly executed renewal contract dated April 2, 1973, with the city of Waterville, Kans., for wholesale electric service to that community. Kansas states that this is a renewal of a similar contract dated June 24, 1963, and designated KPL rate schedule FPC No. 65. The proposed effective date is May 1, 1973, and Kansas requests that the Commission waive the notice requirements as allowed in § 35.11 of its regulations. According to Kansas, the net billing for the 12 months succeeding the proposed change in agreements was $33,412.84. In addition, Kansas states that copies of the contract have been mailed to the city of Waterville and the State Corporation Commission of Kansas.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before May 25, 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 application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-10157 Filed 5-21-73;8:45 am]

NATIONAL POWER SURVEY EXECUTIVE ADVISORY COMMITTEE, TECHNICAL ADVISORY COMMITTEE ON CONSERVATION AND TASK FORCE THERETO

Order Designating Additional Members

MAY 14, 1973.

The Federal Power Commission, by orders issued August 11, 1972, September 28, 1972, and December 7, 1972, established certain Advisory Committees.

Membership.—Additional members of the following Advisory Committees and Task Force, as selected by the Chairman of the Commission, with the approval of the Commission, are as follows:

EXECUTIVE ADVISORY COMMITTEE

Leo A. Daly, member, practicing architect.

TECHNICAL ADVISORY COMMITTEE ON CONSERVATION OF ENERGY

George T. Heery, member, practicing architect.

TECHNICAL ADVISORY COMMITTEE ON CONSERVATION OF ENERGY TASK FORCE—PRACTICES AND STANDARDS

George T. Heery, member, practicing architect.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.73-10155 Filed 5-21-73;8:45 am]

INTERIM COMPLIANCE PANEL (COAL MINE HEALTH AND SAFETY)

VALLEY CAMP COAL CO.

Application for Renewal Permit; Notice of Opportunity for Public Hearing

Application for renewal permit for noncompliance with the interim mandatory dust standard (2 mg/m³) has been received as follows:

ICP Docket No. 20633, Valley Camp Coal Co., Valley Camp No. 3 Mine UG, USBM ID No. 46 01482 0, Triadelphia, W. Va.
Section ID No. 002 (P north).
Section ID No. 030 (O north).
Section ID No. 024 (R south).
Section ID No. 029 (5 left off P north).
Section ID No. 031 (6 left off P north).
Section ID No. 032 (7 right off P north).
Section ID No. 033 (1 right off R south).
Section ID No. 034 (7 left off P north).

In accordance with the provisions of section 202(b)(4) (30 U.S.C. 842(b)(4)) of the Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742, et seq., Public Law 91-173), notice is hereby given that requests for public hearing as to an application for renewal may be filed on or before June 6, 1973. Requests for public hearing must be filed in accordance with 30 CFR part 505 (35 FR 11296, July 15, 1970) as amended, copies of which may be obtained from the Panel on request.

A copy of the application is available for inspection and requests for public hearing may be filed in the office of the Correspondence Control Officer, Interim Compliance Panel, room 800, 1730 K Street NW., Washington, D.C. 20006.

GEORGE A. HORNBECK,
Chairman,
Interim Compliance Panel.

MAY 17, 1973.

[FR Doc.73-10085 Filed 5-21-73;8:45 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 73-43]

BURKE CONCRETE ACCESSORIES

Notice of Intent To Grant Exclusive Patent License

Notice is hereby given of intent to grant to Burke Concrete Accessories, Inc., of Burlingame, Calif., a limited exclusive license to practice the invention described in U.S. Patent No. 3,534,650 for "Fastener Apparatus" issued October 20, 1970, to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. The proposed license will be exclusive, revocable, and royalty-free; for a term of 7 years; be limited to the field of use only in construction and building industry to enable hoisting and erection, but not permanent fastening of building elements; and contain other terms and conditions to be negotiated by the parties in accordance with the NASA patent licensing regulations. NASA will grant the exclusive license unless on or before June 21, 1973, the Acting Chairman, Inventions and Contributions Board, NASA, Washington, D.C. 20546, receives in writing any of the following, together with supporting documentation: (i) A statement from any person setting forth reasons why it would not be in the best interest of the United Staets to grant the proposed exclusive license; or (ii) an application for a nonexclusive license under such invention, in accordance with § 1245.206(b), in which applicant states that he has already brought or is likely to bring the invention to practical application within a reasonable period. The Board will review all written responses to the notice and then recommend to the Administrator whether to grant the exclusive license.

Dated May 11, 1973.

EDWARD M. SHAFER,
Acting General Counsel.

[FR Doc.73-10120 Filed 5-21-73;8:45 am]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

DANCE ADVISORY PANEL

Notice of Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), notice is hereby given that a closed meeting of the Dance Advisory Panel to the National Endowment for the Arts will be held at 9 a.m. on May 24, 1973, in New York City.

This meeting is for the purpose of Council review, discussion and evaluation of grant applications. It has been determined by the chairman in accordance with section 10(d) of the act, that the meeting involves matters exempt from the requirements of public disclosure under the provisions of the Feedom of Information Act (5 U.S.C. 552 (b)).

Further information with reference to this meeting can be obtained from Mrs. Eleanor A. Snyder, Advisory Committee Management Officer, National Endowment for the Arts, 806 15th Street NW., Washington, D.C. 20506, or call area code 202-382-2854.

PAUL BERMAN,
Director of Administration, National Foundation on the Arts and the Humanities.

[FR Doc.73-10112 Filed 5-21-73;8:45 am]

OFFICE OF EMERGENCY PREPAREDNESS

COLORADO

Notice of Major Disaster and Related Determinations

Pursuant to the authority vested in me by the President under Executive Order 11575 of December 31, 1970; and by virtue of the act of December 31, 1970, entitled "Disaster Relief Act of 1970" (84 Stat. 1744); notice is hereby given that on May 8, 1973, the President declared a major disaster as follows:

I have determined that the damage in Weld County, Colo., as a result of the failure of the dam on the Lower Latham Reservoir and resultant flooding, beginning on April 12, 1973, is of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 91-606. I therefore declare that such a major disaster exists in the State of Colorado.

Notice is hereby given that pursuant to the authority vested in me by the President under Executive Order 11575 to administer the Disaster Relief Act of 1970 (Public Law 91-606) I hereby appoint Mr. Donald G. Eddy, Regional Director, OEP Region 8, to act as the Federal Coordinating Officer to perform the duties specified by section 201 of that act for this disaster.

I do hereby determine the following area in the State of Colorado to have been adversely affected by this declared major disaster.

The county of:
Weld

Dated May 16, 1973.

(Catalog of Federal Domestic Assistance Program No. 50.002, Disaster Assistance.)

ELMER F. BENNETT,
Acting Director,
Office of Emergency Preparedness.

[FR Doc.73-10087 Filed 5-21-73;8:45 am]

MISSOURI

Amendment to Notice of Major Disaster

Notice of major disaster for the State of Missouri, dated April 20, 1973, and published April 26, 1973 (38 FR 10334), and amended April 27, 1973, and published May 3, 1973 (38 FR 11014), is hereby further amended to include the following counties among those counties determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of April 19, 1973:

The counties of:

Benton	Pettis
Johnson	Randolph
Monroe	Schuyler

Dated May 16, 1973.

(Catalog of Federal Domestic Assistance Program No. 50.002, Disaster Assistance.)

ELMER F. BENNETT,
Acting Director,
Office of Emergency Preparedness.

[FR Doc.73-10086 Filed 5-21-73;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[70-5342]

ARKANSAS-MISSOURI POWER CO., AND MIDDLE SOUTH UTILITIES, INC.

Notice of Proposed Amendment of Articles of Incorporation; Issue and Sale of Common Stock and Promissory Notes by Subsidiary Company to Holding Company; Issue and Sale of Promissory Notes by Subsidiary Company to Banks; and Related Transactions

MAY 15, 1973.

Notice is hereby given that Middle South Utilities, Inc., 280 Park Avenue, New York, N.Y. 10017 (Middle South), a registered holding company, and Arkansas-Missouri Power Co., 405 West Park Street, Blytheville, Ark. 72315 (Ark-Mo), a public-utility subsidiary company of Middle South, have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6(a), 6(b), 7, 9(a), 10(a), 12(b), 12(c), and 12(f) of the Act and rules 42, 43, and 45 promulgated thereunder as applicable to the following proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Ark-Mo proposes to amend its Articles of Incorporation (Articles) to increase the number of authorized shares of its common stock, $2.50 par value, from 3 to 7 million. As of February 28, 1973, 2,291,988 of the presently authorized 3 million shares of common stock were issued and outstanding and were owned entirely by Middle South. Subsequent to amendment of its Articles, Ark-Mo proposes to issue and sell, and Middle South proposes to acquire, from time to time during 1973, an aggregate of 1,040,000 additional shares of common stock, $2.50 par value, of Ark-Mo for a total cash consideration of $2,600,000.

By orders dated January 17, 1972, and December 19, 1972 (Holding Company Act Release Nos. 17430 and 17819) the Commission authorized Ark-Mo to issue and sell, and Middle South to acquire, from time to time through December 31, 1973, unsecured short-term promissory notes (Notes) of a maturity of not more than 12 months in an amount not exceeding $4,100,000 aggregate at any one time outstanding. As of February 28, 1973, $3,400,000 of such notes were outstanding and an additional aggregate of $700,000 of Notes is expected to be issued and sold by Ark-Mo to Middle South in 1973 as part of the financing of Ark-Mo's construction program. In addition to these borrowings Ark-Mo proposes to issue and sell, and Middle South proposes to acquire, from time to time during 1973, short-term unsecured promissory notes (Additional Notes) in an amount not exceeding $400,000 aggregate at any one time outstanding. The Additional Notes will mature not more than 12 months from the date of issuance; will bear interest at the prime rate in effect at Manufacturers Hanover Trust Co. of New York, N.Y.; and will, at the option of Ark-Mo, be prepayable in whole or in part at any time without premium or penalty.

Middle South contemplates using funds on hand from time to time to purchase from Ark-Mo the 1,040,000 additional shares of common stock, the Notes and the Additional Notes. Should additional funds be required to effectuate the above-mentioned proposals, Middle South will effect borrowings from various banks and will, to the extent necessary, make appropriate application to this Commission for authorization.

Ark-Mo also proposes, as interim financing, to make borrowings from a group of commercial banks (Participating Banks) during 1973 of up to $12 million to provide funds for payment of construction expenditures in 1973. The participating banks and their respective participations are as follows:

Participating bank	Participation in total $12,000,000 borrowing	
	Percent	Amount
Girard Trust Bank, Philadelphia, Pa.	12.50	$1,500,000
First National Bank of Miami, Fla.	12.50	1,500,000
Liberty National Bank & Trust Co., Louisville, Ky.	12.50	1,500,000
The First National Bank of Boston, Mass.	12.50	1,500,000
Mercantile-Safe Deposit & Trust Co., Baltimore, Md.	18.75	2,250,000
Grenada Bank, Grenada, Miss.	6.25	750,000
Hancock Bank, Gulfport, Miss.	6.25	750,000
Wells Fargo Bank, N.A., San Francisco, Calif.	18.75	2,250,000
Total	100.00	12,000,000

To effect these borrowings, Ark-Mo proposes to issue and sell to Union Planters National Bank of Memphis, Tenn. (Union Planters) for the account of participating Banks 270-day unsecured promissory notes (Bank Notes) which may be renewed from time to time but not to mature later than December 1, 1975, bearing interest payable quarterly, on the unpaid principal amount thereof at a rate per annum equal to the commercial loan rate of Union Planters in effect, from time to time, on borrowings having a 90-day maturity, by responsible and substantial corporate borrowers. The Bank Notes will at the option of Ark-Mo be prepayable at any time in whole or in part on 5 days' notice without premium or penalty. Ark-Mo intends to repay all outstanding Bank Notes on or before December 1, 1975, with funds then available to Ark-Mo from its operations or derived from the issuance and sale by Ark-Mo of similar securities or long-term debt and/or equity securities. Such financing, to the extent necessary, will be the subject of future filings with this Commission.

Applicants-declarants state that the net proceeds received by Ark-Mo from the issuance and sale to Middle South of the 1,040,000 additional shares of Ark-

Mo's common stock, the Notes, the Additional Notes, and the Bank Notes, together with funds available from time to time to Ark-Mo from its operations, will be applied toward Ark-Mo's 1973 construction program estimated at $16,800,000.

In light of the aforementioned proposals and to enable Ark-Mo to maintain a satisfactory ratio of debt to equity, it is further proposed that Middle South make a capital contribution of $3,950,000 to Ark-Mo by delivering to Ark-Mo for cancellation all shares of Ark-Mo's preferred stock, $100 par value, currently outstanding and owned by Middle South (39,500 shares) and recorded on Middle South's books of account at a value of $3,950,000. The cancellation of the shares of preferred stock will have the effect of eliminating the preferred stock account on the balance sheet of Ark-Mo and increasing Ark-Mo's paid in surplus account by $3,950,000.

Ark-Mo also proposes to issue and sell, and Middle South proposes to acquire from Ark-Mo at the price of $2.50 per share, or $3,400,000 in the aggregate, 1,360,000 of the authorized but unissued common stock, $2.50 par value, of Ark-Mo. As consideration for such shares, Middle South proposes to surrender to Ark-Mo for cancellation $3,400,000 of notes heretofore mentioned and authorized by the Commission in Public Utility Holding Company Act Release Nos. 17430 and 17819.

It is stated that the Arkansas Public Service Commission has jurisdiction over the various transactions by Ark-Mo proposed herein, with the exception of the proposed issuance and sale by Ark-Mo of the Additional Notes and Bank Notes. The Public Service Commission of Missouri has jurisdiction over the proposed issuance and sale by Ark-Mo of the proposed capital contribution through the cancellation of its 39,500 shares of preferred stock by Middle South.

It is further stated that no other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions. Fees and expenses to be incurred in connection with the proposed transactions are estimated to aggregate $7,500.

Notice is further given that any interested person may, not later than June 8, 1973, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.73-10036 Filed 5-21-73;8:45 am]

[File 500-1]

ACCURATE CALCULATOR CORP.

Order Suspending Trading

MAY 14, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.01 par value, and all other securities of Accurate Calculator Corp., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from May 15, 1973, through May 24, 1973.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.73-10073 Filed 5-21-73;8:45 am]

[File 500-1]

BENEFICIAL LABORATORIES, INC.

Order Suspending Trading

MAY 11, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, warrants, units, and all other securities of Beneficial Laboratories, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from May 14, 1973, through May 23, 1973.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.73-10074 Filed 5-21-73;8:45 am]

[File 500-1]

ELECTRONIC CONCEPTS LABORATORIES CORP.

Order Suspending Trading

MAY 11, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, no par value, and all other securities of Electronic Concepts Laboratories Corp., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from May 13, 1973, through May 22, 1973.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.73-10075 Filed 5-21-73;8:45 am]

[File 500-1]

JEROME MACKEY'S JUDO, INC.

Order Suspending Trading

MAY 10, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.01 par value, and all other securities of Jerome Mackey's Judo, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from 1:30 p.m., e.d.t., May 10, 1973, through May 19, 1973.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.73-10076 Filed 5-21-73;8:45 am]

[File 500-1]

LOGOS DEVELOPMENT CORP.

Order Suspending Trading

MAY 14, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.01 par value, and all other securities of Logos Development Corp., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this

order to be effect for the period from May 15, 1973, through May 24, 1973.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.73-10077 Filed 5-21-73;8:45 am]

[File 500-1]

ORECRAFT, INC.

Order Suspending Trading

MAY 14, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.04 par value, and all other securities of Orecraft, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from May 15, 1973, through May 24, 1973.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.73-10078 Filed 5-21-73;8:45 am]

[File 500-1]

PHOTON, INC.

Order Suspending Trading

MAY 14, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $1 par value and all other securities of Photon, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from May 15, 1973, through May 24, 1973.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.73-10079 Filed 5-21-73;8:45 am]

[File 500-1]

PROOF LOCK INTERNATIONAL CORP.

Order Suspending Trading

MAY 11, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.01 par value, and all other securities of Proof Lock International Corp., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from May 14, 1973, through May 23, 1973.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.73-10080 Filed 5-21-73;8:45 am]

[File 500-1]

TEXTURED PRODUCTS, INC.

Order Suspending Trading

MAY 14, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.10 par value and all other securities of Textured Products, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from May 15, 1973, through May 24, 1973.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.73-10081 Filed 5-21-73;8:45 am]

[File 500-1]

TRIEX INTERNATIONAL CORP.

Order Suspending Trading

MAY 11, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.01 par value, of Triex International Corp., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from May 14, 1973, through May 23, 1973.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.73-10082 Filed 5-21-73;8:45 am]

[File 500-1]

U.S. FINANCIAL INC.

Order Suspending Trading

MAY 11, 1973.

The common stock, $2.50 par value, of U.S. Financial Inc., being traded on the New York Stock Exchange, pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of U.S. Financial Inc., being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to sections 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in such securities on the above-mentioned exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from May 14, 1973, through May 23, 1973.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.73-10083 Filed 5-21-73;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice 247]

ASSIGNMENT OF HEARINGS

MAY 17, 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-87532 sub 7, Clay Products Transport, Inc., now assigned June 4, 1973, will be held in room 2, State Office Building, 65 South Front Street, Columbus, Ohio.

MC-105566 sub 83, Sam Tanksley Trucking, Inc., now assigned June 5, 1973, will be held in room 4, State Office Building, 65 South Front Street, Columbus, Ohio.

MC-50069 sub 458, Refiners Transport & Terminal Corp., now assigned June 7, 1973, will be held in room 2, State Office Building, 65 South Front Street, Columbus, Ohio.

MC-82492 sub 81, Michigan & Nebraska Transit Co., Inc., now assigned June 11, 1973, will be held in room 2, State Office Building, 65 South Front Street, Columbus, Ohio.

MC-135524 subs 6 and 7, G. F. Trucking Co., now assigned June 13, 1973, will be held in room 4, State Office Building, 65 South Front Street, Columbus, Ohio.

MC-136829 sub 2, C. James, doing business as C. James Trucking, now being assigned June 18, 1973 (1 week), at Portland, Oreg., in a hearing room to be later designated.

MC-30844 sub 450, Kroblin Refrigerated Xpress, Inc., MC-112822 sub 257, Bray Lines, Inc., and MC-113362 sub 251, Ells-

worth Freight Lines, Inc., now assigned June 11, 1973, will be held in room 2, State Office Building, 65 South Front Street, Columbus, Ohio.

AB-71, Baltimore & Annapolis Railroad Co. abandonment of operations between Clifford Junction, Baltimore City, and Annapolis, in Baltimore and Anne Arundel Counties, Md., now being assigned hearing July 10, 1973 (3 days), at Baltimore, Md., in a hearing room to be later designated.

MC-C-5460 sub 2, Mayflower Transit Lines, Inc., revocation of certificate, now being assigned hearing July 10, 1973 (1 day), at Newark, N.J., in a hearing room to be later designated.

MC-135987 sub 2, R. A. Carbol Trailway Ltd., application dismissed.

MC 123407 sub 101, Sawyer Transport, Inc., now assigned June 6, 1973, MC 106497 sub 74, Parkhill Truck Co., now assigned June 8, 1973, MC 74321 sub 68, B. F. Walker, Inc., now assigned June 11, 1973, MC 50069 sub 457, Refiners Transport & Terminal Corp., now assigned June 12, 1973, MC 114211 sub 184, Warren Transport, Inc., now assigned June 14, 1973, and MC 138109, Ray J. Forney, now assigned June 15, 1973, at Chicago, Ill., will be held in room 1086A, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 109236 sub 26, Elmer L. Sims, G. Grant Sims, and Elmer L. Sims (trustee for Sims Family Trust), doing business as Salt Lake Transfer Co., now being assigned hearing June 18, 1973 (1 week), at Portland, Oreg., in a hearing room to be later designated.

I. & S. M-26691, Bus Fares, New York-Keansburg-Long Branch Bus Co., now assigned May 21, 1973, at New York, N.Y., is canceled.

I. & S. No. 8587, soybeans and wheat, Arkansas and Louisiana to Louisiana ports, now being assigned hearing July 16, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-10163 Filed 5-21-73;8:45 am]

[Notice 248]

ASSIGNMENT OF HEARINGS

MAY 17, 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.

Correction

MC-550 sub 5, Rudie Wilhelm Warehouse Co., doing business as Wilhelm Trucking Co., MC-1872 sub 80, Ashworth Transfer, Inc., MC-83539 sub 365, C & H Transportation Co., Inc., MC-125433 sub 45, F-B Truck Line Co., now being assigned hearing June 18, 1973 (1 week), at Portland, Oreg., in a hearing room to be later designated, instead of MC-500 sub 5, Rudie Wilhelm Warehouse Co., doing business as Wilhelm Trucking Co.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-10164 Filed 5-21-73;8:45 am]

[ICC Order No. 97; Rev. SO No. 994]

CHICAGO, ROCK ISLAND & PACIFIC RAILROAD CO.

Rerouting or Diversion of Traffic

In the opinion of R. D. Pfahler, agent, the Chicago, Rock Island & Pacific Railroad Co. is unable to transport traffic to or from connections or to or from shippers located at Keokuk, Iowa, because of flooding.

It is ordered, That:

(a) The Chicago, Rock Island & Pacific Railroad Co. being unable to transport traffic to or from connections or to or from shippers located at Keokuk, Iowa, because of flooding, that carrier and its connections are hereby authorized to reroute or divert such traffic via any available route to expedite the movement. The billing covering all such cars rerouted shall carry a reference to this order as authority for the rerouting.

(b) *Concurrence of receiving roads to be obtained.*—The railroad desiring to divert or reroute traffic under this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.*—Each carrier rerouting cars in accordance with this order shall notify each shipper at the time each car is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.*—This order shall become effective at 10 a.m., May 14, 1973.

(g) *Expiration date.*—This order shall expire at 11:59 p.m., May 26, 1973, unless otherwise modified, changed, or suspended.

It is further ordered, That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., May 14, 1973.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[FR Doc.73-10162 Filed 5-21-73;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

MAY 17,1973.

An application, as summarized below, has been filed requesting relief from the requirements of Section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the General Rules of Practice (49 CFR 1100.40) and filed on or before June 6, 1973.

FSA No. 42686.—Motor vehicles to points in Florida, Georgia, and South Carolina. Filed by Traffic Executive Association, Eastern Railroads, agent (E.R. No. 3035), for interested rail carriers. Rates on motor vehicles, freight or passenger or combination of freight and passenger, in or on bilevel or trilevel cars, as described in the application, from Pontiac, Mich., to specified points in Florida, Georgia, and South Carolina.

Grounds for relief.—Market competition.

Tariff.—Supplement 59 to Traffic Executive Association, Eastern Railroads, agent, tariff 800, ICC No. C-868. Rates are published to become effective on June 20, 1973.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-10165 Filed 5-21-73;8:45 am]

[Notice 66]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MAY 16, 1973.

The following are notices of filing of application, 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, for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of *Ex parte No. MC-67* (49 CFR Part 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These

rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 13499 (sub-No. 4 TA), filed May 8, 1973. Applicant: PACIFIC TRANSPORTATION LINES, INC., 443 Delaware Avenue, office: 901 Fuhrman Boulevard, Buffalo, N.Y. 14202. Applicant's representative: William J. Hirsch, suite 444, 35 Court Street, Buffalo, N.Y. 14202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale, retail, and chain grocery and food business houses, and in connection therewith, *equipment, materials, and supplies* used in the conduct of such businesses, between the plantsite and warehouse facilities of Welch Foods Inc., at North East and Erie, Pa., on the one hand, and, on the other, all points in New York on and north or west of the boundary lines of Columbia, Greene, Sullivan, and Ulster Counties, N.Y., for 180 days. Supporting shipper: Welch Foods Inc., Westfield, N.Y. 14787. Send protests to: George M. Parker, District Supervisor, Bureau of Operations, 612 Federal Building, 111 West Huron Street, Buffalo, N.Y. 14202.

No. MC 13499 (sub-No. 4 TA), filed May 8, 1973. Applicant: PACIFIC TRANSPORTATION LINES, INC., 443 Delaware Avenue, office: 901 Fuhrman Boulevard, Buffalo, N.Y. 14202. Applicant's representative: William J. Hirsch, suite 444, 35 Court Street, Buffalo, N.Y. 14202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale, retail, and chain grocery and food business houses, and in connection therewith, *equipment, materials, and supplies* used in the conduct of such businesses, between the plantsite and warehouse facilities of Welch Foods Inc., at North East and Erie, Pa., on the one hand, and, on the other, all points in New York on and north or west of the boundary lines of Columbia, Greene, Sullivan, and Ulster Counties, N.Y., for 180 days. Supporting shipper: Welch Foods Inc., Westfield, N.Y. 14787. Send protests to: George M. Parker, District Supervisor, Bureau of Operations, 612 Federal Building, 111 West Huron Street, Buffalo, N.Y. 14202.

No. MC 15808 (sub-No. 22 TA) (correction), filed April 10, 1973, published in the FEDERAL REGISTER issue of April 23, 1973, and republished as corrected this issue. Applicant: GIRTON BROS., INC., P.O. Box 341, Brazil, Ind. 47834. Applicant's representative: Donald W. Smith, 900 Circle Tower, Indianapolis, Ind. 46204.

NOTE.—The purpose of this partial republication is to correct the origin point to Lawrenceville, Ill., in lieu of Lawrenceville, Ind., which was published in error. The rest of the application remains the same.

No. MC 59488 (sub-No. 38 TA), filed May 6, 1973. Applicant: SOUTHWESTERN TRANSPORTATION CO., 7600 South Central Expressway, P.O. Box 6187 (Box zip 75222), Dallas, Tex. 75216. Applicant's representative: Lloyd M. Roach, 1517 West Front Street, Tyler, Tex. 75701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), serving Highland Industrial Development Park, or as sometimes called "East Camden Industrial Park," located in Calhoun and Ouachita Counties, Ark., as an off-route point in connection with applicant's regular route authority, for 180 days.

NOTE.—Applicant intends to tack with authority held in MC 59488 and at all gateways.

Supporting shipper: Highland Industrial Park, Box 3108, East Camden, Ark. 71701. Send protests to: District Supervisor E. K. Willis, Jr., Interstate Commerce Commission, Bureau of Operations, 1100 Commerce Street, room 13C12, Dallas, Tex. 75202.

No. MC 111401 (sub-No. 386 TA), filed May 8, 1973. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Boulevard, P.O. Box 632, Enid, Okla. 73701. Applicant's representative: Victor R. Comstock (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid waste materials*, in bulk, in tank vehicles, from points in Texas on and north of U.S. Highway 84 from the Texas-Louisiana border to its junction with U.S. Highway 67 at Brownwood, Tex., and on and north of U.S. Highway 67 to the border of Texas and Mexico, to Tulsa, Dover, and Purcell, Okla., for 180 days. Supporting shipper: U.S. Pollution Control, Inc., Wesley W. Smith, vice president, 2000 Classen Center, suite 200 south, Oklahoma City, Okla. 73106. Send protests to: C. L. Phillips, District Supervisor, Bureau of Operations, Interstate Commerce Commission, room 240, Old Post Office Building, 215 Northwest Third, Oklahoma City, Okla. 73102.

No. MC 124073 (sub-No. 6 TA), filed May 8, 1973. Applicant: ROY S. SARGEANT, INC., P.O. Box 95, Vienna, N.J. 07880. Applicant's representative: J. Millner, 744 Broad Street, Newark, N.J. 07102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Frozen meats, frozen meat products, frozen poultry, and frozen poultry products*, from Moosic, Pa., to Manassas, Winchester, and Norfolk, Va., and Charleston and Mount Clare, W. Va. Restriction: The operations authorized herein are limited to a transportation service to be performed under continuing contract or contracts with Polarized Products Division of Ten-Da Brand Frozen Foods, Inc., of Scranton, Pa., and (2) *frozen seafood*, when moving in the same vehicle with the commodities authorized in part (1) hereof, from Exeter, Pa., to Baltimore, Md.; Washington, D.C.; and Alexandria, Manassas, Winchester, Norfolk, Roanoke, and Richmond, Va., for 180 days. Restriction: The operations authorized herein are limited to a transportation service to be performed under continuing contract or contracts with Phillips Seafood Kitchens, Inc., of Exeter, Pa. Supporting shippers: (1) Phillips Sea Food Kitchens, Inc., 1313 Wyoming Avenue, Exeter, Pa. 18643, and (2) Ten-Da Brand Frozen Foods, Inc., Birney Avenue (Route 11), Moosic, Pa. 18507. Send protests to: District Supervisor Joel Morrows, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, N.J. 07102.

No. MC 134884 (sub-No. 5 TA), filed May 7, 1973. Applicant: FARWEST FURNITURE TRANSPORT, INC., 6840 112th Avenue SE., Renton, Wash. 98055. Applicant's representative: Bruce E. Mitchell, P.O. Box 872, Atlanta, Ga. 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture and fixtures*, between ports of entry on the United States-Canadian Border at or near Blaine, Sumas, Oroville, Danville, and Laurier, Wash., on the one hand, and, on the other, points in Washington, Oregon, California, and Idaho, for 90 days. Supporting shippers: Lynch Furniture Manufacturing Co., 822 Third Avenue South, Kent, Wash. 98031; Marvin's Furniture Manufacturing, Inc., 1030 First Avenue South, Seattle, Wash.; Pace Furniture Manufacturing Co., 105 Southwest Second, Troutdale, Oreg. 97060; and Smart Craft Furniture Manufacturing Co., Inc., 833 East Third Street, Los Angeles, Calif. 90013. Send protests to: L. D. Boone, transportation specialist, Bureau of Operations, Interstate Commerce Commission, 6409 Federal Office Building, Seattle, Wash. 98104.

NOTE.—Applicant proposes to tack the requested authority with corresponding authority issued by British Columbia.

No. MC 135633 (sub-No. 3 TA) (amendment), filed April 16, 1973, published in the FEDERAL REGISTER issue of May 2, 1973, and republished as amended this issue. Applicant: NATIONWIDE AUTO TRANSPORTERS, INC., 2185 Lemoine Avenue, Fort Lee, N.J. 07024. Applicant's representative: Harold G. Hernly, Jr., 118 North Asaph Street,

Alexandria, Va. 22314. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motor homes*, in driveaway service, between McMinnville, Oreg., points in Dade County, Fla., and Elkhart, Ind., and 25 miles thereof, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), for 180 days. Supporting shippers: (1) Skyline Corp., 2520 By-Pass Road, Elkhart, Ind. 46514; (2) Sheller-Globe Corp., Superior Coach Division, 1200 East Kibby Street, Lima, Ohio 45802; and (3) Campco Corp., 5300 Northwest 165th Street, Hialeah, Fla. 22014. Send protests to: District Supervisor Joel Morrows, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, N.J. 07102.

NOTE.—The purpose of this republication is to correct the territory proposed to be served.

No. MC 138599 (sub-No. 1 TA), filed May 7, 1973. Applicant: LAKEVIEW ECONOMY FARM SERVICE, INC., 921 North Fourth Street, Lakeview, Oreg. 97630. Applicant's representative: Charles H. Schuler (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber products*, from Lakeview, Oreg., to points in Southern California and Nevada, for 180 days. Supporting shippers: Fremont Sawmill, P.O. Box 1340, Lakeview, Oreg. 97630; Lakeview Lumber Products Co., P.O. Box 229, Lakeview, Oreg. 97630; Golden State Building Products, P.O. Box 630, Lakeview Division, Lakeview, Oreg. 97630; and Hurd Lumber Co., P.O. Box 7061, Berkeley, Calif. 94707. Send protests to: A. E. Odoms, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 450 Multnomah Building, 319 Southwest Pine Street, Portland, Oreg. 97204.

No. MC 138637 TA (correction), filed April 16, 1973, published in the FEDERAL REGISTER issue of May 4, 1973, and republished as corrected this issue. Applicant: LAWRENCE J. GOATER, 88 Birchbrook Drive, Rochester, N.Y. 14623. Applicant's representative: S. Michael Richards, 44 North Avenue, Webster, N.Y. 14580. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Swimming pool kits and accessories*, from Bergen, N.Y., and De Kalb County, Ga., to points in Alabama, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maine, Maryland, Michigan, Massachusetts, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia, for 180 days. Supporting shipper: William L. Prinsen, office manager, Tallman Enterprises Inc., 7300 Lake Road, Bergen, N.Y. 14416. Send protests to: Morris H. Gross, District Supervisor, Bureau of Operations, Interstate Commerce Commission, room 104, 301 Erie Boulevard, West, Syracuse, N.Y. 13202.

NOTE.—The purpose of this republication is to add De Kalb County, Ga., which was omitted in previous publication.

No. MC 138667 TA, filed May 8, 1973. Applicant: ROBERT SALISBURY AND JACK BLANCHARD, doing business as B & S TRUCKING, 1059 Stainton Drive, Mississauga, Ontario, Canada. Applicant's representative: William J. Hirsch, suite 444, 35 Court Street, Buffalo, N.Y. 14202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Empty semi-trailers, freight containers and shippers' chassis*, between ports of entry on the international boundary between the United States and Canada, in Michigan and New York, on the one hand, and, on the other, Buffalo, N.Y.; Chicago, Ill.; Detroit, Mich.; Fort Wayne, Ind.; and Middletown, Pa., for 180 days. Supporting shipper: Fruehauf Trailer of Canada Ltd., 2450 Stainfield Road, Mississauga, Ontario, Canada. Send protests to: George M. Parker, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 612 Federal Building, 111 West Huron Street, Buffalo, N.Y. 14202.

No. MC 138691 TA, filed May 8, 1973. Applicant: EVERGREEN DISTRIBUTING CO., INC., 1610 West Market Avenue, Vancouver, Wash. 98660. Applicant's representative: Russell M. Allen, 1200 Jackson Tower, Portland, Oreg. 97205. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Shakes and trim*, from mill of Longview Booming Co., Inc., in or near Longview, Wash., to points in California, for 180 days. Supporting shipper: Longview Booming Co., Inc., 2327 Lynnwood Drive, Longview, Wash. 98632. Send protests to: District Supervisor W. J. Huetig, Bureau of Operations, Interstate Commerce Commission, 450 Multnomah Building, 319 Southwest Pine Street, Portland, Oreg. 97204.

No. MC 138692 TA, filed May 7, 1973. Applicant: MONTI VAN LINES, INC., 1059 Northwest First Street, Miami, Fla. 33131. Applicant's representatives: Brodsky, Linett, and Altman, 1776 Broadway, New York, N.Y. 10019. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, between points in Citrus, Broward, Dade, Palm Beach, Collier, Orange, Pinellas, and Hillsborough Counties, Fla., for 180 days. Restriction: The operations authorized herein are to be restricted to the transportation of traffic having a prior or subsequent movement in containers beyond the points authorized, and further restricted to the performance of pick up and delivery service in connection with packing, crating and containerization or unpacking, uncrating and decontainerization of such traffic. Supporting shipper: Cartwright International Van Lines, Inc., 11901 Cartwright Avenue, Grandview, Mo. 64030. Send protests to: District Supervisor Joseph B. Teichert, Interstate Commerce Commission, Bureau of Operations, 5720 Southwest 17th Street, room 105, Miami, Fla. 33155.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-10166 Filed 5-21-73;8:45 am]

[Notice 279]

MOTOR CARRIER TRANSFER PROCEEDINGS

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and transfer rules, 49 CFR part 1132:

No. MC-FC-74499. By application filed May 14, 1973, L. E. TROUTMAN, doing business as L. E. TROUTMAN GRAIN & ELEVATOR CO., P.O. Box 36, Riverdale, Kans. 67130, seek temporary authority to lease the operating rights of DUDDEN ELEVATOR, INC., P.O. Box 60, Ogallala, Nebr. 69153, under section 210a(b). The transfer to L. E. TROUTMAN, doing business as L. E. TROUTMAN GRAIN & ELEVATOR CO., of the operating rights of DUDDEN ELEVATOR, INC., is presently pending.

Dated May 17, 1973.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-10167 Filed 5-21-73;8:45 am]

[Notice 280]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before June 11, 1973. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-74127. By order of May 16, 1973, the Motor Carrier Board approved the transfer to Brown Trucking, Inc.,

Memphis, Tenn., of certificate No. MC-129653 sub-No. 1, issued October 15, 1969, to Sam B. Paine, doing business as Paine Bros. Trucking Co., Memphis, Tenn., authorizing the transportation of aggregate from Lehi, Ark., to points in Shelby County, Tenn. John Paul Jones, 189 Jefferson Avenue, Memphis, Tenn. 38103, applicants' attorney

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-10168 Filed 5-21-73;8:45 am]

[Ex Parte No. 241; Exemption No. 39; Amdt. No. 2]

LOUISIANA & ARKANSAS RAILWAY CO.

Exemption Under Mandatory Car Service Rules

Upon further consideration of exemption No. 39 (Louisiana & Arkansas Railway Co.) issued April 13, 1973.

It is ordered, That, under authority vested in me by car service rule 19, exemption No. 39 to the mandatory car service rules ordered in *Ex parte No. 241* be, and it is hereby, amended to expire May 31, 1973.

This amendment shall become effective May 15, 1973.

Issued at Washington, D.C., May 15, 1973.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[FR Doc.73-10169 Filed 5-21-73;8:45 am]

CUMULATIVE LISTS OF PARTS AFFECTED—MAY

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 May.

FEDERAL REGISTER PAGES AND DATES—MAY

Pages	*Date*	*Pages*	*Date*
10699–10788	May 1	12307–12594	May 11
10789–10908	2	12595–12721	14
10909–11052	3	12723–12789	15
11053–11329	4	12791–12884	16
11331–11426	7	12885–13002	17
11427–12084	8	13003–13307	18
12085–12194	9	13309–13467	21
12195–12306	10	13469–13540	22

federal register

TUESDAY, MAY 22, 1973
WASHINGTON, D.C.

Volume 38 ■ Number 98

PART II

ENVIRONMENTAL PROTECTION AGENCY

User Charges and Industrial Cost Recovery

■

GRANTS FOR CONSTRUCTION OF TREATMENT WORKS

Notice of Proposed Rulemaking

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 35]

USER CHARGES AND INDUSTRIAL COST RECOVERY

Grants for Construction of Treatment Works

Notice is hereby given that the Environmental Protection Agency proposes to amend part 35 of title 40 to include regulations for user charge systems and industrial cost recovery, pursuant to section 204(b) of the Federal Water Pollution Control Act Amendments of 1972.

The proposed regulations would require that a system of user charges be adopted by all applicants for treatment works construction grants. User charges are payments to a grant applicant by recipients of waste treatment services to offset the cost of operation and maintenance of treatment works provided by the applicant. User charge systems are intended to enable the grantee to be financially self-sufficient with respect to operation and maintenance of treatment works.

The proposed regulations would also require that all grantees recover from industrial users that portion of the grant amount allocable to the treatment of wastes from such users An industrial user's share is to be based on all factors which significantly influence the cost of the treatment works, including strength, volume, and flow characteristics. As a minimum, an industry's share shall be based on its flow versus treatment works capacity except in unusual cases.

The act provides that a grantee may retain an amount of the revenues recovered from industry equal to (1) the amount of the non-Federal cost of the project paid by the grantee, plus (2) the amount necessary for future reconstruction and expansion of the project. The total amount retained, however, cannot exceed 50 percent of the amount recovered.

In the development of the proposed regulations, it was determined that the 50 percent limitation would be applicable except at an amount for reconstruction and expansion which would not be sufficient to expand and reconstruct the treatment works. Therefore, in the interest of minimizing paperwork pursuant to section 101(f) of the act, the proposed regulations would permit a grantee to retain 50 percent of the amounts recovered in all cases. The remainder, together with any interest earned thereon, would be returned to the U.S. Treasury.

The act requires that the amount retained by the grantee, which is attributable to future reconstruction and expansion, be used solely for that purpose. It is implied that the amount retained, which is attributable to the non-Federal cost of the project paid by the grantee, may be used by the grantee for any purpose.

The proposed regulations state that 80 percent of the retained amounts, together with any interest earned thereon, shall be used solely for allowable costs of reconstruction and expansion of treatment works associated with the project and necessary to meet the intent of the act. The remainder of the retained amounts may be used by the grantee for any purpose

The justification for this distribution of the amounts retained is as follows: The total amount necessary for reconstruction and expansion of the project would be, at a minimum, 100 percent of the eligible costs of the project. The non-Federal share would be 25 percent of the eligible project costs. Thus the ratio between the minimum amount necessary for reconstruction and expansion and the total amount for both reconstruction and expansion and the non-Federal share of the project would be $(100)(100)/(100+25)=80$ percent. Since the amount retained will be less than the full amounts necessary for future reconstruction and expansion and the non-Federal share, it is proposed that the amount retained for future reconstruction and expansion be in the same ratio to the amount attributable to the non-Federal share as if the full amount for both purposes were available. This appears to be the most equitable manner of distributing the retained funds.

Interested parties are encouraged to submit written comments, views, or data concerning these proposed regulations to the Director, Municipal Waste Water Systems Division, Environmental Protection Agency, Washington D.C. 20460. All such submissions received on or before June 21, 1973, will be considered prior to promulgation of final regulations on user charges and industrial cost recovery.

Any grants awarded after March 1, 1973, but prior to promulgation of final regulations will be subject to a special grant condition incorporating these proposed regulations by reference.

ROBERT W. FRI,
Acting Administrator.

MAY 15, 1973.

Subpart E—Grants for Construction of Treatment Works—Federal Water Pollution Control Act Amendments of 1972

1. Section 35.901 is amended to read as follows:

§ 35.901 Authority.

This subpart is promulgated pursuant to sections 201 through 205, 207, 210 through 212, 501(a), and 502(18) of the act.

2. Sections 35.905–16 through 35.905–21 are added to read as follows:

§ 35.905–16 Service life.

The estimated period during which a treatment works will be operated.

§ 35.905–17 Industrial cost recovery.

Recovery by the grantee from the industrial users of a treatment works of the grant amount allocable to the treatment of wastes from such users.

§ 35.905–18 Industrial user.

Any nongovernmental user of publicly owned treatment works identified in the Standard Industrial Classification Manual, 1972, Office of Management and Budget, as amended and supplemented, under the following divisions:

(a) Division A—Agriculture, Forestry, and Fishing.

(b) Division B—Mining.

(c) Division D—Manufacturing.

(d) Division E—Transportation, Communications, Electric, Gas, and Sanitary Services.

(e) Division I—Services.

A user in the Divisions listed may be excluded if it is determined that it will introduce primarily domestic wastes or wastes from sanitary conveniences.

§ 35.905–19 Recovery period.

A period, beginning at the commencement of operation of a treatment works, during which the grant amount allocable to the treatment of wastes from industrial users is recovered from the industrial users of such works.

§ 35.905–20 Replacement.

Expenditures for obtaining and installing equipment, accessories, or appurtenances which are necessary during the service life of the treatment works to maintain the capacity and performance for which such works were designed and constructed. The term "operation and maintenance" includes replacement.

§ 35.905–21 User charge.

A charge levied on users of treatment works for the cost of operation and maintenance of such works. User charges do not include construction costs.

3. Section 35.925–11 is revised to read as follows:

§ 35.925–11 User charges and industrial cost recovery.

(a) In the case of any grant awarded after March 1, 1973, for a project which includes the preparation of construction plans and specifications (step 2); that the applicant has developed an approvable plan and schedule of implementation for a system of user charges to assure that each recipient of waste treatment services will pay its proportionate share of the costs of operation and maintenance (including replacement) of treatment works provided by the applicant.

(b) In the case of any grant awarded after March 1, 1973; for a project which includes the preparation of construction plans and specifications (step 2); that the applicant has received signed letters of intent from each significant industrial user to pay that portion of the grant amount allocable to the treatment of its wastes. Each such letter shall also include a statement of the industrial user's intended period of use of the treatment works. A significant industrial user is one that will contribute greater than 10 percent of the design flow or design pollutant loading of the treatment works. In addition, the applicant must agree to require all industrial users to pay that portion of the grant amount allocable to the treatment of wastes from such users.

(c) That the applicant has legal, institutional, managerial, and financial capability to insure adequate construction, operation, and maintenance of treatment works throughout the applicant's jurisdiction.

(d) Grants awarded prior to March 2, 1973, are subject to 40 CFR 35.835–5 requirements in lieu of paragraphs (a), (b), and (c) of this section.

4. Sections 35.925–14 through 35.925–16 are added to read as follows:

§ 35.925–14 Treatment of industrial wastes.

That the project costs do not include costs allocable to the treatment for control or removal of pollutants in wastes introduced into the treatment works by industrial users if the applicant is not required to control and/or remove such pollutants from wastes introduced by other sources.

§ 35.925–15 Federal activities.

That the project costs do not include costs allocable to the treatment of wastes from activities of the Federal Government.

§ 35.925–16 Retained amounts for reconstruction and expansion.

That the project cost have been reduced by an amount equal to the unexpended balance of the amounts retained by the applicant pursuant to § 35.928–2, together with interest earned thereon.

5. Section 35.928 through 35.928–2 are added to read as follows:

§ 35.928 Industrial cost recovery.

The system for industrial cost recovery shall be approved by the Regional Administrator and shall be implemented and maintained by the grantee in accordance with the following requirements.

§ 35.928–1 Recovered amounts.

(a) Each year during the recovery period, each industrial user of the treatment works shall pay its share of the total grant amount divided by the recovery period.

(b) The recovery period shall be equal to 30 years or the service life of the treatment works, whichever is less.

(c) Payments shall be made by industrial users no less often than annually. The first payment by an industrial user shall be made not later than 1 year after such user begins use of the treatment works.

(d) An industrial user's share shall be based on all factors which significantly influence the cost of the treatment works. Factors such as strength, volume, and delivery flow rate characteristics shall be considered and included to insure a proportional distribution of the grant amount allocable to industrial use to all industrial users of the treatment works.

(e) If there is a substantial change in the strength, volume, or delivery flow rate characteristics introduced into the treatment works by an industrial user, such user's share shall be adjusted accordingly.

(f) If there is an expansion of the treatment works capacity each existing industrial user's share shall be reduced accordingly.

(g) An industrial user's share shall not include any portion of the grant amount allocable to unused or unreserved capacity.

(h) An industrial user's share shall include any firm commitment to the grantee of increased use by such user.

(i) All unallocated treatment works capacity must conform with the requirements of section 204(a)(5) of the act and such cost-effectiveness guidelines as may be promulgated by the Administrator pursuant to section 212(2)(C) of the act.

(j) An industrial user's share shall not include an interest component.

§ 35.928–2 Retained amounts.

(a) The grantee shall retain 50 percent of the amounts recovered from industrial users. The remainder, together with any interest earned thereon, shall be returned to the U.S. Treasury on an annual basis.

(b) A minimum of 80 percent of the retained amounts, together with interest earned thereon, shall be used solely for the allowable costs (in accordance with § 35.940 of this subpart) of the expansion or reconstruction of treatment works associated with the project and necessary to meet the requirements of the act. The grantee shall obtain the written approval of the Regional Administrator prior to commitment of the retained amounts for any expansion and reconstruction. The remainder of the retained amounts may be used as the grantee sees fit.

(c) Pending use, the grantee shall invest the retained amounts for reconstruction and expansion in: (1) Obligations of the U.S. Government; or (2) obligations guaranteed as to principal and interest by the U.S. Government or any agency thereof; or (3) shall deposit such amounts in accounts fully collateralized by obligations of the U.S. Government or by obligations fully guaranteed as to principal and interest by the U.S. Government or any agency thereof.

6. Section 35.935–13 is added to read as follows:

§ 35.935–13 User charges and industrial cost recovery.

(a) The grantee will maintain such records as necessary to document compliance by the grantee with the Federal guidelines on user charges for operation and maintenance of publicly owned treatment works (see appendix hereto) and § 35.928 of this subpart.

(b) The grantee will obtain the approval of the Regional Administrator of

the system of user charges and the system of industrial cost recovery based on the Federal guidelines on user charges for operation and maintenance of publicly owned treatment works (see appendix hereto) and § 35.928 of this subpart.

APPENDIX

FEDERAL GUIDELINES

User Charges for Operation and Maintenance of Publicly Owned Treatment Works

(a) *Purpose.*—To set forth user charge guidelines pursuant to section 204 of the Federal Water Pollution Control Act Amendments of 1972, Public Law 92-500, hereinafter referred to as the act.

(b) *Authority.*—The authority for establishment of the user charge guidelines is contained in section 204(b)(2) of the act.

(c) *Background.*—Section 204(b)(1) of the act provides that after March 1, 1973, Federal grant applicants shall be awarded grants only after the Regional Administrator has determined that the applicant has adopted or will adopt a system of charges to assure that each recipient of waste treatment services will pay its proportionate share of the costs of operation and maintenance, including replacement. The intent of the act with respect to user charges is to distribute the cost of operation and maintenance of publicly owned treatment works to the pollutant source and to promote self-sufficiency of treatment works with respect to operation and maintenance costs.

(d) *Definitions.*—(1) *Replacement.*—Expenditures for obtaining and installing equipment, accessories, or appurtenances which are necessary during the service life of the treatment works to maintain the capacity and performance for which such works were designed and constructed. The term "operation and maintenance" includes replacement.

(2) *User charge.*—A charge levied on users of treatment works for the cost of operation and maintenance of such works. User charges do not include construction costs.

(e) *Classes of users.*—At least two basic types of user charge systems are common. The first is to charge each user a share of the treatment works operation and maintenance costs based on his estimated or measured proportional contribution to the total treatment works loading. The second system establishes classes for users having similar flows and wastewater characteristics, i.e., levels of biochemical oxygen demand, suspended solids, etc. Each class is then assigned its share of the waste treatment works operation and maintenance costs based on the proportional contribution of the class to the total treatment works loading. Either system is in compliance with these guidelines.

(f) *Criteria against which to determine the adequacy of user charges.*—The user charge system shall be approved by the Regional Administrator and shall be implemented and maintained by the grantee in accordance with the following requirements:

(1) The user charge system shall result in the distribution of the cost of operation and maintenance of treatment works, within the grantee's jurisdiction, to each user (or user class) in proportion to such user's contribution to the total wastewater loading of the treatment works. Factors such as strength, volume, and delivery flow rate characteristics shall be considered and included as the basis for the user's contribution to insure a proportional distribution of operation and maintenance costs to each user (or user class).

(2) For the first year of operation, operation and maintenance costs shall be based upon past experience for existing treatment works, or some other rational method that can be demonstrated to be applicable.

(3) The grantee shall review user charges annually and revise them periodically to reflect actual treatment works operation and maintenance costs.

(4) The user charge system shall generate sufficient revenue to offset the cost of all treatment works operation and maintenance provided by the grantee.

(5) The user charge system shall be incorporated in one or more municipal legislative enactments or other appropriate authority. If the project is a regional treatment works accepting wastewaters from treatment works owned by others, then the subscribers receiving waste treatment services from the grantee shall have adopted user charge systems in accordance with this guideline. Such user charge systems shall also be incorporated in the appropriate municipal legislative enactments or other appropriate authority.

(g) *Model user charge systems.*—The user charge system adopted by the applicant must result in the distribution of treatment works operation and maintenance costs to each user (or user class) in approximate proportion to his contribution to the total wastewater loading of the treatment works. The following user charge models can be used for this purpose; however, the applicant is not limited to their use. The symbols used in the models are as defined below:

C_T = Total operation and maintenance (O. & M.) costs per unit of time.
C_u = A user's charge for O. & M. per unit of time.
C_s = A surcharge for wastewaters of excessive strength.
V_e = O. & M. cost for transportation and treatment of a unit of wastewater volume.
V_u = Volume contribution from a user per unit of time.
V_T = Total volume contribution from all users per unit of time.
B_e = O. & M. cost for treatment of a unit of biochemical oxygen demand (BOD).
B_u = Total BOD contribution from a user per unit of time.
B_T = Total BOD contribution from all users per unit of time.
ΔB = Concentration of BOD from a user above a base level.
S_e = O. & M. cost for treatment of a unit of suspended solids.
S_u = Total suspended solids contribution from a user per unit of time.
S_T = Total suspended solids contribution from all users per unit of time.
ΔS = Concentration of SS from a user above a base level.
P_e = O. & M. cost for treatment of a unit of any pollutant.
P_u = Total contribution of any pollutant from a user per unit of time.
P_T = Total contribution of any pollutant from all users per unit of time.
Δp = Concentration of any pollutant from a user above a base level.

(1) *Model No. 1.*—If the treatment works is primarily flow dependent or if the BOD, suspended solids, and other pollutant concentrations discharged by all users are approximately equal, then user charges can be developed on a volume basis in accordance with the model below:

$$C_u = \frac{C_T}{V_T}(V_u)$$

(2) *Model No. 2.*—When BOD, suspended solids, or other pollutant concentrations from a user exceed the range of concentration of these pollutants in normal domestic sewage, a surcharge added to a base charge, calculated by means of model No. 1, can be levied. The surcharge can be computed by the model below:

$$C_s = [B_e(\Delta B) + S_e(\Delta S) + P_e(\Delta P)]V_u$$

(3) *Model No. 3.*—This model is commonly called the "quantity/quality formula":

$$C_u = V_eV_u + B_eB_u + S_eS_u + P_eP_u$$

(h) *Other considerations.*—(1) Quantity discounts to large volume users will not be acceptable. Savings resulting from economies of scale should be apportioned to all users or user classes.

(2) User charges may be established based on a percentage of the charge for water usage only in cases where the water charge is based on a constant cost per unit of consumption.

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PART III

ENVIRONMENTAL PROTECTION AGENCY

■

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

Title 40—Protection of the Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER D—WATER PROGRAMS

PART 125—NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

On January 11, 1973, notice was published in the FEDERAL REGISTER (38 FR 1362) that the Environmental Protection Agency was proposing policies and procedures for the National Pollutant Discharge Elimination System (NPDES) pursuant to sections 402 and 405 of the Federal Water Pollution Control Act Amendments of 1972 (86 Stat. 816; 33 U.S.C. 1251nt, 1972) (hereinafter referred to as the Act). See the preamble of the proposed rulemaking for a description of the purposes of the regulations.

Written comments on the proposed rulemaking were invited and received from interested parties. A number of verbal comments also were received. The Environmental Protection Agency has carefully considered all submitted comments. All written comments are on file with the Agency. Certain of these comments have been adopted or substantially satisfied by editorial changes, deletions from, or additions to the regulations. These and other principal changes are discussed below.

a. Many commenters pointed out that the permit program conducted on the Federal level should not be inconsistent with the guidelines for State permit programs, as promulgated by the Agency on December 18, 1972. Some of the major changes made to meet this requirement are:

(1) The signatory requirements have been modified to allow authorized representatives and other responsible parties to sign NPDES forms. (See § 125.12.)

(2) Draft permits are now prepared and are made available to the public before the final permit is prepared. (See § 125.31.)

(3) Mailing lists will now be maintained for people to receive copies of fact sheets and public notices without the necessity of requesting each fact sheet following public notice. (See §§ 125.32 and 125.33.)

(4) Fact sheets are only required for discharges exceeding 500,000 gallons on any day of the year. (See § 125.33.)

(5) Procedures for handling confidential information have been changed to conform to EPA regulations for the handling of such data pursuant to 40 CFR 2. (See § 125.35.)

(6) Schedules of compliance must now be set so that, to the maximum extent practicable, the final and interim dates fall on the last day of the months of March, June, September, and December. Also, Regional Administrators must prepare a list of all instances of noncompliance and this list shall be available to the public. (See § 125.23.)

(7) Schedules of compliance may now be extended, after public notice, by the Regional Administrator where good and valid cause (such as act of God, strike, flood, etc.) exists for the failure to comply with the schedule. (See § 125.23.)

(8) Permits may now be transferred without the prior written approval of the Regional Administrator. (See § 125.22.)

(9) A new condition of every permit now requires that any discharge must be consistent with toxic effluent standards or prohibitions when they are promulgated under section 307(a) of the Act. (See § 125.22.)

b. Revisions other than those concerning consistency with the State guidelines for the permit program.

(1) The regulations, in several places, make clear that permit issuing authority for Federal facilities cannot be delegated to the States. (See § 125.2 (a) and (b).)

(2) The filing date requirements were clarified to provide that the Regional Administrators could allow later filing dates upon request of an applicant. (See § 125.12(d).)

(3) The provision that site visits be accomplished and requested information be received within 60 days was changed to allow the receipt of the information or the accomplishment of the site visit to be arranged within 60 days. (See § 125.13.)

(4) Major changes were made concerning the procedures to be followed with respect to fish and wildlife interests. The procedures now require Regional Administrators to meet with appropriate officials of the Departments of Interior and Commerce to determine what applications the fish and wildlife interests will receive automatically, and those agencies may then comment within 30 days on appropriate conditions for inclusion in the permit. (See § 125.14.)

(5) The requirement that Regional Administrators must first check with certifying agencies at the end of the allotted period of time for certification before determining that a waiver has occurred, has been deleted to avoid delay. (See § 125.15.)

(6) A new § 125.42(b) has been added to show the relationship of the Refuse Act, 33 U.S.C. 407, to the NPDES.

(7) The hearings and appeals section has been substantially modified to provide for adjudicatory hearings. Consistent with the purposes of section 101(e) of the Act, public hearings are also provided for. (See § 125.32.)

(8) It is now clearly pointed out that inspections of monitoring equipment, sampling methods, etc., must be accomplished at reasonable times. (See § 125.22.)

(9) The requirement that permittees agree to comply with all the terms and conditions of the permit in writing has been deleted since it was believed that it was unnecessary and only confused the issue during the period before signature. (See § 125.22.)

(10) Public notices will now require a statement of whether the application pertains to a new or existing discharge. This will better describe the discharge. (See § 125.32.)

(11) Public notices will now require, where appropriate, a statement that confidential information has been received that may be used to determine appropriate conditions of a permit when such confidential information has been received. This change will make proposed terms and conditions of permits more understandable.

(12) The delegation of authority in § 125.5 has been modified to substantially increase the delegation of authority to Regional Administrators. This change will enable the program to operate closer to the discharges while still retaining necessary authorities in the Administrator.

(13) The exclusions from the requirement to apply for an NPDES permit have been changed to accomplish the following (see § 125.4):

(i) The exclusion of deposits into publicly owned treatment works is clarified and now included within the "Exclusions section." This was implied in the proposed rulemaking but is explicit now;

(ii) Most discharges from vessels to inland waters are now clearly excluded from the permit requirements. This type of discharge generally causes little pollution and exclusion of vessel wastes from the permit requirements will reduce administrative costs drastically;

(iii) Discharges of sewage sludge and all other pollutants from vessels to the territorial sea, the contiguous zone, and the ocean will be covered by the permit program established by the Marine Protection Research and Sanctuaries Act of 1972 (Public Law 92-532).

(iv) Uncontrolled discharges composed entirely of stormwater are excluded from the permit requirements unless they are determined to be significant contributors of pollution.

(14) The definition of "trade secrets" has been deleted.

(15) The definition of "navigable waters" has been clarified by incorporating additional language.

(16) The requirement that joint Federal-State public notice agreements be published in the FEDERAL REGISTER has been deleted. Now, any agreement consistent with the regulations is valid without publication.

Because of the importance of promptly making known to other Federal Agencies, States, dischargers, environmentalists, and other interested persons the content of these regulations and because of the need to issue permits promptly, the Administrator finds good cause to declare the regulations effective immediately upon publication.

Dated May 16, 1973.

ROBERT W. FRI,
Acting Administrator.

Subpart A—General

Subpart B—Processing of Permits

AUTHORITY.—Secs. 402 and 405 of the Federal Water Pollution Control Act Amendments of 1972 (86 Stat. 816 et seq.; Public Law 92-500, 33 U.S.C. 1251nt).

Subpart A—General

§ 125.1 Definitions.

Except as otherwise specifically provided:

(a) The term "Act" means the Federal Water Pollution Control Act, as amended, Public Law 92-500, 33 U.S.C. 1251nt.

(b) The term "Administrator" means the Administrator of the U.S. Environmental Protection Agency.

(c) The term "applicable effluent standards and limitations" means all State and Federal effluent standards and limitations to which a discharge is subject under the Act, including, but not limited to, effluent limitations, standards of performance, toxic effluent standards and prohibitions, and pretreatment standards.

(d) The term "applicable water quality standards" means all water quality standards to which a discharge is subject under the Act and which have been (1) approved or permitted to remain in effect by the Administrator pursuant to section 303(a) or section 303(c) of the Act, or (2) promulgated by the Administrator pursuant to section 303(b) or section 303(c) of the Act.

(e) The term "applicant" means an applicant for an NPDES permit.

(f) The term "contiguous zone" means the entire zone established or to be established by the United States under article 24 of the Convention of the Territorial Sea and the Contiguous Zone.

(g) The term "discharge" when used without qualification includes a discharge of a pollutant and a discharge of pollutants.

(h) The term "discharge of pollutant" and the term "discharge of pollutants" each means (1) any addition of any pollutant to navigable waters other than the territorial sea, from any point source, (2) any addition of any pollutant to the waters of the territorial sea, the contiguous zone or the ocean from any point source other than a vessel or other floating craft.

(i) The term "effluent limitations" means any restriction established by a State or the Administrator on quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged from point sources into navigable waters, the waters of the contiguous zone or the ocean, including schedules of compliance.

(j) The term "Environmental Protection Agency" means the U.S. Environmental Protection Agency.

(k) The term "interstate agency" means an agency of two or more States established by or pursuant to an agreement or compact approved by the Congress, or any other agency of two or more States, having substantial powers or duties pertaining to the control of pollution as determined and approved by the Administrator.

(l) The term "minor discharge" means any discharge which (1) has a total volume of less than 50,000 gallons on every day of the year, (2) does not affect the waters of more than one State and (3) is not identified by the State water pollution control agency, the Regional Administrator, or by the Administrator in regulations issued pursuant to section 307(a) of the Act, as a discharge which is not a minor discharge. If there is more than one discharge from a facility and the sum of the volumes of all discharges from the facility exceeds 50,000 gallons on any day of the year, then no discharge from the facility is a minor discharge as defined herein.

(m) The term "municipality" means a city, town, borough, county, parish, district, association, or other public body created by or pursuant to State law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the Act.

(n) The term "National Pollutant Discharge Elimination System" (hereinafter referred to as "NPDES") for the purpose of these regulations means the system for issuing, conditioning, and denying permits for the discharge of pollutants from point sources into the navigable waters, the contiguous zone, and the oceans, by the Administrator of the Environmental Protection Agency pursuant to sections 402 and 405 of the Act.

(o) The term "navigable waters" includes:

(1) All navigable waters of the United States;

(2) Tributaries of navigable waters of the United States;

(3) Interstate waters;

(4) Intrastate lakes, rivers, and streams which are utilized by interstate travelers for recreational or other purposes;

(5) Intrastate lakes, rivers, and streams from which fish or shellfish are taken and sold in interstate commerce; and

(6) Intrastate lakes, rivers, and streams which are utilized for industrial purposes by industries in interstate commerce.

(p) The term "new source" means any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which is commenced after the publication of proposed regulations prescribing a standard of performance under section 306 of the Act, which will be applicable to such source, if such standard is thereafter promulgated in accordance with section 306.

(q) The term "NPDES application short form" or "short form" means one or more, as appropriate, of the following:

(1) Short form A—Municipal Wastewater Dischargers.

(2) Short form B—Agriculture.

(3) Short form C—Manufacturing Establishments and Mining.

(4) Short form D—Services, Wholesale, and Retail Trade, and All Other Commercial Establishments, Including Vessels, Not Engaged in Manufacturing or Agriculture.

(r) The term "NPDES application standard form" or "standard form" means one or more, as appropriate, of the following:

(1) Standard form A—Municipal.

(2) Standard form C—Manufacturing and Commercial.

(s) The term "NPDES application form" includes NPDES application short forms and NPDES application standard forms.

(t) The term "ocean" means any portion of the high seas beyond the contiguous zone.

(u) The term "permit" means any permit or equivalent document or requirement issued to regulate the discharge of pollutants.

(v) The term "person" means an individual, corporation, partnership, association, State, municipality, commission, or political subdivision of a State, or any interstate body.

(w) The term "point source" means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged.

(x) The term "pollutant" means dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water. It does not mean (1) "sewage from vessels" or (2) water, gas, or other material which is injected into a well to facilitate production of oil or gas, or water derived in association with oil or gas production and disposed of in a well, if the well used either to facilitate production or for disposal purposes is approved by authority of the State in which the well is located, and if such State determines that such injection or dis-

posal will not result in the degradation of ground or surface water resources.

COMMENT.—The legislative history of the Act reflects that the term "radioactive materials" as included within the definition of "pollutant" in section 502 of the Act covers only radioactive materials which are not encompassed in the definition of source, byproduct, or special nuclear materials as defined by the Atomic Energy Act of 1954, as amended, and regulated pursuant to the latter Act. Examples of radioactive materials not covered by the Atomic Energy Act and, therefore, included within the term "pollutant" are radium and accelerator produced isotopes. (H.R. Rep. 92-911, 92d Cong. 2d Sess., 131, March 11, 1972; 117 Cong. Rec. 17401, daily ed., November 2, 1971; 118 Cong. Rec. 9115, daily ed., October 4, 1972.)

(y) The term "pollution" means the man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

(z) The term "Regional Administrator" means one of the Regional Administrators of the United States Environmental Protection Agency.

(aa) The term "schedule of compliance" means a schedule of remedial measures including an enforceable sequence of actions or operations leading to compliance with an effluent limitation, other limitation, prohibition, or standard.

(bb) The term "sewage from vessels" means human body wastes and the wastes from toilets and other receptacles intended to receive or retain body wastes, that are discharged from vessels.

(cc) The term "sewage sludge" means the solids and precipitates separated from municipal sewage and industrial wastes of a liquid nature by the unit processes of a treatment works.

(dd) The term "State" means a State, the District of Columbia, Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(ee) The term "State water pollution control agency" means the State agency designated by the Governor having responsibility for enforcing State laws relating to the abatement of pollution.

(ff) The term "territorial seas" means the belt of the seas measured from the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters, and extending seaward a distance of 3 miles.

(gg) The term "treatment works" means any facility, method or system for the storage, treatment, recycling, or reclamation of municipal sewage or industrial wastes of a liquid nature, including waste in combined storm water and sanitary sewer systems.

§ 125.2 Scope and purpose.

(a)(1) The regulations in this part prescribe the policy and procedures to be followed in connection with applications for federally issued permits authorizing discharges into the navigable waters, the waters of the contiguous zone, and the oceans, during the periods that the Administrator of the Environmental Protection Agency is authorized to issue such permits pursuant to sections 402 and 405 of the Act.

(2) The regulations in this part also prescribe the policy and procedures to be followed in connection with permits authorizing discharges into the navigable waters, the waters of the contiguous zone, and the oceans from any agency or instrumentality of the Federal Government and from any Indian activity on Indian lands.

(b) The regulations in this part do not prescribe policy or procedures for the issuance of permits by States under programs approved by the Administrator pursuant to section 402(b) of the Act. Such State programs do not cover agencies and instrumentalities of the Federal Government and Indian activities on Indian lands under the jurisdiction of the United States.

§ 125.3 Law authorizing permits.

(a) Section 301(a) of the Act provides that "Except as in compliance with this section and sections 302, 306, 307, 318, 402, and 404 of this Act, the discharge of any pollutant by any person shall be unlawful."

(b) Section 402 of the Act establishes the NPDES. This section provides, in part, that "the Administrator may, after opportunity for public hearing, issue a permit for the discharge of any pollutant, or combination of pollutants, * * * upon condition that such discharge will meet either all applicable requirements under sections 301, 302, 306, 307, 308, and 403 of [the] Act, or prior to the taking of necessary implementing actions relating to all such requirements, such conditions as the Administrator determines are necessary to carry out the provisions of [the] Act."

(c) Section 405 of the Act prohibits the disposal of sewage sludge where any pollutant from such sludge would enter navigable waters except in accordance with a permit issued by the Administrator under section 405. This section provides in part that "in any case where the disposal of sewage sludge resulting from the operation of a treatment works * * * (including the removal of in-place sewage sludge from one location and its deposit at another location) would result in any pollutant from such sewage sludge entering the navigable waters, such disposal is prohibited except in accordance with a permit issue by the Administrator under this section."

(d) Unless specifically noted to the contrary, all provisions of these regulations concerning permits under section 402 of the Act are applicable to permits under section 405 of the Act.

§ 125.4 Exclusions.

The following do not require an NPDES permit:

(a) Any discharge of sewage from vessels, effluent from properly functioning marine engines, laundry, shower, and galley sink wastes, or any other discharge incidental to the normal operation of a vessel: *Provided*, That this exclusion shall not be construed to apply to rubbish, trash, garbage, or other such materials discharged overboard; nor to discharges when the vessel is operating in a capacity other than a vessel such as when a vessel is being used as a storage facility or a cannery;

(b) Water, gas, or other material which is injected into a well to facilitate production of oil or gas, or water derived in association with oil or gas production and disposed of in a well, if the well used either to facilitate production or for disposal purposes is approved by authority of the State in which the well is located and if such State determines that such injection or disposal will not result in the degradation of ground or surface water resources;

(c) Approved aquaculture projects;

(d) Dredged or fill material discharged into navigable waters;

(e) Additions of sewage, industrial wastes or other materials into publicly owned treatment works. (This exclusion applies only to the actual addition of materials into the publicly owned treatment works. Plans or agreements to make such additions in the future do not relieve dischargers of the obligation to apply for and receive permits until the discharges of pollutants to navigable waters are actually eliminated. It also should be noted that in all appropriate cases, pretreatment standards promulgated by the Administrator pursuant to section 307(b) of the Act must be complied with.);

(f) Uncontrolled discharges composed entirely of storm runoff when these discharges are uncontaminated by any industrial or commercial activity, unless the particular storm runoff discharge has been identified by the Regional Administrator, the State water pollution control agency or an interstate agency as a significant contributor of pollution. (It is anticipated that significant contributors of pollution will be identified in connection with the development of plans pursuant to section 303(e) of the Act. This exclusion applies only to separate storm sewers. Discharges from combined sewers and bypass sewers are not excluded.)

(g) Any discharge of any pollutant when such discharge conforms with the national contingency plan for removal of oil and hazardous substances, published pursuant to subsection 311(c)(2) of the act.

§ 125.5 Delegation of authority.

(a) Subject to the appeal provisions of § 125.34 of these regulations and the national security responsibility provision of § 125.35(c) of these regulations, the following authorities are hereby delegated to each of the Regional Administrators for the area which he administers.

(1) The authority to issue and condition permits or to deny applications for permits for discharge covered by the NDPES and by section 405 of the act.

(2) The authority pursuant to section 402(d)(1) of the act to receive from a State a copy of each permit application received by such State and to receive notice of every action related to the consideration of such permit application, including each permit proposed to be issued by such State.

(3) The authority pursuant to section 402(d)(2)(A) of the act to object in writing to the issuance of any permit within 90 days of the date of his notification under section 402(b)(5) of the act.

(4) The authority pursuant to section 402(d)(2)(B) of the act to object in writing within 90 days of his receipt of a proposed permit from a State where finds that the issuance of such permit would be outside of the guidelines and requirements of the Act.

(b) The authority granted to the Administrator by section 308(a), and if exercised in conformance with § 125.35 of these regulations, section 308(b) of the Act is hereby delegated to each of the Regional Administrators for the area which he administers.

(c) These authorities may be redelegated to the Director, Enforcement Division, of each region.

Subpart B—Processing of Permits

§ 125.11 General provisions.

(a) All discharges of pollutants or combination of pollutants from all point sources into the navigable waters, the waters of the contiguous zone, or the ocean are unlawful and subject to the penalties provided by the Act, unless the discharger has a permit or is specifically relieved by law or regulation from the obligation of obtaining a permit. A discharge authorized by a permit must be consistent with the terms and conditions of such permit. Discharges in violation of permit terms and conditions may result in the institution of proceedings under the Act.

(b) The decision as to whether or on what conditions a permit authorizing a discharge will issue will be based upon an evaluation as to how such discharge will meet applicable requirements under the Act and other applicable laws and regulations. Subsequent to the taking of necessary implementing actions relating to such requirements, all discharges in order to receive a permit must meet the applicable requirements of sections 301, 302, 306, 307, 308, and 403, and all regulations pertaining thereto.

(c) In the period of time prior to the taking of necessary implementing actions relating to all applicable requirements under sections 301, 302, 306, 307, 308, and 403 of the Act, the Administrator may issue permits under such conditions as he determines are necessary to carry out the provisions of the Act. Any permit issued shall include any conditions and limitations necessary to insure compliance with any applicable requirements of sections 301, 302, 306, 307, 308, and 403 that become applicable prior to the issuance of the permit. Foremost among other factors to be considered prior to the taking of the necessary implementing actions is the requirement for abatement measures designed to achieve, not later than July 1, 1977, best practicable (waste) control technology currently available for the particular point source (other than publicly owned treatment works) as determined by the Regional Administrator based upon information available to him and his professional judgment taking into account the intent of sections 301, 302, 306, 307, 308, and 403 of the Act. Likewise, publicly owned treatment works must achieve secondary treatment by July 1, 1977, or in accordance with the period specified in section 301(b)(1)(B) of the Act. Furthermore, any permit issued shall include any more stringent condition pursuant to section 301(b)(1)(C) of the Act as is necessary to insure compliance with any limitation, including those necessary to meet applicable water quality standards, treatment standards, or schedules of compliance, established pursuant to any State law or regulation (under authority preserved by section 510 of the Act) or any other Federal law or regulation, or required to implement any applicable water quality standard established pursuant to the Act. Plans prepared pursuant to section 303(e) of the Act or similar analyses, if available, should be employed in establishing such more stringent conditions. The likely impact or the existing impact of the discharge on the quality and uses of the receiving body of water where no adequate water quality standards exist also will have to be taken into account. The possibility of occurrence and the probability of effects of spills of materials from the point source shall be considered. The objections of any State or interstate agency whose waters may be affected by the discharge shall be duly considered when making any permit decision.

(d) Any permit issued for the discharge of pollutants into the navigable waters from a vessel or other floating craft shall be subject to any applicable regulations promulgated by the Secretary of the department in which the Coast Guard is operating, establishing specifications for safe transportation, handling, carriage, storage, and stowage of pollutants.

§ 125.12 Application for a permit.

(a) An applicant for a permit may secure the required application form(s) from the Regional Administrator. Application form(s) must be filed with the Regional Administrator.

(b) Any person who applied for a permit under the Refuse Act permit program operating under rules promulgated in the FEDERAL REGISTER on April 7, 1971, 33 CFR 209.131 and whose application has not been denied is not required to apply for a permit under these regulations unless the discharge described in the application for a Refuse Act permit has substantially changed in nature, volume, or frequency. Such Refuse Act permit application shall be considered to be an application under the NPDES and shall be treated accordingly.

(c) Any person now discharging whose discharge was not covered by the Refuse Act permit program but which is now subject to the NPDES must apply for a permit on or before April 16, 1973.

(d) Any person whose discharge began or will begin during the period of October 18, 1972, through July 15, 1973, inclusive, must apply for a permit not later than 60 days in advance of the date on which the discharge is to commence unless permission for a later application date has been granted by the Regional Administrator.

(e) Any person whose discharge will begin on or after July 16, 1973, must apply for a permit no later than 180 days in advance of the date on which the discharge is to commence unless permission for a later application date has been granted by the Regional Administrators.

(f) An application submitted by a corporation must be signed by a principal executive officer of at least the level of vice president, or his duly authorized representative, if such representative is responsible for the overall operation of the facility from which the discharge described in the application form originates. In the case of a partnership or a sole proprietorship the application must be signed by a general partner or the proprietor respectively. In the case of a municipal, State, Federal or other public facility, the application must be signed by either a principal executive officer, ranking elected official, or other duly authorized employee.

(g) Except as provided in § 125.12 (b) and (h)(4) and except as provided by the Administrator in regulations issued under the act, any person discharging or who proposes to discharge pollutants shall complete, sign, and submit an NPDES application short form in accordance with the instructions provided with such form.

(h)(1) If the information submitted by an applicant for an NPDES permit in Short Form A (relating to municipal wastewater treatment facilities) or any other information available to the Regional Administrator indicates any of the following, the applicant shall be required to complete, sign and submit a Standard Form A:

(i) The discharges from the facility have a total volume of more than 5 million gallons on any day of the year;

(ii) The facility serves a population in excess of 10,000; or

(iii) The facility receives wastes from an industrial user and such wastes

(A) Have a total volume of more than 50,000 gallons on any day of the year,

(B) Contain toxic pollutants,

(C) Have a total volume which constitutes more than 1 percent of the volume of the total discharge from the facility on any day of the year, or

(D) In combination with other discharges into the facility interfere with the operation of the facility or adversely affect the quality of the discharge from the facility.

(2) If the information submitted by an applicant for a permit on Short Form

C (relating to manufacturing establishments and mining) or in Short Form D (relating to services, wholesale and retail trade, and all other commercial establishments, including vessels, not engaged in manufacturing or agriculture) or any other information available to the Regional Administrator indicates any of the following, the applicant shall be required to complete, sign, and submit a Standard Form C:

(i) The discharges from the facility have a total volume of 50,000 gallons on any day of the year;

(ii) The discharges affect the water of any State other than the State of origin; or,

(iii) The discharges contain or may contain toxic pollutants.

(3) In addition to paragraph (h)(1) or (2) of this section, an applicant shall complete, sign, and submit the appropriate standard form if the Regional Administrator determines that such submission is necessary to determine whether or not and upon what conditions a permit should be issued for the discharges identified in the short form.

(4) Any applicant may submit a standard form without prior submission of a short form if he complies with all applicable filing dates and requirements.

(i)(1) Upon submission of an NPDES application short form to the Regional Administrator an applicant shall pay a fee of $10 per application.

(2) Upon submission of an NPDES application standard form to the Regional Administrator an applicant shall pay a fee of $100 per application. If there is more than one outlet from which the discharge will flow, an additional $50 will be charged for each additional outlet.

(3) Any applicant submitting an NPDES application standard form to the Regional Administrator who previously filed an NPDES application short form with the Regional Administrator may deduct from the fee submitted with the standard form the amount previously submitted with the short form.

(4) If an applicant submits an NPDES application standard form to the Regional Administrator without prior submission of an NPDES application short form pursuant to § 125.12(h)(3), he shall pay the fee specified in paragraph (i)(2) of this section without the submission or deduction of the fee specified in paragraph (i)(1) of this section.

(5) Agencies or instrumentalities of Federal, State, or local governments will not be required to pay any fee in connection with the filing of an NPDES application.

(6) Checks and money orders shall be made out to the order of Environmental Protection Agency.

(j) Permittees who wish to continue to discharge subsequent to the expiration date of their permit must apply for reissuance of the permit using proper forms, not less than 180 days prior to the permit expiration date.

§ 125.13 Access to facilities and further information during evaluation of the application.

Permit application forms are designed to fit the normal situation for most facilities in the United States. In many cases however, further information and site visits may be necessary in order to evaluate the discharge completely and accurately. When the Regional Administrator determines that either further information or a site visit is necessary in order for the Environmental Protection Agency to evaluate the discharge, he shall so notify the applicant and in addition provide a date no later than 60 days hence by which time arrangements will have been made for receipt of the requested information and/or scheduling of the site visit. In the event that a satisfactory response is not received the permit may be issued or denied and the applicant so notified. Sections 308, 309, and 402(k) of the act provide for sanctions in the event of noncompliance with reasonable requests for additional information.

§ 125.4 Distribution of application and permit.

(a) When an application for a permit is received Regional Administrators shall determine if the applicant has provided all of the information required by the application form and by this section.

(b) In order to assure that the Secretary of the Army acting through the Chief of Engineers has adequate time to evaluate the impact of the proposed discharge on anchorage and navigation, Regional Administrators will forward to the District Engineer in the appropriate district one copy of the application form immediately upon its receipt in the regional office in completed form. Accompanying the application will be notice that the Environmental Protection Agency has received a request for a permit to discharge and that the District Engineer has a stated number of days to evaluate the impact of granting such permit upon anchorage and navigation and to advise the Regional Administrator of his evaluation. District Engineers of the Corps of Engineers will normally be given 30 days to evaluate the impact on anchorage and navigation. Where the Regional Administrator finds that less time should be allowed he should so advise the District Engineer of such lesser period of time while at the same time outlining his reasons for such lesser period of time. In all cases the Regional Administrator should advise the District Engineer that failure to answer within the allotted period of time will be deemed to be a finding that anchorage and navigation will not be substantially impaired by granting of this permit. Where the District Engineer advises the Regional Administrator that anchorage and navigation of any of the navigable waters would be substantially impaired by the granting of a permit, such permit will be denied and the applicant shall be so notified. Where the District Engineer advises the Regional Administrator that the imposition of specified conditions upon the permit is necessary to avoid any substantial impairment of any of the navigable waters, then the Regional Administrator shall include in the permit those conditions so specified by the District Engineer. Where the District Engineer notifies the Regional Administrator that more time is needed for his evaluation more time will be granted where it appears that the public interest warrants such extension.

(c) Upon receipt of an application which does not include a State certification where such certification is required by section 401 of the Act, the Regional Administrator will make available one copy of the application form to the State water pollution control agency for the State in which the discharge occurs or will occur. Accompanying the application will be a statement by the Regional Administrator that a request for a permit has been received by the Environmental Protection Agency, and that before the Agency can act upon such request, the State must (1) certify that the discharge will comply with the applicable provisions of sections 301, 302, 306, and 307 or (2) certify that there are no applicable effluent or other limitations under sections 301 and 302 and there are no applicable standards under sections 306 and 307, or (3) deny such certification or (4) waive its right to certify or to deny such certification. The Regional Administrator must also state that such certification or denial must be received within a specified reasonable period of time or a waiver will be deemed to have occurred.

(d) Upon receipt of an application from a Federal facility the Regional Administrator shall make one copy of the application form available to the State water pollution control agency for the State in which the discharge will occur. Accompanying the application will be statement by the Regional Administrator that a request for a permit has been received by the Environmental Protection Agency and that the Environmental Protection Agency would appreciate receiving from the State its comment on the discharge and any condition that the State would recommend applying to any permit that might issue for the discharge. The State should be requested specifically to provide what conditions it believes necessary in order that the discharge will comply with sections 301, 302, 306, 307, and 313 of the Act.

(e) Regional Administrators shall assist applicants for permits in coordinating the requirements of the Act with those of appropriate public health agencies.

(f) (1) Complete copies of all applications filed with the Environmental Protection Agency subsequent to June 1, 1973, shall be furnished to the Department of the Interior and Department of Commerce for comment, provided

that these agencies may waive their right to receive any permit applications or categories thereof. Regional Administrators shall meet with appropriate officials of the Department of Interior and Department of Commerce in order to reach agreement as to which existing application forms (filed prior to June 1, 1973) those agencies are to receive. Complete copies of all application forms requested shall be made available to those agencies for comment. When an application is transmitted to these agencies, accompanying it will be a notice that the Envionmental Protection Agency has received a request for a permit to discharge and that the agencies have a stated number of days in which to evaluate the impact of granting such permit upon the fish, shellfish, and wildlife resources of the State in which the discharge will occur, and to advise the Regional Administrator of their evaluations. The normal period of time to evaluate the effects of the discharge on fish, shellfish, and wildlife resources will be 30 days. In all cases the Regional Administrator should advise the agencies that failure to answer within the allotted period of time will be deemed to be a statement that the agencies do not choose to comment at this time. Where the agencies advise the Regional Administrator that the imposition of specified conditions upon the permit is necessary to avoid substantial impairment of the fish, shellfish, or wildlife resources, the Regional Administrator may include in the permit those conditions so specified by the agencies. Where the agency notifies the Regional Administrator that more time is needed for its evaluation more time will be granted where it appears to the Regional Administrator that the public interest warrants such extension.

(2) Similar arrangements should be agreed upon by appropriate officials of the Department of Interior and Regional Administrators concerning the review of permits which involve disposal of wastes to groundwater.

(g) If a permit issues, a copy of the permit and, if not previously transmitted, a copy of the application form shall be transmitted to the State in which the discharge is located. Copies of these documents shall be available for inspection and reproduction by the public in the regional office.

§ 125.15 State certification.

(a) Section 401(a)(1) of the Act, provides that "Any applicant for a Federal license or permit to conduct any activity including, but not limited to, the construction or operation of facilities, which may result in any discharge into the navigable waters, shall provide the licensing or permitting agency a certification from the State in which the discharge originates or will originate, or, if appropriate, from the interstate water pollution control agency having jurisdiction over the navigable waters at the point where the discharge originates or will originate, that any such discharge will comply with the applicable provisions of sections 301, 302, 306, and 307 of the Act. In the case of any such activity for which there is not an applicable effluent limitation or other limitation under sections 301(b) and 302, and there is not an applicable standard under sections 306 and 307, the State shall so certify." Where certification is required, no license or permit shall be granted until the certification has been obtained or has been waived. A waiver occurs when the certifying agency fails or refuses to act on a request for certification, within a reasonable period of time (which shall not exceed 1 year) after receipt of such request. Three months shall generally be considered to be a reasonable period of time. If, however, special circumstances identified by the Regional Administrator require that action on a permit application be taken within a more limited period of time, the Regional Administrator shall determine a reasonable lesser period of time, advise the certifying agency of the need for action by a particular date and that, if certification is not received by the date established, it will be considered that the requirement for certification has been waived. Similarly, if it appears that circumstances may reasonably require a period of time longer than 3 months, the Regional Administrator may afford the certifying agency up to 1 year to provide the required certification before determining that a waiver has occurred. Where such extension of time is made at the request of the certifying agency, the request must be in writing and must include the reasons for the request.

(b) Any certification provided shall set forth any effluent limitations and other limitations, and monitoring requirements necessary to insure compliance with any applicable effluent limitations and other limitations under sections 301 or 302 of the Act, standard of performance under section 306 of the Act, or prohibition, effluent standard, or pretreatment standard under section 397 of the Act, and with any other appropriate requirement of State law set forth in such certification.

(c) Discharges from agencies or instrumentalities of the Federal Government, as provided in section 401(a)(6) of the Act, do not require certification pursuant to section 401.

Subpart C—Terms and Conditions of Permits

§ 125.21 Prohibitions.

(a) No permit shall be issued in cases where the applicant, pursuant to section 401 of the Act, is required to obtain a State or other appropriate certification that the discharge will comply with the applicable provisions of sections 301, 302, 306, and 307 and such certification was denied.

(b) No permit shall be issued where pursuant to section 401(a)(2) of the Act, the imposition of conditions cannot insure compliance with the applicable water quality requirements of all affected States.

(c) No permit shall be issued if, in the judgment of the Secretary of the Army acting through the Chief of Engineers, anchorage and navigation of any of the navigable waters would be substantially impaired by the discharge.

(d) No permit shall be issued for the discharge of any radiological, chemical, or biological warfare agent or high-level radioactive waste into the navigable waters.

(e) No permit shall be issued for any discharge from a point source in conflict with a plan or an amendment thereto approved pursuant to section 208(b) of the Act.

(f) No permit shall be issued for any discharge to the territorial sea, the waters of the contiguous zone, or the oceans, prior to the promulgation of guidelines under section 403(c) of the Act unless the Regional Administrator determines it to be in the public interest.

(g) No permit shall be issued for any discharge to the territorial sea, the waters of the contiguous zone, or the oceans, after promulgation of guidelines under section 403(c) except in compliance with such guidelines.

(h) No permit shall be issued for any discharge to the territorial sea, the waters of the contiguous zone, or the oceans, subsequent to the promulgation of guidelines pursuant to section 403(c) of the Act, where insufficient information exists to make a reasonable judgment as to whether the discharge complies with any such guidelines.

§ 125.22 Conditions of permits.

(a) Regional Administrators shall insure that the terms and conditions of all issued permits provide for and insure the following:

(1) That all discharges authorized by the permit shall be consistent with the terms and conditions of the permit; that facility expansions, production increases, or process modifications which result in new or increased discharges of pollutants must be reported by submission of a new application, or, if such discharge does not violate effluent limitations specified in the permit, by submission to the Regional Administrator of notice of such new or increased discharges of pollutants; that the discharge of any pollutant more frequently than or at a level in excess of that identified and authorized by the permit shall constitute a violation of the terms and conditions of the permit;

(2) That following notice and opportunity for a public hearing the permit may be modified, suspended, or revoked in whole or in part during its term for cause including, but not limited to, the following:

(i) Violation of any terms or conditions of the permit;

(ii) Obtaining a permit by misrepresentation or failure to disclose fully all relevant facts; and,

(iii) A change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge;

(3) That the permittee shall permit the Regional Administrator or his authorized representative, and/or the authorized representative of the State water pollution control agency in the case of non-Federal facilities, upon the presentation of his credentials:

(i) To enter upon the permittee's premises in which an effluent source is located or in which any records are required to be kept under terms and conditions of the permit;

(ii) To have access to and copy at reasonable times any records required to be kept under terms and conditions of the permit;

(iii) To inspect at reasonable times any monitoring equipment or method required in the permit; or

(iv) To sample at reasonable times any discharge of pollutants.

(4) That the permittee shall at all times maintain in good working order and operate as efficiently as possible any facilities or systems of control installed or utilized by the permittee to achieve compliance with the terms and conditions of the permit.

(5) The issuance of a permit does not convey any property rights either in real estate or material, or any exclusive privileges, nor does it authorize any injury to private property or invasion of rights, nor any infringement of Federal, State, or local laws or regulations; nor does it obviate the necessity of obtaining State or local assent required by law for the discharge authorized.

(6) That if a toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is established under section 307(a) of the Act for a toxic pollutant which is present in the permittee's discharge and such standard or prohibition is more stringent than any limitation upon such pollutant in the permit, the Regional Administrators shall revise or modify the permit in accordance with the toxic effluent standard or prohibition and so notify the permittee.

(b) Permits shall also include such special conditions as are necessary to assure compliance with applicable effluent limitations or other water quality requirements including schedules of compliance, treatment standards, and such other conditions as the Regional Administrator considers necessary or appropriate to carry out the provisions of the Act. Permits shall also contain such other conditions as the District Engineer of the Corps of Engineers considers to be necessary to insure that navigation and anchorage will not be substantially impaired. Also, conditions recommended by State water pollution control officials, Federal and State fish, shellfish, and wildlife resources officials, or other governmental officials may be added to permits if the Regional Administrator believes such recommended conditions will aid in carrying out the purposes of the Act. Furthermore, all permits will be conditioned upon achieving compliance with any applicable effluent limitations and other limitations, and monitoring requirements set forth in any certification issued pursuant to section 401 of the Act.

§ 125.23 Schedules of compliance in permits.

Regional Administrators shall follow the procedures below in setting schedules of compliance in permits:

(a) With respect to any discharge which is not in compliance with applicable effluent standards and limitations, applicable water quality standards, and other applicable requirements, the permittee shall be required to take specific steps to achieve compliance with the following:

(1) Any schedule of compliance contained in:

(i) Applicable effluent standards and limitations; or,

(ii) Water quality standards, if more stringent; or,

(iii) Any other legally applicable requirements, if more stringent.

(2) In the absence of any applicable schedule of compliance, in the shortest reasonable period of time, such period to be consistent with the guidelines and requirements of the Act.

(b) In any case where the period of time for compliance specified in paragraph (a) of this section exceeds 9 months, a schedule of compliance shall be specified in the permit which will set forth interim requirements and the dates for their achievement; in no event shall more than 9 months elapse between interim dates. If the time necessary for completion of the interim requirement (such as the construction of a treatment facility) is more than 9 months and is not readily divided into stages for completion, interim dates shall be specified for the submission of reports of progress toward completion of the interim requirement. For each permit schedule of compliance, interim dates and the final date for compliance shall, to the extent practicable, fall on the last day of the months of March, June, September, and December.

(c) Not later than 14 days following each interim date and the final date of compliance the permittee shall provide the Regional Administrator with written notice of the permittee's compliance or noncompliance with the interim or final requirements.

(d) The Regional Administrator may, upon request of the applicant, and after public notice, revise or modify a schedule of compliance in an issued permit if he determines good and valid cause (such as an act of God, strike, flood, materials shortage, or other event over which the permittee has little or no control) exists for such revision. All revisions or modifications made pursuant to this subsection during the period ending 30 days prior to the date of preparation of such list, shall be included in the list prepared by the Regional Administrator pursuant to § 125.23(e) below.

(e) On the last day of the months of February, May, August, and November the Regional Administrator shall prepare a list of all instances, as of 30 days prior to the date of such report, of failure or refusal of a permittee to comply with an interim or final requirement or to notify the Regional Administrator of compliance or noncompliance with each interim or final requirement (as required pursuant to (b) above). Such list shall be available to the public for inspection and copying and shall contain at least the following information with respect to each instance of noncompliance:

(1) Name and address of each noncomplying permittee;

(2) A short description of each instance of noncompliance (e.g., failure to submit preliminary plans, 2-week delay in commencement of construction of treatment facility; failure to notify the Regional Administrator of compliance with interim requirement to complete construction by June 30, etc.);

(3) A short description of actions or proposed actions by the permittee or the Regional Administrator to comply or enforce compliance with the interim or final requirement; and

(4) Any details which tend to explain or mitigate an instance of noncompliance with an interim or final requirement (e.g., construction delayed due to materials shortage, plan approval delayed by objections from State fish and wildlife agency).

§ 125.24 Effluent limitations in permits.

(a) In the application of effluent standards and limitations, water quality standards, and other applicable requirements, the Regional Administrator shall, for each permit, specify average and maximum daily quantitative limitations for the level of pollutants in the authorized discharge in terms of weight (except pH, temperature, radiation, and any other pollutants not appropriately expressed by weight, and except for discharges whose constituents cannot be appropriately expressed by weight). The Regional Administrator may, in his discretion, in addition to the specification of daily quantitative limitations by weight, specify other limitations, such as average or maximum concentration limits, for the level of pollutants in the authorized discharge. Effluent limitations for multiproduct operations shall provide for appropriate waste variations from such plants. Where a schedule of compliance is included as a condition in a permit, effluent limitations shall be included for the interim period as well as for the period following the final compliance date.

(b) Notwithstanding any other provision in the regulations in this part, any point source the construction of which is commenced after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972 and which is so constructed as to meet all applicable standards of performance (as defined in section 306 of the Act) shall not be subject to any more stringent standard of performance during a 10-year period beginning on the date of completion of such construction or during the period of depreciation or amortization of such facility for the purposes

of section 167 or section 169 (or both) of the Internal Revenue Code of 1954, whichever period ends first.

§ 125.25 Duration of permits.

(a) No permit will issue for a period longer than 5 years.

(b) Permits of less than 5 years' duration may issue in appropriate cases and Regional Administrators shall give great weight to the advice of State or interstate water pollution control officials on the appropriate duration for particular permits.

(c) All permits will be for a fixed term.

§ 125.26 Special categories of permits.

(a) Disposal of pollutants into wells.

(1) If an applicant for a permit is disposing or proposes to dispose of pollutants into wells as part of a program to meet the proposed terms and conditions of a permit, the Regional Administrator shall specify additional terms and conditions in the permit which shall (i) prohibit the disposal, or (ii) control the disposal in order to prevent pollution of ground and surface water resources and to protect the public health and welfare.

(2) The Regional Administrator shall utilize in his review of any permits proposed to be issued for the disposal of pollutants into wells, any policies, technical information, or requirements, specified by the Administrator in regulations issued pursuant to the Act or in directives issued to regional offices.

(b) Discharges from publicly owned treatment works.

(1) If the permit is for a discharge from a publicly owned treatment work, the Regional Administrator shall require the permittee to provide notice to the Regional Administrator of the following:

(i) Any new introduction of pollutants into such treatment works from a source which would be a new source as defined in section 306 of the Act if such source were discharging pollutants;

(ii) Any new introduction of pollutants which exceeds 10,000 gallons on any 1 day into such treatment works from a source which would be subject to section 301 of the Act if such source were discharging pollutants; and,

(iii) Any substantial change in volume or character of pollutants being introduced into such treatment works by a source introducing pollutants into such works at the time of issuance of the permit.

(2) Such notice shall include information on:

(i) The quality and quantity of effluent to be introduced into such treatment works, and,

(ii) Any anticipated impact of such change in the quantity or quality of effluent to be discharged from such publicly owned treatment works.

(3) The permittee shall require any industrial user of such treatment works to comply with the requirements of sections 204(b), 307, and 308 of the Act. Any industrial user subject to the requirements of section 307 of the Act shall be required by the permittee to prepare and transmit to the Regional Administrator periodic notice (over intervals not to exceed 9 months) of progress toward full compliance with section 307 requirements.

(4) The permittee shall require any industrial user of storm sewers to comply with the requirement of section 308 of the Act.

§ 125.27 Monitoring, recording, and reporting.

(a) Any permit shall be subject to such monitoring requirements as may be reasonably required by the Regional Administrator, including the installation, use, and maintenance of monitoring equipment or methods (including, where appropriate, biological monitoring methods).

(b) Any discharge which:

(1) Is not a minor discharge; or

(2) The Regional Administrator requires to be monitored; or

(3) Contains toxic pollutants for which an effluent standard has been established by the Administrator pursuant to section 307(a) of the Act, shall be monitored by the permittee for at least the following:

(i) Flow (in gallons per day); and,

(ii) All of the following pollutants;

(A) Pollutants (measured either directly or indirectly through the use of accepted correlation coefficients or equivalent measurements) which are subject to reduction or elimination under the terms and conditions of the permit;

(B) Pollutants which the Regional Administrator finds, on the basis of information available to him, could have a significant impact on water quality;

(C) Pollutants specified by the Administrator, in regulations issued pursuant to the Act, as subject to monitoring;

(c) Each effluent flow or pollutant required to be monitored pursuant to paragraph (b) of this section shall be monitored at intervals sufficiently frequent to yield data which reasonably characterizes the nature of the discharge of the monitored effluent flow or pollutant. Variable effluent flows and pollutant levels may be monitored at more frequent intervals than relatively constant effluent flow and pollutant levels which may be monitored at less frequent intervals.

(d) The Regional Administrator shall specify recording requirements for any permit which requires monitoring of the authorized discharge consistent with the following:

(1) The permittee shall maintain records of all information resulting from any monitoring activities required of him in his permit;

(2) Any records of monitoring activities and results shall include for all samples:

(i) The date, exact place, and time of sampling;

(ii) The dates analyses were performed;

(iii) Who performed the analyses;

(iv) The analytical techniques/methods used; and

(v) The results of such analyses;

(3) The permittee shall be required to retain for a minimum of 3 years any records of monitoring activities and results including all original strip chart recordings for continuous monitoring instrumentation and calibration and maintenance records. This period of retention shall be extended during the course of any unresolved litigation regarding the discharge of pollutants by the permittee or when requested by the Regional Administrator.

(e) The Regional Administrator shall require periodic reporting (at a frequency of not less than once per year) on the proper NPDES reporting form of monitoring results obtained by a permittee pursuant to monitoring requirements in a permit. Such reporting periods, whose length shall be determined by the Regional Administrator shall end on the last day of March, June, September, and/or December.

Subpart D—Notice and Public Participation

§ 125.31 Formulation of tentative determinations and draft permits.

(a) The regional staff shall formulate and prepare tentative determinations with respect to a permit in advance of public notice of the proposed issuance or denial of the permit. Such tentative determinations shall include at least the following:

(1) A proposed determination to issue or to deny a permit for the discharge described in the application; and,

(2) If the determination proposed in paragraph (a)(1) of this section is to issue the permit, the following additional tentative determinations;

(i) Proposed effluent limitations for those pollutants proposed to be limited;

(ii) A proposed schedule of compliance, as provided in § 125.23 of these regulations, including interim dates and requirements, for meeting the proposed effluent limitations; and,

(iii) A brief description of any other proposed special conditions (other than those required by § 125.22(a) of the regulations in this part) which will have a significant impact upon the discharge described in the application.

(b) The regional staff shall organize the tentative determinations prepared pursuant to paragraph (a) of this section into a draft permit.

§ 125.32 Public notice.

(a) Public notice of every complete application for a permit shall be circulated in a manner designed to inform interested and potentially interested persons of the discharge and of the proposed determination to issue or to deny a permit for the discharge. Public notice of hearings shall be circulated in a manner designed to inform interested and potentially interested persons of the discharge and of the intention to hold a hearing on the matter of the proposal to issue or deny a permit for the discharge. Procedures for the circulation of public notice shall include at least the following:

(1) Notice shall be circulated within the geographical area of the proposed discharge; such circulation shall include any one of the following:

(i) Posting in the post office and public places of the municipality nearest the premises of the applicant in which the effluent source is located;

(ii) Posting near the entrance to the applicant's premises and in nearby places; or

(iii) Publishing in local newspapers and periodicals, or, if appropriate, in a daily newspaper of general circulation; except that public notice of hearings shall be published in at least one newspaper of general circulation within the geographical area of the discharge in all cases.

(2) Notice shall be mailed to the applicant and to any person or group upon request; and

(3) The Regional Administrator shall add the name of any person or group upon request to a mailing list to receive copies of notices for all applications within the State or within a certain geographical area.

(4) Regional Administrators shall notify Federal and State fish, shellfish, and wildlife resource agencies and other appropriate government agencies of each complete application for a permit and of hearings and shall provide such agencies an opportunity to submit their written views and recommendations on each complete application.

(b) (1) Where notice is being given of an application for a permit, the Regional Administrator shall provide a period of not less than 30 days following the date of the public notice during which time interested persons may submit their written views concerning the tentative determinations or request that a hearing be held. All written comments submitted during the 30-day comment period shall be retained by the Regional Administrator and considered in the formulation of his final determinations with respect to the application. Extensions of time for the receipt of comments following the end of the comment period may be granted by the Regional Administrator when the public interest warrants.

(2) Where notice is being given of a hearing, the Regional Administrator shall provide a period of not less than 30 days following the date of the public notice during which time interested persons may prepare themselves for the hearing.

(c) The contents of public notice of an application shall include at least the following:

(1) Name, address, phone number of regional office issuing the public notice;

(2) Name and address of each applicant;

(3) Brief description of each applicant's activities or operations which result in the discharge described in the application including a statement of whether the application pertains to new or existing discharges (e.g., new municipal waste treatment plant, existing steel manufacturing, drainage from existing mining activities);

(4) Name of waterway to which each discharge is made and a short description of the location of each discharge on the waterway;

(5) A statement of the regional staff's tentative determination to issue or deny a permit for the discharge described in the application.

(6) A brief description of the procedures for the formulation of final determinations, including the 30-day comment period required by paragraph (b) of this section and any other means by which interested persons may influence or comment upon those determinations;

(7) Address and phone number of premises at which interested persons may obtain further information, request a copy of the fact sheet prepared pursuant to § 125.33, request a copy of the draft permit prepared pursuant to § 125.31, and inspect and copy forms and related documents; and

(8) Where applicable, a statement that confidential information has been received that may be used to determine some of the conditions for the permit.

(d) The contents of public notice of any hearing shall include at least the following:

(1) Name, address, and phone number of regional office holding the hearing;

(2) Name and address of each applicant whose application will be considered at the hearing;

(3) Name of waterway to which each discharge is made and a short description of the location of each discharge on the waterway;

(4) A brief reference to the public notice issued for each application, including identification number and date of issuance;

(5) Information regarding the time and location for the hearing;

(6) The purpose of the hearing;

(7) A concise statement of the issues raised by the persons requesting the hearing;

(8) Address and phone number of premises at which interested persons may obtain further information, request a copy of each draft permit prepared pursuant to § 125.31, request a copy of each fact sheet prepared pursuant to § 125.33, and inspect and copy forms and related documents;

(9) A brief description of the nature of the hearing, including the rules and procedures to be followed; and

(10) Where applicable, a statement that confidential information has been received that may be used to determine some of the conditions for the permit.

(e) The Regional Administrator, in his discretion, may include in any notice of application for a permit under paragraph (c) of this section a notice of hearing in accordance with paragraph (d) of this section, whether or not any request for such hearing shall have been submitted to him.

(f) Any public notice issued under this section may describe more than one discharge except that each discharge will be described separately.

(g) If individual States, in connection with applications for certification required by section 401 of the Act, wish to enter into agreements for joint Federal-State public notice concerning permits, the Regional Administrator may, after consulting with headquarters, approve mutually satisfactory agreements consistent with this section.

§ 125.33 Fact sheets.

(a) For every discharge which has a total volume of more than 500,000 gal on any day of the year the Regional Administrator shall prepare and, following public notice, shall send to the applicant, and upon request to any other person, a fact sheet with respect to the application described in the public notice. The contents of fact sheets shall include at least the following information:

(1) A sketch or detailed description of the location of the discharge described in the application;

(2) A quantitative description of the discharge described in the application which includes at least the following:

(i) The rate of frequency of the proposed discharge; if the discharge is continuous, the average daily flow in gallons per day or million gallons per day, and where appropriate the maximum and minimum flow in gallons per day or million gallons per day;

(ii) The average summer and winter temperatures of the discharge in degrees Fahrenheit and where appropriate the maximum and minimum temperature in degrees Fahrenheit; and

(iii) The average daily discharge in pounds per day, and milligrams per liter where appropriate, of any pollutants which are present in significant quantities or which are subject to limitations or prohibition under section 301, 302, 306, or 307 of the Act and regulations published thereunder;

(3) The tentative determinations required under § 125.31 of the regulations in this part.

(4) A brief citation, including a brief identification of the uses for which the receiving waters have been classified, of the water quality standards and effluent standards and limitations applied to the proposed discharge; and,

(5) A more detailed description of the procedures for the formulation of final determinations than that given in the public notice including:

(i) The term of the 30-day comment period required by § 125.32 of these regulations and the address where comments will be received;

(ii) Procedures for requesting a hearing and the nature thereof; and,

(iii) Any other procedures by which the public may participate in the formulation of the final determinations.

(b) The Regional Administrator shall add the name of any person or group upon request to a mailing list to receive copies of fact sheets.

(c) The Regional Administrator shall transmit one copy of each fact sheet to appropriate officials of Federal and State fish, shellfish, and wildlife resource agencies.

§ 125.34 Hearings and appeals.

(a) *Definitions.*—(1) "Party" shall mean the officials designated by the Administrator or the Regional Administrator to prepare permits for issuance, the applicant for a permit, and any person who files a request for hearing or a request to be a party pursuant to paragraph (c) of this section.

(2) "Person" shall mean the State water pollution control agency of any State or States in which the discharge or proposed discharge shall originate or which may be affected by such discharge, the applicant for a permit, and any foreign country, Federal agency, or other person or persons having an interest which may be affected.

(3) The term "Administrator" means the Administrator, Environmental Protection Agency, or any officer or employee of the Agency to whom authority may be delegated to act in his stead, including, where appropriate, a judicial officer.

(4) The term "judical officer" means an officer or employee of the Environmental Protection Agency appointed as a judicial officer, pursuant to these rules who shall meet the qualifications and perform functions as herein provided.

(i) *Office.*—There may be designated for the purposes of these regulations one or more judicial officers. As work requires, there may be a judicial officer designated to act for the purposes of a particular case.

(ii) *Qualifications.*—A judicial officer may be a permanent or temporary employee of the Agency who performs other duties for the Agency. Such judicial officer shall not be employed by the office of enforcement and general counsel or the office of air and water programs or have any connection with the preparation or presentation of evidence for a hearing.

(iii) *Functions.*—The Administrator may delegate any or part of his authority to act in a given case under this section to a judicial officer. The administrator may delegate his authority to make findings of fact and draw conclusions of law in a particular proceeding, provided that this delegation shall not preclude the judicial officer from referring any motion or case to the Administrator when the judicial officer determines such referral to be appropriate. The Administrator, in deciding a case himself, may consult with and assign the preliminary drafting of conclusions of law and findings of fact to any judicial officer.

(5) The term "regional hearing clerk" means an employee of the Environmental Protection Agency designated by the Regional Administrator to establish a repository for all documents relating to hearings under this section.

(b) *Public hearings.*—(1) Where the Regional Administrator finds a significant degree of public interest in a proposed permit or group of permits, he may hold a public hearing to consider such permit or permits. Public notice of such hearings shall be given in the manner specified in § 125.32.

(2) Hearings held pursuant to this paragraph shall be conducted by the Regional Administrator, or his designee, in an orderly and expeditious manner.

(3) Any person shall be permitted to submit oral or written statements and data concerning the proposed permit. The Regional Administrator, or his designee, shall have discretion to fix reasonable limits upon the time allowed for oral statements, and may require the submission of statements in writing.

(4) Following the public hearing, the Regional Administrator may make such modifications in the terms and conditions of proposed permits as may be appropriate and shall issue or deny the permit. The Regional Administrator shall provide a notice of such issuance or denial to any person who participated in the public hearing and to appropriate persons on the mailing list established under § 125.32(a)(3). Such notice shall briefly indicate any significant changes which have been made from terms and conditions set forth in the draft permit. Any permit issued following a public hearing shall become effective 30 days after the date it is issued by the Regional Administrator, unless the Regional Administrator grants a request for an adjudicatory hearing pursuant to paragraph (c) of this section.

(c) *Adjudicatory hearings.*—(1) Within 30 days following issuance of public notice of a permit application pursuant to § 125.32, or, if a public hearing is held pursuant to § 125.34(b), within 20 days following the issuance of the notice provided in § 125.34(b)(4), any person may submit to the Regional Administrator a request for an adjudicatory hearing to consider the proposed permit and its conditions. If the request for an adjudicatory hearing is granted in accordance with § 125.34(f), any person may submit a request to be a party within 30 days after the date of publication of public notice of an adjudicatory hearing in a newspaper of general circulation as required by § 125.32.

(2) Requests for and adjudicatory hearing and requests to be a party under this paragraph shall:

(i) State the name and address of the person making such request;

(ii) Identify the interest of the requester, and any person represented by issuance or nonissuance of the permit;

(iii) Identify any other persons whom the requester represents;

(iv) Include an agreement by the requester, and any person represented by the requester, to be subject to examination and cross-examination, and in the case of a corporation, to make any employee available for examination and cross-examination at his own expense, upon the request of the presiding officer, on his own motion or on the motion of any party.

(3) In addition to the information required under § 125.34(c)(2), any request for an adjudicatory hearing shall state with particularity the reasons for the request, and the issues proposed to be considered at the hearing.

(4) In addition to the information required under § 125.34(c)(2), any request to be a party shall state the position of the requestor on the issues to be considered at the hearing.

(d) *Filing and service.*—(1) All documents or papers required or authorized to be filed, shall be filed with the regional hearing clerk, except as otherwise herein provided. Except for requests for an adjudicatory hearing or request to be a party, at the same time that a party files documents or papers with the clerk, it shall serve upon all other parties copies thereof, with a certificate of service on each document or paper, including those filed with the regional hearing clerk. Filing shall be deemed timely if received by the regional hearing clerk within the time allowed by this section.

(2) In addition to copies served on all other parties, each party shall file with the regional hearing clerk an original and two copies of all papers filed in connection with an adjudicatory hearing.

(e) *Time.*—In computing any period of time prescribed or allowed by the regulations in this part, except as otherwise provided, the day of the act or event from which the designated period of time begins to run shall not be included. Saturdays, Sundays, and holidays, shall be included in computing the time allowed for the filing of any document or paper, except that when such time expires on a Saturday, Sunday, or legal holiday, such period shall be extended to include the next following business day.

(f) *Notice of hearing.*—Within 5 days following the expiration of the time allowed by § 125.34(c)(1) for submitting a request for an adjudicatory hearing the Regional Administrator shall determine whether such request meets the requirements of § 125.34(c). If any request meets such requirements and sets forth material issues relevant to the question whether a permit should be issued, and what conditions to such permit would be required to carry out the provisions of the Act, the matter shall be assigned promptly for hearing: *Provided,* That if the Regional Administrator holds a public hearing under § 125.34(b), no request for an adjudicatory hearing shall be timely until after the conclusion of such public hearing. The Regional Administrator shall treat all other requests for a hearing as requests to be a party, and shall grant any such request meeting the requirements of § 125.34 (c)(2) and (c)(4). The hearing shall be held in the State in which the discharge or proposed discharge shall occur, or at such other accessible location as is appropriate. The Regional Administrator shall issue public notice of such hearing in the manner specified in § 125.32. The hearing shall take place not less than 30 days after the issuance of public notice of such hearing.

(g) *Additional parties.*—The Regional Administrator shall review all requests to be a party submitted pursuant to § 125.34(c). He shall grant any request meeting the requirements of that section. Following the expiration of the time provided by § 125.34(c) for the submission of requests to be a party, any person may file a motion for leave to intervene in an adjudicatory hearing. A

motion must set forth the grounds for the proposed intervention and the position and interest of the movant in the proceeding. A motion for leave to intervene in a hearing must ordinarily be filed prior to the commencement of the first prehearing conference. Any motion filed after that time must contain, in addition to the information set forth in § 125.34 (c), a statement of good cause for the failure to file the motion prior to the commencement of the first prehearing conference and shall be granted only upon a finding (1) that extraordinary circumstances justify the granting of the motion, and (2) that the intervenor shall be bound by agreements, arrangements and other matters previously made in the proceeding.

(h) *Consolidation.*—The Regional Administrator, in his discretion, may consolidate two or more proceedings to be held under this section whenever it appears that this will expedite or simplify consideration of the issues. Consolidation shall not affect the right of any party to raise issues that could have been raised if consolidation had not occurred. At the conclusion of proceedings under this section, the Regional Administrator shall issue one decision.

(i) *Representation.*—Parties may be represented by counsel or other duly qualified representative.

(j) *Duties and authorities of presiding officer.*—Presiding officers at adjudicatory hearings shall have the duty to conduct fair and impartial hearings, to take all necessary action to avoid delay in the disposition of proceedings, and to maintain order. They shall have all powers necessary to that end, including the following:

(1) To administer oaths and affirmations;

(2) To rule upon offers of proof and receive relevant evidence;

(3) To regulate the course of the hearings and the conduct of the parties and their counsel therein;

(4) To hold prehearing conferences in accordance with § 125.34(k);

(5) To consider and rule upon all procedural and other motions appropriate in such proceedings;

(6) To take any action authorized by these regulations or in conformance with law.

(k) *Prehearing conference.*—(1) In the discretion of the presiding officer, a prehearing conference or conferences may be held prior to any adjudicatory hearing. All parties will be given reasonable notice of time and location of any such conference. In the discretion of the presiding officer, persons other than parties may attend. At the conference, the presiding officer may:

(i) Obtain stipulations and admissions, and identify disputed issues of fact and law;

(ii) Set a hearing schedule which includes definite or tentative times for as many of the following as are deemed necessary by the presiding officer:

(A) Oral and written statements;

(B) Submission of written direct testimony as required or authorized by the presiding officer;

(C) Oral direct and cross-examination where necessary;

(D) Oral argument, if appropriate.

(iii) Identify matters of which official notice may be taken;

(iv) Consider limitation of the number of expert and other witnesses;

(v) Consider the procedure to be followed at the hearing; and

(vi) Consider any other matter that may expedite the hearing or aid in the disposition of the matter.

(2) The results of any conference shall be summarized in writing by the presiding officer and made part of the record.

(l) *Exchange of witness lists and documents.*—At a prehearing conference or within some reasonable time set by the presiding officer at a prehearing conference, each party shall make available to the other parties the names of the expert and other witnesses he expects to call, together with a brief narrative summary of their expected testimony. Copies of all documents and exhibits which he expects to introduce into evidence shall be marked for identification as ordered by the presiding officer. Thereafter, witnesses, documents, or exhibits may be added and narrative summaries of expected testimony amended only upon motion by a party.

(m) *Evidence.*—(1) The presiding officer shall admit all relevant and material evidence, except evidence that is unduly repetitious. Relevant and material evidence may be received at any hearing even though inadmissible under the rules of evidence applicable to judicial proceedings. The weight to be given evidence shall be determined by its reliability and probative value. Parties shall have the right to cross-examine a witness who appears at an adjudicatory hearing to the extent that such cross-examination is necessary for a full and true disclosure of the facts. In multiparty proceedings the presiding officer may limit cross-examination to one party on each side if it appears that the cross-examination by one party will adequately protect parties similarly situated. Other parties may, however, engage in cross-examination upon alleging that their cross-examination will go into matters not already covered by previous cross-examination.

(2) When a party will not be prejudiced thereby, the presiding officer may order all or part of the evidence to be submitted in written form.

(3) Rulings of the presiding officer on the admissibility of evidence, the propriety of cross-examination, and other procedural matters, shall be final and shall appear in the record.

(4) Interlocutory appeals may not be taken.

(5) Parties shall be automatically presumed to have taken exception to an adverse ruling.

(n) *Record.*—Adjudicatory hearings shall be stenographically reported and transcribed, and the original transcript shall be a part of the record and the sole official transcript. Copies of the transcript shall be available from the Environmental Protection Agency. Any party may within 10 days following the completion of the hearing submit proposed findings and conclusions.

(o) *Decision.*—(1) Within 20 days after completion of an adjudicatory hearing, the presiding officer shall certify the record, together with any proposed findings and conclusions submitted by the parties, to the Regional Administrator for decision. Within 15 days following certification of the record, the Regional Administrator or a responsible employee designated by the Regional Administrator shall issue a tentative or recommended decision. Any party may, within 10 days following the issuance of the tentative or recommended decision, submit exceptions to that decision, including written evidence relating to any facts officially noticed by the Regional Administrator or the responsible employee in the tentative or recommended decision. Within 30 days following the issuance of the tentative or recommended decision, the Regional Administrator shall issue a decision, and promptly notify the parties and the Administrator thereof. Such decision shall become the final decision of the Agency unless within 30 days after its issuance any party shall have appealed the decision to the Administrator, or the Administrator, on his own motion, shall have stayed the effectiveness of the decision of the Regional Administrator pending review.

(2) The decision of the Regional Administrator shall include a statement of findings and conclusions, and a decision, including the reasons and basis therefore, on all issues of fact, law, or discretion presented by the proposed findings and conclusions of the parties.

(p) *Appeal or review of decision of Regional Administrator.*—(1) Any party shall have the right to appeal to the Administrator from a decision of the Regional Administrator following an adjudicatory hearing.

(2) Where the Administrator, on his own motion, reviews a decision of the Regional Administrator, he shall provide to all parties a written statement of those issues to be considered on review. Any party may file briefs and reply briefs in accordance with paragraph (p) (3) and (4) of this section, limited to those issues identified by the Administrator.

(3) The appeal shall be in the form of a brief, filed within 30 days after notice of the decision of the Regional Administrator or, where the Administrator reviews a decision of the Regional Administrator on his own motion, within 30 days after the Administrator forwards the statement of issues under paragraph (p) (2) of this section. The brief shall contain, in the order indicated, the following:

(i) A subject index of the matter in the brief, with page references, and a table of cases, textbooks, statutes, and other material cited, with page references thereto;

(ii) A concise statement of the case;

(iii) A specification of the questions intended to be urged, including any objections to rulings of the presiding officer, to the validity of facts officially noticed, or to any matter in the decision of the Regional Administrator.

(iv) The argument presenting clearly the points of fact and law relied upon in support of the position taken on each question, with specific references to the record and to statutory or other material relied upon; and,

(v) A proposed decision for the Administrator's consideration in lieu of the decision of the Regional Administrator.

(4) Within 10 days after the expiration of time for filing briefs under paragraph (p)(3) of this section, any party may file a reply brief to any brief or briefs submitted by any other party. Such reply briefs shall follow the format prescribed in paragraph (p)(3) of this section, except that the proposed decision of the Administrator may be omitted.

(q) *Decision upon appeal.*—(1) Upon appeal from an initial decision, the Administrator shall consider such parts of the record as are cited or as may be necessary to resolve the issues presented and may, in his discretion, exercise any of the powers specified in § 125.34(j).

(2) In rendering his decision, the Administrator shall adopt, modify, or set aside the findings, conclusions, and decision contained in the decision of the Regional Administrator, and shall include in his decision a statement of the reasons or basis for his action.

(3) In those cases where the Administrator believes that he requires further information or additional views of the parties as to the form and content of the decision to be rendered, the Administrator, in his discretion, may withhold final action pending the receipt of such additional information or views. The Administrator may, in his discretion, allow oral argument on appeal or review of a decision of the Regional Administrator.

(4) The decision of the Administrator on appeal shall become effective as specified by him therein or 20 days after the date of the decision, whichever first occurs; however, the Administrator may in his discretion stay the operation of his decision pending judicial review. Notice of the Administrator's decision on appeal shall be given to all parties.

§ 125.35 Public access to information.

(a) Certifications issued pursuant to section 401 of the Act; the comments of all governmental agencies on a permit application, draft permits prepared pursuant to § 125.31, and all information and data provided by an applicant or a permittee identifying the nature and frequency of a discharge shall be available to the public without restriction. All other information (other than effluent data) which may be submitted by an applicant in connection with a permit application or which may be furnished by a permittee in connection with required periodic reports shall also be available to the public unless the applicant or permittee specifically identifies and is able to demonstrate to the satisfaction of the Regional Administrator or his authorized representative that the disclosure of such information or a particular part thereof to the general public would divulge methods or processes entitled to protection as trade secrets.

(b) Where the applicant or permittee is able to demonstrate to the satisfaction of the Regional Administrator or his authorized representative that the disclosure of the information or a particular part thereof (other than effluent data) would result in methods or processes entitled to protection as trade secrets being divulged, the Regional Administrator shall treat the information or the particular part (other than effluent data) as confidential in accordance with the purposes of section 1905 of title 18 of the United States Code and not release it to any unauthorized person: *Provided, however,* That if access to such information is subsequently requested by any person, the procedures specified in section 2 of title 40 of the Code of Federal Regulations will be complied with. Such information may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out the Act or when relevant in any proceeding under the Act.

(c) Where the applicant or permittee is unable to demonstrate to the satisfaction of the Regional Administrator or his authorized representative that the disclosure of the information or a particular part thereof (other than effluent data) would result in methods or processes entitled to protection as trade secrets being divulged, the Regional Administrator shall notify the applicant or permittee of his decision. He shall also notify the applicant or permittee that failure to request within 10 days a General Counsel's determination shall result in the information in question being released to the public. Where within the 10-day period the applicant or permittee requests a General Counsel's determination, the Regional Administrator shall request advice from the office of General Counsel stating the reasons that he believes that the information will not result in methods or processes entitled to protection as trade secrets being divulged. A copy of the Regional Administrator's request shall be transmitted simultaneously to the applicant or permittee. The General Counsel shall determine whether the information in question would if revealed divulge methods or processes entitled to protection as trade secrets. In making such determination, the General Counsel shall consider any additional information received by the Office of General Counsel within 30 days of receipt of the request from the Regional Administrator. If the General Counsel determines that the information being considered would not if revealed divulge methods or processes entitled to protection as trade secrets, he shall so advise the Regional Administrator and shall notify the permittee or applicant claiming trade secrecy of such determination by certified mail. No sooner than 30 days following the mailing of such notice, the Regional Administrator shall make available to the public upon request the information determined not to constitute methods or processes entitled to protection as trade secrets.

(d) Notwithstanding paragraphs (a) and (b) of this section, the Administrator may withhold any information from the public when the release of such information would violate statutes or Executive orders or regulations issued pursuant thereto, concerned with the national security.

Subpart E—Miscellaneous

§ 125.41 Objections to permit by another State.

(a) Whenever following receipt of the certification described in § 125.15 the Regional Administrator determines that a discharge may affect the quality of the waters of any State other than the State that made the certification, the Regional Administrator shall, within 30 days of such certification, notify such other State and the applicant of his determination and shall transmit to such other State a copy of the fact sheet described in § 125.33 and upon request, a copy of the application and a copy of the draft permit prepared pursuant to § 125.31. If such other State determines, within 60 days from the date notice was received from the Regional Administrator, that the discharge will affect the quality of its waters so as to violate any water quality requirement in such State, such other State shall within such 60-day period notify the Regional Administrator in writing of its objection to the issuance of a permit and request a public hearing on the objection. Upon receipt of such request, the Regional Administrator shall hold a hearing in conformity with § 125.34 herein. Based upon the record, a permit shall issue, provided that if the imposition of conditions can not assure compliance with the applicable water quality requirements of all of the affected States, the permit shall be denied.

(b) Each affected State shall be afforded an opportunity to submit written recommendations to the Regional Administrator which the Regional Administrator may incorporate into the permits if issued. Should the Regional Administrator fail to incorporate any written recommendations thus received, he shall provide to the affected State or States a written explanation of his reasons for failing to accept any of the written recommendations.

(c) Where an interstate agency has authority over waters that may be affected by the issuance of a permit, it shall be afforded the rights of a State pursuant to paragraphs (a) and (b) of this section.

§ 125.42 Other legal action.

(a) Section 402(a)(4) of the Act provides that "permits issued under this title shall [also] be deemed to be per-

mits issued under section 13 of the Act of March 3, 1899," (the Refuse Act.) Discharges without a permit or in violation of permit terms and conditions may result in the institution of proceedings under the Refuse Act.

(b) Except as provided in section 402(k) of the Act, the mere filing of an application for a permit to discharge into waters covered by the NPDES will not preclude legal action in appropriate cases for violation of the Act and section 13 of the Act of March 3, 1899 (the Refuse Act). The institution of either a civil or criminal action by the United States may not preclude the acceptance or continued processing of a permit application.

§ 125.43 Environmental impact statements.

Section 511(c)(1) of the Act provides that with the exception of permits for new sources as defined in section 306, no action of the Administrator taken pursuant to the Act (concerning permits) shall be deemed a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

§ 125.44 Final decision of the Regional Administrator.

(a) Where no request for a public hearing or an adjudicatory hearing has been granted, no less than 30 days after the date of public notice of a permit application required by § 125.32 the Regional Administrator shall, after consideration of (1) the tentative determinations and draft permit prepared pursuant to § 125.31; (2) any comments, objections, and recommendations received from the applicant, involved Federal, State, local and foreign government agencies, and the public; and (3) the requirements and policies expressed in the Act and these regulations; make determinations with respect to each permit.

(b) Where the determination of the Regional Administrator pursuant to paragraph (a) of this section with respect to any permit is substantially unchanged from the tentative determinations and draft permit prepared pursuant to § 125.31, the Regional Administrator shall issue or deny the permit as appropriate, and such action shall be the final action of the Environmental Protection Agency.

(c) Where the determinations of the Regional Administrator pursuant to paragraph (a) of this section with respect to any permit are substantially changed from the tentative determinations and draft permit prepared pursuant to § 125.31, the Regional Administrator shall forward his revised determinations to the applicant, and shall give public notice of such revised determinations in the manner specified in § 125.32. If within 30 days following the date of such notice, no request for an adjudicatory hearing meeting the requirements of § 125.34(c) and subsection (d) of this section has been received, the determinations of the Regional Administrator shall become final and he shall issue or deny the permit as appropriate and such action shall be the final action of the Environmental Protection Agency: *Provided*, The Regional Administrator may decide to hold a public hearing pursuant to § 125.34(b).

(d) A request for an adjudicatory hearing under this section will only be granted when such request meets all the requirements of § 125.34(c) and such request pertains to the substantial changes proposed with respect to such permit by the Regional Administrator.

(e) When a hearing in held pursuant to § 125.34, final actions of the Environmental Protection Agency will be made pursuant to that section.

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