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Pages 17431–17704

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

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CFR CHECKLIST

1973 Issuances

This checklist, prepared by the Office of the Federal Register, is published in the first issue of each month. It is arranged in the order of CFR titles, and shows the issuance date and price of revised volumes of the Code of Federal Regulations issued to date during 1973. New units issued during the month are announced on the back cover of the daily FEDERAL REGISTER as they become available.

Order from Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

CFR Unit (Rev. as of Jan. 1, 1973):

Title	Price
1	$0.55
2 [Reserved]	
3	2.60
3A 1972 Compilation	2.50
4	1.75
5	3.75
6 (Rev. Feb. 1, 1973)	4.25
7 Parts:	
0–45	6.50
46–51	2.60
52	4.20
53–209	7.00
210–699	5.25
700–749	3.75
750–899	2.10
900–944	4.00
945–980	2.25
981–999	2.25
1000–1059	4.00
1060–1119	4.00
1120–1199	3.00
1200–1499	4.25
1500–end	6.50
8	1.85
9	5.00
10	4.00
11	.75
12 Parts:	
1–299	5.50
300–end	6.25
13	3.00
14 Parts:	
1–59	6.50
60–199	6.75
200–end	7.75
15	4.00
16 Parts:	
0–149	7.00
150–end	4.25
General Index	3.75

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Title	Price
18 Parts:	
1–149	$4.00
150–end	4.00
20 Parts:	
01–399	2.25
21 Parts:	
1–9	2.25
130–140	3.00
141–169	5.50
170–299	2.25
300–end	1.50
22	4.25
25	3.75
26 Parts:	
1 (§§ 1.301–1.400)	2.50
1 (§§ 1.401–1.500)	3.00
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PART 401—FEDERAL CROP INSURANCE

1969 and Succeeding Crop Years

APPENDIX; DISCONTINUANCE OF INSURANCE IN COUNTIES PREVIOUSLY DESIGNATED FOR BARLEY CROP INSURANCE

The counties listed below are hereby deleted from the list of counties published in the FEDERAL REGISTER on January 18, 1973, (38 FR 1726), which were designated for barley crop insurance for the 1974 crop year pursuant to the authority contained in § 401.101 of the above-identified regulations.

WASHINGTON

Benton — Yakima.
Douglas

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] D. W. MCELWRATH,
Acting Manager
Federal Crop Insurance Corporation.

[FR Doc.73-13313 Filed 6-29-73;8:45 am]

PART 401—FEDERAL CROP INSURANCE

1969 and Succeeding Crop Years

APPENDIX; DISCONTINUANCE OF INSURANCE IN COUNTIES PREVIOUSLY DESIGNATED FOR WHEAT CROP INSURANCE

The counties listed below are hereby deleted from the list of counties published in the FEDERAL REGISTER on January 18, 1973, (38 FR 1726), which were designated for wheat crop insurance for the 1974 crop year pursuant to the authority contained in § 401.101 of the above-identified regulations.

ARKANSAS	MISSOURI
Jackson	Grundy
Phillips	
IDAHO	OREGON
Owyhee	Baker
MISSISSIPPI	
Issaquena	
Yazoo	

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] D. W. MCELWRATH,
Acting Manager
Federal Crop Insurance Corporation.

[FR Doc.73-13314 Filed 6-29-73;8:45 am]

PART 401—FEDERAL CROP INSURANCE

1969 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR WHEAT CROP INSURANCE

Pursuant to authority contained in § 401.101 of the above-identified regulations, as amended, the following counties are hereby added to the lists of counties published January 18, 1973, (38 FR 1726), and May 16, 1973, (38 FR 12811), which were designated for wheat crop insurance for the 1974 crop year.

ILLINOIS	INDIANA
Clay	Daviess
Randolph	
Richland	

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] D. W. MCELWRATH,
Acting Manager
Federal Crop Insurance Corporation.

[FR Doc.73-13315 Filed 6-29-73;8:45 am]

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

[Avocado Reg. 15, Amdt. 1]

PART 915—AVOCADOS GROWN IN SOUTH FLORIDA

Limitation of Shipments

This amendment to Avocado Regulation 15 revises the maturity requirements for the handling of the Pollock and Simmonds varieties of avocados, and prescribes specific maturity requirements for a new variety, Tower-2, so as to prevent the marketing of immature avocados of these varieties. The maturity requirements are specified in terms of

minimum weights or diameters and are those which have been found to be necessary for the avocados to ripen properly after harvesting.

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 915, as amended (7 CFR Part 915), regulating the handling of avocados grown in South Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendation of the Avocado Administrative Committee, established under the aforesaid marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of avocados, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this amended regulation until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. Shipments of Florida avocados are currently regulated pursuant to Avocado Regulation 15 (38 FR 15511) and, unless sooner modified or terminated, will continue to be so regulated until April 30, 1974. The recommendation and supporting information for amendment of the regulation during the period specified herein were promptly submitted to the Department after an open meeting of the Avocado Administrative Committee on June 13, 1973; such meeting was held to consider recommendations for regulation, after giving due notice of such meeting, and interested persons were afforded an opportunity to submit their views at this meeting; the recommended amendment and information upon which the amendment is based were received by the Department on June 18, 1973; the provisions of this amended regulation, including the effective time hereof, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of avocados; it is necessary, in order to effectuate the declared policy of the act, to make this amended regulation effective during the period and in the manner hereinafter set forth so as to provide for the continued regulation of the handling of such avocados; and compliance with this amended regulation will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof.

The need for the amendment to Avocado Regulation 15 stems from the current avocado crop maturity situation. Because of current growing conditions in the production area, including an extended period of dry weather, the Pollock and Simmonds varieties of avocados are maturing about one-week later than the dates such types of avocados are permitted to be handled pursuant to the provisions of such regulation. Also, it is determined that it is appropriate to add a new avocado variety, Tower-2 to the specifically named varieties to assure that such variety will be mature and provide consumer satisfaction.

Order. The provisions of subparagraph (a)(2) of § 915.315 (Avocado Regulation 15; 38 FR 15511) are amended by changing in Table I the dates and minimum weights applicable to the Pollock and Simmonds varieties and by adding, after the Waldin variety, dates and minimum weights applicable to the Tower-2 variety of avocados, so that after such changes and addition the portion of Table I relating to such varieties reads as follows:

Variety	Date	Minimum Weight or Diameter	Date	Minimum Weight or Diameter	Date	Minimum Weight or Diameter	Date
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Pollock	7- 9-73	18 oz. 3 1/16 in.	7-23-73	16 oz. 3 1/16 in.	8- 6-73		
Simmonds	7- 9-73	16 oz. 3 1/16 in.	7-23-73	14 oz. 3 1/16 in.	8- 6-73		
Tower-2	8-20-73	14 oz.	9- 3-73	12 oz.	10-1-73		

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

Dated, June 27, 1973, to become effective July 9, 1973.

FLOYD F. HEDLUND,
Director Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 73-13357 Filed 6-29-73;8:45 am]

[Avocado Reg. 21, Amdt. 1]

PART 944—FRUITS; IMPORT REGULATIONS

Maturity Requirements

This amendment to Avocado Regulation 21 (Part 944—Fruits; Import Regulations) maturity requirements extends the period during which imported avocados of the Pollock variety must individually weigh at least 18 ounces or measure at least 3 11/16 inches in diameter one-week, through July 22, 1973, and extends the period during which individual fruit of such variety must weigh at least 16 ounces or measure at least 3 7/16 inches in diameter one-week, through August 6, 1973. Other provisions of the regulation are unchanged. The same maturity requirements are imposed on avocados of the Pollock variety produced domestically in South Florida by an amendment to Avocado Regulation 15, which becomes effective July 9, 1973. The revised regulation is designed to prevent the importation of immature avocados. Immature avocados will not ripen satisfactorily and are unacceptable in taste.

Pursuant to the provisions of section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674) the provisions of paragraph (a)(2) of § 944.13 Avocado Regulation 21; (38 FR 15618) are hereby amended to read as follows:

§ 944.13 Avocado Regulation 21.

(a) * * *

(2) Avocados of the Pollock variety shall not be imported (i) prior to July 9, 1973; (ii) from July 9, 1973, through July 22, 1973, unless the individual fruit in each lot of such avocados weighs at least 18 ounces or measures at least 3 11/16 inches in diameter; and (iii) from July 23, through August 6, 1973, unless the individual fruit in each lot of such avocados weighs at least 16 ounces or measures at least 3 7/16 inches in diameter.

* * * * *

It is hereby found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective time of this amended regulation beyond that hereinafter specified (5 U.S.C. 553) in that (a) the requirements of this import regulation are imposed pursuant to section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), which makes such regulation mandatory; (b) the maturity requirements of this import regulation are comparable to those to be in effect beginning July 9, 1973, on domestic shipments of avocados under Avocado Regulation 15, Amendment 1 (§ 915.315); (c) compliance with this import regulation will not require any special preparation which cannot be completed by the effective time hereof; (d) notice hereof in excess of three days, the minimum that is prescribed by section 8e, is given with respect to this import regulation; and (e) such notice is hereby determined, under the circumstances, to be reasonable.

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

Dated, June 27, 1973, to become effective July 15, 1973.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.73-13358 Filed 6-29-73;8:45 am]

CHAPTER X—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; MILK), DEPARTMENT OF AGRICULTURE

[Milk Order 76]

PART 1076—MILK IN THE EASTERN SOUTH DAKOTA MARKETING AREA

Order Suspending a Certain Provision

This suspension order is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the Eastern South Dakota marketing area.

Notice of proposed rulemaking was published in the FEDERAL REGISTER (38 FR 15519) concerning proposed suspension of a certain provision of the order. Interested persons were afforded opportunity to file written data, views, and arguments thereon.

After consideration of all relevant material, including the proposal set forth in the aforesaid notice, data, views, and arguments filed thereon, and other available information, it is hereby found and determined that for the months of July through December 1973 the following provision of the order does not tend to effectuate the declared policy of the Act and is, therefore, suspended:

In § 1076.12(c), relating to standards for pooling a plant operated by a cooperative association, the provision "of other handlers", as it appears in the text preceding the proviso.

STATEMENT OF CONSIDERATION

The provision "of other handlers", where it appears in § 1076.12(c) has been suspended by two previous actions for the period of August 1972 through June 1973. There was no opposition expressed to the prior suspension actions or to the notice of proposal to suspend (38 FR 15519) for an additional period.

Land O'Lakes, Inc., a cooperative association of producers on the market, requests continuation of the suspension in order that it may continue to pool milk of producer-members pursuant to § 1076.12(c) of the order.

Section 1076.12(c) provides pool plant status for "a plant other than a distributing plant, operated by a cooperative association if more than 50 percent of the total milk supply of producer-members of such cooperative association is shipped to pool distributing plants of other handlers during the month, either directly from the farm or by transfer from the plant of the cooperative association * * *"

Without the suspension, qualifying shipments pursuant to § 1076.12(c) are limited to shipments made to plants of other handlers. The suspension here effectuated will enable Land O'Lakes to qualify supply plants through shipments of producer-member milk to a distributing pool plant owned by the cooperative.

This suspension action is necessary to promote orderly marketing and to permit the most efficient handling of milk of producers regularly supplying the market. The suspension action is made on a temporary basis pending consideration of the provision on a hearing record.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) This suspension is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area since the most efficient method of handling much of the milk used to supply distributing plants is by shipment directly from producers' farms to such plants.

(b) This suspension order does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given interested parties and they were afforded opportunity to file written data, views or arguments concerning this suspension. No opposition was expressed.

Therefore, good cause exists for making this order effective with respect to producer milk deliveries during July through December 31, 1973.

It is therefore ordered, That the aforesaid provision of the order is hereby suspended to be effective with respect to producer milk deliveries during July through December 1973.

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

Effective date: July 2, 1973.

Signed at Washington, D.C., on June 27, 1973.

CLAYTON YEUTTER,
Assistant Secretary.

[FR Doc.73-13312 Filed 6-29-73;8:45 am]

Title 9—Animals and Animal Products

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

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

PART 83—SCREWWORMS

Interstate Movement of Livestock

The purpose of these amendments is to add portions of the States of Arizona, California, and New Mexico to the areas in Texas and Puerto Rico presently designated as areas of recurring infestation. Upon the effective date of these amendments, portions of Arizona, California, and New Mexico are designated as areas of recurring infestation from April 15 to November 30 of each year.

Statement of consideration. Certain territories in Sonora, Mexico, have experienced unusually severe screwworm outbreaks this year which have spread into adjacent areas of the United States. This infestation now threatens the livestock industry of the United States and requires that restrictions be imposed on the movement of livestock from areas in Arizona, California, and New Mexico to protect the livestock populations of the United States from undue risk of screwworm infestations.

Pursuant to sections 4 through 7 of the Act of May 29, 1884, as amended, sections 1 and 2 of the Act of February 2, 1903, as amended, sections 1 through 4 of the Act of March 3, 1905, as amended, and sections 3 and 11 of the Act of July 2, 1962 (21 U.S.C. 111–113, 115, 117, 120, 121, 123–126, 134b, 134f), Part 83, Title 9, Code of Federal Regulations, is amended in the following respects:

1. § 83.2 is amended to read:

§ 83.2 Notice relating to existence of screwworms.

Notice is hereby given that screwworm infestations usually exist from April 15 through November 30 of each year in portions of the States of Arizona, California, New Mexico, and Texas designated in paragraphs (a), (b), (c), and (d) of this section and during the entire year in the Commonwealth of Puerto Rico. Therefore, the following areas are hereby designated as areas of recurring infestation:

(a) *Arizona.* Cochise, Gila, Graham, Greenlee, Maricopa, Pima, Pinal, Santa Cruz, Yavapai, and Yuma Counties.

(b) *California.* Imperial, Orange, Riverside, and San Diego Counties.

(c) *New Mexico.* Dona Ana, Grant, Hidalgo, Luna, and Otero Counties.

(d) *Texas.* Aransas, Atascosa, Bandera, Bee, Bexar, Brooks, Calhoun, Cameron, De Witt, Dimmit, Duval, Edwards, Frio, Goliad, Hidalgo, Jim Hogg, Jim Wells, Karnes, Kenedy, Kinney, Kleberg, La Salle, Live Oak, McMullen, Maverick, Medina, Nueces, Real, Refugio, San Patricio, Starr, Uvalde, Val Verde, Victoria, Webb, Willacy, Wilson, Zapata, and Zavala Counties.

(e) *Puerto Rico.* The entire Commonwealth.

2. In §83.6, the introductory paragraph is amended to read:

§ 83.6 Interstate movement of livestock from areas of recurring infestation.

The interstate movement of livestock from any area of recurring infestation in the States of Arizona, California, New Mexico, and Texas is prohibited from April 15 through November 30 of each year, and the interstate movement of livestock from the Commonwealth of Puerto Rico is prohibited during the entire year, unless the conditions specified in paragraph (a) or (b) of this section are met. This restriction also applies to livestock transiting any area (or areas) of recurring infestation to an area free of screwworm infestation.

* * * * *

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

Effective date. The foregoing amendments shall become effective July 2, 1973.

The amendments impose certain further restrictions necessary to prevent the spread of screwworms, and must be made effective immediately to accomplish their

purpose in the public interest. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

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

Done at Washington, D.C., this 27th day of June, 1973.

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

[FR Doc.73-13359 Filed 6-29-73;8:45 am]

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

[Docket No. FI-160]

Status of Participating Communiies

Section 1914.4 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence a new entry to the table. In this entry, a complete chronology of effective dates appears for each listed community. Each date appearing in the last column of the table is followed by a designation which indicates whether the date signifies the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. The entry read as follows:

§ 1914.4 Status of participating communities.

* * * * * * *

State	County	Location	Map No.	State map repository	Local map repository	Effective date of authorization of sale of flood insurance for area
• • •	• • •	• • •	• • •	• • •	• • •	• • •
Louisiana	E. Baton Rouge	Zachary, Town of				July 2, 1973. Emerg.
Michigan	Menominee	Unincorporated areas.				Do. Emerg.
New York	Chemung	Elmira Heights, Village of.				Do. Emerg.
North Carolina	Haywood	Canton, Town of				Do. Emerg.
Ohio	Hamilton	Unincorporated				Do. Emerg.
Wisconsin	Ashland	Ashland, City of				Do. Emerg.
Do.	Milwaukee	Glendale, City of				Do. Emerg.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (secs. 408-410, Public Law 91-152, Dec. 24, 1969), 42 U.S.C. 4001-4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969)

Issued: June 25, 1973.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.73-13254 Filed 6-29-73;8:45 am]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER F—REGULATIONS UNDER SPECIFIC ACTS OF CONGRESS OTHER THAN THE FOOD, DRUG AND COSMETIC ACT

PART 295—REGULATIONS UNDER THE POISON PREVENTION PACKAGING ACT OF 1970

CFR Correction

In paragraph (a)(1) of § 295.2 appearing on page 206 of Title 21 CFR Parts 170-299 revised as of April 1, 1973, the final period should be changed to a comma and a phrase added: "except the following:".

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CCGD3-73-2-R]

PART 127—SECURITY ZONES

Establishment of Security Zone; Coney Island to Rockaway Inlet, N.Y.

This amendment to the Coast Guard's Security Zone Regulations, establishes an area south of Coney Island, New York and west of Rockaway Inlet, New York as a security zone. This security zone is established to maintain a clear operating area below the U.S. Air Force "Thunderbirds" precision flying team while on aerial maneuvers.

This amendment is issued without publication of a notice of proposed rule making and this amendment is effective in less than 30 days from the date of publication, because this security zone involves a military function of the United States.

In consideration of the foregoing, Part 127 of Title 33 of the Code of Federal Regulations is amended by adding § 127.303, to read as follows:

§ 127.303 Coney Island to Rockaway Inlet, New York.

The waters within the following boundary is a security zone: a line beginning at N40°33'26", 74°01'17" W; thence to N40°33'56", 73°56'53" W; thence to N40°33'26", 73°56'53" W; thence to the beginning point.

(46 Stat. 220, as amended, (1, 63 Stat. 503,) 6(b), 80 Stat. 937; 50 U.S.C. 191, (14 U.S.C. 91,) 49 U.S.C. 1655(b); E.O. 10173, E.O. 10277, E.O. 10352, E.O. 11249; 3 CFR, 1949–1953 Comp. 356, 778, 873, 3 CFR 1964–1965 Comp. 349, 33 CFR Part 6, 49 CFR 1.46(b))

Effective date. This amendment becomes effective from 1:00 p.m. e.d.s.t. until 3:30 p.m. e.d.s.t. July 3, 1973.

Dated: June 19, 1973.

B. F. ENGEL,
Vice Admiral, United States Coast Guard Commander, Third Coast Guard District New York, New York.

[FR Doc.73-13351 Filed 6-29-73;8:45 am]

[CGD-73-3-R]

PART 127—SECURITY ZONES

Establishment of Security Zone; Jones Beach, N.Y.

This amendment to the Coast Guard's Security Zone Regulations, establishes an area south of Jones Beach, New York as a security zone. This security zone is established to maintain a clear operating area below the U.S. Air Force "Thunderbirds" precision flying team while on aerial maneuvers.

This amendment is issued without publication of a notice of proposed rule making and this amendment is effective in less than 30 days from the date of publication, because this security zone involves a military function of the United States.

In consideration of the foregoing, Part 127 of Title 33 of the Code of Federal Regulations is amended by adding § 127.304, to read as follows:

§ 127.304 Jones Beach, New York.

The waters within the following boundary is a security zone: a line beginning at N40°34'29", 73°32'26"W; thence to N40°35'00", 73°32'34"W; thence to N40°35'42", 73°28'07"W; thence to N40°35'10", 73°28'01"W; thence to the beginning point.

(46 Stat. 220, as amended, (1, 63 Stat. 503), 6(b) 80 Stat. 937; 50 U.S.C. 191, (14 U.S.C. 91), 49 U.S.C. 1655(b); E.O. 10173, E.O. 10277, E.O. 10352, E.O. 11249; 3 CFR 349, 33 CFR Part 6, 49 CFR 1.46(b))

Effective date. This amendment becomes effective from 1:00 p.m. e.d.s.t. until 3:30 p.m. e.d.s.t. July 4, 1973.

Dated: June 19, 1973.

B. F. ENGEL,
Vice Admiral, United States Coast Guard, Commander, Third Coast Guard District, New York, New York.

[FR Doc.73-13350 Filed 6-29-73;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

PART 85—CONTROL OF AIR POLLUTION FROM NEW MOTOR VEHICLES AND NEW MOTOR VEHICLE ENGINES

Interim Standards for 1975 Model Year Light Duty Vehicles

On April 11, 1973, the Administrator suspended the effective date of the 1975 model year emission standards for hydrocarbons and carbon monoxide for those manufacturers who requested such suspension. That determination is published in the April 26, 1973 (38 FR 10317) edition of the FEDERAL REGISTER.

As required by section 202(b)(5)(A) of the Clean Air Act, the decision also established interim standards for light duty vehicles to be sold in the 1975 model year. In order to ensure that these interim standards will be incorporated in proper form in the Code of Federal Regulations, they are being republished in the form set out below.

The standards prescribed for 1975 model year light duty vehicles of manufacturers who have been granted a suspension are 1.5 grams per mile for exhaust hydrocarbons and 15 grams per mile for exhaust carbon monoxide. The 3.1 grams per mile oxides of nitrogen standard promulgated on July 2, 1971 (36 FR 12664) remains in effect for all manufacturers. The hydrocarbon and carbon monoxide standards originally promulgated on July 2, 1971 (36 FR 12664) for the 1975 model year remain in effect for those manufacturers who have not applied for and received a suspension and will become effective for all manufacturers beginning with the 1976 model year.

In his decision of April 11, the Administrator established a Federal standard of 9 grams per mile for exhaust carbon monoxide for vehicles to be sold in California. That standard applies only to those vehicles whose manufacturers have been granted a suspension of the 1975 model year statutory Federal standards.

Part 85 of Chapter 1, Title 40 of the Code of Federal Regulations as applicable to 1975 model year light duty vehicles is amended below. These regulations are a restatement of the requirements of the Administrator's decision, which is already in effect. Since their substantive requirements have been in effect since April 11, 1973, their publication in this form is made effective July 2, 1973.

(Sec. 202 of the Clean Air Act, as amended, 42 U.S.C. 1957f-1)

Dated: June 26, 1973.

ROBERT W. FRI,
Acting Administrator.

In § 85.075-1 of Part 85, Title 40 of the Code of Federal Regulations, applicable to 1975 model year light duty vehicles, paragraph (a) is revised to read as follows:

§ 85.075-1 Standards for exhaust emissions.

(a)(1)(i) Exhaust emissions from 1975 model year vehicles shall not exceed:

(*a*) *Hydrocarbons.* 0.41 grams per vehicle mile.

(*b*) *Carbon monoxide.* 3.4 grams per vehicle mile.

(*c*) *Oxides of nitrogen.* 3.1 grams per vehicle mile.

(ii) For those manufacturers who have been granted a suspension of the standards specified in paragraph (a)(1)(i), the following standards for exhaust emissions from 1975 model year vehicles shall apply:

(*a*) *Hydrocarbons.* 1.5 grams per vehicle mile.

(*b*) *Carbon monoxide.* 15 grams per vehicle mile, except that the standard shall be 9.0 grams per vehicle mile for vehicles to be sold or offered for sale in the State of California.

(*c*) *Oxides of nitrogen.* 3.1 grams per vehicle mile.

* * * * *

[FR Doc.73-13375 Filed 6-29-73;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 1—FEDERAL PROCUREMENT REGULATIONS

[FPR Amdt. 114]

PART 1-18—PROCUREMENT OF CONSTRUCTION

Redetermination of Construction Contract Prices

This amendment of the Federal Procurement Regulations adds new § 1-18.310, Redetermination of construction contract prices. The section sets forth a delegation of authority from the Cost of Living Council and includes a contract clause, a notice to contractors, and procedures which provide for the redetermination of construction contract prices for contracts in excess of $500,000 where scheduled increases in wages and salaries of construction employees have been modified by the Construction Industry Stabilization Committee (CISC).

The table of contents for Part 1-18 is amended by adding new entries as follows:

Sec.	
1-18.310	Redetermination of construction contract prices.
1-18.310-1	General.
1-18.310-2	Delegation of authority.
1-18.310-3	New construction contract clause.
1-18.310-4	Existing construction contract notice.
1-18.310-5	Advisory committee.

Subpart 1-18.3—Negotiations

Section 1-18.310 is added as follows:

§ 1-18.310 Redetermination of construction contract prices.

§ 1-18.310-1 General.

(a) The Economic Stabilization Act of 1970, August 15, 1970, as amended, and Executive Order 11695 of January 11, 1973, provide for the establishment and

maintenance of economic stabilization programs. There is deemed to be a continuing need to stabilize the economy, reduce inflation, minimize unemployment, improve the nation's competitive position in world trade, and to protect the purchasing power of the dollar, all within the context of sound fiscal management and effective monetary policies.

(b) A Construction Industry Stabilization Committee (CISC) was established by Executive Order 11588 of March 29, 1971, and continued by Executive Order 11695. The purpose of the Committee, as provided in Cost of Living Council Order No. 16, of January 12 ,1973, is "to assure generally conformance of any increase in any wage or salary in the construction industry to the provisions of this order."

(c) CISC may determine, from time to time, that wage and salary increases are not acceptable and require that such increases shall be reduced below the level provided in the agreements applicable to construction contracts.

(d) The term "windfall profits" as used in this subpart means the wage and salary rates (including fringe benefits) used in the bid or proposal minus the wage rates approved by CISC multiplied by the actual number of man-hours taken from the payroll records and affected by the CISC action. This definition has been approved by the Cost of Living Council (*CLC*).

§ 1–18.310–2 Delegation of authority.

(a) The Director, Cost of Living Council, delegated authority to the General Services Administration in Cost of Living Council Order No. 24, April 11, 1973 (38 FR 9681, April 19, 1973), with respect to the redetermination of construction contract prices in excess of $500,000 where CISC has reduced the wages and salaries of construction workers. This delegation reads as follows:

DELEGATION OF AUTHORITY

For the purpose of (1) preventing windfall profits resulting from a reduction in the wage and salary level of construction workers by action of the Construction Industry Stabilization Committee (CISC), (ii) implementing section 130.71 of the Cost of Living Council regulations, and acting pursuant to the Economic Stabilization Act of 1970, as amended, and the authority delegated to me by Executive Order No. 11695 and Cost of Living Council Order No. 14, I hereby delegate to the Administrator of the General Services Administration with respect to civilian executive agencies, and the Secretaries of the military departments and the Secretary of Defense with respect to the Department of Defense authority to:

(1) Require price redetermination of each fixed price construction contract of more than $500,000 which is affected by a wage and salary reduction caused by action of the CISC;

(2) Require that, after April 11, 1973, each successful offeror on a fixed price construction contract of more than $500,000 provide the Government with such information during the life of that contract as is necessary to determine whether windfall profits have or will accrue from a wage and salary reduction caused by the CISC, and to make such arrangements with his subcontractors, regardless of tier, as necessary to insure that the information can be provided;

(3) Prescribe in the Federal Procurement Regulations, and applicable regulations of the Department of Defense such rules and procedures as are necessary to carry out the purpose of this delegation; and

(4) Redelegate to any Federal agency of the United States any authority under this delegation.

James W. McLane
Deputy Director
Cost of Living Council

(b) The authority to redetermine construction contract prices set forth in paragraph (a) of this section is hereby redelegated to civilian executive agencies.

§ 1–18.310–3 New construction contract clause.

To provide an appropriate basis for redetermining construction contract prices following reductions of the wages and salary levels of construction workers caused by action of the CISC, and to implement 6 CFR 130.71 of the Cost of Living Council regulations, a contract clause applicable to fixed price contracts over $500,000 within the United States shall be inserted in all solicitations for bids or proposals on contracts for construction work as follows:

REDUCTION OF WAGES AND SALARIES CAUSED BY ACTION OF THE CONSTRUCTION INDUSTRY STABILIZATION COMMITTEE (CISC)

(Applicable to contracts in excess of $500,000)

(a) The Contractor agrees to submit to the Contracting Officer, within 10 calendar days after award of the contract, all wage and salary rates for the various classes of construction employees used in computing his bid or offer. For the purpose of this clause, "wage and salary rates" include basic hourly wage rates plus cost per hour or fringe benefits.

(b) In the event that the wages or salaries in any agreements applicable to this contract are reduced because of an action by the Construction Industry Stabilization Committee (CISC), the Contractor further agrees (1) to provide the Contracting Officer with the actual number of man-hours for the various classes of construction employees affected by the CISC action as determined from the payroll records, and (2) to negotiate a decrease in the contract price which fairly reflects the results of the CISC action, adjusted by any cost increases directly resulting from the CISC action.

(c) The work under this contract shall not be deemed to be completed for purposes of making final payment under the Payments to Contractors clause of this contract until (1) the final contract price has been established as provided by paragraph (b) of this clause, or (2) the Contractor submits a certification as follows:

CERTIFICATION

Pursuant to the contract clause entitled "REDUCTION OF WAGES AND SALARIES CAUSED BY ACTION OF THE CONSTRUCTION INDUSTRY STABILIZATION COMMITTEE (CISC)," I hereby certify that CISC did not roll back any scheduled wage or salary rate increase for any class of construction employees used in performing contract (*identity*).

(d) For the purpose of paragraph (c), the Contracting Officer may withhold up to an amount equal to the difference between the wage and salary rates (including fringe benefits) used for bid or proposal purposes and the lower rates approved by CISC, multiplied by the actual number of man-hours taken from the payroll records and affected by the CISC action. The amount withheld will be retained until agreement on the final contract price.

(e) Should a dispute arise concerning the amount by which the contract price should be reduced, the Contracting Officer shall issue a determination as to the amount and the determination shall be a final decision under the Disputes clause of the contract which may be appealed by the Contractor.

(f) The payment of interest on an amount in dispute pursuant to paragraph (e) shall be handled in accordance with the provisions of the Payment of Interest on Contractor's Claims clause of this contract.

(g) Any information submitted pursuant to paragraphs (a) and (b) shall be considered privileged information, and the Contracting Officer shall retain it in strict confidence: *Provided, however,* That the privilege afforded by this paragraph shall not prevent the disclosure of such information to the duly authorized representatives of the Federal agency and CISC.

(h) The Contractor shall include the provisions of this clause, except paragraphs (e) and (f), in all subcontracts and shall require their inclusion in all subcontracts of any tier. Subcontractor data shall be furnished to the Government through the chain of higher tier subcontractors and the prime Contractor.

§ 1–18.310–4 Existing construction contract notice.

To accomplish the objectives set forth in § 1–18.310–3 regarding existing fixed price contracts in excess of $500,000 to be performed within the United States that do not include the clause prescribed by § 1–18.310–3 and where final payment has not been made, a notice shall be forwarded to contractors which is substantially as follows:

NOTICE OF REDETERMINATION OF CONTRACT PRICE

The Economic Stabilization Act of 1970, as amended, and Executive Order 11695 provide for the establishment of economic stabilization programs. With respect to construction contracts, the order provides for the operation of a Construction Industry Stabilization Committee (CISC) to review the level of wages and salaries, including fringe benefits, established in any agreements applicable to construction contracts.

Where the CISC has found that the scheduled increases in wages and salaries exceed acceptable levels, the reduction of such wages and salaries to acceptable levels is required. To fairly reflect the results of CISC actions, adjusted by any cost increases directly resulting therefrom, the Director, Cost of Living Council, has directed (6 CFR 130.71) that contract prices be redetermined. Pursuant to the Economic Stabilization Act of 1970, as amended, Executive Order 11695, and Cost of Living Council Order No. 24, April 11, 1973, the _____ has been dele-
(name of agency)
gated authority to negotiate a reduction of prices under fixed price construction contracts of more than $500,000 that will fairly reflect CISC actions.

You are hereby requested to furnish the wage and salary rates (including fringe benefits) for the various classes of employees used in the computation of your bid or proposal which were affected by a CISC action. You in the contract price which fairly reflects the are further requested to negotiate a decrease results of the CISC action, adjusted by any cost increases directly resulting from the CISC action.

Work under the contract will not be deemed to be completed for purposes of making final payment under the Payments to Contractors clause of your contract until (1) the final contract price has been established as provided by this notice, or (2) you submit a certification as follows:

CERTIFICATION

Pursuant to the contract notice entitled "NOTICE OF REDETERMINATION OF CONTRACT PRICE," I hereby certify that the Construction Industry Stabilization Committee did not roll back any scheduled wage or salary rate increase for any class of construction employees used in performing contract _____
(identify)

For purposes stated in the above paragraph, the Contracting Officer may withhold up to an amount equal to the difference between the wage and salary rates used for bid or proposal purposes and the lower wage and salary rates approved by CISC, multiplied by the actual number of man-hours taken from the payroll records and affected by the CISC decision.

Should a dispute arise concerning the amount by which the contract price should be reduced, the Contracting Officer shall issue a determination regarding the amount and the determination will be a final decision which may be appealed by you under the Disputes clause of the contract.

The payment of interest on an amount in dispute pursuant to the preceding paragraph will be handled in accordance with the provisions of the Payment of Interest on Contractor's Claims clause, if any, of the contract. Information submitted pursuant to this notice will be considered privileged information, and the Contracting Officer shall retain it in strict confidence. However, the privilege afforded by this paragraph will not prevent the disclosure of such information to the duly authorized representative of the agency and CISC.

A similar notice should be forwarded by the Contractor to all subcontractors affected by a CISC action, except for references to disputes and interest.

§ 1–18.310–5 Advisory committee.

An interagency advisory committee sponsored by the Cost of Living Council will render advice and assistance to any contract appeals board hearing concerning a dispute arising under the contract clause or notice to existing contractors.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Effective date. This amendment is effective August 15, 1973, but may be observed earlier.

Dated: June 27, 1973.

ARTHUR F. SAMPSON,
Administrator of General Services.

[FR Doc. 73-13434 Filed 6-29-73;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—BUREAU OF SPORT FISHERIES AND WILDLIFE, FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 32—HUNTING

Red Rock Lakes National Wildlife Refuge, Mont.

The following regulations are issued and are effective on July 2, 1973. These regulations apply to public hunting on portions of certain national wildlife refuges in Montana.

General conditions. Hunting shall be in accordance with applicable State regulations. Portions of refuges which are open to hunting are designated by signs and/or delineated on maps. No vehicle travel is permitted except on maintained roads and trails. Special conditions applying to individual refuges are listed on the reverse side of maps available at refuge headquarters and from the office of the Area Manager, Bureau of Sport Fisheries and Wildlife, 711 Central Avenue, Billings, Montana 59102.

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Migratory game birds may be hunted on the following areas:

* * * * *

Red Rock Lakes National Wildlife Refuge, Monida Star Route, Lima, Montana 59739.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

* * * * *

Red Rock Lakes National Wildlife Refuge, Monida Star Route, Lima, Montana 59739.

The provisions of these special regulations supplement the regulations which govern hunting on wildlife refuge areas generally and which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through June 30, 1974.

E. D. STROOPS,
Refuge Manager.

JUNE 21, 1973.

[FR Doc.73-13113 Filed 6-29-73;8:45 am]

Title 19—Customs Duties

CHAPTER I—BUREAU OF CUSTOMS, DEPARTMENT OF THE TREASURY

[T.D. 73-175]

ENTRY, EXAMINATION, CLASSIFICATION, AND APPRAISEMENT OF MERCHANDISE; LIQUIDATION OF DUTIES

On June 29, 1972, notice of proposed rulemaking pertaining to a revision of the Customs Regulations relating to entry of merchandise, examination, sampling, and testing of merchandise, classification and appraisement of merchandise, and liquidation of duties (Parts 8, 13, 14, 16, and § 18.16–18.19), was published in the FEDERAL REGISTER 37 FR 12805). An extension of time for filing comments to October 30, 1972, was granted (37 FR 14786).

After consideration of all comments received, the following changes are made in the proposed revision:

1. "Steel" boxes in § 141.2(d) is changed to read "Metal" boxes in order to reflect current Customs interpretation and practice. There was no intent to exclude metal boxes other than steel, which are "other substantial outer containers."

2. Section 141.20 is changed to clarify when the actual owner's declaration and the superseding bond must be filed. In the proposed notice, we emphasized that the mere filing, by a nominal consignee, of an actual owner's declaration without a superseding bond does not relieve him or direct liability for the payment of any additional duty as the principal on the entry bond. However, the language of the section, as it appeared in the proposed notice, made it appear mandatory that the nominal consignee file the superseding bond. This has been corrected to show that the nominal consignee is not obliged to file a superseding bond in accordance with present § 8.18(d) of the Customs Regulations.

3. Section 141.46 is changed to make it clear that a broker may enter merchandise in his own name without having a valid power of attorney; however, he will need a power of attorney to obligate his principal on a bond, or designate his principal as actual owner or ultimate consignee on Customs documents. This change is in conformity with present Customs practice.

4. Section 141.61(a) is changed to include that an importer may omit, on the formal entry, the marks and numbers of packages previously cleared through the immediate delivery procedure, set forth in Part 142.

5. Section 141.61(e)(5) is changed by inserting "The statistical reporting number" in place of "The seven-digit statistical number". As pointed out in statistical headnote 3(b), Tariff Schedules of the United States (19 U.S.C. 1202), when an article is classifiable under a provision which derives its rate of duty from a different provision, generally not only the seven-digit statistical number for the basic provision, but the item number of the provision from which the rate is derived is required. The term used in the Tariff Schedules to describe the numerical information required on the invoice is "the statistical reporting number".

6. Section 141.62(b) is changed to reflect current Customs practice and procedure. As stated in the proposed notice and in § 8.4(b) of the present Customs Regulations, overtime services by Customs officials for the entry of merchandise, or its withdrawal for consumption, are very limited. However, in practice, such overtime services are performed when Customs officers are available and the services are reimbursable.

7. Present § 8.26(c) states that for merchandise required to be marked, pursuant to schedule 7, part 2E, headnote 4, Tariff Schedules of the United States (19 U.S.C. 1202), section 304, Tariff Act of 1930, as amended (19 U.S.C. 1304), the Wool Products Labeling Act, the Fur Products Labeling Act, or the Textile Fiber Products Identification Act, the demand for the return of the merchandise for marking or labeling must be made "not later than 20 days after the appraiser's report of appraisement". Under the reorganization of the Customs Service, the appraiser's report of appraisement was eliminated. A new date-reference point is therefore necessary.

The only two dates of which the importer or his agent are advised on all entries are the date of entry and the

date of liquidation. Only the latter occurs after entry is made, and it is impractical to use for this purpose because it is too remote from the date of entry.

In proposed § 141.113(a), 20 days from the date of examination of merchandise was used as the determining date. Comments received from the public, and Customs officials, correctly pointed out that in most cases the importer or his agent are unaware of the examination date. However, 30 days from the date of entry is generally equivalent to 20 days from the date of examination, and the importer or his agent can independently determine when that time period has elapsed. It is therefore a practice date to use. However, when merchandise is examined at the importer's premises or some other outside place, there is in many cases a significant time lag from the date of entry to when the merchandise is examined, and 30 days from the date of entry would not adequately cover this situation. In these cases, the importer or his agent would be aware of the date when examination of the merchandise was made. Therefore, in the case of merchandise examined at the importer's premises or such other appropriate places as determined by the district director, 30 days from the date of examination is the time for demand.

8. Section 143.23 outlines the usual informal entry situations when a Customs form other than Customs Form 5119–A may be used. To correct the impression that this list is all inclusive, we have added a new paragraph (e) to § 143.23 to incorporate the other situations by reference.

9. Section 144.15 is added to incorporate present §§ 8.30 (g) and (h) pertaining to the entry into and withdrawal from Customs bonded warehouses of distilled spirits for diplomatic personnel, foreign military personnel, and other such personages. This section was published on March 2, 1973, as T.D. 73–62 (38 FR 5630).

10. In § 151.4(a), "Agricultural Research Service" is changed to "Animal and Plant Health Inspection Service" to reflect the current name of that Government agency.

11. In § 151.10, the term used to describe the Customs officer who will select the representative sample has been changed from "Customs sampler or other authorized Customs officer" to "an authorized Customs officer," in order to more accurately reflect the current Customs practice. The post of Customs sampler is only found in major ports and, even there, the number of Customs samplers has been reduced. The majority of samples are taken by either the Customs inspector or the import specialist.

12. Section 151.21(b) is changed by deleting the parenthetical word "(Clerget)" in accordance with T.D. 54106.

13. Section 151.64 is changed to indicate that on each entry covering wool or hair subject to duty at a rate per clean pound, it will no longer be necessary to file one of the two extra copies of the entry since one extra copy was needed for the Customs Fibers Administrator, whose position was recently abolished.

14. Section 152.23 is changed to reflect that this section applies to all the bases for value of merchandise mentioned in sections 402 and 402a, Tariff Act of 1930, as amended (19 U.S.C. 1401a, 1402). The expression "shall be appraised at its value in the principal markets of the country from which it is immediately imported", which appeared in the proposed notice, raised questions as to the section's applicability to merchandise appraised on the basis of United States value, American Selling Price, or Constructed Value.

15. Section 159.10(c)(1) is changed to eliminate the exception clause to the notice of reliquidation which provided that when a refund of all or part of the duties paid is due to the importer notice would be given on the notice of refund rather than the notice of reliquidation. The elimination of this exception reflects the abolishment of the notice of refund by T.D. 67–33 (32 FR 492).

16. In § 159.34(a), the list of the quarterly rate countries is changed in the following manner:

a. The name of "Ceylon" is deleted and the name "Sri Lanka (Ceylon)" is inserted in alphabetical order. This reflects the change in the name of the country from Ceylon to Sri Lanka.

b. Denmark is added to the list, in alphabetical order, in accordance with T.D. 72–235 (37 FR 18448).

17. Section 159.47(f) is amended to provide information concerning the effect of recent Treasury Decisions.

In addition to the above changes, certain editorial corrections have been made in the text. Further, certain parts of the Customs Regulations have been renumbered or otherwise modified, necessitating additional conforming changes.

There is included as part of the revision a parallel reference table showing the relationship of sections in Parts 141, 142, 143, 144, 151, 152, and 159, and §§ 10.151 through 10.153 and 10.161 through 10.166 to superseded sections in title 19, Code of Federal Regulations.

Accordingly, new Parts 141, 142, 143, 144, 151, 152, and 159, and the conforming changes to Parts 1, 4, 6, 7, 8, 9, 10, 11, 12, 13, 14, 16, 18, 19, 22, 24, 25, 123, 133, 134, 146, 147, 158, 172, and 174 of the Customs Regulations, Chapter I, title 19, of the Code of Federal Regulations, are hereby adopted as set forth below.

Effective date. These amendments shall become effective August 1, 1973.

EDWIN F. RAINS,
Acting Commissioner of Customs.

Approved: June 15, 1973.

JAMES B. CLAWSON
Acting Assistant Secretary of the Treasury.

PART 1—GENERAL PROVISIONS

Part 1 is amended by adding at the end thereof a new § 1.11, reading as follows:

§ 1.11 Definitions.

As used in this chapter, the following terms shall have the meanings set forth, unless: (a) The context in which they are used requires a different meaning, or (b) a different definition is prescribed for a particular part or portion thereof:

Duties. "Duties" means Customs duties and any internal revenue taxes which attach upon importation.

Date of entry. See § 141.68 of this chapter.

Date of exportation. See § 152.1(c) of this chapter.

Date of importation. "Date of importation" means, in the case of merchandise imported otherwise than by vessel, the date on which the merchandise arrives within the Customs territory of the United States. In the case of merchandise imported by vessel, the date on which the vessel arrives within the limits of a port in the United States with intent then and there to unlade shall be deemed the date of importation of that merchandise as to which there is such intent to unlade.

Entry or withdrawal for consumption. "Entry or withdrawal for consumption" means entry for consumption or withdrawal from warehouse for consumption.

Importer. "Importer" means the person primarily liable for the payment of any duties on the merchandise, or an authorized agent acting on his behalf. The term includes, as appropriate:

(1) The consignee,

(2) The importer of record,

(3) The actual owner if an actual owner's declaration and superseding bond has been filed in accordance with § 141.20 of this chapter, or

(4) The transferee if the right to withdraw merchandise in a bonded warehouse has been transferred in accordance with subpart C of Part 144 of this chapter.

(R.S. 251, as amended, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624)

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

§ 4.17 [Amended]

Section 4.17 is amended by substituting "159.42" for "16.19".

§ 4.34 [Amended]

Footnote 67a of § 4.34(b) is amended by substituting "141.69(c)" for "8.4(h)".

§ 4.38 [Amended]

In § 4.38, paragraph (a) is amended by substituting "141.102(d) or Part 142" for "8.28(c) or 8.59".

(R.S. 251, as amended, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624)

PART 6—AIR COMMERCE REGULATIONS

§ 6.15 [Amended]

In § 6.15, paragraph (c) is amended by substituting "141.11(a)(4)" for "8.6(e)".

(R.S. 251, as amended, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624)

PART 7—CUSTOMS RELATIONS WITH INSULAR POSSESSIONS AND GUANTANAMO BAY NAVAL STATION

§ 7.1 [Amended]

In § 7.1, paragraph (a) is amended by substituting "144.41" for "8.34".

§ 7.8 [Amended]

In § 7.8, paragraph (e) is amended by substituting "141.83" for "8.15".

(R.S. 251, as amended, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624)

PART 8—LIABILITY FOR DUTIES; ENTRY OF IMPORTED MERCHANDISE

Chapter I of title 19, Code of Federal Regulations is amended by deleting Part 8.

(R.S. 251, as amended, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624)

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

§ 10.60, 10.62a, 10.80 and 10.91 [Amended]

Paragraph (a) of § 10.60, and paragraphs (a) and (c) of § 10.62a, and §§ 10.80 and 10.91 are amended by substituting "144.32" for "8.37(b)".

In § 10.60, paragraph (d) is amended by substituting "144.37" for "18.19(b)".

§ 10.98 [Amended]

Section 10.98(d) is amended by substituting "§§ 151.52 through 151.55" for "§ 8.48".

§ 10.103 [Amended]

Section 10.103 is amended by substituting "141.61(c), 141.83(c)(8), 141.102(d)" for "8.8(d), 8.15(c)(12), 8.28(c)", respectively.

§ 10.104 [Amended]

In § 10.104, paragraph (a) is amended by substituting "Part 142" for "§ 8.59", and paragraph (b) is amended by substituting "141.11" for "8.6", and "141.102(d)" for "8.28(c)".

§ 10.108 [Amended]

Section 10.108(b) is amended by substituting "143.3" for "8.28(a)".

§ 10.114 [Amended]

Section 10.114(d)(1) is amended by substituting "143.3" for "8.28".

Part 10 is amended by adding at the end thereof new center headings and new §§ 10.151–10.153, and 10.161–10.166, reading as follows:

Importations Not Over $1 and Bona Fide Gifts Not Over $10

§ 10.151 Importations not over $1.

Pursuant to section 321(a)(2)(C), Tariff Act of 1930, as amended (19 U.S.C. 1321(a)(2)(C)), the district director shall pass free of duty and tax, and without the preparation of an entry, any importation having a fair retail value in the country of shipment not exceeding $1, unless he has reason to believe that the shipment is one of several lots covered by a single order or contract and that it was sent separately for the express purpose of securing free entry therefor or of avoiding compliance with any pertinent law or regulation.

(Sec. 7, 52 Stat. 1081, as amended, sec. 498, 46 Stat. 728, as amended; 19 U.S.C. 1321, 1498)

§ 10.152 Bona fide gifts not over $10.

Pursuant to section 321(a)(2)(A), Tariff Act of 1930, as amended (19 U.S.C. 1321(a)(2)(A)), the district director shall pass free of duty and tax, and without the preparation of an entry, any article sent as a bona fide gift from a person in a foreign country to a person in the United States, provided the aggregate fair retail value in the country of shipment of such articles received by one person on 1 day does not exceed $10. An article is "sent" for purposes of this paragraph if it is conveyed in any manner other than on the person or in the accompanied or unaccompanied baggage of the donor or donee.

(Sec. 7, 52 Stat. 1081, as amended, sec. 498, 46 Stat. 728, as amended; 19 U.S.C. 1321, 1498)

§ 10.153 Conditions for exemption.

Customs officers shall be further guided as follows in determining whether an article or parcel shall be exempted from duty and tax under § 10.151 or § 10.152:

(a) A "bona fide gift" for purposes of § 10.152 is an article formerly owned by a donor (may be a commercial firm) who gave it outright in its entirety to a donee without compensation or promise of compensation. It does not include articles acquired by purchase, barter, promissory exchange, or similar transaction, nor does it include articles said to be "given" in conjunction with a purchase, barter, promissory exchange, or similar transaction, such as a so-called bonus article.

(b) A parcel addressed to a person in the United States from an individual in a foreign country which contains a gift should be clearly marked on the outside to indicate that it contains a gift. Such marking is not conclusive evidence of a gift nor is the absence of such marking conclusive evidence that an article is not a gift. Ordinarily an article not exceeding $10 in fair retail value in the country of shipment sent from a person in a foreign country to a person in the United States will be recognizable as a gift from the nature of the article and the obvious facts surrounding the shipment.

(c) A parcel addressed to a person in the United States from a business firm in a foreign country would ordinarily not contain a gift from a donor in the foreign country. When such a parcel in fact contains an article entitled to free entry under section 10.152, the parcel should be clearly marked to indicate that it contains such a gift and a statement to this effect should be enclosed in the parcel.

(d) Consolidated shipments addressed to one consignee shall be treated for purposes of §§ 10.151 and 10.152 as one importation. The foregoing shall not apply to shipments of bona fide gifts consolidated abroad for shipment to the United States when:

(1) The consolidation for shipment to the United States is in a cargo van or similar containerization which is consigned to a common carrier, freight forwarder, freight handler, or other public service agency for distribution of the gift packages;

(2) The separate gifts not exceeding $10 in fair retail value in the country of shipment included in the consolidated shipment are before shipment individually wrapped and addressed to the donee in the United States;

(3) Each gift package is marked on the outside to indicate that it contains a gift not exceeding $10 in fair retail value in the country of shipment; and

(4) Each gift package is separately listed in the name of the addressee-donee on a packing list, manifest, bill of lading, or other shipping document.

(e) No alcoholic beverage, perfume containing alcohol (except where the aggregate fair retail value in the country of shipment of all merchandise contained in the shipment does not exceed $1), cigars, or cigarettes shall be exempted from the payment of duty and tax under § 10.151 or § 10.152.

(f) The exemptions provided for in § 10.151 or § 10.152 are not to be allowed in respect of any shipment containing one or more gifts having an aggregate fair retail value in the country of shipment in excess of $10, except as indicated in paragraph (d) of this section. For example, an article ordinarily subject to an ad valorem rate of duty but sent as a gift, if the fair retail value is $11, would be subject to a duty based upon its value under the provisions of section 402 or 402(a), Tariff Act of 1930, as amended (19 U.S.C. 1401a or 1402), even though the dutiable value is less than $10.

(g) The exemption referred to in § 10.151 is not to be allowed in the case of any merchandise of a class or kind provided for in any absolute or tariff-rate quota, whether the quota is open or closed. In the case of merchandise of a class or kind provided for in a tariff-rate quota, the merchandise is subject to the rate of duty in effect on the date of entry.

(Sec. 7, 52 Stat. 1081, as amended, sec. 498, 46 Stat. 728, as amended; 19 U.S.C. 1321, 1498)

Philippine Articles

§ 10.161 Evidence required for Philippine articles.

When any total or partial exemption from duty is claimed on the ground that the merchandise consists of "Philippine articles," as defined in general headnote 3(c)(iv), Tariff Schedules of the United States (19 U.S.C. 1202), the claim shall be allowed only if it is established to the satisfaction of the district director concerned. The district director may accept as satisfactory evidence a certificate of origin in the appropriate form specified

in section 10.164, subject to any verification he may deem necessary.

§ 10.162 Waiver of certificate.

The district director may waive the production of a certificate of origin if he is satisfied by other reasonable ways and means, taking into consideration the kind and value of the merchandise and the circumstances of importation, that the merchandise consists of "Philippine articles."

§ 10.163 No evidence needed for unconditionally free merchandise.

No evidence of origin shall be required for any Philippine merchandise which is unconditionally free of duty.

§ 10.164 Forms of certificates of origin.

(a) *Philippine article not containing foreign material.* When no material other than that which is the growth, product, or manufacture of the Philippines or of the Customs territory of the United States was used at any stage in the production of the imported article, a certificate in the following form may be accepted as evidence that the commodity is a "Philippine article":

The product covered by the _____ (describe the invoice, bill of lading, or other document or statement identifying the shipment) annexed or appended to this certificate of Philippine origin at the time it was subscribed is the growth, product, or manufacture of the Philippines. No foreign materials (other than those which are of the growth, product or manufacture of the Customs territory of the United States) were used at any stage in the production of this product, i.e., either in its immediate production or in the production of any intermediate product used at any stage in the chain of production in the Philippines which resulted in this product.

(b) *Philippine article containing foreign material.* When any material which is not the growth, product, or manufacture of the Philippines or of the Customs territory of the United States was used at any stage in the manufacture of the imported article, a certificate in the following form may be accepted as evidence that the commodity is nevertheless a "Philippine article":

The product covered by the _____ (describe the invoice, bill of lading, or other document or statement identifying the shipment) annexed or appended to this certificate of Philippine origin at the time it was subscribed is the product of the Philippines. There were used in its production in the Philippines _____

_____

(Number of units and description)

of foreign materials (other than those which are of the growth, product, or manufacture of the Customs territory of the United States) valued by the Philippine Customs officers for the purpose of the Philippine Customs laws at _____ (official Philippine Customs value at the time of importation into the Philippines, in terms of pounds, yards, or other applicable unit), plus, if not included in such unit values, _____, the cost per unit of bringing such foreign materials to the Philippines.

(c) *Alternative form for Philippine article containing foreign material.* If the district director is satisfied that the revenue will be protected adequately thereby, he may accept in lieu of the certificate specified in paragraph (b) of this section a certificate in the following form:

The product covered by the _____ (describe the invoice, bill of lading, or other document or statement identifying the shipment) annexed or appended to this certificate of Philippine origin at the time it was subscribed is a product of the Philippines. There were or may have been used in its production in the Philippines foreign materials (other than those which are of the growth, product, or manufacture of the Customs territory of the United States).

It is impracticable to ascertain the exact number of units of foreign material, if any, used in its production or the Customs valuation of such material, but to the best of (my) (our) (its) knowledge and belief such foreign materials as were or may have been used would not exceed 20 per centum of the selling price or invoice value of the product covered by this certificate.

§ 10.165 Certificate to show information for each kind of article and material.

If more than one kind of article is covered by a certificate provided for in § 10.164 (a), (b), or (c), the required information shall be shown with respect to each kind. When more than one kind of material of other than Philippine or Customs territory of the U.S. origin is used in the production of an article covered by such a certificate, the certificate shall state the number of units, description, and Philippine Customs valuation per unit of each such kind of material.

§ 10.166 Conditions for acceptance of certificate.

A certificate conforming to § 10.164 (a), (b), or (c) shall be accepted as evidence of the facts alleged therein only if:

(a) There is annexed to the certificate a copy of the commercial invoice or bill of lading covering the articles or other documentary matter which identifies the articles to which the certificate pertains;

(b) The certificate is signed by the manufacturer or producer of the articles to which it pertains, or by the person who exported the articles from the Philippines; and

(c) It clearly appears that such copy or other documentary matter was annexed to the certificate when it was signed.

(Gen. hdnte. 3(c), Tariff Schedules of the United States; 19 U.S.C. 1202)

(R.S. 251, as amended, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624)

PART 11—PACKING AND STAMPING; MARKING

§§ 11.12, 11.12a and 11.12b [Amended]

Paragraph (d) of §§ 11.12, 11.12a, and 11.12b are amended by substituting "141.113" for "8.26".

(R.S. 251, as amended, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624)

PART 12—SPECIAL CLASSES OF MERCHANDISE

§ 12.6 [Deleted]

Part 12 is amended by deleting § 12.6.

§ 12.50 [Amended]

In § 12.50, paragraph (a) is amended by substituting "142.11" for "8.59(g)", paragraph (c) is amended by substituting "141.68(d)" for "8.4(g)", and paragraph (f) is amended by substituting "§ 141.68 and Part 142" for "§ 8.4 and 8.59", respectively.

(R.S. 251, as amended, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624)

PART 13—EXAMINATION, MEASUREMENT, AND TESTING OF CERTAIN PRODUCTS

PART 14—APPRAISEMENT

PART 16—LIQUIDATION OF DUTIES

Chapter I of title 19, Code of Federal Regulations is amended by deleting Parts 13, 14, and 16 thereof.

(R.S. 251, as amended, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624)

PART 18—TRANSPORTATION IN BOND AND MERCHANDISE IN TRANSIT

§ 18.11 [Amended]

Paragraph (c) of § 18.11 is amended by substituting "151.9" for "14.2(f)".

§ 18.12 [Amended]

In § 18.12, paragraph (b) is amended by substituting "141.11" for "8.6", and paragraph (c) is amended by substituting "141.84" for "8.11(b)".

§§ 18.16–18.19 [Deleted]

Part 18 is amended by deleting §§ 18.16 through 18.19 thereof and the centerheads related thereto.

(R.S. 251, as amended, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624)

PART 19—CUSTOMS WAREHOUSES, CONTAINER STATIONS, AND CONTROL OF MERCHANDISE THEREIN

§ 19.6 [Amended]

Paragraph (a) of § 19.6 is amended by substituting "144.38(e)" for "8.38".

§ 19.7 [Amended]

In § 19.7, paragraph (c) is amended by substituting "141.102(d)" for "8.28(c)".

§ 19.9 [Deleted]

Part 19 is amended by deleting § 19.9.

§ 19.15 [Amended]

Section 19.15(g) is amended by substituting: (1) In subparagraph (1), "144.36" for "18.18", and "144.34(b)" for "8.33", and (2) in subparagraph (2), "144.15(b)" for "8.30(h)".

§ 19.18 [Amended]

Paragraph (a) of § 19.18 is amended by substituting "151.55" for "8.48(h)".

§ 19.23 [Amended]

Section 19.23 is amended by substituting "144.37" for "18.19".

(R.S. 251, as amended, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624)

PART 22—DRAWBACK

§ 22.28 [Amended]

In § 22.28, paragraph (b) is amended by substituting "143.3(a)" for "8.28", paragraph (d) is amended by substituting "144.38(e)" for "8.38", and paragraph (e) is amended by substituting "151.7" for "14.2".

§ 22.29 [Amended]

In §22.29, paragraph (b) is amended by substituting "144.37" for "18.19".

(R.S. 251, as amended, secs. 313, 624, 46 Stat. 693, as amended, 759; 19 U.S.C. 66, 1313, 1624)

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

§ 24.11 [Amended]

Paragraph (a) of § 24.11 is amended by substituting in subparagraph (2), "141.30" for "8.18(d)".

§ 24.17 [Amended]

Paragraph (a) of § 24.17, is amended by substituting in subparagraph (11), "151.4, 151.5" for "8.5(b)".

(R.S. 251, as amended, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624)

PART 25—CUSTOMS BONDS

§ 25.8 [Amended]

Paragraph (a) of § 25.8, is amended by substituting in subparagraph (3), "subpart C of Part 141" for "§ 8.19".

(R.S. 251, as amended, secs. 623, 624, 46 Stat. 759, as amended; 19 U.S.C. 66, 1623, 1624)

PART 123—CUSTOMS RELATIONS WITH CANADA AND MEXICO

§ 123.4 [Amended]

In § 123.4, paragraph (a) is amended by substituting "143.23" for "8.51a", and paragraph (b) is amended by substituting "143.21" for "8.51".

§ 123.7 [Amended]

Paragraph (c) of § 123.7, is amended by substituting "141.11" for "8.6".

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

PART 133—TRADEMARKS, TRADE NAMES, AND COPYRIGHTS

§§ 133.24 and 133.46 [Amended]

Sections 133.24 and 133.46 are amended by substituting "141.113" for "8.26".

§ 133.53 [Amended]

Section 133.53 is amended by substituting "158.41 or 158.45" for "8.49 or 15.5".

(R.S. 251, as amended, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624)

PART 134—COUNTRY OF ORIGIN MARKING

§ 134.32 [Amended]

Paragraph (n) of § 134.32, is amended by substituting "§§ 10.151 through 10.153" for "§ 8.3".

§ 134.52 [Amended]

Paragraph (a) of § 134.52, is amended by substituting "141.20" for "8.18(d)".

(R.S. 251, as amended, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624)

Chapter I of title 19, Code of Federal Regulations, is amended by adding new Parts 141, 142, 143, and 144, as follows:

PART 141—ENTRY OF MERCHANDISE

Sec.

AUTHORITY: R.S. 251, as amended, secs. 448, 484, 624, 46 Stat. 714, as amended, 722, as amended, 759; 19 U.S.C. 66, 1448, 1484, 1624. Subpart B also issued under sec. 483, 46 Stat. 721; 19 U.S.C. 1483. Subpart F also issued under sec. 481, 46 Stat. 719; 19 U.S.C. 1481. Subpart G also issued under sec. 505, 46 Stat. 732, as amended; 19 U.S.C. 1505. Additional authority and statutes interpreted or applied are cited in the text or following the sections affected.

§ 141.0 Scope.

This part sets forth general requirements and procedures for the entry of imported merchandise, except entries under carnet, and entries for transportation in bond or exportation, for foreign-trade zones, or for trade fairs, which are covered in Parts 114, 18, 146, and 147 of this chapter. More specific requirements and procedures in addition to those in this part are set forth in Parts 143, 144, and 145 of this chapter for consumption, appraisement and informal entries, for warehouse entries, and for mail entries.

Subpart A—Liability for Duties and Requirement To Enter Merchandise

§ 141.1 Liability of importer for duties.

(a) *Time duties accrue.* Duties and the liability for their payment accrue upon imported merchandise on arrival of the importing vessel within a Customs port with the intent then and there to unlade, or at the time of arrival within the Customs territory of the United States if the merchandise arrives otherwise than by vessel, unless otherwise specially provided for by law.

(b) *Personal debt of importer.* The liability for duties, both regular and additional, attaching on importation constitutes a personal debt due from the importer to the United States which can be discharged only by payment in full of all duties legally accruing, unless relieved by law or regulation. It may be enforced notwithstanding the fact that an erroneous construction of law or regulation may have enabled the importer to pass his goods through the customhouse without such payment.

(c) *Prior claim against importer's estate.* The Government's claim for unpaid duties against the estate of a deceased or insolvent importer has priority over obligations to creditors other than the United States.

(d) *Lien against merchandise.* The liability for duties also constitutes a lien upon the merchandise imported which may be enforced while such merchandise is in the custody or subject to the control of the United States.

(e) *States and their instrumentalities.* Neither the States nor their instrumentalities are entitled to any constitutional exemption from the payment of Customs duties.

(f) *Unordered merchandise.* There shall be no liability for the payment of duties on the part of anyone to whom merchandise is consigned without his authority, if he refuses it. Such merchandise shall be treated as unclaimed (see Part 20 of this chapter).

(R.S. 3466, 3467, as amended; 31 U.S.C. 191, 192)

§ 141.2 Liability for duties on reimportation.

Dutiable merchandise imported and afterwards exported, even though duty thereon may have been paid on the first importation, is liable to duty on every subsequent importation into the Customs territory of the United States, but this does not apply to the following:

(a) Personal and household effects taken abroad by a resident of the United States and brought back on his return to this country (see § 148.31 of this chapter);

(b) Professional books, implements, instruments, and tools of trade, occupation, or employment taken abroad by an individual and brought back on his return to this country (see § 148.53 of this chapter);

(c) Automobiles and other vehicles taken abroad for noncommercial use (see § 148.32 of this chapter);

(d) Metal boxes, casks, barrels, carboys, bags, quicksilver flasks or bottles, metal drums, or other substantial outer containers exported from the United States empty and returned as usual containers or coverings of merchandise, or exported filled with products of the United States and returned empty or as the usual containers or coverings of merchandise (see § 10.7 (b), (c), (d), and (e) of this chapter);

(e) Articles exported from the United States for repairs or alterations, which may be returned upon the payment of duty on the value of repairs or alterations at the rate or rates which would otherwise apply to the articles in their repaired or altered conditions (see §10.8 of this chapter);

(f) Articles exported for exhibition under certain conditions (see §§10.66 and 10.67 of this chapter);

(g) Domestic animals taken abroad for temporary pasturage purposes and returned within 8 months (see §10.74 of this chapter);

(h) Articles exported under lease to a foreign manufacturer (see § 10.108 of this chapter); or

(i) Any other reimported articles for which free entry is specifically provided.

§ 141.3 Liability for duties includes liability for taxes.

The importer's liability for duties includes a liability for any internal revenue taxes which attach upon the importation of merchandise, unless otherwise provided by law or regulation.

§ 141.4 Entry required.

Entry, as required by section 484(a), Tariff Act of 1930, as amended (19 U.S.C. 1484(a)), shall be made of every importation, whether free or dutiable and regardless of value, except for:

(a) The intangibles listed in general headnote 5, Tariff Schedules of the United States (19 U.S.C. 1202); and

(b) Articles specifically exempted by law or regulations from the requirement for entry.

(Sec. 498, 46 Stat. 728, as amended; 19 U.S.C. 1498)

§ 141.5 Time limit for entry.

Merchandise for which entry is required shall be entered by the consignee within 5 working days after the entry of the importing vessel or report of the vehicle, or after the arrival at the port of destination in the case of merchandise transported in bond, unless a longer time is authorized by law or regulation, or by the district director in writing. Merchandise for which timely entry is not made shall be treated in accordance with § 4.37 and Part 20 of this chapter.

Subpart B—Right To Make Entry and Declarations on Entry

§ 141.11 Evidence of right to make entry for importations by common carrier.

(a) *Merchandise not released directly to carrier.* Except where merchandise is released directly to the carrier in accordance with paragraph (b) of this section, one of the following types of evidence of the right to make entry shall be filed in connection with the entry of merchandise imported by common carrier:

(1) A bill of lading, presented by the holder thereof, properly endorsed when endorsement is required under the law. A nonnegotiable bill of lading may not be endorsed by the named consignee to give someone else the right to make entry. If the person making entry intends to use the original bill of lading to obtain a duplicate bill of lading or carrier's certificate from the carrier, such exchange shall be made before the entry is filed, and the duplicate bill of lading or carrier's certificate shall be used to make entry in accordance with subparagraph (3) or (4) of this paragraph.

(2) An extract from a bill of lading certified to be genuine by the carrier bringing the merchandise to the port of entry. District directors shall not certify extracts from bills of lading.

(3) A certified duplicate bill of lading, with the carrier's certificate being in substantially the following form:

DUPLICATE BILL OF LADING CERTIFICATE

----------, 19--

The undersigned carrier, bringing the within-described merchandise to this port, hereby certifies that this signed copy of the bill of lading is genuine and may be used for the purpose of making Customs entry as provided for in section 484(1), Tariff Act of 1930.

(Name of carrier)

(Agent)

(4) A carrier's certificate, which may be executed on the official entry form, on Customs Form 7529, or, in appropriate cases, by means of a rubber-stamped or typewritten combined carrier's certificate and release order with one signature on a copy of the bill of lading, airway bill, shipping receipt, or other comparable document. The rubber-stamped or typewritten certificate shall be in substantially the following form, which may be varied to include any of the qualifications on release shown in § 141.111(d):

Date ----------

The undersigned carrier, to whom or upon whose order the articles described herein or in the attached document must be released, hereby certifies that the consignee named in this document is the owner or consignee of such articles within the purview of section 484(h), Tariff Act of 1930. In accordance with the provisions of section 484(j), Tariff Act of 1930, authority is hereby given to release the articles covered by the aforementioned statement to such consignee.

(Name of carrier)

(Agent)

(5) A blanket carrier's certificate on an appropriately modified Customs Form 7529, covering any or all shipments which will arrive at the port on the carrier's conveyances during the period specified in the certificate.

(6) A shipping receipt or other document presented in lieu of a bill of lading shall be accepted as authority for making entry only if it bears a carrier's

certificate in accordance with subparagraph (4) of this paragraph, or if entry is made by the actual consignee in person or in his name by a duly authorized agent.

(b) *Merchandise released directly to carrier.* Where, in accordance with subsection (j) of section 484, Tariff Act of 1930, as amended (19 U.S.C. 1484), merchandise is released from Customs custody (either under immediate delivery procedures in accordance with the provisions of Part 142 of this chapter, or after an entry has been made and estimated duties deposited, where appropriate), to the carrier by whom the merchandise was brought to the port, the delivery of the merchandise by the carrier to the person making entry and depositing the estimated duties shall be deemed to be the certification required by subsection (h), section 484, Tariff Act of 1930. Customs responsibility under this optional entry procedure is limited to the collection of duties, and constitutes no representation whatsoever regarding the right of any person to obtain possession of the merchandise from the carrier. Consequently, no Customs official shall be liable to any person in respect to the delivery of merchandise released from Customs custody in accordance with the provisions of this paragraph.

(Sec. 484, 46 Stat. 722, as amended; 19 U.S.C. 1484)

§ 141.12 Right to make entry of importations by other than common carrier.

When merchandise is not imported by a common carrier, possession of the merchandise at the time of arrival in the United States shall be deemed sufficent evidence of the right to make entry.

§ 141.13 Right to make entry of abandoned or salvaged merchandise.

Underwriters of abandoned merchandise or salvors of merchandise saved from a wreck who are unable to produce a bill of lading, certified duplicate bill of lading, or carrier's certificate shall produce evidence satisfactory to the district director of their right to act.

§ 141.14 Deceased or insolvent consignees and court-appointed administrators.

The executor or administrator of the estate of a deceased consignee, the receiver or other legal representative of an insolvent consignee, or the representative appointed in any action or proceeding at law to act for a consignee shall not be permitted to make entry unless he shall produce a duly endorsed bill of lading, a carrier's certificate, or a duplicate bill of lading, executed in accordance with subsections (h) or (i) of section 484, Tariff Act of 1930, as amended (19 U.S.C. 1484), showing him to be the consignee for Customs purposes.

§ 141.15 Bond for production of bill of lading.

(a) *When appropriate.* If the person desiring to make entry is unable at that time to present a bill of lading or other evidence of right to make entry in accordance with § 141.11, the district director may accept a bond for the production of a bill of lading under the provisions of section 484(c), Tariff Act of 1930, as amended (19 U.S.C. 1484(c)). The bond shall be for the production of a bill of lading, even if the person making entry intends to produce a carrier's certificate or certified duplicate bill of lading, since section 484(c) does not apply to entries made on a carrier's certificate or certified duplicate bill of lading. If the district director is in doubt as to the propriety of accepting entry on a bond for the production of a bill of lading, he shall request authority to do so from the Commissioner of Customs.

(b) *Form.* The bond shall be on Customs Form 7581 and shall run in favor of the district director personally and as district director.

(c) *Documents acceptable to satisfy bond.* A bond given for the production of a bill of lading shall be considered as canceled upon production of a bill of lading, and may be considered as satisfied but shall not be canceled upon the production of a carrier's certificate or certified duplicate bill of lading.

§ 141.16 Disposition of documents.

(a) *Bill of lading.* When the return of the bill of lading to the person making entry is requested in accordance with section 484(j), Tariff Act of 1930, as amended (19 U.S.C. 1484(j)), the district director shall obtain a receipt showing sufficient data from the bill of lading to completely identify it and enable the auditor to verify the production of proper evidence of the right to make entry. The receipt shall also show any freight charges and weights that appear on the bill of lading. The district director shall then return the bill of lading to the person making entry with a notation thereon to the effect that entry has been made for the merchandise.

(b) *Other documents.* When any of the other documents specified in §§ 141.11(a) (2) through (6) is used in making entry, it shall be retained by the district director as evidence that the person making entry is authorized to do so.

§ 141.17 Entry by nonresident consignee.

A nonresident consignee has the right to make entry, but any bond taken in connection with the entry shall have a resident corporate surety or, when a carnet issued under Part 114 of this chapter is used as an entry form, an approved resident guaranteeing association.

§ 141.18 Entry by nonresident corporation.

A nonresident corporation (i.e., one which is not incorporated within the Customs territory of the United States or in the Virgin Islands of the United States) shall not enter merchandise for consumption unless it:

(a) Has a resident agent in the State where the port of entry is located who is authorized to accept service of process against such corporation; and

(b) Files a bond having a resident corporate surety to secure the payment of any increased and additional duties which may be found due.

§ 141.19 Declaration on entry.

(a) *Declaration by consignee.* The consignee in whose name an entry is made under the provisions of section 484, Tariff Act of 1930, as amended (19 U.S.C. 1484), shall execute on the entry form a declaration as specified in section 485(a) of that Act, as amended (19 U.S.C. 1485(a)), except that the declaration need not be under oath. When the consignee is a partnership, any partner may execute the declaration, and when the consignee is a corporation any officer of the corporation may execute the declaration.

(b) *Declaration by agent of consignee*—(1) *Authorized agent with knowledge of facts.* When entry is made in a consignee's name by an agent who has knowledge of the facts and who is authorized under a proper power of attorney by that consignee to make declarations in accordance with section 485(f), Tariff Act of 1930, as amended (19 U.S.C. 1485(f)), a declaration on the entry form executed by that agent is sufficient and no bond to produce a declaration of the consignee is required.

(2) *Other agents.* When entry is made in a consignee's name by an agent who does not meet the qualifications set forth in subparagraph (1) of this paragraph, a declaration of the consignee on Customs Form 3347–A shall be submitted with the entry, or a charge for the production of such declaration shall be made against the entry bond. No separate bond of the agent shall be required, since a charge against the entry bond satisfies the requirements of section 485(c), Tariff Act of 1930, as amended (19 U.S.C. 1485(c)).

(3) *Nominal consignee.* A nominal consignee who makes entry in his own name is not considered an agent within the purview of section 485(c), Tariff Act of 1930, as amended (19 U.S.C. 1485(c)), and he shall execute a declaration in accordance with paragraph (a) of this section.

(c) *Books, newspapers, and periodicals.* In the case of successive importations of books, magazines, newspapers, and periodicals within the scope of section 485(b), Tariff Act of 1930, as amended (19 U.S.C. 1485(b)), one declaration filed at the time of arrival of the first importation will be sufficient.

(Secs. 485, 486, 46 Stat. 724, as amended, 725, as amended; 19 U.S.C. 1485, 1486)

§ 141.20 Actual owner's declaration and superseding bond.

(a) *Filing.*—(1) *Actual owner's declaration.* A consignee in whose name an entry is made and who desires under the provisions of section 485(d), Tariff Act

of 1930, as amended (19 U.S.C. 1485(d)), to be relieved from direct liability for the payment of increased and additional duties shall file with the district director, within 90 days from the date of entry, a declaration of the actual owner of the merchandise, on Customs Form 3347.

(2) *Superseding bond.* If the consignee desires to be relieved from liability for the payment of increased and additional duties voluntarily assumed by him in the single-entry bond which he filed in connection with the entry, or in his term bond against which the entry was charged, he shall file with the district director, within 90 days from the date of entry, a superseding bond on Customs Form 7601.

(b) *Appropriate party to execute and file.* Neither the owner's declaration nor the superseding bond shall be accepted unless executed by the actual owner or his duly authorized agent, and filed by the nominal consignee.

(c) *Nonresident actual owner.* If the actual owner is a nonresident, the actual owner's declaration shall not be accepted as compliance with section 485(d), Tariff Act of 1930, as amended (19 U.S.C. 1485 (d)), unless there is filed therewith the owner's bond on Customs Form 7551 or 7553, with a resident corporate surety thereon, in lieu of a bond on Customs Form 7601.

(Secs. 485, 623, 46 Stat. 724, as amended, 759, as amended; 19 U.S.C. 1485, 1623)

Subpart C—Powers of Attorney

§ 141.31 General requirements and definitions.

(a) *Limited or general power of attorney.* A power of attorney may be executed for the transaction by an agent or attorney of a specified part or all the Customs business of the principal.

(b) *Sealed instruments.* If a power of attorney is for the execution of sealed instruments, it shall be under seal.

(c) *Minor agents.* A power of attorney to a minor shall not be accepted.

(d) *Definitions of resident and nonresident.* For the purposes of this subpart, "resident" means an individual who resides within, or a partnership one or more of whose partners reside within, the Customs territory of the United States or the Virgin Islands of the United States, or a corporation incorporated in any jurisdiction within the Customs territory of the United States or in the Virgin Islands of the United States. A "nonresident" means an individual, partnership, or corporation not meeting the definition of "resident."

§ 141.32 Form for power of attorney.

Customs Form 5291 may be used for giving power of attorney to transact Customs business. If a Customs power of attorney is not on a Customs Form 5291, it shall be either a general power of attorney with unlimited authority or a limited power of attorney as explicit in its terms and executed in the same manner as a Customs Form 5291. The following is an example of an acceptable general power of attorney with unlimited authority:

KNOW ALL MEN BY THESE PRESENTS, THAT

_____,
(Name of principal)

_____,
(state legal designation, such as corporation, individual, etc.)

residing at _____ and doing business under the laws of the State of _____, hereby appoints

_____
(name, legal designation, and address)

as a true and lawful agent and attorney of the principal named above with full power and authority to do and perform every lawful act and thing the said agent and attorney may deem requisite and necessary to be done for and on behalf of the said principal without limitation of any kind as fully as said principal could do if present and acting, and hereby ratify and confirm all that said agent and attorney shall lawfully do or cause to be done by virtue of these presents until and including _____, or until
(date)

notice of revocation in writing is duly given before that date.

Date _____, 19__.

_____
(Principal's signature)

§ 141.33 Alternative form for noncommercial shipment.

An individual (but not a partnership, association, or corporation) who is not a regular importer may appoint another individual as his unpaid agent for Customs purposes by executing a power of attorney applicable to a single noncommercial shipment by writing, printing, or stamping on the invoice, or on a separate paper attached thereto, the following statement:

_____ of
(Name)

_____
(address)

is hereby authorized to execute, as an unpaid agent who has knowledge of the facts, pursuant to the provisions of section 485(f), Tariff Act of 1930, as amended, the consignee's and owner's declarations provided for in section 485 (a) and (d), Tariff Act of 1930, as amended, and to enter on my behalf or for my account the goods described in the attached invoice which contains a true and complete statement of the facts concerning the shipment.

Date _____, 19__.

_____
(Signature of importer)

_____
(Address)

§ 141.34 Duration of power of attorney.

Powers of attorney issued by a partnership shall be limited to a period not to exceed 2 years from the date of receipt thereof by the district director. All other powers of attorney may be granted for an unlimited period.

§ 141.35 Revocation of power of attorney.

Any power of attorney shall be subject to revocation at any time by written notice given to and received by the district director.

§ 141.36 Nonresident principals in general.

A power of attorney filed by a nonresident principal shall not be accepted unless the agent designated thereby is a resident and is authorized to accept service of process against such nonresident.

§ 141.37 Additional requirements for nonresident corporations.

A power of attorney executed by a nonresident corporation shall be supported by filing the following documents which, except for the certificate of incorporation, shall be certified as correct by the secretary of the corporation under its corporate seal:

(a) A certificate from the proper public officer of the country showing the legal existence of the corporation;

(b) A copy of that portion of the charter or articles of incorporation which shows the scope of the business of the corporation and the governing body thereof; and

(c) One of the following proofs of the grantor's authority to grant power of attorney for the corporation:

(1) If the authority of the grantor is derived from the charter or articles of incorporation, a copy of that portion thereof which contains such authority; or

(2) If the authority of the grantor is derived from the governing body, a copy of the bylaws or other document which authorizes the governing body to designate others to appoint agents or attorneys, together with a copy of the resolution, minutes, or other document by which the governing body conferred the authority on the grantor.

§ 141.38 Resident corporations.

A power of attorney shall not be required if the person signing Customs documents on behalf of a resident corporation is known to the district director to be the president, vice president, treasurer, or secretary of the corporation. When a power of attorney is required for a resident corporation, it shall be executed by a person duly authorized for such purpose, and shall be supported by a certificate showing the authority of such person to execute the power of attorney. The certificate of authority shall be executed under seal by the secretary, assistant secretary, or other corporate officer, but not by the same person executing the power of attorney, and shall be in the following form:

CERTIFICATE

I, _____, certify that I am the _____ of _____, organized under the laws of the State of _____; that _____, who signed this power of attorney on behalf of the donor, is the _____ of the said corporation; and that said power of attorney was duly signed, sealed, and attested for and in behalf of said corporation, by authority of its governing body as the same appears in a resolution of the Board of Directors passed at a regular meeting held on the _____ day of _____, now in my possession or custody. I further certify that the resolution is in accordance with the articles of incorporation and bylaws of said corporation.

In witness whereof, I have hereunto set my hand and affixed the seal of said corporation, at the city of _____ this _____ day of _____, 19__.

§ 141.39 Partnerships.

(a) *General.* A power of attorney granted by a partnership shall state the names of all members of the partnership. One member of a partnership may execute a power of attorney in the name of the partnership for the transaction of all its Customs business, except the execution of sealed instruments. If the power of attorney is for the execution of sealed instruments, it shall be signed and sealed by each partner.

(b) *Change in partners.* When a new firm is formed by a change in membership, no power of attorney filed by the antecedent firm shall thereafter be recognized for any Customs purpose.

§ 141.40 Trusteeships.

A trustee may execute a power of attorney for the transaction of Customs business incident to the trusteeship.

§ 141.41 Surety on Customs bonds.

Powers of attorney to sign as surety on Customs bonds are subject to the requirements set forth in Part 25 of this chapter.

§ 141.42 Protests.

Powers of attorney to file protests are subject to the requirements set forth in § 174.3 of this chapter.

§ 141.43 Delegation to subagents.

(a) *Resident principals.* Except as otherwise provided for in paragraph (c) of this section, the holder of a power of attorney for a resident principal cannot appoint a subagent except for the purpose of executing shippers' export declarations. A subagent so appointed cannot delegate his power.

(b) *Nonresident principals.* Except as otherwise provided for in paragraph (c) of this section, an agent who has power of attorney for a nonresident principal may execute a power of attorney delegating authority to a subagent only if the original power of attorney contains express authority from the principal for the appointment of a subagent or subagents. Any subagent so appointed must be a resident authorized to accept service of process in accordance with § 141.36.

(c) *Customhouse brokers.* A power of attorney executed in favor of a licensed customhouse broker may specify that the power of attorney is granted to the broker to act through any of its licensed officers or authorized employees as provided in Part 111 of this chapter.

§ 141.44 Designation of Customs districts in which power of attorney is valid.

Unless a power of attorney specifically authorizes the agent to act thereunder in all Customs districts, the name of each district in which the agent is authorized to act thereunder shall be stated in the power of attorney. The power of attorney shall be filed with any district director, in a sufficient number of copies for distribution to each district in which the agent is to act, unless exempted from filing by § 141.46. The district director with whom a power of attorney is filed, irrespective of whether his district is named therein, shall approve it, if it is in the correct form and the provisions of this subpart are complied with, and forward any copies intended for other districts to the appropriate districts.

§ 141.45 Certified copies of power of attorney.

When a power of attorney which is not limited to transactions in a specific Customs district has been filed and it is desired to use it in another district, the district director with whom it is filed, upon request of the district director of the other district or upon request of the person or firm which executed the power, shall forward a certified copy thereof to the district director of the second district. Any expense in connection with the preparation of such documents shall be borne by the parties in interest.

§ 141.46 Power of attorney retained by customhouse broker.

Before transacting Customs business in the name of his principal, a customhouse broker is required to obtain a valid power of attorney to do so. He is not required to file the power of attorney with a district director. Customhouse brokers shall retain powers of attorney with their books and papers, and make them available to representatives of the Department of the Treasury as provided in subpart C of Part 111 of this chapter.

Subpart D—Quantity of Merchandise To Be Included in an Entry

§ 141.51 Quantity usually required to be in one entry.

All merchandise arriving on one vessel or vehicle and consigned to one consignee shall be included in one entry, except as provided in § 141.52.

§ 141.52 Separate entries for different portions.

Separate entries may be made for different portions of all the merchandise arriving on one vessel or vehicle and consigned to one consignee under any of the following circumstances, if the district director is satisfied that there will be no prejudice to the revenue or to the efficient conduct of Customs business:

(a) Each portion of a consolidated shipment addressed to one consignee for various ultimate consignees may be entered separately under the procedure set forth in § 141.54.

(b) One or more of the enclosed packages in a packed package may be entered separately under any appropriate form of formal or informal entry. No entry is required for an enclosed package which contains merchandise unconditionally free of duty and not exceeding $250 in value. A packed package is an outer package in which are contained inner packages addressed for delivery to two or more different persons, as described in section 484(f), Tariff Act of 1930, as amended (19 U.S.C. 1484(f)). Each outer container shall be marked to indicate that it is a packed package.

(c) The consignee desires to enter different portions under different forms of entry, for transportation to different ports of entry, or for warehousing in separate warehouses.

(d) Appraisement is being withheld upon merchandise of the class or kind for which a separate entry is tendered.

(e) The several portions of the consignment for which separate entries are tendered are covered by separate bills of lading.

(f) The consignment consists of different classes of merchandise which are to be processed by different Customs commodity specialist teams.

(g) The consignment contains merchandise subject to entry under bonds given to assure accounting for final disposition, such as a temporary importation bond.

(h) The consignment consists of different importations which arrived under a consolidated entry for immediate transportation made pursuant to § 18.11(g) of this chapter.

(i) A special application is submitted to the Commissioner of Customs with the recommendation of the district director concerned and is approved by the Commissioner.

§ 141.53 Procedure for separate entries.

When separate entries for one consignment are made in accordance with § 141.52 (b) through (i), the following procedures shall apply:

(a) The entries shall be presented simultaneously when practicable.

(b) A separate consignee's declaration shall be filed for each entry.

(c) Each entry shall cover whole packages or not less than 1 ton of bulk merchandise, except when a portion of the merchandise is entered under a temporary importation bond in accordance with schedule 8, part 5C, Tariff Schedules of the United States (19 U.S.C. 1202).

(d) When separate entries are made for merchandise covered by a single bill of lading, the provisions of § 141.54 shall be complied with, except that the endorsement on the bill of lading required by § 141.54(b) shall read as follows:

As portions of the within-described merchandise will be covered by separate entries, the undersigned consignee expressly waives the right granted by section 484(j), Tariff Act of 1930, as amended, to have this bill of lading returned.

§ 141.54 Separate entries for consolidated shipments.

When separate entries for consolidated shipments are made in accordance with § 141.52(a), the following procedures shall apply except where the merchandise is released directly to the carrier in accordance with § 141.11(b):

(a) *Deposit of evidence of right to make entry.* The nominal consignee of a consolidated shipment covering merchandise for various ultimate consignees who desire to make separate entries shall deposit with the district director evidence of the right to make entry as set forth in § 141.11(a), and such evidence shall be permanently retained by the district director.

(b) *Waiver of right to have bill of lading returned.* If a bill of lading is filed,

it shall contain the following endorsement signed by the consignee named therein:

As the within-described merchandise belongs to various ultimate consignees who desire to make separate entries therefor, the undersigned consignee thereof hereby expressly waives the right granted by section 484(j), Tariff Act of 1930, as amended, to have this bill of lading returned.

(c) *Certificate by nominal consignee.* Except when an authority to make entry for a portion of a consolidated shipment is executed on the entry form in the space provided therefor, at the time of depositing such bill of lading or other document the consignee named therein shall produce a certificate prepared and signed by him for each portion of the shipment for which separate entry is desired. The authority to make entry carried by such a certificate may be transferred by endorsement. The certificate shall be in the following form:

Port of _____
_____, 19__

AUTHORITY TO MAKE ENTRY

Of merchandise imported at _____ on _____, 19__, per _____, from _____ shipped by _____, consigned to _____, endorsed to _____, covered by [1] _____ dated _____, 19__, at _____ on file with the district director of Customs at _____.

Marks	*Numbers*	*Description*
------	------	----------
------	------	----------
------	------	----------

(We) (I) _____, the consignee(s) in the above-mentioned document covering merchandise for various ultimate consignees, hereby authorize _____ or order to make Customs entry for the above described merchandise.

_____
(Consignee(s))

(d) *Verification of certificate.* When a certificate on a separate document as described in paragraph (c) of this section is presented, it shall be compared with the supporting document and after being initialed by the ministerial clerk shall be returned to the consignee for transmittal to the person who will make entry. When an entry is received having executed in the space provided thereon an authority to make entry for a portion of a consolidated shipment, such authority shall be compared with the supporting document.

[1] Insert "bill of lading," "certified duplicate bill of lading," "carrier's certificate," or "shipping receipt."

§ 141.55 Single entry for shipments arriving under one transportation entry.

Except in the case of merchandise subject to a quantitative or tariff-rate quota, district directors are authorized to accept an entry for consumption or for warehousing for the entire quantity of merchandise covered by an entry for immediate transportation after the arrival of any part of such quantity at the port of destination or at such place of deposit outside the port as may be authorized in accordance with § 18.11(c) of this chapter.

Subpart E—Presentation of Entry Papers

§ 141.61 Completion of entry papers.

(a) *Preparation.* Entries shall be prepared on a typewriter, or with ink, indelible pencil, or other permanent medium, and all copies presented shall be legible. All entry papers and accompanying documents shall be on the appropriate forms specified by the regulations, and shall clearly set forth all information required by such forms, except that an importer may omit from the formal entry, the marks and numbers of packages of merchandise previously permitted for immediate delivery pursuant to Part 142.

(b) *Signing of entry.* The signing of the consignee's declaration on the consumption or warehouse entry in accordance with section 141.19 shall be regarded as a signing of the entry as required by section 484(d), Tariff Act of 1930, as amended (19 U.S.C. 1484(d)).

(c) *Customs Form 6417.* Each entry shall be accompanied by Customs Form 6417 (Summary of Entered Values), the face of which shall be prepared by the importer as a carbon copy of the entry so that it contains the same information as the entry. However, no Customs Form 6417 shall be required or accepted by the district director for importations entitled to immediate delivery under § 10.104(a) of this chapter, which pertains to certain importations by military departments, the General Services Administration, and the Atomic Energy Commission.

(d) *Customs Form 5101.* A Customs Form 5101 (Entry Record) shall be prepared by the importer and all three copies, with carbon paper left in, shall be presented with each dutiable consumption entry, and each warehouse, appraisement, vessel repair, or drawback entry. The importer number shall be reported as follows:

(1) *Generally.* The importer number of the importer of record and the importer number of the ultimate consignee shall be reported for each such entry filed other than a consolidated entry covering the shipment of several ultimate consignees. When the importer of record and the ultimate consignee are one and the same, the importer number shall be entered in both spaces provided on Customs Form 5101.

(2) *When a consolidated entry is filed.* When a consolidated entry is filed, the notation "consolidated" shall be entered in the space for the importer number of the ultimate consignee.

(3) *When refunds, bills, or notices of liquidation are to be mailed to the agent.* If an importer of record desires to have refunds, bills, or notices of liquidation mailed in care of his agent, the agent's importer number shall also be reported on the Customs Form 5101. In such a case, the importer of record shall file, or shall have filed previously, a Customs Form 4811 authorizing the mailing of refunds, bills, or notices of liquidation to the agent.

(e) *Statistical information.* Each invoice shall be listed separately on the entry, and for each class of merchandise within each invoice the following shall be shown:

(1) Country of origin;

(2) Quantity;

(3) Description in terms of the Tariff Schedules of the United States Annotated, or in more specific terms that will clearly identify the merchandise and its entered classification;

(4) Aggregate entered value for such classification, except in the case of entry by appraisement;

(5) The statistical reporting number, as shown in the Tariff Schedules of the United States Annotated; and

(6) The entered rate of duty and internal revenue tax.

(f) *Value of each invoice.*

(1) *Dutiable, taxable, or conditionally free merchandise.* For each invoice of dutiable, taxable, or conditionally free merchandise covered by the entry and in a conspicuous place among the entry data relating to such invoice, there shall be shown the gross amount of such invoice, the deduction of the aggregate amount of any nondutiable charges included in such amount, the further deduction of the aggregate of any deductions from invoice values to make entered values, and the addition of the aggregate of any dutiable charges not included in the gross amount of the invoice and of any other additions to invoice values to make entered values, so that the final amount in the summary computation represents the aggregate of the entered values of all the merchandise on each invoice covered by the entry.

(2) *Unconditionally free merchandise.* For each invoice of merchandise that is unconditionally free of duty and tax, it will be sufficient if the entry data relating to such invoice includes the entered value, without the detailed computations specified in subparagraph (1) of this paragraph.

(g) *Cotton textiles from Hong Kong.* On each entry covering cotton textiles imported from Hong Kong, the description of merchandise shall include, in addition to the applicable item number of the Tariff Schedules of the United States Annotated, the International Cotton Textile Arrangement Category number appearing on the Comprehensive Certificate of Origin when such a certificate is required (see 31 CFR 500.808).

(h) *Cigars, cigarettes, or cigarette papers and tubes.* On each entry of cigars, cigarettes, or cigarette papers and tubes, as those articles are defined in Part 275 of the regulations of the Internal Revenue Service (26 CFR Part 275), and when subject to such regulations, the separate statement for tax purposes required by 26 CFR 275.81 as to any such article shall be made on the entry form.

§ 141.62 Hours for presentation of entries and withdrawals.

(a) *Normal business hours.* Entry or withdrawal papers shall be presented only when the customhouse is open for the general transaction of business (see § 1.7 of this chapter), except as provided for in paragraph (b) of this section.

(b) *Overtime.* Merchandise may be entered or withdrawn for consumption when the customhouse is not open for the general transaction of business, provided the entry or withdrawal is presented at a time when overtime services of the Customs officers are available and are reimbursable and the person desiring to make the entry or withdrawal has applied for and received authorization for overtime services in accordance with § 24.16 of this chapter.

§ 141.63 Presentation of entry papers before or after arrival of merchandise.

Formal entry papers may be presented at the customhouse after the merchandise has arrived within the limits of the port of entry, or they may be presented for preliminary examination within such time prior to the arrival of the merchandise as may be fixed by the district director, but estimated duties may not be accepted before the merchandise has arrived within the port limits. The presentation of entry papers for preliminary examination before arrival of the merchandise shall not be applicable to merchandise which is to be released under a special permit for immediate delivery, merchandise subject to a quantitative or tariff-rate quota, merchandise which is to be entered at a Customs station, or any merchandise to be covered by an informal entry.

§ 141.64 Review and correction of entry papers.

When the papers for a formal entry are presented, they shall be reviewed prior to acceptance to insure that all entry requirements are complied with and that the indicated values and rates of duty are correct. If any errors are found, the entry papers shall be returned to the importer for correction.

§ 141.65 Acceptance of entry before review.

If merchandise which has arrived within the port limits is to be entered under a consumption entry, or under a warehouse entry accompanied by a simultaneous withdrawal for consumption, and the importer believes that the review prior to acceptance may delay the completion of the entry until a higher rate of duty is in effect, he may file with the entry papers a written request to deposit the estimated duties before the entry is reviewed. If such request is granted, the rates of duty applicable to the merchandise (including merchandise subject to a tariff-rate quota) shall be the rates in effect when the estimated duties are deposited, except as provided for in § 141.69 (b) for certain merchandise arriving under an immediate transportation entry. Such request shall be granted unless the district director has reason to believe that it is not made in good faith.

§ 141.66 Bond for missing documents.

Unless otherwise prescribed in these regulations, an appropriate bond may be given for the production of any required document which is not available at the time of entry. (See § 141.91 for the procedure applicable to incomplete or missing invoices.)

(Secs. 490, 623, 46 Stat. 726, as amended, 759, as amended; 19 U.S.C. 1490, 1623)

§ 141.67 Recall of entry papers by importer.

The importer may recall the entry papers at any time before the making of the entry has been completed in accordance with § 141.68. The entry shall be deemed canceled, and the invoice and other documents returned to the importer.

§ 141.68 Effective time of entry.

(a) *General.* No entry shall be considered to be "deposited" or "accepted," nor shall the merchandise covered thereby be considered to be entered within the meaning of the law or regulations applicable to the entry of the merchandise, until after the arrival of the merchandise within the limits of the port of entry and the subsequent deposit of estimated duties or subsequent official determination that no deposit is required.

(b) *Informal mail entry.* Entry is made under an informal mail entry (Customs Form 3419 or 5119–A) when the preparation of the entry by a Customs employee is completed.

(c) *Warehouse entry.* Entry is made under a warehouse entry (Customs Form 7502) when the specified form is properly executed and deposited, together with any related documents required by any provision of these regulations to be filed with such form at the time of entry, with the Customs officer designated to receive such entry papers.

(d) *Withdrawal from warehouse for consumption.* A withdrawal from warehouse for consumption, the process preparatory to the issuance of a permit for the release of the merchandise to or upon the order of the warehouse proprietor, is made when Customs Form 7505 is properly executed and deposited, together with any related documents required by any provision of these regulations to be filed with such form at the time of withdrawal, with the Customs officer designated to receive such withdrawal, and any duties required to be paid at the time of withdrawal have been deposited with the Customs officer designated to receive such monies. Unless all acts required by this paragraph and by section 315(a), Tariff Act of 1930, as amended (19 U.S.C. 1315(a)), including the deposit of required duties, are completed before the expiration of 60 days from the date of deposit of Customs Form 7505, such form and any related papers shall be deemed abandoned.

(e) *Formal consumption entry, appraisement entry, informal entry, combined entry for rewarehouse and withdrawal for consumption, and entry under carnet.* Entry is made under a formal consumption entry (Customs Form 7501), an appraisement entry (Customs Form 7500), an informal entry (Customs Form 5119–A), a combined entry for rewarehouse and withdrawal for consumption (Customs Form 7519), or an A.T.A. or E.C.S. carnet issued under Part 114 of this chapter when the specified form is properly executed and deposited, together with any related documents required by any provision of these regulations to be filed with such form at the time of entry, with the Customs officer designated to receive such entry papers, and any duties required to be paid at the time of making entry have been deposited with the Customs officer designated to receive such moneys.

(Sec. 315, 46 Stat. 695, as amended; 19 U.S.C. 1315)

§ 141.69 Applicable rates of duty.

The rates of duty applicable to merchandise shall be the rates in effect when the making of the entry is completed in accordance with § 141.68, except as otherwise specially provided for and in the following cases:

(a) *Warehouse entries.* Merchandise entered for warehouse is dutiable at the rates in effect when withdrawal from warehouse for consumption is made in accordance with § 141.68(d).

(b) *Merchandise entered for immediate transportation.* Merchandise which is not subject to a quantitative or tariff-rate quota and which is covered by an entry for immediate transportation made at the port of original importation, if entered for consumption at the port designated by the consignee or his agent in such transportation entry without having been taken into custody by the district director for general order under section 490, Tariff Act of 1930, as amended (19 U.S.C. 1490), shall be subject to the rates in effect when the immediate transportation entry was accepted at the port of original importation.

(c) *Overcarried merchandise returned to port of entry.* If merchandise which has been entered for consumption, but not yet released from Customs custody, is removed from the port or place of intended release because of overcarriage, inaccessibility, strike, act of God, or unforeseen contingency, and is returned to such port or place within 90 days after removal, such merchandise shall be subject to the rates in effect at the time of the original entry, provided the merchandise is identified with the original entry by the usual Customs examination and by any documentary evidence as to its movement between its removal and return which the district director may reasonably require. A new entry shall be required, unless the original entry has not been liquidated and the consignee at the time of original importation and at the time of return is the same person.

(Sec. 315, 46 Stat. 695, as amended; 19 U.S.C. 1315)

Subpart F—Invoices

§ 141.81 Invoice for each shipment.

A special Customs invoice or commercial invoice shall be presented for each shipment of merchandise at the time of entry, subject to the conditions set forth in these regulations. Except in the case of installment shipments provided for in § 141.82, an invoice shall not represent more than one distinct shipment of merchandise by one consignor to one consignee by one vessel or conveyance.

§ 141.82 Invoice for installment shipments arriving within a period of 7 days.

(a) *One invoice sufficient.* Installments of a shipment covered by a single order or contract and shipped from one consignor to one consignee may be included in one invoice if the installments arrive at the port of entry by any means of transportation within a period of not to exceed 7 consecutive days.

(b) *Preparation of invoice.* The invoice shall be prepared in the manner provided for in this subpart and, when practicable, shall show the quantities, values, and other invoice data with respect to each installment, the date of shipment of each installment, and the car number or other identification of the importing conveyance in which it was shipped.

(c) *Pro forma invoice.* If the required invoice is not filed with the first entry of an installment series, a pro forma invoice shall be filed with each entry made before the required invoice is produced, and in accordance with section 141.91 a bond shall be given, or charge against a term bond made, for the production of the required invoice. Liquidated damages will accrue in the case of each entry if more than 6 months expire without the production of an invoice for such entry.

(d) *Informal entry.* Any bona fide installment valued at not over $250 may be entered on an informal entry in accordance with subpart C of Part 143 of this chapter, in which case such installment need not be considered in connection with invoice requirements for the balance of the series.

§ 141.83 Type of invoice required.

(a) *Special Customs invoice.* A special Customs invoice (Customs Form 5515) shall be presented for each shipment of merchandise which is subject to a rate of duty dependent in any manner on value (including such merchandise entered under a conditionally free provision) and which is determined by the district director to have an aggregate purchase price over $500, including all expenses incident to placing the merchandise in condition packed ready for shipment to the United States, or in the case of merchandise not imported in pursuance of a purchase or agreement to purchase, an aggregate value over $500 as determined in accordance with § 152.21 of this chapter. However, a special Customs invoice is not required for merchandise which is excepted from the requirements for both a special Customs invoice and a commercial invoice by paragraph (c) of this section. In the case of merchandise entered under a conditionally free provision which is ordinarily subject to a rate of duty dependent on value, and which is not exempted from invoice requirements under paragraph (c)(4) of this section because the free entry documents and evidence are not produced at the time of entry, the bond obligation to produce a special Customs invoice shall be canceled without the payment of liquidated damages if such documents and evidence are produced within 6 months after entry.

(b) *Commercial invoice.* For each shipment of imported merchandise which is not required by paragraph (a) of this section to have a special Customs invoice, and which is not exempted by paragraph (c) of this section from both a special Customs invoice and a commercial invoice, a commercial invoice shall be presented. The commercial invoice shall be prepared in the manner customary in the trade and shall contain the information required by § 141.86 through § 141.89. In lieu of a required commercial invoice, the district director at his discretion may accept a copy thereof. If the copy is other than a photostatic copy, it shall bear a declaration by the foreign seller, shipper, or importer that it is a true copy.

(c) *Special Customs or commercial invoice not required.* Neither a special Customs invoice nor a commercial invoice shall be required in connection with the entry of the merchandise listed hereafter in this paragraph, but the importer shall present any invoice, memorandum invoice, or bill pertaining to the goods which may be in his possession or available to him. If no such invoice or bill is available, a pro forma invoice in accordance with section 141.85 shall be presented, containing adequate information for examination and determination of duties. The merchandise subject to the foregoing requirements is as follows:

(1) Merchandise having an aggregate purchase price or value, as specified in paragraph (a) of this section, of $500 or less.

(2) Merchandise not intended for sale or any commercial use in its imported condition or any other form, and not brought in on commission for any person other than the importer.

(3) Merchandise which is unconditionally free of duty or subject only to a specific rate of duty not dependent on value (including such merchandise entered under a conditionally free provision).

(4) Merchandise which is ordinarily subject to a rate of duty dependent on value but which is entered under a conditionally free provision, and all free entry documents and evidence required to establish the exemption from duty are produced at the time of entry.

(5) Merchandise returned to the United States after having been exported for repairs or alteration under item 806.20 or 806.30, Tariff Schedules of the United States (19 U.S.C. 1202).

(6) Merchandise shipped abroad, not delivered to the consignee, and returned to the United States.

(7) Merchandise exported from continuous Customs custody within 6 months after the date of entry.

(8) Merchandise consigned to, or entered in the name of, any agency of the U.S. Government.

(9) Merchandise for which an appraisement entry is accepted.

(10) Merchandise entered under a temporary importation bond or a permanent exhibition bond.

(11) Merchandise provided for in section 465 or 466, Tariff Act of 1930 (19 U.S.C. 1465 or 1466), which pertain to certain equipment, repair parts, and supplies for vessels.

(12) Merchandise imported as supplies, stores, and equipment of the importing carrier and subsequently made subject to entry pursuant to section 446, Tariff Act of 1930, as amended (19 U.S.C. 1446).

(13) Ballast (not including cargo used for ballast) landed from a vessel and delivered for consumption.

(14) Merchandise, whether privileged or nonprivileged, resulting from manipulation or manufacture in a foreign trade zone.

(15) Screenings contained in bulk importations of grain or seeds.

§ 141.84 Photocopies of invoice for separate entries of same shipment.

(a) *Entries at one port.* If by reason of accident or short shipment a portion of the quantity covered by one invoice fails to arrive, or if for any other reason only a portion of the quantity covered by one invoice is entered under one entry, a photocopy of the original special Customs invoice or commercial invoice used in connection with the first entry, covering the quantity to be entered under another entry, may be used in connection with the subsequent entry of any portion of the merchandise not cleared under the first entry.

(b) *Entries from foreign-trade zone at one port.* A photocopy of the invoice filed with the first entry for consumption from a foreign-trade zone of a portion of the merchandise shown on the invoice will not be required for any subsequent entry for consumption from that zone at the same port of a portion of any merchandise covered by such invoice, if a pro forma invoice is filed and identifies the entry first made and the invoice then filed.

(c) *Entries at different ports.* When portions of a single shipment requiring a special Customs invoice or a commercial invoice are entered at different ports, the importer may submit to the district director where the original invoice or latest photocopy of the original invoice is on file, two photocopies of the latest of such invoices to be certified as to merchandise previously received, and the official seal affixed thereto.

(d) *Pro forma invoice.* In a case in which a portion of the shipment is entered at the first port on a pro forma

invoice, an entry at a subsequent port may be made by means of a new pro forma invoice which may cover only the merchandise then entered.

(e) *Photocopy to satisfy bond for invoice.* A properly certified photocopy of a special Customs invoice or a commercial invoice presented within 6 months after the date of entry may be accepted to cancel the bond given for the production of a special Customs invoice or commercial invoice.

§ 141.85 Pro forma invoice.

A pro forma invoice submitted in accordance with any provision of this chapter shall be in substantially the following form:

PRO FORMA INVOICE

IMPORTERS STATEMENT OF VALUE OR THE PRICE PAID IN THE FORM OF AN INVOICE

Not being in possession of a special or commercial seller's or shipper's invoice I request that you accept the statement of value or the price paid in the form of an invoice submitted below:

Name of shipper _____
address _____
Name of seller _____
address _____
Name of consignee _____
address _____
Name of purchaser _____
address _____

The merchandise (has) (has not) been purchased or agreed to be purchased by me.

The prices, or in the case of consigned goods the values, given below are true and correct to the best of my knowledge and belief, and are based upon: (Check basis with an "X")

(a) The price paid or agreed to be paid (__) as per order dated _____

(b) Advices from exporter by letter (__) by cable (__) dated _____

(c) Comparative values of shipments previously received (__) dated _____

(d) Knowledge of the market in the country of exportation (__) _____

(e) Knowledge of the market in the United States (if U.S. Value) (__) _____

(f) Advices of the District Director of Customs (__) _____

(g) Other (__) _____

Check which of the charges below are, and which are not included in the prices listed in columns "D" and "E":

	Amount	Included	Not included
Packing			
Cartage			
Inland freight			
Wharfage and loading abroad			
Lighterage			
Ocean freight			
U.S. duties			
Other charges (identify by name and amount)			
Total			

A	B	C	D	E	F	G
Case marks numbers	Manufacturer's Item No. symbol or brand	Quantities and full description	Unit purchase price (currency)	Total purchase price (currency)	Unit foreign value	Total foreign value

Country of origin _____

If any other invoice is received, I will immediately file it with the District Director of Customs.

_____
(Signature of person making invoice)

_____
(Title and firm name)

Date _____

§ 141.86 Contents of invoices and general requirements.

(a) *General information required by Tariff Act.* Each invoice of merchandise imported into the United States shall set forth the following information required by section 481(a), Tariff Act of 1930 (19 U.S.C. 1481(a)):

(1) The port of entry to which the merchandise is destined;

(2) The time when, the place where, and the person by whom and the person to whom the merchandise is sold or agreed to be sold, or if to be imported otherwise than in pursuance of a purchase, the place from which shipped, the time when and the person to whom and the person by whom it is shipped;

(3) A detailed description of the merchandise, including the name by which each item is known, the grade or quality, and the marks, numbers, and symbols under which sold by the seller or manufacturer to the trade in the country of exportation, together with the marks and numbers of the packages in which the merchandise is packed;

(4) The quantities in the weights and measures of the country or place from which the merchandise is shipped, or in the weights and measures of the United States;

(5) The purchase price of each item in the currency of the purchase, if the merchandise is shipped in pursuance of a purchase or an agreement to purchase;

(6) If the merchandise is shipped otherwise than in pursuance of a purchase or an agreement to purchase, the value for each item, in the currency in which the transactions are usually made, or, in the absence of such value, the price in such currency that the manufacturer, seller, shipper, or owner would have received, or was willing to receive, for such merchandise if sold in the ordinary course of trade and in the usual wholesale quantities in the country of exportation;

(7) The kind of currency, whether gold, silver, or paper;

(8) All charges upon the merchandise, itemized by name and amount when known to the seller or shipper; or all charges by name (including commissions, insurance, freight, cases, containers, coverings, and cost of packing) included in the invoice prices when the amounts for such charges are unknown to the seller or shipper; and

(9) All rebates, drawbacks, and bounties, separately itemized, allowed upon the exportation of the merchandise.

(b) *Nonpurchased merchandise shipped by other than manufacturer.* Each invoice of imported merchandise shipped to a person in the United States by a person other than the manufacturer and otherwise than pursuant to a purchase or agreement to purchase shall set forth the time when, the place where, the person from whom such merchandise was purchased, and the price paid therefor in the currency of the purchase, stating whether gold, silver, or paper.

(c) *Merchandise sold in transit.* In the case of merchandise sold on the documents while in transit from the port of exportation to the port of entry, the invoice submitted with the entry should reflect the transaction pursuant to which the merchandise actually began its journey to the United States. If entry is made by or for the account of the one who purchased the merchandise while it was in transit, a statement showing the price paid for each item by such purchaser must also be presented at the time of entry.

(d) *Invoice to be in English.* The invoice and all attachments shall be in the English language, or shall have attached thereto an accurate English translation containing adequate information for examination of the merchandise and determination of duties.

(e) *Packing list.* Each invoice shall state in adequate detail what merchandise is contained in each individual package.

(f) *Weights and measures.* If the invoice or entry does not disclose the weight, gage, or measure of the merchandise which is necessary to ascertain duties, the consignee shall pay the expense of weighing, gaging, or measuring prior to the release of the merchandise from Customs custody.

(g) *Discounts.* Each invoice shall set forth in detail, for each class or kind of merchandise, every discount from list or other base price which has been or may be allowed in fixing each purchase price or value.

(h) *Numbering of invoices and pages.*

(1) *Invoices.* When more than one invoice is included in the same entry, each invoice with its attachments shall be numbered consecutively by the importer on the bottom of the face of each page, beginning with No. 1.

(2) *Pages.* If the invoice or invoices filed with one entry consist of more than two pages, each page shall be numbered consecutively by the importer on the bottom of the face of each page. The page numbering shall begin with No. 1 for the first page of the first invoice and continue in a single series of numbers through all the invoices and attachments included in one entry.

(3) *Both invoices and pages.* When applicable, both the invoice number and the page number shall be shown at the bottom of each page. For example, if an

entry covers one invoice of one page and a second invoice of two pages, the numbering at the bottom of the pages shall be as follows:

Inv. 1, p. 1.
Inv. 2, p. 2.
Inv. 2, p. 3.

(i) *Information may be on invoice or attached thereto.* Any information required on an invoice by any provision of this subpart may be set forth either on the invoice or on an attachment thereto.

§ 141.87 Breakdown on component materials.

Whenever the classification or appraisement of merchandise depends on the component materials, the invoice shall set forth a breakdown giving the value, weight, or other necessary measurement of each component material in sufficient detail to determine the correct duties.

§ 141.88 Cost of production statement.

When the district director determines that information as to the cost of production or constructed value is necessary in the appraisement of any class or kind of merchandise, he shall so notify the importer, and thereafter invoices of such merchandise shall contain a verified statement by the manufacturer or producer as to the cost of production or constructed value, as defined in section 402a(f) or 402(d), Tariff Act of 1930, as amended (19 U.S.C. 1402(f) or 1401a(d)).

§ 141.89 Additional information for certain classes of merchandise.

Invoices for the following classes of merchandise shall set forth the additional information specified:

Aluminum and alloys of aluminum classifiable under items 618.02, 618.04, 618.06, or 618.10, Tariff Schedules of the United States (19 U.S.C. 1202) (T.D. 53092, 55977, 56143)—Statement of the percentages by weight of any metallic element used as an alloy in the articles.

Ball or roller bearings classifiable under item 680.35, Tariff Schedules of the United States (19 U.S.C. 1202), (T.D. 68-306)—(1) Type of bearing (i.e., whether a ball or roller bearing); (2) if a roller bearing, whether a spherical, tapered, or other than a spherical or tapered bearing; (3) whether a combination bearing (i.e., a bearing containing both ball and roller bearings, etc.); and (4) if a ball bearing (not including ball bearing with integral shafts or parts of ball bearings), whether or not radial, the following; (a) Outside diameter of each bearing; (b) net weight of each bearing; and (c) whether or not a radial bearing (the definition of radial bearing is, for Customs purposes, an antifriction bearing primarily designed to support a load perpendicular to shaft axis).

Beads (T.D. 50088, 55977)—(1) The length of the string, if strung; (2) the size of the beads expressed in millimeters; (3) the material of which the beads are composed, i.e., ivory, glass, imitation pearl, etc.

Braids, nonelastic, and other nonelastic braided materials suitable for making or ornamenting headwear, classifiable under item 703.80 or 703.85, Tariff Schedules of the United States (19 U.S.C. 1202), (T.D. 49501, 52020, 52114, 55977)—A statement as to whether or not the article has been bleached or colored.

Colors, dyes, stains and related products classifiable under the provisions of schedule 4, part 1C, Tariff Schedules of the United States (19 U.S.C. 1202), except item 406.80 (T.D. 53593, 53688, 56223)—The specifications set forth in "Schedule A" of § 152.42(c) of this chapter are required to be furnished with each invoice of these products on separate sheets of paper under the conditions which follow and with the exceptions noted:

(a) The information is not required for second and successive shipments of identical merchandise of the same name and strength if a reference is given to the date and the port of entry of the first shipment.

(b) The information specified in items 10 through 15 is required only when the Schultz number, item 7, the colour index number, item 8, and U.S. standard number, item 9, are not given.

(c) The following is substituted for items 4 and 5:

4. Name(s) under which sold in country of production.

5. Name(s) of comparable American made product with name of U.S. manufacturer (if none or unknown, so state).

Copper, articles classifiable under the provisions of schedule 6, part 2C, Tariff Schedules of the United States (19 U.S.C. 1202), (T.D. 45878, 50158, 55977)—A statement of the weight of articles of copper and a statement of percentage of copper content by weight of articles dutiable on their copper content.

Copper bearing ores and concentrates classifiable under items 602.25, 602.30, 602.31, 603.50, 603.55, or 603.65, Tariff Schedules of the United States (19 U.S.C. 1202), (T.D. 45878, 50158, 55977)—Statement as to the weight of the article and the weight of the copper content.

Cotton fabrics classifiable under the following items of the Tariff Schedules of the United States (19 U.S.C. 1202); schedule 3, part 1A—Cotton: items 301.60 thru 301.98, and items 302.—, and 303.20; schedule 3, part 3A—Woven fabrics of cotton; all items except item 332.10 and 332.40; schedule 3, part 6A—Handkerchiefs; items 370.24 thru 370.68; schedule 3, part 6B—Mufflers, etc.; item 372.15; schedule 3, part 6C—Hosiery; item 374.40, schedule 3, part 6E—Underwear; item 378.15 (T.D. 49803, 55977)—(1) Marks on shipping packages; (2) Numbers on shipping packages; (3) Date of acceptance of the order by the seller; (4) Customer's call number, if any; (5) Manufacturer's marks, numbers, or symbols under which the merchandise is sold in the home market; (6) Exact width of the merchandise; (7) Detailed description of the merchandise; trade name, if any; whether bleached, unbleached, printed, dyed, or colored; if composed of cotton and other materials, state chief value first and given percentage (value) of each component; (8) Number of single threads per square inch (All ply yarns must be counted in accordance with the number of single threads contained in the yarn; to illustrate, a cloth containing 100 two-ply yarns in 1 square inch must be reported as 200 single threads); (9) Exact weight per square yard, in ounces; (10) Average yarn number (Use this formula:

$$\frac{\text{Number of single threads per square inch} \times 24}{\text{Number of ounces per square yard} \times 35} = \text{Average yarn number});$$

(11) Yarn size or sizes in the warp; (12) Yarn size or sizes in the filling; (13) Number of colors or kinds (different yarn sizes or materials) in the filling; (14) How the cloth was woven (if on plain loom without attachment, indicate (plain); if with eight or more harnesses (0/8H), if with Jacquard (Jacq), if with Swivel (Swiv), if with Lappet (Lpt)). Customs Form 5519 is acceptable for furnishing the additional information required above.

Cotton raw—See § 151.82 of this chapter for additional information required on invoices.

Cotton waste (T.D. 50044)—(1) The name by which the cotton waste is known, such as "cotton card strips"; "cotton comber waste"; "cotton lap waste"; "cotton sliver waste"; "cotton roving waste"; "cotton fly waste"; etc.: (2) Whether the length of the staple of the cotton from which any cotton card strips covered by the invoice were made is less than 1 5/16 inches or is 1 5/16 inches or more; (3) Whether the length of the staple of the cotton from which any cotton comber waste covered by the invoice was made is less than 1 5/16 inches or is 1 5/16 inches or more.

Earthenware or crockeryware composed of a nonvitrified absorbent body (including white granite and semiporcelain earthenware and cream-colored ware, stoneware, and terra cotta, but not including common brown, gray, red, or yellow earthenware), embossed or plain; common salt-glazed stoneware; stoneware or earthenware crucibles; Rockingham earthenware; china, porcelain, or other vitrified wares, composed of a vitrified nonabsorbent body which, when broken, shows a vitrified, vitreous, semivitrified, or semivitreous fracture; and bisque or parian ware (T.D. 53236)—(1) If in sets, the kinds of articles composing each kind of set, and the quantity of each kind of article in each set in the shipment; (2) the exact maximum diameter, expressed in inches, of each size of all plates in the shipment; (3) the unit value for each style and size of plate, cup, saucer, or other separate piece in the shipment.

Fish or fish livers imported in airtight containers classifiable under schedules 1, part 3C, Tariff Schedules of the United States (19 U.S.C. 1202) (T.D. 50724, 49640, 55977)—(1) Statement whether the articles contain an oil, fat, or grease which has had a separate existence as an oil, fat, or grease; (2) The name and quantity of any such oil, fat, or grease.

Flax, hemp, and ramie fabrics and articles classifiable under the following items of the Tariff Schedules of the United States (19 U.S.C. 1202), 335.80, 335.90, 355.55, 356.25, 356.70, 356.80, 363.35, 366.30, 366.33, 366.36, 366.48, 366.81, 370.72, 370.76, or 370.80, and tablecloths, table scarves, and table doilies classifiable under items 366.51, or 366.84 (T.D. 50083, 55977, 56503)—(1) Customer's call number, if any; (2) Manufacturer's name and the manufacturer's marks, numbers, or symbols under which the merchandise is old in the home market; (3) Exact width of the merchandise if in the piece, otherwise the size; (4) If composed of cotton and other materials, state chief value first and give percentage (value) of each component. State also the finish of the fabric or article, e.g., "loom state," "bleached," "commercial or vat dyed"; (5) Actual number of threads contained in the fabric per square inch, in condition exported. Each thread is counted as one whether or not such thread contains two or more single strands of yarn twisted to make a complete thread. To illustrate, a cloth containing 100 two-ply yarns per square inch must be reported as 100 threads;

(6) Exact weight per square yard, in ounces; (7) Whether "hand hemmed," "machine hemmed," "unhemmed," or "in piece." Customs Form 5519 is acceptable for furnishing the additional information required above.

Footwear; classifiable under schedule 7, part 1A, Tariff Schedules of the United States (T.D. 56254, 56297)—

(1) The importer's number (if any).

(2) The manufacturer's number under which the merchandise is sold in the home market.

(3) A detailed description of the merchandise.

(4) Category as listed below:

(a) Huaraches.

(b) McKay—sewed footwear.

(c) Moccasins.

(d) Turn or turned footwear.

(e) Welt footwear.

(f) Footwear with molded soles laced to uppers.

(g) Slippers.

(h) Soled moccasins.

(i) Cement footwear.

(j) Soft sole footwear.

(k) Stitchdown footwear.

(l) Footwear with soles vulcanized to uppers or with soles simultaneously molded and attached to uppers.

(m) Other footwear than listed (a) to (l).

(5) Materials of sole.

(6) Material of chief value of sole.

(7) Materials of upper.

(8) Material of chief value of upper.

(9) Material of chief value of shoe. If the shoe is composed essentially of rubber, state the percent by value of material and percent by value of synthetic rubber (if any).

(10) (a) Percentage of weight of entire shoe for fibers.

(b) Percentage of weight of entire shoe for rubber.

(c) Percentage of weight of entire shoe for plastics.

(11) Percentage of area of materials of exterior surface of upper.

(12) Gender as listed below:

(a) Footwear for men.

(b) Footwear for youths and boys.

(c) Footwear for women.

(d) Footwear for misses.

(e) Footwear for children.

(f) Footwear for infants.

(13) Type as listed below:

(a) Athletic footwear.

(b) Work footwear.

(c) Ski boots.

(d) Casual footwear.

(e) Other types of footwear.

(14) Height of footwear:

(a) Oxford height.

(b) Other height.

(15) The number of pairs of each number shipped.

(16) The unit price per pair in the currency of purchase.

(17) The total value for quantity invoiced. Discount, if any, may be deducted at foot of invoice.

(18) If such (the same) or similar merchandise is sold, at wholesale, for home consumption, the current unit price in home currency.

Customs Form 5523 may be used for furnishing the additional information required above.

Fur products and furs (T.D. 53064)—(1) Name or names (as set forth in the Fur Products Name Guide (16 CFR 301.0) of the animal or animals that produced the fur, and such qualifying statements as may be required pursuant to section 7(c) of the Fur Products Labeling Act (15 U.S.C. 69e(c)); (2) a statement that the fur product contains or is composed of used fur, when such is the fact; (3) a statement that the fur product contains or is composed of bleached, dyed, or otherwise artificially colored fur, when such is the fact; (4) a statement that the fur product is composed in whole or in substantial part of paws, tails, bellies, or waste fur, when such is the fact; (5) name and address of the manufacturer of the fur product; (6) name of the country of origin of the furs or those contained in the fur product.

Glassware and other glass products classifiable under schedule 5, part 3C, Tariff Schedules of the United States (19 U.S.C. 1202), when imported in sets (T.D. 53079, 55977)—Statement of the separate value of each component article in the set.

Grain or grain and screenings (T.D. 51284)—Statement on Customs invoices for cultivated grain or grain and screenings that no screenings are included with the grain, or, if there are screenings included, the percentage of the shipment which consists of screenings commingled with the principal grain.

Hats or headwear classifiable under item 702.37 or 702.40, Tariff Schedules of the United States (19 U.S.C. 1202), (T.D. 52114, 55977)—Statement as to whether or not the article has been bleached or colored.

Iron or steel, articles of, classifiable under schedule 6, part 2B, Tariff Schedules of the United States (19 U.S.C. 1202), (T.D. 53092, 55977)—Statement of the percentages by weight of any metallic element used as an alloy in the articles.

Iron oxide (T.D. 49989, 50107)—For iron oxide to which a reduced rate of duty is applicable, a statement of the method of preparation of the oxide, together with the patent number, if any.

Jewelry (T.D. 51676)—(1) Design or motif; (2) component material of chief value; (3) whether or not the metal in the article is plated with platinum, gold, or silver, or is colored with gold lacquer.

Lumber, rough, dressed, or worked, classifiable under schedule 2, part 1B, Tariff Schedules of the United States, and dutiable on the basis of board measure (T.D. 50498, 51906, 55977)—Quantity in board feet of the rough lumber before dressing.

Machine parts (T.D. 51616)—Statement specifying the kind of machine for which the parts are intended, or if this is not known to the shipper, the kind or kinds of machines for which the parts are suitable.

Maderia embroideries (T.D. 49988)—(1) With respect to the materials used, furnish: (a) Country of production; (b) width of the material in the piece; (c) name of the manufacturer; (d) kind of material, indicating manufacturer's quality number; (e) landed cost of the material used in each item; (f) date of the order; (g) date of the invoice; (h) invoice unit value in the currency of the purchase; (i) discount from purchase price allowed, if any; (2) with respect to the finished embroidered articles, furnish: (a) Manufacturer's name, design number, and quality number; (b) importer's design number, if any; (c) finished size; (d) number of embroidery points per unit of quantity; (e) for each item, the cost of embroidery labor and the cost of sewing, if any, per unit of quantity; (f) total for overhead and profit added in arriving at the price or value of the merchandise covered by the invoice.

Metal-Working Machine Tools classifiable under items 674.32 and 674.35, Tariff Schedules of the United States (19 U.S.C. 1202), (T.D. 70–1)—Type of machine tools in accordance with the following definitions:

Numerically controlled machines are machines whose motions are controlled by devices such as tape, computers, or punched cards.

Drilling machines are machines designed for the primary purpose of cutting an initial hole in a workpiece using a rotation tool.

Radial drilling machines consist of a base, vertical cylindrical column, radial arm, and spindle headstock. The radial arm supports the spindle headstock which can be positioned at varying distances from the column; the arm can be moved up or down on the column and rotated around the column.

Upright single-spindle drilling machines consist of a base, table, vertical column, and spindle head. The spindle head is mounted on the column and moves only in the vertical direction. The worktable and/or base is located below the spindle.

Milling machines are machines designed for the primary purpose of removing metal by multiple tooth cutters mounted on rotating arbors or spindles.

Profile and duplicating milling machines consist of any milling machine equipped with a tracing device for controlling the path of the milling cutter.

Knee-type milling machines consist of a base, vertical column, knee, horizontal table, and spindle. A spindle driving the cutter is mounted horizontally or vertically in or on the column. A horizontal movable table which holds the workpiece is mounted on a knee, which projects from the column. The knee can be raised or lowered on the column.

Bed-type milling machines consist of a base (bed), vertical column, horizontal, or vertical spindle and table. The table moves horizontally on the bed. The spindle is fixed or moves vertically on the column.

Boring machines are machines designed for the primary purpose of enlarging or finishing an existing hole in a workpiece by means of a rotating single-point tool.

Vertical boring machines, including vertical turret lathes consist of one or two ram (or turret) heads mounted on a cross rail supported by a column or columns. The cutting tool or tools traverse against the work as the work revolves on a circular table. One or two horizontally opposed side heads are also provided.

Combination boring, drilling, and milling machines, horizontal spindle, consist of a vertical column mounted on a solid bed or movable base. The column supports a horizontally mounted headstock containing the spindle that feeds various tooling into the workpiece. The work is held on a movable table supported by the bed or is mounted on floor plates. Feed motions of the headstock and/or table are longitudinal, transverse, and vertical.

Combination boring, drilling, and milling machines, vertical spindle, consist of a vertical column mounted on a solid bed or movable base. The column supports a vertically mounted headstock containing the spindle that feeds various tooling into the workpiece. The work is held on a movable table supported by the bed or is mounted on floor plates. Feed motions of the headstock and/or table are longitudinal, transverse, and vertical.

Metal-cutting machine tools are metal-working machine tools which shape or surface-work metal by removing metal either in the form of chips, dust, swarf, or similar forms, or by electrical or chemical erosion techniques.

Engine lathes consist of a bed, headstock, tailstock, and carriage. The workpiece is held between a center on the tailstock and an appropriate work-holding device on the headstock spindle. The tool is secured to a cross slide which is mounted on a carriage that moves longitudinally along the bed of the machine.

Turret lathes consist of a bed, headstock, cross slide, and turret. The workpiece is held in the collet, chuck, face plate, or fixture which is attached to the spindle. The tools on the turret are positioned and fed into the workpiece.

Single-spindle automatic bar or chucking machines consist of a bed, headstock, cross slides, and turret. The workpiece is held in the collet, chuck, face plate, or fixture which is attached to the spindle. The tools on the turret are positioned and fed into the workpiece. All machining motions are preselected and are automatically controlled.

Multiple-spindle automatic bar or chucking machines have two or more drive spindles in order that two or more workpieces can be rotated simultaneously. Automatic units are designed to hold the workpiece in each of a number of spindle collets or chucks, which index clockwise from station to station in order to present the workpiece successively to a series of cutting tools. All machining motions are preselected and are automatically controlled.

Grinding machines are machines other than honing or lapping machines designed for the primary purpose of removing metal from a workpiece with abrasives.

External cylindrical grinders consist of a base, table, headstock, footstock, and wheelhead. The table is mounted on the base. The headstock and footstock are mounted on the table and are used to support and rotate the workpiece. The rotating abrasive wheel is mounted on the wheelhead spindle. The wheel is fed against the rotating workpiece.

Internal cylindrical grinders consist of a base, table wheelhead, and headstock. The table is mounted on the base. The headstock is fixed to the base. The wheelhead is mounted on the table. The rotating abrasive wheel is mounted on the wheelhead spindle and is fed into the workpiece bore which is also rotating.

Surface (flat) grinders consist of a base, table, column, and wheelhead. The table is mounted on the base. The wheelhead is attached to the column. The axis of the wheelhead spindle is horizontal. The workpiece which is mounted on the table reciprocates under the rotating abrasive wheel which is mounted on the wheelhead spindle.

Sawing machines are designed primarily for parting or cutting-off operations by a tool referred to as a saw, which could be in the form of a blade, band, or disc.

Electrical discharge machines are machines designed to remove metal by means of an electrical discharge spark erosion.

Metal-forming machine tools are metalworking machine tools other than metalcutting machine tools.

Punching and shearing machines pierce, blank, notch, or shear workpieces by utilizing a power-driven ram to force punches or blades through work that is supported by the table of the machine.

Mechanical presses, open back inclinable consist of a base (legs), "C" frame, and ram. The C frame is mounted on a pivot point connected in the base (legs). The ram is mounted in the C frame. The principal identifying characteristic of the press is its ability to tilt back on its base (legs).

Needlework tapestries classifiable under schedule 3, part 5C, Tariff Schedules of the United States (19 U.S.C. 1202), (T.D. 50369, 55977)—A statement of the separate cost of each fiber used.

Newsreel films (T.D. 44703, 44938, 55977)—(1) Statement of footage and title of each subject; (2) declaration of shipper, cameraman, or other person with knowledge of the facts identifying the films with the invoice and stating that the basic films were to the best of his knowledge and belief exposed abroad and returned for use as newsreel; (3) declaration of importer that he believes the films entered by him are the ones covered by the preceding declaration and that the films are intended for use as newsreel.

Oils or products of such oils, classifiable under schedule 4, part 8A, Tariff Schedules of the United States (19 U.S.C. 1202), and subject to a specific rate of duty (T.D. 49640, 55977)—State if the article is derived from coconut, palm-kernel, palm oil, or other.

Paper and paper products (other than books, newspapers, and periodicals which are not fashion periodicals) bearing printing of any kind, whether or not the printing was done by a lithographic process (T.D. 53056)—Statement of the process employed in printing the paper or paper products.

Screenings or scalpings of grains or seeds (T.D. 51096)—(1) Whether the commodity is the product of a screening process; (2) if so, whether any cultivated grains have been added to such commodity; (3) if any such grains have been added, the kind and percentage of each.

Sugar in liquid form, and articles composed in part of beet or cane sugar (T.D. 49400)—(1) Statement for each lot of sugar in liquid form showing the percentage by weight of total soluble solids (or Brix) and the percentage by weight of total sugars; (2) statement for each kind or class of articles composed in part of cane or beet sugar showing the percentage by weight of total sugars derived from sugar beets or sugarcane.

Sugar, manufactured, articles containing 10 percent or more by weight of, as defined in section 4502(3) of the Internal Revenue Code (26 U.S.C. 4502(3)), (T.D. 49867, 50106)—(1) If it is conceded that the component material of chief value in an article is manufactured sugar, a statement to that effect should be made on the invoice with a statement of the percentage of total sugars in the finished product; (2) if manufactured sugar is not conceded to be the component material of chief value, the invoice must be accompanied by a statement in the following form containing the data indicated therein in accordance with the appended instructions:

UNITED STATES CUSTOMS SERVICE

Information as to commodities containing 10 percent or more by weight of manufactured sugar, as defined in section 4502(3) of the Internal Revenue Code (26 U.S.C. 4502(3)), for use of U.S. Customs authorities.

Name of manufacture _____

Address _____

1. Kind and brand of product shipped to United States: _____

2. Quantity produced in one manufacturing lot or batch (A): _____

3. Sugar used in producing one lot or batch:

Kind of manufactured sugar	Quantity (A)	First cost (B)	Additional costs (C)	Total cost (D)

4. Other materials used in producing one lot or batch:

Kind	Quantity (A)	First cost (B)	Additional costs (C)	Total cost (D)

I certify that the above information is correct.

_____
(Signature)

Date _____

_____
(Title or position)

Instructions for compiling data to be shown on form:

1. Describe the product in terms used on invoices, giving name, brand, quality, number, etc. Use a separate form for each kind.

2. Show quantity produced in one typical batch or lot, recently manufactured, as to which cost records have been maintained.

3. Manufactured sugar is defined in section 4502(3) of the Internal Revenue Code (26 U.S.C. 4502(3)), as follows: The term "manufactured sugar" means any sugar derived from sugar beets or sugarcane, which is not to be, and, which shall not be, further refined or otherwise improved in quality; except sugar in liquid form which contains nonsugar solids (excluding any foreign substance that may have been added or developed in the product) equal to more than 6 per centum of the total soluble solids and except also sirup of cane juice produced from sugarcane grown in the continental United States. The grades or types of sugar within the meaning of this definition shall include, but shall not be limited to, granulated sugar, lump sugar, cube sugar, powdered sugar, sugar in the form of blocks, cones, or molded shapes, confectioners' sugar, washed sugar, centrifugal sugar, clarified sugar, turbinado sugar, plantation white sugar, muscovado sugar, refiners' soft sugar, invert sugar mush, raw sugar, sirups, molasses, and sugar mixtures.

4. It is preferable to show each kind of material used in addition to manufactured sugar. Several materials of relatively insignificant value may be grouped together, such as "Flavoring materials," "Coloring materials," "Seasoning materials," or "All other."

A. Show unit in pounds, as well as total quantity.

B. "First Cost" is the full cost of the material laid down at the manufacturing plant, at current domestic prices, without any deduction for any drawback or refund of import duties which may have been allowed or may be allowable. The amounts of any drawback or refund of import duties which have been allowed or which are allowable by reason of exportation should be stated separately.

C. "Additional costs" include all costs of storing, examining, handling, and preparing, up to the point where the materials are ready to be combined in the manufacturing process. Manufacturing costs and general expenses, occurring thereafter, should not be included, nor should profit.

D. "Total cost" is the total of "first cost" ex factory and "Additional costs."

5. When the additional information outlined above has been furnished once by an importer with an invoice of a recognized brand or brands of merchandise, it need not be furnished again for shipments entered by him for consumption or for warehousing at the same port in the same calendar year under the same brand name, provided the formula or method of manufacture of the brand has not changed. An invoice not accompanied by such additional information should identify the last shipment entered at that port by the importer for which such additional information was furnished. If the additional information was furnished in connection with an entry at one port, and the importer can secure from the district director at such port a certified copy of the invoice and additional information there filed, he may file them to fulfill the additional

invoice requirement elsewhere. However, district directors shall not furnish copies of invoices except to, or with the consent of, and at the expense of the importer or his authorized agent.

Textile fiber products (T.D. 55085)—(1) The constituent fiber or combination of fibers in the textile fiber product, designating with equal prominence each natural or manufactured fiber in the textile fiber product by its generic name in the order of predominance by the weight thereof if the weight of such fiber is 5 per centum or more of the total fiber weight of the product; (2) The percentage of each fiber present, by weight, in the total fiber content of the textile fiber product, exclusive of ornamentation not exceeding 5 per centum by weight of the total fiber content; (3) The name, or other identification issued and registered by the Federal Trade Commission, of the manufacturer of the product or one or more persons subject to section 3 of the Textile Fiber Products Identification Act (15 U.S.C. 70a) with respect to such product; (4) The name of the country where processed or manufactured.

Tobacco (including tobacco in its natural state) (T.D. 44854, 45871)—(1) Specify in detail the character of the tobacco in each bale by giving (a) Country and province of origin, (b) year of production, (c) grade or grades in each bale, (d) number of carrots or pounds of each grade if more than one grade is packed in a bale, (e) the time when, place where, and from whom purchased, (f) price paid or to be paid for each bale or package, or price for the vega or lot if purchased in bulk, or if obtained otherwise than by purchase state the actual market value per bale; (2) If an invoice covers or includes bales of tobacco which are part of a vega or lot purchased in bulk, the invoice must contain or be accompanied by a full description of the vega or lot purchased; or if such description has been furnished with a previous importation, the date and identity of such shipment; (3) Packages or bales containing only filler leaf shall be invoiced as filler; when containing filler and wrapper but not more than 35 percent of wrapper, shall be invoiced as mixed; and when containing more than 35 percent of wrapper, shall be invoiced as wrapper.

Toys classifiable under item 737.25 or 737.30, Tariff Schedules of the United States (19 U.S.C. 1202), (T.D. 49859, 50107, 52160, 55977)—Specify the actual overall height of each stuffed figure of an animate object not having a spring mechanism.

Watch movements, and time-keeping, time-measuring, or time-indicating mechanisms, devices, and instruments, having 17 or less jewels, and dutiable under schedule 7, part 2E, Tariff Schedules of the United States (19 U.S.C. 1202), but not including movements designed for clocks and so stated on the invoice unless and until such time as the Commissioner of Customs issues a decision applicable to such movements (T.D. 54286, 55977, 56468)—For all commercial shipments of such articles, there shall be required to be shown on the invoice, or on a separate sheet attached to and constituting a part of the invoice, such information as will reflect with respect to each group, class, category, type, or model of instrument in the shipment, the following:

(A) The commercial description (ebauche calibre number and ligne size) and style of each class of watch movement, time-keeping mechanism, device, or instrument covered by the invoice.

(B) The name of the manufacturer or assembler of the exported articles, and also the name of the supplier when the manufacturer or assembler is not the supplier.

(C) As to watch movements, time-keeping mechanisms, devices, or instruments, after the complete instruments were first assembled:

	Yes	No
(1) Were they tested or observed at different temperatures?		
(2) Were they tested or observed for uniformity in rate as the mainspring runs down?		
(3) Were corrections made to eliminate or reduce the differences in rates revealed by the tests in (1) and (2)?		
(4) Were they tested or observed for 24 hours or more in more than two positions and was there a prescribed tolerance of not more than 15 seconds of perfect time in 24 hours in such positions?		
(5) Were they marked with a number of position adjustments different from the number of positions (at least three) in which so tested or observed and in which a tolerance of not more than 15 seconds of perfect time in 24 hours was met?		

(D) If the answers are "yes" to questions (3) or (5), under (C) immediately above, and the instruments are marked unadjusted, or are marked with a lesser number of position adjustments than the number of positions in which tested for 24 hours or more, and in which a tolerance of not more than 15 seconds of perfect time in 24 hours was met, explain in detail. However, when the foregoing information has been filed once directly with the Bureau of Customs, Washington, D.C. 20226, in quadruplicate, with one additional copy for each port of entry at which entries may be filed, invoices covering shipments of that item to the ports named in the original statement or in subsequent statements filed for additional ports need only identify the item and the statement already filed. This information will then be acceptable until the facts about the item change, at which time a new statement is necessary.

Wool, boiled classifiable under item 307.30 or 307.18, Tariff Schedules of the United States (19 U.S.C. 1202), (T.D. 69-236). A certification in the following form signed by a government official of the country of exportation having actual knowledge of the pertinent facts:

I hereby certify that the wool in the shipment described below consists of wool fibers recovered by means of a sulfuric acid boil from (raw) (tanned) (raw and tanned) sheepskin scrap.

Date _____

_____
(Signature)

_____
(Title or position)

Number of bales _____
Marks and numbers _____
Other identification _____

Wool products, except carpets, rugs, mats, and upholsteries, and wool products made more than 20 years before importation (T.D. 50388, 51019)—(1) The percentage of the total fiber weight of the wool product, exclusive of ornamentation not exceeding 5 per centum of said total fiber weight, of (a) wool; (b) reprocessed wool; (c) reused wool; (d) each fiber other than wool if said percentage by weight of such fiber is 5 per centum or more; and (e) the aggregate of all other fibers; (2) the maximum percentage of the total weight of the wool product, of any nonfibrous loading, filling, or adulterating matter; and (3) the name of the manufacturer of the wool product, except when such product consists of mixed wastes, residues, and similar merchandise obtained from several suppliers or unknown sources.

Wool and hair—See § 151.62 of this chapter for additional information required on invoices.

§ 141.90 Notation of tariff classification and value on invoice.

(a) *To be approved by district director.* The entered tariff classification, rate of duty, value, and estimated duties shall be as approved by the district director.

(b) *Classification and rate of duty.* The appropriate item number of the Tariff Schedules of the United States (19 U.S.C. 1202), and the rate of duty shall be noted by the importer in the left-hand portion of the invoice, next to the articles to which they apply.

(c) *Value.* The importer shall show in clear detail on the invoice or on an attached statement the computation of all deductions from total invoice value, such as nondutiable charges, and all additions to invoice value which have been made to arrive at the aggregate entered value. In addition, the entered unit value for each article on the invoice shall be shown where it is different from the invoiced unit value.

(d) *Importer's notations in blue or black ink.* All notations made on the invoice by the importer or broker shall be in blue or black ink.

(Sec. 487, 46 Stat. 725, as amended; 19 U.S.C. 1487)

§ 141.91 Entry without required invoice.

If a required invoice is not available in proper form at the time of entry and a waiver in accordance with § 141.92 is not granted, the entry shall be accepted only under the following conditions:

(a) The district director is satisfied that the failure to produce the required invoice is due to a cause beyond the control of the importer;

(b) The importer files—

(1) A written declaration that he is unable to produce such invoice, and

(2) Any seller's or shipper's invoices available to him or, if none are available, a pro forma invoice in accordance with § 141.85;

(c) The invoices and other documents presented with the entry contain information adequate for the examination of the merchandise and the determination of estimated duties; and

(d) The importer gives an appropriate bond for the production of the required invoice within 6 months after the date of entry.

§ 141.92 Waiver of invoice requirements.

(a) *When waiver may be granted.* The district director may waive production of a required invoice when he is satisfied that either:

(1) The importer cannot by reason of conditions beyond his control furnish a complete and accurate invoice; or

(2) The examination of merchandise and final determination of duties can be properly effected without the production of such an invoice.

(b) *Documents to be filed by importer.* As a condition to the granting of a waiver, the importer shall file the following documents with the entry:

(1) Any invoice or invoices received from the seller or shipper;

(2) A statement pointing out in exact detail any inaccuracies, omissions, or other defects in such invoice or invoices;

(3) An executed pro forma invoice in accordance with § 141.85; and

(4) Any other information required by the district director for appraisement or classification of the merchandise.

(c) *Satisfaction of bond liability.* The liability under the entry bond for the production of a correct invoice shall be deemed satisfied when a waiver has been granted pursuant to this section.

Subpart G—Deposit of Estimated Duties

§ 141.101 Time of deposit.

Estimated duties shall be deposited with the Customs officer designated to receive such monies at the time of making entry, except in the following cases:

(a) *Warehouse entry.* In the case of merchandise entered for warehouse, deposit of estimated duties shall be made at the time the withdrawal for consumption is presented.

(b) *Informal mail entry.* In the case of merchandise entered under an informal mail entry, duties shall be paid to the postal employee at the time he delivers the merchandise to the addressee (see Part 145 of this chapter).

(c) *Appraisement entries.* In the case of merchandise entered under an appraisement entry, deposit of estimated duties shall be made immediately after notification by the appropriate Customs officer of the amount of duties due.

(d) *Entry for transportation or under bond.* No deposit of estimated duties is applicable in the case of merchandise entered for transportation or under a temporary importation bond, permanent exhibition bond, trade fair bond, or other similar bond.

§ 141.102 When deposit of estimated duties not required.

Entry or withdrawal for consumption in the following situations may be made without depositing the estimated Customs duties, or estimated taxes, or both, as specifically noted:

(a) *Cigars and cigarettes.* A qualified dealer or manufacturer may enter or withdraw for consumption cigars, cigarettes, and cigarette papers and tubes without payment of internal revenue tax in accordance with § 11.2(a) of this chapter.

(b) *Bulk distilled spirits transferred to Internal Revenue bonded premises.* An importer may transfer distilled spirits in bulk to the bonded premises of a distilled spirits plant under the provisions of section 5232(a), Internal Revenue Code of 1954, as amended (26 U.S.C. 5232(a)), and 26 CFR Part 251, by filing an approved original copy of Internal Revenue Form 2609 with the entry or withdrawal for consumption, in lieu of depositing taxes.

(c) *Deferral of payment of taxes on alcoholic beverages.* An importer may pay on a semimonthly basis the estimated internal revenue taxes on all the alcoholic beverages entered or withdrawn for consumption during that period, under the procedures set forth in § 24.4 of this chapter.

(d) *Government entries.* If a shipment is entered or withdrawn for consumption by a U.S. Government department or agency, or an authorized representative thereof, no deposit of estimated Customs duties or taxes shall be required if a stipulation is furnished in lieu of any bond provided for in Part 25 of this chapter. The proper department or agency will then be billed after liquidation of the entry for any duties or charges due. The stipulation shall be in the following form:

I, ----------, ----------,
(title)
a duly authorized representative of the ----

(name of U.S. Government department or agency)
stipulate and agree on behalf of such department or agency that all applicable provisions of the Tariff Act of 1930, as amended, and the regulations thereunder, and of all other laws and regulations, relating to ----
----
(type of entry)
----
entry No. ------, of ---------- will be
(date)
observed and complied with in all respects.

(Signature)

§ 141.103 Amount to be deposited.

Estimated duties shall be deposited in an amount deemed necessary by the district director to sufficiently cover the prospective duties on each item being entered or withdrawn.

§ 141.104 Computation of duties.

In computing estimated duties, fractional parts of dollars and quantities shall be rounded off in accordance with § 159.3 of this chapter.

§ 141.105 Voluntary deposit of additional duties.

If either the importer of record or the actual owner whose declaration and superseding bond have been filed in accordance with § 141.20 desires, he may estimate, on the basis of information contained in the entry papers or obtainable from the district director, the probable amount of unpaid duties which will be found due on the entire entry and deposit them in whole or in part with the district director. The deposit shall be tendered in writing in the following form in the number of copies required for the purposes of local administration, and an official receipt shall be given for the deposit:

Date----------
To the District Director of Customs, --------

Tender is hereby voluntarily made of $------ as a supplemental deposit of estimated duties and taxes on ----------
entry No. ------, dated ----------, in the name of ---------- Please provide an official receipt.

(Importer of record) or (actual owner)

(Street address)

(City) (State)

Subpart H—Release of Merchandise

§ 141.111 Carrier's release order.

(a) *When required.* Except where release is made directly to the carrier in accordance with § 141.11(b), no merchandise shall be released from Customs custody until a release order has been executed by the carrier, or, in the case of merchandise in a bonded warehouse, by the warehouse proprietor.

(b) *Form of release.* The release order may be executed on any of the following documents:

(1) Customs Form 7529, if a carrier's certificate is used in making entry;

(2) The official entry form;

(3) A combined carrier's certificate and release order issued in accordance with § 141.11(a)(4); or

(4) If a certified duplicate bill of lading is used for entry purposes in accordance with § 141.11(a)(3), the carrier's release order may be endorsed thereon in substantially the following form:

In accordance with the provisions of section 484(j), Tariff Act of 1930, authority is hereby given to release the articles covered by this certified duplicate bill of lading to:

(c) *Blanket release order.* Merchandise may be released to the person named in the bill of lading in the absence of a specific release order from the carrier, if the carrier concerned has filed a blanket order authorizing release to the consignee in such cases. The release order at the bottom of Customs Form 7529 may be modified and executed to make it a blanket release order for the shipments covered by a blanket carrier's certificate issued under § 141.11(a)(5).

(d) *Qualified release order.* In the case of merchandise which is entered for warehousing, for transportation in bond, or for exportation, the release order may be qualified as follows:

(1) "For transfer to the bonded warehouse designated in the warehouse entry," if the merchandise is entered for warehousing;

(2) "For transfer to the bonded carrier designated in the transportation entry," if the merchandise is entered for transportation in bond; or

(3) "For transfer to the carrier designated in the export entry," if the merchandise is entered for exportation.

§ 141.112 Liens for freight, charges, or contribution in general average.

(a) *Definitions.* The following are general definitions for the purposes of this section:

(1) *Freight.* "Freight" means the carrier's charge for the transportation of the goods from the place of shipment in the foreign country to the final destination in the United States.

(2) *Charges.* "Charges" means the charges due to or assumed by the claimant of the lien which are incident to the

shipment and forwarding of the goods to the destination in the United States, but does not include the purchase price, whether advanced or to be collected, nor other claims not connected with the transportation of the goods.

(3) *General average.* "General average" means the liability to contribution of the owners of a cargo which arises when a sacrifice of a part of such cargo has been made for the preservation of the residue or when money is expended to preserve the whole. It only arises from actions impelled by necessity.

(b) *Notice of lien.* A notice of lien for freight, charges, or contribution in general average pursuant to section 564, Tariff Act of 1930, as amended (19 U.S.C. 1564), shall be filed with the district director on Customs Form 3485, signed by the authorized agent of the carrier and certified by him.

(c) *Preliminary notice of lien for contribution in general average.* When the cargo of a vessel is subject to contribution in general average, a preliminary notice thereof may be filed with the district director and individual notices of lien filed thereafter. Upon receipt of a preliminary notice, the district director shall withhold release of any merchandise imported in the vessel for 2 days (exclusive of Sunday and holidays) after such merchandise is taken into Customs custody, unless proof is submitted that the claim for contribution in general average has been paid or secured.

(d) *Merchandise entered for immediate transportation.* A notice of lien upon merchandise entered for immediate transportation shall be filed by the carrier with the district director at the destination.

(e) *Limitations on acceptance of notice of lien.* A notice of lien shall be rejected and returned with the reason for rejection noted thereon if it is filed after any of the following actions have been taken concerning the merchandise:

(1) Release from Customs custody;

(2) Forfeiture under any provision of law;

(3) Sale as unclaimed or abandoned merchandise under section 491 or 559, Tariff Act of 1930, as amended (19 U.S.C. 1491 or 1559); or

(4) Receipt and acceptance of a notice of abandonment to the Government under section 506(1) or 563(b), Tariff Act of 1930, as amended (19 U.S.C. 1506(1) or 1563(b)).

(f) *Forfeited or abandoned merchandise.* The acceptance of a notice of lien shall not in any manner affect the order of disposition and accounting for the proceeds of sales of forfeited and abandoned property provided for in §§ 20.6, 158.10, and 162.51 of this chapter.

(g) *Bond may be required.* When any doubt exists as to the validity of a lien filed with the district director, he may exact a bond of indemnity to save him harmless from any personal liability which may result from withholding the release of the merchandise.

(h) *Satisfaction of lien.* The district director shall not adjudicate any dispute respecting the validity of any lien, but when the amount of such lien depends upon the quantity or weight of merchandise actually landed, the district director shall hold the lien satisfied upon the payment of an amount computed upon the basis of the official Customs report of quantity and weight. In all other cases, proof that the lien has been satisfied or discharged shall consist of a written release or receipt signed by the claimant and filed with the district director, showing payment of the claim in full.

(Sec. 564, 46 Stat. 747, as amended; 19 U.S.C. 1564)

§ 141.113 Recall of merchandise released from Customs custody.

(a) *Merchandise not legally marked.* Certain merchandise is required to be marked or labeled pursuant to the following provisions:

(1) Section 304, Tariff Act of 1930, as amended (19 U.S.C. 1304), pertaining to marking with country of origin;

(2) Textile Fiber Products Identification Act (15 U.S.C. 70);

(3) Wool Products Labeling Act (15 U.S.C. 68);

(4) Fur Products Labeling Act (15 U.S.C. 69); and

(5) Schedule 7, part 2E, headnote 4, Tariff Schedules of the United States (19 U.S.C. 1202), pertaining to special marking for watch and clock movements, cases, and dials.

If such merchandise is found after release to be not legally marked, the district director may demand its return to Customs custody for the purpose of requiring it to be properly marked or labeled. The demand for marking or labeling shall be made not later than 30 days after the date of entry in the case of merchandise examined in public stores, and places of arrival, such as docks, wharfs, or piers. Demand may be made no later than 30 days after the date of examination in the case of merchandise examined at the importer's premises or such other appropriate places as determined by the district director.

(b) *Other merchandise not entitled to admission.* If at any time after entry the district director finds that any merchandise contained in an importation is not entitled to admission into the commerce of the United States for any reason not enumerated in paragraph (a) of this section, he shall promptly demand the return to Customs custody of any such merchandise which has been released.

(c) *Request for samples or additional examination packages not complied with by importer.* If the importer has not promptly complied with a request for samples or additional examination packages made by the district director pursuant to § 151.11 of this chapter, the district director may demand the return of the necessary merchandise to Customs custody.

(d) *Demand to importer of record or actual owner.* A demand for the return of merchandise to Customs custody shall be made on the importer of record, except that it shall be made on the actual owner if an actual owner's declaration and superseding bond have been filed in accordance with § 141.20 before the date of the demand.

(e) *Form of demand.* A demand for the return of merchandise to Customs custody shall be made on Customs Form 4647 or other appropriate form, or by letter. One copy, with the date of mailing or delivery noted thereon, shall be retained by the district director and made part of the entry record.

(f) *Time limitation.* A demand for the return of merchandise to Customs custody shall not be made after the liquidation of the entry covering such merchandise has become final.

(Secs. 499, 623, 46 Stat. 728, as amended, 759, as amended; 19 U.S.C. 1499, 1623)

PART 142—SPECIAL PERMITS FOR IMMEDIATE DELIVERY PRIOR TO ENTRY

Sec.

AUTHORITY: R.S. 251, as amended, secs. 448, 484, 624, 46 Stat. 714, as amended, 722, as amended, 759; 19 U.S.C. 66, 1448, 1484, 1624. Additional authority and statutes interpreted or applied are cited in the text or following the sections affected.

§ 142.0 Scope.

This part sets forth requirements and procedures relative to special permits for immediate delivery of merchandise prior to entry, as authorized by section 448(b), Tariff Act of 1930, as amended (19 U.S.C. 1448(b)).

Subpart A—Application for Special Permit and Release of Merchandise

§ 142.1 Merchandise eligible for special permit for immediate delivery.

A special permit for immediate delivery prior to entry may be issued for perishable merchandise and any other merchandise for which delivery can be permitted with safety to the revenue, when immediate release of such merchandise is

necessary to avoid unusual loss or inconvenience to the importer or to the carrier bringing the merchandise to the port, or more effectively to utilize Customs manpower or to eliminate or reduce congestion on docks, at airports, or other places. Merchandise intended for either formal or informal entry may be released under a special permit, since the term "formal entry" as used in section 448(b), Tariff Act of 1930, as amended (19 U.S.C. 1448 (b)), refers to the process of making entry and does not specify a kind of entry.

§ 142.2 Application for special permit for immediate delivery.

(a) *Form.* Applications for special permits for immediate delivery shall be made in duplicate on Customs Form 3461, and shall be supported by evidence satisfactory to the district director of the right of the applicant to make entry of the merchandise.

(b) *Merchandise from Canada or Mexico.* In the case of merchandise arriving from Canada or Mexico when the customhouse is closed and destined to places other than the port of arrival, the application and the evidence of the right to make entry may be submitted to the chief Customs officer on duty and a special permit may be issued for immediate release, provided the applicant has on file in the customhouse a term bond in accordance with § 142.4 (b) or (c).

§ 142.3 Term special permit.

(a) *Conditions for issuance.* If the district director is satisfied that circumstances warrant such action, a term special permit for immediate delivery may be issued for a class or classes of merchandise particularly described in the application for such permit to be imported during a period not to exceed 1 year.

(b) *Notation of value for each shipment.* When applying for the release of a shipment of merchandise under a term special permit for immediate delivery, the importer shall note a value for the shipment on the document presented. The value so noted shall not be less than the invoice value.

§ 142.4 Bond.

No special permit for immediate delivery shall be issued until there has been filed a bond with an approved corporate surety of one of the following types:

(a) A single entry bond on Customs Form 7551, with the amount of the bond determined in accordance with § 25.4(a) (9) of this chapter. When any of the imported merchandise is subject to a tariff-rate quota and is to be released at a time when the applicable quota is filled, the full rates shall be used in computing the estimated duties to determine the amount of the bond.

(b) A term bond on Customs Form 7553, with the amount of the bond determined in accordance with § 25.4(a) (10) of this chapter. One term bond may be filed in connection with several applications for special permits to be filed during a period of not more than 1 year, or in connection with an application for a term special permit.

(c) A general term bond on Customs Form 7595.

(Sec. 623, 46 Stat. 759, as amended; 19 U.S.C. 1623)

§ 142.5 Simultaneous presentation of entry papers allowed.

If there is available sufficient information as to the quantities and values of the merchandise for a proper estimation of the duties and taxes which will be payable, there may be deposited with the application for a special permit all the papers, including an entry bond, in proper form for making entry for consumption. However, deposit of estimated duties shall not be permitted until after the merchandise has arrived within the limits of the port of entry, and such deposit shall be made only during the hours in which an entry could be presented in accordance with § 141.62 of this chapter.

§ 142.6 Examination and release of merchandise.

(a) *Invoice required for examination.* Examination and release of merchandise under a special permit for immediate delivery shall not be made unless the examining officer has been furnished an invoice, waybill, or other satisfactory document setting forth an adequate description of the merchandise and the quantities thereof, together with the values or approximate values thereof when values are needed for the purpose of examination. If the merchandise is to be released under a term special permit, such invoice or other document shall also show the term special permit number.

(b) *Examination required before release.* No merchandise shall be released under a special permit for immediate delivery until it has been examined, or until adequate samples have been taken in the case of merchandise which is to be classified and appraised by means of samples.

§ 142.7 Suspension of immediate delivery privileges.

(a) *For failure to make timely entry.* The district director may discontinue allowing the immediate delivery of merchandise for an importer who has repeatedly failed to make timely entry without sufficient justification, or who has not taken prompt action to settle a claim for liquidated damages issued under § 142.15 for failure to make timely entry. "Prompt action" means that the importer shall, within the time specified in the claim for liquidated damages, petition for relief or pay the amount claimed, and in appropriate cases shall also file entry (including deposit of estimated duties).

(b) *For failure to pay Customs bills.* Immediate delivery privileges may be suspended for an importer who is substantially or habitually delinquent on Customs bills issued him, in accordance with the following procedures:

(1) The importer shall be advised in writing of the suspension action and the reasons for such action.

(2) The suspension may be either for a specified period of time or until the importer has paid all his outstanding Customs bills.

(3) Brokers or other parties acting as agents for the importer shall not be permitted to circumvent the suspension by applying for immediate delivery of the suspended importer's merchandise in their name and under their bond.

Subpart B—Entry of Merchandise Released Under Special Permit

§ 142.11 Time limit for making entry after release of merchandise.

(a) *Usual limit.* Except as otherwise provided for certain quota merchandise in paragraphs (b) and (c) of this section, entry shall be made (including deposit of estimated duties) within 10 days after the day on which the merchandise or any portion thereof is first released under a special permit.

(b) *Tariff-rate quota merchandise.* Merchandise subject to a tariff-rate quota, which is released at a time when the applicable quota is filled, must be entered (including deposit of estimated duties) not later than midnight on the last day before the applicable quota again opens. No extension beyond that midnight shall be granted.

(c) *Absolute quota merchandise.* When merchandise is subject to an absolute (quantitative) quota which is nearing fulfillment and the approval of the Commissioner of Customs is required in accordance with § 12.50(e) of this chapter before release of the merchandise, the entry shall be made (including deposit of estimated duties) within 5 days after the date of the Commissioner's approval.

(d) *Computing time limits.* In computing the 10-day and 5-day limits in paragraphs (a) and (c) of this section, the day of release, Saturday, Sunday, and holidays shall be excluded.

§ 142.12 Examination invoice to be filed with entry.

When an invoice was furnished for use by the examining officer in accordance with § 142.6(a), such invoice shall be returned after examination to the importer who shall use it to make entry.

§ 142.13 Entry permit not required.

No entry permit on Customs Form 7501–A or 5119–A is required to accompany an entry for merchandise released under a special permit for immediate delivery.

§ 142.14 Entry not required for merchandise found to be prohibited.

(a) *Exportation or destruction of prohibited merchandise.* If merchandise imported under a special permit for immediate delivery is found to be prohibited, entry under § 142.11 is not required: *Provided,* that either:

(1) The merchandise is exported or destroyed under Customs supervision within the time limit for entry specified in § 142.11, or

(2) An entry for exportation or application to destroy is made within such

time limit and the exportation or destruction is promptly accomplished.

(b) *Procedures for exportation or destruction.* Exportation or destruction of prohibited merchandise in accordance with paragraph (a) of this section shall be made under the same procedures as exportation or destruction of prohibited merchandise covered by a consumption entry with remission or refund of duties (see §§ 158.41 and 158.45(c) of this chapter).

(c) *Notation on exportation entry.* A direct export or transportation and exportation entry made for prohibited merchandise for which no formal or informal entry for consumption has been filed shall be conspicuously stamped or imprinted with the legend:

PROHIBITED MERCHANDISE; NO OTHER ENTRY FILED.

(Sec. 558, 46 Stat. 744, as amended; 19 U.S.C. 1558)

§ 142.15 Failure to make timely entry.

If entry, when required, is not timely made, the district director shall make an immediate demand for liquidated damages in the entire amount of the bond in the case of a single entry bond. When the transaction has been charged against a term bond, the demand shall be for the amount that would have been demanded if the merchandise had been released under a single entry bond. Any application for cancellation of liquidated damages incurred shall be made in accordance with Part 172 of this chapter.

§ 142.16 Other procedures applicable.

Merchandise released under a special permit for immediate delivery is subject to the same procedures as all other imported merchandise, except where more specific procedures are set forth in this part.

PART 143—CONSUMPTION, APPRAISEMENT, AND INFORMAL ENTRIES

Sec.

AUTHORITY: R.S. 251, as amended, secs. 484, 498, 624, 46 Stat. 722, as amended, 728, as amended, 729; 19 U.S.C. 66, 1484, 1498, 1624. Additional authority and statutes interpreted or applied are cited in the text or following the sections affected.

§ 143.0 Scope.

This part sets forth requirements and procedures for the clearance of imported merchandise under consumption, appraisement, and informal entries, which are in addition to the general requirements and procedures for all entries set forth in Part 141 of this chapter. More specific requirements and procedures are set forth elsewhere in this chapter; for example, in Part 145 for importations by mail, and in Part 10 for merchandise conditionally free of duty or subject to a reduced rate.

Subpart A—Consumption Entry

§ 143.1 Form of consumption entry.

(a) *Customs Form 7501.* Entry for consumption shall be made on Customs Form 7501, except where a different form is prescribed elsewhere in this chapter (for example, certain free merchandise may be entered on a Customs Form 3311 in accordance with § 10.1 (d) or (e) of this chapter). A Customs Form 7501 shall be filed in triplicate for dutiable entries and in duplicate for free entries.

(b) *Extra copy for Internal Revenue.* An additional legible copy of the entry, marked or stamped "For Internal Revenue Purposes," shall be presented for each entry of cigarettes, cigars, or cigarette papers or tubes, when the entry of those articles is subject to Part 275 of the regulations of the Internal Revenue Service (26 CFR Part 275), and tax is payable to Customs upon release of such article, or if they are to be released without payment of tax under § 11.2(a) of this chapter.

(c) *Other extra copies.* The district director may require additional copies of the entry where the intended use has been specifically approved by the Commissioner of Customs.

§ 143.2 Deposit of estimated duties.

Estimated duties shall be deposited in accordance with subpart G of Part 141 of this chapter.

§ 143.3 Release of merchandise.

Merchandise which has been entered for consumption shall not be released from Customs custody until an appropriate bond has been filed or the entry has been liquidated, as follows:

(a) *Bond.* Merchandise which has not been designated for examination shall be released to or upon the order of the carrier if a bond on Customs Form 7551, 7553, or other appropriate form has been filed. Merchandise designated for examination shall be released under the same bond after examination has been completed if it has been found to be truly and correctly invoiced, is entitled to admission into the commerce of the United States, and its release is not precluded by any law or regulation. In the case of shipments entered by a U.S. Government department or agency, the stipulation prescribed in § 141.102(d) of this chapter shall be accepted in lieu of a bond.

(b) *After liquidation.* If a bond has not been filed in accordance with paragraph (a) of this section, none of the merchandise shall be released before:

(1) The entry has been liquidated, and the full amount of all duties and taxes due, including dumping or other special duties and charges, have been paid or the right to free entry established;

(2) The district director determines that the merchandise has the right to admission into the commerce of the United States; and

(3) All documents relating to the merchandise which are required by law or regulation have been filed.

(Sec. 623, 46 Stat. 759, as amended; 19 U.S.C. 1623)

Subpart B—Appraisement Entry

§ 143.11 Merchandise eligible for appraisement entry.

(a) *Without Commissioner's approval.* An application for entry by appraisement may be approved by the district director without securing the approval of the Commissioner of Customs for any of the following merchandise:

(1) Merchandise damaged on the voyage of importation, by fire or through marine casualty or any other cause, without fault on the part of the shipper;

(2) Merchandise recovered from a wrecked or stranded vessel;

(3) Household effects used abroad and personal effects, not imported in pursuance of a purchase or agreement for purchase and not intended for sale;

(4) Articles sent by persons in foreign countries as gifts to persons in the United States;

(5) Tools of trade of a person arriving in the United States;

(6) Personal effects of citizens of the United States who have died in a foreign country; and

(7) Any of the following articles, which are deemed in accordance with section 498(a)(10), Tariff Act of 1930, as amended (19 U.S.C. 1498(a)(10)), to be articles the value of which cannot be declared:

(i) Articles which are secondhand;

(ii) Articles which have become deteriorated or damaged before importation otherwise than as specified in subparagraph (1) of this paragraph;

(iii) Articles which are not the subject of a commercial transaction; and

(iv) So-called overages or dock accumulations which cannot be identified with any particular shipment.

(b) *With Commissioner's approval.* Entry by appraisement for merchandise not provided for in paragraph (a) of this section shall be allowed only with the approval of the Commissioner of Customs. Each request for such approval shall be filed in triplicate with the district director and shall state in detail the reasons for the request for entry by appraisement.

(c) *Merchandise not eligible.* An application for an entry by appraisement

shall not be approved after the merchandise has been appraised or released from Customs custody, nor for damaged merchandise when the damage occurs after importation.

§ 143.12 Form of entry.

Application for an entry by appraisement shall be made in triplicate on Customs Form 7500.

§ 143.13 Documents to be presented with entry.

The importer shall in all cases present:

(a) Any bills or statements of cost relating to the merchandise which may be in his possession; and

(b) A declaration that he has no other information as to the value of the articles and is unable to obtain such information or to determine the value of the articles for the purpose of making formal entry thereof.

§ 143.14 Payment of additional expenses.

Any additional expense for cartage, storage, or labor occasioned by reason of an entry by appraisement shall be borne by the importer.

§ 143.15 Deposit of estimated duties and taxes.

Estimated duties shall be deposited in accordance with subpart G of Part 141 of this chapter before the merchandise is released from Customs custody.

§ 143.16 Substitution of warehouse entry.

The importer may substitute an entry for warehouse at any time within 1 year from the date of importation, provided the merchandise has remained in continuous Customs custody.

Subpart C—Informal Entry

§ 143.21 Merchandise eligible for informal entry.

The following types of merchandise are among those which may be entered under informal entry:

(a) Shipments of merchandise not exceeding $250 in value;

(b) Any installment, not exceeding $250 in value, of a shipment arriving at different times, as described in § 141.82 of this chapter;

(c) A portion of one consignment, when such portion does not exceed $250 in value and may be entered separately pursuant to § 141.51 of this chapter;

(d) Household or personal effects or tools of trade entitled to free entry under schedule 8, part 2A, Tariff Schedules of the United States (19 U.S.C. 1202);

(e) Household effects used abroad and personal effects whether or not entitled to free entry, not imported in pursuance of a purchase or agreement for purchase and not intended for sale;

(f) Household and personal effects described in paragraph (e) of this section when entered under item 806.20, Tariff Schedules of the United States (19 U.S.C. 1202), and the value of the repairs and alterations thereto does not exceed $250;

(g) Personal effects not exceeding $250 in value of citizens of the United States who have died abroad; and

(h) Books and other articles classifiable under item 270.25, 273.10, 273.35, 765.03, 850.10, Tariff Schedules of the United States (19 U.S.C. 1202), imported by a library or other institutions described in item 850.10 or 851.10, Tariff Schedules of the United States (19 U.S.C. 1202).

§ 143.22 Formal entry may be required.

The district director may require a formal consumption or appraisement entry for any merchandise if he deems it necessary for the protection of the revenue. Individual shipments for the same consignee, when such shipments are valued at $250 or less, may be consolidated on one such entry.

§ 143.23 Form of entry.

Merchandise to be entered informally shall be entered on a Customs Form 5119–A, except for the following types of merchandise which may be entered on the forms indicated:

(a) Articles in passengers' baggage which may be cleared on a baggage declaration in accordance with subpart B of Part 148 of this chapter;

(b) Products of the United States being returned for which clearance on Customs Form 3311 is prescribed by § 10.1 of this chapter;

(c) Personal effects and tools of trade for which clearance on Customs Form 3299 is prescribed by § 148.6 of this chapter; and

(d) Shipments not exceeding $250 in value which are either (1) unconditionally free of duty and not subject to any quota or internal revenue tax, or (2) conditionally free and all conditions for free entry are met at the time of entry, which may be released upon the filing by the importer on Customs Form 7523, in duplicate, supported by evidence of the right to make entry.

(e) Merchandise for which informal entry can be made on a different form as prescribed elsewhere in this chapter.

§ 143.24 Preparation of Customs Form 5119–A.

The nonserially-numbered Customs Form 5119–A may be prepared by importers or their agents or by Customs officers when it can be presented to a Customs cashier or acting cashier for payment of duties and taxes and for numbering of the entry before the merchandise is examined by a Customs officer. Where there is no Customs cashier or acting cashier, serially-numbered forms must be used, and they shall be prepared by a Customs officer unless such forms can be prepared under his control by the importers or their agents for immediate use in clearing merchandise under the informal entry procedure. The conditions for the preparation of nonserially-numbered Customs Form 5119–A by importers or their agents, as described in the first sentence of this section, do not apply to the acceptance of these entries for shipments not exceeding $250 in value released under a special permit for immediate delivery in accordance with Part 142 of this chapter.

§ 143.25 Information on entry form.

Each Customs Form 5119–A shall contain an adequate description of the merchandise and the item number of the Tariff Schedules of the United States (19 U.S.C. 1202), under which the merchandise is classified.

§ 143.26 Additional copy for Internal Revenue.

An additional copy of the Customs Form 5119–A, marked or stamped "For Internal Revenue Purposes," shall be prepared for each entry covering cigars, cigarettes, or cigarette papers, or tubes when the entry of those articles is subject to Part 275 of the regulations of the Internal Revenue Service (26 CFR Part 275), and tax is payable to Customs upon release of such articles. The separate statement for tax purposes required by 26 CFR 275.81 shall be made on the entry form. However, no extra copy or statement is required for cigars or cigarettes imported solely for the personal consumption of the importer or for disposition as his bona fide gift.

§ 143.27 Invoices.

No special Customs invoice is required for merchandise entered informally but, in the case of merchandise imported pursuant to a purchase or agreement to purchase or intended for sale, the importer shall produce the commercial invoice covering the transaction or, in the absence thereof, an itemized statement of value.

§ 143.28 Deposit of duties and release of merchandise.

The estimated duties and taxes, if any, shall be deposited at the time the entry is presented and accepted by a Customs officer, whether at the customhouse or elsewhere. If upon examination of the merchandise further duties or taxes are found due, they shall be deposited before release of the merchandise by Customs. When the entry is presented elsewhere than where the merchandise is to be examined, the permit copy shall be delivered through proper channels to the Customs officer who will examine the merchandise.

PART 144—WAREHOUSE AND REWAREHOUSE ENTRIES AND WITHDRAWALS

Sec.

144.0 Scope.

Subpart A—General Provisions

144.1 Merchandise eligible for warehousing.
144.2 Liability of importers and sureties.
144.3 Allowance for damage.
144.4 Allowance for abandoned, destroyed, or exported merchandise.
144.5 Period of warehousing.
144.6 Extension of warehousing period.
144.7 Disposition of merchandise after expiration of warehousing period.

Subpart B—Requirements and Procedures for Warehouse Entry

Subpart C—Transfer of Right to Withdraw Merchandise from Warehouse

Subpart D—Withdrawals from Warehouse

Subpart E—Rewarehouse Entries

AUTHORITY: R.S. 251, as amended, secs. 484, 557, 559, 624, 46 Stat. 722, as amended, 744, as amended, 759; 19 U.S.C. 66, 1484, 1557, 1559, 1624. Additional authority and statutes interpreted or applied are cited in the text or following the sections affected.

§ 144.0 Scope.

This part contains regulations pertaining to the entry and withdrawal of merchandise under the provisions of section 557, Tariff Act of 1930, as amended (19 U.S.C. 1557), which among other things provides that articles subject to duty may be entered for warehousing and deposited in a bonded warehouse at the expense and risk of the owner, importer, or consignee, and withdrawn from warehouse for consumption upon payment of duties and charges. The requirements and procedures set forth in this part are in addition to the general requirements and procedures for all entries set forth in Part 141 of this chapter. Regulations pertaining to manipulation in warehouse, manufacturing warehouses, and smelting and refining warehouses are set forth in Part 19 of this chapter.

Subpart A—General Provisions

§ 144.1 Merchandise eligible for warehousing.

(a) *Types of merchandise.* Any merchandise may be entered for warehousing except for perishable merchandise, explosive substances (other than firecrackers), and unconditionally free merchandise. Dangerous and highly flammable merchandise, though not classified as explosive, shall not be entered for warehouse without the written consent of the insurance company insuring the warehouse in which the merchandise is to be stored.

(b) *Conditionally free merchandise.* Conditionally free merchandise, for which the right to free entry has not been established because of the absence of required documents or other cause, may be entered for warehouse and be withdrawn under the appropriate provision of law within the warehousing period.

(c) *Merchandise previously entered.* If merchandise has been entered under other than a warehouse entry and has remained in continuous Customs custody, a warehouse entry may be substituted for the previous entry. If estimated duties were deposited with the superseded previous entry, that entry shall be liquidated for refund of the estimated duties without awaiting liquidation of the warehouse entry. All copies of the warehouse entry shall bear the following notation: This entry is in substitution of _____ entry No. _____, dated _____.

§ 144.2 Liability of importers and sureties.

The importer of merchandise entered for warehouse is liable for the payment of all unpaid duties not only as principal on the entry bond, but also by reason of his personal liability as consignee. Under the conditions of the warehouse entry bond, the sureties on the bond shall be held liable for the payment of duties and Customs charges not paid by the principal on the bond, whether such duties and charges are finally ascertained before the merchandise is withdrawn from Customs custody or thereafter. Liability may be transferred in part along with the right to withdraw the merchandise, in accordance with subpart C of this part.

§ 144.3 Allowance for damage.

No abatement or allowance of duties shall be made on account of damage, loss, or deterioration of the merchandise while in warehouse, except as provided for by law (see Part 158 of this chapter).

(Sec. 563, 46 Stat. 746, as amended; 19 U.S.C. 1563)

§ 144.4 Allowance for abandoned, destroyed, or exported merchandise.

Allowance in duties shall be made for merchandise in warehouse which is abandoned or destroyed in accordance with § 158.43 of this chapter or exported in accordance with § 144.37.

§ 144.5 Period of warehousing.

Merchandise may not remain in a bonded warehouse beyond 3 years from the date of importation unless the 3-year period is extended in accordance with § 144.6.

§ 144.6 Extension of warehousing period.

(a) *Extensions of 1 year each.* Pursuant to the authority contained in Proclamation No. 2948, issued by the President on October 12, 1951 (16 F.R. 10589; T.D. 52896), the initial 3-year period for warehousing prescribed in sections 557 and 559, Tariff Act of 1930, as amended (19 U.S.C. 1557 and 1559), shall be extended for successive periods of 1 year each upon compliance with paragraph (b) of this section. If the application is submitted after expiration of the 3-year period or the latest extension thereof, the new extension shall be retroactive to the expiration of the previous period. An extension shall not be granted if the merchandise has been disposed of by the Government as abandoned.

(b) *Documents required for extension.* The following documents shall be presented to the district director each time an extension is requested:

(1) The written application of the importer for extension.

(2) A statement of the proprietor of the warehouse in which the merchandise is stored consenting to the extension, or certifying that all charges or amounts due or owing to the proprietor for storage or handling of the merchandise concerned up to the date of the beginning of the requested period of extension have been paid. A statement shall not be required if the principal on the agreement or new bond submitted in accordance with subparagraph (3) of this paragraph is the proprietor of the warehouse in which the merchandise is stored.

(3) The agreement of the principal and the sureties on the entry bond to remain bound under the terms and conditions of that bond, in the form set forth in paragraph (c) of this section. In the case of merchandise covered by a warehouse entry bond on Customs Form 7555, the principal on the bond may furnish in lieu of such agreement a new bond on Customs Form 7555, but with the words "3 years" appearing in conditions (1) and (2) of the form changed to read "4 years" or "5 years" and so forth, as the case may require.

(c) *Form for extension of bond.*

(1) *Warehouse entry bond.* In the case of merchandise covered by a warehouse entry bond on Customs Form 7555, the agreement to extension of the bond required under paragraph (b)(3) of this section shall be in the following form:

EXTENSION OF WAREHOUSE ENTRY BOND

Whereas, in Treasury Decision No. 52896, of December 28, 1951, issued pursuant to authority contained in the President's Proclamation No. 2948, dated October 12, 1951, the 3-year warehousing period for imported merchandise prescribed in sections 557 and 559 Tariff Act of 1930, as amended, was extended for 1 year and further extended for additional periods of 1 year each from and after the expiration of the immediately preceding extension, provided, among other things, that in each case the principal on the entry bond shall furnish the agreement of the sureties on the bond to remain bound under the terms and conditions of the bond to the same extent as if no extension has been granted, and

Whereas, the warehouse entry bond described below was furnished in connection with the warehouse entry indicated, and it is now desired to extend the liability under such bond for a period of 1 year from the date of maturity of the bond: [1]

[1] Here insert the word "as extended" if a previous extension has been allowed.

Port of _____, bond No. _____ dated _____, warehouse entry No _____, description of merchandise _____, date of importation _____;

Now, therefore, this is to certify that _____, principal and _____, and _____, sureties, on the warehouse entry bond referred to above, hereby stipulate and agree that their liability under said bond [1] shall continue unchanged and in full force and effect to the same extent as if no extension had been granted for a period of 1 year from the date of maturity of the bond.[1]

Witness our hands and seals this _____ day of _____, 19__.

Signed, sealed, and delivered in the presence of—

_____
(Name) (Address)
_____ (SEAL)
(Principal)

_____
(Name) (Address)
By _____
(Name and official title)

_____
(Name) (Address)
_____ (SEAL)
(Surety)

_____
(Name) (Address)
By _____
(Name and official title)

_____
(Name) (Address)
_____ (SEAL)
(Surety)

_____
(Name) (Address)
By _____
(Name and official title)

(2) *General term bond or blanket smelting and refining bond.* In the case of merchandise covered by a general term bond on Customs Form 7595, or a blanket smelting and refining bond in the form prescribed in Treasury Decision 50267, as modified by Treasury Decision 52403, the agreement to extension of the bond required under paragraph (b)(3) of this section shall be in the following form, in a sufficient number of copies to permit the filing of one copy at each of the ports where the entries involved were filed:

EXTENSION OF GENERAL TERM BOND FOR ENTRY OF MERCHANDISE [1]

Whereas, in Treasury Decision No. 52896, of December 28, 1951, issued pursuant to authority contained in the President's Proclamation No. 2948, dated October 12, 1951, the 3-year warehousing period for imported merchandise prescribed in sections 557 and 559, Tariff Act of 1930, as amended, was extended for 1 year and further extended for additional periods of 1 year each from and after the expiration of the immediately preceding extension, provided, among other things, that in each case the principal on the entry bond shall furnish the agreement of the sureties on the bond to remain bound under the terms and conditions of the bond to the same extent as if no extension has been granted, and

Whereas, the bond described below was furnished by _____ (name of principal on bond) and accepted by the Government of the United States to cover, among other things, the entry of imported merchandise for warehouse or rewarehouse at the port(s) of _____, during the period beginning on _____, 19__, and ending on _____, 19__; [2]

General Term Bond for Entry of Merchandise [1] in the sum of _____, executed by _____, as principal, and _____ and _____, as sureties, under date of _____, 19__, and approved by the Bureau of Customs under date of _____, 19__; and

Whereas, certain imported merchandise was entered for warehouse or rewarehouse at the ports and under the entries indicated below and such entries were charged against the bond described above:

Name of port	*Entry No.*	*Date of entry*
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

and

Whereas, _____ (name of principal on the bond) desires, as to such merchandise, to obtain an extension of the period during which it may remain in warehouse for 1 year from and after the expiration of the 3-year period prescribed in sections 557 and 559, Tariff Act of 1930, as amended, or to obtain a further extension for an additional period of 1 year from and after the expiration of any immediately preceding extension which may have been granted, and to continue the liability therefor under the bond for such 3-year period and to extend the liability under the bond to cover such extension or further extension of 1 year.

Now, therefore, this is to certify that _____, principal, and _____ and _____, sureties, on the bond described above, hereby stipulate and agree that, in consideration of the granting of an extension or further extension of 1 year of the 3-year period during which the merchandise may remain in warehouse, their liability under the bond as to such merchandise shall cover such 1-year extension or further extension, together with the original 3-year period.

Witness our hands and seals this _____ day of _____, 19__.

Signed, sealed, and delivered in the presence of—

_____
(Name) (Address)
_____ (SEAL)
(Principal)

_____
(Name) (Address)
By _____
(Name and official title)

_____
(Name) (Address)
_____ (SEAL)
(Surety)

_____
(Name) (Address)
By _____
(Name and official title)

_____
(Name) (Address)
_____ (SEAL)
(Surety)

_____
(Name) (Address)
By _____
(Name and official title)

(Sec. 318, 46 Stat. 696; 19 U.S.C. 1318)

§ 144.7 Disposition of merchandise after expiration of warehousing period.

Merchandise remaining in a bonded warehouse after the expiration of the warehousing period, including any extensions granted under § 144.6, shall be disposed of in accordance with § 20.3 of this chapter.

Subpart B—Requirements and Procedures for Warehouse Entry

§ 144.11 Form of entry.

(a) *CF 7502.* Entry for warehouse shall be executed in duplicate on Customs Form 7502. The district director may require an extra copy or copies of Customs Form 7502–A (Warehouse or Rewarehouse Permit) for use in connection with the delivery of the merchandise to the bonded warehouse.

(b) *Designation of warehouse.* The importer shall designate upon the entry the bonded warehouse in which he desires his merchandise deposited and the bonded cartman or lighterman by whom he wishes the goods transferred.

(c) *Specification list.* When packages which are not uniform in contents, quantities, values, or rates of duties are grouped together as one item on an entry, a specification list (original only) shall be furnished with the entry, showing separately opposite the marks or numbers of each package the quantity of each class of merchandise therein, the entered value of each class, and the rates of duty claimed for each. However, a specification list is not needed if one withdrawal is to be filed for all the merchandise covered by the entry.

§ 144.12 Estimated duties.

The entry shall show the value, classification, and rates of duty as approved by the district director at the time of entry. However, no deposit of estimated duties shall be required until the merchandise is withdrawn for consumption.

§ 144.13 Bond.

A bond on Customs Forms 7555, 7595, or other appropriate form shall be required for each warehouse entry.

(Sec. 623, 46 Stat. 759, as amended; 19 U.S.C. 1623)

§ 144.14 Removal to warehouse.

When the warehouse entry and bond have been filed, the merchandise shall be sent to the bonded warehouse, except for:

(a) Merchandise for which an immediate dock withdrawal is filed, or

(b) Packages designated for examination elsewhere than at the warehouse, which shall be sent to the warehouse after examination.

[1] Substitute the words "Blanket Smelting and Refining Bond" if the merchandise was charged against such a bond.

[2] If the merchandise was charged against a Blanket Smelting and Refining Bond, delete the words "during the period beginning on _____, 19__, and ending on _____, 19__," and substitute therefor the words "on and after _____, 19__."

§ 144.15 Entry and withdrawal from Customs bonded warehouses of distilled spirits for diplomatic personnel, foreign military personnel, and other such personages.

(a) *Distilled spirits entered in warehouse under section 5066(a), Internal Revenue Code.*—(1) *General rule.* Except as otherwise provided in this section, distilled spirits entered into Customs bonded warehouse in accordance with section 5066(a), Internal Revenue Code, as amended (26 U.S.C. 5066(a)), shall be treated in the same manner as any other merchandise entered for warehouse.

(2) *Withdrawal from warehouse for domestic consumption.* Distilled spirits entered in warehouse under this paragraph may be withdrawn from warehouse for domestic consumption under section 5066(c), Internal Revenue Code, as amended (26 U.S.C. 5066(c)). In this case, the distilled spirits shall be subject to duty as American goods exported and returned under item 804.20, Tariff Schedules of the United States (19 U.S.C. 1202).

(3) *Modification of the warehouse entry bond.* The recital clause of the warehouse entry bond, Customs Form 7555, shall be modified to show that the distilled spirits were entered in accordance with section 5066(a), Internal Revenue Code, as amended (26 U.S.C. 5066(a)). The following new condition shall be added to the warehouse entry bond, Customs Form 7555, or to the general term bond, Customs Form 7595, prior to its approval: "And if said articles shall be withdrawn in accordance with the provisions of section 5066(b) or (c) of the Internal Revenue Code, as amended (26 U.S.C. 5066(b) or (c)), or in default thereof, if the obligors shall pay to the district director as liquidated damages an amount equal to the aggregate sum of double the duties assessable on such part of the shipment as shall not have been so withdrawn, plus the amount of any internal revenue tax assessable thereon."

(b) *Distilled spirits transferred from a manufacturing warehouse to a storage warehouse under section 5521 of the Internal Revenue Code*—(1) *Prohibition on withdrawal from warehouse for domestic consumption.* Domestic distilled spirits which have been transferred from a Customs bonded manufacturing warehouse, Class 6, to a Customs bonded storage warehouse, Class 2 or 3, in accordance with section 5521 of the Internal Revenue Code, as amended (26 U.S.C. 5521), and section 311, Tariff Act of 1930, as amended (19 U.S.C. 1311), may not be withdrawn under section 5066(c) of the Internal Revenue Code, as amended (26 U.S.C. 5066(c)), for domestic consumption.

(2) *Procedure governing transfer of distilled spirits from manufacturing warehouse to storage warehouse.* For procedure concerning the transfer of such distilled spirits from Customs bonded manufacturing warehouse, Class 6, to Customs bonded storage warehouse, see § 19.15(g)(2) of this chapter.

Subpart C—Transfer of Right To Withdraw Merchandise From Warehouse

§ 144.21 Conditions for transfer.

Under the provisions of section 557(b) Tariff Act of 1930, as amended (19 U.S.C. 1557(b)), the right to withdraw all or part of merchandise entered for warehouse may be transferred by appropriate endorsement on the withdrawal form, provided that the transferee files an appropriate bond. Upon the deposit of the endorsed form, properly executed, and the transferee's bond with the Customs officer designated to receive such form and bond, the transferor and his sureties shall be relieved from all undischarged liability for the payment of Customs duties and taxes, charges, and exactions with respect to the merchandise transferred, but shall remain bound by all other obligations of their bond which are not assumed in the bond filed by the transferee.

§ 144.22 Endorsement of transfer on withdrawal form.

Transfer of the right to withdraw merchandise entered for warehouse shall be established by an appropriate endorsement on the withdrawal form by the person primarily liable for payment of duties before the transfer is completed, i.e., the person who made the warehouse or rewarehouse entry or a transferee of the withdrawal right of such person. Endorsement shall be made on whichever of the following withdrawal forms is applicable:

(a) Customs Form 7506 for merchandise to be withdrawn as vessel or aircraft supplies and equipment under § 10.60(b) of this chapter;

(b) Customs Form 7512 for merchandise to be withdrawn for transportation in accordance with § 144.36; or

(c) Customs Form 7505 for all other merchandise.

§ 144.23 Endorsement in blank.

If the transferor wishes to do so, he may endorse the withdrawal form to authorize the right to withdraw the merchandise specified thereon but leave the space for the name of the transferee blank. A holder of a withdrawal form so endorsed and otherwise fully executed may insert his own name in the blank space, deposit such form and his transferee's bond with the Customs officer designated to receive such form and bond, and thereby establish his right to withdraw the merchandise.

§ 144.24 Transferee's bond.

A transferee's bond shall be on Customs Forms 7555, 7595, or other appropriate form, and shall include an obligation to pay, with respect to the merchandise the subject of the transfer, all unpaid regular, increased, and additional duties, all unpaid taxes imposed upon or by reason of importation, and all unpaid charges and exactions.

§ 144.25 Deposit of forms.

Either the transferor or the transferee may deposit the endorsed withdrawal form and transferee's bond with the Customs officer designated to receive such form and bond.

§ 144.26 Further transfer.

The right of a transferee to withdraw the merchandise may not be revoked by the transferor but may be retransferred by the transferee.

§ 144.27 Withdrawal from warehouse by transferee.

At any time within the warehousing period, a transferee who has established his right to withdraw merchandise may withdraw all or part of the merchandise covered by the transfer by filing any authorized kind of withdrawal from warehouse in accordance with subpart D of this part.

§ 144.28 Protest by transferee.

(a) *Entries on or after January 12, 1971.* A transferee of merchandise entered for warehouse on or after January 12, 1971, shall have the right to file a protest under section 514, Tariff Act of 1930, as amended (19 U.S.C. 1514), to the same extent that such right would have been available to the transferor.

(b) *Entries prior to January 12, 1971.* A transferee of merchandise entered for warehouse prior to January 12, 1971, shall have no right to file a protest, except under the conditions set forth in section 557(b), Tariff Act of 1930, as amended (19 U.S.C. 1557(b)), prior to the amendments made thereto by Public Law 91-685, effective January 12, 1971 (T. D. 71-55).

Subpart D—Withdrawals from Warehouse

§ 144.31 Right to withdraw.

Withdrawals from bonded warehouse may be made only by the person primarily liable for the payment of duties on the merchandise being withdrawn, i.e., the importer of record on the warehouse entry, the actual owner if an actual owner's declaration and superseding bond have been filed in accordance with § 141.20 of this chapter, or the transferee if the right to withdraw the merchandise has been transferred in accordance with subpart C of this part. No new declaration of the consignee or agent is required.

§ 144.32 Statement of quantity.

(a) *On each withdrawal.* Each withdrawal filed shall have indicated thereon, preferably in the lower part of the left-hand margin if there is no space designated on the form for such information, a summary statement of the account to which it is related. The statement shall indicate: (1) The quantity (i.e., the number of outer containers, or tons, etc.) in the warehouse account before the withdrawal; (2) the quantity being withdrawn; and (3) the quantity remaining in warehouse after the withdrawal. The

quantity in each instance may be shown as a cumulative total even though it may include a group of varied units such as boxes, cases, or cartons, and may consist of more than one commodity, such as distilled spirits, chinaware, etc.

(b) *Transferred merchandise.* When all or a portion of an original lot has been transferred to a new owner in accordance with subpart C of this part, each withdrawal by the transferee shall show only the quantity on hand in the transferee's name before the withdrawal, the quantity being withdrawn by the transferee, and the transferred quantity remaining in the warehouse after the withdrawal. The quantity retained by the original importer and the quantity transferred shall be treated as separate accounts.

§ 144.33 Minimum quantities to be withdrawn.

Unless by special authority of the Commissioner of Customs, merchandise shall not be withdrawn from bonded warehouse in quantities less than an entire bale, cask, box, or other package, or, if in bulk, in quantities less than 1 ton in weight or the entire quantity imported, whichever is smaller.

(Sec. 562, 46 Stat. 745, as amended; 19 U.S.C. 1562)

§ 144.34 Transfer to another warehouse.

(a) *At the same port.* With the concurrence of the proprietors of the delivering and receiving warehouses, merchandise may be transferred from one bonded warehouse to another at the same port under Customs supervision and at the expense of the importer upon his written request to the district director, who shall issue an order for such transfer on Customs Form 6043. All charges shall be paid before merchandise is transferred from a warehouse of class 1 (see § 19.1 of this chapter for classes of warehouses).

(b) *At another port.* Merchandise may be transferred to a warehouse which is under the jurisdiction of another port by withdrawing the merchandise for transportation in accordance with § 144.36 and entering it for rewarehouse in accordance with § 144.41 upon arrival at destination. All charges shall be paid before merchandise is transferred from a warehouse of class 1 (see § 19.1 of this chapter for classes of warehouses).

§ 144.35 Withdrawal of vessel and aircraft supplies and equipment.

Supplies and equipment for vessels and aircraft may be withdrawn from warehouse under the procedures set forth in this subpart and in §§ 10.59 through 10.65 of this chapter.

§ 144.36 Withdrawal for transportation.

(a) *Time limit.* Merchandise may be withdrawn from warehouse for transportation to another port of entry if withdrawal for consumption or exportation can be accomplished at the port of destination before the expiration of the warehousing period, including any lawful extension thereof.

(b) *Physical deposit in warehouse not needed.* All or any part of the merchandise covered by a warehouse entry may be withdrawn for transportation without deposit in a bonded warehouse and may be permitted to remain on the vessel or other vehicle or on the pier in a constructive warehouse status pending examination. When any such merchandise not deposited in a warehouse is not forwarded under the withdrawal for transportation on account of damage or other cause, the importer shall be required to withdraw such merchandise immediately for consumption or exportation, or designate a warehouse to which it may be sent and, upon his failure to do so, it shall be treated as unclaimed.

(c) *Form.* A withdrawal for transportation shall be filed on Customs Form 7512 in five copies, accompanied by Customs Form 7512–C in duplicate. An extra copy or copies of the Customs Form 7512 may be required for use in connection with the delivery of the merchandise to the bonded carrier and, in the case of alcoholic beverages, two extra copies shall be required for use in furnishing the duty statement to the district director at destination.

(d) *Information required.* In addition to the statement of quantity required by § 144.32, the Customs Form 7512 shall show the following information for the merchandise being withdrawn:

(1) The original warehouse entry number, date of entry, and port at which filed. When the withdrawal is made from a rewarehouse entry, the rewarehouse entry number, date, and port at which filed shall also be shown;

(2) The name of the consignee at the port of destination;

(3) Any ascertained weight, gage, or measure;

(4) The entered value of the merchandise; and

(5) The estimated duty.

(e) *Duty on samples withdrawn.* The duty on any samples withdrawn at the original port from a shipment covered by a withdrawal for transportation shall be collected at such port and a notation thereof made on the withdrawal form. No separate invoice or extract from the original invoice shall be required to cover such samples.

(f) *Forwarding procedure.* The merchandise shall be forwarded in accordance with the general provisions for transportation in bond (§§ 18.1–18.8 of this chapter).

(g) *Procedure at destination.* Upon arrival at destination, the merchandise may be:

(1) Entered for rewarehouse in accordance with § 144.41;

(2) Entered for combined rewarehouse and withdrawal for consumption in accordance with section 144.42;

(3) Exported in accordance with paragraph (h) of this section; or

(4) Forwarded to another port or returned to the port of origin in accordance with § 18.5 (c) or (d) of this chapter.

(h) *Exportation.* A consignee of merchandise withdrawn for transportation who desires to export the merchandise upon arrival at destination shall so advise the district director at destination in writing. The district director shall then permit the exportation of the merchandise under Customs supervision in the same manner as a withdrawal for indirect exportation under § 144.37.

§ 144.37 Withdrawal for exportation.

(a) *Form.* A withdrawal for either direct or indirect exportation shall be filed on Customs Form 7512 in five copies, or on Customs Form 7506 in three copies for merchandise being exported under cover of a TIR carnet, accompanied by Customs Form 7512–C in duplicate. The district director may require an extra copy or copies of Customs Form 7512 or 7506 for use in connection with the delivery of the merchandise to the carrier.

(b) *Procedure for indirect exportation.*

(1) *Forwarding.* Merchandise withdrawn for indirect exportation (transportation and exportation) shall be forwarded to the port of exportation in accordance with the general provisions for transportation in bond (§§ 18.1–18.8 of this chapter).

(2) *Splitting of shipments.* If any part of a shipment is not exported or if a shipment is divided at the port of exportation, extracts in duplicate from the manifest on file in the customhouse shall be made on Customs Form 7512 for each portion, one copy to be sent to the discharging inspector and the other to the lading inspector to be used as report of exportation. The splitting up for exportation of shipments arriving under warehouse withdrawals for indirect exportation shall be permitted only when various portions of a shipment are destined to different destinations, when the export vessel cannot properly accommodate the entire quantity, or in other similar circumstances. In the case of merchandise moving under cover of a TIR carnet, if the merchandise is not to be exported or if the shipment is to be divided, appropriate entry shall be required and the carnet discharged. The provisions of §§ 18.23 and 18.24 of this chapter concerning change of destination or retention of merchandise on the dock shall also be followed in applicable cases.

(3) *Conversion to withdrawal for consumption.* A withdrawal for indirect exportation may be converted to a withdrawal for consumption upon request to the district director at the port where the withdrawal for indirect exportation was made.

(c) *Exportation by mail.* Merchandise may be withdrawn from warehouse for exportation by mail in accordance with the provisions of Subpart F of Part 145 of this chapter.

(d) *Marks on packages.* The exportation shall be made under the original marks of importation. Port marks may be added by authority of the district director under Customs supervision. The original and port marks shall appear in all Customs papers pertaining to the exportation.

(e) *Weight, gage, or measure.* Merchandise in bulk and packaged articles

which are customarily bought and sold by weight, gage, or measure may be withdrawn for exportation or transportation only at the actual quantities ascertained at the time of the original entry for warehouse, except as otherwise provided for by law. In any case, the district director may require a special report of weight, gage, or measure of the merchandise being exported if he deems it necessary.

(f) *Merchandise not laden.* Merchandise withdrawn for exportation but not laden shall be sent to general order unless other disposition is prescribed by the district director.

(Sec. 562, 46 Stat. 745, as amended; 19 U.S.C. 1562)

§ 144.38 Withdrawal for consumption.

(a) *Form.* Withdrawals for consumption of merchandise in bonded warehouses shall be filed on Customs Form 7505 in triplicate.

(b) *Extra copy for Internal Revenue.* An additional copy of Customs Form 7505, marked or stamped "For Internal Revenue Purposes," shall be presented for each withdrawal for consumption of cigars, cigarettes, or cigarette papers or tubes, when the release from Customs custody of these articles is subject to Part 275 of the regulations of the Internal Revenue Service (26 CFR Part 275) and tax is payable to Customs.

(c) *Information to be shown on withdrawal.* Each withdrawal shall show all information for which spaces are provided on the withdrawal form, and shall also show the separate value of each package and the total dutiable value of the merchandise being withdrawn. In the case of merchandise in packages which are uniform in kind, quantity, value, and duty, the number of each package to be withdrawn need not be shown on the withdrawal if the lowest and highest numbers in the number series of such packages are shown. In the case of merchandise subject to quota, or textiles and textile products subject to levels of restraint, the description shall reflect any correction thereof reported after the filing of the warehouse entry. Additionally, on each withdrawal of cigars, cigarettes, or cigarette papers or tubes subject to internal revenue tax, the statement for tax purposes required by § 275.81 of the regulations of the Internal Revenue Service (26 CFR 275.81) shall be made on the withdrawal form.

(d) *Deposit of estimated duties.* Estimated duties on the merchandise being withdrawn shall be deposited in accordance with subpart G of Part 141 of this chapter. The district director may increase or decrease the amount of estimated duties to be deposited on the final withdrawal to bring the aggregate amount of duties deposited into balance with the amount which he estimates will be finally due upon liquidation.

(e) *Permit for release of merchandise.* When the duties and other charges have been paid, a permit on Customs Form 7505–A shall be issued and delivered to the person making the warehouse withdrawal. When the permit is presented to the Customs warehouse officer, he shall release the merchandise to or upon the order of the warehouse proprietor in accordance with § 19.6 of this chapter, unless the person making the withdrawal requests, by endorsement on the permit, that release be withheld until he presents to the Customs warehouse officer an order to release on Customs Form 7505–B, or until the expiration of the warehouse bond period (see § 20.3(c) of this chapter). If partial release is desired, the order may cover only part of the merchandise specified in the permit, but not less than an entire package or, if in bulk, 1 ton in weight. Proprietors may be permitted to make copies of permits and orders to release.

Subpart E—Rewarehouse Entries

§ 144.41 Entry for rewarehouse.

(a) *Applicability.* When merchandise which has been withdrawn from warehouse for transportation to another port has arrived at the port of destination, it may be entered for rewarehouse by the consignee named in the withdrawal.

(b) *Form of entry.* An entry for rewarehouse shall be made in duplicate on Customs Form 7502. The district director may require an extra copy or copies of Customs Form 7502–A (Warehouse or Rewarehouse Permit) for use in connection with the delivery of the merchandise to the warehouse. No declaration is required on the entry.

(c) *Combining separate shipments.* Separate shipments consigned to the same consignee and received under separate withdrawals for transportation shall not be combined in one rewarehouse entry unless the warehouse withdrawals are from the same original warehouse entry.

(d) *Bond.* A bond on Customs Form 7555 or other appropriate form shall be filed before a permit is issued on Customs Form 7502–A for sending the merchandise to the bonded warehouse. However, no entry bond shall be required if the merchandise is entered by the consignee named in the original warehouse entry bond filed at the original port of entry, or if it is entered by a transferee who has established his right to withdraw the merchandise and has filed a bond in accordance with subpart C of this part.

(e) *Value and classification.* The duties determined at the port where the original warehouse entry was filed shall be the duties chargeable under the rewarehouse entry, except in the cases provided for in §§ 159.7 (a) and (b) of this chapter, which pertain to certain classes of merchandise excluded from the liquidation of the original warehouse entry and merchandise on which rates of duty or tax are changed by an act of Congress or by a proclamation by the President.

(f) *Examination.* Any examination necessary for identification of the merchandise, determination of shortages, or other purposes shall be made.

(g) *Failure to enter.* If the merchandise is not entered before the expiration of 5 days after its arrival, it shall be sent to the general order warehouse but shall not be sold or otherwise disposed of as unclaimed until the expiration of the original warehouse entry bond period.

(h) *Protest.* A protest may be filed at the port where the rewarehouse entry is made against a liquidation made at that port under §§ 159.7 (a) or (b) of this chapter, or against a refusal of the district director of that port to liquidate pursuant to said sections. In all other cases, any protest shall be filed against the original warehouse entry.

§ 144.42 Combined entry for rewarehouse and withdrawal for consumption.

(a) *Applicability.* If the consignee of merchandise withdrawn for transportation wishes to pay duty and obtain possession of the merchandise immediately upon arrival at destination, he may make a combined entry for rewarehouse and withdrawal for consumption.

(b) *Procedure for entry.* The procedures set forth in § 144.41 are applicable to this type of entry, with the following exceptions:

(1) *Form of entry.* A combined entry for rewarehouse and withdrawal for consumption shall be made on Customs Form 7519 in four copies, one copy to be used as the permit. No declaration is required on the entry;

(2) *Extra copy for Internal Revenue.* An additional copy of Customs Form 7519, marked or stamped "For Internal Revenue Purposes," shall be presented for each entry of cigars, cigarettes, or cigarette papers or tubes, when the release from Customs custody of those articles is subject to Part 275 of the regulations of the Internal Revenue Service (26 CFR Part 275) and tax is payable to Customs; and

(3) *Deposit of duties.* Estimated Customs duties, taxes, and other charges, as set forth in subpart G of Part 141 of this chapter, shall be deposited upon presentation of the combined entry. The district director shall then issue a permit for release on Customs Form 7519.

PART 145—MAIL IMPORTATIONS

§ 145.11 [Amended]

In § 145.11, paragraph (c) is amended by substituting "141.83" for "8.15".

§ 145.12 [Amended]

In § 145.12, paragraph (a)(2) is amended by substituting "subparts B and C of Part 143, and § 10.1" for "§§ 8.50, 8.51, and 10.1"; paragraph (b)(1) is amended by substituting "subpart C of Part 143" for "§ 8.51"; and paragraph (c) is amended by substituting "141.102(d)" for "8.28(c)".

§ 145.26 [Amended]

Section 145.26 is amended by substituting "152.14" for "16.10a".

§ 145.31 [Amended]

Section 145.31 is amended by substituting "10.151" for "8.3".

§ 145.32 [Amended]

Section 145.32 is amended by substituting "10.152" for "8.3".

§ 145.71 [Amended]

In § 145.71, paragraph (c) is amended by substituting "144.37" for "8.41".

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

PART 146—FOREIGN-TRADE ZONES

§ 146.12 [Amended]

Paragraph (b) of § 146.12 is amended by substituting, in subparagraph (1)(ii), "141.11" for "8.6".

§ 146.21 [Amended]

In § 146.21, paragraph (c)(3)(ii) is amended by substituting "152.1(c)" for "14.3(b)", and paragraph (c)(3)(iii) is amended by substituting "141.90(c)" for "8.16".

§ 146.48 [Amended]

In § 146.48, paragraph (e) is amended by substituting "§§ 141.65, 141.68, and 141.69" for "§ 8.4 (d) and (g)", and paragraph (f) is amended by substituting "Part 159" for "part 16".

(R.S. 251, as amended, sec. 3, 48 Stat. 999, as amended, 77A Stat. 14, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 81c, 1202 (Gen. hdnte. 11), 1624)

PART 147—TRADE FAIRS

§ 147.13 [Amended]

Section 147.13 is amended by substituting "Part 142" for "§ 8.59".

(R.S. 251, sec. 624, 46 Stat. 759, sec. 7, 73 Stat. 19; 19 U.S.C. 66, 1624, 1756)

Chapter I of title 19, Code of Federal Regulations, is amended by adding new Parts 151 and 152, as follows:

PART 151—EXAMINATION, SAMPLING, AND TESTING OF MERCHANDISE

Sec.

AUTHORITY: R.S. 251, as amended, 77A Stat. issued under R.S. 251, as amended, 77A Stat. 14, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1202 (gen. hdnotes. 11, 12 Tariff Schedules of the United States), 1624. Subpart A also issued under sec. 499, 46 Stat. 728, as amended; 19 U.S.C. 1499. Subpart D also issued under sch. 6, pt. 1, hdnotes. 1–6, Tariff Schedules of the United States; 19 U.S.C. 1202. Subpart E also issued under sch. 3, pt. 1C, hdnote. 6, Tariff Schedules of the United States; 19 U.S.C. 1202. Subpart F also issued under sch. 3, pt. 1A, hdnote. 3, Tariff Schedules of the United States; 19 U.S.C. 1202. Additional authority and statutes interpreted or applied are cited in the text or following the sections affected.

§ 151.0 Scope.

This part sets forth general provisions governing the examination and sampling of imported merchandise, as well as specific provisions governing the examination, sampling, and testing of certain particular types of merchandise.

Subpart A—General

§ 151.1 Merchandise to be examined.

The district director shall examine such packages or quantities of merchandise as he deems necessary for the determination of duties and for other Customs purposes.

§ 151.2 Quantities to be examined.

(a) *Minimum quantities.* Not less than one package of every 10 packages of merchandise shall be examined, unless a special regulation permits a lesser number of packages to be examined. District directors are specially authorized to examine less than one package of every 10 packages, but not less than one package of every invoice, in the case of any merchandise which is:

(1) Imported in packages the contents and values of which are uniform, or

(2) Imported in packages the contents of which are identical as to character although differing as to quantity and value per package.

(b) *Nonprivileged foreign merchandise from foreign-trade zone.* When a portion of a zone lot of nonprivileged foreign merchandise covered by one invoice, the contents and value of packages of which are uniform or the merchandise is identical as to character although differing as to quantities and value per package, has been entered and packages or quantities have been examined, the district director may, if he considers further examination unnecessary, permit subsequent entries for consumption from such zone lot of merchandise to be made by the same importer at the same port of entry on the basis of the first examination. Each subsequent portion of such a zone lot of merchandise shall identify the first consumption entry made by the importer of a portion of the lot.

(c) *Additional quantities.* Paragraphs (a) and (b) of this section shall not be construed to prevent the district director from examining more than the minimum number of packages required if he deems it necessary.

§ 151.3 Disclosure of examination packages.

Information as to the particular packages which will be examined shall not be made available to the importer, his agent, or any person other than Customs officers necessarily concerned, until the merchandise has arrived within the limits of the port of entry.

§ 151.4 Time of examination.

Imported merchandise shall not be opened, examined, or inspected until it has been entered under some form of entry for consumption or warehouse, except in the following cases:

(a) *Official Government examination and sampling.* Authorized employees of the Customs Service, Food and Drug Administration, Animal and Plant Health Inspection Service, Public Health Service, or other Government agency may for official purposes examine or take samples of merchandise for which entry has not been filed, including merchandise being released under a special permit for immediate delivery.

(b) *Perishable merchandise, benzenoid chemicals, and merchandise received without an invoice.* An application by the importer to examine merchandise, whether or not covered by an entry for transportation in bond or for exportation, may be granted by the district director, under the conditions listed in § 151.5, in the following cases:

(1) Examination of perishable merchandise is desired solely to determine its condition. This is not limited to a single examination, and there is no objection to incidental display to prospective buyers during the examination.

(2) The importer desires to sample benzenoid chemicals or products in accordance with § 152.35 of this chapter prior to making an entry for consumption or warehouse.

(3) The importer has been unable to obtain the required documents or information to make the necessary entry, and examination of the merchandise is required to obtain information for the preparation of a pro forma invoice to be used in making entry.

(c) *Examination of merchandise entered for transportation under bond or for exportation.* (1) *Examination, sampling, weighing or emergency operation.* As a bona fide incident to exportation or further transportation, the importer of merchandise entered or withdrawn for transportation under bond or for exportation may, upon written application to the district director supported by a valid business reason for the request, be permitted to examine, sample, weigh, or subject his merchandise to an operation required by reason of an emergency, provided that any operation performed on the merchandise does not constitute a manufacture, and that § 151.5 is complied with. For conditions governing transshipment and emergency access to the shipment by the carrier, see § 18.3 of this chapter.

(2) *Nonemergency operation.* In cases not involving an emergency, an operation not constituting a manufacture may be permitted under the conditions listed in subparagraph (1) of this paragraph if neither the protection of the revenue nor the proper conduct of Customs business requires that the operation be done in a Customs bonded warehouse, provided that the importer's written application for such operation is approved by both the district director and the Commissioner of Customs.

§ 151.5 Conditions for examination prior to entry.

Examination, sampling, weighing, or operation upon merchandise at the importer's request prior to entry for consumption or warehouse, as provided for in § 151.4 (b) and (c), shall be subject to the following conditions:

(a) The operation permitted shall be executed under Customs supervision;

(b) If the merchandise is in possession or joint possession of a carrier or container station operator, the concurrence of such carrier or operator shall be obtained; and

(c) The Government shall be reimbursed for the compensation, computed in accordance with § 19.5(b) of this chapter, and other expenses of the Customs officer or employee supervising the action permitted.

§ 151.6 Place of examination.

Inflammable, explosive, or dangerous merchandise, or any other merchandise which cannot be examined conveniently at the public stores shall be examined at the place of arrival, the importer's premises, or other suitable place. All other merchandise shall be examined at the public stores, unless examination at a place other than the public stores is approved in accordance with § 151.7.

§ 151.7 Importer's request for examination at other than public stores.

The importer may request examination at a place other than the public stores, such as at the wharf or other place of arrival or at the importer's premises. The request may be made on the entry or other appropriate document and if approved shall be subject to the following conditions:

(a) *Sealing of packages.* If examination is to be made at the importer's premises or other place not under control of a Customs officer, the district director may require the packages to be corded and sealed by a Customs officer before the packages are removed from the place of arrival. The packages shall be opened only in the presence of the Customs officer authorized to examine their contents.

(b) *Opening and closing packages.*

(1) *At place of arrival within port limits.* When the examination is to be performed at the place of arrival, such as a pier, dock, or terminal, within the port limits, the importer shall arrange with the operator of the pier, dock, terminal, or other facility for the opening and closing of examination packages, unless other arrangements satisfactory to the district director are made.

(2) *Other.* When the examination is to be performed outside the port limits, or at any place within the port limits other than at the public stores or at the place of arrival within the meaning of subparagraph (1) of this paragraph, the importer shall arrange to open and close the examination packages.

(c) *Reimbursement of expenses outside port limits.* If the place of examination is not located within the limits of a port of entry or a Customs station at which a Customs officer is permanently located, the importer shall pay any additional expense, including actual expenses of travel and subsistence but not the salary of the examining officer. However, no collection shall be made if the total amount chargeable against one importer for one day amounts to less than 50 cents. If the total amount chargeable amounts to 50 cents or more but less than $1, a minimum charge of $1 shall be made.

(d) *Bond for removal from Customs custody.* Before permitting the removal of merchandise for examination elsewhere than at the public stores, wharf, or other place in charge of a Customs officer, the district director shall require the importer to execute a bond on Customs Forms 7551, 7553, or other appropriate form, containing a condition for the return of the merchandise if demand for return is made after its release from Customs custody upon the completion of examination. The bond shall contain added conditions that:

(1) The importer shall hold the merchandise at the place to which it has been removed for examination until it has been released from Customs custody;

(2) If such merchandise has been corded and sealed, the cords and seals shall be kept intact until removed by Customs officers; and

(3) The importer shall transfer the merchandise at any time before such release to such place as the district director may require.

§ 151.8 Examination after assembly.

(a) *Application by importer.* Upon application by the importer, machinery, altars, shrines, and other articles which must be set up or assembled prior to examination may be examined at the mill, factory, or other suitable place after being assembled.

(b) *Conditions applicable.* The importer shall comply with the conditions set forth in § 151.7 (b) through (d). The district director may also require that a deposit be made of the estimated additional expense. The packages need not be corded and sealed in accordance with § 151.7(a), but the district director may make such preliminary examination as he deems necessary to identify the merchandise with the invoice.

(c) *Removal of merchandise and notification of assembly.* After the bond required by § 151.7(d) has been filed and any necessary preliminary examination has been made, the district director may permit the merchandise to be removed to the place at which it is to be assembled for examination. Within 90 days after such removal, unless an extension has been applied for and granted by the district director, the importer shall notify the district director that the merchandise has been assembled and is ready for examination, whereupon final examination shall be made.

§ 151.9 Immediate transportation entry delivered outside port limits.

When merchandise covered by an immediate transportation entry has been authorized by the district director to be

delivered to a place outside a port of entry as provided for in § 18.11(c) of this chapter, the provisions of § 151.7 shall be complied with to the same extent as if the merchandise had been delivered to the port of entry, and then authorized to be examined elsewhere than at the public stores, wharf, or other place where a Customs officer is stationed.

§ 151.10 Sampling.

When deemed necessary, the district director may obtain samples of merchandise for appraisement, classification, or other official Customs purposes. Representative samples shall be selected by an authorized Customs officer, and shall be properly marked to insure identification and retained as long as the district director shall deem necessary.

§ 151.11 Request for samples or additional examination packages after release of merchandise.

If the district director requires samples or additional examination packages of merchandise which has been released from Customs custody, he shall send the importer a written request, on Customs Form 5561 or other appropriate form, to submit the necessary samples or packages. If the request is not promptly complied with, the district director may make a demand under the appropriate bond for the return of the necessary merchandise to Customs custody in accordance with § 141.113 of this chapter.

§ 151.12 Benzenoid chemicals and products.

Additional procedures for sampling and testing of benzenoid chemicals and products are set forth in subpart D of Part 152 of this chapter.

Subpart B—Sugars, Sirups, and Molasses

§ 151.21 Definitions.

The following are general definitions for the purposes of this subpart in applying schedule 1, part 10, Tariff Schedules of the United States (19 U.S.C. 1202):

(a) *Degree.* "Degree" or "sugar degree" means the percentage of sucrose contained in the sugar as shown by direct polarimetric estimation.

(b) *Total sugars.* "Total sugars" means the sum of the sucrose, the raffinose, and the reducing sugars.

§ 151.22 Estimated duties on raw sugar.

Estimated duties shall be taken on raw sugar on the basis of not less than 96° polariscopic test unless the invoice shows that the sugar is of a lower grade than that of the ordinary commercial shipment.

§ 151.23 Allowance for moisture in raw sugar.

Inasmuch as the absorption of sea water or moisture reduces the polariscopic test of sugar, there shall be no allowance on account of increased weight of raw sugar importations due to unusual absorption of sea water or other moisture while on the voyage of importation. Any portion of the cargo claimed by the importer to have absorbed sea water or moisture on the voyage of importation shall be weighed, sampled, and tested separately. No such claim shall be considered if made after the sugar claimed to have been damaged has been weighed.

§ 151.24 Unlading facilities for bulk sugar.

When dutiable sugar is to be imported in bulk, a full description of the facilities to be used in unlading the sugar shall be submitted to the Commissioner of Customs as far as possible in advance of the date of importation, and special instructions will be issued as to the methods to be applied in weighing and sampling such sugar.

§ 151.25 Mixing classes of sugar.

No regulations relative to the weighing, taring, sampling, classifying, and testing of imported sugar shall be so construed as to permit mixing together sugar of different classes, such as centrifugal, beet, molasses, or any sugar different in character from those mentioned, for the purpose of weighing, taring, sampling, or testing.

§ 151.26 Molasses in tank cars.

When molasses is imported in tank cars, the importer shall file with the district director a certificate showing whether there is any substantial difference either in the total sugars or the character of the molasses in the different cars.

§ 151.27 Weighing and sampling done at time of unlading.

Sugar, sirup, and molasses requiring either weighing or sampling shall be weighed or sampled at the time of unlading. When such merchandise requires both weighing and sampling, these operations shall be performed simultaneously.

§ 151.28 Gaging of sirup or molasses discharged into storage tanks.

(a) *Plans of storage tank to be filed.* When sirup or molasses is imported in bulk in tank vessels and is to be pumped or discharged into storage tanks, before the discharging is permitted there shall be filed with the district director a certified copy of the plans and gage table of the storage tank showing all inlets and outlets and stating accurately the capacity in United States gallons per inch of height of the tank from an indicated starting point.

(b) *Settling before gaging.* After the discharge is completed, all inlets to the tank shall be carefully sealed and the sirup or molasses left undisturbed for a period not to exceed 20 days to allow for settling before being gaged. When a request for immediate gaging is made in writing by the importer, it shall be allowed by the district director.

§ 151.29 Expense of unlading and handling.

No expense incidental to the unlading, transporting, or handling of sugar, sirup, or molasses for convenient weighing, gaging, measuring, sampling, or marking shall be borne by the Government.

§ 151.30 Sugar closets.

Sugar closets for samples shall be substantially built and secured by locks furnished by Customs. They shall be conveniently located as near as possible to the points of discharge they are intended to serve. They shall be provided by the owner of the premises on which they are located and shall be so situated that sugar, sirup, and molasses stored therein shall not be subjected to extremes of temperature or humidity.

§ 151.31 Review of tests of sugar, sirup, and molasses.

(a) *Notification to importer.* When the test of the sugar has been determined by the Customs laboratory for an importation of sugar, sirup, or molasses, the district director shall immediately send the importer a copy of the Laboratory Report, Customs Form 6415, showing the average test of the importation and the quantity and test of each lot from which such average test is obtained.

(b) *Review of test of raw sugar.* If the importer, within 2 days, exclusive of Saturdays, Sundays, and holidays, after notification of a test on raw sugar has been sent to him, claims an error in the test so reported, he may request a review of the average test, submitting such evidence that may be in his possession to support his claim. Settlement tests of the sugar in question together with any other information required by the district director shall be furnished by the importer. The district director shall arrive at a final determination based upon a review of the information available. In no instance shall a request for review be granted when the difference between the Customs average test and the settlement test of raw sugar is less than 0.4° S.

(c) *Review and retest of sirup or molasses.* If the importer claims an error in the test of sirup or molasses, the review procedures set forth in paragraph (b) of this section shall be followed. If the information in the district director's possession indicates a strong probability of an error, and the difference between the Customs test and the settlement test is not less than 2 percent total sugars, a retest shall be granted. The district director shall arrive at a final determination based upon a review of the information submitted and the retest.

Subpart C—Petroleum and Petroleum Products

§ 151.41 Information on entry.

On entry for petroleum or a petroleum product in bulk, the importer shall show the API gravity at 60° Fahrenheit and the group to which the product belongs, in accordance with the Petroleum Measurement Tables (American Edition), published by the American Society for Testing Materials (1952). The abridged table (Table No. 7) shall be used in the reduction of volume to 60° F. If the exact quantity cannot be determined in advance, entry may be made

for "_____ U.S. gallons, more or less." The information required by this section shall also be shown on the permit and summary sheet.

§ 151.42 Controls on unlading and gaging.

Each district director shall establish for his district controls and checks on the unlading and shore tank gaging of petroleum and petroleum products imported by vessel. Depending on local conditions, the district director may employ any of the following methods of control:

(a) Complete and continuous supervision by a Customs officer when other methods are not considered adequate, or when the importer requests continuous supervision;

(b) Use of reports of licensed public gagers approved by the Commissioner of Customs in accordance with § 151.43;

(c) Use of positive displacement meters at installations where provided by the importer;

(d) Use of turbine-type meters at installations where provided by the importer;

(e) Sealing of all valves when practical; and

(f) Taking of vessel ullages before and after the discharge.

§ 151.43 Licensed public gagers.

(a) *Acceptance of quantity reports.* Subject to such controls and checks as may be deemed necessary, the district director may accept the reports of quantities of imported petroleum and petroleum products made by licensed public gagers who have been approved for Customs purposes by the Commissioner of Customs in accordance with this section.

(b) *Application.* Any licensed public gager desiring approval shall submit an application, which may be in the form of a letter, to the Commissioner of Customs, Washington, D.C. 20229. The application shall contain or be accompanied by the following items:

(1) A statement of the applicant's qualifications in detail, his principal place of business, and the Customs district(s) for which approval is requested.

(2) A written agreement to avoid conflict-of-interest situations and comply with operating requirements prescribed by Customs, reading substantially as follows:

As one of the conditions for the approval of this application, I undertake and agree to have no financial interest in or other connection (except for acceptance of the usual fees for gaging services) with any business or other activity which might be considered to affect the unbiased performance of my duties as a public gager for Customs purposes in accordance with the standards and procedures approved by the Commissioner of Customs. I further agree to comply with the operating requirements set forth in § 151.43 (e), Customs Regulations (19 CFR 151.43 (e)), and with any procedures prescribed by the district director of Customs pursuant to § 151.43(f) thereof.

(3) A bond in the amount of $10,000 to insure that the gaging will be in conformance with the approved standards and procedures, and with such procedures as may be prescribed by the district director pursuant to paragraph (f) of this section. The form of the required bond will be available from any district director.

(c) *Investigation of applicant.* The Commissioner shall direct the Office of Investigations to make such investigation as he deems necessary to determine the applicant's fitness and reputation, and to verify the correctness of the statements made in the application.

(d) *Notice of approval, disapproval, or revocation.* When the investigation is completed, the applicant will be advised of the approval of his application, or, if disapproved, of the reasons for such action. An approval may be revoked by the Commissioner of Customs for failure to comply with any of the provisions of this section. Notice of approvals or revocations of approval will be published from time to time in the weekly Customs Bulletin.

(e) *Requirements for operations.* To be approved for Customs purposes, a licensed public gager's operations shall conform to the following requirements:

(1) All measuring and testing devices in use shall be maintained in first-class condition. Each device shall be calibrated before the first use, and checked at regular intervals thereafter, against standards whose accuracy is traceable to standards issued by the National Bureau of Standards. In making calibrations and checks, the applicable methods of the American Society for Testing and Materials or the American Petroleum Institute shall be used;

(2) All gaging, testing, and sampling procedures shall be in conformance with published industry standards, such as those of the American Petroleum Institute or the American Society for Testing and Materials, and shall conform to such specific procedures as may be required by the district director in accordance with paragraph (f) of this section;

(3) All gagers who are authorized to sign gaging reports shall have a minimum of 6 months on-the-job training and experience; and

(4) The licensed public gager shall promptly investigate any apparent irregularities, procedural difficulties, or indications of systematic bias called to his attention by the district director and shall immediately take corrective measures, where indicated.

(f) *Procedures prescribed by district director.* The district director is authorized to prescribe general or specific procedures to be followed by each approved licensed public gager at each of the discharging facilities in the district.

§ 151.44 Storage tanks.

(a) *Plans and gage tables.* When petroleum or petroleum products subject to duty at a specific rate per gallon are imported in bulk in tank vessels and are to be transferred into shore storage tanks, both the plans of each shore tank showing all outlets and inlets and the gage table for each tank showing its capacity in U.S. gallons per inch or fraction of an inch of height shall be certified as correct by the proprietor of the tank. One set of these plans and gage tables so certified shall be kept on file at the plant of the oil company and shall be available at all times to Customs officers. Another certified set of the shore tank plans and gage tables shall be filed with the district director for use in verifying the Customs officers' reports. The district director may require such additional sets of shore tank plans, including subsidiary pipeline plans, and gage tables as he may deem necessary.

(b) *Tags required on valves.* The inlet and outlet valves of each tank shall have tags of a permanent type affixed thereto by the proprietor or lessee indicating the use of the valves.

(c) *Verification of gage tables.* Whenever practicable, the district director may require the measurements and calibrations as shown on the gage tables to be verified by a Customs officer.

§ 151.45 Storage tanks bonded as warehouses.

(a) *Application.* Tanks for the storage of imported petroleum or petroleum products in bulk may be bonded as warehouses of class 2 if to be used exclusively for the storage of petroleum or petroleum products belonging or consigned to the owner or lessee of the tank. In addition to the documents and bonds required to be filed with the application to bond (see § 19.2 of this chapter), the certified plans and gage tables required by § 151.43 shall be filed.

(b) *Removal of nonbonded petroleum.* If a bonded tank is not empty at the time the first importation of bonded petroleum or petroleum products is to be stored therein, the amount of nonbonded petroleum or petroleum products in the tank shall be withdrawn by the proprietor as soon as possible. The request to withdraw shall be in the form of a letter and no formal withdrawal need be filed. Domestic or duty-paid petroleum or petroleum products shall not thereafter be stored in the tank as long as the tank remains bonded.

(c) *Information on warehouse withdrawal.* Warehouse withdrawals of petroleum or petroleum products from bonded tanks shall show the information specified in § 151.41, as well as the designation of the tank from which the merchandise is to be withdrawn. Such withdrawals may be made for "_____ U.S. gallons, more or less."

§ 151.46 Allowance for excessive water and sediment.

Allowance for excessive moisture or other impurities in imported petroleum or petroleum products shall be made in accordance with § 158.13 of this chapter for the quantity of water and sediment established to be in excess of that usually found in such merchandise. In the case of importations of the following merchandise, allowance shall be made only for water and sediment in excess of the quantities shown:

Merchandise	Quantity	Treasury decision
	Percent	
Crude petroleum	0.3	70-88
Heavy distillate fuel oils 18/22° A.P.I.	0.5	50481(6)
Diesel and gas oils 22/30° A.P.I.	0.3	50481(6)
Diesel and gas oils above 30° A.P.I.	0.0	50481(6)
Gasoline, kerosene, and heating oil above 30° A.P.I.	0.0	50481(6)

(Sec. 507, 46 Stat. 732; 19 U.S.C. 1507)

§ 151.47 Entered quantities of crude petroleum released under immediate delivery.

(a) *Optional entry of net quantity.* As an alternative to entering the total quantity of crude petroleum released under the immediate delivery procedures in Part 142 of this chapter, the importer may file entry for the net quantity of crude petroleum landed. The net quantity shall be determined by deducting the quantity of sediment and water present in excess of 0.3 percent, as reported in a laboratory test made by an independent commercial laboratory which has been approved by the Commissioner of Customs. The commercial laboratory report shall be filed with the entry.

(b) *Approval of independent commercial laboratories.* Applications of independent commercial laboratories for approval of the use of their tests in determining the net landed quantity of crude petroleum shall be sent to the Commissioner of Customs, Washington, D.C. 20229. For the purposes of this section, the approval of a licensed public gager by the Commissioner of Customs in accordance with § 151.43 shall constitute approval of the commercial laboratories operated by the licensed public gager as a part of the services rendered by him for his customers.

(c) *Use of Customs laboratory tests for liquidation.* Where there is a difference between the quantity reported by the Customs laboratory and the quantity reported by the approved independent commercial laboratory, the results of the Customs laboratory test shall be used in the liquidation of the entry and in determining the quantity chargeable against the importer's oil import license, unless the difference is within the limits set forth in paragraph (d) of this section.

(d) *Use of commercial laboratory tests for liquidation.* The quantity reported by the approved independent commercial laboratory shall be used in the liquidation of the entry and in determining the quantity chargeable against the importer's oil import license if the difference between the commercial laboratory test and the Customs laboratory test do not exceed the differences set forth in the following table (adapted from ASTM Designation D1796, Fig. 3):

Percentage of water and sediment found by Customs laboratory	*Maximum percentage difference allowable*
0.05 to 0.50	0.1
0.51 to 1.50	0.2
More than 1.50	0.3

(Sec. 507, 46 Stat. 732; 19 U.S.C. 1507)

Subpart D—Metal-Bearing Ores and Other Metal-Bearing Materials

§ 151.51 Sampling requirements.

(a) *General.* Except as provided in paragraph (b) of this section, when metal-bearing ores and other metal-bearing materials which are classifiable under schedule 6, part 1, Tariff Schedules of the United States (19 U.S.C. 1202), are entered for consumption or warehousing at the port of first arrival, they shall be sampled for assay and moisture purposes in accordance with § 151.52. If proper facilities for weighing or sampling are not available at the port of entry, the merchandise shall be transported under bond to the place of sampling. The sampling or weighing of metal-bearing ores or materials at any place other than the port of entry shall be at the expense of the parties in interest.

(b) *Ores of low metal content.* When, on the basis of invoice information, the nature of any available sample, knowledge of prior importations of similar materials, and other data, the district director is satisfied that metal-bearing ores entered under item 601.66, Tariff Schedules of the United States (19 U.S.C. 1202), as containing less than 1 percent of metals dutiable under items 602.10, 602.20, 602.28, or 602.30, Tariff Schedules of the United States (19 U.S.C. 1202), are properly entered, he may liquidate the entry on the basis of the assay information contained in the entry papers. However, the sampling and testing procedures prescribed in §§ 151.52 and 151.54 shall be followed at random intervals for verification purposes.

§ 151.52 Sampling procedures.

(a) *Commercial samples taken under Customs supervision.* Representative commercial moisture and assay samples shall be taken under Customs supervision for testing by the Customs laboratory. The samples used for the moisture test shall be representative of the shipment at the time the shipment is weighed for Customs purposes. When a shipment is made up of a number of lots a composite sample of the shipment shall be drawn for assay, providing composite sampling is feasible and assays of the individual lots are not required for tariff classification or other Customs purposes. The composite sample shall consist of proportional parts by weight of the prepared sample drawn from the various lots represented and shall be thoroughly mixed.

(b) *Commercial samples furnished by importer.* When commercial samples cannot be taken under Customs supervision, the importer shall be required to furnish a verified commercial moisture sample and prepared assay sample certified to be representative of the shipment at the time the shipment was weighed for Customs purposes. The samples shall be in appropriate containers, properly labeled, and shall be accompanied by a statement including:

(1) Entry number,

(2) Lots represented,

(3) Kind of ore or material,

(4) Date and place where sampling occurred, and

(5) The name and address of the sampling concern.

(c) *Samples taken by Customs.* Where no commercial samples have been taken, the district director shall take representative samples from different parts of the shipment.

§ 151.53 Sample lockers.

A suitable place or container shall be provided for the safekeeping of all Customs samples under Customs lock or seal.

§ 151.54 Testing by Customs laboratory.

Samples taken in accordance with § 151.52 shall be promptly forwarded to the appropriate Customs laboratory for testing in accordance with commercial methods. The district director may secure from the importer a certified copy of the commercial settlement tests for moisture and for assay which shall be transmitted with the commercial samples to the Customs laboratory. If the Customs tests are not in substantial agreement with the settlement tests, the chief chemist of the Customs laboratory shall review his tests. The Customs tests shall be used in determining the final duties on the merchandise, except that the settlement tests shall be used if, in the opinion of the chief chemist:

(a) The settlement and Customs tests differ by no more than is to be expected between qualified laboratories, and

(b) The use of the settlement test results will not require a different tariff classification or rate of duty than is indicated by the Customs test.

§ 151.55 Deductions for loss during processing.

Deductions for the loss of copper, lead, or zinc content during processing, as authorized by schedule 6, part 1, headnote 4, Tariff Schedules of the United States (19 U.S.C. 1202), shall be made by the district director in the liquidation of any entry only if the importer has followed the procedures set forth in that headnote. See §§ 19.17–19.25 of this chapter for procedures applicable to bonded smelting and refining warehouses.

Subpart E—Wool and Hair

§ 151.61 Definitions.

The following are general definitions for the purposes of this subpart:

(a) *Clean pound.* "Clean pound" means pound of clean yield as defined in paragraph (b) of this section.

(b) *Clean yield.* "Clean yield" means the absolute clean content (that is, all that portion of the merchandise which consists exclusively of wool or hair free of all vegetable and other foreign material, containing by weight 12 percent of moisture and 1.5 percent of material removable from the wool or hair by extraction with alcohol, and having an ash content of not over 0.5 percent by weight), less an allowance, equal by weight to 0.5 percent of the absolute clean content plus 60 percent of the

vegetable matter present, but not exceeding 15 percent by weight of the absolute clean content, for wool or hair that would ordinarily be lost during commercial cleaning operations.

(c) *Sampling unit.* "Sampling unit" means all the similar packages covered by one entry or withdrawal containing wool or hair of the same kind or same general condition and character, produced in the same country, packed in substantially the same manner, and entered as or found to be subject to the same rate of entry.

(d) *General sample.* "General sample" means the composite of the individual portions of wool or hair drawn from a sampling unit.

§ 151.62 Information on invoices.

Invoices of wool or hair subject to duty at a rate per clean pound under schedule 3, part 1C, Tariff Schedules of the United States (19 U.S.C. 1202), shall show the following detailed information in addition to other information required:

(a) Condition, that is, whether in the grease, washed, pulled, on the skin, scoured, carbonized, burr-picked, willowed, handshaken, or beaten;

(b) Whether free of vegetable matter, practically free, slightly burry, medium burry, heavy burry;

(c) Whether in the fleece, skirted, matchings, or sorted;

(d) Length, that is, whether super combing, ordinary combing, clothing, or filling;

(e) Country of origin, and, if possible, the province, section, or locality of production;

(f) If wool, the type symbol by which it is bought and sold in the country of origin and the grade of each lot covered by the invoice, specifying the standard or basis used, that is, whether U.S. Official Standards or the commercial terms to designate grade in the country of shipment; and

(g) Net weight of each lot of wool or hair covered by the invoice in the condition in which it is shipped, and the shipper's estimate of the clean yield of each lot by weight or by percentage.

(Sec. 481, 46 Stat. 719; 19 U.S.C. 1481)

§ 151.63 Information on entry.

Each entry covering wool or hair subject to duty at a rate per clean pound under schedule 3, part 1C, Tariff Schedules of the United States (19 U.S.C. 1202), shall show as to each lot of wool or hair covered thereby, in addition to other information required, the total estimated or actual net weight of the wool or hair in its condition as imported, its total estimated clean yield in pounds, and the estimated percentage clean yield.

(Sec. 484, 46 Stat. 722, as amended; 19 U.S.C. 1484)

§ 151.64 Extra copies of entry.

One copy of each entry covering wool or hair subject to duty at a rate per clean pound shall be filed in addition to the copies otherwise required.

§ 151.65 Duties.

Duties on wool or hair subject to duty at a rate per clean pound may be estimated at the time of entry on the basis of the clean yield shown on the entry if the district director is satisfied that the revenue will be properly protected. Liquidated duties shall be based upon the district director's final determination of clean yield. Estimated and liquidated duties on wool or hair tested for clean yield pursuant to the provisions of § 151.71, and withdrawn for consumption without a change in condition which affects the duties and in a quantity less than an entire sampling unit shall be determined on the basis of an appropriate adjustment of the estimated percentage clean yield shown on the entry for the wool or hair included in each of the lots covered by the withdrawal. This adjustment shall be made by increasing or decreasing such estimated percentage clean yield of each lot by the difference between the percentage clean yield of the related sampling unit, as determined by the district director, and the weighted average percentage clean yield for the sampling unit, as computed from the estimated percentages clean yield and net weights shown on the entry for the lots included in the sampling unit.

§ 151.66 Duty on samples.

Duty shall be assessed and collected on samples taken pursuant to any provision in this subpart, whether taken by the importer or by Customs, unless an exemption or remission is obtained by compliance with an applicable provision of the law or regulations. The duty shall be assessed upon the samples in accordance with their condition at the time of importation, except in the case of merchandise manipulated in warehouse pursuant to section 562, Tariff Act of 1930, as amended (19 U.S.C. 1562). The collection of duty on the samples may be postponed when the importation concerned is not entered for consumption until the withdrawal of the merchandise from which the samples are taken, or until an application for the destruction or abandonment of such merchandise has been accepted pursuant to an appropriate provision of the law or regulations.

§ 151.67 Sampling by importer.

The importer may be permitted after entry to draw samples under Customs supervision in reasonable quantities from the packages of wool or hair designated for examination, provided the bales or bags are properly repacked and repaired by him. Any samples so withdrawn shall be weighed and a record showing the quantities thereof shall be made and filed with the related entry.

§ 151.68 Merchandise to be sampled and tested by Customs.

The following shall be weighed, sampled, and tested for clean yield, unless such sampling or testing is not feasible:

(a) All importations of wool or hair subject to duty at a rate per clean pound, except importations entered directly for manipulation under the provisions of section 562, Tariff Act of 1930, as amended (19 U.S.C. 1562), or for manufacture under the provisions of section 311, Tariff Act of 1930, as amended (19 U.S.C. 1311);

(b) All imported wool or hair manipulated under the provisions of section 562, Tariff Act of 1930, as amended (19 U.S.C. 1562) and dutiable after manipulation as wool or hair at a rate per clean pound; and

(c) Such other imported wool or hair as the district director may designate.

§ 151.69 Transfer or exportation of part of sampling unit.

(a) *Transfer of right to withdraw.* When an original sampling unit has been weighed, sampled, and tested in accordance with this subpart and a part of such unit is covered by a transfer of the right to withdraw made pursuant to section 557, Tariff Act of 1930, as amended (19 U.S.C. 1557), the percentages clean yield of the part covered by the transfer and of the part not so covered shall be computed on the basis of the original Customs weights and test and the invoice data related to the respective parts.

(b) *Exportation.* When part of such an original sampling unit is exported from continuous Customs custody without having been manipulated as provided for in section 562, Tariff Act of 1930, as amended (19 U.S.C. 1562), the percentage clean yield of the part not exported shall be determined, at the discretion of the district director, either on the basis of a new determination by reweighing, resampling, and retesting, or by a computation as described in paragraph (a) of this section, for either the exported or the remaining part.

§ 151.70 Method of sampling by Customs.

A general sample shall be taken from each sampling unit, unless it is not feasible to obtain a representative general sample of the wool or hair in a sampling unit or to test such a sample in accordance with the provisions of § 151.71, in which case the clean yield of the wool or hair in such sampling unit shall be estimated as provided for in § 151.72. At the request of the importer, two general samples may be taken from a sampling unit if the taking and testing of a second general sample is feasible. If two general samples are taken, one general sample shall be held for use in making a second test for clean yield if such a test is requested in accordance with the provisions of § 151.71(c), or if a second test is found desirable by the district director or the chief chemist.

§ 151.71 Laboratory testing for clean yield.

(a) *Test and report by Customs laboratory.* The clean yield of all general samples taken in accordance with § 151.70 shall be determined by test in a Customs laboratory, unless it is found

that it is not feasible to test such a sample and obtain a proper finding of percentage clean yield. A report of the percentage clean yield of each general sample as established by the test or a statement of the reason for not testing a general sample shall be forwarded to the district director. If the report is not received by the district director within 1 month after the date of entry, the clean yield shall be estimated in accordance with § 151.72 except that in the case of wool or hair received under an entry for immediate transportation, the estimate of clean yield shall be made if the laboratory report is not received by the district director within 1 month from the date on which the last of the merchandise is received. However, the district director may withhold his finding of clean yield until the laboratory report is received and predicate his finding on that report if so requested in writing by the importer. An estimate of clean yield shall be made pursuant to the provisions of this paragraph only when an adequate quantity of the wool or hair is available for examination.

(b) *Notification to importer.* The district director shall promptly notify the importer by mail of the percentage clean yield found by him.

(c) *Importer's request for retest.* If the importer is dissatisfied with the district director's finding of clean yield, he may file with the district director a written request in duplicate for another laboratory test for percentage clean yield. Such request shall be filed within 14 calendar days after the date of mailing of the notice of the district director's finding of clean yield. The request shall be granted if it appears to the district director to be made in good faith and if a second general sample as provided for in § 151.70 is available for testing, or if all packages or, in the opinion of the Commissioner of Customs, an adequate number of the packages represented by the general sample are available and in their original imported condition.

(d) *Retest procedures.* The second test shall be made upon the second general sample, if such a sample is available. If the second general sample is not available, the packages shall be reweighed, resampled, and tested in accordance with the provisions of this section. All costs and expenses of such operations, exclusive of the compensation of Customs officers, shall be borne by the importer, who may be present during such resampling and testing.

(e) *Request for commercial test.* If the importer is dissatisfied with the results of the second laboratory test, or if a second laboratory test is not feasible, the wool or hair may be retested by a commercial laboratory in accordance with § 151.73.

§ 151.72 Estimation of clean yield by nonlaboratory method.

(a) *Estimation by Customs.* Shipments of wool or hair specified in § 151.68 which have not been tested by the Customs laboratory under the provisions of § 151.71 shall be examined by the appropriate Customs officer, who shall estimate and report the percentage clean yield of each lot.

(b) *Notification to importer.* The district director shall promptly notify the importer by mail of the percentage clean yield estimated by the appropriate Customs officer.

(c) *Importer's request for reestimation.* If the importer is dissatisfied with the estimation of clean yield, he may file with the district director a written request in duplicate for a new examination of the wool or hair and a reestimation of its percentage clean yield. Such request shall be granted if it appears to the district director to be made in good faith. The importer shall be given an opportunity to inspect those packages which are in dispute.

(d) *Request for commercial test.* If the importer is dissatisfied with the reestimation of clean yield, he may request a test by a commercial laboratory in accordance with § 151.73.

§ 151.73 Importer's request for commercial laboratory test.

(a) *Conditions for commercial test.* If the importer is dissatisfied with the results of a retest made in accordance with § 151.71(c), or a reestimation of clean yield made in accordance with § 151.72(c), he may request that a commercial test be made to determine the percentage clean yield of the wool or hair.

(b) *Time for filing request.* The importer's request shall be filed in writing with the district director within 14 calendar days after the date of mailing of the notice of the district director's findings based on the retest or reexamination.

(c) *Procedures for commercial test.* The district director shall cause a representative quantity of the wool or hair in dispute to be selected and tested by a commercial method approved by the Commissioner of Customs. The yield, as determined by such commercial test, shall be suitably adjusted to coincide with the definition of clean yield in § 151.61(b). Such test shall be made under the supervision and direction of the district director at an establishment approved by him, and the expense thereof, including the actual expense of travel and subsistence of Customs officers but not their compensation, shall be paid by the importer.

§ 151.74 Retest at district director's request.

If the district director is not satisfied with the results of any test provided for in § 151.71 or § 151.73, he may, within 14 calendar days after receiving the report of the results of such test, proceed to have another test made upon a suitable sample of the wool or hair at the expense of the Government. When the district director is proceeding to have another test made, he shall, within the 14-day period specified in this paragraph, notify the importer by mail of that fact.

§ 151.75 Final determination of clean yield.

The district director shall base his final determination of clean yield upon a consideration of all the tests and examinations made in connection with the wool or hair concerned.

§ 151.76 Grading of wool.

(a) *Examination for grade.* The district director shall cause wool dutiable at a rate per clean pound to be examined for grade. The standards for determining grades of wool shall be those which are established from time to time by the Secretary of Agriculture pursuant to law and which are in effect on the date of importation of the wool, as provided by schedule 3, part 1C, headnote 2, Tariff Schedules of the United States (19 U.S.C. 1202).

(b) *Notification to importer.* If classification of the wool at the grade or grades determined on the basis of the examination will result in the assessment of duty at a rate higher than the rate provided for wool of the grade stated in the entry, the district director shall promptly notify the importer by mail.

(c) *Importer's request for reexamination.* If the importer is dissatisfied with the district director's findings as to the grade or grades of the wool, he may, within 14 calendar days after the date of mailing of the notice of the district director's findings, file in duplicate a written request for another determination of grade or grades, stating the reason for the request. Notice of the district director's findings on the basis of the reexamination of the wool shall be mailed to the importer.

Subpart F—Cotton

§ 151.81 Definition of staple length.

For the purposes of this subpart, "staple length" means the length of the fibers in a particular quantity of cotton designated in terms expressing the measurement by the inch or fraction thereof of a representative portion of the quantity in accordance with the Official Cotton Standards of the United States for length of staple, as established by the Secretary of Agriculture.

§ 151.82 Information on invoices.

Invoices of cotton provided for in item 300.10, 300.15, or 300.20, Tariff Schedules of the United States (19 U.S.C. 1202), shall show the following detailed information in addition to other required information:

(a) One of the following statements regarding each lot of cotton covered by the invoice:

(1) This is harsh or rough cotton under ¾ inch in staple length;

(2) The staple length of this cotton is under 1⅛ inches. (This statement is not to be used if subparagraph (1) of this paragraph is applicable);

(3) The staple length of this cotton is 1⅛ inches or more and under 1⅜ inches;

(4) This cotton is harsh or rough cotton (other than cotton of perished staple, grabbots, and cotton pickings), white in color, and has a staple length of 1$\frac{15}{32}$ inches or more and under 1⅜ inches;

(5) The staple length of this cotton is 1⅜ inches or more and under 1 11/16 inches; or

(6) The staple length of this cotton is 1 11/16 inches or more.

(b) The name of the country of origin, and, if practicable, the name of the province or other subdivision of the country of origin in which the cotton was grown.

(c) The variety of the cotton, such as Karnak, Gisha, Pima, Tanguis, etc.

(Sec. 481, 46 Stat. 719; 19 U.S.C. 1481)

§ 151.83 Method of sampling.

For determining the staple length of any lot of cotton for any Customs purposes, samples of the lot shall be taken in accordance with commercial practice.

§ 151.84 Determination of staple length.

The district director shall have one or more samples of each sampled bale of cotton stapled by a qualified Customs officer, or a qualified employee of the Department of Agriculture designated by the Commissioner of Customs for the purpose, and shall promptly mail the importer a notice of the results determined.

§ 151.85 Importer's request for redetermination.

If the importer is dissatisfied with the district director's determination, he may file with the district director, within 14 calendar days after the mailing of the notice, a written request in duplicate for a redetermination of the staple length. Each such request shall include a statement of the claimed staple length for the cotton in question and a clear statement of the basis for the claim. The request shall be granted if it appears to the district director to be made in good faith. In making the redetermination of staple length, the district director may obtain an opinion of a board of cotton examiners from the U.S. Department of Agriculture, if he deems such action advisable. All expenses occasioned by any redetermination of staple length, exclusive of the compensation of Customs officers, shall be reimbursed to the Government by the importer.

Subpart G—Fruit Juices

§ 151.91 Brix values of unconcentrated natural fruit juices.

The following values have been determined to be the average Brix values of unconcentrated natural fruit juices in the trade and commerce of the United States, for the purposes of the provisions of schedule 1, part 12A, headnote 3, Tariff Schedules of the United States (19 U.S.C. 1202), and will be used in determining the dutiable quantity of imports of concentrated fruit juices, using the procedure set forth in headnote 4 of part 12A:

Kind of fruit juice	*Average Brix value (degrees)*
Apple	13.3
Apricot	14.3
Black currant	15.0
Blackberry	10.0
Black raspberry	11.1
Blueberry	14.1
Boysenberry	10.0
Carob	40.0
Cherry	14.3
Crabapple	15.4
Cranberry	10.5
Date	18.5
Dewberry	10.0
Elderberry	11.0
Fig	18.2
Gooseberry	8.3
Grape (Vitis Vinifera)	18.0
Grape (Slipskin varieties	16.0
Grapefruit	10.2
Guava	7.7
Lemon	8.9
Lime	10.0
Loganberry	10.5
Mango	17.0
Naranjilla	10.5
Orange	11.8
Papaya	10.2
Passion Fruit	15.3
Peach	11.8
Pear	15.4
Pineapple	14.3
Plum	14.3
Pomegranate	18.2
Prune	18.5
Quince	13.3
Raisin	18.5
Raspberry (Red raspberry	10.5
Red currant	10.5
Strawberry	8.0
Tamarind	55.0
Tangerine	11.5
Youngberry	10.0

Subpart H—Flat Glass

§ 151.101 Weighing of flat glass.

The net weight of flat glass dutiable on a weight basis under schedule 5, part 3B, Tariff Schedules of the United States (19 U.S.C. 1202), shall be ascertained by the district director in accordance with § 151.102 or § 151.103 whenever he is not satisfied with the accuracy of the weights shown on the invoice or packing list, and in any event from time to time on a spot-check basis.

§ 151.102 Standard method for ascertaining weight.

The standard method for ascertaining the net weight of flat glass in one case of each size and thickness shall be as follows:

(a) In cases weighing not over 500 pounds each: Weigh the entire amount of glass in the case or obtain the gross weight of the case, remove and weigh all coverings, and subtract the weight of the coverings from the gross weight.

(b) In cases weighing over 500 pounds each: Remove and weigh 20 or more sheets aggregating not less than 100 square feet; divide the weight so found by the total area of the sheets weighed to obtain the weight in pounds per square foot; and multiply this by the total area of the sheets contained in the case. If this is not practicable, caliper the edges of at least five sheets chosen from the case at random, using a micrometer caliper, if available; multiply the average thickness in inches by 13 to obtain the weight in pounds per square foot; and multiply this by the total area of the sheets contained in the case. However, the calipering method, when used for glass weighing 28 ounces or less per square foot, is subject to significant inaccuracies and its use with such glass should be avoided.

§ 151.103 Other methods for ascertaining weight.

The district director may exercise his discretion in ascertaining the net weight of flat glass by other methods, based upon the availability of Customs weighing facilities, availability of weighing facilities provided by importers, availability of personnel, and other considerations.

§ 151.104 Final net weight for duty purposes.

The net weight ascertained in accordance with § 151.102 or § 151.103 shall be used as a basis to compute duties when it varies by more than 5 percent from the invoice net weight. The invoice net weight shall be used when the ascertained net weight varies from it by 5 percent or less, or when the district director has elected in accordance with § 151.101 to accept the invoice weight without further ascertainment.

Subpart I—Cigars, Cigarillos, and Tobacco

§ 151.111 Cigars, cigarillos, and tobacco of Cuban origin.

(a) *Cigars and cigarillos.* The tobacco import specialist at the port of New York shall have general supervision of the examination of all cigars or cigarillos which may be made or derived in whole or in part of Cuban articles.

(b) *Tobacco.* The tobacco import specialist at the port of New York shall have general supervision of the examination of tobacco which may be of Cuban origin when imported at any port in Regions I, II, III, or IX. The tobacco import specialist at the port of Tampa, Fla., shall have general supervision of the examination of such tobacco entered at a port in any other region.

(Sec. 499, 46 Stat. 728, as amended; 19 U.S.C. 1499)

PART 152—CLASSIFICATION AND APPRAISEMENT OF MERCHANDISE

Sec.

Subpart C—Appraisement

Subpart D—Benzenoid Chemicals and Products

AUTHORITY: R.S. 251, as amended, secs. 402, 500, 502, 624, 46 Stat. 708, as amended, 729, as amended, 731, as amended, 759, sec. 2(a), 70 Stat. 943; 19 U.S.C. 66, 1401a, 1402, 1500, 1502, 1624. Subpart B also issued under sec. 315, 46 Stat. 695, as amended; 19 U.S.C. 1315. Subpart C also issued under sec. 503, 46 Stat. 731, as amended; 19 U.S.C. 1503. Subpart D also issued under gen. hdnote. 12, sch. 4, pt. 1, hdnotes. 4, 5, part 1C, hdnote. 6, Tariff Schedules of the United States; 19 U.S.C. 1202. Additional authority and statutes interpreted or applied are cited in the text or following the sections affected.

§ 152.0 Scope.

This part contains regulations pertaining to the tariff classification and appraisement of imported merchandise. Other applicable provisions are contained elsewhere in this chapter, such as in Part 10 for articles conditionally free or subject to a reduced rate of duty, and in Part 159 for relief from duties on articles lost, damaged, etc.

Subpart A—General Provisions

§ 152.1 Definitions.

The following are general definitions for the purposes of Part 152:

(a) *Dutiable charges.* "Dutiable charges" means such costs and expenses as are incidental to placing the merchandise in condition, packed ready for shipment to the United States, within the meaning of section 402 or 402a, Tariff Act of 1930, as amended (19 U.S.C. 1401a or 1402). Such charges must represent the actual cost and be confined solely to merchandise exported to the United States. Any expenses which enter into the value of the merchandise when sold in the ordinary course of trade for domestic consumption in the country of exportation are not charges but become a part of the value of the merchandise.

(b) *Nondutiable charges.* "Nondutiable charges" means such items of cost and expense as constitute no part of the value of the merchandise when sold in the ordinary course of trade in the country of exportation, and are no part of the expense of placing it in condition, packed ready for shipment to the United States.

(c) *Date of exportation.* "Date of exportation," or the "time of exportation" referred to in section 402 and 402a, Tariff Act of 1930, as amended (19 U.S.C. 1401a and 1402), means the actual date the merchandise finally leaves the country of exportation for the United States. If no positive evidence is at hand as to the actual date of exportation, the district director shall ascertain or estimate the date of exportation by all reasonable ways and means in his power, and in so doing may consider dates on bills of lading, invoices, and other information available to him.

§ 152.2 Notification to importer of increased duties.

If the district director believes that the entered rate or value of any merchandise is too low, or if he finds that the quantity imported exceeds the entered quantity, and the estimated aggregate of the increase in duties on that entry exceeds $15, he shall promptly notify the importer on Customs Form 5561, specifying the nature of the difference on the notice. Liquidation shall be made promptly and shall not be withheld for a period of more than 20 days from the date of mailing of such notice unless in the judgment of the district director there are compelling reasons that would warrant such action.

§ 152.3 Merchandise found not to correspond with invoice description.

When any merchandise not corresponding with the description given in the invoice is found by the examining officer, duties shall be assessed on the merchandise actually found. If the discrepancy appears conclusively to be the result of a mistake and not of any intent to defraud, no proceedings for forfeiture shall be taken. When the entire shipment does not agree with the invoice and there is no evidence of any intent to defraud, a new entry shall be required and the estimated duty paid on the original entry shall be refunded on liquidation as in the case of a nonimportation.

(Sec. 499, 46 Stat. 728, as amended; 19 U.S.C. 1499)

Subpart B—Classification

§ 152.11 Tariff Schedules of the United States.

Merchandise shall be classified in accordance with the Tariff Schedules of the United States (19 U.S.C. 1202) as interpreted by administrative and judicial rulings.

§ 152.12 Applicable rates of duty.

Rates of duty shall be based on the detailed instructions in § 141.69 of this chapter, which provides in general that the rates of duty applicable to merchandise shall be those in effect on the date of entry or withdrawal for consumption, except for certain merchandise covered by an entry for immediate transportation or overcarried and returned to the port of entry.

§ 152.13 Commingling of merchandise.

(a) *Notice to importer.* The district director shall give written notice to the importer as promptly as possible after any commingling is discovered.

(b) *Highest rate applicable.* Commingled merchandise shall be assessed with duty at the highest rate or rates applicable to any one kind of merchandise included in the commingling, unless:

(1) The quantity and value of each of the kinds so included can be readily ascertained by the usual method of Customs examination or by one or more of the methods specified in general headnote 7(a), Tariff Schedules of the United States (19 U.S.C. 1202), or

(2) The conditions specified in general headnote 7(b), (c), or (d), Tariff Schedules of the United States (19 U.S.C. 1202), are satisfied.

(c) *Time limit.* To obtain the benefit of general headnote 7(a)(iii), (b), (c), or (d), Tariff Schedules of the United States (19 U.S.C. 1202), the importer shall, within 30 days after the date of mailing or personal delivery of the notice provided for in paragraph (a) of this section, take appropriate action as follows:

(1) File with the district director evidence showing performance of the commercial settlement tests specified in general headnote 7(a)(iii), Tariff Schedules of the United States (19 U.S.C. 1202); or

(2) Perform the segregation under Customs supervision as specified in general headnote 7(b), Tariff Schedules of the United States (19 U.S.C. 1202); or

(3) File with the district director documentary proof which will satisfy him that the merchandise is entitled to the lower rate of duty under general headnote 7(c) or (d), Tariff Schedules of the United States (19 U.S.C. 1202).

(d) *Extension of time limit.* The 30-day limit for filing the evidence specified in general headnote 7(a)(iii) or for performing the segregation specified in general headnote 7(b), Tariff Schedules of the United States (19 U.S.C. 1202), may be extended by the district director for additional periods of 30 days each, but not beyond 6 months from the date of mailing or personal delivery of the notice provided for in paragraph (a) of this section, if the importer makes written application for each extension and gives satisfactory reasons for its allowance.

(Gen. hdnote. 7, Tariff Schedules of the United States; 19 U.S.C. 1202)

§ 152.14 Tariff classification of prospective imports.

(a) *Application for ruling.* Any interested party may apply in writing to the Commissioner of Customs, Washington, D.C. 20229 for a ruling as to the tariff classification of any article which he intends to import into or ship to the United States in commercial quantities. The application shall contain a full description

of each article and, whenever practicable, shall be accompanied by a sample of the article. The application shall also give the following information, unless it is clear that it will be of no value in determining the tariff classification of the article:

(1) The respective quantities and values of the component materials of which the article is composed;

(2) Information as to its chief use and commercial designation in the United States; and

(3) Any specifications, analyses, or other information deemed necessary to a tariff classification of the article.

(b) *Ruling by Commissioner.* The Commissioner shall rule on the tariff classification of the article if he is satisfied that:

(1) The application is made in good faith by an interested party who is properly and directly concerned with the tariff classification of the article described;

(2) The information submitted or otherwise available is adequate for a considered decision; and

(3) The ruling applied for is not already covered by a controlling published decision.

(c) *Notice and publication.* A copy of the Commissioner's decision shall be mailed to the applicant. The decision shall be published in the weekly Customs Bulletin if it will affect a substantial volume of imports or if it is for any other reason of sufficient importance to justify such publication.

(d) *Change of previous ruling.* Any decision published pursuant to paragraph (c) of this section shall be deemed to constitute a uniform and established practice within the meaning of section 315(d), Tariff Act of 1930, as amended (19 U.S.C. 1315(d)). The decision shall not be changed by a further ruling of the Commissioner to impose a higher rate of duty on such an article unless the prior decision shall prove to be clearly wrong. When it appears to the Commissioner that a correct interpretation of the law may require such a ruling, the procedure and time limits set forth in § 152.15 shall apply.

§ 152.15 Administrative changes in classification.

The following procedures apply to changes in classification, other than changes required by court decisions as set forth in § 152.16 or by acts of Congress or Presidential proclamations as set forth in § 152.17:

(a) *Higher rate with change of practice.* If there is a uniform and established practice, an administrative change in classification resulting in a higher rate of duty shall be made only in accordance with the following procedure:

(1) *Notice to public required.* Notice will be published in the FEDERAL REGISTER when the Commissioner is considering a change in practice that will result in a higher rate of duty. The notice shall state a period of time within which parties in interest may submit written comments with respect to the correctness of the contemplated action. If after the consideration of such comments as may be received the Commissioner issues a ruling resulting in a higher rate of duty, it shall be published in the weekly Customs Bulletin.

(2) *Effective date of change.* A ruling issued under subparagraph (1) of this paragraph which will impose a higher rate of duty shall be applicable only to merchandise entered or withdrawn for consumption after 90 days from the date of publication of the ruling in the Customs Bulletin.

(3) *Not applicable to antidumping duties.* The procedures set forth in this paragraph shall not be applicable to antidumping duties (see Part 153 of this chapter).

(b) *Higher rate without change of practice.* If there is not an established and uniform practice at the various ports, an administrative change in classification resulting in a higher rate of duty shall be applicable immediately to all merchandise covered by unliquidated entries, whether for consumption or warehouse.

(c) *Lower rate.* An administrative change in classification resulting in a lower rate of duty shall be made only upon the Commissioner's instructions or upon the receipt of a Customs Information Exchange report showing the higher classification to be clearly erroneous and contrary to the current practice. A change to a lower rate of duty, when decided upon, shall be applicable to all unliquidated entries and to all protested entries involving the same issue which have not been denied in whole or in part.

§ 152.16 Judicial changes in classification.

The following procedures apply to changes in classification made by decision of either the U.S. Customs Court or the U.S. Court of Customs and Patent Appeals:

(a) *Identical merchandise under decision favorable to Government.* The principles of any court decision favorable to the Government shall be applied to all merchandise identical with that passed on by the court which is covered by unliquidated entries, whether for consumption or warehouse.

(b) *Similar merchandise under decision favorable to Government.* The principles of any court decision favorable to the Government shall be applied to merchandise, though not identical with the merchandise the subject of the court's decision, if its classification is affected by such principles, provided that it has been entered or withdrawn for consumption after 30 days from the date of publication of the court's decision in the Customs Bulletin.

(c) *Higher rate.* If a court decision overruling a protest contains a definite statement that a higher rate than that assessed by the district director was properly chargeable, such higher rate shall be applied to all merchandise, whether identical or similar to that passed on by the court, which is affected by the principles of the court's decision and which is entered or withdrawn for consumption after 30 days from the date of the publication of the court's decision in the Customs Bulletin.

(d) *American manufacturer's petition upheld.* If the court upholds a petition made by an American manufacturer, producer, or wholesaler under the provisions of section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516), the principles of the court's decision shall be applicable to all merchandise of that character which is entered or withdrawn for consumption after the date of publication of the court's decision in the Customs Bulletin. The liquidation of entries covering merchandise of that character made after publication of the court's decision shall be suspended in accordance with § 159.57 of this chapter pending any rehearing or review, then liquidated, or, if necessary, reliquidated in accordance with the final judicial decision.

(e) *Other decisions adverse to Government.* Unless the Commissioner of Customs otherwise directs, the principles of any court decision adverse to the Government (except for a decision upholding an American manufacturer's petition as covered in paragraph (d) of this section) shall be applied to unliquidated entries and protected entries which have not been denied in whole or in part and in which the same issue is involved as soon as the time within which an application for a rehearing or review may be filed has expired without such application having been made. See § 176.31 of this chapter for the treatment of entries which are the subject of a court decision.

§ 152.17 Changes in classification by Congress or by Presidential Proclamation.

When a rate of Customs duty or internal revenue tax imposed upon or by reason of importation is changed by an act of Congress or by a proclamation of the President, the new rate shall be applied in accordance with the detailed instructions in § 141.69 of this chapter, which provides in general that the rates of duty applicable to merchandise shall be those in effect on the date of entry or withdrawal for consumption, except for certain merchandise covered by an entry for immediate transportation or overcarried and returned to the port of entry.

Subpart C—Appraisement

§ 152.21 Basis of appraisement.

(a) *Merchandise not on final list.* In the case of merchandise which is not specified in the final list (T.D. 54521) published pursuant to section 6(a) of the Customs Simplification Act of 1956, the value for appraisement purposes shall be determined in accordance with section 402, Tariff Act of 1930, as amended (19 U.S.C. 1401a).

(b) *Merchandise on final list.* In the case of merchandise which is specified in the final list (T.D. 54521), the value for appraisement purposes shall be determined in accordance with section 402a, Tariff Act of 1930, as redesignated and amended (19 U.S.C. 1402).

(c) *Merchandise on final list in terms of value.* In the case of merchandise which is described on the final list in terms of unit value, the unit value shall be computed in accordance with section 402a, Tariff Act of 1930, as amended, for the purpose of ascertaining whether the merchandise is included on the list. If the value so computed brings the merchandise within the scope of the final list, such merchandise shall be appraised in accordance with section 402a and classified at the rate applicable to such appraised value. If the value so computed places the merchandise outside the scope of the final list, the merchandise shall be appraised in accordance with section 402, Tariff Act of 1930, as amended, and shall be classified at the rate applicable to that appraised value.

§ 152.22 Determination of dutiable charges.

The district director shall determine the amount of any dutiable charges, as defined in § 152.1(a), which are to be included in the appraised value of the merchandise.

§ 152.23 Merchandise imported from intermediate countries.

Merchandise imported from one country, being the growth, production, or manufacture of another country, shall for value purposes (see sections 402, 402a, Tariff Act of 1930, as amended; 19 U.S.C. 1401a, 1402) be treated as an exportation of the country from which it is immediately imported. However, if it appears by the invoice, bill of lading, or other evidence that the merchandise was destined for the United States at the time of original shipment, it shall be treated as an exportation of the country from which it was originally exported. The term "country" is to be regarded for the purposes of this section as embracing all the possessions of a nation, however widely separated, which are subject to the same supreme executive and legislative authority and control.

§ 152.24 American selling price.

(a) *Only for certain merchandise.* American selling price, as defined in section 402 or 402a, Tariff Act of 1930, as amended (19 U.S.C. 1401a or 1402), is not an alternative method of determining value, but is used only when appraisement under American selling price is specified by statute, or by a Presidential proclamation issued under the authority of section 336, Tariff Act of 1930, as amended (19 U.S.C. 1336). At present, the following classes of merchandise are appraised at the American selling price:

(1) Benzenoid chemicals and products provided for in schedule 4, part 1, Tariff Schedules of the United States (19 U.S.C. 1202). (See subpart D of this part.)

(2) Clams in airtight containers provided for in item 114.05, Tariff Schedules of the United States (see schedule 1, part 3E, headnote 1, Tariff Schedules of the United States) (19 U.S.C. 1202).

(3) Certain types of footwear provided for in item 700.60, Tariff Schedules of the United States (see schedule 7, part 1C, headnote 3b, Tariff Schedules of the United States) (19 U.S.C. 1202).

(4) Knit wool gloves and mittens valued at not over $1.75 per dozen pairs provided for in item 704.55, Tariff Schedules of the United States (see schedule 7, part 1C, headnote 4, Tariff Schedules of the United States) (19 U.S.C. 1202).

(b) *Alternative value if no American selling price.* If no American selling price can be found for benzenoid chemicals and products, appraisement shall be made on the basis of the U.S. value in accordance with schedule 4, part 1, headnote 1, Tariff Schedules of the United States (19 U.S.C. 1202) (see § 152.31). If no American selling price can be found for the other merchandise listed in paragraphs (a) (2) through (4) of this section, appraisement shall be made in accordance with section 402(a) or 402a(a), Tariff Act of 1930, as amended (19 U.S.C. 1401a(a) or 1402(a)).

§ 152.25 Conversion of foreign currency.

When foreign currency must be converted for purposes of appraisement, the instructions in subpart C of Part 159 of this chapter shall be followed.

§ 152.26 Furnishing value information to importer.

The district director shall furnish to importers the latest information as to values in his possession, subject to the following conditions:

(a) *Before appraisement.* Value information shall be given before appraisement only in response to a specific oral or written request by the importer, supported by an adequate reason for the request, or where required by Customs purposes, such as in determining proper estimated duties to be deposited or notification of increased duties in accordance with § 152.2.

(b) *Only for merchandise under district director's jurisdiction.* The information shall be given only in regard to merchandise to be appraised by, or under the jurisdiction of, the district director who receives the request, and only with respect to merchandise for which there is presented evidence of a firm commitment or intent to import such merchandise into the United States.

(c) *Information by importer.* Each request shall be accompanied by the latest information as to the values in question which the importer has or can reasonably obtain.

(d) *Information not binding.* Value information shall be given by the district director only with an understanding and agreement in each case that the information is in no sense an appraisement and is not binding upon the district director's action when he appraises the merchandise.

(e) *No reply required after entry.* The district director shall not be required to reply to a written request for value information after a value for the merchandise has been declared on entry unless he has information indicating a probable appraised value different from such entered value.

Subpart D—Benzenoid Chemicals and Products

§ 152.31 Basis of appraisement.

(a) *American selling price.* Benzenoid chemicals and products which are provided for in schedule 4, part 1, Tariff Schedules of the United States (19 U.S.C. 1202), and which are subject to an ad valorem rate of duty shall be appraised at the American selling price, as defined in section 402 or 402a, Tariff Act of 1930, as amended (19 U.S.C. 1401a or 1402), of any similar competitive article manufactured or produced in the United States.

(b) *U.S. value.* If there is no similar competitive article manufactured or produced in the United States, such merchandise shall be appraised at the U.S. value, as defined in said section 402 or 402a.

(c) *Other.* If there is no similar competitive article produced or manufactured in the United States, and no U.S. value can be ascertained, the merchandise shall be appraised in accordance with section 402(a) or 402a(a), Tariff Act of 1930, as amended (19 U.S.C. 1401a(a) or 1402(a)).

§ 152.32 Unreasonable price not to be used as American selling price.

When the district director is satisfied after investigation that a similar competitive domestic article is offered for sale at an arbitrary and unreasonable price not intended to secure bona fide sales and which does not secure bona fide sales, such price shall not be considered as the American selling price, and the district director shall use all reasonable ways and means to ascertain the price that the manufacturer, producer, or owner would have received, within the meaning of section 402(e) or 402a(g), Tariff Act of 1930, as amended (19 U.S.C. 1401a(e) or 1402(g)).

§ 152.33 Allowances under U.S. value.

Where U.S. value is the basis of appraisement, the allowances permitted under section 402a(e), Tariff Act of 1930, as amended (19 U.S.C. 1402(e)), shall be made on the basis of the factors enumerated therein which actually entered into the price at which such or similar merchandise was being sold in the principal market of the United States at the time of exportation, subject to the limitations as to profits, general expenses, or commission. The allowances permitted under section 402(c), Tariff Act of 1930, as amended (19 U.S.C. 1401a(c)), shall be made on the basis of the factors enumerated therein which usually entered into the price at which imported merchandise of the same class or kind was being sold in the principal market of the United States at the time of exportation.

§ 152.34 Value information to importer.

Importers may be furnished information as to the American selling price or

U.S. value of benzenoid chemicals and products in accordance with the provisions of § 152.26.

§ 152.35 Sampling by importer prior to entry.

Subject to the conditions of § 151.5 of this chapter, prior to entry an importer shall be permitted to take samples under proper supervision from his own importation of merchandise dutiable under schedule 4, part 1, Tariff Schedules of the United States (19 U.S.C. 1202).

§ 152.36 Testing conditions.

Tests which are necessary in the appraisement of a benzenoid chemical or product shall be made under conditions approximating as closely as practicable the conditions in which such chemical or product will be actually used in trade or manufacture.

§ 152.37 Lists of competitive and noncompetitive articles.

The Regional Commissioner at New York shall from time to time issue lists of benzenoid chemicals and products which he believes to be competitive and noncompetitive within the contemplation of schedule 4, part 1, headnotes 4 and 5, Tariff Schedules of the United States (19 U.S.C. 1202), and shall add articles thereto or remove articles therefrom as investigation may justify. This list is advisory only and in no manner relieves district directors from the duty of independent appraisement required by law. The Regional Commissioner at New York shall furnish copies of such lists and amendments thereof to the Customs Information Exchange for circulation to Customs officers, and to the public upon request.

§ 152.38 Importer's request for additions to lists.

An importer having an invoice of an article not listed on either the competitive or the noncompetitive list may request the Regional Commissioner at New York to ascertain on which list the article belongs. The importer shall furnish the regional commissioner such relevant information as may be requested, and may withhold formal entry pending the addition of the article to either list. The regional commissioner shall add the articles to the appropriate list and notify the importer of the action taken.

§ 152.39 Two or more competitive articles.

When two or more domestic articles are considered similar to and competitive with an imported article, the American selling price of the domestic article which accomplishes results most nearly equal to those of the imported article shall be taken as the basis for appraisement.

§ 152.40 Adjustment for strength.

When an imported article is of different strength from a similar competitive article manufactured or produced in the United States, the value of the imported article shall be adjusted in relation to the selling price of the domestic article in the proportion which the strength of the imported article bears to that of the domestic article.

§ 152.41 Publication of standards of strength for benzenoid colors, dyes, stains, and related products.

Standards of strength for benzenoid colors, dyes, stains, and related products adopted by the Secretary of the Treasury in accordance with schedule 4, part 1C, headnote 6(a), Tariff Schedules of the United States (19 U.S.C. 1202), shall be published in the FEDERAL REGISTER and in the Customs Bulletin. Such standards heretofore adopted and published under the authority of paragraph 28, Tariff Act of 1922, or paragraph 28, Tariff Act of 1930, shall continue in force until changed or revoked. The following Treasury Decisions contain standards of strength to which U.S. Standard numbers have been assigned and which have been adopted by the Secretary of the Treasury:

39765	40623	42420	48814
40192	40653	42687	49137
40257	40922	42942	49353
40278	40947	43255	49671
40293	41017	43704	49790
40298	41061	44231	50001
40329	41089	44924	50094
40340	41139	45319	50199
40361	41162	45756	50333
40371	41224	46012	50431
40396	41313	46487	50556
40420	41380	46793	50691
40450	41513	47186	50806
40472	41656	47544	55432
40525	41756	47836	
40563	41932	48361	
40596	42147	48541	

§ 152.42 Samples of domestic benzenoid colors, dyes, stains, and related products.

(a) *Receipt by Chief Chemist in New York.* The Chief Chemist, Customs Laboratory, 201 Varick Street, New York, NY 10014, is hereby authorized to receive from domestic manufacturers samples of any benzenoid colors, dyes, stains, and related products which they produce and offer. Each sample so received shall be accompanied by specifications setting forth all the information called for in Schedule A (see paragraph (c) of this section). The sample and specifications shall be examined and appropriately filed by the chief chemist. Samples and specifications shall be removed from, replaced, or added to the file as may be necessary. The Chief Chemist shall inform the Regional Commissioner at New York of those products removed from or added to the file.

(b) *Circulation of lists.* Based on the information received from the Chief Chemist, the Regional Commissioner at New York shall from time to time prepare a list identifying each such product by the invoice name and, if different, the trade name as described in items Nos. 1 and 2 of Schedule A. The color index number, item No. 8 of Schedule A, shall appear in the list opposite the name of the product. These lists, which are advisory only, shall be furnished to the Customs Information Exchange for circularization to Customs officers, and to the public upon request. Other information in respect to the specifications shall be treated as exempt from disclosure to the public in accordance with § 103.7(d) of this chapter.

(c) *Schedule A specifications.* Each sample submitted in accordance with paragraph (a) of this section shall be accompanied by specifications setting forth all the information called for by Schedule A below. It is essential that the specifications accompanying the sample be set forth in the order and manner specified because the information will be used for comparison with similar data required on importations of foreign benzenoid products:

SCHEDULE A—BENZENOID COLORS, DYES, STAINS, AND RELATED PRODUCTS

1. Invoice name of product.....
2. Trade name of product.....
3. Name of manufacturer.....
4. List other U.S. manufacturers and names under which sold, if known.....
5. List foreign manufacturers and names under which sold, if known.....
6. Percentage of active ingredient.....
7. Schultz number (if none, so state).....
8. Colour index number (if none, so state).....
9. U.S. standard number (if none, so state).....
10. Foreign prototype number (if none or unknown, so state).....
11. Method of application (state whether acid, basic, direct, direct and developed, mordant, mordant acid, neutral, oil, oil and spirit, printing spirit soluble, vat (soluble), vat (insoluble), or other (describe); and state nature of pre-treatment or after-treatment, if any).....
12. Material to which applied (name the material or materials for which the color or dye is primarily designed):

A. Fibrous materials:

(1) Natural: Cotton; silk; wool; hemp; flax (linen); Jute; Ramie; straw and grass; sisal; other animal vegetable fibers.

(2) Synthetic (including regenerated and modified cellulose): Acetate Celanese, Acele, Koda); Rayon-Cuprammonium (Bamberg, Matesa); Viscose (Avisco, Delray); Polyamide (Nylon, Perlon); Acrylic (Dynel, Acrilan, Orlon); vinylidene chloride (Saran, Velon); polyethylene (Wynene, Reevon); polyester (Darcon, Terylene); Protein (Azlon, Lanital, Aralac); Glass; other.

B. Nonfibrous materials: Plastics; leather; paper; cellophane; photographic sensitizers, desensitizers, light filters and tinting film; foodstuffs; biological materials; solutions, analytical; oils, fats, and waxes; soap; gasoline; paints, lacquers, stains, and inks; smoke (signals); aluminum; earthenware; other.

13. Chemical classification: Acridine; aminoketone; anthraquinone; azine; axo, mono-; azo, dis-; azo, tris-; azo, tetrakis-; azo, poly-; azo, metal complex; azo, pigment; azoic; color acid; color base; color lake; cyanine; esters of leuco indigoid; esters of leuco thioindigoid; esters of leuco anthraquinone; fluorescent; hydroxyketone; indamine; indigoid; indoaniline; indophenol; indoxyl; indoxyl compound; ketol; ketonimine; lactone; leuco compound; methane, diphenylnaphthyl-; methane, triphenyl-; methine, aza-; methine, poly-; nitro; nitroso; oxazine; phthalocyanine; quinoline; quinonoid, sulfur or sulfide; thiazine; thiazole, thioindigoid; xanthene; other.

A. Describe the class or classes and subclass to which the product belongs.

Example (1): Monoazo, Gamma-acid coupling.

Example (2): Xanthen—Basic, oxy-carboxy rhodamines.

B. Give any other information which you consider may be helpful in classifying the products.

Example (1): Insoluble azo dye on the fiber. Mixtures of stabilized diazo amino compounds and coupling components for preparation of the dye on the fiber.

Example (2): Anthraquinone—Dispersion type amino-oxy-anthraquinones.

14. If the product consists of a mixture of two or more active ingredients, the information required by the preceding numbered paragraphs shall be given for each active ingredient in the mixture, together with the proportion of each active ingredient in the mixture.

15. In addition to the above specifications, there shall be furnished a color pattern or card showing typical small specimens of the material to which the product has been applied with an indication of the strength and the method of application. However, in those cases where a suitable color card has been filed previously with the New York Customs Laboratory, or where a color card is not used commercially and it is not practical to submit one, it will be considered satisfactory to furnish a statement setting forth the date the previous pattern or card was filed and its identification number, or the reason why one is not submitted.

§ 152.43 Testing of imported benzenoid colors, dyes, stains, and related products.

Any sample of an imported benzenoid color, dye, stain, or related product sent to the Customs laboratory to determine its comparability with a domestic product shall be accompanied by the Schedule A specifications required by § 141.89 of this chapter. The chief chemist shall search the file of domestic samples and specifications referred to in § 152.42(a) and make any necessary tests. If no comparable domestic product is found, the chief chemist shall prepare and submit his laboratory report accordingly.

PART 158—RELIEF FROM DUTIES ON MERCHANDISE LOST, DAMAGED, ABANDONED OR EXPORTED

§ 158.2 [Amended]

Section 158.2 is amended by substituting "Part 142" for "§ 8.59".

(R.S. 251, as amended, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624)

Chapter I, title 19, Code of Federal Regulations, is amended by adding new Part 159 as follows:

PART 159—LIQUIDATION OF DUTIES

Sec.

AUTHORITY: R.S. 251, as amended, secs. 500, 624, 46 Stat. 729, as amended, 759; 19 U.S.C. 66, 1500, 1624. Subpart C also issued under sec. 522, 46 Stat. 739, as amended; 31 U.S.C. 372. Additional authority and statutes interpreted or applied are cited in the text or following the sections affected.

§ 159.0 Scope.

This part sets forth general rules for the liquidation of entries. Certain specific procedures affecting liquidation appear in other parts of this chapter; e.g., Part 158 of this chapter covers allowance for lost or damaged merchandise.

Subpart A—General Provisions

§ 159.1 Definition of liquidation.

"Liquidation" means the final computation or ascertainment of the duties or drawback accruing on an entry.

§ 159.2 Liquidation required.

All entries covering imported merchandise, except temporary importation bond entries and those for transportation in bond or for immediate exportation, shall be liquidated.

§ 159.3 Rounding of fractions.

(a) *Value.* In the computation of duty on entries, ad valorem rates shall be applied to the values in even dollars, fractional parts of a dollar less than 50 cents being disregarded and 50 cents or more being considered as $1, with all merchandise in the same invoice subject to the same rate of duty to be treated as a unit. However, the total dutiable value of the invoice shall not be increased or decreased by more than the rounding of the total dutiable value to an even dollar. When necessary, fractional parts of a dollar, whether more or less than 50 cents, shall be dropped or taken up as whole dollars in order to avoid such an increase or decrease. If in such cases it is necessary to drop fractional parts of a dollar amounting to 50 cents or more, the lower fractions shall be dropped, and if it is necessary to take up as whole dollars fractional parts less than 50 cents, the larger fractions shall be taken. In the case of two equal fractions, the one subject to the lower rate of duty shall be dropped or taken up, as the case may be. In determining a rate of duty dependent upon value, fractional parts of a dollar shall be considered.

(b) *Quantities subject to specific duty.* Except in the case of alcoholic beverages treated under § 159.4, if a rate of duty is specific and $1 or less per unit, fractional quantities, if less than one-half, shall be disregarded, and if one-half or more shall be treated as a whole unit. Subject to the same exception, if a specific rate is more than $1 per unit, duty shall be assessed upon the exact quantity with any fractional part expressed in the form of a decimal extended to two places.

§ 159.4 Alcoholic beverages.

(a) *Quantities subject to duties.* Customs duties and internal revenue taxes on alcoholic beverages provided for in schedule 1, part 12, Tariff Schedules of the United States (19 U.S.C. 1202), and subject to internal revenue taxes shall be collected only on the number of proof gallons (or wine gallons if below proof), and fractional parts thereof, entered or withdrawn for consumption. No internal revenue tax shall be collected on distilled spirits in bulk which have been transferred to Internal Revenue bonded premises in accordance with § 141.102(b) of this chapter.

(b) *Computation of duties.* In the computation of Customs duties on alcoholic beverages provided for in schedule 1, part 12, Tariff Schedules of the United States (19 U.S.C. 1202), which are also subject to internal revenue taxes, the methods prescribed for the computation of internal revenue taxes on such beverages shall be followed. The following methods apply to the specific beverages shown:

(1) *Distilled spirits.* The quantity of distilled spirits imported in barrels, kegs, or similar containers shall be ascertained in accordance with the regulations of the Internal Revenue Service. Where distilled spirits are imported in bottles, jugs, or similar containers, Customs duties and taxes shall be collected on the exact quantity contained in each case or other outer container, fractional parts of a gallon being carried out to three decimal places.

(2) *Wine.* Customs duties and taxes on wines shall be on the basis of a wine gallon of liquid measure equivalent to 231 cubic inches and shall be paid proportionally on all fractional parts of a wine gallon. Fractions of less than one-tenth gallon shall be converted to the nearest one-tenth gallon, and five-hundredths gallon shall be converted to the next full one-tenth gallon.

(3) *Beer and similar fermented beverages.* Customs duties and taxes on beer, ale, porter, stout, and other similar fermented beverages, including sake, of any name or description containing one-half of 1 percent or more of alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute therefor, shall be collected in accordance with section 5051(a), Internal Revenue Code of 1954 (26 U.S.C. 5051(a)).

(Sec. 315, 46 Stat. 695, as amended; 19 U.S.C. 1315)

§ 159.5 Cigars, cigarettes, and cigarette papers and tubes.

The internal revenue taxes imposed on cigars, cigarettes, and cigarette papers and tubes under section 5701 or 7652, Internal Revenue Code of 1954 (26 U.S.C. 5701 or 7652), are determined in accordance with section 5703 of that Code (26 U.S.C. 5703) at the time of removal; that is, on the quantity removed from Customs custody under the entry or withdrawal for consumption. The Customs duties, unlike those on alcoholic beverages, do not necessarily apply only to such quantities.

(Sec. 315, 46 Stat. 695, as amended; 19 U.S.C. 1315)

§ 159.6 Difference between liquidated duties and estimated duties.

(a) *Difference under $3 in original liquidation.* When there is a net difference of less than $3 between the total amount of duties assessed in the liquidation of any entry (other than an informal, mail, or baggage entry) and the total amount of estimated duties deposited, including any supplemental deposit, the difference shall be disregarded and the entry endorsed "as entered." In the case of an informal, mail, or baggage entry, the amount of duties computed by a Customs officer when the entry is prepared by, or filed with, him shall be considered the liquidated assessment.

(b) *Difference under $3 in reliquidation.* When there is a net difference of less than $3 between the total amount of duties found due in the reliquidation of any entry and the total amount of duties assessed in the prior liquidation of the entry, the difference shall be disregarded except in the following cases:

(1) *Reliquidation at importer's request.* When reliquidation of any entry is made at the importer's request, such as reliquidation following the allowance of a protest under section 514, Tariff Act of 1930, as amended (19 U.S.C. 1514), or a request for correction under section 520(c), Tariff Act of 1930, as amended (19 U.S.C. 1520(c)), any refund determined to be due shall be refunded even if less than $3.

(2) *Court decision.* Any refund or increase determined to be due as the result of the reliquidation of an entry in accordance with a court decision and judgment order shall be refunded or collected as the case may be.

(c) *Difference of $3 or more collected or refunded.* If there is a difference of $3 or more between the duties assessed in the liquidation of an entry and the total estimated duties deposited, or between the total duties assessed in the reliquidation of an entry and those assessed in the prior liquidation, the entry shall be endorsed to show the difference and bills or refund checks shall be issued.

(d) *Customs duties and taxes netted for $3 limit.* The assessments of Customs duties and internal revenue taxes shall be separately stated on the entry at the time of liquidation, but the amounts of any differences shall be netted when applying the $3 minimum for issuance of a bill or refund check.

(Sec. 7, 52 Stat. 1081, as amended, sec. 505, 46 Stat. 732, as amended; 19 U.S.C. 1321, 1505)

§ 159.7 Rewarehouse entries.

The liquidation of the original warehouse entry shall be followed in determining the liability for duties on a rewarehouse entry, except in the following cases:

(a) *Merchandise excluded from liquidation of original warehouse entry.* When any of the following types of merchandise are withdrawn from warehouse for transportation to another port, they shall be excluded from the liquidation of the original warehouse entry, and the liability for duties shall be determined by a liquidation of the rewarehouse entry made in the district where the merchandise is withdrawn for consumption or for exportation:

(1) Alcoholic beverages provided for in schedule 1, part 12, Tariff Schedules of the United States (19 U.S.C. 1202), and subject to internal revenue taxes;

(2) Cigars, cigarettes, and cigarette papers and tubes subject to internal revenue taxes;

(3) Tariff-rate quota merchandise; and

(4) Wool or hair subject to duty at a rate per clean pound under schedule 3, part 1, subpart C, Tariff Schedules of the United States (19 U.S.C. 1202).

(b) *Reliquidation required by change in rate.* When a rate of Customs duty or tax is changed by an act on Congress or a proclamation of the President, any necessary reliquidation of Customs duty or tax on merchandise covered by a rewarehouse entry which may be required by reason of the change in rate shall be made in the district in which the merchandise is held in Customs custody on the effective date of the change.

(c) *Shortage, irregular delivery, nondelivery, and other cases.* In cases involving shortage, irregular delivery, or nondelivery under the original warehouse withdrawal for transportation, or in other cases when the district director of the port where the merchandise is entered for rewarehouse is of the opinion that circumstances make it inadvisable to follow the liquidation of the original warehouse entry, he shall make an appropriate adjustment in the amount of duties to be assessed under the rewarehouse entry.

(Sec. 557, 46 Stat. 744, as amended; 19 U.S.C. 1557)

§ 159.8 Allowance for loss, injury, etc.

Allowance in duties for any merchandise which is lost, stolen, destroyed, injured, abandoned, or short-shipped shall be made in accordance with the provisions of Part 158 of this chapter.

§ 159.9 Notice of liquidation and date of liquidation for formal entries.

(a) *Bulletin notice of liquidation.* Notice of liquidation of formal entries shall be made on a bulletin notice of liquidation, Customs Form 4333 or 4335:

(1) *Customs Form 4333.* Customs Form 4333 shall be used for the following types of entries:

(i) Dutiable consumption entries;

(ii) Free consumption entries liquidated as dutiable;

(iii) Warehouse entries;

(iv) Drawback entries;

(v) Vessel repair entries;

(vi) Appraisement entries;

(vii) Permanent exhibition entries liquidated as dutiable; and

(viii) Other entries for which a bulletin notice of liquidation is required and for which Customs Form 4335 is not appropriate.

(2) *Customs Form 4335.* Customs Form 4335 shall be used for free consumption entries liquidated "as entered" and permanent exhibition entries liquidated "Free." When free consumption entries in an unbroken series are liquidated free on the same day, the first and last entry numbers may be shown on the bulletin notice, e.g., "576/863," instead of listing every number in the unbroken series.

(b) *Posting of bulletin notice.* The bulletin notice of liquidation shall be posted for the information of importers in a conspicuous place in the customhouse at the port of entry (or Customs station, when the entries listed were filed at a Customs station outside the limits of a port of entry), or shall be lodged at some other suitable place in the customhouse in such a manner that it can readily be located and consulted by all interested persons, who shall be directed to that place by a notice maintained in a conspicuous place in the customhouse stating where notices of liquidation of entries are to be found.

(c) *Date of liquidation.* The bulletin notice of liquidation shall be dated with the date it is posted or lodged in the customhouse for the information of importers. The entries for which the bulletin notice of liquidation has been prepared shall be stamped "Liquidated," with the date of liquidation, which shall be the same as the date of the bulletin

notice of liquidation. Such stamping shall be deemed the legal evidence of liquidation.

§ 159.10 Notice of liquidation and date of liquidation for informal, mail, and baggage entries.

(a) *Usual date of liquidation.* Except in the cases provided for in paragraph (b) of this section, the effective date of liquidation for informal, mail, and baggage entries shall be:

(1) The date of payment by the importer of duties due on the entry;

(2) The date of release by Customs or the postmaster when the merchandise is released under such an entry free of duty; and

(3) The date a free entry is accepted for articles released under a special permit for immediate delivery under Part 142 of this chapter.

(b) *Date of liquidation when duty cannot be determined at time of entry.* When the proper rate or amount of duty cannot be determined at the time of entry because the merchandise is subject to a tariff-rate quota, because of a missing document which, if for free entry, is not produced prior to the release of the merchandise to the importer, or because of any other reason, the printed notice of liquidation appearing on the receipt issued for any money collected on the entry shall be voided. When the tariff status of the merchandise either as dutiable or free is finally ascertained it shall be noted on the entry. The effective date of liquidation shall be the date of posting or lodging of the notice of liquidation required by paragraph (c)(3) of this section.

(c) *Notice of liquidation.* (1) *Dutiable entries.* Where duties are paid on an entry in accordance with paragraph (a)(1) of this section, notice of liquidation is furnished by a suitable printed statement appearing on the receipt issued for duties collected. No other notice of liquidation shall be given, but notice of reliquidation of any such entry shall be given on Customs Form 4333 posted or lodged in the place and manner specified in § 159.9(b).

(2) *Free entries.* Notice of liquidation is furnished by release of the merchandise under a free entry in accordance with paragraph (a)(2) of this section, or by acceptance of the free entry in accordance with paragraph (a)(3) of this section after release under a special permit for immediate delivery. No further notice of the liquidation of such entries shall be given.

(3) *Entries where duty cannot be determined at time of entry.* When the proper rate or amount of duty cannot be determined at the time of entry as set forth in paragraph (b) of this section, notice of liquidation shall be given on a bulletin notice of liquidation, Customs Form 4333 or 4335, in the manner specified in § 159.9 for formal entries.

Subpart B—Weight, Gage, and Measure

§ 159.21 Quantity upon which duties based.

Insofar as duties are based upon the quantity of any merchandise, such duties shall be based upon the quantity of such merchandise at the time of its importation, except in the following cases:

(a) *Manipulation in warehouse.* If any merchandise covered by a warehouse entry has been cleaned, sorted, repacked, or otherwise changed in condition under section 562, Tariff Act of 1930, as amended (19 U.S.C. 1562), withdrawals shall be passed and the entry liquidated on the basis of the weight, gage, or measure of such merchandise in its manipulated condition with an appropriate notation in the duty statement that the duties are assessed on the basis of the manipulated condition of the merchandise.

(b) *Alcoholic beverages.* Duties on certain alcoholic beverages are assessed only on the quantities entered or withdrawn for consumption (see § 159.4).

(c) *Cigars, cigarettes, and cigarette papers and tubes.* Although Customs duties on cigars, cigarettes, and cigarette papers and tubes are assessed on the quantities imported, the internal revenue taxes on such merchandise are assessed only on the quantities entered or withdrawn for consumption (see § 159.5).

(Sec. 315, 46 Stat. 695, as amended; 19 U.S.C. 1315)

§ 159.22 Net weights and tares.

(a) *Determination of net weight.* The net weight of merchandise dutiable by net weight, or upon a value dependent upon net weight, shall be determined insofar as possible by obtaining the actual weight, or by deducting the actual or schedule tare from the gross weight. Actual tare may be determined on the basis of tests when the tares of the packages in a shipment are reasonably uniform.

(b) *Invoice net weight or tare.* When the actual net weight or tare cannot reasonably be determined and no schedule tare is applicable, liquidation may be made on the basis of the invoice net weight or tare.

(c) *Schedule tare.* The following tares, which, from experience, have proved to be the average for certain classes of merchandise shall be known as schedule tares and shall be applied, except as provided in paragraph (d) of this section:

Apple boxes: Eight pounds per box. This schedule tare includes the paper wrappers, if any, on the apples.

China clay in so-called half-ton casks: Seventy-two pounds per cask.

Figs in skeleton cases: Actual tare for outer containers plus 13 percent of the gross weight of the inside wooden boxes and figs.

Fresh tomatoes: Four ounces per 100 paper wrappings.

Lemons and oranges: Ten ounces per box and 5 ounces per half box for paper wrappings, and actual tare for outer containers.

Ocher, dry, in casks: Eight percent of the gross weight.

Ocher, in oil, in casks: Twelve percent of the gross weight.

Pimientos in tins imported from Spain: The following schedule drained weight shall be used as the Customs dutiable weight in the liquidation of entries, the difference between the weight of the net contents of pimientos in tins and such drained weight being the allowance made in liquidation for tare for water:

Size can	*Drained weight*
3 kilo	30 lb.—case of 6 tins.
28 oz	36.72 lb.—case of 24 tins.
15 oz	17.72 lb.—case of 24 tins.
7 oz	8.62 lb.—case of 24 tins.
4 oz	5.33 lb.—case of 24 tins.

Tobacco, leaf not stemmed: Thirteen pounds per bale.

Tobacco, Sumatra: Actual tare for outside coverings, plus 4¼ pounds for the inside matting and, if a certificate is attached to the special Customs or commercial invoice certifying that the bales contain paper wrappings and specifying whether light or heavy paper has been used, either 4 or 8 ounces for the paper wrapping according to the thickness of paper used.

(d) *Actual tare.* In the following circumstances, the actual tare shall be ascertained and in so doing the weigher shall empty and weigh as many casks, boxes, and other coverings as he may deem necessary:

(1) If the importer is not satisfied with the invoice tare or with the schedule tare;

(2) If the district director is of the opinion that the invoice or schedule tare does not correctly represent the tare of the merchandise; or

(3) If the weigher has reason to believe that the invoice or schedule tare is greater than the real tare.

(e) *Estimated tare.* When it is impracticable to ascertain the actual tare, the weigher shall state in his report what, in his judgment, constitutes a fair tare allowance.

(f) *Weight for value purposes.* In determining the total dutiable value of merchandise which is subject to ad valorem duty and appraised on the basis of weight, liquidation shall be made on the same basis as appraisement. For example, if appraisement is made on the basis of gross weight, the unit value shall be multiplied by the total gross weight in computing the total value even though net weight may be used for other purposes in liquidation, such as in determining total specific duties.

(Sec. 507, 46 Stat. 732; 19 U.S.C. 1507)

Subpart C—Conversion of Foreign Currency

§ 159.31 Rates to be used.

Except as otherwise specified in this subpart, no rate or rates of exchange

shall be used to convert foreign currency for Customs purposes other than a proclaimed rate or certified rate or rates.

§ 159.32 Date of exportation.

The date of exportation for currency conversion shall be fixed in accordance with § 152.1(c) of this chapter.

§ 159.33 Proclaimed rate.

If a rate of exchange has been proclaimed by the Secretary of the Treasury in accordance with 31 U.S.C. 372(a) for the currency involved, such proclaimed rate shall be used unless it varies by 5 percent or more from the certified daily rate for the date of exportation as set forth in § 159.35. In determining the percentage of variation between the proclaimed rate and the certified rate, the difference between the two rates shall be divided by the certified rate.

§ 159.34 Certified quarterly rate.

(a) *Countries for which quarterly rate is certified.* For the currency of each of the following foreign countries, there will be published in the Customs Bulletin, for the quarter beginning January 1, and for each quarter thereafter, the rate or rates first certified by the Federal Reserve Bank of New York for such foreign currency for a day in that quarter:

Australia.
Austria.
Belgium.
Canada.
Denmark.
Finland.
France.
Germany.
India.
Ireland.
Italy.
Japan.
Malaysia.
Mexico.
Netherlands.
New Zealand.
Norway.
Portugal.
Republic of South Africa.
Spain.
Sri Lanka (Ceylon).
Sweden.
Switzerland.
United Kingdom.

(b) *When certified quarterly rate is used.* The certified quarterly rate established under paragraph (a) of this section shall be used for Customs purposes for any date of exportation within the quarter, except in the following cases:

(1) *Proclaimed rate.* If a rate has been proclaimed by the Secretary of the Treasury under § 159.33 which does not vary by 5 percent or more from the appropriate certified daily rate, notice of such variance shall be published in the Customs Bulletin and the proclaimed rate shall be used for Customs purposes in connection with merchandise exported on such date.

(2) *Certified daily rate.* If the certified daily rate for the date of exportation varies by 5 percent or more from the certified quarterly rate, notice of such variation and the rate or rates certified for such day shall be published in the Customs Bulletin, and such certified daily rate shall be used for Customs purposes in connection with merchandise exported on such day.

§ 159.35 Certified daily rate.

The daily buying rate of foreign currency which is determined by the Federal Reserve Bank of New York and certified to the Secretary of the Treasury in accordance with 31 U.S.C. 372(c)(2) shall be used for the conversion of foreign currency whenever a proclaimed rate or certified quarterly rate is not applicable under the provisions of §§ 159.33 and 159.34. If the date of exportation is one on which banks are generally closed in New York City, then the certified daily rate for the last preceding business day shall be considered the certified daily rate for the day of exportation.

§ 159.36 Multiple certified rates.

The following procedures shall apply when the Federal Reserve Bank of New York certifies two or more rates of exchange (e.g., official and free) for a foreign currency:

(a) *Rates to be published.* When the Federal Reserve Bank of New York certifies two or more rates of exchange for the currency of any country, those rates will be published in the Customs Bulletin.

(b) *Laws of country of exportation followed.* When multiple rates have been certified for a foreign currency, the rate to be used for Customs purposes shall be the type of certified rate which the district director is satisfied, from information in his own files, information obtained and presented to him by the importer, or information obtained from other sources, is uniformly applicable under the laws and regulations of the country of exportation to the particular class of merchandise on the date of exportation. In cases where two or more types of certified rates are uniformly applicable on a percentage bases, each type of certified rate shall be used for the percentage of value to which it is applicable. The percentages used shall be those which reflect realistically the percentage for which each type of rate is uniformly applicable under the laws and regulations of the country of exportation on the date of exportation.

(c) *Procedure when multiple certified rates not uniformly applicable.* If the district director has credible information that a type of rate or combination of types of rates which would otherwise be applicable under paragraph (b) of this section were not required or permitted, as the case may be, under the laws and regulations of the country of exportation to be used uniformly during any period in connection with the payment for all merchandise of the class involved, he shall immediately submit a detailed report to the Commissioner of Customs, and shall suspend appraisement and liquidation as to all merchandise of the class involved exported to the United States during the period involved, until instructions are received from the Commissioner of Customs.

(d) *Rate for merchandise different from rate for costs.* If the district director has credible information that a type of rate or combination of types of rates not applicable to payment for the merchandise was required or permitted in payment of costs, charges, or expenses, the currency conversions for the exchange covering payment for the merchandise and for the exchange covering such costs, charges, or expenses shall be calculated separately. In deducting nondutiable costs, charges, or expenses, the foreign exchange shall be at the rate or rates actually used in payment of such costs, charges, or expenses, whether or not certified in accordance with § 159.34 or § 159.35. If the costs, charges or expenses are dutiable, they shall be calculated according to the rules set forth in this subpart. In the event that any type of rate uniformly applicable to payment of such dutiable costs, charges, or expenses for merchandise of the class involved was a type of rate not certified in accordance with § 159.34 or § 159.35, the district director shall immediately submit a detailed report to the Commissioner of Customs, and shall suspend appraisement and liquidation as to all merchandise of the class involved exported to the United States during the period involved, until instructions are received from the Commissioner.

§ 159.37 Suspension of certification of rates.

Whenever the Federal Reserve Bank of New York advises that its certification of rates for a currency is being suspended pending determination of the question whether it will certify multiple rates for that currency, the following procedures shall apply:

(a) *Notification of suspension.* Customs field officers will be informed when certification of a currency is being suspended. Currency information received from the Federal Reserve Bank, or otherwise available, which might be helpful in calculating estimated duties during the period of suspension will be furnished to the Customs field officers.

(b) *Suspension of liquidation.* In any case where for the purposes of the assessment and collection of duties it is necessary to determine the proper rate or rates for a currency during the period when it has been suspended from certification, appraisement and liquidation shall be suspended until resumption of certification.

(c) *Resumption of certification.* When certification is resumed by the Federal Reserve Bank, the procedures in § 159.36 shall apply.

§ 159.38 Rates for estimated duties.

For purposes of calculating estimated duties, the district director shall use the rate or rates appearing to be applicable under the instructions in this subpart to the merchandise involved. When it is not yet known what certified rate or rates

are applicable or no rate has been certified, the district director shall take into account all the information in his possession and shall use the highest rate or combination of rates (i.e., the rate or combination of rates showing the highest amount of United States money), certified or uncertified as the case may be, which could be applicable.

Subpart D—Special Duties

§ 159.41 Antidumping duties.

Antidumping duties shall be assessed in accordance with Part 153 of this chapter.

§ 159.42 Discriminating duties.

The discriminating duties provided for in subsection 1 of paragraph J, section IV, Tariff Act of 1913, as amended by the Act of March 4, 1915 (19 U.S.C. 128, 131), and the discriminating duties and penalties provided for in section 338, Tariff Act of 1930 (19 U.S.C. 1338), shall be imposed only in pursuance of specific instructions from the Commissioner of Customs.

§ 159.43 Duties contingent upon foreign export duties, charges, or restrictions.

Schedule 2, part 4, headnote 4, Tariff Schedules of the United States (19 U.S.C. 1202), provides for the imposition under certain conditions of additional duties on merchandise covered thereby. The assessment of these additional duties is dependent upon action by the President, and notice of such action, if taken, will be published in the Customs Bulletin.

§ 159.44 Special duties on merchandise imported under agreements in restraint of trade.

Whenever it appears that imported articles may be subject to the special duties provided for in section 802, Act of September 8, 1916 (15 U.S.C. 73), the district director shall report the matter to the Commissioner of Customs and await instructions with respect to the imposition of such duties.

(Sec. 802, 803, 39 Stat. 799; 15 U.S.C. 73, 74)

§ 159.45 Additional duty for unauthentic claims of antiquity.

When additional duty is imposed in accordance with § 10.53 of this chapter for an unauthentic claim of antiquity, such duty shall be assessed in addition to any other duty imposed on the merchandise by law.

§ 159.46 Marking duties.

(a) *Based on dutiable value.* The marking duty prescribed by section 304(c), Tariff Act of 1930, as amended (19 U.S.C. 1304(c)), shall be assessed upon the dutiable value as defined in section 503, Tariff Act of 1930, as amended (19 U.S.C. 1503).

(b) *Suspension of liquidation.* The liquidation of entries shall not be suspended merely because the merchandise covered thereby is not legally marked, but, upon special application by the importer, the liquidation may be deferred for a reasonable time to permit the marking, destruction, or exportation of the merchandise.

(Sec. 304, 46 Stat. 687, as amended; 19 U.S.C. 1304)

§ 159.47 Countervailing duties.

(a) *Report by Customs officer.* Any district director or other principal Customs officer who obtains any information that any bounty or grant is being paid or bestowed with respect to dutiable merchandise imported into the United States, so as to require action under section 303, Tariff Act of 1930 (19 U.S.C. 1303), shall communicate such information promptly to the Commissioner of Customs. Every such communication shall contain or be accompanied by a statement of substantially the same information as is required by paragraph (b)(1) of this section, if in the possession of the district director or other officer or readily available to him.

(b) *Report by person outside Customs Service.*

(1) *Information to be furnished.* Any person outside the Customs Service who has reason to believe that any bounty or grant is being paid or bestowed with respect to dutiable merchandise imported into the United States may communicate his belief to any district director or the Commissioner of Customs. Every such communication shall contain or be accompanied by: (i) A full statement of the reasons for the belief, (ii) a detailed description or sample of the merchandise, and (iii) all pertinent facts obtainable as to any bounty or grant being paid or bestowed with respect to such merchandise.

(2) *Request for additional information.* If any information filed with a district director pursuant to subparagraph (1) of this paragraph does not conform with the requirements of that subparagraph, the communication shall be returned promptly to the person who submitted it with detailed written advice as to the respects in which it does not conform.

(3) *Transmittal to Commissioner.* If the information is found to comply with the requirements, it shall be transmitted by the district director within 10 days to the Commissioner of Customs, together with all pertinent additional information available to the district director.

(c) *Investigation and notice by Commissioner.* Upon receipt by the Commissioner of Customs of any communication submitted pursuant to paragraph (a) or (b) of this section and found to comply with the requirements of the pertinent paragraph, the Commissioner shall cause such investigation to be made as appears to be warranted by the circumstances of the case. If he determines that the information presented in such communication is patently in error, he shall so advise the person who submitted the information and the case shall be closed. Otherwise, the Commissioner, with the approval of the Secretary of the Treasury, shall publish a notice in the FEDERAL REGISTER that a communication has been submitted pursuant to paragraph (a) or (b) of this section. The notice shall invite interested persons to submit written comments with respect to the matter within such time as is specified in the notice.

(d) *Issuance of countervailing duty order.* If, after consideration of such written comments as are received in response to the notice provided for in paragraph (c) of this section and other relevant data, it is determined that the application of the said section 303 is required, the Commissioner of Customs, with the approval of the Secretary of the Treasury, shall issue a countervailing duty order describing the merchandise, designating the country or area in which it is produced or from which it is exported, and declaring the ascertained or estimated amount of the bounty or grant or a rule for calculating or estimating such amount. Each countervailing duty order issued pursuant to this paragraph shall be published in the FEDERAL REGISTER and in the Customs Bulletin.

(e) *Merchandise on which countervailing duty will be assessed.* Any merchandise subject to the terms of a countervailing duty order shall be deemed to have benefited from a bounty or grant if such bounty or grant has been or will be paid or credited, directly or indirectly, upon the manufacture, production, or exportation of such merchandise.

(f) *Countervailing duty orders currently in effect.* Orders or notices issued under section 303, Tariff Act of 1930 (19 U.S.C. 1303), or a corresponding provision of a prior act, are currently in effect with respect to the merchandise listed below:

Country	Commodity	Treasury decision	Action
Australia	Sugar content of certain articles.	39541	Declared rate.
		46157	New estimated rates.
		52223	Contingent suspension of rates.
		54582	New rates.
		55716	Certain articles exempted as to shipments exported on or after July 19, 1962.
		70-226	New rate.
		71-276	New rate.
		72-187	New rate.
		72-314	New rate.
		73-98	New rate.
	Butter	42937	Bounties declared—rates.
		43067	New rates.
		48551	New estimated rate.
Canada	Cheese, 93-94 score from whole milk, cheddar, including "washed curd," types.	50093	Bounties declared—rates.
		68-147	Discontinued as to cheese manufactured on or after Apr. 1, 1968.
	Cheese, 93-94 score, blue-vein, of Roquefort type.	53182	Bounties declared—rates.
		68-147	Discontinued as to cheese manufactured on or after Apr. 1, 1968.
	X-radial steel belted tires manufactured by Michelin Tire Manufacturing Company of Canada, Ltd.	73-10	Bounty declared-rate.

Country	Commodity	Treasury decision	Action
Cuba	Cordage	53534	Bounties declared rates.
		54650	T. D. 53534 modified.
Denmark	Butter	47896	Bounties declared—rates.
		48734	Discontinued as to direct shipments.
France	Canned Tomato paste.	68-111	Bounty declared—rate.
	All merchandise except that not benefited by Decree 68-581 dated June 29, 1968, as amended by Decree 68-599 dated July 6, 1968.	68-192	Bounty declared—rate.
		68-270	New rate.
		69-41	Discontinued as to merchandise exported from France on and after Feb. 1, 1969.
	Barley	71-117	Bounty declared—rate.
	Molasses	71-118	Bounty declared—rate.
Great Britain	Spirits	34466	Bounties declared—rates.
		34752	Descriptions.
		34982	No bounty on rum.
		35089	Proof gallons.
		35510	Alcoholic perfumery.
		35668	Orange bitters.
		47826-7	Quantity for computing duty.
		52555	Bounty on plain spirits terminated.
		55812	Modified as to certain spirits.
	Sugar	49355	Bounties declared—rates.
		50108	New rates.
		50127	New rates.
Greece	Tomato products.	72-88	Bounty declared—rate.
Ireland	Spirits	47753	Bounties declared—rates.
		47826-7	Quantity for computing duty.
Italy	Galvanized fabricated structural steel units for the erection of electrical transmission towers.	67-102	Bounties declared—rate.
	Canned tomatoes and canned tomato concentrates.	68-112	Bounty declared—rate.
		69-13	New rate.
		70-83	New rate.
		72-234	Discontinued as to canned tomatoes and canned tomato concentrates exported from Italy directly to the United States on and after July 15, 1971; new rate as to canned tomatoes and canned tomato concentrates exported from Italy to countries other than the United States and subsequently imported into the United States.
	Steel welded wire mesh.	68-149	Bounty declared—rate.
	Ski-lifts and parts thereof.	68-288	Bounty declared—rate.
		69-91	New rate.
	Certain steel products.	69-113	Bounties declared—rates.
	Compressors and parts thereof.	72-122	Bounty declared—rate.
	Refrigerators, freezers, other refrigerating equipment, and parts thereof.	73-85	Bounty declared-Rate.

(Sec. 303, 46 Stat. 687; 19 U.S.C. 1303)

Subpart E—Suspension of Liquidation

§ 159.51 General.

Liquidation of entries shall be suspended only when provided by law or regulation, or when directed by the Commissioner of Customs. Liquidation of entries shall not be suspended simply because issues involved therein may be before the Customs Court in pending litigation, since the importer may seek relief by protesting the entries after liquidation.

§ 159.52 Warehouse entry not liquidated until final withdrawal.

Liquidation of a warehouse or rewarehouse entry shall be suspended until all merchandise covered by the entry has been accounted for within the bonded period by withdrawal, abandonment, or destruction, or until the bonded period has expired if the merchandise has not been so accounted for before that time.

§ 159.53 Proof of duty-free or reduced-duty status.

Various provisions in Part 10 of this chapter provide for suspending liquidation of entries covering certain merchandise entered at a conditionally free or conditionally reduced rate of duty, pending production of required proof. Upon production of the required proof, or upon failure to produce the proof within the required time, the entries shall be liquidated accordingly.

§ 159.54 Open bonds for production of documents.

The liquidation of entries on which bonds are open for the production of documents affecting the rate of duty shall be suspended pending the performance or nonperformance under the bond, unless production of the document is waived in accordance with § 141.92 of this chapter.

§ 159.55 Possible prohibited food, drugs, or other articles.

(a) *Suspension of liquidation.* The liquidation of each entry covering merchandise the subject of § 12.1 of this chapter (which pertains to certain foods, drugs, cosmetics, economic poisons, hazardous substances, dangerous caustic or corrosive substances, and related items) shall be suspended until it is determined whether admission of the merchandise into the United States is permitted under the law.

(b) *Allowance for exportation or destruction.* In any case where the admission of such merchandise into the United States is refused and the merchandise is exported under Customs supervision in accordance with § 158.45(b) of this chapter, or destroyed under Customs supervision in accordance with § 158.41 of this chapter, the merchandise is exempt from duty and any duties collected thereon shall be refunded.

(Sec. 558, 46 Stat. 744, as amended; 19 U.S.C. 1558)

§ 159.56 Issues submitted to Commissioner of Customs.

Liquidation of entries shall be suspended pending a decision on questions of valuation or classification submitted to the Commissioner of Customs at the request of the importer for an administrative review of the official action contemplated. No additional deposit of duty shall be required in connection with a suspended liquidation unless in special situations the Commissioner shall so direct.

§ 159.57 Merchandise affected by an American manufacturer's cause of action sustained by the court.

Liquidation of entries for merchandise of the character covered by a decision of the Secretary of the Treasury published in accordance with § 175.24 of this chapter, entered or withdrawn for consumption after the date of publication of a decision of the U.S. Customs Court sustaining in whole or in part the cause of action of an American manufacturer, producer, or wholesaler, shall be suspended until final disposition is made of the cause of action. Upon final disposition, such entries shall be liquidated, or, if necessary, reliquidated in accordance with the final judicial decision.

(Sec. 516, 46 Stat. 735, as amended; 19 U.S.C. 1516)

PART 172—LIQUIDATED DAMAGES

§ 172.22 [Amended]

In § 172.22, paragraph (b) is amended by substituting "141.92" for "8.15(d)" and paragraph (d) is amended by substituting "142.15" for "8.59(i)".

(R.S. 251, as amended, secs. 623, 624, 46 Stat. 759, as amended; 19 U.S.C. 66, 1623, 1624)

PART 174—PROTESTS

§ 174.3 [Amended]

Paragraph (b)(1) of § 174.3 is amended by substituting "141.37" for "8.19(e)".

§ 174.12 [Amended]

Section 174.12, paragraph (e), is amended by substituting "159.9 or 159.10" for "16.2(d), 16.12(a), or 16.12(c)".

(R.S. 251, as amended, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624)

PARALLEL REFERENCE TABLE

(This table shows the relation of sections in revised Part 141 to superseded 19 CFR Part 8)

Revised Section	Superseded section
141.0	New.
141.1(a)	8.1(a).
141.1(b)	8.1(b).
141.1(c)	8.1(c).
141.1(d)	8.1(b).
141.1(e)	8.1(d).
141.1(f)	8.24(b), 20.6(1).
141.2(a)-(i)	8.2(a)-(i).
141.3	New.
141.4	8.3(a).
141.5	New.
141.11(a)(1)	8.6(a), 8.7(a).
141.11(a)(2)	8.6(c).
141.11(a)(3)	8.6(g).
141.11(a)(4)	8.6(e).
141.11(a)(5)	8.6(f).
141.11(a)(6)	8.6(a).
141.11(b)	8.6(n).
141.12	8.6(b).
141.13	8.6(m).
141.14	8.6(j).
141.15(a)	8.6 (h), (l).
141.15(b)	8.6(h).
141.15(c)	8.6(i).
141.16(a)	8.7(a).
141.16(b)	8.7(b).
141.17	8.6(k).
141.18(a)-(b)	8.6(l)
141.19(a)	8.18(a).
141.19(b)	8.18(c), ftn. 23.
141.19(c)	8.18(b).
141.20(a)-(c)	8.18(d).
141.31(a)-(c)	8.19(a).
141.31(d)	8.19(k).
141.32	8.19(a), ftn. 26a.
141.33	8.19(j).
141.34	8.19(d).
141.35	New.
141.36	8.19(g).
141.37(a)-(c)	8.19(e).
141.38	8.19(e).
141.39 (a)-(b)	8.19(d).
141.40	8.19(c).
141.41	8.19(b).
141.42	New.
141.43 (a)-(c)	8.19 (a), (g).
141.44	8.19(i).
141.45	8.19(h).
141.46	8.19(a).
141.51	New.
141.52 (a)-(i)	8.8 (f), (g), 8.52.
141.53 (a)-(c)	8.8(h).
141.53(d)	8.8(i).
141.54 (a)-(d)	8.6(d).
141.55	8.4(c).
141.61(a)	8.8(a).
141.61(b)	New.
141.61(c)	8.8(d).
141.61(d)	8.8(c).
141.61(e)	8.8(a).
141.61(f)	8.8(b).
141.61(g)	8.8(a).
141.61(h)	8.8(a).
141.62 (a), (b)	8.4(b).
141.63	8.4(a).
141.64	New.
141.65	8.4 (d), (g).
141.66	8.20.
141.67	8.4(a).
141.68(a)	8.4(a).
141.68(b)	8.4(e).
141.68(c)	8.4(f).
141.68(d)	8.4(g).
141.68(e)	8.4(d).
141.69 (a)-(c)	8.4(d), (g), (h), ftn. 3a to Part 8.
141.81	8.11(a).
141.82(a)	8.11(c), 8.12(a).
141.82(b)	8.12(c).
141.82(c)	8.12(b).
141.82(d)	8.12(d), 8.51(a), 8.11 (c).
141.83(a)	8.15(a).
141.83(b)	8.15(b).
141.83(c)	8.15(c).
141.84 (a)-(e)	8.11 (a), (b).
141.85	New.
141.86(a)	8.13(a).
141.86(b)	8.13(b).
141.86(c)	8.8(e).
141.86(d)	New.
141.86(e)	8.13(a).
141.86(f)	8.13(g).
141.86(g)	8.13(f).
141.86(h)	8.13 (i), (j).
141.86(i)	8.13 (a), (h).
141.87	8.13(d).
141.88	8.13(e).
141.89	8.13(h).
141.90(a)	8.21(a).
141.90(b)	8.21(b).
141.90(c)	8.16.
141.90(d)	8.21(b).
141.91(a)	8.9(a).
141.91(b)	8.9(b).
141.91(c)	New.
141.91(d)	8.9(c), 8.13(c).
141.92 (a)-(c)	8:15(d).
141.101 (a)-(c)	New.
141.102(a)	New.
141.102(b)	New.
141.102(c)	New.
141.102(d)	8.28(c).
141.103	New.
141.104	8.40(c).
141.105	8.29(d).
141.111(a)	8.23 (a), (b).
141.111(b)	8.23(a).
141.111(c)	8.23 (c), (d).
141.111(d)	8.23(a).
141.112(a)	Ftn. 20 to Pt. 8.
141.112(b)	8.25(a).
141.112(c)	8.25(b).
141.112(d)	8.25(c).
141.112(e)	8.25(d).
141.112(f)	8.25(d).
141.112(g)	8.25(f).
141.112(h)	8.25 (e), (g).
141.113(a)	8.26(c).
141.113(b)	8.26(a).
141.113(c)	8.26(b).
141.113(d)	8.26(d).
141.113(e)	8.26 (a), (c), (e).
141.113(f)	New.

(This table shows the relation of sections in revised Part 142 to superseded 19 CFR Part 8)

Revised Section	Superseded Section
142.0	New.
142.1	8.59 (a), (b).
142.2(a)	8.59(c).
142.2(b)	8.59(f).
142.3(a)	8.59(c).
142.3(b)	8.59(g).
142.4(a)-(c)	8.59(d).
142.5	8.59(e).
142.6(a)	8.59(k).
142.6(b)	8.59(k).
142.7(a)	8.59 (i), (j).
142.7(b)	New.
142.11(a)-(d)	8.59(g).
142.12	8.59(g).
142.13	8.59(g).
142.14 (a), (b)	8.59(h).
142.15	8.59(i).
142.16	8.59(l).

(This table shows the relation of sections in revised Part 143 to superseded 19 CFR Part 8)

Revised Section	Superseded Section
143.0	New.
143.1(a)-(c)	8.27.
143.2	New.
143.3 (a), (b)	8.24(a), 8.28(a), 8.29 (a), (b).
143.11(a)	8.50(b).
143.11(b)	8.50(b).
143.11(c)	8.50(c).
143.12	8.50(a).
143.13 (a), (b)	8.50(d).
143.14	8.50(f).
143.15	8.50(e).
143.16	8.50(e).
143.21(a)-(g)	8.51(a).
143.22	8.51(c).
143.23(a)-(d)	8.51a.
143.24	8.51(a).
143.25	8.51(a).
143.26	8.51(a).
143.27	8.51(d).
143.28	8.51(b).

(This table shows the relation to sections in revised Part 144 to superseded 19 CFR Parts 8, 18, 19, and 56)

Revised Section	Superseded Section
144.0	New.
144.1(a)	8.30(c).
144.1(b)	8.30(f).
144.1(c)	8.30(e).
144.2	8.32(a).
144.3	8.32(c).
144.4	New.
144.5	New.
144.6(a)	56.1 (a), (b).
144.6(b)	56.1(a), 56.3 (c), (e).
144.6(c)	56.3 (b), (d).
144.7	New.
144.11(a)	8.30(a).
144.11(b)	8.30(b).
144.11(c)	8.30(d).
144.12	New.
144.13	8.31(a).
144.14	8.31.(b).
144.15(a)	8.30(g).
144.15(b)	8.30(h).
144.21	8.23(b), 8.39(a).
144.22	8.39(a), 18.16(a).
144.23	8.39(c), 18.16(a).
144.24	8.39(a).
144.25	8.39(b).
144.26	8.39(e).
144.27	8.39(d).
144.28 (a), (b)	New.
144.31	8.37(a).
144.32(a)	8.37(b), 18.19(c).
144.32(b)	8.37(b), 8.39(d)
144.33	New.
144.34(a)	19.9.
144.34(b)	8.33.
144.35	New.
144.36(a)	18.16(a).
144.36(b)	18.17(b).
144.36(c)	18.16(a).
144.36(d)	18.16(b), 18.17(a).
144.36(e)	18.17(c).
144.36(f)	18.18(a).
144.36(g)	18.18(b).
144.36(h)	8.36.
144.37(a)	8.41, 18.19(a), 18.19(b).
144.37(b)	8.41(d), 18.19(b).
144.37(c)	8.45.
144.37(d)	8.41(b).
144.37(e)	8.43.
144.37(f)	8.41(c).
144.38(a)-(c)	8.37(a).
144.38(d)	New.
144.38(e)	8.38.
144.41(a)-(d)	8.33(a)-(c).
144.41(e)	8.34(a).
144.41(f)-(g)	8.33 (b), (a).
144.41(h)	8.34(b).
144.42(a)-(b)	8.35(a)-(c).

(This table shows the relation of sections in revised Part 151 to superseded 19 CFR Parts 8, 13, and 14)

Revised Section	Superseded Section
151.0	New.
151.1	8.22(a).
151.2(a)	14.1(b).
151.2(b)	8.22(b).
151.2(c)	14.1(c).
151.3	8.4(a), 8.5(d), 8.22(a).
151.4(a)	8.5 (a), (c).
151.4(b)	8.5(b), ftn. 4.
151.4(c)	8.5(b)(1), (b)(3).
151.5(a)	8.5(b)(2).
151.5(b)	8.5(b)(4).
151.5(c)	8.5(b)(5).
151.6	8.22(a), 14.2(a).
151.7(a)	14.2 (b), (d).
151.7(b)	14.2 (b), (d).
151.7(c)	14.2(b).
151.7(d)	14.2(c).
151.8	14.2(e).
151.9	14.2(f).
151.10	14.2(g).
151.11	8.26(b), 14.2(h).
151.12	None.
151.21(a)	Part 13, ftn. 1.
151.21(b)	Part 13, ftn. 2.
151.22	13.1(a).
151.23	13.1(b).
151.24	13.2(a).
151.25	13.9.
151.26	13.3.
151.27	13.2(a).
151.28(a)	13.5(a).
151.28(b)	13.5(b).
151.29	13.2(d).
151.30	13.7.
151.31(a)	13.8(a).
151.31(b)	13.8(a).
151.31(c)	13.8(b).
151.41	13.10(b).
151.42(a)–(f)	13.10(a)(2)(i)–(vi).
151.43(a)	13.10(a)(2)(ii).
151'43(b)	13.10(a)(5).
151.43(c)	13.10(a)(5)(iv).
151.43(d)	13.10(a)(5)(iv).
151.43(e)	13.10(a)(4).
151.44 (a)–(c)	13.10(a)(1).
151.43(f)	13.10(a)(3).
151.45(a)	13.10(c).
151.45(b)	13.10(d).
151.45(c)	13.10(e).
151.46	13.10(f).
151.47 (a)–(d)	New.
151.51 (a), (b)	8.46 (a)–(c).
151.52(a)	8.48 (a), (b).
151.52(b)	8.48(c).
151.52(c)	8.48(d).
151.53	8.48(e).
151.54	8.48(a), (c), (f), (g).
151.55	8.48(h).
151.61(a)	13.11(a).
151.61(b)	13.11(b), 13.14(f).
151.61(c)	13.14(a)(1).
151.61(d)	13.14(a)(2).
151.62(a)	13.12(a).
151.62(b)	13.12(b).
151.62(c)	13.12(c).
151.62(d)	13.12(d).
151.62(e)	13.12(e).
151.62(f)	13.12(f).
151.63	13.13(a).
151.64	13.13(a).
151.65	13.13(b).
151.66	13.13(e).
151.67	13.13(d).
151.68(a)	13.14(b)(1).
151.68(b)	13.14(b)(2).
151.68(c)	13.14(b)(3).
151.69 (a), (b)	13.14(b).
151.70	13.14(c).
151.71(a)	13.14(d).
151.71 (b)–(e)	13.14(e).
151.72 (a)–(d)	13.15(a), 13.15(b).
151.73 (a)–(c)	13.15(c).
151.74	13.15(d).
151.75	13.15(d).
151.76 (a)–(c)	13.16, ftn. 7 to Pt. 13.
151.81	13.18(a).
151.82(a)	13.17(a).
151.82(b)	13.17(b).
151.82(c)	13.17(c).
151.83	13.18(b).
151.84	13.18(c).
151.85	13.18(d).
151.91	13.19.
151.101	13.20(a).
151.102(a)	13.20(b)(1).
151.102(b)	13.20(b)(2).
151.103	13.20(c).
151.104	13.20(a).
151.111	14.2(i).

(This table shows the relation of sections in revised Part 152 to superseded 19 CFR Parts 8, 14, and 16)

Revised Section	Superseded Section
152.0	New
152.1(a)	14.3(c), ftn. 6.
152.1(b)	Part 14, ftn. 6.
152.1(c)	14.3(b).
152.2	8.29(c).
152.3	16.7.
152.11	New.
152.12	New.
152.13(a)	16.9(b).
152.13(b)	16.9(a).
152.13(c)	16.9(a), (c).
152.13(d)	16.9(a).
152.14(a)	16.10a(a).
152.14(b)	16.10a(b).
152.14(c)	16.10a(c).
152.14(d)	16.10a(c).
152.15(a)	16.10(a), 16.10a(c), (d), ftn. 11a.
152.15(b)	16.10(b).
152.15(c)	16.10(c).
152.16(a)	16.10(d).
152.16(b)	16.10(e).
152.16(c)	16.10(f).
152.16(d)	New.
152.16(e)	16.10(g).
152.17	16.10(h).
152.21(a)–(c)	14.3(a).
152.22	14.3(c).
152.23	14.3(d), ftn. 7.
152.24 (a), (b)	New.
152.25	14.3(f).
152.26(a)	14.4(a).
152.26(b)	14.4(b).
152.26(c)	14.4(c).
152.26(d)	14.4(d).
152.26(e)	14.4(e).
152.31(a)	New.
152.31(b)	New.
152.31(c)	14.5(l).
152.32	14.5(h).
152.33	14.5(j).
152.34	14.5(c).
152.35	14.5(a).
152.36	14.5(k).
152.37	14.5(d).
152.38	14.5(e), (b).
152.39	14.5(l).
152.40	14.5(f).
152.41	14.5(m), ftn. 13.
152.42(a)–(c)	14.5(n).
152.43	14.5(o).

(This table shows the relation of sections in revised Part 159 to superseded 19 CFR Parts 12, 16, 18)

Revised Section	Superseded Section
159.0	New.
159.1	Part 16, ftn. 2.
159.2	16.1.
159.3(a), (b)	16.2(a).
159.4(a)	16.5(d).
159.4(b)	16.2(b).
159.5	16.3(d).
159.6(a)–(d)	16.2(c).
159.7(a)	16.3 (c), (d), 18.18 (c).
159.7(b)	16.10(h), 18.18(c).
159.7(c)	18.18(c).
159.8	New.
159.9(a)	16.2(d), (f), 16.12 (a).
159.9(b)	16.2(d), (g).
159.9(c)	16.2(d).
159.10(a)	16.12(b).
159.10(b)	16.12(b).
159.10(c)	16.12(c).
159.21	New.
159.21(a)	16.5(a).
159.21(b)	16.5(d).
159.21(c)	16.3(d).
159.22(a)	16.6(a).
159.22(b)	16.5(b), 16.6(b).
159.22(c)	16.6(c).
159.22(d)	16.6(d).
159.22(e)	16.6(e).
159.22(f)	16.5(c).
159.31	16.4(e)(1).
159.32	16.4(b).
159.33	16.4(a), 16.4(e)(1).
159.34 (a), (b)	16.4(d).
159.35	New.
159.36	16.4(e).
159.36(a)	16.4(e).
159.36(b)	16.4(e)(3).
159.36(c)	16.4(e)(4), (f).
159.36(d)	16.4(e)(5), (f).
159.37(a)–(c)	16.4(c).
159.38	16.4(c).
159.41	New.
159.42	16.19.
159.43	16.20.
159.44	16.25.
159.45	New.
159.46(a)	16.18(a).
159.46(b)	16.18(b).
159.47(a)–(f)	16.24(a)–(f).
159.51	New.
159.52	16.3(c), (d).
159.53	16.3(b).
159.54	16.3(a).
159.55(a)–(b)	12.6(a), (b).
159.56	New.
159.57	New.

(This table shows the relation of revised §§ 10.151 through 10.153 to superseded 19 CFR Part 8, and revised §§ 10.161 through 10.166 to superseded 19 CFR Part 16)

Revised Sections	Superseded Section
10.151	8.3(b).
10. 152	8.3(c).
10.153(a)–(g)	8.3(d).
10.161	16.26(c).
10.162	16.26(c).
10.163	16.26(b).
10.164(a)–(c)	16.26(d)(1)–(3).
10.165	16.26(d)(4).
10.166(a)–(c)	16.26(d)(5).

[FR Doc.73-13122 Filed 6-29-73;8:45 am]

Title 6—Economic Stabilization

CHAPTER I—COST OF LIVING COUNCIL

PART 140—COST OF LIVING COUNCIL FREEZE REGULATIONS

Imported Commodities and Services

Section 140.14 of Part 140 of Title 6, Code of Federal Regulations is amended to clarify its applicability and the operation of the pass through rule.

The amended section specifically refers to imported services as well as imported commodities. No valid reason exists for distinguishing between commodities and services and, therefore, both are treated equally. The explicit application of this section to services has a significant impact. For example, air fares charged by foreign air lines to customers in the

United States are exempt under this section since these are imports of services.

The operation of the pass through rule is also clarified in the amended section. Previously, § 140.14 allowed the pass through on a dollar-for-dollar basis of "price increases" for imported commodities incurred after June 12, 1973. The pass through is in fact intended to apply to increases in the landed cost of the commodity or service. This result is made explicit in the amended section. The rule for imported commodities and services, therefore, allows the freeze price of an import to be increased by an amount equivalent to increases in the landed cost of the import if the import is received after June 12, 1973. Copies which may be passed on include increases caused by appreciation of foreign currencies in relation to the dollar, increases in U.S. custom duties and tariffs on the import, increases in the charges for transporting the imports to the United States, as well as any increase in the price charged for the import by a foreign seller.

Because the purpose of these regulations is to provide immediate guidance as to Cost of Living Council decisions, the Council finds that publication in accordance with normal rule making procedure is impracticable and that good cause exists for making these regulations effective in less than 30 days. Interested persons may submit comments regarding these regulations. Communications should be addressed to the Office of General Counsel, Cost of Living Council, Freeze Group, Washington, D.C. 20508.

(Economic Stabilization Act of 1970, as amended, Pub. L. 92-210, 85 Stat. 743; Pub. L. 93-28, 87 Stat. 27; E.O. 11723, 38 FR 15765; Cost of Living Council Order No. 30, 38 FR 16267).

In consideration of the foregoing, Part 140 of Chapter I of Title 6, Code of Federal Regulations is amended as follows, effective 99:00 p.m., e.s.t., June 13, 1973.

Issued in Washington, D.C., on June 28, 1973.

JAMES W. MCLANE,
Director,
Special Freeze Group.

Section 140.14 is amended to read as follows:

§ 140.14 Imported commodities and services.

Notwithstanding the provisions of § 140.10, any person who imports and sells a commodity or service from outside the several States and the District of Columbia and each reseller of such a commodity or service may pass on increases in the landed cost for such imported commodity or service incurred after June 12, 1973, on a dollar-for-dollar basis so long as the commodity or service is neither physically transformed by the seller nor becomes a component of another product. However, this section shall not apply to commodities or services which were originally purchased in the United States but exported and subsequently imported in any form.

[FR Doc.73-13506 Filed 6-28-73; 5:05 pm]

PART 140—COST OF LIVING COUNCIL FREEZE REGULATIONS

Special Freeze Group Questions and Answers No. 8

These "Questions and Answers", which are issued by the Cost of Living Council's Freeze Group, are designed to provide immediate guidance in understanding and applying the new freeze regulations (Part 140 of Title 6 of the Code of Federal Regulations). To achieve the broadest publication, these are hereby added to Appendix A of Part 140. Since they provide guidance of general applicability and are subject to clarification, revision or revocation, they do not constitute legal rulings with respect to specific fact situations.

(Economic Stabilization Act of 1970, as amended, Pub. L. 92-210, 85 Stat. 743; Pub. L. 93-28, 87 Stat. 27; E.O. 11723, 38 FR 15765; Cost of Living Council Order No. 30, 38 FR 16267)

Issued in Washington, D.C., on June 27, 1973.

JAMES W. MCLANE,
Director, Special Freeze Group.

Appendix A of Part 140 is amended by adding the following:

SPECIAL FREEZE GROUP
QUESTIONS AND ANSWERS
No. 8

1. Q. Is a gourmet food department in a retail department store considered a food retail outlet? The department store is part of a firm which derives more than $25 million in annual sales and revenues from food sales. What are the posting requirements for the gourmet department?

A. A gourmet food department in a department store would not be considered a retail food outlet unless the sales receipts from the gourmet department constituted 50 percent of the total sales receipts of the department store. The gourmet department does not have to prepare a freeze price list for the food items it sells. However, the department store must post a sign in the store advising of the availability of freeze price information and where a Freeze Price Information Request Form may be filed. The store must respond to this request within 48 hours. In addition, records concerning freeze prices must be maintained at the location where the pricing decisions for the store are made.

2. Q. Are hotel and motel rentals subject to the freeze if they are used as a residence?

A. No. As explained in Freeze Group Questions and Answers No. 3, rentals of hotel and motel rooms are generally considered to be sales of services. These rooms are not usually used as a principal place of abode of nontransient occupants. However, if a person occupies a room for a period of one month or more, he will be considered to be using the hotel or motel as a residence and the rate charged for the room is considered rent which is exempt from the freeze.

3. Q. May State or local taxes be increased during the freeze?

A. Yes. State and local taxes are exempt from the freeze since they are not prices within the meaning of the Economic Stabilization Act. These taxes include general purpose taxes such as income, sales and property taxes.

4. Q. In cases where sales or excise taxes have been increased, may these be passed on to the customer?

A. Yes. The price the customer pays is equal to the freeze price, which remains unchanged during the freeze, plus these taxes. This ruling applies to any goods or services which are directly taxed. However, increases in general taxes such as property taxes or business taxes may not be passed on to the consumer.

5. Q. Can the fees or charges which a State or local government charge for services provided by the governments be increased during the freeze?

A. No. Fees for water, gas, sewer and similar services are considered prices for particular services and are subject to the freeze. No matter what a State or local government may call a fee or charge for a specific public service, if that government is imposing a user charge, then the charge is covered by the freeze.

6. Q. A State government plans to increase its licensing fee for drivers' licenses during the freeze. Is this increase permitted?

A. Yes. Fees for licenses, legal penalties such as traffic tickets, or any other exercise of the general police or regulatory powers of a State or local government are not subject to the freeze as they are not considered a price within the meaning of the Economic Stabilization Act.

7. Q. May a firm which has negotiated a labor contract to become effective July 1, 1973, increase its prices to pass through its increased labor costs?

A. No. During the freeze, the firm may not increase its prices above its freeze prices. However, if the firm can establish that a serious hardship or gross inequity exists because of the increase in labor costs, it may request an exception from the freeze regulations.

8. Q. A university has announced and received payment of increased tuition fees before the freeze for summer courses which started after June 8. Does the announcement or payment of the increased tuition fee constitute a transaction which establishes a freeze price at this increased rate?

A. No. In the case of services, a transaction is deemed to occur at the time the service is performed. No transaction occurred for the university until the students had actually started a course of instruction. To determine freeze prices, the university, however, is not necessarily required to use the same tuition rates charged last summer. Because the service provided in the Spring and Fall terms is essentially the same on a credit-hour basis as will be provided in the summer session, this university may use tuition rates on a credit-hour basis for courses taught in the Spring or Fall, whichever is more recent, to determine freeze prices for summer courses. The university must, however, refund to all students who have prepaid for summer courses the difference between the tuition fee charged and the freeze price.

9. Q. Are college and school room and board rates exempt from the freeze?

A. When schools offer a package of services (tuition, room and board), all three will be handled just like tuition rates. If tuition, room and board are offered as separate services, increases in room and board rates will

also be treated the same as increases in tuition rates. However, this interpretation for room charges applies only to university-owned or controlled housing operated exclusively for student housing in the manner of dormitories (as evidenced by school-year, semester, or quarter lump-sum rates covering room). University-owned or operated apartments, houses, trailers or other accommodations in which separate units are leased or rented in the manner of commercially owned rental units (e.g., monthly rental payments, annual leases or month-to-month tenancies) are exempt from the freeze.

10. Q. May a university charge increased tuition rates for the Fall term?

A. If the courses of instruction offered by the university start after the freeze is terminated, the tuition charges are not subject to the freeze rules. Tuition rates for the post-freeze period will be subject to Phase IV regulations.

11. Q. A State fair trade law requires a company to raise its prices to the fair trade law minimum, but this minimum price exceeds the company's freeze price. How should this conflict be resolved?

A. Under the Constitutional doctrine of supremacy of Federal law over State law, when a conflict exists the freeze price regulations prevail over the State fair trade law.

12. Q. Are finance charges frozen?

A. No. Finance charges are interest rates and are exempt from the freeze.

13. Q. Are service charges and other fees charged by banks, e.g. for safe deposit boxes, subject to the freeze?

A. Yes.

14. Q. Are sales in the commonwealth of Puerto Rico subject to the freeze?

A. No. The freeze only applies to sales in the several States and the District of Columbia.

[FR Doc.73-13444 Filed 6-28-73;11:38 am]

PART 140—COST OF LIVING COUNCIL FREEZE REGULATIONS

Freeze Group Questions and Answers No. 9

These "Questions and Answers", which are issued by the Cost of Living Council's Freeze Group, are designed to provide immediate guidance in understanding and applying the new freeze regulations (Part 140 of Title 6 of the Code of Federal Regulations). To achieve the broadest publication, these are hereby added to Appendix A of Part 140. Since they provide guidance of general applicability and are subject to clarification, revision or revocation, they do not constitute legal rulings with respect to specific fact situations.

(Economic Stabilization Act of 1970, as amended, Pub. L. 92-210, 85 Stat. 743; Pub. L. 93-28, 87 Stat. 27; E.O. 11723, 38 FR 15765; Cost of Living Council Order No. 30, 38 FR 16267)

Issued in Washington, D.C., on June 28, 1973.

JAMES W. MCLANE,
Director,
Special Freeze Group.

Appendix A of Part 140 is amended by adding the following:

SPECIAL FREEZE GROUP

QUESTIONS AND ANSWERS
NO. 9

NOTE: Because of continued inquiries regarding freeze prices on contracts, the following is reissued for clarification.

Q. May a contract for goods entered into during the freeze base period establish the freeze base price for the goods covered by the contract, even though shipment was not to occur until later?

A. No. Freeze base prices are determined in accordance with transactions made during the freeze base period. The freeze regulations state that a transaction "is considered to occur at the time of shipment in the case of commodities, and the time of performance in the case of services."

[FR Doc.73-13507 Filed 6-28-73;5:05 pm]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION DEPARTMENT OF TRANSPORTATION

[Docket No. 10492; Amdt. SFAR 26-4]

PART 21—CERTIFICATION PROCEDURES FOR PRODUCTS AND PARTS

Approval of Import Aircraft Engines, Propellers, Materials, Parts, and Appliances; Continuation

The purpose of this amendment is to continue in effect the provisions of currently effective Special Federal Aviation Regulation No. 26 (SFAR-26), as amended by Amendments SFAR 26-1, 26-2, and 26-3, until January 1, 1974.

SFAR 26 provides for approvals on a selective basis, of aircraft engines, propellers, materials, parts, and appliances manufactured in a foreign country with which the United States has an agreement for the acceptance of powered aircraft for export and import. SFAR 26 was adopted to provide these approvals on an interim basis pending appropriate amendments to those bilateral agreements where such amendments are in the mutual interest of the United States and the foreign country involved. The originally established termination date of March 1, 1972, for SFAR-26 was extended by Amendment SFAR 26-1 to September 1, 1972, by Amendment SFAR 26-2 to January 1, 1973, and further extended by Amendment SFAR 26-3 to July 1, 1973.

At the present time the United States has entered into new bilateral agreements with the United Kingdom, Sweden, and Belgium and the United States is continuing to negotiate amendments to the bilateral agreements which exist with a number of other foreign countries. However, the FAA is advised that the continuing negotiations will not be concluded by the July 1, 1973, termination date of SFAR 26. The reasons which justified the adoption of SFAR 26 still exist, and, in view of the pending negotiations, the FAA believes that it is in the public interest to extend the termination date of SFAR 26 from July 1, 1973, to January 1, 1974.

Since this amendment continues in effect the provisions of a currently effective Special Federal Aviation Regulation and imposes no additional burden on any person, I find that notice and public procedure hereon are unnecessary and it may be made effective in less than 30 days.

In consideration of the foregoing, effective July 1, 1973, the last paragraph of Special Federal Aviation Regulation No. 26, published in the FEDERAL REGISTER (35 FR 12748) on August 12, 1970, as amended by Amendments SFAR 26-1, SFAR 26-2, and SFAR 26-3 published in the FEDERAL REGISTER (37 FR 4325, 37 FR 16789, and 37 FR 28276) on March 2, 1972, August 19, 1972, and December 22, 1972, respectively, is further amended by striking out the words "July 1, 1973" and inserting the words "January 1, 1974," in place thereof.

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

Issued in Washington, D.C., on June 26, 1973.

ALEXANDER P. BUTTERFIELD,
Administrator.

[FR Doc.73-13512 Filed 6-29-73;9:58 am]

[Docket No. 12035; Amdt. Nos. 61-61, 63-16, 65-21, 91-117, 133-4, 137-4, 141-12]

GENERAL OPERATING AND CERTIFICATION REGULATIONS

Carriage of Narcotic Drugs, Marihuana, and Depressant or Stimulant Drugs or Substances

The purpose of these amendments to Part 91 of the Federal Aviation regulations is to make the current prohibition in § 91.12(a) against the carriage in civil aircraft of narcotic drugs, marihuana, and depressant or stimulant drugs or substances between Mexico and the United States apply to the operation of civil aircraft anywhere within the United States. These amendments also make a violation of § 91.12(a), as well as a conviction for violating any Federal or State statute relating to the growing, processing, manufacture, sale, disposition, possession, transportation, or importation of narcotic drugs, marihuana, and depressant or stimulant drugs or substances, a basis for denying applications for airmen certificates issued under Parts 61, 63, and 65 and a basis for suspending or revoking those certificates. In addition, a violation of § 91.12(a) is made the basis for suspending or revoking the operating certificate authority issued under Part 133 (rotorcraft external-load operations), Part 137 (agricultural aircraft operations), and Part 141 (pilot schools). Finally, this amendment to Part 91 (§ 91.84) requires an appropriate flight plan to be

filed for the flight of civil aircraft between Mexico or Canada and the United States, unless otherwise authorized by ATC.

These amendments are based on a notice of proposed rule making (Notice 72-16) published in the FEDERAL REGISTER on July 4, 1972 (37 FR 13189).

A number of comments received in response to Notice 72-16 expressed opposition to regulation by the FAA in the area of narcotics control and appeared to question their justification. As explained in the preamble to the notice, the current provisions of § 91.12(a) were adopted in 1969 (34 FR 13922) in recognition of the increasing hazard to safety in air commerce resulting from the increased use of civil aircraft for the illicit carriage of narcotics and other drugs into the United States. These hazards result from attempts to avoid detection or pursuit through violent maneuvers, low flying, flight in bad weather, and use of unsafe landing areas. Since 1969, information available to the FAA indicates that the illicit carriage of drugs by aircraft is occurring in various places within the United States, in violation of State as well as Federal statutes. Accordingly, in the interest of safety, this amendment extends the applicability of the current prohibition in § 91.12(a) to include the operation of civil aircraft anywhere within the United States with knowledge that narcotic drugs, marihuana, and depressant or stimulant drugs or substances as defined in Federal or State statutes are carried in the aircraft.

The current provisions of §§ 61.6 (§ 61.15 as of November 1, 1973) and 63.12, which were adopted in 1969 (34 FR 13922), make a violation of any Federal statute governing illegal activities involving narcotic drugs, marihuana, and depressant or stimulant drugs or substances, or a violation of § 91.12(a), a basis for denying applications for airmen certificates issued under Parts 61 and 63, and for suspending and revoking those certificates. This amendment expands those current provisions of §§ 61.6 and 63.12 to also encompass violations of State statutes governing such illegal activities. In addition, the amendment adds identical provisions to § 65.12 of Part 65, which governs the issuance of airman certificates to air traffic control-tower operators, aircraft dispatchers, mechanics, repairmen, and parachute riggers. As explained in the Notice, the FAA is adopting these amendments to Parts 61, 63, and 65 because it believes a demonstrated willingness to violate Federal or State statutory provisions governing the illegal activities specified, or a demonstrated willingness to violate § 91.12(a), clearly demonstrates a tendency to act without inhibition in an unstable manner without regard to the rights of others, and clearly demonstrates that the applicant for a certificate would not be compliance minded regarding the many requirements necessary for safety in air commerce or air transportation.

The FAA also adopted in 1969 (34 FR 13922) amendments to Parts 121, 123, 127, and 135 which currently provide for the suspension or revocation of an operating certificate issued under those parts if the certificate holder permits any aircraft owned or operated by him to be engaged in any operation he knows to be in violation of § 91.12(a). This amendment adds the same provisions for certificate suspension or revocation to Parts 133, 137, and 141. As stated in the notice, the rationale for these provisions is the FAA belief that the privileges inherent in those operating certificates can directly support, or even be essential to, the use of aircraft in smuggling narcotic drugs, marihuana, and depressant or stimulant drugs or substances. This is considered to be true regardless of whether the aircraft is being operated under the certificate at the time, since the corporate financial and management strength necessary to operate such aircraft largely flows from the operating certificates. As in the case of airman certificates, operating certificates can have the effect of providing a condition necessary to the use of the aircraft, by any person, in the hazardous business of smuggling. Furthermore, for the same reasons that support actions against airman certificates, the risk-taking willingness of the corporate or individual management of the holders of those operating certificates would clearly negate their ability to adhere to the conditions necessary for safety in air commerce or air transportation. The FAA considers this to be true, regardless of whether that risk-taking occurs by the certificate holder leasing the aircraft to other persons who smuggle the illegal items or by their operating the aircraft themselves in that business.

In addition to the foregoing, the justification for these amendments encompasses the equally important public interest factors that are directly opposed to the continued use of airman and operating certificates to support the aerial smuggling of narcotic drugs, marihuana, and depressant or stimulant drugs or substances.

As proposed, this amendment prescribes a new § 91.84 which requires persons operating civil aircraft on a flight between Mexico or Canada and the United States to file a VFR or IFR flight plan, as appropriate, unless otherwise authorized by ATC. In adopting this amendment the FAA considered the fact that Part 99 already requires a flight plan to be filed for flights between other countries and the United States and is of the opinion that the flight plan requirement will further assist the agency in conducting an effective safety enforcement program.

(Secs. 307(c), 313(a), 601, 602, 604, 607, Federal Aviation Act of 1958, 49 U.S.C. 1348(c), 1354(a), 1421, 1422, 1424, 1427; sec. 6(c), Department of Transportation Act 49 U.S.C. 1655(c))

In consideration of the foregoing:

A. Part 61, of the Federal Aviation Regulations is amended, effective August 1, 1973, as follows:

PART 61—CERTIFICATION: PILOTS AND FLIGHT INSTRUCTORS

1. Part 61 as amended by amending the title and paragraph (a) of § 61.6 to read as follows:

§ 61.6 Offenses involving narcotic drugs, marihuana, and depressant or stimulant drugs or substances.

(a) No person who is convicted of violating any Federal or State statute relating to the growing, processing, manufacture, sale, disposition, possession, transportation, or importation of narcotic drugs, marihuana, and depressant or stimulant drugs or substances, is eligible for any certificate or rating issued under this part for a period of 1 year after the date of final conviction.

* * * * *

B. Part 61 of the Federal Aviation regulations is amended, effective November 1, 1973, by amending the title and paragraph (a) of § 61.15, as adopted in Amendment No. 61-60 (38 FR 3156; published February 1, 1973), to read as follows:

§ 61.15 Offenses involving narcotic drugs, marihuana, and depressant or stimulant drugs or substances.

(a) No person who is convicted of violating any Federal or State statute relating to the growing, processing, manufacture, sale, disposition, possession, transportation, or importation of narcotic drugs, marihuana, and depressant or stimulant drugs or substances, is eligible for any certificate or rating issued under this part for a period of 1 year after the date of final conviction.

* * * * *

C. Parts 63, 65, 91, 133, 137, 141 of the Federal Aviation regulations are amended, effective August 1, 1973, as follows:

PART 63—CERTIFICATION: FLIGHT CREWMEMBERS OTHER THAN PILOTS

1. Part 63 is amended by amending the title and paragraph (a) of § 63.12 to read as follows:

§ 63.12 Offenses involving narcotic drugs, marihuana, and depressant or stimulant drugs or substances.

(a) No person who is convicted of violating any Federal or State statute relating to the growing, processing, manufacture, sale, disposition, possession, transportation, or importation of narcotic drugs, marihuana, and depressant or stimulant drugs or substances, is eligible for any certificate or rating issued under this part for a period of 1 year after the date of final conviction.

* * * * *

PART 65—CERTIFICATION: AIRMEN OTHER THAN FLIGHT CREWMEMBERS

2. Part 65 is amended by adding new § 65.12 to read as follows:

§ 65.12 Offenses involving narcotic drugs, marihuana, and depressant or stimulant drugs or substances.

(a) No person who is convicted of violating any Federal or State statute relating to the growing, processing, manufacture, sale, disposition, possession, transportation, or importation of narcotic drugs, marihuana, and depressant or stimulant drugs or substances, is eligible for any certificate or rating issued under this part for a period of 1 year after the date of final conviction.

(b) No person who commits an act prohibited by § 91.12(a) of this chapter is eligible for any certificate or rating issued under this part for a period of 1 year after the date of that act.

(c) Any conviction specified in paragraph (a) of this section, or the commission of the act referenced in paragraph (b) of this section, is grounds for suspending or revoking any certificate or rating issued under this part.

PART 91—GENERAL OPERATING AND FLIGHT RULES

3. Part 91 is amended by revising § 91.12 and by adding new § 91.84 to read as follows:

§ 91.12 Carriage of narcotic drugs, marihuana, and depressant or stimulant drugs or substances.

(a) Except as provided in paragraph (b) of this section, no person may operate a civil aircraft within the United States with knowledge that narcotic drugs, marihuana, and depressant or stimulant drugs or substances as defined in Federal or State statutes are carried in the aircraft.

(b) Paragraph (a) of this section does not apply to any carriage of narcotic drugs, marihuana, and depressant or stimulant drugs or substances authorized by or under any Federal or State statute or by any Federal or State agency.

§ 91.84 Flights between Mexico or Canada and the United States.

Unless otherwise authorized by ATC, no person may operate a civil aircraft between Mexico or Canada and the United States without filing an IFR or VFR flight plan, as appropriate.

PART 133—ROTORCRAFT EXTERNAL-LOAD OPERATIONS

4. Part 133 is amended by adding a new § 133.14 to read as follows:

§ 133.14 Carriage of narcotic drugs, marihuana, and depressant or stimulant drugs or substances.

If the holder of a certificate issued under this part permits any aircraft owned or leased by that holder to be engaged in any operation that the certificate holder knows to be in violation of § 91.12(a) of this chapter, that operation is a basis for suspending or revoking the certificate.

PART 137—AGRICULTURAL AIRCRAFT OPERATIONS

5. Part 137 is amended by adding a new § 137.23 to read as follows:

§ 137.23 Carriage of narcotic drugs, marihuana, and depressant or stimulant drugs or substances.

If the holder of a certificate issued under this part permits any aircraft owned or leased by that holder to be engaged in any operation that the certificate holder knows to be in violation of § 91.12(a) of this chapter, that operation is a basis for suspending or revoking the certificate.

PART 141—PILOT SCHOOLS

6. Part 141 is amended by adding a new § 141.6 to read as follows:

§ 141.6 Carriage of narcotic drugs, marihuana, and depressant or stimulant drugs or substances.

If the holder of a certificate issued under this part permits any aircraft owned or leased by that holder to be engaged in any operation that the certificate holder knows to be in violation of § 91.12(a) of this chapter, that operation is a basis for suspending or revoking the certificate.

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

ALEXANDER P. BUTTERFIELD,
Administrator.

[FR Doc.73-13261 Filed 6-29-73;8:45 am]

Title 15—Commerce and Foreign Trade

SUBTITLE B—REGULATIONS RELATING TO COMMERCE AND FOREIGN TRADE

CHAPTER II—NATIONAL BUREAU OF STANDARDS, DEPARTMENT OF COMMERCE

PART 200—POLICIES, SERVICES, PROCEDURES, AND FEES

Services for Foreign Entities

In view of the enactment of Public Law 92-317, June 22, 1972, amending 15 U.S.C. 273 to authorize providing services to international and foreign entities under certain circumstances, § 200.103 is amended to delete former limitations in this regard. Accordingly, paragraph (f) is revised to read as follows:

§ 200.103 Types of calibration and test services.

* * * * *

(f) NBS reserves the right to decline any request for services if the work would interfere with other activities deemed by the Director to be of greater importance. In general, measurement services are not provided when widely available from commercial laboratories.

* * * * *

(Sec. 9, 31 Stat. 1450, as amended; 15 U.S.C. 277. Applies sec. 3, 86 Stat. 235; 15 U.S.C. 273)

Effective date. This amendment shall become effective July 2, 1972.

Date: June 26, 1973.

RICHARD W. ROBERTS,
Director.

[FR Doc.73-13316 Filed 6-29-73;8:45 am]

CHAPTER III—DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION, DEPARTMENT OF COMMERCE

SUBCHAPTER B—EXPORT REGULATIONS

[13th Gen Rev., Export Regs.; Amdt. 57]

PART 376—SPECIAL COMMODITY POLICIES AND PROVISIONS

Reporting Requirement for Certain Commodities and Foodstuffs

Section 376.3 and Supplement No. 1 to Part 376 are amended to read as set forth below.

Effective date: June 28, 1973

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

On June 13, 1973, a reporting requirement was established for exports and anticipated exports of certain grains, oilseeds, and oilseed products. This reporting requirement was described in full detail on page 15772 of the FEDERAL REGISTER dated June 15, 1973. In view of the validated license requirement announced in the FEDERAL REGISTER dated June 28, 1973 on exports of soybeans, cottonseeds, and various meal and oil products thereof, it is necessary to add certain of these controlled products to the reporting requirement. The commodities added to the reporting requirement are:

Schedule B Number	*Commodity Description*
	GROUP VIII
421.2010	Soybean oil, crude, including degummed
421.2020	Soybean oil, once refined
421.2040	Soybean salad oil, refined and further processed by bleaching, deodorizing, or winterizing
431.2010	Soybean oil, hydrogenated
431.2030	Fats and oils, hydrogenated, *the following only:* Cottonseed and soybean oil mixture
	GROUP XI
421.3010	Cottonseed oil, crude
421.3020	Cottonseed oil, once refined
421.3040	Cottonseed salad oil, refined and further processed by bleaching, deodorizing, or winterizing
431.2020	Cottonseed oil, hydrogenated

These commodities are to be reported in accordance with all the terms and conditions contained in § 376.3 of the Regulations, except that the initial report of unfilled orders shall be filed no later than July 2, 1973, to include therein all anticipated exports of these commodities as of 5:00 p.m. EDT, June 27, 1973.

Exporters shall use the present form DIB–634P (h) and (i) and DIB–635P (h) and (i) to submit reports for these additional commodities. The certification of the initial report shall be altered by writing by hand at the end thereof "as of 5 PM EDT, June 27, 1973." In addition, the person certifying the initial report shall cross out the second line of the heading at the top of the form DIB 634P which reads "Anticipated Exports as of June 13, 1973 or Week Ending Friday _____ 1973." When subsequent reports of changes are submitted on form DIB–635P, the dates in items 2, 3, and 5 of the form should be altered accordingly.

The Department has reason to believe that certain reports that have been submitted pursuant to the reporting requirement established on June 13 have included anticipated exports that were not based on firm commitments. All exporters are reminded that the definition of anticipated exports contained in § 376.3 (a) (3) (v) does not include merely hoped-for orders or volume commitments without fixed price or fixed basis for price. Accordingly, this definition should be kept in mind in preparing all future reports of anticipated exports.

Accordingly, § 376.3 and Supplement No. 1 to Part 376 of the Export Control Regulations are amended to read as set forth below.

§ 376.3 Agricultural commodities requiring reports.

(a) *Exports and anticipated exports of certain grains, oil seeds, and oilseed products.*—(1) *Initial report of unfilled orders.* No later than the date shown in Column D of Supplement No. 1 to this Part 376, each U.S. exporter shall file a report of all anticipated exports (as hereinafter defined) of more than $250 of each separate agricultural commodity listed in Supplement No. 1. Such report will provide the tonnage (in metric tons) of such anticipated exports as of the close of business (or time of day, if specified) on the date shown in Column C of Supplement No. 1. The commodities subject to the reporting requirement set forth herein shall be listed by the appropriate number in Schedule B, Statistical Classification of Domestic and Foreign Commodities Exported from the United States, U.S. Bureau of the Census, as set forth in Supplement No. 1 and in the case of wheat also by the separate classes of wheat set forth in Supplement No. 1; by country of ultimate destination; and by month of scheduled or anticipated export. For optional sales, the report shall include that portion of the sale exported to be exported from the United States, or in the case of optional class or kind of grain, the report shall include the particular class or kind of grain expected to be exported. A separate report shall be filed on the appropriate Form DIB–634P(a) through (i) "Anticipated Exports" for each of the nine agricultural commodity groupings listed in Supplement No. 1. Form DIB–634P is promulgated in series (a) through (i) inclusive, so that each of the nine commodity groupings has its own particular form, designated by color coding.

(2) *Subsequent reports.* On the date shown in Column E of Supplement No. 1, and on the first business day of each week thereafter, each U.S. exporter shall file a report on the appropriate Form DIB–634P setting forth as of the close of business the preceding Friday all anticipated exports of more than $250 for each separate commodity set forth in Supplement No. 1. Such report shall be made on the same basis as and shall contain all data required under paragraph (a) (1) of this section. Such report shall also have attached a reconciliation of all changes from the prior report which will show in aggregate form all new anticipated exports of more than $250; all cancellations of, or changes in, orders previously reported; a breakdown showing whether such cancelled orders were accepted on or before the date shown in Column C of Supplement No. 1 or accepted after that date; all exports made since the closing date of the prior report, whether or not such exports were made against reported or accepted orders; a breakdown of exports showing whether they were against orders accepted on or before the date shown in Column C of Supplement No. 1, or against orders accepted after that date; any changes in the quantities to be exported to particular countries; any changes in the month of scheduled or anticipated export; and in the case of optional sales any change in the particular class or kind of grain expected to be exported from the U.S. Such reconciliation shall be filed on Form DIB–635P which is also promulgated in series (a) through (i) inclusive. If there are no changes on a line of information from the prior report, the information contained in the prior report shall not be repeated but Form DIB–634P shall nevertheless be submitted with the statement "no change" entered in its face; in such case, Form DIB 635P need not be filed. If there are changes, even though these do not result in changes in the aggregates because they are offsetting, Form DIB–635P shall be filed showing such changes. If the date in Column C of Supplement No. 1 is different from that shown in the heading or any item of form DIB–634P or DIB–635P, the dates on the forms should be corrected accordingly.

(3) *Reporting Requirements*—(i) *Manner of reporting.* All reports required under this Part 376 must be filed in an original and one copy with the Office of Export Control (Attn: 547), U.S. Department of Commerce, Washington, D.C. 20230. Such reports shall be deemed filed when actually received by the Office of Export Control.

(ii) *Date of export.* For purposes of Section 376.3 only, a commodity shall be considered as scheduled for export on the date the exporting carrier is expected to depart from the United States.

(iii) *Corrections.* If, because of a carrier's earlier or delayed departure or for other reasons, data reported pursuant to paragraph (a) (3) (ii) of this section are found to have been incorrect, such facts shall be set forth on Form DIB–635P (a) through (i) and corrected data shall thereafter be set forth on the appropriate Form DIB–634P (a) through (i).

(iv) *Who shall file reports.* For purposes of this § 376.3 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 information even though there may also be a U.S. order party involved. The exporter will have the sole responsibility of reporting the anticipated exports 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.

(v) *Definition.* The term "anticipated export(s)" as used herein and in the Reporting Forms means exports expected which are based upon accepted orders which are unfilled in whole or in part or upon other firm arrangements, such as exports for the exporters own account. It does not include merely hoped-for sales for export or anticipated orders.

Supplement No. 1 to part 376 is amended to read as follows:

Supplement No. 1 to Part 376 is Amended to Read as Follows:

AGRICULTURAL COMMODITIES SUBJECT TO MONITORING

A. Schedule B Number	B. Commodity Description	C. Report Unfilled Orders as of:	D. Initial Report Due By:	E. Subsequent Reports Beginning:
		GROUP I - WHEAT		
041.0020	Wheat - Hard red winter	June 13, 1973	June 20, 1973	June 25, 1973
041.0020	Wheat - Soft red winter	June 13, 1973	June 20, 1973	June 25, 1973
041.0020	Wheat - Hard red spring	June 13, 1973	June 20, 1973	June 25, 1973
041.0020	Wheat - White	June 13, 1973	June 20, 1973	June 25, 1973
041.0020	Wheat - Durum	June 13, 1973	June 20, 1973	June 25, 1973
		GROUP II - RICE		
042.1010	Rice in the husk, unmilled	June 13, 1973	June 20, 1973	June 25, 1973
042.1030	Rice, husked, long grain	June 13, 1973	June 20, 1973	June 25, 1973
042.1040	Rice, husked, medium grain	June 13, 1973	June 20, 1973	June 25, 1973
042.1050	Rice, husked, short grain	June 13, 1973	June 20, 1973	June 25, 1973
042.1060	Rice, husked, mixed	June 13, 1973	June 20, 1973	June 25, 1973
042.2022	Rice, parboiled, long grain	June 13, 1973	June 20, 1973	June 25, 1973
042.2024	Rice, parboiled, medium grain	June 13, 1973	June 20, 1973	June 25, 1973
042.2026	Rice, parboiled, short grain	June 13, 1973	June 20, 1973	June 25, 1973
042.2028	Rice, parboiled, mixed grain	June 13, 1973	June 20, 1973	June 25, 1973

Cont'd

Supplement No. 1 to Part 376 is Amended to Read as Follows:

AGRICULTURAL COMMODITIES SUBJECT TO MONITORING

A. Schedule B Number	B. Commodity Description	C. Report Unfilled Orders as of:	D. Initial Report Due By:	E. Subsequent Reports Beginning:
042.2030	Rice, milled, containing 75% or more broken kernels	June 13, 1973	June 20, 1973	June 25, 1973
042.2050	Rice, milled, long grain, containing less than 75% broken kernels	June 13, 1973	June 20, 1973	June 25, 1973
042.2060	Rice, milled, medium grain, containing less than 75% broken kernels	June 13, 1973	June 20, 1973	June 25, 1973
042.2070	Rice, milled, short grain, containing less than 75% broken kernels	June 13, 1973	June 20, 1973	June 25, 1973
042.2080	Rice, milled, mixed grain, containing less than 75% broken kernels	June 13, 1973	June 20, 1973	June 25, 1973
	GROUP III - BARLEY			
043.0000	Barley, unmilled	June 13, 1973	June 20, 1973	June 25, 1973
	GROUP IV - CORN			
044.0020	Corn, except seed, unmilled	June 13, 1973	June 20, 1973	June 25, 1973
	GROUP V - RYE			
045.1000	Rye, unmilled	June 13, 1973	June 20, 1973	June 25, 1973
	GROUP VI - OATS			
045.2000	Oats, unmilled	June 13, 1973	June 20, 1973	June 25, 1973

A. Schedule B Number	B. Commodity Description	C. Report Unfilled Orders as of:	D. Initial Report Due By:	E. Subsequent Reports Beginning
	GROUP VII - GRAIN SORGHUMS			
045.9015	Grain sorghums, unmilled	June 13, 1973	June 20, 1973	June 25, 1973
	GROUP VIII - SOYBEAN AND SOYBEAN PRODUCTS			
081.3030	Soybean oil-cake and meal	June 13, 1973	June 20, 1973	June 25, 1973
221.4000	Soybeans	June 13, 1973	June 20, 1973	June 25, 1973
421.2010	Soybean oil, crude, including degummed	June 27, 1973 (5 PM EDT)	July 2, 1973	July 9, 1973
421.2020	Soybean oil, once refined	June 27, 1973 (5 PM EDT)	July 2, 1973	July 9, 1973
421.2040	Soybean salad oil, refined and further processed by bleaching, deodorizing, or winterizing	June 27, 1973 (5 PM EDT)	July 2, 1973	July 9, 1973
431.2010	Soybean oil, hydrogenated	June 27, 1973 (5 PM EDT)	July 2, 1973	July 9, 1973
431.2030	Fats and oils, hydrogenated the following only: Cottonseed and soybean oil mixture	June 27, 1973 (5 PM EDT)	July 2, 1973	July 9, 1973

cont'd.

A. Schedule B Number	B. Commodity Description	C. Report Unfilled Orders as of:	D. Initial Report Due By:	E. Subsequent Reports Beginning
	GROUP IX - COTTONSEED AND COTTONSEED PRODUCTS			
081.3020	Cottonseed oil-cake and meal	June 13, 1973	June 20, 1973	June 25, 1973
221.6000	Cottonseed	June 13, 1973	June 20, 1973	June 25, 1973
421.3010	Cottonseed oil, crude	June 27, 1973 (5 PM EDT)	July 2, 1973	July 9, 1973
421.3020	Cottonseed oil, once refined	June 27, 1973 (5 PM EDT)	July 2, 1973	July 9, 1973
421.3040	Cottonseed salad oil, refined and further processed by bleaching, deodorizing, or winterizing	June 27, 1973 (5 PM EDT)	July 2, 1973	July 9, 1973
431.2020	Cottonseed oil, hydrogenated	June 27, 1973 (5 PM EDT)	July 2, 1973	July 9, 1973

[FR Doc.73-13559 Filed 6-29-73;1:46 pm]

Proposed Rules

DEPARTMENT OF JUSTICE

Bureau of Narcotics and Dangerous Drugs

[21 CFR Part 308]

4-BROMO-2,5-DIMETHOXYAMPHETAMINE

Proposed Placement in Schedule I

Based upon the investigations of the Bureau of Narcotics and Dangerous Drugs and upon the scientific and medical evaluation and recommendation of the Secretary of Health, Education, and Welfare, received pursuant to section 201 (b) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 811(b)), the Director of the Bureau of Narcotics and Dangerous Drugs finds that 4-bromo-2,5-dimethoxyamphetamine (and its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation):

(1) Has a high potential for abuse;

(2) Has no currently accepted medical use in treatment in the United States; and

(3) Lacks accepted safety for use under medical supervision.

Therefore, under the authority vested in the Attorney General by section 201 (a) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 811(a)), and delegated to the Director of the Bureau of Narcotics and Dangerous Drugs by § 0.100 of Title 28 of the Code of Federal Regulations, the Director proposes that § 308.11(d) of Title 21 of the Code of Federal Regulations be amended by adding a new paragraph (18) to read:

§ 308.11 Schedule I.

* * * * *

(d) * * *

(18) 4-bromo-2,5-dimethoxyamphetamine 7391
Some trade or other names:
4-bromo-2,5-dimethoxy-α-methylphenethylamine;
4-bromo-2,5-DMA.

All other interested persons are invited to submit their comments or objections in writing regarding this proposal. These comments or objections should state with particularity the issues concerning which the person desires to be heard. A person may comment on or object to the application of this proposal to any one or more of the nine derivatives named without filing comments on the remaining derivatives. Comments and objections should be submitted in quintuplicate to the Hearing Clerk, Office of Chief Counsel, Bureau of Narcotics and Dangerous Drugs, Department of Justice, Room 611, 1405 I Street, NW., Washington, D.C. 20537, and must be received no later than August 1, 1973.

In the event that an interested party submits objections to this proposal which present reasonable grounds for this rule not to be finalized and requests a hearing in accordance with 21 CFR 308.45, the party will be notified by registered mail that a hearing on these objections will be held at the time and place set forth in the letter. A notice of hearing will simultaneously be published in the FEDERAL REGISTER. If objections submitted do not present such reasonable grounds, the party will so be advised by registered mail.

If no objections presenting reasonable grounds for a hearing on the proposal are received within the time limitations, and all interested parties waive or are deemed to waive their opportunity for the hearing or to participate in the hearing, the Director may cancel the hearing and, after giving consideration to written comments, issue his final order pursuant to 21 CFR 308.48 without a hearing.

Dated: June 27, 1973.

JOHN E. INGERSOLL,
Director, Bureau of Narcotics and Dangerous Drugs.

[FR Doc.73-13447 Filed 6-29-73;8:45 am]

[21 CFR Part 308]

4-METHOXYAMPHETAMINE

Proposed Placement in Schedule I

Based upon the investigations of the Bureau of Narcotics and Dangerous Drugs and upon the scientific and medical evaluation and recommendation of the Secretary of Health, Education, and Welfare, received pursuant to section 201 (b) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 811(b)), the Director of the Bureau of Narcotics and Dangerous Drugs finds that 4-Methoxyamphetamine (and its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation):

(1) Has a high potential for abuse;

(2) Has no currently accepted medical use in treatment in the United States; and

(3) Lacks accepted safety for use under medical supervision.

Therefore, under the authority vested in the Attorney General by section 201 (a) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 811(a)), and delegated to the Director of the Bureau of Narcotics and Dangerous Drugs by § 0.100 of Title 28 of the Code of Federal Regulations, the Director proposes that § 308.11(d) of Title 21 of the Code of Federal Regulations be amended by adding a new paragraph (18) to read

§ 308.11 Schedule I.

* * * * *

(d) * * *

(18) 4-methoxyamphetamine 7411
Some trade or other names:
4-methoxy-α-methylphenethylamine;
paramethoxyamphetamine; PMA.

All other interested persons are invited to submit their comments or objections in writing regarding this proposal. These comments or objections should state with particularity the issues concerning which the person desires to be heard. A person may comment on or object to the application of this proposal to any one or more of the nine derivatives named without filing comments on the remaining derivatives. Comments and objections should be submitted in quintuplicate to the Hearing Clerk, Office of Chief Counsel, Bureau of Narcotics and Dangerous Drugs, Department of Justice, Room 611, 1405 I Street, NW., Washington, D.C. 20537, and must be received no later than August 1, 1973.

In the event that an interested party submits objections to this proposal which present reasonable grounds for this rule not to be finalized and requests a hearing in accordance with 21 CFR 308.45, the party will be notified by registered mail that a hearing on these objections will be held at the time and place set forth in the letter. A notice of hearing will simultaneously be published in the FEDERAL REGISTER. If objections submitted do not present such reasonable grounds, the party will so be advised by registered mail.

If no objections presenting reasonable grounds for a hearing on the proposal are received within the time limitations, and all interested parties waive or are deemed to waive their opportunity for the hearing or to participate in the hearing, the Director may cancel the hearing and, after giving consideration to written comments, issue his final order pursuant to 21 CFR 308.48 without a hearing.

Dated: June 27, 1973.

JOHN E. INGERSOLL,
Director, Bureau of Narcotics and Dangerous Drugs.

[FR Doc.73-13448 Filed 6-29-73;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 947]

IRISH POTATOES GROWN IN MODOC AND SISKIYOU COUNTIES IN CALIFORNIA AND IN ALL COUNTIES IN OREGON EXCEPT MALHEUR COUNTY

Proposed Handling

This proposal, designed to promote orderly marketing of Oregon-California potatoes, would require inspection of fresh market shipments to keep undesirable low quality potatoes from being shipped to consumers.

Consideration is being given to the issuance of the handling regulation, hereinafter set forth, which was recommended by the Oregon-California Potato Committee, established pursuant to Marketing Agreement No. 114 and Order No. 947, both as amended (7 CFR Part 947). This program regulates the handling of Irish potatoes grown in the designated production area and is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

This notice is based on the recommendations and information submitted by the Oregon-California Potato Committee and other available information. The recommendation of the committee reflect its appraisal of the composition of the 1973 crop in the production area and of the marketing prospects for this season.

The grade, size, quality, maturity and pack requirements as provided herein are necessary to prevent potatoes of low quality, or undesirable sizes from being distributed into fresh market channels. They will also provide consumers with good quality potatoes consistent with the overall quality of the crop, and standardize the quality of the potatoes shipped from the production area in order to provide the consumer with a more acceptable product.

Exceptions are provided to certain of these requirements to recognize special situations in which such requirements would be inappropriate or unreasonable.

A specified quantity of potatoes may be handled without regard to maturity requirements in order to permit growers to make test diggings without loss of the potatoes so harvested.

Shipments may be made to certain special purpose outlets without regard to minimum grade, size, cleanliness, and maturity requirements, provided that safeguards are used to prevent such potatoes from reaching unauthorized outlets. Certified seed is not exempted from the safeguard provisions when shipped from the district where grown because the great bulk of certified seed is no longer inspected as it is packed.

Shipments for use as livestock feed within the production area or to specified adjacent areas are exempt; a limit to the destinations of such shipments is provided so that their use for the purpose specified may be reasonably assured. Shipments of potatoes between Districts 2 and 4 for planting, grading, and storing are exempt from requirements because these two areas have no natural division. Other districts are more clearly separated and do not have this problem. For the same reason, potatoes grown in District 5 may be shipped without regard to the aforesaid requirements to specified locations in Idaho, Washington, and Malheur County, Oregon, for grading and storing. Since no purpose would be served by regulating potatoes used for charity purposes, such shipments are exempt. Exemption of potatoes for most processing uses is mandatory under the legislative authority for this part and therefore shipments to processing outlets are unregulated.

Requirements for export shipments differ from those for domestic markets; while high quality standards are desired in foreign outlets, smaller sizes are more acceptable. Therefore, different requirements for export shipments are provided.

Inspection requirements are waived in certain portions of District 4 because the area is remote from inspection facilities and this requirements would cause unreasonable hardship to growers in the area.

All persons who desire to submit written data, views, or arguments in connection with this proposal should file the same in quadruplicate with the Hearing Clerk, Room 112, United States Department of Agriculture, Washington, D.C. 20250, not later than July 9, 1973. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Termination of regulations. Limitation of shipments § 947.331 effective July 24, 1972, through October 15, 1973 (37 FR 14754–14756) shall be terminated upon the effective date of this section.

§ 947.332 Handling regulation.

During the period July 16, 1973, through October 15, 1974, no person shall handle any lot of potatoes unless such potatoes meet the requirements of paragraphs (a), (b), (c), (d), (e), and (i) of this section, or unless such potatoes are handled in accordance with paragraphs (f), (g), (h), and (j) of this section.

(a) *Grade requirements.* All varieties—U.S. No. 2, or better grade: Except that potatoes designated U.S. Commercial shall meet all the requirements and tolerances of U.S. No. 1, except that they may be no more than "slightly dirty."

(b) *Size requirements.* All varieties—2 inches minimum diameter, or 4 ounces minimum weight: *Provided*, That U.S. No. 1 potatoes for export may be 1½ inches minimum diameter.

(c) *Cleanliness requirements.* All varieties and grades—As required in the United States Standards for Grades of Potatoes, except that U.S. Commercial may be no more than "slightly dirty."

(d) *Maturity (skinning) requirements.*

(1) All varieties—no more than "moderately skinned."

(2) Not to exceed a total of 100 hundredweight of potatoes may be handled any seven day period without meeting these maturity requirements. Prior to shipment of potatoes exempt from the above maturity requirements, the handler shall obtain from the committee a Certificate of Privilege.

(e) *Pack.* Potatoes packed in 50 pound containers (not including master containers) must be U.S. No. 1 or better grade.

(f) *Special purpose shipments.* The minimum grade, size, cleanliness, pack, and maturity requirements set forth in paragraphs (a), (b), (c), (d), and (e) of this section shall not be applicable to shipments of potatoes for any of the following purposes.

(1) Certified seed, subject to applicable safeguard requirements of paragraph (g) of this section.

(2) Livestock feed: *Provided*, That potatoes may not be handled for such purposes if destined to points outside of the production area, except that shipments to the Counties of Benton, Franklin and Walla Walla in the State of Washington and to Malheur County, Oregon, may be made, subject to the safeguard provisions of paragraph (g) of this section.

(3) Planting: *Provided*, That potatoes may not be shipped for this purpose to points outside of the district where grown, except that potatoes grown in District No. 2 or District No. 4 may be shipped between those two districts.

(4) Grading or storing, under the following provisions:

(i) Between districts within the production area for grading or storing if such shipments meet the safeguard requirements of paragraph (g) of this section.

(ii) Potatoes grown in District No. 2 or District No. 4 may be shipped for grading or storing between those two Districts without regard to the safeguard requirements of paragraph (g) of this section.

(iii) Potatoes grown in District No. 5 may be shipped for grading and storing to points in the Counties of Adams, Benton, Franklin and Walla Walla in the State of Washington, or to Malheur County, Oregon, subject to the safeguard provisions of paragraph (g) of this section.

(5) Charity: *Provided*, That shipments for charity may not be resold if they do not meet the requirements of the marketing order, and *Further Provided*, That shipments in excess of 5 hundredweight per charitable organization shall be subject to the safeguard provisions of paragraph (g) of this section.

(6) Starch manufacture.

(7) Canning, freezing, prepeeling, and "other processing," as hereinafter defined (including storage for such purposes).

(g) *Safeguards.* (1) Each handler making shipments of certified seed outside the district where grown pursuant

to paragraph (f) of this section shall obtain from the committee a Certificate of Privilege, and shall furnish a report of shipments to the committee on forms provided by it.

(2) Each handler making shipments of potatoes pursuant to paragraphs (2), (4)(i), (4)(iii), and (5) of paragraph (f) of this section shall obtain a Certificate of Privilege from the committee, and shall report shipments at such intervals as the committee may prescribe in its administrative rules.

(3) Each handler making shipments pursuant to paragraph (7) of paragraph (f) of this section may ship such potatoes only to persons or firms designated as approved manufacturers of potato products by the committee, in accordance with its administrative rules.

(h) *Minimum quantity exemption.* Any person may handle not more than 19 hundredweight of potatoes on any day without regard to the inspection requirements of § 947.60 and to the assessment requirements of § 947.41 of this part: *Provided,* That no potatoes may be handled pursuant to this exemption which do not meet the requirements of paragraphs (a), (b), (c), and (d) of this section. This exemption shall not apply to any part of a shipment which exceeds 19 hundredweight.

(i) *Inspection.* (1) Except when relieved by paragraphs (f) or (g) of this section, or by paragraph (2) of this paragraph (i), no person shall handle potatoes without first obtaining inspection from an authorized representative of the Federal-State Inspection Service.

(2) Shipments originating in Modoc or Siskiyou Counties of California, from points over 40 airline miles from Merrill, Oregon, are not required to obtain Federal-State inspection: *Provided,* That shippers agree to compliance safeguard procedures of the committee.

(3) For the purpose of operation under this part, unless exempted from inspection by the provisions of this section, each required inspection certificate is hereby determined, pursuant to § 947.60(c) to be valid for a period of not to exceed 14 days following completion of inspection as shown on the certificate. The validity period of an inspection certificate covering inspected and certified potatoes that are stored in mechanically refrigerated storage within 14 days of the inspection shall be 14 days exclusive of the number of days that the potatoes were held in refrigerated storage.

(4) Any lot of potatoes previously inspected pursuant to § 947.60(b) is not required to have additional inspection under § 947.60(b) after regrading, resorting, or repacking such potatoes, if the inspection certificate is valid at the time of regrading, resorting, or repacking the potatoes.

(j) *Definitions.* (1) The terms "U.S. No. 1," "U.S. Commercial," "U.S. No. 2," and "moderately skinned" shall have the same meaning as when used in the U.S. Standards for Potatoes (§§ 51.1540–51.1566 as amended February 5, 1972) (37 FR 2745) including the tolerances set forth therein.

(2) The term "slightly dirty" means potatoes that are not damaged by dirt.

(3) The term "prepeeling" means potatoes which are clean, sound, fresh tubers prepared commercially in a prepeeling plant by washing, removing the outer skin or peel, trimming, and sorting preparatory to sale in one or more of the styles of peeled potatoes described in § 52.2422 United States Standards for Grades of Peeled Potatoes (§§ 52.2421–52.2433 of this title).

(4) The term "other processing" has the same meaning as the term appearing in the act and includes, but is not restricted to, potatoes for dehydration, chips, shoestrings, or starch, and flour. It includes only that preparation of potatoes for market which involves the application of heat or cold to such an extent that the natural form or stability of the commodity undergoes a substantial change. The act of peeling, cooling, slicing, or dicing, or the application of material to prevent oxidation does not constitute "other processing."

(5) Other terms used in this section shall have the same meaning as when used in Marketing Agreement No. 114, as amended, and this part.

Dated: June 26, 1973.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.73-13311 Filed 6-29-73;8:45 am]

Animal and Plant Health Inspection Service

[7 CFR Part 301]

CEREAL LEAF BEETLE QUARANTINE

Public Hearing for Terminating Quarantine and Regulations

Pursuant to the administrative procedure provisions of 5 U.S.C. 553, notice is hereby given of a public hearing to be held, under the authority of sections 8 and 9 of the Plant Quarantine Act of 1912, as amended, and section 106 of the Federal Plant Pest Act (7 U.S.C. 161, 162, 150ee), to determine whether to terminate the Cereal Leaf Beetle Quarantine (7 CFR 301.84) and regulations thereunder.

The cereal leaf beetle is currently established in 14 States, ten of which are presently under Federal quarantine regulations. The beetle was first reported in Michigan in 1962. By 1965, eradication was determined not to be feasible. The Federal Quarantine was established in 1969 to attempt to slow spread. Artificial spread has been retarded by enforcement of quarantines, but surveys and research investigations on the physiology and the ecological range of the cereal leaf beetle indicate that it is an insect that is not amenable to the usual quarantine procedures designed to prevent artificial spread. In addition, the substantial yearly natural spread to date and the expectation of continued natural spread westward raises further questions on the value and effectiveness of continuing the Federal quarantine.

A public hearing to consider the above proposal will be held before a representative of the Animal and Plant Health Inspection Service in the conference room of the Airport Hilton at the Weir-Cook Airport, Indianapolis, Indiana, at 10 a.m. on August 7, 1973. Any interested person may appear and be heard either in person or by attorney.

Any interested person who desires to submit written data, views, or arguments on the proposal may do so by filing the same with the Deputy Administrator, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Federal Center Building, Hyattsville, Maryland 20782, on or before August 7, 1973, or with the presiding officer at the hearing. All written submissions made pursuant to this notice will be made available for public inspection at such times and places and in a manner convenient to the public business (7 CFR 1.27(b)).

After consideration of all information presented at the hearing or otherwise available to the Department, a determination will be made as to whether the Quarantine will be terminated.

Done at Washington, D.C., this 27th day of June, 1973.

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

[FR Doc.73-13356 Filed 6-29-73;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

[45 CFR 174]

EDUCATION PROFESSIONS DEVELOPMENT

Proposed Rules for Fund Grants

Notice is hereby given to institutions of higher education, local educational agencies, state educational agencies and other interested parties that the Commissioner of Education pursuant to the authority of 20 U.S.C. 1091–1092, 1107a–1119a–1, 1119c–1119c–4 1141–1142, 1144(b), 1231 et seq., proposes to issue the regulations set forth below as part 174 of title 45 of the Code of Federal Regulations governing the awarding of funds under the Education Professions Development Act (except Teacher Corps Programs). The purpose of these programs is to improve the quality of education and to help meet critical shortages of adequately trained educational personnel by (a) developing information on the actual needs for educational personnel, both present and long-range; (b) providing a broad range of high quality training and retraining opportunities responsive to changing manpower needs; (c) attracting a greater number of qualified persons into the education professions; (d) attracting persons who can stimulate creativity in the arts and other skills to undertake short-term or long-term assignments in

education; and (e) helping to make educational personnel training programs more responsive to the needs of the schools and colleges.

Interested parties are invited to submit written comments, suggestions, or objections regarding the proposed regulations to the National Center for the Improvement of Educational Systems, U.S. Office of Education, Washington, D.C. 20202 on or before August 1, 1973. Comments received will be available for public inspection at the office of the National Center for Improvement of Educational Systems, Office of Education, Room 3100, Regional Office Building at 7th & D Streets, S.W., Washington, D.C. between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday.

Dated: March 20, 1973.

Approved: June 25, 1973.

JOHN OTTINA,
Acting Commissioner of Education.

CASPAR W. WEINBERGER,
Secretary.

PART 174—EDUCATION PROFESSIONS DEVELOPMENT

Chapter I of title 45 of the Code of Federal Regulations is amended by adding a new part 174.

Grants or contracts made pursuant to the regulations set forth below are subject to the regulation in 45 CFR Part 80, issued by the Secretary of Health, Education, and Welfare, and approved by the President, to effectuate the provisions of section 601 of the Civil Rights Act of 1964 (P.L. 88-352).

Subpart A–1—General Provisions

Subpart A–2—Attracting Qualified Persons to the Field of Education

Subpart B—Attracting and Qualifying Teachers To Meet Critical Teacher Shortages

Subpart C—Graduate Fellowships and Grants for Strengthening Graduate Programs in Education

Subpart D—Improving Training Opportunities for Personnel Serving in Programs of Education Other Than Higher Education

Subpart E—Training Programs for Higher Education Personnel

Subpart F—Training and Development Programs for Vocational Education Personnel

LEADERSHIP DEVELOPMENT AWARDS

COOPERATIVE DEVELOPMENT AWARDS, EXCHANGE, PROGRAMS, INSTITUTES, AND IN-SERVICE EDUCATION FOR VOCATIONAL EDUCATION TEACHERS, SUPERVISORS, COORDINATORS, AND ADMINISTRATORS

AUTHORITY: 20 U.S.C. 1091–1092; 1107a–1119a–1; 1119c–1119c–4; 1141, 1142, 1144(b), 1231 et. seq.

Subpart A–1—General Provisions

§ 174.1 General purpose.

Regulations in this part govern programs carried out under the Education Professions Development Act (title V of the Higher Education Act of 1965), except Teacher Corps programs. The general purpose of these programs is to improve the quality of education and to help meet critical shortages of adequately trained educational personnel by (a) developing information on the actual needs for educational personnel, both present and long-range; (b) providing a broad range of high quality training and retraining opportunities responsive to changing manpower needs; (c) attracting a greater number of qualified persons into the education professions; (d) attracting persons who can stimulate creativity in the arts and other skills to undertake short-term or long-term assignments in education; and (e) helping to make educational personnel training programs more responsive to the needs of schools and colleges. (20 U.S.C. 1091)

§ 174.2 General definitions.

As used in this Part:

(a) "Act" means title V of the Higher Education Act of 1965 as amended (20 U.S.C. 1091 et seq.).

(b) "Commissioner" means the U.S. Commissioner of Education.

(c) "Department" means the Department of Health, Education, and Welfare.

(d) "Dependent," for purposes of payment of a dependency allowance, means any of the following persons over half of whose support, for the calendar year in which the school year begins, was received from the fellow or participant:

(1) A spouse,

(2) A child, or descendant of such child, or stepchild,

(3) A brother or sister,

(4) A brother or sister by the half blood,

(5) A stepbrother or stepsister,

(6) A parent, or ancestor of such parent,

(7) A stepfather or stepmother,

(8) A son or daughter of fellow's or participant's brother or sister,

(9) A brother or sister of fellow's or participant's father or mother,

(10) A son-in-law, or daughter-in-law, or father-in-law, or mother-in-law, or brother-in-law, or sister-in-law,

(11) A person (other than the fellow's or participant's spouse) who, during the fellow's or participant's entire calendar year, lives in the fellow's or participant's home and is a member of the fellow's or participant's household (but not if the relationship between the person and the fellow or participant is in violation of local law), or

(12) A cousin (descendant of a brother or sister of the fellow's or participant's father or mother) who during the fellow's or participant's calendar year, is receiving institutional care on account of a physical or mental disability, and before receiving such care was a member of the same household as the fellow or participant.

(13) A legally adopted child or a child placed in the fellow's or participant's home for adoption by an authorized agency is considered to be a child by blood.

(14) A citizen of a foreign country may not be claimed as a dependent, unless he is a resident of the United States, Canada or Mexico, or Panama or the Canal Zone, at some time during the calendar year in which the school year of the fellow or participant begins, or is a resident of the Philippines, born to or adopted by, a fellow or participant while he was a member of the Armed Forces, before January 1, 1956, or is an alien child legally adopted by and living with a fellow or participant as a member of his household for the entire calendar year.

(e) "Elementary school" means a school which provides elementary education, including education below grade 1, as determined under State law.

(20 U.S.C. 1141(1))

(f) "Fellowship" means an award under this Part to a student to enable him to carry out a full-time program of graduate study.

(g) "Fellowship year" is a study period approximately equal to 12 consecutive months beginning either in the summer or fall.

(h) "Institution of higher education" or "institution" means an educational institution in any State which meets the requirements set forth in § 1201(a) of the Higher Education Act of 1965 as amended.

(20 U.S.C. 1141(a))

(i) "Institutional allowance" means a monetary amount provided to an institution in conjunction with a pre-doctoral fellowship awarded to an individual to study at the institution. It is made in lieu of tuition and all other fees required of all students of similar standing.

(j) "Local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. The term also includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

(20 U.S.C. 1141(g))

(k) National Advisory Council on Education Professions Development is the Presidentially appointed advisory body established by the Act to review Federal programs for training educational personnel, to evaluate the effectiveness of such programs in meeting needs and achieving improved quality, and to advise the Secretary and the Commissioner on related policy matters.

(20 U.S.C. 1091(a))

(l) "Nonprofit" as applied to a school, agency, organization, or institution means a school, agency, organization, or institution 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.

(20 U.S.C. 1141(c))

(m) "Secondary school" means a school which provides secondary education as determined under State law, except that it does not include any education provided beyond grade 12.

(n) "State" include in addition to the several States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, and the Virgin Islands.

(20 U.S.C. 1141(b))

(o) "State educational agency" means the State Board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools; or, if there is no such agency or officer, an agency or officer designated by the Governor or by State Law.

(20 U.S.C. 1141(h))

(p) "Stipend" means the allowance paid to a participant or fellow for subsistance and other expenses for such participants and their dependents as the Commissioner may determine to be consistent with prevailing practices under comparable Federally supported programs.

(q) "Teacher aide" means a person who assists a teacher in the performance of his professional teaching or administrative duties or in any other activity which assists a teacher in the teaching-learning process. For the purposes of this subsection, the term "teacher" includes other educational personnel such as librarians, counselors, school social workers, child psychologists, educational media specialists, and school nurses, as well as classroom teachers. The term "teacher aide" does not include persons in positions such as clerk to a principal, food-handlers in a cafeteria, or other jobs not related to the teaching-learning process.

(20 U.S.C. 1091 et seq. except where otherwise noted)

§ 174.3 Limitations on payments.

(1) No payment may be made under this part for religious worship or instruction or training for a religious vocation or to teach theological subjects. No fellowship shall be awarded for study at a school or department of divinity. For the purposes of this section, the term "school or department of divinity" means an institution or department or branch of an institution whose program is specifically for the education of students to prepare them to become ministers of religion or enter upon some other religious vocation or to prepare them to teach theological subjects.

(20 U.S.C. 1092, 1116)

(2) No payment may be made under this Part to any individual serving in a training program as a teacher, administrator, secretary, or other employee for any period of time if such individual is receiving compensation for that period of time under any other Federal grant or contract.

(3) Except for veterans and war orphans who are receiving educational assistance benefits provided by the Veterans Administration under Chapters 34 and 35 of Title 38 of the United States Code, participants or fellows who are receiving any other direct Federal educational benefits may not, concurrently, receive stipends under this part. "Direct Federal educational benefits," as used in this paragraph do not include loans made or insured under Federally assisted programs.

(20 U.S.C. 1091 et seq.)

§ 174.4 General Provisions.

(a) *Application procedures.* (1) Applications for assistance under this part shall be submitted in accordance with such procedures and schedules as may be established by the Commissioner. The Commissioner may request the submission of such additional or supplemental information as he believes necessary or desirable in connection with the review and consideration of any application.

(2) The Commissioner will notify each applicant of the approval, disapproval, or other disposition of the application.

(b) *Effective date of approved applications.* The effective date of any approved application shall be the date specified in the grant award document or the contract. There will be no financial participation by the Federal Government with respect to expenditures made prior to the effective date of the approved application.

(c) *Cooperative arrangements.* An agency or institution that receives a grant or contract under this part may enter into a cooperative agreement with another agency or institution under which services will be provided for the project or pursuant to which a joint project will be conducted if such agreement is expressly contemplated by the project proposal and if the terms of the agreement are approved by the Commissioner, either as part of the original proposal or by separate correspondence. Such a cooperative agreement will be approved only if the agreement reflects that supervision and control over the conduct of the project are retained by the applicant. Approval of such an agreement shall in no way relieve the applicant of responsibility for accountability for the conduct of the project.

(d) *Allowable costs for programs other than fellowship programs or leadership development awards.* (1) Funds paid under this part for support of institutes, short-term training programs, or special projects shall be used only for the purposes set forth in the final plan of operation as approved by the Commissioner.

(2) Allowable costs under this part shall be determined in accordance with the cost principles appropriate to the type of grantee institution and may include, but are not limited to the following:

(i) Direct operating costs specifically identifiable as having been incurred for the operation of the training program. These costs may include administrative salaries; instructors' salaries; necessary travel of those performing personal services; instructional materials (excluding textbooks), supplies, and printed materials; reproduction; rental of equipment; employee benefits; and communications.

(ii) Indirect costs to the extent permitted by the Commissioner.

(iii) Stipends for participants.

(3) Participants in training programs supported under this part may not be charged tuition. If the payment of tuition by all students at an institution is required as a matter of State law, tuition may be paid for the participant and the amount thereof may be included as an allowable cost in lieu of an equal amount of allowable costs under paragraph (d)(2)(i) of this section.

(e) *Fiscal control and fund accounting procedures.* (1) All grants and contracts are subject to audit. Each grantee or contractor shall provide and maintain such fiscal controls, records and fund accounting procedures as are necessary for auditing purposes and to assure proper disbursement of and accounting for funds paid under this part.

(2) The allocation of expenditures by a grantee or contractor as between direct and indirect costs shall be in accordance with the Department cost principles appropriate to type of grantee institution.

(f) *Retention of records.* (1) *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) in accordance with section 434(a) of the General Educations Provisions Act, including all accounting records and related original and supporting documents that substantiate direct and indirect costs charged to the award.

(2) *Period of retention.* (i) Except as provided in paragraphs (f)(2)(ii) and (f)(4) of this section, the records specified in paragraph (f)(1) of this section shall be retained (a) for three years after the date of the submission of the final expenditure report, or (b) for grants and contracts which are renewed annually, for 3 years after the date of the submission of the annual expenditure report.

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

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

(4) *Audit questions.* All 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.

(5) *Audit and examination.* The Secretary 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.

(20 U.S.C. 1232c(a))

(g) *Audits.* (1) If the grantee or subgrantee is a State or local government, audits to be made by the State or local government or at its direction to determine, at a minimum, the fiscal integrity of grant or subgrant financial transactions and reports, and the compliance with the terms and conditions of the grant or subgrant. The grantee or subgrantee will schedule such audits with reasonable frequency, usually annually, but not less frequently than once every two years, considering the nature, size, and complexity of the activity.

(2) Recipients other than State or local governments are encouraged but not required to meet the standard set forth in subparagraph (1) of this paragraph.

(3) Copies of audit reports shall be made available to the Commissioner 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.

(4) Each recipient 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. 1232c(b)(2))

(h) *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 or any modification thereof approved by the Commissioner which meets the requirements of applicable statutes and regulations. The Federal Government shall not be obligated to reimburse the recipient for costs incurred in excess of such amount unless and until the Commissioner 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.

(31 U.S.C. 200)

(i) *Final accounting.* (1) In addition to such other accounting as the Commissioner may require the recipient shall render, with respect to the project, a full account of funds expended, obligated, and remaining.

(2) A report of such accounting shall be submitted to the Commissioner 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 Commissioner to be due. Such period may be extended at the discretion of the Commissioner upon the written request of the recipient.

(20 U.S.C. 1232c(b)(3); 31 U.S.C. 628) and (20 U.S.C. 1091 et seq.)

§ 174.5–174.10 [Reserved]

Subpart A–2—Attracting Qualified Persons to the Field of Education

§ 174.11 Applicability and program purpose.

The purpose of the programs conducted under this subpart is to improve the quality of education and to help meet critical shortages of adequately trained educational personnel by attracting a greater number of qualified persons into the education professions and by attracting persons who can stimulate creativity in the arts and other skills to undertake short-term or long-term asignments in education.

(20 U.S.C. 1091)

§ 174.12 Types of recruitment projects.

The Commissioner may support programs or projects that will make an especially significant contribution to recruitment for the education professions by (a) identifying capable youth in secondary schools who may be interested in careers in education and encouraging them to pursue postsecondary education in preparation for such careers; (b) publicizing available opportunities for careers in the field of education; (c) encouraging qualified persons to enter or reenter the field of education; or (d) encouraging artists, craftsmen, artisans, scientists, persons from other professions and vocations, and homemakers to undertake teaching or related assignments on a part-time basis or for temporary periods.

(20 U.S.C. 1091c)

§ 174.13 Eligible entities.

The Commissioner may award grants to, or enter into contracts with, State or local educational agencies, institutions of higher education, or other public or nonprofit private agencies, organizations, or institutions, and is authorized to enter into contracts with private agencies, institutions, or organizations organized for profit (after consultation with the National Advisory Council on Education Professions Development, see § 174.2(k)) when he determines that such contract will make an especially significant contribution to attaining the objectives of this subpart.

(20 U.S.C. 1091c)

§ 174.14–174.19 [Reserved]

Subpart B—Attracting and Qualifying Teachers To Meet Critical Teacher Shortages

§ 174.20–174.59 [Reserved]

Subpart C—Graduate Fellowships and Grants for Strengthening Graduate Programs in Education

§ 174.60 Scope.

(a) The Commissioner will award fellowships under this subpart for graduate study leading to an advanced degree for persons who are pursuing or plan to pursue a career in elementary and secondary education or post-secondary vocational education. The Commissioner will allocate fellowships to institutions of higher education having graduate programs approved under § 174.61 for the use of individuals accepted into such programs. Not less than 5 percent of the amounts available for the purposes of this subpart shall be used for the training of teachers for service in programs for children with limited English speaking ability.

(20 U.S.C. 1091(b)(7))

(b) For purposes of this subpart

(1) "Elementary and secondary education" includes preschool and adult and vocational education and

(2) "Career in elementary and secondary education or in postsecondary vocational education" means a career of teaching in elementary or secondary schools (including teaching in preschool and adult and vocational education programs, and including teaching children of limited English-speaking ability) or in postsecondary vocational schools, a career of teaching, guiding, or supervising such teachers or persons who plan to become such teachers, a career in the administration of such schools or a career in fields which are directly related

to teaching in such schools, such as library science, school nursing, school social work, guidance and counseling, educational media (including educational and instructional television and radio), child development, and special education for handicapped children, and for gifted and talented children.

(20 U.S.C. 1111)

§ 174.61 Approved programs.

(a) An institution of higher education that wishes to have its graduate program approved for the purposes of receiving fellowships under this subpart shall submit an application to the Commissioner in such form and containing such information as the Commissioner shall prescribe.

(b) The Commissioner will approve an application submitted in paragraph (a) of this section only upon a finding that the graduate program described in the application—

(1) Will substantially further the objective of improving the quality of education of persons who are pursuing or intend to pursue a career in elementary and secondary education or postsecondary vocational education;

(2) Gives emphasis to high-quality substantive courses;

(3) Is of high quality and either is in effect or readily attainable; and

(4) Will accept for study only those persons who demonstrate a serious intent to pursue or to continue a career in elementary and secondary education or postsecondary vocational education.

(c) Program approval is subject to termination or suspension if the program is not developed or operated substantially in accordance with the information submitted in paragraph (a) of this section or in compliance with the requirements of paragraph (b) of this section.

(20 U.S.C. 1114)

§ 174.62 Allocation of fellowships.

The Commissioner will allocate fellowships to institutions of higher education having approved graduate programs in such a manner as will:

(1) Best provide an equitable distribution of such fellowships throughout the States taking into account such factors as the number of children in each State aged three to seventeen and the undergraduate student enrollment in institutions of higher education in each State; except that to the extent that the National Advisory Council on Education Professions Development (see § 174.2(k)) determines that an urgent need for a certain category of educational personnel is unlikely to be met without preference in favor of such a category over other categories of educational personnel, the Commissioner may give preference to programs designed to meet that need, but in no case shall such preferred programs constitute more than 50 per centum of the total number of fellowships awarded in any fiscal year.

(20 U.S.C. 1113)

(2) Encourage experienced teachers in elementary or secondary schools or postsecondary vocational schools and other experienced personnel in elementary or secondary education or postsecondary vocational education to enter graduate programs, attract recent college graduates to pursue a career in elementary and secondary education or postsecondary vocational education, and afford opportunities for college graduates engaged in other occupations or activities to pursue or return to a career in elementary and secondary education or postsecondary vocational education.

(20 U.S.C. 1113)

§ 174.63 Award of fellowships to individuals.

(a) *Applications and Selection.* Applications for fellowships should be submitted directly to participating institutions which will select the fellows.

(b) *Eligibility.* In order to be eligible for a fellowship, at the time the applicant is to commence study he or she must be:

(1) Accepted at the nominating institution for full-time graduate study in an approved program leading to an advanced degree,

(2) Pursuing or intending to pursue a career in elementary or secondary education, as defined in § 174.60(b)(2)) in a State, and

(3) Either a citizen or national of the United States or be in the United States for other than a temporary purpose and have the intention of becoming a permanent resident thereof, or be a permanent resident of the Trust Territories of the Pacific Islands.

(c) *Reinstatement of a fellowship following interruption of study.* (1) *Military service.* When feasible and subject to the availability of funds, a fellow whose fellowship tenure is interrupted by voluntary or involuntary military service will, upon his release from military duty, be reinstated to complete the remainder of his tenure.

(2) *Qualifying non-military service.* Fellows who satisfy their military obligation as commissioned officers in the Public Health Service or Environmental Science Services Administration or by performing alternate service as duly classified conscientious objectors will be eligible for reinstatement on the same basis as if their tenure had been interrupted by voluntary or involuntary military service.

(3) *Other interruptions.* Upon request the Commissioner may approve the reinstatement of fellows whose tenure is interrupted for reasons other than those given in paragraph (c)(1) and (2) of this section, provided good cause exists for such interruption.

(20 U.S.C. 1113, 1117)

§ 174.64 Payments of stipends and allowances to fellows.

(a) Payments of stipends and allowances after the first year of the fellowship are conditioned upon the availability of Federal appropriations.

(b) Each fellow will receive a stipend and where applicable an allowance for dependents consistent with that provided under comparable Federally supported programs, as determined by the Commissioner. However, a fellow may not receive a stipend or such allowances, during the period of full-time paid internship.

(c) Institutions shall make payments only to fellows who are enrolled and in good standing in the approved programs. A fellow shall not be entitled to payment with respect to any period during which he has failed to meet the conditions of paragraphs (d) and (e) of this section. Adjustments in the amount of an allowance payable to a fellow because of an increase or decrease in the number of his dependents shall be made effective as of the date when the change occurs, and the amount of the adjustment shall be reflected in the next regularly scheduled payment, if any.

(d) *Conditions for continued eligibility.* In order to remain eligible for payments, a fellow:

(1) Must maintain satisfactory progress in his approved graduate program; and

(2) Must continue to pursue a full-time course of study without gainful employment except as provided in paragraph (e) of this section.

(e) *Outside or part-time work.* A fellow may not engage in gainful employment during the period of his fellowship, except such part-time teaching, research, or similar activities which are related to his approved program, which have been approved by the Commissioner and which do not unnecessarily prolong his period of training. Limitations with respect to gainful employment do not apply to periods not covered by the fellowship stipend.

(20 U.S.C. 1115, 1117)

§ 174.65 Institutional allowance.

The Commissioner will pay an allowance to the institution each fellow is attending in such amount as he determines to be consistent with prevailing practices under comparable Federally supported programs. The institutional allowance is made in lieu of tuition and all fees that would otherwise be required of a fellow. Payment of the allowance will be made in such installments and at such times as the Commissioner, may, from time to time, authorize.

(20 U.S.C. 1115(b))

§ 174.66 Reports of institutions sponsoring fellowships.

Institutions attended by fellowships recipients shall observe the following reports requirements in addition to those specified in § 174.4(f):

(1) *Reporting fellow's status.* Any change in the continued eligibility of a fellowship holder shall be reported promptly by the institution.

(2) *Reporting proposed changes in approved programs.* The institution will promptly advise the Commissioner in writing whether a material change is contemplated regarding any description or other information previously furnished the Commissioner in connection with the approved program.

(20 U.S.C. 1117)

§ 174.67 Strengthening graduate programs.

(a) For the purpose of obtaining an appropriate geographical distribution of high-quality programs for the training of personnel for elementary or secondary education, the Commissioner may make grants to and contracts with institutions of higher education to pay part of the cost of developing or strengthening graduate programs which meet or, as a result of the assistance received under this subsection will be enabled to meet, the requirements of § 174.61.

(b) Institutions seeking assistance under paragraph (a) of this section shall submit an application for such funds at such times, in such form, and containing such information as the Commissioner may from time to time prescribe.

(20 U.S.C. 1114(b))

§ 174.68–174.79 [Reserved]

Subpart D—Improving Training Opportunities for Personnel Serving in Programs of Education Other Than Higher Education

§ 174.80 Scope.

(a) The Commissioner may make grants to, or contracts with, institutions of higher education and State educational agencies, and local educational agencies (and with respect to programs covered by § 174.85 other public or private nonprofit agencies and organizations) for carrying out programs or projects to improve the qualifications of persons who are serving or preparing to serve in educational programs in elementary and secondary schools (including preschool and adult and vocational education programs) or postsecondary vocational schools or to supervise and train persons so serving.

(b) Grants and contracts with local educational agencies may be awarded only if the Commissioner has consulted the State educational agency and that agency is satisfied that the programs and projects of the local educational agency will be coordinated with programs or projects carried out under the Teacher Corps program (20 U.S.C. 1101 et seq.) and under part B–2 of the Act if there are such programs funded in the State.

(20 U.S.C. 1119)

§ 174.81 Eligible participants in training programs.

(a) Funds provided under this subpart may be used to support programs to train persons who are serving or preparing to serve in educational programs in elementary and secondary schools (including preschool and adult and vocational education programs) or postsecondary vocational schools, or to provide training for the trainers of teachers.

(b) Persons who are serving or preparing to serve in educational programs in both public and private elementary and secondary schools (including preschool and adult and vocational education programs) or postsecondary vocational schools are eligible to be enrolled in programs supported under this subpart.

(20 U.S.C. 1119)

§ 174.82 Advanced training and retraining programs.

(a) Programs or projects authorized under this subpart may include, among others—

(1) Programs or projects to train or retrain teachers, or supervisors or trainers of teachers, in any subject generally taught in the schools;

(2) Programs or projects to train or retrain other educational personnel in such fields as guidance and counseling (including occupational counseling), school social work, child psychology, remedial speech and reading, child development, and educational media (including educational or instructional television or radio);

(3) Programs or projects to train teacher aides and other non-professional educational personnel;

(4) Programs or projects to provide training and preparation for persons participating in educational programs for children of preschool age;

(5) Programs or projects to prepare teachers and other educational personnel to meet the special needs of the socially, culturally, and economically disadvantaged;

(6) Programs or projects to prepare teachers and other educational personnel to meet the special needs of exceptionally gifted students;

(7) Programs or projects to train and retrain persons engaging in programs of special education for the handicapped;

(8) Programs or projects to train or retrain persons engaging in special educational programs for children of limited English-speaking ability;

(9) Programs or projects to provide inservice and other training and preparation for school administrators;

(10) Programs or projects to prepare artists, craftsmen, scientists, artisans, or persons from other professions or vocations, or home-makers to teach or otherwise assist in programs or projects of education on a long-term, short-term, or part-time basis;

(11) Programs or projects (including cooperative arrangements or consortia between institutions of higher education, junior and community colleges, or between such institutions and State or local educational agencies and nonprofit education associations) for the improvement of undergraduate programs for preparing educational personnel, including design, development and evaluation of exemplary undergraduate training programs, introduction of high quality and more effective curricula and curricular materials, and the provision of increased opportunities for practical teaching experience for prospective teachers in elementary and secondary schools; and

(12) Programs and projects designed to meet the need for the training of teachers for participation in education programs for migratory children of migratory agricultural workers, including teacher exchange programs.

(20 U.S.C. 1119)

(b) Funds provided pursuant to a grant or a contract under this section may be used only to pay the cost of—

(1) Short-term or regular session (including part-time) institutes;

(2) Other preservice and inservice training programs or projects designed to improve the qualifications of persons entering and re-entering the field of elementary and secondary education or postsecondary vocational education, except that funds may not be used for seminars, symposia, workshops or conferences unless they are part of a continuing program of inservice or preservice training;

(3) Projects or programs to improve undergraduate or other programs for training educational personnel; or

(4) Such activities as may be necessary to carry out programs and projects designed to meet the need for the training of teachers for participation in education programs for migratory children of migratory agricultural workers, including teacher exchange programs to the extent such activities are not inconsistent with the other provisions of this Act.

(c) *Stipends.* Grants or contracts under this subpart may include provisions for the payment to participants of such stipends as the Commissioner may determine to be consistent with prevailing practices under comparable Federally supported programs.

(20 U.S.C. 1119)

§ 174.83 Criteria for approval of training programs.

The criteria upon which applications will be evaluated will include the following:

(1) The extent to which there is evidence of cooperative planning and of the maximum use and coordination of resource and competencies of educational agencies and institutions involved;

(2) The extent to which there is demonstrated ability on the part of the applying institution or agency to offer a high quality program;

(3) The extent to which there is expertise or has been previous experience in conducting the type of program for which application is made and the extent of planning for operation of the program; however, this criterion will not preclude awards to developing or evolving institutions where there is a reasonable probability that such institutions will be able successfully to conduct the program;

(4) The extent to which the program incorporates innovative concepts and techniques designed to meet current problems experienced in the Nation's schools;

(5) The extent to which the proposed program could meet current or prospective national, regional, local or State needs for educational personnel with the

training which such a program would provide:

(6) The extent to which there is demonstrated institutional commitment to increasing support of the proposed program; and

(7) The extent to which there is provision of realistic and critical evaluation and for dissemination of results.

(20 U.S.C. 1119)

§ 174.84 Distribution of grants and contracts.

In making grants and contracts for programs and projects under this subpart, the Commissioner will seek to achieve an equitable geographical distribution of training opportunities throughout the Nation, taking into account the number of children in each State who are aged three to seventeen.

(20 U.S.C. 1119(a–1))

§ 174.85 Programs for teachers of children living on Indian reservations.

Not less than 5 per centum of the funds available for the purposes of this subpart shall be used for grants to, and contracts with institutions of higher education and other public and private non-profit agencies and organizations for the purpose of preparing persons to serve as teachers of children living on reservations serviced by elementary and secondary schools for Indian children operated or supported by the Department of the Interior, including public and private schools operated by Indian tribes and by nonprofit institutions and organizations of Indian tribes. In carrying out the provisions of this section, preference shall be given to the training of Indians.

(20 U.S.C. 1119a)

§ 174.86 Programs for teachers of children with limited English speaking ability.

Not less than 5 per centum of the funds available for the purposes of this subpart shall be allocated for the training of teachers for service in programs for children with limited English speaking ability.

(20 U.S.C. 1091(b)(7))

§ 174.87–174.199 [Reserved]

Subpart F—Training and Development Programs for Vocational Education Personnel

§ 174.241 Applicability and program purpose.

The purpose of the programs covered by this subpart is to provide opportunities for experienced vocational educators to spend full-time in advanced study of vocational education for a period not to exceed three years in length; to provide opportunities to up-date the occupational competencies of vocational education teachers through exchanges of personnel between vocational education programs and commercial, industrial, or other public or private employment related to the subject matter of vocational education; and to provide programs of inservice teacher education and short-term institutes for vocational education personnel.

(20 U.S.C. 1119c)

§ 174.242 Special definition.

"State board" means the State board designated or created by State law as the sole State agency responsible for the administration of vocational education, or for supervision of the administration thereof by local educational agencies in the State.

(20 U.S.C. 1119c–2)

§ 174.243 Leadership Development Awards.

In order to meet the needs in all States for qualified vocational education personnel (including administrators, supervisors, teacher educators, researchers and instructors in vocational education) the Commissioner will make leadership development awards to enable experienced vocational educators to spend up to three years in advanced study at an institution of higher education.

(20 U.S.C. 1119c–1119c–1)

§ 174.244 Selection.

Applications for Leadership Development awards shall be submitted to the State Board of Vocational Education for the state in which the applicant is employed or is assured of employment. The State Board shall evaluate the applications and make recommendations to the Commissioner as to which applicants it believes should be awarded grants. The Commissioner will make awards within the apportionment made under § 174.245 and only with respect to persons who meet the conditions of § 174.246.

(20 U.S.C. 1119c–1)

§ 174.245 Allocation of awards.

In order to meet the needs for qualified vocational education personnel such as teachers, administrators, supervisors, teacher educators, researchers, and instructors in vocational education programs in all the States, the Commissioner in carrying out this subpart will apportion leadership development awards equitably among the States, taking into account such factors as the State's vocational education enrollments and the incidence of youth unemployment and school dropouts in each State.

(20 U.S.C. 1119c–1)

§ 174.246 Eligibility of individuals.

(a) The Commissioner will make available leadership development awards in accordance with the provisions of this subpart only upon his determination that the persons selected for such awards

(1) Have had not less than two years of experience in vocational education or in industrial training, or military technical training; or, in the case of researchers, experience in social science research which is applicable to vocational education; or

(2) Are currently employed or are reasonably assured of employment in vocational education and have successfully completed, as a minimum, a baccalaureate degree program; or

(3) Are recommended by their employer, or others, as having leadership potential in the field of vocational education and are eligible for admission as graduate students to a program of higher education approved by the Commissioner pursuant to § 174.247.

(b) In order to receive a leadership development award the person selected shall enroll in an approved vocational educational leadership development program, subject to the provisions of § 174.250 of this subpart.

§ 174.247 Stipends to individuals.

The Commissioner will pay to persons selected for leadership development awards a stipend of $3,500 for each academic year of study, plus an allowance of $400 for each dependent. An additional stipend of $700 plus $100 for each dependent may be awarded for the summer.

§ 174.248 Conditions for continued eligibility.

Leadership development awards to participate may be available for a period not to exceed three full years. Beyond the first year the award will be subject to the continued availability of Federal funds and satisfactory participation. The Commissioner will determine that a participant is maintaining satisfactory participation only during such periods as he finds that:

(a) The participant is maintaining satisfactory proficiency in, and devoting essentially full time to, study or research in the field of vocational education in an institution of higher education, and

(b) The participant is not engaging in gainful employment, other than part-time employment by such institution in teaching, research, or similar activities approved by the Commissioner.

§ 174.249 Institutional allowance.

The Commissioner will (in addition to the stipend paid to a person under § 174.247) pay to the institution at which such person is pursuing his course of study the amount of $2,500 per participant, per academic year, with an additional $600 per participant for summer sessions. The institutional allowance is made in lieu of tuition and all fees that would otherwise be required of the student. Payments will be made in such amounts and at such times as the Commissioner may, from time to time, determine to be consistent with prevailing practices under comparable Federally supported programs; however, one institutional allowance will not exceed $3,500 per academic year.

(20 U.S.C. 119c–1)

§ 174.250 Institutional eligibility and approval.

The Commissioner will approve the vocational education leadership development programs of an institution of higher education only upon finding that:

(a) The institution offers a comprehensive program in vocational education

with adequate supporting services and disciplines such as education administration, guidance and counseling, research, and curriculum development;

(b) Such program is designed to further substantially the objective of improving vocational education through providing opportunities for graduate training of vocational education teachers, supervisors, and administrators, and of university level vocational education teacher educators and researchers;

(c) Such program is conducted by a school of graduate study in the institution of higher education; and,

(d) Such program is approved also by the State board in the State where the institution is located.

(20 U.S.C. 1119c-1)

§ 174.251 Cooperative Development Awards, Exchange Programs, Institutes, and Inservice Education for Vocational Education Teachers, Supervisors, Coordinators and Administrators.

(a) The Commissioner may award grants to State boards to pay the cost of carrying out cooperative arrangements for the training or retraining of experienced vocational education personnel such as teachers, teacher educators, administrators, supervisors, coordinators, and other personnel, in order to strengthen education programs supported under this subpart and the administration of schools offering vocational education. Such cooperative arrangements may be between schools offering vocational education and private business or industry, commercial enterprises, or with other educational institutions (including those for the handicapped and delinquent).

(b) Each cooperating agency or enterprise shall attest to the accuracy of so much of a proposed cooperative arrangement as is related to its undertaking by signature of an authorized official on the application of the sponsoring State board.

(20 U.S.C. 1119c-2)

§ 174.252 Types of training programs.

Grants under this section may be used for projects and activities such as:

(1) Exchange of vocational education teachers and other staff members with skilled technicians or supervisors in industry (including mutual arrangements for preserving employment and retirement status, and other employment benefits during the period of exchange), and the development and operation of cooperative programs involving periods of teaching in schools providing vocational education and of experience in commercial, industrial or other public or private employment related to the subject matter taught in such school;

(2) Inservice training programs for vocational education teachers and other staff members to improve the quality of instruction, supervision, and administration of vocational education programs; and

(3) Short-term or regular-session institutes, or other preservice and inservice training programs or projects designed to improve the qualifications of persons entering and reentering the field of vocational education.

(20 U.S.C. 1119c-2)

§ 174.253 Requirements for grant applications.

A grant may be made under this subpart only upon application to the Commissioner at such time or times and containing such information as he deems necessary. The Commissioner will not approve an application unless it—

(a) Sets forth a program for carrying out one or more projects or activities which meet the requirements of § 174.252 and provides for such methods of administration as are necessary for the development of effective vocational education leadership personnel.

(b) Sets forth policies and procedures which assure that Federal funds made available under this subpart for any fiscal year will be so used as to supplement or add to the level of funds that would, in the absence of such Federal funds, be made available for purposes which meet the requirements of § 174.252 and in no case supplant such funds;

(c) Provides for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this subpart; and

(d) Provides for making such reports, in such form and containing such information as the Commissioner may require to carry out his functions under this subpart, and for keeping such records and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

(20 U.S.C. 1119c-2)

[FR Doc.73-13333 Filed 6-29-73;8:45 am]

Social and Rehabilitation Service

[45 CFR Parts 248 and 249]

COST SHARING; MEDICAL ASSISTANCE PROGRAMS

Premiums, Enrollment Fees, Co-payments, Deductibles, and Similar Charges

Notice is hereby given that the regulations set forth in tentative form below are proposed by the Administrator, Social and Rehabilitation Service, with the approval of the Secretary of Health, Education, and Welfare. The proposed regulations implement section 208 of P.L. 92-603, approved October 30, 1972, which states that a premium, enrollment fee or similar charge, which is related to income, shall be imposed on the medically needy, and that State medical assistance programs may elect to impose nominal co-payments, deductibles, or similar charges on the categorically needy (for optional services under the State's title XIX plan) and on the medically needy (for any service under the plan).

The proposed regulations specify minimum and maximum income-related amounts of the required premiums or enrollment fees, and establish maximum amounts which may be charged as nominal deductible, coinsurance or co-payment amounts. The regulations do not preclude a State from charging a flat co-payment for each type of service, or establishing a cumulative maximum on all cost sharing charges which may be imposed on a family during a given period of time. Where a State has a cost sharing system, the regulations require that vendor payments must be reduced by the amount of the deductible, coinsurance or co-payment whether or not it was actually collected by the vendor.

In addition, the proposed regulations include a technical amendment to transfer material contained in paragraph (c) of the existing regulation on cost sharing (45 CFR 249.40), regarding application of medical resources, third party liability, and excess income of an individual, for incorporation in 45 CFR 248.21, "Financial eligibility-medical assistance programs."

Prior to the adoption of the proposed regulations, consideration will be given to any comments, suggestions, or objections thereto which are submitted in writing to the Administrator, Social and Rehabilitation Service, Department of Health, Education, and Welfare, 330 Independence Avenue, SW., Washington, D.C., 20201, on or before August 1, 1973. Comments received will be available for public inspection in Room 5121 of the Department's offices at 301 C Street, SW., Washington, D.C. on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (area code 202-963-7361).

(Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302)

Dated: June 5, 1973.

FRANCIS D. DEGEORGE,
Acting Administrator, Social and Rehabilitation Service.

Approved: June 27, 1973.

CASPAR W. WEINBERGER,
Secretary.

Chapter II of Title 45 of the Code of Federal Regulations is amended as set forth below:

1. Section 248.21(a) is revised to read as follows:

§ 248.21 Financial eligibility—medical assistance programs.

(a) *State plan requirements.* A State plan under title XIX of the Social Security Act must:

(1) With respect to the categorically needy:

(i) Specify that the financial eligibility conditions of the pertinent financial assistance plan will apply;

(ii) Provide for the application of income first to maintenance costs, except that this does not preclude imposition of copayments or deductibles pursuant to § 249.40 of this chapter;

(2) With respect to both the categorically needy and, if they are included in the plan, the medically needy;

(i) Provide that only such income and resources as are actually available will be considered and that income and resources will be reasonably evaluated;

(ii) Provide that financial responsibility of any individual for any applicant or recipient of medical assistance will be limited to the responsibility of spouse for spouse and of parents for children under age 21, or blind, or permanently and totally disabled;

(iii) Specify the extent to which the financial responsibility of any such relatives is taken into account.

(3) With respect to the medically needy, if they are included in the plan:

(i) Provide levels of income and resources for maintenance, in total dollar amounts, as a basis for establishing financial eligibility for medical assistance. Under this requirement:

(*a*) Such income levels must be comparable as among individuals and families of varying sizes;

(*b*) The income levels for maintenance must be, as a minimum, at the levels of the most liberal money payment standard used by the State, at any time on or after January 1, 1966, as a measure of financial eligibility in any categorical money payment program in the State, or at the level for which Federal financial participation is available pursuant to paragraph (b) of this section, whichever is less.

(*c*) A lower income level for maintenance must be used for individuals not living in their own homes but receiving care in nursing homes, institutions for tuberculosis or mental diseases or other medical facilities providing long-term care. This lower income level must be reasonable in amount for clothing and personal needs for such individuals. When such an individual's home is maintained for a spouse or other dependents, the appropriate income level for such dependents, plus the individual's income level for maintenance in a long-term care facility, is applicable;

(*d*) Resources which may be held must, as a minimum, be at the most liberal level used in any money payment program in the State on or after January 1, 1966, and the amount of liquid assets which may be held must increase with an increase in the number of individuals in the family. There must be separate levels established for resources.

(ii) Provide that there will be a flexible measurement of available income which will be applied in the following order of priority:

(*a*) First, for maintenance, so that any income in an amount at or below the established level will be protected for maintenance, except that this does not preclude imposition of the enrollment fee, premium or similar charge, or of co-payments or deductibles pursuant to § 249.40 of this chapter;

(*b*) Next, income will be applied to costs incurred for medical insurance premiums in addition to the enrollment fee, premium, or similar charge, and any co-payments or deductibles imposed under § 249.40 of this chapter, and for necessary medical or remedial care recognized under State law and not encompassed within the State plan for medical assistance. States may set reasonable limits on such medical services for which excess income may be applied. Any medical resource of an individual in the form of insurance or other entitlement will also be applied to such costs. (See also § 250.31 of this chapter regarding third party liability.)

(*c*) All of the remaining excess income and medical resources in the form of insurance or other entitlement will be applied to costs of medical assistance included in the State plan. Once such income and resources are exhausted, the full amount, duration and scope of care and services provided by the plan are available.

(iii) Provide that all income and resources (after all State policies governing the disregard, or setting aside for future needs, of income and resources in the State's approved plans under titles I, IV–A, X, XIV, and XVI have been applied) will be considered in establishing eligibility, and in the flexible application of income to medical costs not in the State plan, and payment toward the medical assistance costs.

(iv) Provide that only such income and resources will be considered as will be "in hand" within a period, preferably of not more than 3 months, but not in excess of 6 months, ahead, including the month in which medical services were rendered, for which payment would be made under the plan.

* * * * *

2. Section 249.40 is revised to read as follows:

§ 249.40 Cost sharing and similar charges.

(a) *State plan requirements.* A State plan for medical assistance under title XIX of the Social Security Act must:

(1) With respect to the categorically needy, provide that no enrollment fee, premium, or similar charge will be imposed with respect to services available under the plan, and no deduction, cost sharing or similar charge will be imposed with respect to the care and services listed in clauses (1) through (5) and (7) of section 1905(a) of the Act.

(2) With respect to the medically needy, provide that an enrollment fee, premium, or similar charge shall be imposed, and specify the amount of and the period of liability for such charges. Such amount shall be related to total gross income of each family:

(i) A minimum charge equivalent to $1.00 per month shall be imposed on each 1 or 2 person family with monthly gross income of $150 or less, and on each family of 3 or more persons with monthly gross income of $300 or less. An appropriately higher minimum shall be imposed on each family with higher income.

(ii) Income-related charges above the minimum shall not exceed amounts, equivalent to the monthly charges, found in the following table:

GROSS FAMILY INCOME (per month)	MAXIMUM MONTHLY CHARGE		
	Family Size		
	1 or 2	3 or 4	5 or more
$150 or less	$1	$1	$1
200	2	1	1
250	3	1	1
300	4	1	1
350	5	2	1
400	6	3	2
450	7	4	3
500	8	5	4
550	9	6	5
600	10	7	6
650	11	8	7
700	12	9	8
750	13	10	9
800	14	11	10
850	15	12	11
900	16	13	12
950	17	14	13
1000 or more	18	15	14

(3) If any deductible, coinsurance or co-payment is imposed on the categorically needy (for services other than those listed in clauses (1) through (5) and (7) of section 1905(a) of the Act) or the medically needy (for any service under the plan), specify the services for which such charges are applied and the amounts and the basis for determining the charges. States may impose a deductible or coinsurance or co-payment charge for a particular type of service, but may not impose more than one of such charges on any particular type of service.

(i) For noninstitutional services:

(A) Co-payments shall be limited in accordance with the following table:

State's Payment for the Service	*Maximum Co-Payment Chargeable to Recipient*
$10 or less	$ .50
$11–$25	$1.00
$26–$50	$2.00
$51 or more	$3.00

(B) Deductibles shall be within an amount equivalent to $2.00 per month for the period of eligibility (i.e., if eligibility is certified for a 3-month period, maximum deductible which may be imposed on a family for the period of eligibility is $6.00).

(C) Coinsurance rates shall be limited to five percent of the State's payment for each service.

(ii) For institutional services, the maximum deductible, coinsurance or co-payment charge for each admission shall be limited to fifty percent of the State's payment for the first day of care.

(iii) The maximum co-payment amounts defined in paragraph (a)(3)(i) and (ii) of this section may be applied to the State's average or typical payment for service, to establish a standard co-payment amount which may be applied to each such service. For example, if the typical payment for prescribed drugs is about $4.00 to $5.00 per prescription, a State might set a standard co-payment of $0.50 per prescription.

(iv) In addition to applying cost sharing charges within the maximums specified in paragraph (a)(3)(i) and (ii) of this section, States may also establish a cumulative maximum on all deductible, coinsurance or co-payment charges

which may be imposed on a family during a given period of time.

(v) States may establish income-related cost sharing charges; e.g., by charging a higher rate to the medically needy than to the categorically needy. However, the highest level of charges must be within the limits defined in paragraph (a) (i) and (ii) of this section.

(vi) The State's payment to any provider shall not be increased to offset deductible, coinsurance or co-payment amounts which have been waived by the provider or are uncollectible. Payments to prepaid capitation organizations which do not impose deductibles, coinsurance or co-payments must take into account the actuarial value of the State's cost sharing system applied to the scope of services offered by the organization, and must be calculated as if the appropriate charges were collected.

(b) *Federal financial participation.* Federal financial participation at the appropriate rate in the expenditures for medical services and care provided in accordance with the approved State plan is available to the extent that such expenditures (1) do not include any amounts which should have been paid as deductibles, coinsurance, co-payments or similar charges required by the State plan and (2) have been reduced by the amount for premiums, enrollment fees, or similar charges collected or due to be collected as provided by this section.

[FR Doc.73-13331 Filed 6-29-73;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 72-WE-21]

ADDITIONAL CONTROL AREAS

Proposed Designation

The Federal Aviation Administration (FAA) is considering an amendment to Part 71 of the Federal Aviation Regulations that would designate a new control area within part of the offshore airspace adjacent to the state of California.

Coincident with this proposal, any necessary nonrule-making action would be taken by the FAA and the using agency to establish appropriate procedures for joint use of the warning areas located within the proposed control area. These procedures would permit FAA to vector traffic through the warning areas when they were not being used by the using agency.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Western Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 1500 Aviation Boulevard, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009. All communications received on or before August 1, 1973 will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue, S.W., Washington, D.C. 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

As parts of this proposal relate to the navigable airspace outside the United States, this notice is submitted in consonance with the ICAO International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the U.S. is governed by Article 12 of and Annex 11 to the Convention on International Civil Aviation which pertain to the establishment of air navigation facilities and services necessary to promoting the safe, orderly and expeditious flow of civil air traffic. Their purpose is to insure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices to civil aircraft in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the U.S. agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

The FAA proposes to amend Part 71 of the Federal Aviation Regulations to include the following:

SAN FRANCISCO, CALIF.

That airspace extending upward from 5,000 feet MSL bounded on the north by the Seattle ARTCC flight advisory area, on the east by the west edge of V-27W and V-199 to a point 3 nautical miles, offshore, then via a line 3 nautical miles west of and parallel to the shoreline, on the south by the Santa Barbara Control Area and on the west by the Oakland Oceanic CTA/FIR boundary.

The proposal would permit more efficient use of warning areas when they are not being used by the Using Agency, and by establishing additional controlled airspace, it would provide more flexibility in routing oceanic air traffic.

This amendment is proposed under the authority of sec. 307(a) and 1110 of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1510), Executive Order 10854 (24 F.R. 9565) and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on June 25, 1973.

CHARLES H. NEWPOL,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.73-13262 Filed 6-29-73;8:45 am]

[14 CFR Part 75]

[Airspace Docket No. 73-EA-44]

JET ROUTES

Proposed Alteration

The Federal Aviation Administration (FAA) is considering an amendment to Part 75 of the Federal Aviation Regulations that would redesignate a segment of J-55 between Sea Isle, N.J., and Kennebunk, Maine, and would also redesignate the segment of J-581 southwest of Kennebunk, Maine, to extend from Kennedy, N.Y., rather than Hampton, N.Y.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received on or before August 1, 1973 will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue, S.W., Washington, D.C. 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The purpose of this proposed action is to simplify flight planning and provide route segregation for aircraft overflying New York from those landing in that area, and to provide additional radar vectoring airspace between J-55 and J-581.

The airspace action proposed in this docket would:

1. Realign J-55 to coincide with J-121 from Sea Isle to Providence, R.I., and to replace J-581 from Providence to Kennebunk.

2. Realign J–581 from Kennedy, N.Y., via the intersection of the Kennedy 042°T (053°M) and the Putnam, Conn., 236°T (250°M) radials; Putnam to Kennebunk. This realignment of J–581 would coincide with J–48 northeast of Kennedy and would replace J–55 between Putnam and Kennebunk. The portion of J–581 between Putnam and J–48 would be a new jet route segment.

This amendment is proposed under the authority of sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on June 25, 1973.

CHARLES H. NEWPOL,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.73–13263 Filed 6–29–73;8:45 am]

[14 CFR Part 93]

[Docket No. 12457; Reference Notice 72–34]

JOHN F. KENNEDY AIRPORT

Shift of Peak-Hour Air Carrier IFR Reservations; Withdrawal of Notice of Proposed Rule Making

The purpose of this notice is to withdraw Notice 72–34, published in the FEDERAL REGISTER on December 29, 1972 (37 FR 28765). That Notice proposed to amend § 93.123(b)(2) of Part 93 to shift ten air carrier (except air taxi) peak-hour IFR reservations at John F. Kennedy Airport from the hour between 7:00 and 8:00 p.m. to the hour between 4:00 and 5:00 p.m..

Notice 72–34 was based on projections of peak hour traffic demand that indicated that, from an air carrier scheduling standpoint, greater disruption of proposed schedules would result from continuing the current 5:00 p.m. to 8:00 p.m. peak reservation allowance than would result if the allowance for extra operations were shifted forward one hour (to the period from 4:00 p.m. to 7:00 p.m.). However, information submitted in response to the notice indicates that these peak-hour traffic demand projections are not correct, that actual peak-hour demand can be adequately served under the terms of the current regulation, and that issuance of the proposed amendment may aggravate rather than relieve scheduling problems for the affected air carriers, and lessen the ability of public air transportation to respond to public travel time preferences. It is, therefore, concluded that issuance of the proposed amendment would not be in the public interest in the near future, and that Notice 72–34 should be withdrawn.

In consideration of the foregoing, the notice of proposed rule making published in the FEDERAL REGISTER (37 FR 28765) on December 29, 1972, and circulated as Notice No. 72–34, entitled "Shift of Peak Hour Air Carrier IFR Reservations at John F. Kennedy Airport" is hereby withdrawn. The withdrawal of this Notice does not preclude the FAA from issuing similar notices in the future or commit the FAA to any course of action.

This withdrawal is issued under the authority of sections 307 and 313(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348 and 1354(a)); and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on June 22, 1973.

RAYMOND G. BELANGER,
Acting Director, Air Traffic Service.

[FR Doc.73–13265 Filed 6–29–73;8:45 am]

National Highway Traffic Safety Administration

[49 CFR Part 571]

[Docket No. 4–2; Notice 8]

WARNING DEVICES

Storage in New Motor Vehicles

This notice proposes to amend Standard 125, Warning devices, 49 CFR 571.125, to permit storage of the warning device in a light-tight, enclosed, and easily accessible compartment of a new motor vehicle if the manufacturer supplies the device with the new motor vehicle.

Section S5.1.2 of Standard 125 requires each warning device, or sets of two or three devices, to be enclosed in an opaque container to prevent general damage and, in particular, deterioration of its fluorescent material by exposure to sunlight. Mercedes-Benz of North America has petitioned for an alternate storage arrangement which would utilize the passenger car trunk in lieu of a separate container. Mercedes-Benz would attach the device to the trunk lid so that it would be immediately visible upon opening the trunk and thereby serve an additional safety function.

The NHTSA agrees that the trunk of a passenger car, or a similarily light-tight, enclosed, and easily accessible compartment of any motor vehicle, provides the same protection to a warning device as a separate opaque container. Damage would be minimized by the requirement that the device be securely attached to the compartment in which it is stored. Additionally, this storage option would be limited to new vehicles to prevent the sale of warning devices without opaque containers for mounting in used motor vehicles. Such a practice could result in extended exposure to sunlight prior to sale and installation.

Accordingly, it is proposed that Standard No. 125, Warning devices, 49 CFR 571.125, be amended by changing S5.1.2 to read:

* * * * *

§ 571.125 Standard No. 125; warning devices. (Effective Jan. 1, 1974)

S5.1.2 Each warning device shall be protected from damage and deterioration—

(a) By enclosure in an opaque protective reusable container, except that two or three warning devices intended to be sold for use as a set with a single vehicle may be enclosed in a single container; or

(b) By secure attachment to any light-tight, enclosed, and easily accessible compartment of a new motor vehicle with which it is supplied by the vehicle manufacturer.

* * * * *

Interested persons are invited to submit comments on the proposal. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5221, 400 Seventh Street, S.W., Washington, D.C. 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered by the Administration. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The Administration will continue to file relevant material, as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Comment closing date: September 4, 1973

Proposed effective date: January 1, 1974

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

Issued on June 26, 1973.

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

[FR Doc.73–13324 Filed 6–29–73;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 180]

SILVEX

Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities

Dr. C. C. Compton, Coordinator, Interregional Research Project No. 4, State Agricultural Experiment Station, Rutgers University, New Brunswick, NJ 08903, on behalf of the IR–4 Technical Committee and the Agricultural Experiment Station of Washington submitted a petition (PP 3E1339) proposing establishment of a tolerance for residues of the plant regulator silvex (2-(2,4,5-trichlorophenoxy) propionic acid) in or on the raw agricultural commodity pears at 0.05 part per million resulting from post-harvest application of the triethanolamine salt of silvex to pear trees.

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

1. The plant regulator is useful for the purpose for which the tolarance is proposed.

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

3. The proposed tolerance will protect the public health.

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

§ 180.340 Silvex; tolerances for residues.

A tolerance of 0.05 part per million is established for residues of the plant regulator silvex (2-(2,4,5-trichlorophenoxy) propionic acid) in or on the raw agricultural commodity pears resulting from postharvest application of the triethanolamine salt of silvex to pear trees.

Any person who has registered or submitted an application for the registration of an economic poison under the Federal Insecticide, Fungicide, and Rodenticide Act containing any of the ingredients listed herein may request, on or before August 1, 1973, that this proposal be referred to an advisory committee in accordance with section 408(e) of the act.

Interested persons may, on or before August 1, 1973, file with the Hearing Clerk, Environmental Protection Agency, Room 3902A, 4th & M Streets, SW., Waterside Mall, Washington, D.C. 20460, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. All written submissions made pursuant to this proposal will be made available for public inspection at the office of the Hearing Clerk.

Dated: June 25, 1973.

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

[FR Doc.73-13374 Filed 6-29-73;8:45 am]

POSTAL SERVICE

[39 CFR Parts 152, 310 and 320]

RESTRICTIONS ON PRIVATE CARRIAGE OF LETTERS

Proposed Comprehensive Standards for Permissible Private Carriage

Introduction. Since the days of the Articles of Confederation, the Postal Service and its predecessors have administered certain restrictions on the private carriage of letters, now found in 39 U.S.C. 601–606 and 18 U.S.C. 1693–1699 and 1724, known collectively as the Private Express Statutes. These restrictions confer upon the Postal Service the exclusive right to carry letters, with stated exceptions. Although formal regulations have in the past been promulgated, administration of the Statutes has been based primarily on interpretations found in hundreds of decisions—mostly administrative, a few judicial—rendered through the years. In recent years, a compendium of those decisions has periodically been published in pamphlet form, the most recent of which is POD Publication 111, "Restrictions on Transportation of Letters" (1967).

The body of precedents resulting from the administrative and judicial decisions contains inconsistencies and is not easily understandable. On certain questions, it has been difficult for the public to obtain guidance except by making a formal request for an advisory opinion. Moreover, since 1951 the decisions of the legal officers of the Post Office Department have not been published.

After a complete study and thorough reevaluation of the Private Express Statutes, and their administration, as required by Section 7, of the Postal Reorganization Act, Pub. L. No. 91-375, 84 Stat. 719 (1970), the Postal Service has concluded that changes in the Statutes are unnecessary but that certain administrative practices can and should be improved. Accordingly, the following regulations are proposed as a new Subchapter E in Chapter I of Title 39, Code of Federal Regulations, to replace the regulations codified at 39 CFR Part 152 (1970) and the uncodified regulations retained at 35 FR 19399 (1970) See editorial note following Part 958 in the table of contents for 39 CFR Ch. I in the volume revised as of Jan. 1, 1972.

The regulations establish a broad, and we hope readily understandable, definition of "letter" that continues the basic coverage of the Statutes as to messages transmitted in corporeal form. Although the definition of "letter" includes some new matter—most notably, checks—the proposed suspensions (Part 320), together with existing exceptions (§§ 310.3–310.7), continue to maintain much of such matter outside the scope of the restrictions. New matter is included within the scope of the restrictions only where analysis has indicated that its exception was legally erroneous.

The Postal Service has determined that the public interest requires exercise of its authority under 39 U.S.C. 601(b) to suspend the requirement to pay postage for the private carriage of intra-company communications requiring delivery to the addressee within 12 hours or not later than the opening of the addressee's business on his next working day and for periodically and regularly produced data processing materials conveyed to or back from a processing center requiring delivery to the addressee within 12 hours or not later than the opening of the addressee's business on his next working day under circumstances in which the processed output is required to be produced at the processing center within thirty-six hours of the time the materials are sent to the center; for checks and financial instruments being sent between financial institutions or in bulk to financial institutions; and for newspapers and periodicals.

The proposed regulations would also establish an administrative process for the collection of postage on matter sent in violation of the Statutes. Recovery of such postage would be in addition to other civil and criminal remedies available to carry out the purposes of the Statutes.

The proposed regulations are intended to provide a uniform and comprehensive interpretation of reasonable length with minimum ambiguity. These regulations reflect the Postal Service's extensive experience in administering the Private Express Statutes, and are intended, in part, to correct the inadequacies of the present essentially adjudicatory system. The comprehensive approach is consistent with the recommendation of leading legal commentators that rulemaking rather than adjudication should be used where possible.

Highlights of the proposed regulations.—Under 39 U.S.C. § 601(b), the Postal Service proposes suspensions which would exempt four categories of mailable matter because such suspensions appear to be in the public interest. Since checks and financial instruments, newspapers, periodicals and, under certain circumstances, data processing materials have been considered not to constitute letters, and since some of this material and much intra-company matter has ordinarily been carried by employees of the sending organization, thus falling within a longstanding exception, the adverse financial impact on the Postal Service from the proposed suspensions should be limited. The suspensions are thus intended, in part, to continue preexisting practices; in the case of intra-company messages and certain data processing materials, they will permit firms to contract with private firms rather than utilize their own employees or the Postal Service, if that seems more efficient for them. It should be emphasized that the suspensions for intra-company and data processing material are proposed only when delivery within 12 hours or overnight is required. Typically, matter qualifying for these suspensions will be of a type which, on a day-to-day basis, requires rapid transmission and turn-around; in the case of the data processing materials suspension, such rapid turn-around is a requirement for materials sent to and back from a processing center to qualify under the suspension. Other intra-company and data processing material must continue to move only upon the prepayment of U.S. postage.

The proposed regulations would further provide that private carriers wishing to provide service within the areas of the suspensions must notify the Postal Service of the operations expected to be undertaken before they are allowed to begin operations and that they must provide annual reports, together with any certificates required by the Postal

Service, on the extent and nature of the firms' activities under the suspension. While the Postal Service retains the right to revoke, alter, or add suspensions, it is expected this right would not be used to curtail actual operations under the suspensions to a territory or scale of operations smaller than those antedating a revocation, although reasonable regulatory changes in conditions affecting the suspensions may be implemented as to carriers already operating under them.

Administrative machinery is provided under which postage owing to the Postal Service because of private carriage in violation of the Statutes can be determined and collected. The process for determining postage owed could include a hearing on the record in cases involving disputed issues of fact. This proposal reflects an exercise of the Postal Service's authority to prescribe the manner in which postage is to be paid and is intended to make the administration of the Private Express Statutes more effective. The availability of a right to collect postage is not intended, however, to affect in any way the exercise of other options available under civil and criminal law for carrying out the purposes of the Statutes.

The new definition of "letter" is based on a traditional and objective standard: a message sent to a specific address. When the Statutes were first enacted in the United States, the definition of "letter" included all means of corporeal message communication then in use, and the present definition is intended to perform much the same function. Considerations based upon format, intent of the sender, utility to the addressee, and type of information conveyed are eliminated, because these requirements do not further the statutory purpose and they have given rise to administrative and interpretative problems.

Examples of materials formerly determined not to be letters which are now included in the definitions are listed below. Carriage of none of these materials is restricted where they fall into the range of the five broad exceptions to, and four categories of suspension of, coverage, as set out in §§ 310.3–310.7 and in Part 320.

(a) *Matter conveying information already known to the addressee.* The exception for matter known to the addressee is based upon an unsupported administrative determination that something otherwise appearing to be a letter was not a letter if the information in it was not "live" or "current." Since it is difficult to determine the extent of the addressee's knowledge and to separate information already known from other information, this definition has proven impracticable. Whether information was "live" or "current" does not appear to have been taken into account in the first century and a half of the administration of the Private Express Statutes. Examples: exact copies of items previously forwarded to the addressee; contracts sent several times between parties with no changes.

(b) *Checks and other commercial papers.* These were declared not to be letters on the theory that they are evidence of rights of the holder rather than written messages. Such a theory is inconsistent with the original general definitions of "letter" because such documents are in fact messages, conveying information of several kinds. Since checks (and presumably other commercial papers) were held to be letters if information "extraneous" to them appeared with or on them, interpretative problems have resulted. Other examples of commercial papers are financial instruments such as stock certificates, promissory notes, bonds and other negotiable securities; contracts, insurance policies, abstracts of title, mortgages, deeds, leases and articles of incorporation. The suspension provided for checks and financial instruments will allow their continued private carriage without prepayment of U.S. postage between financial institutions and in bulk to financial institutions. The suspension does not cover other movements of checks or financial instruments, such as between private individuals.

(c) *Legal papers and documents.* These were declared not to be letters, apparently for reasons similar to those for commercial papers, and the same objections to this determination apply. Examples are court orders, pleadings in judicial or quasi-judicial tribunals, briefs, birth and death certificates, election ballots and tally sheets, lists of registrations of voters and certificates to practice certain professions.

(d) *Matter sent for auditing or preparation of bills.* The exclusion of certain auditing materials from the definition of letter grew out of an unsupported administrative determination that an item was a letter if it contained information upon which the recipient was expected to "act, rely, or refrain from acting." The rationale, as it was used to justify an exception for matter sent for auditing, was based on the fiction that auditing is a mechanical process requiring no thought and that therefore no information is conveyed. Examples: meter books forwarded from local gas companies to central offices for preparation of customers' bills, if no other use is made of them and no part of the data is retained in a central office; records of receipts and disbursements sent to independent auditing firms, if the firm takes no corrective action, adjusts no accounts, and makes no other use of the information.

(e) *Matter sent for filing or storage.* The exclusion of this information was also based upon the "act, rely, or refrain from acting" language. The rationale for the exclusion was that there was no purpose of communication with the addressee when information was sent for filing or storage. The definition sometimes proved unworkable because it depended on a determination whether files being sent would ever be used again. It must be assumed that files not destroyed are kept because of an ultimate purpose of communication. Examples: shipment of old personal messages; files sent to another office for storage, but only if never used again.

Comments. Although, under 39 U.S.C. 410(a), the Postal Service is exempted from the advance notice requirement of the Administrative Procedure Act regarding proposed rule making (5 U.S.C. 553(b), (c)), the Postal Service hereby gives advance notice of the following proposed changes in Chapter I of Title 39, Code of Federal Regulations, and certain uncodified regulations. The proposed regulations are generally not intended to alter established practices except to the extent that the public interest appears to warrant a change. Parties who believe that their practices will be altered unjustifiably by the proposed regulations and any other interested parties should submit data, views, or arguments concerning the proposed regulations in writing to the General Counsel, United States Postal Service, Washington, D.C. 20260, at any time on or before August 31, 1973.

LOUIS A. COX,
General Counsel.

JUNE 22, 1973.

Uncodified Regulations. I. The uncodified regulations previously codified in the 1970 revision of 39 CFR as Part 152, retained in effect by 35 FR 19399 (1970), are hereby rescinded.

II. The note following Part 958 in the table of contents for 39 CFR Ch. I in the volume revised as of Jan. 1, 1972, is amended by deleting the following entry: Part 152—Who may carry letters.

III. Part 152 of this title is hereby reserved.

IV. *New Subchapter E.* Title 39, Code of Federal Regulations, is hereby amended by the addition of the following subchapter:

SUBCHAPTER E—RESTRICTIONS ON PRIVATE CARRIAGE OF LETTERS

PART 310—ENFORCEMENT OF THE PRIVATE EXPRESS STATUTES

Sec.

AUTHORITY: (39 U.S.C. 401, 404, 601–606; 18 U.S.C. 1693–1699, 1724.

§ 310.1 Definitions.

(a) "Letter" is a message in or on a physical object sent to a specific address.

(1) Physical objects used for letters include, but are not limited to, paper (including paper in sheet or card form), recording discs, and magnetic tapes. Methods by which messages are placed in or on physical objects include, but are not limited to, the use of written or printed characters, drawing, holes, or orientations of magnetic particles in a

manner having a predetermined significance.

(2) Whether a physical object contains a message is generally to be determined on an objective basis without regard to the intended or actual use made of the object sent. Usually, however, letters convey live, current information between the sender and the addressee. If the object sent cannot, because of the relationship between sender and addressee, convey information (for example, when a supplier of blank forms supplies such forms to a purchaser; a printer of advertising circulars supplies them to an advertiser; or documents are sent for destruction), no letter is involved.

(3) Identical messages in or on more than one physical object sent to more than one specific address or separately sent to the same address constitute separate letters.

(4) "Packet" is two or more letters, under one cover or otherwise bound together. As used in these regulations, unless the context otherwise requires, "letter" or "letters" includes "packet" or "packets."

(5) The specific form of letter known as a telegram is implicitly exempted from the restrictions by Congress.

(b) "Person" is an individual, corporation, association, partnership, governmental agency, or other legal entity.

(c) "Post routes" are routes between places regularly served by the Postal Service, and include post roads as defined in 39 U.S.C. 5003, as follows:

(1) The waters of the United States, during the time the mail is carried thereon;

(2) Railroads or parts of railroads and air routes in operation;

(3) Canals, during the time the mail is carried thereon;

(4) Public roads, highways, and toll roads during the time the mail is carried thereon; and

(5) Letter-carrier routes established for the collection and delivery of mail.

(d) "Private Express Statutes" are 18 U.S.C. 1693–1699 and 1724 and 39 U.S.C. 601–606 (1970).

§ 310.2 Unlawful carriage of letters.

(a) It is generally unlawful under the Private Express Statutes for any person other than the Postal Service in any manner to send or carry a letter between places regularly served by the Postal Service, or in any manner to cause or assist such activity. Violation may result in injunction, fine or imprisonment, and payment of postage lost as a result of the illegal activity (see § 310.8).

(b) Activity described in § 310.2(a) is permitted with respect to a letter if—

(1) It is enclosed in an envelope or other suitable container;

(2) The amount of postage which would have been charged on the letter if it had been sent through the Postal Service is paid by stamps, or postage meter stamps, on the container or by other methods approved by the Postal Service;

(3) The name and address of the person for whom the letter is intended appears on the container;

(4) The container is so sealed that the letter cannot be taken from it without defacing the container;

(5) Any stamps on the container are cancelled in ink by the sender; and

(6) The date of the letter, or of its transmission or receipt by the carrier, is endorsed on the container in ink by the sender or carrier, as appropriate.

(c) The Postal Service may suspend the operation of any part of paragraph (b) of this section where the public interest requires the suspension.

(d) Activity described in paragraph (a) of this section is permitted with respect to letters which—

(1) Relate to some part of the cargo of, or to some article carried at the same time by, the conveyance carrying it (see § 310.3);

(2) Are sent by or addressed to the carrier (see § 310.4);

(3) Are conveyed or transmitted by private hands without compensation (see § 310.5);

(4) Are conveyed or transmitted by special messenger employed for the particular occasion only, provided that not more than twenty-five such letters are conveyed or transmitted by such special messenger (see § 310.6); or

(5) Are privately carried prior or subsequent to mailing (see § 310.7).

§ 310.3 Cargo exception.

This exception permits the sending and carrying of letters when they accompany shipments when the letters exclusively relate to the shipment process or to the goods shipped.

§ 310.4 Letters of the carrier exception.

(a) This exception permits the sending and carrying of letters sent by or addressed to the individual carrying them and letters sent by or addressed to officers or employees of a carrier on the current business of the carrier (i.e., in their capacities as such officers or employees).

(b) The fact that the individual performing the carriage may be an officer or employee of the carrier for certain purposes does not necessarily mean that he is an officer or employee for purposes of this exception. The following factors bear on qualifications for the exception: the carrying employee is employed full-time; the carrying employee is a regular salaried employee and shares in all privileges enjoyed by other regular employees (including employees not engaged primarily in the letter-carrying function) including but not limited to salary, annual vacation time, absence allowed for illness, health benefits, workmen's compensation insurance, and retirement benefits.

(c) Separately incorporated carriers and carriers operating as independent units are separate entities for purposes of this exception, regardless of any subsidiary, ownership, or leasing arrangement.

§ 310.5 Private hands without compensation exception.

This exception permits the sending and carrying of letters when no charge for carriage is made by the carrier. However, carriage of letters free of charge by a person engaged in transportation of goods or persons for hire does not fall within the exception.

§ 310.6 Special Messenger exception.

(a) This exception permits use of a special messenger employed for the particular occasion only to transmit letters when not more than twenty-five letters are involved. The permission granted under this exception is restricted to use of messenger service on an infrequent, irregular basis by the sender or addressee of the message.

(b) A special messenger is a person who, at the request of either the sender or the addressee of the letter, picks it up from the sender's home or place of business and carries it to the addressee's home or place of business, but a messenger or carrier operating regularly between fixed points is not a special messenger.

§ 310.7 Carriage prior or subsequent to mailing exception.

(a) This exception permits the private sending or carrying of unopened letters which enter the mail stream at some point between their origin and destination. The origin of a letter is the residence or place of business of the sender; the destination of a letter is the residence or place of business of the addressee.

(b) Examples of permitted activity are the pickup of letters which are delivered to post offices for mailing; the pickup of letters at post offices for delivery to addressees; and the bulk shipment of individually addressed letters ultimately carried by the Postal Service.

§ 310.8 Payment of postage on violation.

(a) Upon discovery of activity made unlawful by the Private Express Statutes, the Postal Service may require from any person or persons engaged in such activity payment of an amount or amounts, the total of which may not exceed the postage to which it would have been entitled had it carried the letter between its origin and destination.

(b) Such payment of postage is due and payable on demand by the Inspection Service. Disputes concerning such demands may be referred in writing to the Judicial Officer and must include specific allegations of all errors. If disputed issues of specific fact are involved, a hearing on the record shall be provided. For other disputed issues, the opportunity for written or oral presentation of evidence or argument shall be afforded. After such opportunity has been exercised or waived, the Judicial Officer shall decide all disputed issues, and his decision shall be final.

(c) Refusal to pay uncontested demands or demands which become final

after dispute subjects the violator to civil suit by the Postal Service.

(d) This provision for the payment of postage on violation shall in no way affect the right of the Postal Service or the Department of Justice to enforce the restrictions by civil or criminal proceedings.

§ 310.9 Advisory opinions.

An advisory opinion on any question arising under this part and Part 320 of this chapter may be obtained by writing the Assistant General Counsel, Opinions Division, United States Postal Service, Washington, DC 20260. Final opinions will be available for inspection by the public in the Library of the United States Postal Service, and copies of individual opinions may be obtained upon payment of charges for duplicating services.

PART 320—SUSPENSIONS OF THE PRIVATE EXPRESS STATUTES

Sec.
320.1 Definitions.
320.2 Suspensions.
320.3 Establishment of operations under suspensions.

AUTHORITY: 39 U.S.C. 401, 404, 601.

§ 320.1 Definitions.

The definitions in § 310.1 apply in this Part 320 to the extent words defined there are used in this Part.

§ 320.2 Suspensions.

(a) The operation of 39 U.S.C. § 601(a) and § 310.2(a) of this chapter are suspended on all post routes for the types of matter, and on such terms, as are detailed in paragraph (d) of this section. The effect of these suspensions is to allow any person to send or carry matter covered by the suspensions between places served by the Postal Service without paying postage or meeting any other conditions of section 601(a) and paragraph (a) of this section.

(b) The contents of any matter carried under the suspension must be made available for examination upon request by a properly identified Postal Inspector.

(c) The suspensions may be revoked at any time. It is not expected, however, that a revocation would curtail then existing operations under the suspensions to a scale smaller than that antedating the revocation in a particular territory served prior to the revocation. Reasonable regulatory changes in conditions affecting the suspensions may, however, be implemented at any time as to all carriers operating under the suspensions.

(d) The following types of matter, if carriel under the indicated conditions, are not subject to penalty pursuant to the Private Express Statutes or the regulations issued thereunder.

(1) Interoffice communications between offices and branches of the same corporation, partnership, or other organization when transmission must be and is completed within 12 hours or by not later than the opening of the addressee's business on his next working day.

(2) Data processing materials conveyed to or back from a company-owned or independent data processing center, when transmission must be and is completed within 12 hours or by not later than the opening of the addressee's business on his next working day. For purposes of this suspension, data processing means electro-mechanical or electronic processing; data processing materials include only documents produced on a regular periodic basis, under circumstances where the processing center is required to produce final processed output within thirty-six hours of the time the materials are sent to the processing center. The time limits stated do not include hours of any complete day in which no business is conducted. Within this concept, data processing materials include materials of all types ready for immediate data processing and the direct output of data processing; they also include other materials, ready for automatic intermediate conversion into a form ready for immediate data processing.

(3) Checks and other financial instruments, such as stock certificates, promissory notes, bonds and other negotiable securities, when shipped between financial institutions or in bulk to financial institutions.

(4) Newspapers and periodicals.

§ 320.3 Establishment of operations under suspensions.

(a) Persons intending to establish or alter operations based on suspensions granted pursuant to § 320.2(d)(1) and (2) shall, as a condition to the right to operate under the suspensions, notify the Private Express Liaison Officer, Customer Services Group, United States Postal Service, Washington, D.C. 20260, of their intention to establish such operations not later than the beginning of such operations. Such notification, on a form available from the Private Express Liaison Office, shall include:

(1) The name and address of such person; and

(2) A detailed statement of the scope of the proposed operation, including but not limited to the type of matter, geographical area and expected duration of operations.

(b) Persons filing notification under § 320.3(a) shall file, on a form available from the Private Express Liaison Office, not less frequently than annually, reports on the actual volumes, revenues, distances, frequencies, and such other information in such forms and accompanied by such certificates as may be required by the Postal Service on services performed under suspensions granted pursuant to this part.

(c) The filing of notifications or reports under this section shall not constitute the operator a licensee, and the operator will continue to be solely responsible for assuring that his operations conform to applicable Statutes and regulations.

NOTE: The forms referred to in § 320.3 are reproduced below.

NOTICE OF INTENT TO ESTABLISH OPERATIONS UNDER SUSPENSIONS OF THE PRIVATE EXPRESS STATUTES [1]

(See 39 CFR Part 320, Suspensions of the Private Express Statutes)

PRIVATE CARRIAGE OF LETTERS

Name of Carrier _____
Address _____
State of Incorporation _____
Geographical Area to be Served.

1. States in which operations are to be conducted.
2. Is service to be provided for completed delivery entirely within any SMSA? Within any single city, town or other local jurisdiction not located within an SMSA? If so, please list each SMSA or local jurisdiction not within an SMSA. (Please list SMSA's first and otherwise list places in alphabetical order.)
3. Is service to be provided between any pairs of SMSA's, cities, towns, or other local jurisdictions? If so, please list each pair.

Date	Date
Notary Public	Authorized Officer

SEAL

ANNUAL REPORT

OPERATIONS UNDER SUSPENSIONS OF THE PRIVATE EXPRESS STATUTES [2]

(See 39 CFR Part 320, Suspensions of the Private Express Statutes)

PRIVATE CARRIAGE OF LETTERS

Twelve Month Period Ending _____
Name of Carrier _____
Address _____
State of Incorporation _____

A. Geographical Area Served.
   1. States in which operations are conducted.
   2. Is service provided for completed delivery entirely within any SMSA? Within any single city, town or other local jurisdiction not located within an SMSA? If so, please list each SMSA or local jurisdiction not within an SMSA. (Please list SMSA's first and otherwise list places in alphabetical order.)
   3. Is service provided between any pairs of SMSA's, cities, towns or other local jurisdictions? If so, please list each pair.

B. Traffic.
   1. Volume carried.
      Please report figures as indicated below for each place listed under A–2, and each pair of places listed under A–3:
      Intra-Company Communications
         No. shipments ------
         Avg. weight ------
         or
         Total weight carried (pounds) ------
      Data Processing Materials
         No. shipments ------
         Avg. weight ------
         or
         Total weight carried (pounds) ------

[1] This form should be used for an initial notice of operations and for any amendments to the initial or subsequent notices. Information relates exclusively to operations under the suspensions for intra-company and data processing materials.

[2] Information relates exclusively to operations under the suspensions for intra-company communications and data processing materials, except total corporate information requested under C–3 and D.

2. Average lapsed time for delivery.
Please report average lapsed time for delivery for each place listed under A–2 and each pair of places listed under A–3. (There is no need to break down the figures according to whether they relate to intra-company communications or data processing materials.)

C. Gross Revenues and Operating Margins.

1. Gross revenue.
Please report gross revenue for each place listed under A–2 and each pair of places listed under A–3, broken down as follows:

Intra-company communications $------
Data processing materials $------

2. Operating margins.
Gross margin (net operating revenue before taxes as percent of gross revenue)

All intra-company communications ------
All data processing materials ------

3. Please enclosed an audited financial statement for the most recent year.

D. Management and Staff. (Figures used or derivable from figures used in computing operating margins.)

1. General and Administrative staff (number and hours worked)

All intra-company communication ------
All data processing materials ------
Total corporate ------

2. Carriers, routine delivery personnel and special messengers (number and hours worked)

All intra-company communication ------
All data processing materials ------
Total corporate ------

E. Rates.
Please append a copy of all your current rate structures, including volume discount structures (if any exist), zone rates and optional service rates.

F. CPA certificate.
Please attach a certificate from a certified public accounting firm in the form—or substantially in the form—that is indicated below.

We have examined the Annual Report of ------, pursuant to U.S. Postal Service regulations, Part 320, Suspensions of the Private Express Statutes, as of ------. In our opinion, this report presents fairly the information requested, and was prepared in conformance with generally accepted accounting principles.

------ ----------
Date Auditing Firm

[FR Doc.73–12892 Filed 6–29–73;8:45 am]

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 STATE

[Public Notice CM-41]

ADVISORY COMMITTEE ON SCIENCE AND FOREIGN AFFAIRS

Notice of Meeting

The Department of State Advisory Committee on Science and Foreign Affairs will meet on July 13 and 14, 1973 at 9:30 a.m. in Room 7835, Department of State 2201 C Street, N.W. Washington, D.C. 20520.

The Committee exists to provide the Department of State with a source of outside expertise and counsel on a wide range of foreign policy problems and opportunities created by or involving scientific and technological developments.

In accordance with section 10(d) of the Advisory Committee Act (P.L. 92-463) it has been determined that the above meeting will necessarily involve discussion of matters concerned with those recognized as not subject to public disclosure under 5 U.S.C. 522(b)(1), and that the public interest requires that such activities be withheld from disclosure. The meeting will therefore be closed to the public.

Any questions concerning the meeting should be directed to J. Kenneth Mansfield, Executive Secretary, Department of State Advisory Committee on Science and Foreign Affairs. (202-632-3625)

Dated: June 27, 1973.

J. KENNETH MANSFIELD,
Executive Secretary, Advisory Committee on Science and Foreign Affairs.

[FR Doc.73-13327 Filed 6-29-73;8:45 am]

[Public Notice CM-40]

STUDY GROUP 4 OF THE U.S. NATIONAL COMMITTEE FOR THE INTERNATIONAL RADIO CONSULTATIVE COMMITTEE (CCIR)

Notice of Meeting

The Department of State announces that Study Group 4 of the U.S. National Committee for the International Radio Consultative Committee (CCIR) will meet on July 18, 1973, at 9:30 a.m. in Room 4015, COMSAT Building, 950 L'Enfant Plaza South, S.W., Washington, D.C. Study Group 4 studies matters relating to systems of radio communications for the fixed services using satellites. The agenda for the meeting will include consideration of draft documents being developed as proposed contributions by the U.S. to the international meeting of Study Group 4 in 1974.

Members of the general public who desire to attend the meeting on July 18 will be admitted up to the limit of the capacity of the meeting room.

Dated: June 25, 1973.

GORDON L. HUFFCUTT,
Chairman, U.S. CCIR National Committee.

[FR Doc.73-13328 Filed 6-29-73;8:45 am]

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Treasury Department Order No. 190, Revision 9]

ORGANIZATION AND FUNCTIONS

Supervision of Bureaus, Delegation of Authority, and Order of Succession

1. The following officials shall be under the direct supervision of the Secretary:

The Deputy Secretary
The Under Secretary for Monetary Affairs
The Under Secretary
The Executive Assistant to the Secretary
Deputy Assistant and Director, Executive Secretariat

2. The following officials shall be under the supervision of the Secretary, shall report to him through the Deputy Secretary, and shall exercise supervision over those organizational units indicated thereunder:

General Counsel
- Legal Division
- Office of Director of Practice
- Office of Equal Opportunity Program

Deputy Under Secretary
Special Assistant to the Secretary (National Security)
Special Assistant to the Secretary (Public Affairs)
Assistant to the Secretary (Legislative Affairs)

3. The following officials shall be under the direct supervision of the Deputy Secretary and shall exercise supervision over those offices, bureaus, and other organizational units indicated thereunder:

Assistants to the Deputy Secretary
Energy Advisor
Assistant Secretary (Tax Policy)
- Office of Tax Analysis
- Office of Tax Legislative Counsel
- Office of International Tax Counsel
- Office of Industrial Economics

Assistant Secretary (Enforcement, Tariff & Trade Affairs, & Operations)
- Office of Law Enforcement
- Office of Operations
- Office of Tariff and Trade Affairs
- Office of Foreign Assets Control
- Bureau of Alcohol, Tobacco and Firearms
- Bureau of Customs
- Bureau of Engraving and Printing
- Bureau of the Mint
- Consolidated Federal Law Enforcement Training Center
- United States Secret Service

Assistant Secretary for Administration
- Office of Administrative Programs
- Office of Audit
- Office of Budget and Finance
- Office of Management and Organization
- Office of Personnel
- Office of ADP Management and Operations

Commissioner of Internal Revenue
Comptroller of the Currency
Office of Revenue Sharing

4. The following officials will be under the direct supervision of the Under Secretary for Monetary Affairs and shall exercise supervision over those offices, bureaus, and other organizational units indicated thereunder:

Deputy Under Secretary
Special Assistant to the Secretary (Debt Management)
- Office of the Debt Analysis

Assistant Secretary (International Affairs)
- Deputy Assistant Secretary for Industrial Nations Finance
- Deputy Assistant Secretary for Development Finance
- Deputy Assistant Secretary for Trade and Investment Policy
- Deputy Assistant Secretary for Research

Assistant Secretary (Economic Policy)
- Office of Domestic Gold and Silver Operations
- Office of Financial Analysis

Fiscal Assistant Secretary
- Bureau of Accounts
- Bureau of the Public Debt
- Office of the Treasurer of the United States

United States Savings Bonds Division

5. The Deputy Secretary, the Under Secretary for Monetary Affairs, the Under Secretary, the General Counsel, the Deputy Under Secretaries, and the Assistant Secretaries are authorized to perform any functions the Secretary is authorized to perform. Each of these officials shall perform functions under this authority in his own capacity and under his own title, and shall be responsible for referring to the Secretary any matter on which actions should appropriately be taken by the Secretary. Each of these officials will ordinarily perform under this authority only functions which arise out of, relate to, or concern the activities or functions of or the laws administered by or relating to the bureaus, offices, or other organizational units over which he has supervision. Any action heretofore taken by any of these officials in his own capacity and under his own title is hereby affirmed and ratified as the action of the Secretary.

6. The following officers shall, in the order of succession indicated, act as Secretary of the Treasury in case of the death, resignation, absence, or sickness of the Secretary and other officers succeeding him, until a successor is appointed or until the absence or sickness shall cease:

A. Deputy Secretary
B. Under Secretary for Monetary Affairs
C. Under Secretary
D. General Counsel
E. Commissioner of Internal Revenue
F. Deputy Under Secretaries, appointed by the President with Senate confirmation, in the order in which they took the oath of office as Deputy Under Secretary.
G. Assistant Secretaries, appointed by the President with Senate confirmation, in the order in which they took the oath of office as Assistant Secretary
H. Other Executive Pay Act Officials in the Office of the Secretary, first in the order of Executive Pay Act levels, then in the order in which they took the oath of office in their present positions
I. Executive Pay Act Officials in Treasury Bureaus, first in the order of Executive Pay Act levels, then in the order in which they took the oath of office in their present positions

7. Treasury Department Order 190 (Revision 8) is rescinded, effective July 2, 1973.

Dated: July 2, 1973.

[SEAL] GEORGE P. SHULTZ,
Secretary of the Treasury.

[FR Doc.73-13361 Filed 6-29-73;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Navy

SECRETARY OF THE NAVY'S ADVISORY BOARD ON EDUCATION AND TRAINING

Notice of Meetings

Notice is hereby given, pursuant to Public Law 92-463, that the Secretary of the Navy's Advisory Board on Education and Training will hold open meetings on 10-11 July 1973 at the U.S. Naval Academy, Annapolis, Maryland.

The meetings will concern Navy and Marine Corps graduate education requirements, programs, and procedures for selection and utilization of personnel with graduate education.

Dated: June 25, 1973.

H. B. ROBERTSON, Jr.,
Rear Admiral, JAGC, U.S. Navy Acting Judge Advocate General.

[FR Doc.73-13267 Filed 6-29-73;8:45 am]

Office of the Secretary of Defense

ADVISORY GROUP ON ELECTRON DEVICES

Notice of Meeting

The Department of Defense Advisory Group on Electron Devices will meet in closed session at 201 Varick Street, New York, New York, July 12, 1973.

The purpose of the DoD Advisory Group on Electron Devices is to provide the Director of Defense Research and Engineering and the Military Departments with advice and recommendations on the conduct of economical and effective Research and Development programs in the field of electron devices, e.g., lasers, radar tubes, transistors, infrared sensors, etc. The group is also the vehicle for interservice coordination of planned R&D efforts.

In accordance with Public Law 92-463, Section 10d, the Director of Defense Research and Engineering has determined, on 28 February 1973, that the meetings of the Advisory Group are matters which fall within policies analogous to those recognized in section 552(b) of Title 5 of the United States Code and that the public interest requires such activities to be withheld from disclosure insofar as the requirements of subsection (a)(1) and subsection (b) of section 10, Public Law 92-463 are concerned.

Dated: June 27, 1973.

MAURICE W. ROCHE,
Director, Correspondence and Directives Division, OASD (Comptroller).

[FR Doc.73-13310 Filed 6-29-73;8:45 am]

DEPARTMENT OF THE INTERIOR

Office of Secretary

[INT FES 73-33]

PROPOSED SPIRIT MOUNTAIN RECREATION AREA

Notice of Availability of Draft 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 impact statement for the proposed creation of Spirit Mountain Recreation Area. Notice of availability of the draft environmental statement inviting comments was announced in the FEDERAL REGISTER on May 14, 1973 (DES 73-28).

The environmental statement considers the development of approximately 920 acres as a year-round recreation complex in the city of Duluth, Minnesota. A 100-unit campground plus support facilities is proposed for funding with Land and Water Conservation Fund assistance. A ski facility which will include nine ski runs, three lifts, a central recreation building, and support facilities with utilities is proposed for funding with Economic Development Administration and Upper Great Lakes Regional Commission grants. In addition to providing outdoor recreation, the project is intended to stimulate the economy of the city of Duluth by generating tourist expenditures and providing jobs. The facility will serve people in the Upper Midwest as well as Duluth.

Copies are available for inspection at the following locations:

Bureau of Outdoor Recreation, Lake Central Region, 3853 Research Park Drive, Ann Arbor, Michigan 48104
Department of the Interior, Division of State Programs, Bureau of Outdoor Recreation, Washington, D.C. 20240.
State Planning Agency, 802 Capitol Square Building, 550 Cedar Street, St. Paul, Minnesota 55101
Head of the Lakes Council of Governments, 409 City Hall, Duluth, Minnesota 55802
U.S. Department of Commerce, Economic Development Administration, Civic Tower Building, 32 West Randolph, Chicago, Illinois 60606

Copies may be obtained by writing the National Technical Information Service, Department of Commerce, Springfield, Virginia 22151. Please refer to the statement number above.

Dated June 25, 1973.

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

[FR Doc.73-13268 Filed 6-29-73;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

GRAIN INSPECTION

Nebraska Grain Inspection Points

Statement of considerations. On May 16, 1973, there was published in the FEDERAL REGISTER (38 FR 12838) a notice announcing: (1) that the Grand Island Chamber of Commerce Grain Inspection Bureau, Grand Island, Nebraska, had requested that its designation under section 3(m) of the U.S. Grain Standards Act (sec. 3, 39 Stat. 482, as amended 82 Stat. 762; 7 U.S.C. 75(m)) to operate as an official grain inspection agency at Grand Island and Hastings, Nebraska, be transferred effective July 1, 1973, to another agency or persons; and (2) that the Hastings Grain Inspection, Inc., Hastings, Nebraska, had applied for designation to operate as an official grain inspection agency at Grand Island and Hastings, Nebraska.

Interested persons were given until June 15, 1973, to make application for designation to operate as an official grain inspection agency at Grand Island and Hastings, and to submit written data, views, or arguments with respect to which agency or person should be designated to operate as an official inspection agency at Grand Island and Hastings.

Nine comments were received. All of them recommended that the Hastings Grain Inspection, Inc., be designated to operate as an official inspection agency at Grand Island and Hastings, Nebraska. No adverse comments were received, and no applications for designation were received other than the application from the Hastings Grain Inspection, Inc.

After due consideration of all submissions made pursuant to the notice of May 16, 1973, and all other relevant matters, and pursuant to the authority contained in sections 3(m) and 7(f) of the U.S. Grain Standards Act, the designation to operate as an official inspection agency at Grand Island and Hastings, Nebraska, is hereby transferred from the Grand Island Chamber of Commerce Grain Inspection Bureau, Grand Island, Nebraska, to the Hastings Grain Inspection, Inc., Hastings, Nebraska.

(Secs. 3 and 7, 39 Stat. 482, as amended 82 Stat. 762 and 764; 7 U.S.C. 75(m) and 79(f); 37 F.R. 28464 and 28476)

Done in Washington, D.C., on June 26, 1973.

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

[FR Doc.73-13309 Filed 6-29-73;8:45 am]

Food and Nutrition Service

NATIONAL SCHOOL LUNCH PROGRAM

National Average General Cash-for-Food Assistance Payment under National School Lunch Program for Fiscal Year 1974.

Section 4 of the National School Lunch Act, as amended, (42 U.S.C. 1753) requires the Secretary to prescribe each fiscal year a national average per lunch payment from general cash-for-food assistance funds.

Pursuant to the legislation and § 210.4 of the regulations issued thereunder (7 CFR Part 210), notice is hereby given that the national average lunch payment from general cash-for-food assistance funds for lunches served during the fiscal year ending June 30, 1974, to children in schools participating in the National School Lunch Program shall be eight (8) cents. The total amount of general cash-for-food assistance payments to be made to each State educational agency from the sums appropriated therefor, shall be based upon such national average payments: *Provided; however*, That the aggregate amount of the general cash-for-food assistance payments to any State educational agency shall not be less than the amount of the payments made by such State educational agency to participating schools within the State for the fiscal year ending June 30, 1972, to carry out the purposes of Section 4 of the Act.

Definitions. The terms used in this notice shall have the meanings ascribed to them in the regulations governing the National School Lunch Program.

(Catalog of Federal Domestic Assistance Program No. 10.555, National Archives Reference Services).

Effective date: This notice shall become effective July 1, 1973.

Dated: June 29, 1973.

CLAYTON YEUTTER,
Assistant Secretary.

[FR Doc.73-13553 Filed 6-29-73;11:52 am]

SCHOOL BREAKFAST PROGRAM

National Average Payments under School Breakfast Program for Fiscal Year 1974

Section 4 of the Child Nutrition Act of 1966, as amended, (42 U.S.C. 1773(b)) requires the Secretary to prescribe each fiscal year a national average per meal breakfast payment, a national average per meal reduced price breakfast payment, and a national average per meal free breakfast payment.

Pursuant to the legislation and § 220.4 of the regulation issued thereunder (7 CFR Part 220), notice is hereby given that the national average breakfast payments for breakfasts served during the fiscal year ending June 30, 1974, to children in schools participating in the School Breakfast Program shall be: (a) five (5) cents for each paid breakfast; (b) fifteen (15) cents for each reduced price breakfast, and (c) twenty (20) cents for each free breakfast. The total amount of breakfast assistance payments to be made to each State educational agency from the sums appropriated therefor, shall be based upon such national average payments: *Provided, however*, That the aggregate amount of the breakfast assistance payments to any State educational agency shall not be less than the amount of the payments made by such State educational agency to participating schools within the State for the fiscal year ending June 30, 1972, to carry out the purposes of section 4 of the Act: *And provided further*, That additional payments shall be made in such amounts as are needed to finance reimbursement rates assigned in accordance with the provisions of § 220.9(b-1) of the regulations.

Definitions. The terms used in this notice shall have the meanings ascribed to them in the regulations governing the School Breakfast Program and the regulations for Determining Eligibility for Free and Reduced Price Meals (7 CFR Part 245).

(Catalog of Federal Domestic Assistance Program No. 10.553, National Archives Reference Services).

Effective date. This notice shall become effective July 1, 1973.

Dated: June 29, 1973.

CLAYTON YEUTTER,
Assistant Secretary.

[FR Doc.73-13552 Filed 6-29-73;11:52 am]

Forest Service

KIRKWOOD WINTER SPORTS DEVELOPMENT

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 Kirkwood Winter Sports Development, Eldorado National Forest, USDA-FS-FES (Adm) 73-21.

The environmental statement concerns the development, in stages, of a proposed winter sports complex in the Kirkwood, Martin Meadow, and Thimble Peak area of the Eldorado National Forest. The area is located in adjoining portions of Alpine, Amador, and El Dorado Counties, California, along State Route 88. The proposed ultimate development will include 13 ski lifts and will have a capacity of 8,400 skiers at one time. A small day lodge is planned to serve Thimble Peak Basin. Support facilities and commercial and residential development to accommodate 2,500 living units will be located on 325 acres of the 700 acres of private land in Kirkwood Meadow.

This final environmental statement was filed with CEQ June 20, 1973.

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

USDA, Forest Service
South Agricultural Building, Room 3230
14th Street and Independence Ave., S.W.
Washington, D.C. 20250
USDA, Forest Service
California Region
630 Sansome Street, Room 531
San Francisco, California 94111
Eldorado National Forest
100 Forni Road
Placerville, California 85667
Amador Ranger District
Lumberyard Ranger Station
Pioneer, California 95666

A limited number of single copies are available upon request to Douglas R. Leisz, Regional Forester, 630 Sansome Street, San Francisco, California 94111.

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 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.

JUNE 26, 1973.

[FR Doc.73-13360 Filed 6-29-73;8:45 am]

PIKE NATIONAL FOREST MULTIPLE USE ADVISORY COMMITTEE

Notice of Meeting

The Pike National Forest Multiple Use Advisory Committee will meet at 2:00 p.m. on July 27, 1973, at Twin Lakes Reservoir and at 8:00 a.m. on July 28, 1973, at Turquois Lake Reservoir.

The purpose of this meeting and field trip is to see and discuss the relationship of the adjacent San Isabel National Forest in regards to the Homestake project in storage and transporting water to the Cities of Colorado Springs and Aurora.

The meeting will be open to the public. Persons who wish to attend should notify the Pike-San Isabel Supervisor's Office, P.O. Box 5808, Pueblo, Colorado 81002, 544-5277. Written statements may be filed with the committee before or after the meeting.

The committee has established the following rules for public participation:

1. To the extent that time permits, interested persons may be permitted by the committee chairman to present oral statements.

W. J. LITWICKI,
Acting Forest Supervisor.

JUNE 22, 1973.

[FR Doc.73-13371 Filed 6-29-73;8:45 am]

DEPARTMENT OF COMMERCE

Maritime Administration

TANKER CONSTRUCTION PROGRAM

Conformance to Requirements of National Environmental Policy Act; Revised Notice of Intent To Issue Order

In FR Doc. 73-12829, appearing in the FEDERAL REGISTER issue of June 26, 1973 (38 FR 16790), notice was published of

the intent of the Maritime Subsidy Board to issue on June 29, 1973, a final opinion and order, to be identified as Docket No. A-75, regarding conformance of the Maritime Administration Tanker Construction Program to the requirements of the National Environmental Policy Act. Interested persons were advised that the aforesaid Final Opinion and Order would be available through the Secretary, Maritime Subsidy Board, Maritime Administration, Room 3099-B, Department of Commerce Building, 14th and E Streets, NW., Washington, D.C. 20230.

The Board hereby gives notice that said final opinion and order will not be issued on June 29, 1973, but at a subsequent date in the near future at which time the final opinion and order will be available through the office of Secretary of the Maritime Subsidy Board.

Dated: June 28, 1973.

By order of the Maritime Subsidy Board, Maritime Administration.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.73-13455 Filed 6-29-73;8:45 am]

National Bureau of Standards

COLOR MARKING FOR ANESTHETIC GAS CYLINDERS

Withdrawal of Standard

In accordance with § 10.12 of the Department's "Procedures for the Development of Voluntary Product Standards" (15 CFR Part 10, as revised; 35 FR 8349 dated May 28, 1970), notice is hereby given of the withdrawal of Simplified Practice Recommendation 176-41, "Color Marking for Anesthetic Gas Cylinders." This action is taken in furtherance of the Department's announced intention, as set forth in the public notice appearing in the FEDERAL REGISTER of November 21, 1972 (37 FR 24773), to withdraw this standard.

The effective date for the withdrawal of this standard will be August 31, 1973. This withdrawal action terminates the authority to refer to this standard as a voluntary standard developed under the Department of Commerce procedures.

RICHARD W. ROBERTS,
Director.

JUNE 25, 1973.

[FR Doc.73-13321 Filed 6-29-73;8:45 am]

PLASTIC-COATED WALLCOVERING

Circulation for Acceptance of Recommended Standard

In accordance with the provisions of § 10.5 of the Department of Commerce procedures for the development of voluntary product standards (15 CFR Part 10, as amended; 35 FR 8349 dated May 28, 1970), the National Bureau of Standards is giving public notice and circulating for acceptance Recommended Voluntary Product Standard TS 198, "Plastic-Coated Wallcovering." The purpose of the standard is to establish on a voluntary basis nationally recognized quality requirements for plastic coated wallcovering, and thus provide producers, distributors, and users with a basis for common understanding of the characteristics of the product.

Copies of TS 198 may be obtained from the Office of Engineering Standards Services, National Bureau of Standards, Washington, D.C. 20234. Written comments or objections concerning the standard should be addressed to the Office of Engineering Standards Services within 45 days following publication of this notice.

RICHARD W. ROBERTS,
Director.

JUNE 25, 1973.

[FR Doc.73-13318 Filed 6-29-73;8:45 am]

PLASTIC CONTAINERS FOR PETROLEUM PRODUCTS

Notice of Circulation for Acceptance of Recommended Standard

In accordance with the provisions of § 10.5 of the Department of Commerce procedures for the development of voluntary product standards (15 CFR Part 10, as amended; 35 FR 8349 dated May 28, 1970), the National Bureau of Standards is giving public notice and circulating for acceptance Recommended Voluntary Product Standard TS 125d, "Plastic Containers (Jerry Cans) for Petroleum Products." The purpose of this voluntary product standard is to establish nationally recognized quality requirements for plastic containers (jerry cans) used to transport and temporarily store petroleum products.

Copies of TS 125d may be obtained from the Office of Engineering Standards Services, National Bureau of Standards, Washington, D.C. 20234. Written comments or objections concerning the standard should be addressed to the Office of Engineering Standards Services within 45 days following publication of this notice.

RICHARD W. ROBERTS,
Director.

JUNE 25, 1973.

[FR Doc.73-13320 Filed 6-29-73;8:45 am]

EXPANDED VINYL FABRICS FOR APPAREL USE

Intent To Withdraw Commercial Standard

In accordance with § 10.12 of the Department's "procedures for the development of voluntary product standards" (15 CFR Part 10, as revised; 35 FR 8349 dated May 28, 1970), notice is hereby given of the intent to withdraw Commercial Standard CS 258-63, "Expanded Vinyl Fabrics for Apparel Use." It has been tentatively determined that this standard is no longer in general use and revision would serve no useful purpose.

Any comments or objections concerning the intended withdrawal of this standard should be made in writing and directed to the Office of Engineering Standards Services, National Bureau of Standards, Washington, D.C. 20234, on or before August 1, 1973. The effective date of withdrawal, if appropriate, will be not less than 60 days after the final notice of withdrawal. Withdrawal action terminates the authority to refer to a published standard as a voluntary standard developed under the Department of Commerce procedures from the effective date of the withdrawal.

RICHARD W. ROBERTS,
Director.

JUNE 25, 1973.

[FR Doc.73-13319 Filed 6-29-73;8:45 am]

STOCK SIZES OF CERTAIN FILES AND RASPS

Withdrawal of Standard

In accordance with § 10.12 of the Department's procedures for the development of voluntary product standards (15 CFR Part 10, as revised; 35 FR 8349 dated May 28, 1970), notice is hereby given of the withdrawal of the two standards identified below:

SPR 6-63, Standard Stock Sizes of American Pattern and Curved Milled Tooth Files and Rasps

SPR 206-63, Standard Stock Sizes of Swiss Pattern Files

This action is taken in furtherance of the Department's announced intention, as set forth in the public notice appearing in the FEDERAL REGISTER of March 3, 1972 (37 FR 4459), to withdraw these two standards.

The effective date for the withdrawal of these standards will be August 31, 1973. This withdrawal action terminates the authority to refer to these standards as voluntary standards developed under the Department of Commerce procedures.

RICHARD W. ROBERTS,
Director.

JUNE 25, 1973.

[FR Doc.73-13317 Filed 6-29-73;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[DESI 64]

[Docket No. FDC-D-574; NDA 64, etc.]

CERTAIN BARBITURATE-ANALGESIC COMBINATION DRUGS FOR ORAL USE

Notice of Withdrawal of Approval of New Drug Applications

On January 19, 1973, there was published in the FEDERAL REGISTER (38 FR 1947) a notice of opportunity for hearing [DESI 64] in which the Commissioner of Food and Drugs proposed to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) withdrawing approval of the new drug applications listed below. The basis of the proposed action was the lack of substantial evidence that the drugs are effective for their labeled indications. Thirty days were allowed for the holders of the new drug applications

or any interested person who manufactures or distributes a drug similar, related, or identical to a drug provided for in the approved new drug applications to file a written appearance requesting a hearing and giving reasons why new drug application approval should not be withdrawn, together with a full factual analysis of the clinical and other investigational data they were prepared to prove in support of their opposition.

Pursuant to the notice, a request for hearing has been received from William M. Davis, M.D., Medical Director, Wm. P. Poythress & Co., 16 N. 22nd St., Richmond, Va. 23261 on behalf of the following product which is not the subject of an approved new drug application:

Synirin Tablets containing aspirin 5 grains and pentobarbital ⅛ grain.

The specific product named above may continue to be marketed pending a ruling on the request for hearing.

In response to the notice, none of the holders of the following new drug applications have filed a written appearance of election as provided by said notice. The failure to file such an appearance constitutes an election by such persons not to avail themselves of the opportunity for a hearing:

NDA 64; Allonal Tablets containing aprobarbital and phenacetin; Roche Laboratories, Division Hoffmann-La Roche, Inc., Roche Park, 340 Kingsland Street, Nutley, NJ 07110.

NDA 4-296; Pentobarbital-Aspirin Capsules; Cooper Laboratories, Inc. (successor to Tilden-Yates Laboratories, Inc.), 2900 North 17th Street, Philadelphia, PA 19132.

NDA 2-898; Cyclopal and Aspirin Tablets containing cyclopentenylallylbarbituric acid and aspirin; The Upjohn Co., 7171 Portage Road, Kalamazoo, MI 49002.

All identical, related, or similar products, not the subject of an approved new drug application, are covered by the new drug applications reviewed and are subject to this notice. See 21 CFR 130.40 (37 FR 23185, Oct. 31, 1972). Any person who wishes to determine whether a specific product is covered by this notice should write to the Food and Drug Administration, Bureau of Drugs, Office of Compliance (BD-300), 5600 Fishers Lane, Rockville, MD 20852.

The Commissioner of Food and Drugs, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1053, as amended; 21 U.S.C. 355), and the Administrative Procedure Act (5 U.S.C. 554), and under authority delegated to him (21 CFR 2.120), finds that on the basis of new information before him with respect to the drugs evaluated together with the evidence available to him when the applications were approved, there is a lack of substantial evidence that the drugs will have the effects they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in the labeling thereof.

Therefore, pursuant to the foregoing findings, approval of the above new drug applications and all amendments and supplements applying thereto is withdrawn.

Shipment in interstate commerce of the above-listed drug products or of any identical, related, or similar product, not the subject of an approved new drug application, except for the one described above that may continue to be marketed pending a ruling on the request for a hearing, is henceforth unlawful.

Effective date. This order shall become effective July 12, 1973.

Dated: June 25, 1973.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.73-13329 Filed 6-29-73;8:45 am]

Office of the Secretary

FOOD AND DRUG ADMINISTRATION

Statement of Organization, Functions, and Delegations of Authority

Part 6 (Food and Drug Administration) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health, Education, and Welfare (35 F.R. 3685-92, dated February 25, 1970, as amended) is amended to reflect the disestablishment of the Bureau of Product Safety:

1. Section 6A is amended as follows:

Sec. 6A *Mission.* The mission of the Food and Drug Administration (FDA) is to protect the public health of the Nation as it may be impaired by foods, drugs, biological products, cosmetics, medical devices, ionizing and nonionizing radiation-emitting products and substances, poisons, pesticides, and food additives. FDA's regulatory functions are geared to insure that: Foods are safe, pure, and wholesome; drugs, medical devices, and biological products are safe and effective; cosmetics are harmless; all of the above are honestly and informatively packaged; and that exposure to potentially injurious radiation is minimized.

2. Section 6B is amended as follows:

Section 6B *Organization.*

* * * * *

(p) Deleted.

* * * * *

Effective Date. May 14, 1973.

Dated June 22, 1973.

ROBERT H. MARIK,
Assistant Secretary for Administration and Management.

[FR Doc.73-13335 Filed 6-29-73;8:45 am]

OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION AND MANAGEMENT

Statement of Organization, Functions, and Delegations of Authority

Part 1 of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare, Office of the Secretary, is amended to add a new chapter 1T, "Office of the Assistant Secretary for Administration and Management." The new chapter reads as follows:

Sec. 1T.00 *Mission.* The Office of the Assistant Secretary for Administration and Management exercises the authority of the Secretary for the administrative management functions (exclusive of financial management) of the Department. The Assistant Secretary for Administration and Management, as appropriate, serves as the principal advisor to the Secretary on matters of administrative management.

Sec. 1T.10 *Organization.*

A. The Assistant Secretary for Administration and Management reports to the Secretary and supervises the following Offices:

Executive Staff
Office of Equal Employment Opportunity
Office of Environmental Affairs
Office of Management Planning and Technology
Office of Administration
Office of Personnel and Training
Office of Facilities Engineering and Property Management
Office of Grant and Procurement Management
Office of Investigations and Security

B. During the absence or inability of the Assistant Secretary for Administration and Management or in the event of a vacancy in that Office, the Deputy Assistant Secretary for Administration and Management serves as Acting Assistant Secretary for Administration and Management. During the absence of both the Assistant Secretary and the Deputy or in the event of vacancies in both Offices, one of the office heads, properly designated, will serve as Acting Assistant Secretary for Administration and Management.

Sec. 1T.20 *Functions.* The Office of the Assistant Secretary for Administration and Management performs for the Secretary the administrative management functions (exclusive of financial management) of the Department. In carrying out these responsibilities, the Office of the Assistant Secretary for Administration and Management performs the following functions:

A. The Executive Staff serves as the principal staff of the Assistant Secretary in matters relating to his office, such as personnel, budget, correspondence and facilities; interfaces as directed with other elements of the Department; advises on matters of concern; and performs special assignments as requested.

B. The Office of Equal Employment Opportunity serves as the principal advisor on matters relating to the status of women in the Department, HEW equal employment opportunity, and the sixteen-point Spanish-Surnamed Program.

C. The Office of Environmental Affairs develops departmental policy, procedures, and criteria in coordination with the National Environmental Policy Act of 1969; monitors compliance and provides technical assistance to State and

local agencies; and maintains liaison with the Council on Environmental Quality and the Environmental Protection Agency.

D. The Office of Management Planning and Technology serves as the Secretary's principal staff to ensure that the organization management policies, procedures, and systems of the Department contribute to the effective and efficient achievement of the Department's goals.

E. The Office of Administration advises on and/or provides services relative to personnel operations, equal employment opportunity, defense coordination, safety management, printing management, central payroll, data management, new careers, minority business assistance and administrative services.

F. The Office of Personnel and Training advises and acts for the Secretary on personnel management and training matters affecting HEW employees; formulates policies and plans broad programs under which the personnel and training functions will be carried out throughout the Department; maintains cognizance of such policies and programs; and represents the Department on personnel and training matters with the Civil Service Commission, other Federal agencies, the Congress, and the public.

G. The Office of Facilities Engineering and Property Management provides architectural/engineering policy, direction and services for both direct Federal and federally assisted construction activity; manages an integrated facilities engineering system for all DHEW owned or operated real property; and makes available Federal surplus property to health, education, and civil defense donees.

H. The Office of Grants and Procurement Management provides staff support and technical assistance to the Office of the Secretary and manages the procurement, materiel and grants functions of the Department; conducts comprehensive evaluations of all departmental procurement, materiel and grant activities.

I. The Office of Investigations and Security serves as the Secretary's staff to ensure compliance with established requirements for management of programs and utilization of Federal assistance funds provided by the Department in accordance with applicable laws and regulations, and ensures that the security program provides for the internal security of the Department. (Sub-elements of the above-listed units are specified in sub-chapters.)

Sec. 1T.30 *Delegations of Authority.*

A. Except as specifically reserved to the Secretary or delegated or assigned to other officials of the Department not under the supervision of the Assistant Secretary for Administration and Management, the Assistant Secretary for Administration and Management is authorized to perform all administrative and management functions of the Secretary excluding financial management functions. In exercising this authority, the Assistant Secretary for Administration and Management may redelegate any portion thereof and authorize further redelegations.

B. The Assistant Secretary for Administration and Management is authorized to exercise the authority of the Secretary under 42 U.S.C. 3505 relating to directing the use of the Department seal.

C. The Assistant Secretary for Administration and Management is authorized to exercise the authority granted to the Secretary to make determinations and allocations for education, public health, and civil defense purposes as authorized by section 203(j) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 484 (j)), and the Federal Civil Defense Administration (Defense Civil Preparedness Agency, Department of Defense) Delegation 5, and to take such action as may be necessary in connection with the assignment, disposal, and utilization of surplus property for educational and public health purposes pursuant to section 203(k) of the Act, and to enter into cooperative agreements pursuant to section 203(n) of the Act, except that any action which is required to be taken by the Secretary shall be prepared and submitted to the Secretary for approval.

Dated June 25, 1973.

FRANK CARLUCCI,
Acting Secretary.

[FR Doc.73-13281 Filed 6-29-73;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

MICROWAVE LANDING SYSTEM ADVISORY COMMITTEE

Notice of Meeting

Pursuant to section 10(a)(2) of P.L. 92-463, notice is hereby given that the Microwave Landing System Advisory Committee will hold a meeting on July 10 and 11, 1973, beginning at 9 a.m. EDT, July 10, in Room 7A-B, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. The following agenda items are scheduled for this meeting:

1. *Briefing*—MLS Industry Program
2. *Briefing*—Review of Government Supporting Programs
3. *Briefing*—Technical and Program Areas of Concern
4. *Discussion*—Committee Member's Area of Concern and Committee Activity

All those interested in attending the meeting should contact Mr. Jules I. Kanter, Executive Director, Microwave Landing System Advisory Committee, Federal Aviation Administration, 2100-2nd Street, S.W., Washington, D.C. 20590. Telephone 202-426-3633. The meeting will be open to the public.

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

JULES I. KANTER,
Executive Director, Microwave Landing System Advisory Committee.

[FR Doc.73-13264 Filed 6-29-73;8:45 am]

Federal Railroad Administration

[FRA-Pet-No. 81]

ROSCOE, SNYDER AND PACIFIC RAILWAY CO.

Petition for Exemption From Hours of Service Act

JUNE 12, 1973.

The Roscoe, Snyder and Pacific Railway Company has petitioned the Federal Railroad Administration pursuant to 45 U.S.C. 64a(e) for an exemption, with respect to certain employees, from the Hours of Service Act, 45 U.S.C. Secs. 61, 62, 63 and 64.

Interested persons are invited to participate by submitting written data, views or comments. Communications should identify the docket number and should be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Attention: Docket FRA-Pet-No. 81, 400 Seventh Street, S.W., Washington, D.C. 20590. Communications received before July 16, 1973, will be considered by the Federal Railroad Administrator before taking final action. All comments received will be available for examination by interested persons at any time during regular working hours in Room 5428, Nassif Building, 400 Seventh Street, S.W., Washington, D.C.

EDWARD F. CONWAY, Jr.,
Acting Assistant Chief Counsel for Safety Regulation.

[FR Doc.73-13275 Filed 6-29-73;8:45 am]

ATOMIC ENERGY COMMISSION

FUELS AND MATERIALS FACILITIES GUIDES

Issuance and Availability

The Atomic Energy Commission has issued three guides in its regulatory guide series. The regulatory guide series has been developed to describe and make available to the public methods acceptable to the AEC regulatory staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The new guides are in division 3, "Fuels and Materials Facilities Guides." Regulatory guide 3.9, "Concrete Radiation Shields," describes acceptable practices for the construction of radiation shielding structures for hot laboratories, radiochemical plants, experimental facilities, and nuclear fuel fabrication plants. Regulatory guide 3.10, "Liquid Waste Treatment System Design Guide for Plutonium Processing and Fuel Fabrication Plants," describes acceptable design guidelines for principal components of a plutonium processing and fuel fabrication plant liquid waste treatment system. Regulatory guide 3.11, "Design Stability of Embankment Retention Systems for

Uranium Mills," specifies acceptable methods of analyzing the structural stability of embankment retention systems for uranium mill tailings.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street, Washington, D.C. Comments and suggestions in connection with improvements in the guides are encouraged and should be sent to the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Staff. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides should be made in writing to the Director of Regulatory Standards, U.S. Atomic Energy Commission, Washington, D.C. 20545. Telephone requests cannot be accommodated.

Other division 3 regulatory guides currently being developed include the following:

Seismic Design Classification for Plutonium Processing and Fuel Fabrication Plants
Ventilation System General Design Guide for Plutonium Processing and Fuel Fabrication Plants
Fire Protection General Guide for Plutonium Processing and Fuel Fabrication Plants
Guide for Acceptable Waste Storage Methods at UF_6 Production Plants
Decommissioning of Uranium Milling Facilities
Fuel Reprocessing Plant Process Off Gas Waste Treatment Systems
Fuel Reprocessing Plant Confinement Barriers and Systems
Fuel Reprocessing Plant Reporting of Operating Information
Periodic Testing of Fuel Reprocessing Plant Protection System Actuation Functions

(5 U.S.C. 552(a))

Dated at Bethesda, Maryland this 25th day of June 1973.

For the Atomic Energy Commission.

LESTER ROGERS,
Director of Regulatory Standards.

[FR Doc.73-13347 Filed 6-29-73;8:45 am]

[Docket No. 50-344]

PORTLAND GENERAL ELECTRIC CO., ET AL.

Reconstitution of Board

In the matter of the Trojan Nuclear Plant.

Jerome Garfinkel, Esq., was Chairman and Thomas W. Reilly, Esq., was Alternate Chairman of the Atomic Safety and Licensing Board established for this Appendix D, Section B proceeding. Because of schedule conflicts, neither Mr. Garfinkel nor Mr. Reilly is able to serve as Chairman of this Board.

Accordingly, Robert M. Lazo, Esq., who is a member of the Atomic Safety and Licensing Board Panel, U.S. Atomic Energy Commission, Washington, D.C. 20545 is appointed Chairman 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 27th day of June 1973.

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

[FR Doc.73-13345 Filed 6-29-73;8:45 am]

[Docket No. 50-344-0]

PORTLAND GENERAL ELECTRIC CO., ET. AL.

Reconstitution of Board

In the matter of the Trojan Nuclear Plant.

Jerome Garfinkel, Esq., was Chairman and Thomas W. Reilly, Esq., was Alternate Chairman of the Atomic Safety and Licensing Board established for this facility operating license proceeding. Because of schedule conflicts, neither Mr. Garfinkel nor Mr. Reilly is able to serve as Chairman of this Board.

Accordingly, Robert M. Lazo, Esq., a member of the Atomic Safety and Licensing Board Panel, U.S. Atomic Energy Commission, Washington, D.C. 20545, is appointed Chairman 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 27th day of June 1973.

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

[FR Doc.73-13346 Filed 6-29-73;8:45 am]

COST OF LIVING COUNCIL

[Phase III Ruling 1973-3]

EXPORTS EXEMPT FROM CONTROLS

Definition

Facts. Firm H is a meat processor which intends to bid on two contracts for the sale of meat to an agency of the United States Government. Under the first contract, the meat is being purchased for sale in military commissaries and base exchanges outside the United States. Under the second contract, the meat is being purchased as part of the military assistance program to a foreign government. The assistance is in the form of a grant without any payment required of the foreign government.

6 CFR 130.33(d)(1) provides that exports are exempt from the controls of the Economic Stabilization Program. Included in the definition of exports in this section are "products sold to a domestic purchaser who certifies that the product is for export."

Issue. May an agency of the United States Government certify that sales of meat to it for resale in military commissaries and base exchanges outside the United States and for use as a grant to a foreign government are "for export" and, therefore, exempt from the meat ceiling regulations by virtue of 6 CFR 130.33(d)(1)?

Ruling. No certification is allowable in either sale. The exemption for exports has been a part of the regulations of the Economic Stabilization Program since the Phase I freeze. The purpose of the exemption is to allow sales of exports which will produce revenues from foreign sources to be made at the highest price. Transactions which will not produce such revenues shall, therefore, not be considered exports for the purpose of exemption from the regulations under the Economic Stabilization Program.

Neither the sale in United States overseas commissaries and base exchanges nor the grant to a foreign government will produce any revenue from foreign sources. The sales at the commissaries and base exchanges are primarily to United States citizens and are not normal commercial export transactions. If sales of these meat items were treated as products for export, the meat price ceiling limitations would not be applicable and higher bidding and an artificial allocation of scarce meat supplies would likely result without any corresponding economic benefit. Therefore, sales of meat by Firm H to the military cannot be certified as products for export and exempted under the provisions of 6 CFR 130.33(d)(1).

WILLIAM N. WALKER,
General Counsel,
Cost of Living Council.

[FR Doc.73-13443 Filed 6-28-73;11:36 am]

ENVIRONMENTAL PROTECTION AGENCY

DIALIFOR

Reextension and Establishment of Temporary Tolerances

In response to a petition (PP OGO943), Hercules Inc., Wilmington, DE 19899, was granted temporary tolerances for combined residues of the insecticide dialifor (*O,O*-diethyl *S*-(2-chloro-1-phthalimidoethyl) phosphorodithioate) and its oxygen analog *O,O*-diethyl *S*-(2-chloro-1-phthalimidoethyl) phosphorothioate in or on the raw agricultural commodities grapes at 1.5 parts per million and pecans at 0.01 part per million on March 15, 1971 (notice was published in the FEDERAL REGISTER of March 18, 1971 (36 FR 5254)). The temporary tolerances expired March 15, 1972.

The firm received a 1-year extension of the temporary tolerance for combined residues of the insecticide and its oxygen analog in or on grapes at 1.5 parts per million on May 11, 1972 (notice was published in the FEDERAL REGISTER of May 17, 1972 (37 FR 9801)). The firm also received a 1-year extension of the temporary tolerance for combined residues of dialifor and its oxygen analog in or on pecans at 0.01 part per million on March 29, 1972 (notice was published in the FEDERAL REGISTER of April 5, 1972). The temporary tolerances on grapes and pecans expired March 15, 1973.

The firm has requested (a) a 1-year reextension of the temporary tolerances for combined residues of the insecticide and its oxygen analog in or on grapes at 1.5 parts per million and pecans at 0.01

part per million to obtain additional experimental data and (b) establishment of temporary tolerances for combined residues of the insecticide and its oxygen analog in the raw agricultural commodities meat, fat, and meat byproducts of poultry at 0.06 part per million and eggs at 0.01 part per million.

It has been determined that temporary tolerances for combined residues of the insecticide and its oxygen analog in or on grapes at 1.5 parts per million; the meat, fat, and meat byproducts of poultry at 0.06 part per million; and eggs and pecans at 0.01 part per million will protect the public health. The tolerances are therefore extended or established on condition that the insecticide be used in accordance with the temporary permit which is being issued concurrently and which provides for distribution under the Hercules Inc. name.

These temporary tolerances expire March 15, 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 June 27, 1973.

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

[FR Doc.73-13372 Filed 6-29-73;8:45 am]

NATIONAL AIR QUALITY CRITERIA ADVISORY COMMITTEE

Notice of Meeting

Pursuant to Public Law 92-463, notice is hereby given that a meeting of the National Air Quality Criteria Advisory Committee will be held at 9:00 a.m. on July 19, 1973 in the Faculty Lounge, Tangeman University Center, University of Cincinnati, Cincinnati, Ohio. Tangeman University Center can be reached by entering the campus of the University of Cincinnati at the Gate House on Clifton Avenue and following Campus Drive.

The purpose of the meeting will be (1) to consult the committee on the subject matter and implications, as regards air quality criteria, of the advance notice of proposed rule making relating to "Reference Method for Determination of Nitrogen Dioxide" published in the FEDERAL REGISTER on June 8, 1973 (38 FR 15174); and (2) to conclude consultations with the committee regarding the determination and documentation of adverse effects on the public health and welfare of atmospheric cadmium. The agenda will also include a briefing report on the EPA fuels and fuel additives research program and brief overview reports on the Kettering Laboratory of the University of Cincinnati, the National Environmental Research Center-Cincinnati, and the Cincinnati operations of the National Institute for Occupational Safety and Health.

The meeting will be open to the public. Any member of the public wishing to attend or submit a paper should contact the Executive Secretary, Mr. Ernst Linde, Scientist Administrator, National Environmental Research Center, Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

The telephone number is area code 919-549-8411, extension 2525.

A. C. TRAKOWSKI, Jr.,
Acting Assistant Administrator for Research and Development.

JUNE 25, 1973.

[FR Doc.73-13373 Filed 6-29-73;8:45 am]

FEDERAL MARITIME COMMISSION

AMERICAN PRESIDENT LINES, LTD. AND DELTA STEAMSHIP LINES, INC.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street, N.W., Room 1015; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, and San Francisco, California. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, by July 23, 1973. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. E. T. Sommer
Vice President
American President Lines, Ltd.
1625 Eye Street, N.W.
Washington, D.C. 20006

Agreement No. 10062, covers an arrangement whereby American President Lines, Ltd. appoints Delta Steamship Lines, Inc. as its agent in New Orleans, Louisiana and Houston, Texas, for performance of services described in the agreement, at the rates, and for the charges, and subject to the terms, covenants and conditions therein provided and set forth.

By order of the Federal Maritime Commission.

Dated June 22, 1973.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.73-13341 Filed 6-29-73;8:45 am]

AZTEC TRADING CO., S.A. AND GEORGIA STEAMSHIP CO., INC.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street, N.W., Room 1015; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, and San Francisco, California. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before July 23, 1973. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. Frederick P. Kopp
Attorney at Law
5th Floor
First National Bank Building
Augusta, Georgia 30903

Agreement No. 10061 is an agreement between the above-named parties to establish a joint service to be known as "Georgia-Aztec Line" to operate in the trade between United States Atlantic and United States Gulf Ports on the one hand and the ports of The Republic of Brazil on the other.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

Dated: June 25, 1973.

[FR Doc.73-13339 Filed 6-29-73;8:45 am]

COMPAGNIE MARITIME BELGE, S.A., ET AL.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street, N.W., Room 1015; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, and San Francisco, California. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before July 23, 1973. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

In the matter of Compagnie Maritime Belge, S.A., Compagnie Maritime Du Zaire, Sarl, Compagnie Maritime Des Chargeurs Reunis, S.A., Elder Dempster Lines, Ltd., and Delta Steamship Lines, Inc.

Notice of agreement filed by:

Thos. E. Stakem, Esq.
Macleay, Lynch, Bernhard & Gregg
1625 K Street, N.W.
Washington, D.C. 20006

Agreement No. 9182-3 modifies an approved agency / husbanding / sailing agreement between the carriers listed above by (1) deleting Armement Deppe, S.A. as a party to the agreement because of its discontinuance of service; (2) adds Compagnie Maritime des Chargeurs Reunis, S.A., Elder Dempster Lines, Ltd., and Atlantic Overseas Corporation to the agreement; and (3) describes in detail the West African ports to be served under the husbanding arrangement.

By order of the Federal Maritime Commission.

Dated: June 25, 1973.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.73-13340 Filed 6-29-73;8:45 am]

INDEPENDENT OCEAN FREIGHT FORWARDER LICENSE

List of Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(b)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Roland Thompson Agency, Inc.
68 N.W. 7th Street
Miami, Florida 33136
Officers. Miguel Garciga, President
Raymond J. Thompson, Vice President
David Berman, Secretary/Treasurer

Alas Cargo Service, Inc.
Building 2143, MIAD
Miami, Florida 33148
Officers. Agustin Serralta, President
Adela Serralta, Secretary
Cesar D. Urquiola, Treasurer

Georgo Linwood Fischer
414 Oaklette Drive
Chesapeake, Virginia 23325

Jose Pinzon
1223 Canarias Street
Puerto Nuevo, P. R. 00920

John P. Reynolds d/b/a
J. P. Reynolds Co.
P.O. Box 13071
Fort Lauderdale, Florida 33316

Michael Maraventano d/b/a
Mara Shipping Co.
90 West Street
New York, New York 10006

John F. Ivory Storage Co., Inc.
8035 Woodward Avenue
Detroit, Michigan 48202
Officers. R. E. Garrett, President
John F. Ivory, Jr., Vice President
Leo W. Ivory, Vice President
Enola F. Helphenstine, Secretary
Lawrence Martinelli, Treasurer

Shozo Saito d/b/a
Cal-Asia International
601 West 5th Street
Los Angeles, California 90017

By the Commission.

Dated: June 27, 1973.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.73-13342 Filed 6-29-73;8:45 am]

[No. 73-28]

PUBLICATION OF DISCRIMINATORY RATES IN THE U.S. WEST COAST/JAPAN TRADE

Re-scheduling of Filing Dates

Counsel for respondent conferences have requested various changes to the filing schedule in this proceeding. Under the circumstances, the following changes are made:

(1) Requests for evidentiary hearing shall be submitted on or before July 2, 1973;

(2) Hearing Counsel shall reply to said requests on or before July 12, 1973;

(3) Times for filing affidavits of fact and memoranda of law and replies thereto are postponed until further notice.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

[FR Doc.73-13344 Filed 6-29-73;8:45 am]

[No. 73-29]

PUBLICATION OF DISCRIMINATORY RATES IN THE U.S. ATLANTIC AND GULF/JAPAN TRADE

Re-scheduling of Filing Dates

Counsel for respondent conferences have requested various changes to the filing schedule in this proceeding. Under the circumstances, the following changes are made:

(1) Requests for evidentiary hearing shall be submitted on or before July 2, 1973;

(2) Hearing Counsel shall reply to said requests on or before July 12, 1973;

(3) Times for filing affidavits of fact and memoranda of law and replies thereto are postponed until further notice.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

[FR Doc.73-13343 Filed 6-29-73;8:45 am]

SAN DIEGO UNIFIED PORT DISTRICT AND FIESTA CRUISES, INC.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street, N.W., Room 1015; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, and San Francisco, California. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before July 12, 1973. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularly the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement Filed by:

Joseph D. Patello, Esq.
Port Attorney
San Diego Unified Port District
3165 Pacific Highway
San Diego, California 92112

Agreement No. T–2799, between the San Diego Unified Port District (San Diego) and Fiesta Cruises, Inc. (Fiesta), is a nonexclusive and nonpreferential arrangement whereby San Diego leases to Fiesta the right of access over the Broadway Pier as well as 1,105 square feet of area in the former Harbor Administration Building for a period of one year. Rental will be a fixed monthly sum of $150 for use of building area, plus an annual minimum of $24,000 or the cumulative total of percentage rents, whichever is greater. Fiesta agrees that the leased premises shall be used exclusively for the operation of a passenger boat ferry service by water and passenger excursion business; the excursions to be directed and completely conducted outside of San Diego Bay. Fiesta will be subject to all rules and regulations of the San Diego Unified Port District Act, as well as all ordinances of the City and Unified Port District, including tariffs.

By order of the Federal Maritime Commission.

Dated: June 26, 1973.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.73–13338 Filed 6–29–73;8:45 am]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

CERTAIN COTTON TEXTILES AND COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN PAKISTAN

Entry or Withdrawal From Warehouse for Consumption

JUNE 29, 1972.

On May 6, 1970, the Government of the United States, in furtherance of the objectives of, and under the terms of, the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, concluded a comprehensive bilateral cotton textile agreement with the Government of Pakistan, concerning exports of cotton textiles and cotton textile products from Pakistan to the United States over a four-year period beginning on July 1, 1970. On June 15, 1972, the bilateral agreement was amended and the duration of the agreement extended through June 30, 1977. Among the provisions of the agreement, as amended, are those establishing an aggregate limit for the 64 Categories of 91,098,125 square yards equivalent; within the aggregate limit, group limits on Categories 1–27, and 28–64 of 80,278,275 and 10,819,850 square yards equivalent, respectively; and within both of the aforesaid limits, specific limits on Categories 9/10, 15/16, 18/19 and part of 26, 22/23, parts of 26, part of 31, and 41/42 for the fourth agreement year beginning on July 1, 1973.

There is published below a letter of June 29, 1972 from the Acting Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs directing that for the twelve-month period beginning July 1, 1973 and extending through June 30, 1974 entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textiles and cotton textile products in Categories 1–27, as a group; Categories 28–64, as a group; and Categories 9/10, 15/16, 18/19 and part of 26, 22/23, parts of 26, part of 31, and 41/42 be limited to the designated levels. The levels of restraint applicable to Categories 1–27, as a group; Categories 28–64, as a group; and Categories 9/10, 18/19 and part of 26, part of 26 (duck), and part of 31 have been adjusted in accordance with an administrative arrangement concluded between the Governments of the United States and Pakistan on May 22, 1973 to account for shipments in the previous agreement year which exceeded the levels for those categories in the bilateral agreement, as amended.

This letter and the actions pursuant thereto are not designed to implement all of the provisions of the bilateral agreement, as amended, but are designed to assist only in the implementation of certain of its provisions.

ALAN POLANSKY,
Acting Chairman, Committee for the Implementation of Textile Agreements, and Acting Deputy Assistant Secretary for Resources and Trade Assistance.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Commissioner of Customs
Department of the Treasury
Washington, D.C. 20229

JUNE 29, 1972.

Dear Mr. Commissioner: Under the terms of the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, pursuant to the bilateral cotton textile agreement of May 6, 1970, as amended, between the Governments of the United States and Pakistan, and in accordance with the procedures of Executive Order 11651 of March 3, 1972, you are directed to prohibit, effective July 1, 1973 and for the twelve-month period extending through June 30, 1974, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textiles and cotton textile products in Categories 1–27, as a group; Categories 28–64, as a group; and Categories 9/10, 15/16, 18/19 and part of 26, 22/23, parts of 26, part of 31, and 41/42, produced or manufactured in Pakistan, in excess of the following designated levels of restraint:

Category	*Twelve-Month Levels of Restraint*
1–27 (Group I)	80,278,275 square yards equivalent
28–64 (Group II)	10,819,850 square yards equivalent
9/10	38,411,300 square yards
15/16	3,252,375 square yards
18/19 and part of 26 (print cloth)[1]	16,952,600 square yards
22/23	4,334,400 square yards
Part of 26 (bark cloth)[2]	6,498,450 square yards
Part of 26 (duck)[3]	9,199,812 square yards
Part of 31 (only T.S.U.S.A. No. 366.2740)	5,175,695 pieces
41/42	445,303 dozen

In carrying out this directive, entries of cotton textiles and cotton textile products in the above categories, produced or manufactured in Pakistan and exported to the United States prior to July 1, 1973, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during the period July 1, 1972 through June 30, 1973. In the event that the levels of restraint established for that twelve-month period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter. Cotton textiles and cotton textile products in Categories other than 9/10, 15/16, 18/19 and part of 26 (printcloth)[1], 22/23, part of 26 (bark cloth)[2], part of 26 (duck)[3], part of 31 (only T.S.U.S.A. No. 366.2740) and 41/42, produced or manufactured in Pakistan and which have been exported to the United States prior to July 1, 1973, shall not be subject to this directive.

The levels of restraint set forth above are subject to adjustment pursuant to the provisions of the bilateral agreement of May 6, 1970, as amended, between the Governments of the United States and Pakistan which provide in part that within the aggregate and applicable group limits of the agreement, limits on certain categories may be exceed by not more than 5 percent; for the limited carryover of shortfalls in certain categories to the next agreement year; and for administrative arrangements. Any appropriate adjustments pursuant to the provisions of the bilateral agreement referred to above, will be made to you by letter.

A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on April 29, 1972, (37 FR 8802), as amened on February 14, 1973 (38 FR 4436).

In carrying out the above directive, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Pakistan and with respect to imports of cotton textiles and cotton textile products from Pakistan have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ALAN POLANSKY,
Acting Chairman, Committee for the Implementation of Textile Agreements, and Acting Deputy Assistant Secretary for Resources and Trade Assistance.

[FR Doc.73–13543 Filed 6–29–73;11:13 am]

[1] In Category 26, only T.S.U.S.A. Nos.:

320.—34	322.—34	327.—34	
321.—34	326.—34	328.—34	

[2] Only T.S.U.S.A. Nos.:

320.—88	326.—88	320.—92	326.—92
321.—88	327.—88	321.—92	327.—92
322.—88	328.—88	322.—92	328.—92
323.—88	329.—88	323.—92	329.—92
324.—88	330.—88	324.—92	330.—92
325.—88	331.—88	325.—92	331.—92

[3] Only T.S.U.S.A. Nos:

320.—01	through	04,	06, 08
321.—01	through	04,	06, 08
322.—01	through	04,	06, 08
326.—01	through	04,	06, 08
327.—01	through	04,	06, 08
328.—01	through	04,	06, 08

FEDERAL POWER COMMISSION

[Docket No. CI63-708, et al.]

CRA, INC., ET. AL.

Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

JUNE 21, 1973.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before July 16, 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.

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 all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

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

KENNETH F. PLUMB,
Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

	Docket No. and Date Filed	Applicant	Purchaser and Location	Price Per Mcf	Pressure Base
C	CI63-708 6-11-73	CRA, Inc. P. O. Box 7305 Kansas City, Missouri 64116	Northern Natural Gas Company La Perias Field, Irion County, Texas	35.0	14.65
E	CI64-619 6-11-73 [1]	Burk Royalty Co., Tom Darling and Jon Bear (succ. to Cities Service Oil Company) 800 Oil & Gas Building Wichita Falls, Texas 76301	Tennessee Gas Pipeline Company Garden Island Bay Field, Plaquemines Parish, Louisiana	[2] 23.0 [3] 26.875	15.025
F	CI73-702 (CI67-1082) 5-24-73 [4]	Chandler & Associates, Inc. (succ. to Alantic Richfield Company) 1401 Denver Club Building Denver Colorado 80202	El Paso Natural Gas Company Mickelson Creek Field, Sublette County, Wyoming	15.0	15.025
F	CI73-787 (G-18014) 6-11-73 [1]	Burk Royalty Co. Tom Darling and Jon Bear (succ. to Cities Service Oil Company)	Texas Eastern Transmission Corporation Old Waverly Field, San Jacinto County, Texas	[5] 15.0656	14.65
F	CI73-790 (CI60-20) 6-11-73 [1]	Burk Royalty Co., Tom Darling and Jon Bear (succ. to Cities Service Oil Company)	Southern Natural Gas Company Fausse Point Field, Iberia and St. Martin Parishes, Louisiana	[6] 23.25	15.025
F	CI73-792 (G-4579) 6-11-73 [1]	Burk Royalty Co., Tom Darling and Jon Bear (succ. to Cities Service Oil Company)	Trunkline Gas Company Ramsey Field Area, Colorado County, Texas	15.0	14.65
A	CI73-835 5-29-73 [7]	Suburban Propane Gas Corporation P.O. Box 206 Whippany, New Jersey 07981	Northern Natural Gas Company Senora Field, Sutton County, Texas	[8] 17.0618	14.65
A	CI73-841 6-1-73	Tenneco Oil Company P.O. Box 2511 Houston, Texas 77001	Southern Natural Gas Company Block 296, Main Pass 144 Field, offshore Louisiana	[6] 35.0	15.025
A	CI73-845 6-4-73	Cities Service Oil Company P.O. Box 300 Tulsa, Oklahoma 74102	Southern Natural Gas Company Block 296, Main Pass Area, offshore Louisiana	[9] 35.0	15.025
B	CI73-852 (CI69-1147) 6-5-73	Texasgulf Inc. (Operator), *et al* 3000 One Shell Plaza Houston, Texas 77002	Columbia Gas Transmission Corporation Orange Grove Field, Terrebonne Parish, Louisiana	depleted	
A	CI73-855 5-29-73 [10]	Pioneer Production Corporation P.O. Box 2542 Amarillo, Texas 79163	Panhandle Eastern Pipe Line Company West Teagarden Field, Woods County, Oklahoma	[10] 17.0308	14.65
F	CI73-856 (G-4953) 6-5-73	Atlantic Richfield Company (succ. to Sun Oil Company). P.O. Box 2819 Dallas, Texas 75221	United Gas Pipe Line Company Southwest Red Fish Bay Field, Nueces County, Texas	[8] 24.0	14.65
A	CI73-859 6-6-73	Atlantic Richfield Company	Northern Natural Gas Company Drinkard Field, Lea County, New Mexico	[10] 35.0	14.65
A	CI73-860 6-7-73	Continental Oil Company P.O. Box 2197 Houston, Texas 77001	Southern Natural Gas Company Main Pass Area, offshore Louisiana	[8] 35.0	15.025
A	CI73-867 6-8-73	Coastal States Gas Producing Company (Operator), *et al.* P.O. Drawer 521 Corpus Christi, Texas 78403	South Texas Natural Gas Gathering Company Cortez Field Area, Starr County, Texas	24.0	14.65
A	CI73-868 6-8-73	Coastal States Gas Producing Company (Operator), *et al.*	South Texas Natural Gas Gathering Company Tijerina-Canales-Blucher Field, Jim Wells County, Texas	24.0	14.65
B	CI73-875 (G-6198) 6-11-73	Gulf Oil Corporation P.O. Box 1589 Tulsa, Oklahoma 74102	Southern Natural Gas Company Gwinville Field, Jefferson Davis County, Mississippi	depleted	
A	CI73-876 6-11-73	Helmerich & Payne, Inc. 1579 East 21 Street Tulsa, Oklahoma 74114	Michigan Wisconsin Pipe Line Company Northwest Quinlan Field, Woodward County, Oklahoma	[10] 21.315	14.65

[1] Being renoticed because, by Amendment to Application filed June 11, 1973, Applicant shows a change in price. Originally noticed on June 7, 1973, in Docket No. G-7193, *et al.*

[2] Rate for all gas not at the 9300' and 11100' zones and subject to downward Btu adjustment.

[3] Rate for gas for zones at 9300' and 11100'.

[4] Being renoticed because, by letter filed May 24, 1973, Applicant shows predecessor's correct docket number to be CI67-1082.

[5] Subject to downward Btu adjustment.

[6] Including 0.2656 cents per Mcf tax reimbursement and subject to downward Btu adjustment.

[7] Applicant proposes to cover its own interest in the sale of natural gas heretofore authorized to be made by Pauley Petroleum, Inc., now holder of a small producer certificate.

[8] Subject to Btu adjustment.

[9] Applicant is willing to accept a certificate at an initial rate of 26.0 cents per Mcf, subject to upward and downward Btu adjustment; however, the contract price is 35.0 cents per Mcf.

[10] Subject to upward and downward Btu adjustment.

[11] Applicant proposes to cover its own interest in the sale of natural gas heretofore authorized to be made by Flag-Redfern Oil Company, now holder of a small producer certificate.

Filing Code:
A—Initial Service
B—Abandonment
C—Amendment to add acreage
D—Amendment to delete acreage
E—Total Succession
F—Partial Succession

[FR Doc.73-13220 Filed 6-29-73;8:45 am]

[Docket No. CP73-326]

ARKANSAS LOUISIANA GAS CO.

Notice of Application

JUNE 19, 1973.

Take notice that on June 8, 1973, Arkansas Louisiana Gas Company (Applicant), P.O. Box 1734, Shreveport, Louisiana 71151, filed in Docket No. CP73-326 an application pursuant to section 7 of the Natural Gas Act and § 157.7 (g) of the regulations thereunder (18 CFR 157.7(g)) for a certificate of public convenience and necessity authorizing the construction and for permission and approval for the abandonment, for a 12-month period commencing on the date of authorization, of field gas compression and related metering and appurtenant facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in the construction and abandonment of facilities which will not result in changing Applicant's system salable capacity or service from that authorized prior to the filing of the instant application.

Applicant states that neither the total cost nor the cost of any single project of the proposed construction and abandonment will exceed the permitted maximum and will be financed from funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 13, 1973, file with the Federal Power Commission, Washington, DC. 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 determing 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 and permission and approval for the proposed abandonment are 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.73-13140 Filed 6-29-73;8:45 am]

[Docket No. E-8013]

BUCKEYE POWER, INC.

Notice of Proposed Changes in Rates and Charges

JUNE 19, 1973.

Take notice that on May 30, 1973, Buckeye Power, Inc. (Buckeye) filed, pursuant to the Commission's Order of April 30, 1973, in this docket, a fuel clause which Buckeye indicates is in conformance to Commission requirements as expressed in Opinion No. 633.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, DC. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 2, 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.73-13141 Filed 6-29-73;8:45 am]

[Docket No. CP73-325]

CITIES SERVICE GAS CO.

Notice of Application

JUNE 19, 1973.

Take notice that on June 7, 1973, Cities Service Gas Company (Applicant), P.O. Box 25128, Oklahoma City, Oklahoma 73125, filed in Docket No. CP73-325 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the continued operation of certain gas transmission and sales facilities located in Texas County, Oklahoma, and the continued sale for resale of natural gas thereby, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to continue operation of existing pipeline, measuring, regulating, and appurtenant facilities to sell natural gas to Southern Union Gas Company (Southern Union) for resale for irrigation and other incidental farm uses. The construction and operation of said facilities were authorized by order issued August 5, 1968, in Docket No. CP68-216 (40 FPC 220). Said order also authorized Applicant to sell natural gas to Peoples Natural Gas Division of Northern Natural Gas Company (Peoples) for resale.

Applicant states that effective March 15, 1973, Southern Union purchased the irrigation systems of Peoples located in Texas County, Oklahoma, and executed a superseding service agreement with Applicant containing identical terms, rates, and conditions as in the previously existing service agreement with Peoples.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 9, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) 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.73-13143 Filed 6-29-73;8:45 am]

[Docket No. RP71-106]

CITIES SERVICE GAS CO.

Notice of Extension of Time and Postponement of Hearing

JUNE 20, 1973.

On June 11, 1973, Cities Service Gas Company filed a motion for an extension of time to respond to the motion filed June 4, 1973 by the City Group Gas Defense Association to reject proffered testimony and exhibits.

Upon consideration, notice is hereby given that the time is extended to and including July 14, 1973, within which answers may be filed to the above motion. Action on this motion will be deferred pending receipt of the answers. The hearing scheduled for June 27, 1973,

is postponed pending further order of the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-13144 Filed 6-29-73;8:45 am]

[Project No. 420]

CITY OF KETCHIKAN, ALASKA

Notice of Issuance of Annual License

JUNE 20, 1973.

On August 31, 1970, City of Ketchikan, Alaska, Licensee for Ketchikan Lakes Project No. 420 located in the vicinity of Ketchikan, Alaska, on the Ketchikan Creek filed an application for a new license under section 15 of the Federal Power Act and Commission regulations thereunder (§§16.1–16.6).

The license for Project No. 420 was issued effective July 1, 1928, for a period ending June 30, 1970. Since the original date of expiration the project has been under annual license. In order to authorize the continued operation of the project pursuant to section 15 of the Act pending completion of Licensee's application and Commission action thereon it is appropriate and in the public interest to issue an annual license to the City of Ketchikan, Alaska for continued operation and maintenance of Project No. 420.

Take notice that an annual license is issued to the City of Ketchikan, Alaska (Licensee) under section 15 of the Federal Power Act for the period July 1, 1973, to June 30, 1974, for the continued operation and maintenance of the Ketchikan Lakes Project No. 420, subject to the terms and conditions of its license.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-13145 Filed 6-29-73;8:45 am]

[Docket No. CP73-334]

EL PASO NATURAL GAS CO.

Notice of Application

JUNE 22, 1973.

Take notice that on June 15, 1973, El Paso Natural Gas Company (Applicant), P. O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP73-334 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of facilities required for the injection into and withdrawal from the Rhodes Reservoir, Lea County, New Mexico, of natural gas and authorizing the sale for resale and delivery of natural gas in interstate commerce from the Rhodes Reservoir during the 1973–74 heating season, 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 intends to reactivate the Rhodes Reservoir for the storage of up to 5.0 million Mcf of natural gas. Applicant proposes to withdraw approximately 63,000 Mcf per day up to an aggregate quantity of 2.1 million Mcf during the 1973–74 heating season. To facilitate this operation Applicant proposes to re-work existing storage wells and to modify station piping and dehydration plant facilities at its existing Jal No. 1 plant, to construct and operate up to 25 injection and withdrawal wells with appurtenances including well ties and a gathering system pipeline consisting of a total of 5.6 miles of 4½ inch O. D. and 6⅝ inch O. D. pipe. Applicant proposes to obtain the injection quantities of gas through curtailment of deliveries to its Priority 5 industrial customers in the east-of-California area during the summer months and to limit the use of winter withdrawals to satisfy Priority 1 and 2 requirements for its east-of-California customers.

Applicant states that California load will not be curtailed during the summer of 1973 to support injections; moreover, on any day during the 1973–74 heating season when the supply availability to the Southern Division System is inadequate to meet the Priority 1 and 2 requirements of east-of-California customers and, as well, those Priority 1 and 2 California requirements allocable to the Southern Division System, the deficiency will first be distributed pro rata to all east-of-California and California customers. Thereafter, the deficiency for Priority 1 and 2 requirements then remaining for the east-of-California customers will be supplied by withdrawals from the Rhodes Reservoir.

The stated purpose of the proposal is to enable Applicant to serve reliably all of the Priority 1 and 2 requirements of its Southern Division System during the 1973–74 heating season.

Applicant states that the total estimated cost of the proposal is $2,216,363 which will be financed from funds on hand and short term borrowings.

Applicant requests that the Commission issue a temporary certificate of public convenience and necessity authorizing the construction and operation of said facilities pending issuance of a permanent certificate in order to commence curtailments and injections as soon as possible. Applicant has also filed revised tariff sheets to its FPC Gas Tariff, Original Volume No. 1, Third Revised Volume No. 2, and Original Volume No. 2A providing for a .64 cent per Mcf of gas surcharge to be applied to Priority 1 and 2 east-of-California deliveries made during the withdrawal period in order to reimburse Applicant its cost of reactivating the Rhodes Reservoir. Applicant requests that waiver be granted of the prior certificate authorization requirement of § 154.22 of the Regulations under the Natural Gas Act (18 CFR 154.22) and that the proposed tariff surcharge become effective on the date of the issuance of the requested temporary certificate.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 16, 1973, file with the Federal Power Commission, Washington, DC. 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.73-13146 Filed 6-29-73;8:45 am]

EL PASO NATURAL GAS CO.

Notice of Amendment to Service Agreement

JUNE 22, 1973.

Take notice that on May 31, 1973, El Paso Natural Gas Company (El Paso) tendered for filing on May 31, 1973, revised Exhibits A and B, each dated March 13, 1973, to the firm Service Agreement dated February 1, 1972, between El Paso and the City of Big Lake.

El Paso states that this filing is made solely for the purpose of correcting an oversight in the language of the exhibits and that a copy of this filing has been sent to the City of Big Lake.

Any person desiring to be heard or to protest said Application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 2, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-13147 Filed 6-29-73;8:45 am]

[Docket No. CI73-711]

EXXON CORP.

Notice of Petition To Amend

JUNE 20, 1973.

Take notice that on June 11, 1973, Exxon Corporation (Petitioner), P.O. Box 2180, Houston, Texas 77001, filed in Docket No. CI73-711 a petition to amend the order issuing a certificate of public convenience and necessity in said docket pursuant to section 7(c) of the Natural Gas Act by authorizing the sale for resale and delivery of natural gas in interstate commerce to El Paso Natural Gas Company at Petitioner's Sand Hills Plant from production from additional acreage, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner is authorized in the subject docket to sell natural gas at the Sand Hills Plant for 22 months at 45.0 cents per Mcf at 14.65 psia, subject to upward and downward Btu adjustment, within the contemplation of § 2.70 of the Commission's General Policy and Interpretations (18 CFR 2.70). In its certificate application Petitioner proposed to sell up to 4,000 Mcf of gas per day and states in the instant petition that the volume attributable to the added acreage was included in that amount.

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 petition to amend should on or before July 6, 1973, file with the Federal Power Commission, Washington, DC. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-13148 Filed 6-29-73;8:45 am]

[Docket No. CI73-839]

EXXON CORP.

Notice of Application

JUNE 19, 1973.

Take notice that on May 31, 1973, Exxon Corporation (Applicant), P.O. Box 2180 Houston, Texas 77001, filed in Docket No. CI73-839 an application pursuant to Section 7(c) of the Natural Gas Act and § 2.75 of the Commission's General Policy and Interpretations (18 CFR 2.75) for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Southern Natural Gas Company (Southern) from the Big Escambia Creek Field, Escambia County, Alabama, 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 under the optional gas pricing procedure natural gas to Southern from the Big Escambia Creek Field at an initial price of 55 cents per million Btu at 14.65 psia. The basic contract for the subject sale dated May 1, 1973, provides for 1 cent per million Btu price escalations each two years, reimbursement to seller of 87.5 percent of any new or additional taxes, and a contract term of 20 years. Applicant expects monthly sales volumes of 180,000 Mcf.

Applicant refers to the application of Mallard Exploration, Inc. (Operator), *et al.*, in Docket No. CI73-698, in which there is a substantial identity of contract terms and in which the rates are alleged to be just and reasonable since the contract with its price provisions is competitive with offers from other potential buyers, including potential purchasers in the intrastate market. By this reference the Applicant asserts that the contract price with adjustments is substantially lower than prices for base load sales of liquefied natural gas (LNG), peak shaving sales of LNG, or synthetic pipeline gas for which applications for authorization are pending or have been approved by the Commission.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 9, 1973, file with the Federal Power Commission, Washington, DC. 20426, a petition 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. 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.73-13149 Filed 6-29-73;8:45 am]

FLORIDA GAS TRANSMISSION CO.

Notice of Exchange Agreement

JUNE 21, 1973.

Take notice that on June 5, 1973, Florida Gas Transmission Company (Florida Gas) tendered for filing Rate Schedule E-4 consisting of Original Sheet Nos. 47 through 56 to Original Volume No. 3 of its F.P.C. Gas Tariff. Florida Gas states that the tariff sheets set forth an Exchange Agreement between Florida Gas and Texas Gas Transmission Corporation, asserting that the two companies were authorized by Commission Order issued May 18, 1973, in Docket No. CP73-33 to exchange natural gas through their existing pipeline systems. Florida Gas proposes an effective date of July 1, 1973.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, DC. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 2, 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 the filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-13150 Filed 6-29-73;8:45 am]

[Docket No. RP71-128]

FLORIDA GAS TRANSMISSION CO.

Notice of Petition for Extraordinary Relief

JUNE 22, 1973.

Take notice that on June 6, 1973, Edgar Plastic Kaolin Company (Kaolin Company), Edgar, Florida, filed a petition for extraordinary relief, requesting that the Commission exempt it from the curtailment provisions of section 9, *Priority of Service*, of the General Terms and Conditions of Florida Gas Transmission Company's (Florida Gas) FPC Gas Tariff, Original Volume No. 1.

Kaolin Company, a subsidiary of N L Industries, Inc., states that it is the only supplier of Florida Kaolin, a unique ceramic raw material used by more than 180 manufacturers in the ceramic industry, and that products range from electrical porcelain to chinaware and floor tile. It further states that Florida Kaolin is an essential ingredient for most of its customers in their ceramic formulations for which there is no available domestic substitute, and that curtailment of the supply of Florida Kaolin

would force most customers to import English china clay with a resultant adverse effect on the balance of trade regarding this material.

Kaolin Company claims that a clean-burning, low-sulphur fuel is required for drying its product and is essential to processing Florida Kaolin for market. It asserts that installation of an alternate fuel system was not justified prior to 1971 because of the small amount of curtailing its gas supply, which during the 1971–1972 season was curtailed for 1000 hours, representing 10 percent of annual production.

In order to avoid future production losses Kaolin Company installed an alternate fuel system utilizing propane and/or butane gas during the 1972–1973 season. However, during April 1973 Northern Propane Gas Company advised that Kaolin Company's propane requirements under its existing contract covering projected needs through August 1974 could not be filled; and advised further in May 1973, that butane gas as a substitute for propane also would be unavailable.

Kaolin Company asserts that without an alternate fuel supply Florida Gas' anticipated curtailment of about 3000 hours during the 1973–1974 season will result in loss of 35 to 40 percent of its annual production and a three to four months' virtual shutdown of its operation. According to petitioner, this raises a definite possibility of being unable to stay in business. Kaolin Company has anual sales of approximately $2,000,000 but alleges that the aggregate effect on the industry it serves could result in loss of sales to the consuming industry of about $600,000,000.

Petitioner asserts that the relief requested would not have a serious adverse effect on the over-all picture of gas supply in Florida because its annual gas requirement represents only .1 percent of total gas consumption in Florida and the additional quantity of gas required for relief from curtailment during the coming season would aggregate only 45 million cubic feet at an estimated value of less than $20,000.

Although a currently inactive, wholly owned subsidiary, Edgar Brick Company, has a firm contract with Florida Gas for an annual uninterruptible supply of gas amounting to 3,000,000 therms, Florida Gas has denied requests to make this supply available to Kaolin Company during times of curtailment on the ground that the contract involved is non-transferable. Kaolin Company avers that distribution of the gas contracted for by its subsidiary would not be difficult since the facilities of the two companies are located only one mile apart, and that authorization should be given for a transfer of this firm contract as an alternate approach to providing curtailment relief.

Any person desiring to be heard or to make any protest with reference to said petition should, on or before July 9, 1973, file with the Federal Power Commission, Washington, DC. 20426, a petition 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) 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 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 petition which was filed with the Commission is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-13151 Filed 6-29-73;8:45 am]

[Docket No. E-8214]

GULF POWER CO.

Notice of Proposed Changes in Rates and Charges

JUNE 22, 1973.

Take notice that Gulf Power Company (Gulf Power) on May 18, 1973, tendered for filing proposed changes in its wholesale electric tariff. The proposed rate change is described in the company's transmittal letter as follows:

(1) Second Revised Sheet No. 4, cancelling First Revised Sheet No. 4 of the Gulf Power Company F.P.C. Electric Tariff First Revised Volume No. 1.
(2) Wholesale Electric Service Contracts between Gulf Power Company and
Escambia River Electric Cooperative, Inc.
Choctawhatchee Electric Cooperative, Inc., and
West Florida Electric Cooperative, Inc.
(3) Original Supplements to the above basic contracts and original supplements to a basic contract with Florida Public Utilities Company, previously filed January 26, 1973.
(4) For new delivery points at Grand Ridge and Blountstown, there are also enclosed estimates of quantities of services rendered and of anticipated revenues during the twelve months following commencent of service.

The company also states that since these contracts are part of a recently concluded FPC proceeding (Docket No. E-7686) they request waiver of the Commission's 30-day prior notice requirement.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accorandce with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 6, 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.73-13152 Filed 6-29-73;8:45 am]

[Docket No. CI73-864]

HOOVER & BRACKEN OIL PROPERTIES, INC.

Notice of Application

JUNE 19, 1973.

Take notice that on June 8, 1973, Hoover & Bracken Oil Properties, Inc. (Applicant), 3232 Liberty Tower, Oklahoma City, Oklahoma 73102, filed in Docket No. CI73-864 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 Northern Natural Gas Company from acreage in Hansford County, Texas, 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 intends to commence the sale of natural gas, upon completion of the facilities required to begin such sale, within the contemplation of § 157.29 of the regulations under the Natural Gas Act (18 CFR 157.29) and proposes to continue said sale for a period of two years from the end of the sixty-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 78,750 Mcf of gas per month at 50 cents per Mcf at 14.65 psia, subject to upward and downward Btu adjustment from a base of 925 Btu per cubic foot. Applicant states that as a small producer certificate holder in Docket No. CS71-484 it is filing the instant certificate application solely to secure pre-granted abandonment authorization and that it does not intend to file a rate schedule for the proposed sale.

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 July 5, 1973, file with the Federal Power Commission, Washington, DC. 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.73-13153 Filed 6-29-73;8:45 am]

[Docket No. CI73-863]

HOOVER & BRACKEN OIL PROPERTIES, INC.

Notice of Application

JUNE 19, 1973.

Take notice that on June 8, 1973, Hoover & Bracken Oil Properties, Inc. (Applicant), 3232 Liberty Tower, Oklahoma City, Oklahoma 73102, filed in Docket No. CI73-863 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 Northern Natural Gas Company from acreage in Hemphill County, Texas, 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 intends to commence the sale of natural gas, upon completion of the facilities required to begin such sale, within the contemplation of § 157.29 of the regulations under the Natural Gas Act (18 CFR 157.29) and proposes to continue said sale for a period of two years from the end of the sixty-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 150,000 Mcf of gas per month at 50 cent per Mcf at 14.65 psia, subject to upward and downward Btu adjustment from a base of 925 Btu per cubic foot. Applicant, which is a small producer certificate holder in Docket No. CS73-138, states that it is filing the instant application because of the uncertainty of said certificate procedure as a result of the decision by the United States Court of Appeals in its docket No. 71-1560, et al., on December 12, 1972.

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 July 5, 1973, filed with the Federal Power Commission, Washington, DC. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedures (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.73-13154 Filed 6-29-73;8:45 am]

[Docket No. CI73-865]

HOOVER & BRACKEN OIL PROPERTIES, INC.

Notice of Application

JUNE 19, 1973.

Take notice that on June 8, 1973, Hoover & Bracken Oil Properties, Inc. (Applicant), 3232 Liberty Tower, Oklahoma City, Oklahoma 73102, filed in Docket No. CI73-865 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 Northern Natural Gas Company from acreage in Hemphill County, Texas, 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 intends to commence the sale of natural gas, upon completion of the facilities required to begin said sale, within the contemplation of § 157.29 of the regulations under the Natural Gas Act (18 CFR 157.29) and proposes to continue said sale for a period of two years from the end of the sixty-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 150,000 Mcf of gas per month at 50 cents per Mcf at 14.65 psia, subject to upward and downward Btu adjustment from a base of 925 Btu per cubic foot. Applicant states that as a small producer certificate holder in Docket No. CS71-484 it is filing the instant certificate application solely to secure pregranted abandonment authorization and that it does not intend to file a rate schedule for the proposed sale.

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 July 5, 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.73-13155 Filed 6-29-73;8:45 am]

[Project No. 2095]

INTERNATIONAL PAPER CO.

Notice of Issuance of Annual License

JUNE 21, 1973.

On May 14, 1969, International Paper Company, Licensee for York Haven Project No. 2095 located in York County, Pennsylvania, on the Susquehanna River filed an application for a new license under section 15 of the Federal Power Act and Commission regulations thereunder (§§ 16.1-16.6). Licensee also made a supplemental filing pursuant to Commission Order No. 384 on May 21, 1970.

The license for Project No. 2095 was issued effective January 1, 1938, for a period ending June 30, 1970. Since the original date of expiration the project has been under annual license. In order to authorize the continued operation of the project pursuant to section 15 of the Act pending completion of Licensee's application and Commission action thereon it is appropriate and in the public interest to issue an annual license to International Paper Company for continued

operation and maintenance of Project No. 2095.

Take notice that an annual license is issued to International Paper Company (Licensee) under section 15 of the Federal Power Act for the period July 1, 1973, to June 30, 1974, or until Federal takeover, or the issuance of a new license for the project, whichever comes first, for the continued operation and maintenance of the York Haven Project No. 2095, subject to the terms and conditions of its license.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-13156 Filed 6-29-73;8:45 am]

[Docket No. E-8257]

IOWA-ILLINOIS GAS AND ELECTRIC CO.

Notice of Application

JUNE 20, 1973.

Take notice that on June 4, 1973, Iowa-Illinois Gas and Electric Company (Iowa-Illinois) tendered for filing a new and additional Service Schedule J, Economy Energy, dated as of May 22, 1973, proposed to become a part of and under an Interchange Agreement dated November 15, 1971, between Iowa-Illinois and the City of Geneseo, Illinois, which is designated Iowa-Illinois Rate Schedule FPC No. 31. Such rate schedule supplement is proposed to become effective thirty days after filing pursuant to rule. Iowa-Illinois states that this filing is to effect and will facilitate economy energy transactions between the parties on a split-savings basis, which is comparable with like agreements to which Iowa-Illinois is a party.

Any person desiring to be heard or to make protest with reference to said application should on or before July 5, 1973, file with the Federal Power Commission, Washington, DC. 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 the 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 is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-13157 Filed 6-29-73;8:45 am]

[Docket No. E-8209]

IOWA SOUTHERN UTILITIES CO.

Notice of New Service Agreement

JUNE 20, 1973.

Take notice that Iowa Southern Utilities Company (Utilities) on May 18, 1973, tendered for filing a new Service Agreement between Utilities and the Town of Danville, Iowa. The new agreement is dated May 2, 1973, and is proposed to become effective as of May 2, 1973.

Utilities states that the new agreement, a superseding a prior agreement dated November 21, 1966, contains its Rate Schedule 96 in lieu of Rate Schedule 91 which was contained in the superseded agreement. The change in rate schedule would result in a rate reduction estimated at $1,800 for the twelve months period ending May 31, 1974. Utilities requests waiver of the notice requirements of the Commission's rules of practice and procedure in order that the rate reduction may become effective as of May 2, 1973.

Copies of the filing have been served upon jurisdictional customers and interested State commissions.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before July 3, 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.73-13158 Filed 6-29-73;8:45 am]

[Docket No. E-8254]

KANSAS POWER AND LIGHT CO.

Notice of Supplemental Rate Schedule

JUNE 20, 1973.

Take notice that on June 4, 1973, The Kansas Power and Light Company (KP&L) tendered for filing Service Schedule G dated May 10, 1973, as a supplemental rate schedule to KPL Rate Schedule FPC No. 5. KP&L states that Service Schedule G provides participation power service capacity in the amount of twelve (12) megawatts to be made available to the Omaha Public Power District from KP&L's Lawrence Unit No. 5 for the period June 1, 1973, through May 31, 1974. KP&L maintains that unknown requirements prevent an estimate of revenues from energy sales but that the capacity charge will be $18,000 per month. An effective date of June 1, 1973, has been proposed.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 5, 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.73-13159 Filed 6-29-73;8:45 am]

[Docket No. E-7565]

KENTUCKY POWER CO.

Notice of Termination of Service

JUNE 20, 1973.

Take notice that Kentucky Power Company (KPC) tendered for filing copies of Amended Supplement No. 2 to KPC's FPC Rate Schedule No. 12. KPC states that this filing is made pursuant to directions contained in Commission Opinion No. 652, issued March 2, 1973, as reaffirmed in Opinion No. 652-A, issued April 27, 1973.

KPC maintains that this amended Supplement No. 2 contains a provision providing for the termination of service under the Rate Schedule on file with the Commission between the Company and Vanceburg Electric Light, Heat and Power System, Vanceburg, Kentucky.

KPC states that as provided in the aforementioned Opinions this Supplement is to be effective immediately upon its 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, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 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.73-13166 Filed 6-29-73;8:45 am]

[Docket No. E-8217]

NEW ENGLAND POWER SERVICE CO. AND BOSTON EDISON CO.

Notice of Transmission Contracts

JUNE 19, 1973.

Take notice that on May 21, 1973, New England Power Service Company (New England) filed a joint application on behalf of itself and Boston Edison Company (Edison) with the Federal Power Commission, pursuant to section 35 of the regulation under the Federal Power Act, requesting approval of contracts providing for transmission services by Applicants to Fitchburg Gas and Electric Light Company (Fitchburg), contract

dated July 14, 1972, and to Public Service Company of New Hampshire (Public Service), contract dated September 21, 1972. The application states that the aforementioned contracts are to run concurrently with the System Power Contracts wherein Edison will provide power to Fitchburg and Public Service.

Fitchburg has executed a System Power Contract, dated May 1, 1972, with Edison for the purchase of 40 MW of system power for the period beginning with the date of commercial operation of Pilgrim Unit No. 1, a nuclear generating unit under construction by Edison in Plymouth, Massachusetts, and ending on September 30, 1981. Public Service has executed a System Power Contract, dated September 21, 1972, with Edison for the purchase of system power according to the following schedule:

a) 60,000 kw: to be effective from the first day of commercial operation of Pilgrim Unit No. 1 until and including October 31, 1972.
b) 100,000 kw: to be effective from November 1, 1972 until and including April 30, 1973.
c) 40,000 kw: to be effective from November 1, 1973 until and including April 30, 1974.

The application in this Docket concerns the transmission of aforementioned power to Fitchburg and Public Service because Edison's system is not contiguous with either of the proposed buyers and is interconnected with said buyers through the system of New England.

Pursuant to § 35.11 of the regulations under the Federal Power Act, Applicant request that the Commission waive its thirty day notice requirement and that it allow these contracts to become effective on December 9, 1972, in accordance with their terms.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 9, 1973, file with the Federal Power Commission, Washington, DC. 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 is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-13142 Filed 6-29-73;8:45 am]

[Docket No. CI73-817]

KISSINGER PETROLEUMS CORP.

Notice of Application

JUNE 19, 1973.

Take notice that on May 29, 1973, Kissinger Petroleums Corp. (Applicant), P.O. Box 22004, Denver, Colorado 80222, filed in Docket No. CI73-817 an application pursuant to section 7(c) of the Natural Gas Act and § 2.75 of the Commission's General Policy and Interpretations (18 CFR 2.75) for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to McCulloch Interstate Gas Corporation (McCulloch) from the Spotted Horse Field, Campbell County, Wyoming, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes under the optional gas pricing procedure to sell natural gas to McCulloch from the Spotted Horse Field at an initial price of 35 cents per Mcf at 15.025 psia with no Btu adjustment. The basic contract for the subject sale dated February 23, 1973, provides for annual price escalations of 1.0 cent per year per Mcf, commencing one year from the date of the first delivery of the gas. Applicant states that the term of the contract is 20 years. Estimated monthly sales are 150,000 Mcf of gas.

Applicant asserts that the contract prices are consistant with the objectives enunciated by Commission Order No. 455 and are just and reasonable, since the proposed rate is in the same range or lower than many present intrastate prices offered in Wyoming (37 cents and 40 cents per Mcf with Btu adjustment). In addition Applicant also asserts that its initial price is lower than the prices presently sought and paid for the sale of liquefied natural gas (77 cents to 83 cents per Mcf) and synthetic pipeline gas ($1.21 per Mcf).

Any person desiring to be heard or to make any protests with reference to said application should on or before July 13, 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.73-13161 Filed 6-29-73;8:45 am]

[Docket No. E-8264]

MAINE PUBLIC SERVICE CO.

Notice of Initial Rate Schedule

JUNE 22, 1973.

Take notice that on June 8, 1973, Maine Public Service Company (Maine) tendered for filing its present Contract Rate to other utilities, Rate O-1, as an initial Rate Schedule. Maine estimates total revenues in the twelve months ended April 30, 1974, at $1,182,562. Maine states that a copy of this filing has been forwarded to affected customers.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 5, 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.73-13162 Filed 6-29-73;8:45]

[Project No. 1888]

METROPOLITAN EDISON CO.

Notice of Issuance of Annual License

JUNE 21, 1973.

On June 30, 1969, Metropolitan Edison Company, Licensee for York Haven Project No. 1888 located in Dauphin, Lancaster and York Counties, in the region of the Cities of Harrisburg, Lancaster and York, Pennsylvania, on the Susquehanna River filed an application for a new license under section 15 of the Federal Power Act and Commission regulations thereunder (§§ 16.1-16.6). Licensee also made a supplemental filing pursuant to Commission Order No. 384 on February 27, 1970.

The license for Project No. 1888 was issued effective January 1, 1938, for a period ending June 30, 1970. Since the original date of expiration the project has been under annual license. In order to authorize the continued operation of the project pursuant to section 15 of the Act pending completion of Licensee's application and Commission action thereon

it is appropriate and in the public interest to issue an annual license to Metropolitan Edison Company for continued operation and maintenance of Project No. 1888.

Take notice that an annual license is issued to Metropolitan Edison Company (Licensee) under section 15 of the Federal Power Act for the period July 1, 1973, to June 30, 1974, or until Federal takeover, or the issuance of a new license for the project, whichever comes first, for the continued operation and maintenance of the York Haven Project No. 1888, subject to the terms and conditions of its license.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-13163 Filed 6-29-73;8:45 am]

MICHIGAN WISCONSIN PIPE LINE CO.

Notice of Revision to Tariff

JUNE 21, 1973.

Take notice that on June 6, 1973, Michigan Wisconsin Pipe Line Company (MWPL) tendered for filing the following tariff sheets:

Second Revised Volume No. 1
Sixth Revised Sheet No. 1
Eleventh Revised Sheet No. 2
Original Sheet No. 2A
Fifth Revised Sheet No. 4
Fourteenth Revised Sheet No. 33
Second Revised Sheet No. 33A
First Revised Volume No. 2
First Revised Sheet No. 1A

MWPL states that the filings are made to update the information contained in the sheets and requests an effective date of July 10, 1973. The company maintains that copies of the filing have been sent to all its customers and to interested state commissions.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 2, 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.73-13164 Filed 6-29-73;8:45 am]

MICHIGAN WISCONSIN PIPE LINE CO.

Notice of Exchange Agreement

JUNE 21, 1973.

Take notice that on June 11, 1973, Michigan Wisconsin Pipe Line Company (MWPL) tendered for filing an exchange agreement between it and Southern Natural Gas Company (Sonatco) as Original Sheets Nos. 330 through 335 designated as Rate Schedule X-35 to MWPL's F.P.C. Gas Tariff, First Revised Volume No. 2. MWPL states that this action was authorized by ordered issue June 1, 1973, in Docket No. CP73-92. An effective date of July 11, 1973, is requested.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, DC. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 5, 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 the filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-13165 Filed 6-29-73;8:45 am]

[Docket No. CI73-872]

ADA LAND CO. ET AL.

Notice of Application

JUNE 19, 1973.

Take notice that on June 11, 1973, Ada Land Company, (Applicant), P.O. Box 844, Houston, Texas 77011, filed in Docket No. CI73-872 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 Corporation from the East LeBlanc Field, Allen Parish, Louisiana, 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 May 17, 1973, within the contemplation of § 157.29 of the regulations under the Natural Gas Act (18 CFR 157.29) and proposes to continue said sale for two years from the end of the sixty-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 12,000 Mcf of gas per month at 40.0 cents per Mcf at 15.025 psia.

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 July 2, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by 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.73-13166 Filed 6-29-73;8:45 am]

[Project 2146]

ALABAMA POWER CO.

Application for Change in Land Rights

JUNE 21, 1973.

Public notice is hereby given that application was filed March 2, 1973, and supplemented April 27, 1973, under the Federal Power Act (16 USC 791a-825r) by Alabama Power Company (correspondence to: Mr. S. R. Hart, Jr., Vice President-Engineering, Alabama Power Company, Birmingham, Alabama 35202) for change of land rights for constructed Project No. 2146, known as the Coosa River Project, located on the Coosa River a navigable waterway of the United States, in Elmore, Chilton, Coosa, Shelby, Talladega, Saint Clair, Calhoun, Etowah and Cherokee Counties Alabama and Floyd County, Georgia.

Applicant requests Commission approval of an easement that would allow the Alabama State Highway Department to widen, improve and maintain a portion of highway from Ohatchee to Ragland, Alabama across the H. Neely Henry Dam of the Coosa River Project No. 2146. The proposed easement would encompass six parcels of project land (about 21.17 acres) that are located on the east embankment of the dam and also along the east and west approaches of the structure.

The terms of the proposed easement would require that: (1) the State take such precautions as are necessary to protect the reservoir from siltation and pollution during construction and maintenance of the highway; (2) the State install guard rails along the north margin of the right-of-way on the east dike;

(3) the State post 10 M.P.H. speed limit signs and install speed breakers at the spillway and powerhouse sections; and (4) the easement be subject to the terms of the license and would reserve to the Company the right to close the road during an emergency or for maintenance of its facilities.

Any person desiring to be heard or to make protest with reference to said application should on or before August 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 take but will not serve to make the protestants parties to a 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 is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-13137 Filed 6-29-73;8:45 am]

[Docket No. RP 73-112]

ALGONQUIN GAS TRANSMISSION CO.

Proposed Change in Rates and Charges

JUNE 22, 1973.

Take notice that on June 15, 1973, Algonquin Gas Transmission Company (Algonquin) tendered for filing the following Revised Tariff Sheets:

Original Volume No. 1: Third Revised Sheet No. 3-A
Original Volume No. 2: Twenty-Seventh Revised Sheet No. 57

Algonquin, in this filing for a change in rates, proposes to increase the rates, effective August 1, 1973, presently applicable to natural gas service rendered to its customers under its rate schedules F-1, WS-1, I-1, E-1, X-5, and T-1. According to Algonquin, the proposed changes amount to an increase in revenues of approximately $7.8 million annually, or an annual percentage increase of 7.58 percent. Furthermore, Algonquin proposed to increase its basic depreciation rate from 3 percent to 5 percent.

Algonquin states that two major cost of service factors necessitate the proposed changes. First, an increase in depreciation from 3 percent to 5 percent is needed since the 3 percent rate has been basically utilized since Algonquin commenced operations approximately twenty years ago in order to reflect the present gas shortage supply. Second, Algonquin states that an increase in rate of return from 8.125 percent to 9 percent is needed to reflect the current capitalization and debt cost of Algonquin.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 9, 1973. Protest will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-13138 Filed 6-29-73;8:45 am]

[Docket No. ID-1524]

DONALD G. ALLEN

Notice of Application

JUNE 20, 1973.

Take notice that on January 12, 1973, Donald G. Allen (Applicant) filed an application pursuant to section 305(b) of the Federal Power Act seeking authority to hold interlocking directorate positions.

Applicant presently serves as Vice President of New England Power Company, which is a wholesale generating and transmission company within the New England Electric System holding company system. Applicant also serves as President and Director of Yankee Atomic Electric Company, organized by eleven investor-owned utilities, to operate an atomic-electric plant in Rowe, Massachusetts.

Any person desiring to be heard or to make the protestants parties to the proapplication should on or before July 6, 1973, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests to intervene 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.73-13139 Filed 6-29-73;8:45 am]

[Docket No. ID-1306, et al.]

B. HUDSON MILNER ET AL.

Notice of Applications

JUNE 21, 1973.

Take notice that the following applications were filed on the stated dates, pursuant to section 305(b) of the Federal Power Act, for authority to hold the position of officer or director of more than one public utility, or the position of officer or director of a public utility and officer or director of a firm authorized to market utility securities, or the position of officer or director of a public utility and officer or director of a company supplying electric equipment to such public utility.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 5, 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 the 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.

ID-1306	B. Hudson Milner.	5/9/73	Ohio Valley Electric Corporation
ID-1555	John D. Feehan	5/3/73	Atlantic City Electric Company Deepwater Operating Company
ID-1605	Richard M. Wilson	5/3/73	Atlantic City Electric Company Deepwater Operating Company
ID-1621	Henry W. Bailey	4/13/73	Kentucky Utilities Company Old Dominion Power Company
ID-1606	Frank J. Ficadenti	5/3/73	Atlantic City Electric Company Deepwater Operating Company

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-13168 Filed 6-29-73;8:45 am]

[Docket No. E-6730]

GEORGIA POWER CO.

Filing by Licensee

JUNE 27, 1973.

Public notice is hereby given that the Georgia Power Company (Licensee) of Atlanta, Georgia filed a letter with this Commission on May 7, 1973, which concluded that the amounts recommended by the Staff of this Commission in its energy gains study for the period February 1, 1956, through December 31, 1964, were reasonable and appropriate and that upon receipt of a bill in the amount of $642,627.00, the Company was prepared to pay that sum in complete satisfaction of all claims for headwater bene? fits in the form of energy gains including the staff cost of making the investigation, for the period covered as stated above.

Pursuant to the provisions of section 10(f) of the Federal Power Act (16 U.S.C. 803), the Bureau of Power of this Commission prepared two reports on the investigation of headwater benefits in the Chattahoochee River Basin covering the period February 1, 1956, when the Federal Buford Reservoir began filling, through December 31, 1965. The first report dated October, 1968, covered only energy gains and concluded that the Georgia Power Company should pay to the United States $585,797.00 for these

gains provided by the Buford Reservoir to the Company's downstream hydroelectric plants. In addition, the report concluded that the Company should pay $56,830.00 as the Company's share of the Staff's cost of making the investigation, which together with the energy gain would total $642,627.00.

The Licensee would not pay this amount as a settlement in this proceeding of the energy gains to its downstream hydroelectric projects for the period stated above.

Any person desiring to be heard or to make protest with reference to this proposed settlement and payment by the Georgia Power Company, should on or before July 10, 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 proceedings. Persons wishing to become parties to the proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules of practice and procedure.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-13280 Filed 6-29-73;8:45 am]

[Docket No. RP73-43]

MID LOUISIANA GAS CO.

Proposed Change in Rates

JUNE 22, 1973.

Take notice that Mid Louisiana Gas Company (Mid Louisiana), on June 14, 1973, tendered for filing as a part of First Revised Volume No. 1 of its FPC Gas Tariff, Fifth Revised Sheet No. 3a.

Mid Louisiana states that the purpose of the filing is to reflect a purchased gas cost current adjustment to Mid Louisiana's rate schedules G-1, SG-1 and I-1; that the revised tariff sheet and supporting information are being filed forty-five (45) days prior to the effective date of August 1, 1973, in accordance with section 19 of Mid Louisiana's FPC Gas Tariff and in compliance with Commission Order Nos. 452 and 452-A; and that copies of the filing were served on interested customers and state commissions.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 9, 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.73-13166 Filed 6-29-73;8:45 am]

[Rate Schedule 39]

MOBIL OIL CORP.

Rate Change Filings

JUNE 22, 1973.

Take notice that the producer listed in the Appendix attached hereto has filed a proposed increased rate to the applicable area new gas ceiling based on the interpretation of vintaging concepts set forth by the Commission in its Opinion No. 639, issued December 12, 1972.

The information relevant to this sale is listed in the appendix below.

Any person desiring to be heard or to make any protest with reference to said filings should on or before July 5, 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 party wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

APPENDIX

Filing date	Producer	Rate Schedule No.	Buyer	Area
6-11-73	Mobil Oil Corporation Three Greenway Plaza East Suite 800 Houston, Texas 77046	30	Natural Gas Pipeline Company of America	Texas Gulf Coast

[FR Doc.73-13167 Filed 6-29-73;8:45 am]

[Docket No. CI73-857]

NATIONAL EXPLORATION CO.

Notice of Application

JUNE 19, 1973.

Take notice that on June 5, 1973, National Exploration Company (Applicant), One Elizabethtown Plaza, Elizabeth, New Jersey 07207, filed in Docket No. CI73-857 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 United Gas Pipe Line Company from the McCaskill Field, Karnes County, Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states it commenced the sale of natural gas on May 14, 1973, within the contemplation of § 157.29 of the regulations under the Natural Gas Act (18 CFR 157.29) and proposes to continue said sale for one year from the end of the sixty-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 390,000 Mcf of gas per month at 50.0 cents per Mcf at 14.65 psia, subject to upward and downward Btu adjustment. Estimated initial upward adjustment is 7.0 cents per Mcf of gas.

Applicant states that as a small producer certificate holder in Docket No. CS71-484 it is filing the instant certificate application solely to secure pregranted abandonment authorization and that it does not intend to file a rate schedule for the proposed sale. Applicant states further that this sale will not impair its ability to sell gas from the McCaskill Field to Elizabethtown Gas Company for transportation by Transcontinental Gas Pipe Line Corporation as proposed in Docket No. CP73-4.

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 July 2, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by 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.73-13170 Filed 6-29-73;8:45 am]

[Docket No. CP73-328]

NATURAL GAS PIPELINE OF AMERICA

Notice of Application

JUNE 19, 1973.

Take notice that on June 12, 1973, Natural Gas Pipeline of America (Applicant), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP73-328 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of a field compressor station in Eddy County, New Mexico, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that reservoir pressures in the South Hope, Dagger Draw, and Cemetary Fields in Eddy County are declining so as to cause accelerated reduction in production rates and premature plugging of some wells and that lowering of the gathering line pressures will permit Applicant to recover additional allowable production of approximately 800,000 Mcf of gas from these fields. Applicant proposes to construct a 135 horsepower compressor station and approximately ½ mile of 4-inch pipeline to extend from the Cemetary Field gathering pipeline to the proposed compressor station to compress and transport this gas.

The stated cost of the proposed construction is $109,300 which will be financed from funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 13, 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.73-13169 Filed 6-29-73;8:45 am]

[Project 1967]

NEKOOSA EDWARDS PAPER CO., INC.

Issuance of Annual License

JUNE 21, 1973.

On May 21, 1969, Nekoosa Edwards Paper Company, Inc., Licensee for Lower Paper Mill Development Project No. 1967 located in Portage County, Wisconsin, on the Wisconsin River filed an application for a new license under section 15 of the Federal Power Act and Commission regulations thereunder (§§ 16.1–16.6). Licensee also made a supplemental filing pursuant to Commission order No. 384 on September 2, 1970.

The license for Project No. 1967 was issued effective January 1, 1938, for a period ending June 30, 1970. Since the original date of expiration the project has been under annual license. In order to authorize the continued operation of the project pursuant to section 15 of the Act pending completion of Licensee's application and Commission action thereon it is appropriate and in the public interest to issue an annual license to Nekoosa Edwards Paper Company Inc., for continued operation and maintenance of Project No. 1967.

Take notice that an annual license is issued to Nekoosa Edwards Paper Company Inc., (Licensee) under section 15 of the Federal Power Act for the period July 1, 1973, to June 30, 1974, or until Federal takeover, or the issuance of a new license for the project, whichever comes first, for the continued operation and maintenance of the Lower Paper Mill Development Project No. 1967, subject to the terms and conditions of its license.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-13171 Filed 6-29-73;8:45 am]

[Project 1904]

NEW ENGLAND POWER CO.

Issuance of Annual License

JUNE 21, 1973.

On June 23, 1969, New England Power Company, Licensee for Vernon Project No. 1904 located in Cheshire County, New Hampshire and Windham County, Vermont, near Hinsdale, Chesterfield, Westmoreland and Walpole, New Hampshire and Vernon, Brattleboro, Dummerston, Putney and Westminister, Vermont, on the Connecticut River filed an application for a new license under section15 of the Federal Power Act and Commission regulations thereunder (§§ 16.1–16.6). Licensee also made a supplemental filing pursuant to Commission order no. 384 on February 24, 1970.

The license for Project No. 1904 was issued effective January 1, 1938, for a period ending June 30, 1970. Since the original date of expiration the project has been under annual license. In order to authorize the continued operation of the project pursuant to section 15 of the Act pending completion of Licensee's application and Commission action thereon it is appropriate and in the public interest to issue an annual license to New England Power Company for continued operation and maintenance of Project No. 1904.

Take notice that an annual license is issued to New England Power Company (Licensee) under section 15 of the Federal Power Act for the period July 1, 1973, to June 30, 1974, or until federal takeover, or the issuance of a new license for the project, whichever comes first, for the continued operation and maintenance of the Vernon Project No. 1904 subject to the terms and conditions of its license.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-13172 Filed 6-29-73;8:45 am]

[Project 1892]

NEW ENGLAND POWER CO.

Issuance of Annual License

JUNE 22, 1973.

On June 23, 1969, New England Power Company, Licensee for Wilder Project No. 1892 located in Orange and Windsor Counties, Vermont and Cheshire, Grafton and Sullivan Counties, New Hampshire, on the Connecticut River filed an application for a new license under section 15 of the Federal Power Act and Commission regulations thereunder (§§ 16.1–16.6). Licensee also made a supplemental filing pursuant to Commission Order No. 384 on February 24, 1970.

The license for Project No. 1892 was issued effective January 1, 1938, for a period ending June 30, 1970. Since the original date of expiration the project has been under annual license. In order to authorize the continued operation of the project pursuant to section 15 of the Act pending completion of Licensee's application and Commission action thereon it is appropriate and in the public interest to issue an annual license to New England Power Company for continued operation and maintenance of Project No. 1892.

Take notice that an annual license is issued to New England Power Company (Licensee) under section 15 of the Federal Power Act for the period July 1,

1973, to June 30, 1974, or until Federal takeover, or the issuance of a new license for the project, whichever comes first, for the continued operation and maintenance of the Wilder Project No. 1892, subject to the terms and conditions of its license.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-13174 Filed 6-29-73;8:45 am]

[Project No. 1553]

NEW JERSEY ZINC CO.

Issuance of Annual License

JUNE 20, 1973.

On June 12, 1970, The New Jersey Zinc Company, Licensee for Fall Creek Hydroelectric Plant, Project No. 1553 located on Fall Creek in Eagle County, Colorado, filed an application for a new license under section 15 of the Federal Power Act and Commission regulations thereunder (§§ 16.1–16.6).

The license for Project No. 1553 was issued effective June 28, 1950, for a period ending June 28, 1970. Since the original date of expiration the project has been under annual license. In order to authorize the continued operation of the project pursuant to section 15 of the Act pending completion of Licensee's application and Commission action thereon it is appropriate and in the public interest to issue an annual license to The New Jersey Zinc Company for continued operation and maintenance of Project No. 1553.

Take notice that an annual license is issued to The New Jersey Zinc Company (Licensee) under section 15 of the Federal Power Act for the period June 29, 1973, to June 28, 1974, or until Federal takeover, or the issuance of a new license for the project, whichever comes first, for the continued operation and maintenance of the Fall Creek Hydroelectric Plant, Project No. 1553, subject to the terms and conditions of its license.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-13175 Filed 6-29-73;8:45 am]

[Docket No. E-8256]

NEW YORK STATE ELECTRIC AND GAS CORP.

Notice of Initial Filing

JUNE 22, 1973.

Take notice that on June 4, 1973, New York State Electric and Gas Corporation (New York) tendered for filing an Agreement dated May 25, 1973, between New York and Central Hudson Gas and Electric Corporation (Central Hudson) as a rate schedule. New York states that the agreement, for a term commencing June 1 and terminating June 30, 1973, provides that New York shall make available and sell to Central Hudson 42,000 kilowatts of firm capability and associated energy for the specified term. New York estimates revenues of $216,562 and proposes an effective date of June 1, 1973.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 5, 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.13176 Filed 6-29-73;8:45 am]

[Docket Nos. CP72-233, CP73-15, CI72-677, CI73-231]

NATURAL GAS PIPE LINE CO. OF AMERICA AND TEXACO INC.

Further Postponement of Procedural Dates

JUNE 22, 1973.

Notice is hereby given that the procedural dates set by the order issued May 23, 1973, as modified by the notice issued June 13, 1973, are further postponed as follows:

Service of evidence by applicants and persons in support of the application, July 5, 1973
Service of answering evidence by applicants and interveners, July 6, 1973
Commencement of hearing, July 31, 1973 (10:00 a.m., EDT)

Action on the request for a prehearing conference will be by subsequent order.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-13179 Filed 6-29-73;8:45 am]

[Docket No. E-8266]

NIAGARA MOHAWK POWER CORP.

Initial Rate Schedule

JUNE 20, 1973.

Take notice that on June 11, 1973, Niagara Mohawk Power Corp. (Niagara) tendered for filing as an initial rate schedule a firm power agreement dated April 12, 1973, between Niagara and Consolidated Edison Co. of New York, Inc. (Con Ed). The term of the agreement is from June 1, 1973 through Oct. 27, 1973, and anticipated revenues are $8,640,000, according to Niagara's statement. An effective date of June 1, 1973, has been requested.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 5, 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.73-13178 Filed 6-29-73;8:45 am]

[Docket No. E-8269]

NIAGARA MOHAWK POWER CORP.

Initial Rate Schedule

JUNE 22, 1973.

Take notice that on June 11, 1973, Niagara Mohawk Power Corporation (Niagara) tendered for filing a Transmission Agreement dated April 12, 1973, between Niagara and Consolidated Edison Company of New York, Inc. (Con Edison) as an initial rate schedule. Niagara states that the service to be rendered by it provides for the transmission of up to 480,000 Kw of Con Edison's proportionate power interests in the Roseton Electric Generating Plant between Niagara's Leeds Substation connection with the Roseton Plant and Niagara's transmission with Con Edison's Pleasant Valley Substation. Estimated revenues for 1973 and 1974 are $384,480 for each year according to Niagara. The proposed effective date in the date when the first unit of the Roseton generating plant is placed in commercial operation, projected to be some time during July of 1973.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 9, 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.73-13177 Filed 6-29-73;8:45 am]

[Docket No. E-8199]

NORTHERN STATES POWER CO.

New Service Agreement

JUNE 20, 1973.

Northern States Power Company (Northern) on May 14, 1973, tendered for filing a new Firm Power Service Resale Agreement between Northern and the City of Waseca, Minnesota. The new agreement is dated April 12, 1973,

and would become effective on April 12, 1973.

Northern states that the new agreement would supersede a prior agreement dated June 27, 1964, designated as Rate Schedule FPC No. 299, as supplemented by Letter Agreement, and its attached rate schedule, dated June 22 and June 3, 1966, respectively, and designated as Supplement No. 2 to Rate Schedule FPC No. 299. Northern also states that the rates contained in the new agreement are the same as those contained in the Resale Contract dated June 27, 1964, as supplemented.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before July 3, 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.73-13180 Filed 6-29-73;8:45 am]

[Docket Nos. G-1965, G-16818 G-18423, G-20273 RP66-7, G-1786]

OHIO FUEL GAS CO.

Filing of Refund Reports

JUNE 21, 1973.

Take notice that on April 22, 1968, June 13, 1968, February 26, 1969, January 28, 1971, and September 17, 1971, Ohio Fuel Gas Company (Ohio) filed reports indicating that pursuant to the above-referenced dockets, it has refunded $4,509,485.04. The refunds purport to cover various periods from January 8, 1953, through April 15, 1971, and to represent the flow-through of the jurisdictional portions of cash refunds and equivalent rate reduction refunds totaling $5,397,718 received from its suppliers.

On April 22, 1968, Ohio filed a Refund Report No. 2 Showing Refund Due Jurisdictional Customers for the Period November 1, 1965, through September 30, 1967. Reflecting Cash Refunds Received from Suppliers and Equivalent Rate Reduction Refunds, in Compliance with Provisions of the Stipulation and Agreement and Commission Order Issued January 25, 1968, in Docket No. RP66-7. According to the Refund Report, Ohio refunded the amount of $432,577.77 to its jurisdictional customers.

On June 13, 1968, Ohio filed a Summary of Refunds to Jurisdictional Customers Due to Supplier Refunds In Compliance With Stipulations and Agreements, Opinions and Orders Issued in FPC Docket Nos. G-1786, G-1965, G-16818, G-18423, G-20273 and RP66-7. The summary report covers the period of February 24, 1965, through April 24, 1968. According to the report, the amount of $1,868,310.17 was refunded to jurisdictional customers.

On February 16, 1969, Ohio filed a Summary of Refunds to Jurisdictional Customers Due to Supplier Refunds In Compliance with Stipulations and Agreements, Opinions and Orders Issued in FPC Docket Nos. G-16818, G-18423, G-20273 and RP66-7. The refunds covered the periods of: (1) March 10, 1959, through October 31, 1965, (2) November 1, 1965, through October 31, 1966, and (3) November 1, 1966, through September 24, 1968. Ohio stated in the report that it had refunded $305,629.26 to its jurisdictional customers.

On January 28, 1971, Ohio filed a compliance letter which stated that Ohio refunded $452,814.22 applicable to various periods from May 15, 1969, through October 31, 1969, in compliance with ordering paragraphs (B) and (C) of the Commission's order issued January 25, 1968, as amended by ordering paragraph (A) of the Commission's order issued March 5, 1969, which accepted revised Article IV filed February 20, 1969, to the original settlement agreement filed December 11, 1967, in Docket Nos. RP66-7, et al.

On September 17, 1971, Columbia Gas Transmission Corp. (Columbia) filed a compliance letter stating it had made refunds covering the period of November 1, 1970, through April 15, 1971. On July 1, 1971, Columbia became successor in interest, by merger, to Ohio. Pursuant to Stipulations and Agreements and Orders issued in FPC Docket Nos. RP66-7 and RP69-16 et al., Columbia refunded $1,450,153.62 as indicated in Refund Report No. 2 in FPC Docket RP69-16 et al. and Refund Report No. 8 in FPC Docket RP66-7.

A copy of these refund plans are on file with the Commission and is available for public inspection. Comments or protests, with appropriate supporting data, should be filed on or before July 3, 1973.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-13181 Filed 6-29-73;8:45 am]

[Docket No. E-8208]

OTTER TAIL POWER CO.

Interconnection Agreement

JUNE 19, 1973.

Take notice that on May 17, 1973, Otter Tail Power Company (Applicant) filed with the Federal Power Commission pursuant to section 35 of the regulations under the Federal Power Act, an interconnection contract between itself and the United States Department of the Interior and the Bureau of Reclamation.

The proposed interconnection contract provides for interconnections between the transmission systems of Applicant and the Bureau of Reclamation at Gary, South Dakota, and at Forman, North Dakota. Such interconnections are for the purpose of providing an outlet for power and energy from the Big Stone Plant being jointly constructed by Applicant, Montana-Dakota Utilities Company and Northwestern Public Service Company.

Any person desiring to be heard or to make any protest with reference to said application should, on or before July 26, 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. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-13182 Filed 6-29-73;8:45 am]

[Docket No. E-7777]

PACIFIC GAS AND ELECTRIC CO.

Further Extension of Time and Postponement of Prehearing Conference and Hearing

JUNE 21, 1973.

On June 20, 1973, Staff Counsel filed a motion for a further extension of service dates set by the notice issued May 18, 1973, in the above designated matter. The motion states that there is no objection to the motion by any party.

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

Staff Service Date, July 13, 1973.
Intervener Service Date, July 31, 1973.
Company Rebuttal Date, August 14, 1973.
Prehearing Conference, July 31, 1973 (10:00 a.m., e.d.t.)
Hearing, August 28, 1973 (10:00 a.m., e.d.t.)

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-13183 Filed 6-29-73;8:45 am]

[Project 1881]

PENNSYLVANIA POWER & LIGHT CO.

Issuance of Annual License

JUNE 21, 1973.

On June 27, 1969, Pennsylvania Power & Light Company, Licensee for Holtwood Project No. 1881 located in York and Lancaster Counties, Pennsylvania, on the Susquehanna River filed an application for a new license under section 15 of the Federal Power Act and Commission regulations thereunder (§§ 16.1-16.6). Licensee also made a supplemental filing pursuant to Commission Order No. 384 on February 27, 1970.

The license for Project No. 1881 was issued effective January 1, 1938, for a period ending June 30, 1970. Since the

original date of expiration the project has been under annual license. In order to authorize the continued operation of the project pursuant to section 15 of the Act pending completion of Licensee's application and Commission action thereon it is appropriate and in the public interest to issue an annual license to Pennsylvania Power & Light Company for continued operation and maintenance of Project No. 1881.

Take notice that an annual license is issued to Pennsylvania Power & Light Company (Licensee) under section 15 of the Federal Power Act for the period July 1, 1973, to June 30, 1974, or until Federal takeover, or the issuance of a new license for the project, whichever comes first, for the continued operation and maintenance of the Holtwood Project No. 1881, subject to the terms and conditions of its license.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-13184 Filed 6-29-73;8:45 am]

[Docket No. CI73-862]

PHILLIPS PETROLEUM CO.

Notice of Application

JUNE 19, 1973.

Take notice that on June 6, 1973, Phillips Petroleum Co. (Applicant), Bartlesville, Oklahoma 74004, filed in Docket No. CI73-862 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 Anadarko Basin Area, Woodward County, Oklahoma, 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 June 1, 1973, within the contemplation of § 157.29 of the regulations under the Natural Gas Act (18 CFR 157.29) and proposes to continue said sale for a period of one year from the end of the sixty-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 15,000 Mcf of gas per month at 40.0 cents per Mcf at 14.65 psia, subject to upward and downward Btu adjustment.

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 July 2, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by 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.73-13186 Filed 6-29-73;8:45 am]

[Doc. No. CI73-869]

PHILLIPS PETROLEUM CO.

Notice of Application

JUNE 19, 1973.

Take notice that on June 8, 1973, Phillips Petroleum Co. (Applicant), Bartlesville, Oklahoma 74004, filed in Doc. No. CI73-869 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 Company from the Permian Basin Area, Eddy County, New Mexico, 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 May 31, 1973, within the contemplation of § 157.29 of the regulations under the Natural Gas Act (18 CFR 157.29) and proposes to continue said sale for one year from the end of the sixty-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 46,000 Mcf of gas per month at 52.0 cents per Mcf at 14.65 psia, subject to upward and downward Btu adjustment.

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 July 5, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

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

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

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-13185 Filed 6-29-73;8:45 am]

[Rate Schedule 1, et al.]

PIONEER GAS PRODUCTS CO. ET AL.

Rate Change Filings

JUNE 22, 1973.

Take notice that the producers listed in the Appendix attached hereto have filed proposed increased rates to the applicable area new gas ceiling based on the interpretation of vintaging concepts set forth by the Commission in its Opinion No. 639, issued December 12, 1972.

The information relevant to each of these sales is listed in the Appendix.

Any person desiring to be heard or to make any protest with reference to said filings should on or before July 6, 1973, file with the Federal Power Commission, Washington, D.C. 20426, 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 party wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

APPENDIX

Filing date	Producer	Rate schedule No.	Buyer	Area
6-13-73	Pioneer Gas Products Company P.O. Box 2542 Amarillo, Texas 79105	1	Lone Star Gas Company	Other Southwest Area
"	"	2	"	"
6-14-73	Atlantic Richfield Company P.O. Box 2819 Dallas, Texas 75221	7[1]	Tennessee Gas Pipeline Company	Texas Gulf Coast
4-27-73[2]	K. D. Owen, *et al.* c/o Vinson, Elkins, Searls, Connally & Smith First National Banking Building Houston, Texas 77002	4	Transcontinental Gas Pipe Line Corp.	"

[1] Includes sales presently made under Atlantic's FPC Gas Rate Schedule No. 650 which is proposed to be superseded by Atlantic's FPC Gas Rate Schedule No. 7.
[2] Corrected by filing submitted on 6-18-73.

[FR Doc.73-13187 Filed 6-29-73;8:45 am]

FEDERAL RESERVE SYSTEM

FINANCIAL GENERAL BANKSHARES, INC., ET. AL.

Acquisition of Bank Shares

Financial General Bankshares, Inc., Washington, D.C., the Morris Plan Corporation, Washington, D.C. its subsidiary, and Financial General Corporation (MD.), Washington, D.C., its subsidiary, have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire an additional 10 per cent of the voting shares of American National Bank of Maryland, Silver Spring, Maryland. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The applications may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Richmond. Any person wishing to comment on the applications should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than July 18, 1973.

Board of Governors of the Federal Reserve System, June 21, 1973.

[SEAL] CHESTER B. FELDBERG,
Assistant Secretary of the Board.

[FR Doc.73-13367 Filed 6-29-73;8:45 am]

FIRST AMTENN CORP.

Acquisition of Bank

First Amtenn Corporation, Nashville, Tennessee, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent (less directors' qualifying shares) of the voting shares of City National Bank of Memphis, Memphis, Tennessee, a proposed new bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than July 20, 1973.

Board of Governors of the Federal Reserve System, June 22, 1973.

[SEAL] CHESTER B. FELDBERG,
Assistant Secretary of the Board.

[FR Doc.73-13366 Filed 6-29-73;8:45 am]

FIRST TENNESSEE NATIONAL CORP.

Order Approving Acquisition of Crown Finance Corp.

First Tennessee National Corporation, Memphis, Tennessee, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval, under section 4(c)(8) of the Act and § 225.4(b)(2) of the Board's regulation Y, to acquire all of the voting shares of Crown Finance Corporation, St. Louis County, Missouri ("Crown"). Crown and 85 of its subsidiaries engage in the activities of making consumer finance loans and purchasing installment sales finance contracts. Through its insurance brokerage and insurance agency subsidiaries, Crown Agency Corporation and Alpha Insurance Agency, Inc., Crown engages in the sale of credit life and credit accident and health insurance in connection with extensions of credit by its finance company subsidiaries. Crown is also engaged, through its subsidiary, Corona National Life Insurance Company ("Corona"), in underwriting, as reinsurer, credit life and credit accident and health insurance in connection with loans made by Crown and its finance company subsidiaries. Such activities have been determined by the Board to be closely related to banking (12 CFR 225.4(a)(1), (9), and (10)).[1]

Notice of the application, affording opportunity for interested persons to submit comments and views on the public interest factors, has been duly published (37 FR 226). The time for filing comments and views has expired, and the Board has considered all comments received in the light of the public interest factors set forth in section 4(c)(8) of the Act (12 U.S.C. 1843(c)).

Applicant, the largest banking organization in Tennessee, controls eight banks with aggregate deposits of $1.2 billion, representing 12.7 per cent of the total commercial bank deposits in the State.[2] Applicant's nonbanking subsidiaries engage in mortgage banking, investment and management services, personal property and equipment leasing, trust services, and underwriting, as reinsurer, credit life and disability insurance.

Crown and its subsidiaries have total assets of $28.9 million. With regard to its finance company activities, Crown presently operates, either directly or through wholly-owned subsidiaries, 59 offices located in seven States: Illinois, Indiana, Iowa, Kansas, Missouri, Ohio, and Oklahoma. The closest office of Applicant's banking subsidiaries is 70 miles from an office of Crown. The proposed acquisition would have no adverse effect on existing competition since Applicant's subsidiaries that are engaged in the same lines of commerce as Crown's subsidiaries neither serve nor maintain offices in any geographic market served by subsidiaries of Crown. Applicant would not appear to be a likely de novo entrant into Crown's market areas. The Board concludes that the proposed acquisition would have no adverse effects upon potential competition. Further, it does not appear that the acquisition of Crown by Applicant will have significantly adverse effects on credit presently made available to independent finance companies by Applicant's subsidiary banks.

There is no evidence in the record indicating that consummation of the proposal would result in any undue concentration of resources, unfair competition, conflicts of interest, or unsound banking practices. Approval of the application, by giving Crown access to Applicant's financial resources, should enhance its competitive effectiveness and enable it to expand the range of services it offers. Based upon the foregoing and other considerations reflected in the record, the Board has determined that the balance of the public interest factors the Board is required to consider under section 4(c)(8) is favorable with respect to the proposed finance company and insurance agency activities.

Crown, through its subsidiary, Corona, engages in the activity of underwriting, as reinsurer, credit life and credit accident and health insurance which is directly related to its extensions of credit. In connection with its addition of credit life and credit accident and health insurance underwriting to the list of permissible activities for bank holding companies, the Board stated:

To assure that engaging in the underwriting of credit life and credit accident

[1] In addition to the activities enumerated above, Crown is also engaged in the activity of preparing tax returns through its subsidiary, Allstate Tax Service, Inc. Such activity has not been determined by the Board to be closely related to banking and will be terminated if the proposed acquisition is approved.

[2] All banking data are as of December 31, 1972, adjusted to reflect bank holding company formations and acquisitions approved through May 31, 1973.

and health insurance can reasonably be expected to be in the public interest the Board will only approve applications in which an applicant demonstrates that approval will benefit the consumer or result in other public benefits. Normally such a showing would be made by a projected reduction in rates or increase in policy benefits due to bank holding company performance of this service. (12 CFR 225.4(a)(10).)

Applicant has proposed rate reductions in premiums on credit life insurance underwritten by Crown's subsidiary reinsurer as follows: 3.1 per cent in Illinois, 6.7 per cent in Indiana, 15 per cent in Iowa, 15 per cent in Kansas, 15 per cent in Missouri, 6.7 per cent in Ohio, and 9.4 per cent per hundred dollars of indebtedness in Oklahoma. Should Crown and its subsidiary reinsurer reach the decision that the subsidiary will continue to underwrite credit accident and health insurance following the proposed acquisition, premiums would be reduced by 5 per cent in all seven States. It is the Board's judgment that these proposed rate reductions provide benefits to the public and that the balance of the public interest factors the Board is required to consider under section 4(c)(8) is favorable with respect to the proposed reinsurance activities.

With respect to the insurance activities that would be engaged in by Applicant in Illinois after its acquisition of Crown, the Independent Insurance Agents of Illinois, in commenting on the proposed acquisition, contend that section 506 of the Illinois Insurance Code (73 Ill. Ann. Stat. section 1065.53) would prohibit subsidiaries of Crown from being licensed in Illinois as insurance agents following Crown's affiliation with Applicant. Section 506 provides that:

> A license to act as an agent or broker shall not be issued to a national bank located in a city, village or incorporated town exceeding five thousand (5,000) population according to the last federal census, nor to any state bank or trust company, nor to any subsidiary, affiliate, officer or employee of any such national or state bank or trust company contributing to the income, either directly or indirectly, of such bank or trust company any profit or fees or any part thereof derived from the solicitation, negotiation or effecting of insurance.

The Independent Insurance Agents of Illinois contend that this statutory provision prohibits the licensing of agencies acquired by Applicant because Applicant is a holding company of banks that will be affiliated with and indirectly sharing the income of such agencies. If State law would clearly prohibit the proposed Illinois insurance activities, the Board would be required to deny that part of the application.[3]

In view of the possible prohibition under section 506, Applicant has stated that it will not seek to have Crown's subsidiaries licensed as insurance agents in Illinois. Applicant has proposed that Crown's employees will enroll Illinois debtors of Crown or its subsidiaries for credit insurance coverage under a group credit life or credit accident and health policy issued to Crown as the policyholder. It is understood that Crown would not receive commissions, but might receive and retain premium adjustments under the group policy, computed on the basis of the loss experience with respect to insured Illinois residents. Representatives of the State of Illinois Department of Insurance have stated that credit life and credit accident and health policies can be sold under the group form and that the Department does not require the creditor under a group policy to be licensed as an insurance agent to enroll members.

The Board concludes that, in view of the fact that an agency license is not necessary for the sale of credit insurance under a group policy, section 506 is not applicable to the insurance activities in question if they are conducted as proposed by Applicant.

Accordingly, the application is hereby approved. This determination is subject to the conditions set forth in § 225.4(c) of regulation Y and to the Board's authority to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

By order of the Board of Governors,[4] effective June 21, 1973.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.73-13364 Filed 6-29-73;8:45 am]

UNITED ALABAMA BANCSHARES, INC.

Order Approving Acquisition of Bank

United Alabama Bancshares, Inc., Dothan, Alabama, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire at least 80 percent of the voting shares of the First National Bank of Eufaula, Eufaula, Barbour County, Alabama ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and all comments received have been considered in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant is at present a one-bank holding company, owning approximately 58 percent of the City National Bank of Dothan, Dothan, Alabama, with deposits of $15.4 million, representing one-fourth of one percent of total deposits of commercial banks in the state of Alabama.[1]

In addition, Applicant has pending applications to acquire two additional banks, one in Huntsville and the other in Bessemer, Alabama. Bank has total deposits of $11.2 million, and consummation of the proposed acquisition of Bank would not result in a significant increase in concentration of banking resources in Alabama, nor would such concentration be materially affected if Applicant's other proposed acquisitions are also approved. Applicant's present subsidiary is in Dothan, approximately 60 miles south of Bank, and Applicant does not presently have any affiliates in Barbour County. Consequently, there is no existing competition between Bank and Applicant's present and proposed subsidiaries. Furthermore, it is unlikely that competition would develop between these banks in the future because of their size and the distance between them.

Considerations relating to the financial and managerial resources and future prospects of Applicant, its subsidiary and Bank are regarded as satisfactory and consistent with approval of the application.

Considerations relating to convenience and needs of the community to be served lend weight to approval of the application since Applicant plans to aid Bank in offering trust services, leasing, factoring and computer services in the Eufaula community. It is the judgment of the Federal Reserve Bank of Atlanta that consummation of the proposed acquisition would be in the public interest and that the application should be approved.

On the basis of the record in this case, the application is approved for the reasons summarized above. However, the transaction shall not be consummated (a) before July 20, 1973 or (b) later than September 20, 1973, unless such period is extended for good cause by the Board of Governors of the Federal System or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

By order of the Federal Reserve Bank of Atlanta, acting pursuant to delegated authority for the Board of Governors of the Federal Reserve System, effective June 20, 1973.

[SEAL] MONROE KIMBREL,
President.

[FR Doc.73-13368 Filed 6-29-73;8:45 am]

UNITED ALABAMA BANCSHARES, INC.

Order Approving Acquisition of Bank

United Alabama Bancshares, Inc., Dothan, Alabama, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under Section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire at least 80 percent of the voting shares of Bank of Huntsville, Huntsville, Madison County, Alabama ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and all comments received have been considered in light of

[3] Whitney National Bank in Jefferson Parish v. Bank of New Orleans & Trust Co., 379 U.S. 411 (1965).

[4] Voting for this action: Vice Chairman Mitchell and Governors Daane, Brimmer, Sheehan, Bucher and Holland. Absent and not voting: Chairman Burns.

[1] Banking data are as of June 30, 1972.

the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant is at present a one-bank holding company, owning approximately 58 percent of the City National Bank of Dothan, Dothan, Alabama, with deposits of $15.4 million, representing one-fourth of one percent of total deposits of commercial banks in the state of Alabama.[1] In addition, Applicant has pending applications to acquire two additional banks, one in Eufaula and the other in Bessemer, Alabama. Bank has total deposits of $19.2 million, and consummation of the proposed acquisition of Bank would not result in a significant increase in concentration of banking resources in Alabama, nor would such concentration be materially affected if Applicant's other proposed acquisitions are also approved. Applicant's present subsidiary is located in Dothan, over 250 miles south of Bank. Applicant's closest pending acquisition is in Bessemer, approximately 100 miles south, and Applicant does not presently have any affiliates in Madison County. Consequently, there is no existing competition between Bank and Applicant's present and proposed subsidiaries. Furthermore, it is unlikely that competition would develop between these banks in the future because of their size and the distance between them.

Considerations relating to the financial and managerial resources and future prospects of Applicant, its subsidiary and Bank are regarded as satisfactory and consistent with approval of the application.

Considerations relating to convenience and needs of the community to be served lend weight to approval of the application since Applicant plans to aid Bank in offering trust services, leasing, factoring and computer services in Huntsville. It is the judgment of the Federal Reserve Bank of Atlanta that consummation of the proposed acquisition would be in the public interest and that the application should be approved.

On the basis of the record in this case, the application is approved for the reasons summarized above. However, the transaction shall not be consummated (a) before July 20, 1973, this order or (b) later than September 20, 1973, unless such period is extended for good cause by the Board of Governors of the Federal Reserve System or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

By order of the Federal Reserve Bank of Atlanta, acting pursuant to delegated authority for the Board of Governors of the Federal Reserve System, effective June 20, 1973.

[SEAL] MONROE KIMBREL,
President.

[FR Doc.73-13369 Filed 6-29-73;8:45 am]

UNITED ALABAMA BANCSHARES, INC.

Order Approving Acquisition of Bank

United Alabama Bancshares, Inc., Dothan, Alabama, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire at least 80 percent of the voting shares of the First Western Bank, Bessemer, Jefferson County, Alabama ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and all comments received have been considered in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant is at present a one-bank holding company, owning approximately 58 percent of the City National Bank of Dothan, Dothan, Alabama, with deposits of $15.4 million, representing approximately one-fourth of one percent of total deposits of commercial banks in the state of Alabama.[1] In addition, Applicant has pending applications to acquire two additional banks, one in Huntsville and the other in Eufaula, Alabama. Bank has total deposits of $16.6 million, and consummation of the proposed acquisition of Bank would not result in a significant increase in concentration of banking resources in Alabama, nor would such concentration be materially affected if Applicant's other proposed acquisitions are also approved. Applicant's present subsidiary is located in Dothan, approximately 250 miles southeast of Bank. Applicant does not presently have any affiliates in Jefferson County. Consequently, there is no existing competition between Bank and Applicant's present and proposed subsidiaries. Furthermore, it is unlikely that competition would develop between these banks in the future because of their size and the distance between them.

Considerations relating to the financial and managerial resources and future prospects of Applicant, its subsidiary and Bank are regarded as satisfactory and are consistent with approval of the application.

Considerations relating to convenience and needs of the community to be served lend weight to approval of the application since Applicant plans to aid Bank in offering trust services, leasing, factoring and computer services in the Bessemer and Birmingham areas. It is the judgment of the Federal Reserve Bank of Atlanta that consummation of the proposed acquisition would be in the public interest and that the application should be approved.

On the basis of the record in this case, the application is approved for the reasons summarized above. However, the transaction shall not be consummated (a) before July 20, 1973 this order or (b) later than September 20, 1973, unless such period is extended for good cause by the Board of Governors of the Federal Reserve System or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

By order of the Federal Reserve Bank of Atlanta, acting pursuant to delegated authority for the Board of Governors of the Federal Reserve System, effective June 20, 1973.

[SEAL] MONROE KIMBREL,
President.

[FR Doc.73-13370 Filed 6-29-73;8:45 am]

UNITED TENNESSEE BANCSHARES CORP.

Order Denying Merger of Bank Holding Companies

United Tennessee Bancshares Corporation, Memphis, Tennessee ("United Tennessee"), a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(5) of the Act (12 U.S.C. 1842(a)(5)) to merge with American National Corporation, Chattanooga, Tennessee ("American"), under the certificate of incorporation and title of United Tennessee.

Notice of receipt of the application, affording an opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

United Tennessee controls five banks, with aggregate deposits of $470 million, representing about 5 per cent of deposits of commercial banks in Tennessee, and is the seventh largest banking organization in the State.[1] American controls one bank, American National Bank and Trust Company, Chattanooga, Tennessee ("Chattanooga Bank"), with total deposits of $289.8 million, representing about 3 per cent of deposits of commercial banks in the State, and is Tennessee's eighth largest banking organization. Consummation of the proposed merger would result in United Tennessee controlling approximately 8 per cent of total deposits in the State and would result in its being the third largest banking organization in Tennessee.

The Department of Justice ("Justice") has commented on this application and concluded that it should be denied. Justice indicated that, in its opinion, the proposed merger would not eliminate significant existing competition; Justice is of the opinion, however, that United Tennessee and American are potential entrants into each other's markets and that potential competition would be eliminated by the merger. Additionally, Justice states that the merger would have a significant adverse effect on the development of a competitive banking structure for Tennessee. Justice states there are only seven major bank holding companies in the State and that there are few opportunities for development of other large ones. In Justice's view, this makes it particularly important that organizations of the size of United Tennessee and American be kept separate.

[1] Banking data are as of June 30, 1972.

[1] Banking data are as of June 30, 1972.

[1] Banking data are as of June 30, 1972 and reflect holding company formations and acquisitions approved by the Board through April 30, 1973.

United Tennessee responded to Justice's comments by declaring that it would not consider entry into American's market area other than through acquisition of American nor did it consider American to be a viable, potential competitor as a Statewide holding company. Applicant indicates its belief that, instead of harming competition, this merger would help it by increasing American's effectiveness in its present market area and through the strengthening of United Tennessee's ability to compete with the larger holding companies in the State.

There is no significant existing competition between United Tennessee and American. The closest subsidiary of United Tennessee to Chattanooga Bank is approximately 130 miles distant. Though Chattanooga Bank does originate some loans in the market area of one of United Tennessee's subsidiaries, the amount appears to be minimal. On the other hand, United Tennessee does not have any deposits or loans from Chattanooga Bank's banking market.[2]

In the Board's opinion, however, approval of this application would have significantly adverse effects on potential competition in the banking market of Chattanooga Bank. Chattanooga Bank is the second largest banking organization in the relevant market, controlling about 39 per cent of deposits, and, together with the leading bank in the area, controls about 80 per cent of market deposits. United Tennessee's acquisition of Chattanooga Bank would tend to solidify this market dominance by the two largest banking organizations and would hinder the emergence of new competitive forces in that market. If United Tennessee entered the Chattanooga banking market, either through acquisition of one of the two smaller banks located in Tennessee or by de novo entry, there is a reasonable probability that a trend toward deconcentration would result. United Tennessee must be considered one of the more likely entrants into the Chattanooga market in light of its aggressive acquisition policy and its capabilities for entry. The Chattanooga banking market also appears attractive for de novo entry. For example, the newest bank in the market, established in 1971, has already obtained $24.6 million in deposits in the approximately 18 months it has been opened. Additionally, the population and deposits per banking office ratios and deposits per capita figures for the Chattanooga banking market are all above comparable Statewide ratios. These factors tend to demonstrate the attractiveness of the market for de novo entry. United Tennessee's assertion that it would not enter the relevant market other than through acquisition of American must be viewed against this background. As the Supreme Court stated in the case of United States v. Falstaff Brewing Corporation, et. al. 41 LW 4343, "This does not mean that the testimony of company officials about actual intentions of the company [Falstaff] is irrelevant or is to be looked upon with suspicion; but it does mean that theirs is not necessarily the last word in arriving at a conclusion about how Falstaff should be considered in terms of its status as a potential entrant into the market in issue." Pp. 4344, 4345. The Board believes that the aforementioned factors to indicate United Tennessee as a potential entrant into the Chattanooga banking market. Given the concentration of the Chattanooga banking market, the probability of United Tennessee as a potential entrant into such market and the opportunities for de novo or "foothold" entry, the Board concludes that approval of the merger would have a significantly adverse effect on potential competition.[3]

Another consideration is the fact that acquisition of American by United Tennessee would eliminate the probability that American would develop into a Statewide bank holding company. It certainly would appear to have the resources to so develop since its lead bank is approximately the same size as the lead bank of United Tennessee and also that of the lead bank of Hamilton Bankshares, another multibank holding company in Tennessee. American has numerous correspondent relationships with banks throughout Tennessee, some of which are likely prospects for acquisition by American. Additional weight must be given this probability since there are only a limited number of large banks in Tennessee that are potential lead banks for new holding companies. Besides Chattanooga Bank there are only two other banks in the State who would be likely candidates for lead banks for additional holding companies.[4] The Board believes that the competitive situation in individual local markets in Tennessee would be enhanced by requiring United Tennessee and American to remain separate potential entrants into such local markets. On the basis of the facts of record, the Board concludes that the competitive factors of this application weigh against approval of the application.

The financial condition and managerial resources and future prospects of United Tennessee and American and their subsidiary banks are generally satisfactory and consistent with approval of the application. However, these factors do not off-set the adverse competitive considerations raised by the application. American has full capabilities in these areas and does not need affiliation with United Tennessee to enable it to be a viable entity. There is no indication that in any of the communities served by either United Tennessee or American banking needs are not being met. Accordingly, although considerations relating to the convenience and needs of the communities to be served are consistent with approval, they do not outweigh the substantial adverse factors cited above. It is the Board's judgment that the proposed transaction is not in the public interest and should be denied. On the basis of the record, the application is denied for the reasons summarized above.

By order of the Board of Governors,[5] effective June 20, 1973.[6]

TYNAN SMITH,
Secretary of the Board.

[FR Doc.73-13365 Filed 6-29-73;8:45 am]

[2] The relevant banking market is approximated by the Chattanooga banking market, which consists of Hamilton County, Tennessee, and Walker County, Georgia.

[3] This is to be contrasted with the Board's decision in the application of First Florida Bancorporation (59 Federal Reserve *Bulletin* 183) where the Board found that the elimination of First Florida Bancorporation as a potential entrant into Dade County did not pose substantially adverse effects due to the banking structure of that market.

[4] An application by Hamilton Bancshares, Inc., to acquire one of these two other banks is presently pending. (38 FR 12628)

[5] Voting for this action: Chairman Burns and Governors Brimmer, Sheehan and Bucher. Absent and not voting: Governors Mitchell and Daane.

[6] Board action was taken before Governor Holland was a Board Member.

VIRGINIA NATIONAL BANKSHARES, INC.

Order Approving Acquisition of Bank

Virginia National Bankshares, Inc., Norfolk, Virginia, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire all of the voting shares (less directors' qualifying shares) of Virginia National Bank/Henry County, Henry County, Virginia ("Bank"), a proposed new bank.

Notice of the application, affording opportunity for interested persons to submit comments and views has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and none has been timely received. The Board has considered the application in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant controls three banks with aggregate deposits of approximately $1.1 billion, representing 11.5 per cent of the total commercial bank deposits in the State, and is the second largest banking organization in Virginia.[1] Since Bank is a proposed new bank, no existing competition would be eliminated, nor would concentration be increased in any relevant area. Bank would be located just outside the city of Martinsville, in Henry County, and would be competing in the Henry County-Martinsville market, in which market Applicant controls 3.6 per cent of deposits. Applicant's lead bank operates a branch in Martinsville, 2.5 miles from the site of the proposed location of Bank. However, Virginia law prohibits Applicant's lead bank from further branching in Henry County beyond the Martinsville city limits.

The market area is presently served by three local banks, which control 96 per cent of the area deposits, and the

[1] Banking data are as of June 30, 1972, adjusted to reflect holding company formations and acquisitions approved through April 30, 1973.

branch office of Applicant's lead bank. It appears that consummation of the proposal herein would not alter adversely the competitive situation nor the concentration of resources in the market, nor is there any evidence that Applicant's proposal is an attempt to preempt a site before there is a need for a bank. Population in the area increased by 19.3 per cent between 1960 and 1970, and is expected to show continued growth during the next decade.

The financial and managerial resources and future prospects of Applicant and its subsidiary banks are regarded as generally satisfactory. Prospects for Bank appear favorable. Bank would be able to provide a local alternative banking source within the proposed service area, which is experiencing rapid growth. Considerations relating to the convenience and needs of the area to be served are consistent with approval of the application. It is the Board's judgment that the proposed acquisition would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before July 23, 1973 or (b) later than September 21, 1973, and (c) Virginia National Bank/Henry County, Henry County, Virginia, shall be opened for business not later than six months after the effective date of this Order. Each of the periods described in (b) and (c) may be extended for good cause by the Board, or by the Federal Reserve Bank of Richmond pursuant to delegated authority.

By order of the Board of Governors,[1] effective June 21, 1973.

TYNAN SMITH,
Secretary of the Board.

[FR Doc.73-13363 Filed 6-29-73;8:45 am]

INTERIM COMPLIANCE PANEL

Coal Mine Health and Safety

FREEMAN COAL MINING CORP.

Opportunity for Public Hearing

Application for Renewal Permit for Noncompliance with the Interim Mandatory Dust Standard (2.0 mg/m³) has been received as follows:

ICP Docket No. 20178, FREEMAN COAL MINING CORPORATION,
Orient No. 4 Mine, USBM ID No. 11 00628 0, Marion, Illinois,
Section ID No. 033 (5th South off NW),
Section ID No. 032 (6th South off NW),
Section ID No. 030 (7th South off NW),
Section ID No. 025 (Main 2nd SE Entries off NE),
Section ID No. 031 (Northwest Chain Pillars),
Section ID No. 034 (3rd South off NW).

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 July 17, 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, N.W., Washington, D.C. 20006.

GEORGE A. HORNBECK,
Chairman,
Interim Compliance Panel.

JUNE 26, 1973.

[FR Doc.73-13276 Filed 6-29-73;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 18010; 70-5336]

MISSISSIPPI POWER & LIGHT CO.

Proposed Gas Gathering and Transmission Agreement and Guarantee

JUNE 25, 1973.

Notice is hereby given that Mississippi Power & Light Company ("Mississippi") P.O. Box. 1640, Jackson, Mississippi, 39205, an electric utility subsidiary company of Middle South Utilities, Inc., a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a) and 7 of the Act as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

Mississippi proposes to enter into a gas gathering and transmission agreement ("Agreement") with Mississippi Fuel Company ("Fuelco"), a non-associate company, which is a subsidiary of Mustang Fuel Corp, to provide for construction of a pipeline which would be dedicated to the transportation of gas purchased by Mississippi from the points of purchase to Mississippi's generating stations. Mississippi presently owns and operates four steam electric stations, all of which are designed to burn natural gas as the principal fuel. In order to augment the supply of gas presently available under contracts for such stations, Mississippi has contracted to purchase: (1) gas from a gas processing plant in Ranken County, Mississippi, (2) a minimum of 200,000,000 MCF of the output of a new gas field in Copiah County, Mississippi, and (3) the entire output of the South State Line Field in Greene County, Mississippi. Under these contracts, it is estimated that 15,000 MCF per day, and 54,000 MCF per day and 10,000 MCF per day, respectively, will be available. With these and other potential purchases of commercial quantities of natural gas expected to be within economic transportation distance, it is estimated that at least 100,000 MCF per day will be available at the end of the first five years' operation. Mississippi has no expertise in the construction and operation of pipelines and expects to contract with Fuelco for the gathering and transportation of this gas over a pipeline system which is to be constructed, owned, financed and operated by Fuelco pursuant to the Agreement, with Mississippi having a right to direct such actions. Fuelco will also represent Mississippi in the acquisition of additional reserves, conduct reserve studies, pay producers and royalty owners and perform certain other duties, as set forth in the Agreement. Initially, the proposed pipeline system including laterals will extend approximately 170 miles, from the South State Field to Mississippi's Rex Brown Generating Station at Jackson, Mississippi, and will be further extended if and when sufficient quantities of gas are secured. The estimated cost of the initial pipeline and gathering facilities and working capital involved will be $9,500,000.

Fuelco expects to finance construction of the facilities through the private placement of $9,500,000 of its notes ("Notes") to be amortized over a 20-year period. Pursuant to the Agreement, Mississippi will covenant to provide revenues to Fuelco on a monthly basis sufficient to cover debt service on the Notes and all of Fuelco's operating and other expenses and taxes other than income taxes. In addition, the payments by Mississippi will provide Fuelco with a profit of ¾ of one cent per MCF of gas delivered to any of Mississippi's generating stations. All items of compensation (other than those based on capital cost and said profit to Fuelco) would be based on actual and allocated costs incurred by Fuelco. As a result of retaining the services of such an independent contractor to construct and operate said gas lines, Mississippi states that substantial financial and operating savings will accrue. The proposed physical facilities will be exclusively owned by Fuelco, and Mississippi will have no rights to acquire them except in the event of cancellation by or refusal by Fuelco to renew the Agreement at the end of its twenty-year term or specified defaults in performance. Under these circumstances, Mississippi would have the option of purchasing the facilities at the installed cost thereof less depreciation at five percent per annum, but in no event less than Fuelco's then outstanding long-term debt. Mississippi proposes to charge the entire amounts paid to Fuelco under the Agreement to its Fuel Expense Account.

Fuelco will annually file a form U-13E-1 pursuant to Rule 95 promulgated under the Act.

It is stated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction. The fees and expenses to be incurred by Mississippi in connection with the proposed transaction. The fees and expenses to be incurred by Mississippi in connection with the proposed transaction are expected not to exceed $3,000.

Notice is further given that any interested person may, not later than July 23, 1973, request in writing that a hearing

[1] Voting for this action: Vice Chairman Mitchell and Governors Daane, Brimmer, Sheehan, Bucher and Holland. Absent and not voting: Chairman Burns.

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 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 (air mail if the person being served is located more than 500 miles from the point of mailing) upon the declarant 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 declaration, as filed or as it may be amended, may be permitted to become effective as provided in rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive 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.73-13270 Filed 6-29-73;8:45 am]

[File 500-1]

PMC-POWDERED METALS CORP.

Order Suspending Trading

JUNE 22, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock and all other securities of PMC-Powdered Metals Corporation 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 2:30 p.m. (EDT) on June 22, 1973 through July 1, 1973.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.73-13271 Filed 6-29-73;8:45 am]

[File 500-1]

PARAGON SECURITIES CO.

Order Suspending Trading

JUNE 22, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $.01 par value, and all other securities of Paragon Securities Company 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 June 23, 1973 through July 2, 1973.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.73-13272 Filed 6-29-73;8:45 am]

[File 500-1]

MONMOUTH INDUSTRIES, INC.

Order Suspending Trading

JUNE 22, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $.25 par value, and all other securities of Monmouth Industries, 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 2:30 p.m. (EDT) on June 22, 1973 and continuing through July 1, 1973.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.73-13273 Filed 6-29-73;8:45 am]

[File 500-1]

ROYAL PROPERTIES INC.

Order Suspending Trading

JUNE 22, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $5. par value and all other securities of Royal Properties Incorporated, 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 11:00 a. m. (EDT) on June 22, 1973 and continuing through July 1, 1973.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.73-13274 Filed 6-29-73;8:45 am]

SUSQUEHANNA RIVER BASIN COMMISSION

MANAGEMENT AND DEVELOPMENT OF WATER RESOURCES

Public Hearings on Proposed Comprehensive Plan

On Wednesday, June 20th, 1973 there was published in the FEDERAL REGISTER, pages 16117 and 16118, notice of public hearings on proposed comprehensive plan. An error exists in the second paragraph on page 16118, and said paragraph is hereby corrected to read as follows:

"Before final adoption of a comprehensive plan, full consideration will be given to the views and recommendations of responsible agencies, groups, and individual citizens. It should be understood that actual implementation or funding of any project or program will not be included unless such proposal is authorized and funded by the appropriate Federal, State, or local government body."

[SEAL] ROBERT J. BIELO, *Executive Director, Susquehanna River Basin Commission.*

[FR Doc.73-13269 Filed 6-29-73;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice 288]

ASSIGNMENT OF HEARINGS

JUNE 27, 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 99695 Sub 5, Atlas Transit, Inc., Extension-Lonoke, Ark., now being assigned August 8, 1973, at Little Rock, Ark., in a hearing room to be later designated.

MC-F-11749, Allegheny Freight Lines, Inc.—Purchase—Muri E. Twigg, DBA Twigg Transfer & General Hauling, now assigned July 30, 1973, at Washington, D.C. is postponed to August 6, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC-136707, Ale Motor Freight, Inc., application is dismissed.

MC-10794 Sub 3, Perrow Motor Freight Lines, Inc., now assigned July 10, 1973, at Washington, D.C., is postponed to September 12, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC-C-7980, Robert B. Wood, Northern Auto Supply, Inc., and St. Johnsbury Beverage Co., Investigation of Operations and Practices, now being assigned hearing September 11, 1973 (1 day), at Boston, Mass., in a hearing room to be later designated.

MC–F–11487, Auclair Transportation, Inc.—Control and Merger—Paul V. Adams Trucking, Inc., MC 9429 (Sub-No. 6), Paul V. Adams Trucking, Inc., MC–F–11552, Auclair Transportation, Inc.—Purchase (Portion)—Bonded Trucking & Rigging, Inc., and FD 27182, Auclair Transportation, Inc., Notes, now being assigned hearing September 12, 1973 (3 days), at Boston, Mass., in a hearing room to be later designated.

MC–F–11819, Lopez Trucking, Inc.—Purchase—Lippa Transportation Co., Inc., (Abraham Ankeles, Trustee of Hardy Realty Trust), now being assigned hearing September 17, 1973 (3 days), at Boston, Mass., in a hearing room to be later designated.

No. 35791, General Increase, February 1973, Bulk Carrier Conference, now assigned July 23, 1973, at Washington, D.C., is postponed to August 21, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 107743 (Sub-No. 20), System Transport, Inc., is continued to August 14, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73–13352 Filed 6–29–73;8:45 am]

[Notice 307]

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 August 1, 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–74395. By order entered June 25, 1973 the Motor Carrier Board approved the transfer to E. Roseman Co., Inc., of the operating rights set forth in Certificate No. MC–47656, issued March 2, 1964, to Marvin Feldman, doing business as E. Roseman Company, Philadelphia, Pa., authorizing the transportation of household goods and antiques, between Philadelphia, Pa. on the one hand, and, on the other, points in New York, New Jersey, and Delaware. Lawrence Corson, Suite 1300, One East Penn Square, Philadelphia, Pa. 19107, attorney for applicants.

No. MC–FC–74485. By order of June 22, 1973 the Motor Carrier Board approved the transfer to Patterson Trucking Co., A Corporation, Memphis, Tenn., of the operating rights in Certificate No. MC–108065 issued January 30, 1951, to Patterson Transfer Company, A Corporation, Memphis, Tenn., authorizing the transportation of general commodities, over specified routes between Memphis, Tenn. and West Memphis, Ark., serving no intermediate points. Robert E. Joyner, 2008 Clark Tower, Memphis, Tenn. 38137 Attorney for applicants.

No. MC–FC–74510. By order of June 21, 1973 the Motor Carrier Board approved the transfer to Nelson Brothers Transfer, Inc., Geneva, Ill., of Certificate No. MC–20750 issued May 19, 1969, to Arthur S. Nelson, D/B/A Nelson Brothers Transfer, Geneva, Ill., authorizing the transportation of general commodities, with exceptions, between Chicago, Ill., and Geneva, Ill. Joseph Radovich, 312 West State St. Geneva, Illinois, 60134, Attorney for Applicants.

No. MC–FC–74527. By order of June 22, 1973 the Motor Carrier Board approved the transfer to Anthony D. Fiamingo, D/B/A Fiamingo Moving and Storage, Mansfield, Pa., of Certificate No. MC–126900 issued June 1, 1965, to Torrence G. Royer, D/B/A T. G. Royer, Mansfield, Pa., authorizing the transportation of household goods, between Wellsboro, Pa., and points within 25 miles thereof, on the one hand, and, on the other, points in New York, New Jersey, Ohio, and Maryland. John D. Lewis, 19 Central Avenue, Wellsboro, Pa. 16901, Attorney for Transferee.

No. MC–FC–74531. By order of June 22, 1973 the Motor Carrier Board approved the transfer to Parker and Son Trucking, Inc., Santa Rosa, Calif., of Certificate No. MC–134006 (Sub-No. 1) issued July 13, 1970, to Joyce E. Parker, D/B/A Parker & Son Trucking, Santa Rosa, Calif., authorizing the transportation of lignin-based soil conditioners, dry, from points in Sonoma County, Calif., to points in Nevada and Oregon. John A. McNamara, Anderson, McDonald, Belden & Kelly, Post Office Box 1566, Santa Rosa, California 95403, Attorney for Applicants.

No. MC–FC–74533. By order of June 25, 1973 the Motor Carrier Board approved the transfer to John H. Cerquozzi, Williamsport, Pa., of Certificate No. MC–123663 issued February 23, 1962, to Frederick A. Newhart, Hughesville, Pa., authorizing the transportation of wooden products, with exceptions, from Picture Rocks, Pa., and points within one mile thereof, to points in New York, Connecticut, New Jersey, Maryland, and Delaware, and returned shipments and materials used in the manufacture of wooden products, with exceptions, from points in the above destination states to the above origin points. Christian V. Graf, 407 North Front Street, Harrisburg, Pa. 17101, Attorney for Applicants.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73–13353 Filed 6–29–73;8:45 am]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

[Notice 86]

JUNE 26, 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 (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 50069 (Sub-No. 462 TA) filed June 18, 1973 Applicant: REFINERS TRANSPORT & TERMINAL CORPORATION 445 Earlwood Avenue Oregon, Ohio 43616 Applicant's representative: David Hunkins (same address as above) Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum lube oil*, in bulk, in tank vehicles, from Indianapolis, Ind., to Hamilton, Ala., for 180 days. SUPPORTING SHIPPER: D. A. Stuart Oil Co., Ltd., 2727 So. Troy Street, Chicago, Ill. 60623. SEND PROTESTS TO: District Supervisor Keith D. Warner, Bureau of Operations, Interstate Commerce Commission, 313 Federal Office Bldg., 234 Summit Street, Toledo, Ohio 43604.

No. MC 51146 (Sub-No. 322 TA) filed June 18, 1973 Applicant: SCHNEIDER TRANSPORT, INC. 2661 South Broadway P.O. Box 2298 (Box zip 54306) Green Bay, Wis. 54304 Applicant's representative: Neil DuJardin (same address as above) Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from Lenoir, N.C., to the Upper Peninsula of Michigan, for 180 days.

SUPPORTING SHIPPER: Broyhill Furniture Industries, Lenoir, N.C. (Kenneth A. Russell, Regional Salesman). SEND PROTESTS TO: District Supervisor John E. Ryden, Interstate Commerce Commission, Bureau of Operations, 135 West Wells St., Room 807, Milwaukee, Wis. 53203.

No. MC 102567 (Sub-No. 164 TA) filed June 18, 1973 Applicant: EARL GIBBON TRANSPORT, INC. P.O. Drawer 5357 4295 Meadow Lane Bossier City, La. 71010 Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pine Tar*, in bulk, in tank vehicles, from Alexandria, La., to points in Ohio and Pennsylvania, for 180 days. SUPPORTING SHIPPER: Louisiana Pine Products Co., Inc., P.O. Box 814, Alexandria, La. 71301, Mr. Wm. L. Redmond, President. SEND PROTESTS TO: Paul D. Collins, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Rm. T-9038 U.S. Postal Service Bldg., 701 Loyola Ave., New Orleans, La. 70113.

No. MC 106400 (Sub-No. 97 TA) filed June 21, 1973 Applicant: KAW TRANSPORT COMPANY P.O. Box 12628 North Kansas City, Mo. 64116 Applicant's representative: Harold D. Holwick (same address as applicant) Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt*, in bulk, in tank vehicles, from the plant site of Trumbull Asphalt Co., North Kansas City, Mo., to points in Iowa, for 180 days. SUPPORTING SHIPPER: Trumbull Asphalt Co., North Kansas City, Mo. SEND PROTESTS TO: Vernon V. Coble, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 600 Federal Office Bldg., 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 114533 (Sub-No. 280 TA) filed June 15, 1973 Applicant: BANKERS DISPATCH CORPORATION 4970 South Archer Avenue Chicago, Ill. 60632 Applicant's representative: Stanley Komosa (same address as above) Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Audit media and other business records*, between Grand Rapids, Mich., on the one hand, and, on the other, points in Allen, Huntington, Adams, Grant, Miami, Wabash, Whitley, Kosciusko, Fulton, Marshall, DeKalb, Noble, LaGrange, Elkhart, St. Joseph, LaPorte, Porter, Lake, Steuben, Wells Counties, Ind., for 180 days. SUPPORTING SHIPPER: Mr. Edward Chambers, The Kroger Co., 1014 Vine Street, Cincinnati, Ohio. SEND PROTESTS TO: William J. Gray, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, 219 South Dearborn St., Room 1086, Chicago, Ill. 60604.

No. MC 123639 (Sub-No. 152 TA) filed June 13, 1973 Applicant: J. B. MONTGOMERY, INC. 5150 Brighton Boulevard Denver, Colo. 80216 Applicant's representative: John F. DeDock (same address as above) Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the facilities of Missouri Beef Packers, Inc. at or near Boise, Idaho, to points in Arizona, California, Colorado, Illinois, Indiana, Iowa, Kansas, Maryland, Massachusetts, Michigan, Missouri, Nebraska, Nevada, New York, New Hampshire, New Jersey, Ohio, Oregon, Pennsylvania, Rhode Island, Utah, Vermont, Washington, and Wyoming, restricted to traffic originating at the named origins, for 180 days. SUPPORTING SHIPPER: Missouri Beef Packers, Inc., 630 Amarillo Building, Amarillo, Tex. 79101. SEND PROTESTS TO: District Supervisor Roger L. Buchanan, Bureau of Operations, Interstate Commerce Commission, 2022 Federal Building, 1961 Stout Street, Denver, Colo. 80202.

No. MC 125952 (Sub-No. 21 TA) filed June 12, 1973. Applicant: INTERSTATE DISTRIBUTOR CO., a Corporation, 8311 Durango Street, S.W., Tacoma, Wash. 98499. Applicant's representative: George R. LaBissoniere, Suite 101, 130 Andover Park East, Seattle, Wash. 98188. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such materials* as are dealt in by wholesale grocery establishments, excluding those commodities requiring mechanical refrigeration, from points in California and Multnomah and Clackamas Counties, Oreg., to Kent, Wash., for 180 days. SUPPORTING SHIPPER: American Wholesale Grocery, P.O. Box 888, 8217 S. 212th, Kent, Wash. 98031. SEND PROTESTS TO: L. D. Boone, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 6049 Federal Office Building, Seattle, Wash. 98104.

No. MC 126539 (Sub-No. 16 TA) filed June 18, 1973. Applicant: KATUIN BROS. INC., 102 Terminal Street, Dubuque, Iowa 52001. Applicant's representative: Carl E. Munson, 469 Fischer Building, Dubuque, Iowa 52001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid animal feed and animal feed supplements*, in bulk, in tank vehicles, from the plantsite of Land O'Lakes, Inc. at or near Dubuque, Iowa, to points in Illinois, Minnesota, Nebraska, North Dakota, South Dakota, and Wisconsin, for 180 days. SUPPORTING SHIPPER: Land O'Lakes, Inc., 2827 Eight Avenue South, Fort Dodge, Iowa 50501. SEND PROTESTS TO: Herbert W. Allen, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 875 Federal Building, Des Moines, Iowa 50309.

No. MC 128285 (Sub-No. 14 TA) filed June 18, 1973 Applicant: MELLOW TRUCK EXPRESS, INC., 9801 N. Vancouver Way P.O. Box 17063 Portland, Oreg. 97217. Applicant's representative: David C. White 2400 S.W. Fourth Avenue Portland, Oreg. 97201 Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Prefabricated and pre-cut wooden buildings*, for the account of The Serendipity Group, Inc., from Portland, Oreg. and Vancouver, Wash., to points in Oregon, Washington and Idaho, for 180 days. SUPPORTING SHIPPER: The Serendipity Group, Inc., P.O. Box 4186, Portland, Oreg. 97208. SEND PROTESTS TO: District Supervisor, Huetig, Bureau of Operations, Interstate Commerce Commission, 450 Multnomah Bldg., 319 S.W. Pine Street, Portland, Oreg. 97204.

No. MC 129809 (Sub-No. 9 TA) filed June 14, 1973 Applicant: A & H, INC. 324 Old Highway 11 Footville, Wis. 53587 Applicant's representative: David J. MacDougall One East Milwaukee Street Janesville, Wis. 53545 Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cheese*, from Plymouth, Wis., to Boston and Canton, Mass.; Albany, Amsterdam, Buffalo, Niagara Falls, Brooklyn, and Manhattan, N.Y.; Reading, Philadelphia, Scranton, Allentown, Harrisburg, Hazleton, and Pittsburgh, Pa.; New Haven and Suffield, Conn.; Providence and Warwick, R.I.; Hackensack, Newark, Irvington, Little Ferry and North Bergen, N.J., for 180 days. SUPPORTING SHIPPER: S & R Cheese Corp., Plymouth, Wis. SEND PROTESTS TO: Barney L. Hardin, Interstate Commerce Commission, Bureau of Operations, 139 W. Wilson Street, Room 202, Madison, Wis. 53703.

No. MC 134145 (Sub-No. 34 TA) filed June 14, 1973. Applicant: NORTH STAR TRANSPORT, INC. P.O. Box 51 Thief Riber Falls, Minn. 56701. Applicant's representative: Robert P. Sack P.O. Box 6010 West St. Paul, Minn. 55118. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Parts, materials, and supplies* used in the manufacturing of sound reproducing equipment, from Talladega, Ala., to Rochester, Minn., for 180 days. SUPPORTING SHIPPER: Waters Conley Company, 501 First Avenue N.W., Rochester, Minn. 55901. SEND PROTESTS TO: J. H. Ambs, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 2340, Fargo, N. Dak. 58102.

No. MC 136044 (Sub-No. 2 TA) filed June 13, 1973. Applicant: R. D. BULKA, INC. 597 Bridgewater Ave. Somerville, N.J. 08876. Applicant's representative: Paul J. Keeler P.O. Box 253 So. Plainfield, N.J. 07080. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Floor coverings, carpeting and related articles*, from Brooklyn, N.Y.; South Plainfield and Hightstown, N.J., to points in Connecticut, Delaware, the District of Columbia, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island and Virginia, for 180 days. RESTRICTION: Restricted to a transportation service to be performed under a continuing contract or contracts with Kentile Floors, Inc. SUPPORTING SHIPPER: Kentile Floors, Inc., 58

Second Ave., Brooklyn, N.Y. 11215. SEND PROTESTS TO: District Supervisor Robert S. H. Vance, Bureau of Operations, Interstate Commerce Commission, 970 Broad St., Newark, N.J. 07102.

No. MC 136318 (Sub-No. 8 TA) filed June 15, 1973 Applicant: COYOTE TRUCK LINE, INC. 395½ B West Fleming Drive Morganton, N.C. 28655 Applicant's representative: Walter F. Jones, Jr. 601 Chamber of Commerce Bldg. Indianapolis, Ind. 46204 Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from High Point, Morganton, Marion and Spruce Pine, N.C., to points in Washington, Colorado, Oregon, Nevada, Idaho, Utah, New Mexico, Wyoming, Montana, North Dakota, South Dakota, Arizona, Nebraska and Kansas, for 180 days. SUPPORTING SHIPPER: Henredon Furniture Industries, Inc., Morganton, N.C. SEND PROTESTS TO: District Supervisor Terrell Price, Bureau of Operations, Interstate Commerce Commission, 800 Briar Creek Rd.—Room CC516, Mart Office Building, Charlotte, N.C. 28205.

No. MC 136449 (Sub-No. 1 TA) filed June 15, 1973 Applicant: D & M PRODUCTS, INC. 11320 N.E. Marx Street Portland, Oreg. 97220 Applicant's representative: Bob Gentry (same address as above) Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, plywood, building materials, fabricated cabinet components, prefabricated building components*, between points in Oregon and Washington, for 180 days. SUPPORTING SHIPPER: Diamond Industries, Division Medford Corporation, 550 S.E. Mill Street—P.O. Box 1008, Grants Pass, Oreg. 97526. SEND PROTESTS TO: District Supervisor W. J. Huetig, Bureau of Operations, Interstate Commerce Commission, 450 Multnomah Bldg., 319 S.W. Pine St., Portland, Oreg. 97204.

No. MC 136899 (Sub-No. 8 TA) filed June 14, 1973 Applicant: HIGGINS TRANSPORTATION LTD. 824 Valley View Drive Richland Center, Wis. 53581 Applicant's representative: Michael J. Wyngaard 329 West Wilson Street Madison, Wis. 53703 Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe and conduit, and materials, supplies, tools and fittings* used in the installation of plastic pipe and conduit, from Madison, Wis., to points in Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, North Dakota, Ohio, South Dakota and Wisconsin, for 180 days. SUPPORTING SHIPPER: Hurlbut Plastic Pipe Corporation, 1241 Gilson Street, Madison, Wis. 53703. SEND PROTESTS TO: Barney L. Hardin, Bureau of Operations, Interstate Commerce Commission, 139 W. Wilson Street, Room 202, Madison, Wis. 53703.

No. MC 138377 (Sub-No. 1 TA) filed June 18, 1973 Applicant: BURRIS EXPRESS CO. Harrington, Del. 19952 Applicant's representative: V. Baker Smith 2107 The Fidelity Bldg. Philadelphia, Pa. 19109 Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, (except in bulk) in vehicles equipped with mechanical refrigeration, from the facilities of Burris Warehouse Co., at or near Harrington, Del., to points in Maryland, New Jersey, New York, Pennsylvania, Virginia, West Virginia and the District of Columbia, for the account of Burris Warehouse Co., for 180 days. SUPPORTING SHIPPER: Mr. Charles Bradley, General Manager, Burris Warehouse Co., Harrington, Del. 19952. SEND PROTESTS TO: William L. Hughes, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 814–B Federal Bldg., Baltimore, Md. 21201.

No. MC 138410 (Sub-No. 1 TA) filed June 12, 1973 Applicant: DUANE LEROY OLSEN doing business as OLSEN TRUCKING P.O. Box 4176 South Lake Tahoe, Nev. 95705 Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paving materials, rock and sand*, from Dayton, Nev. and the plantsite of Bing Construction Co., located 3 miles south of Minden, Nev., to points in Alpine, Amador and El Dorado Counties, Calif., for 180 days. SUPPORTING SHIPPER: El Dorado Aggregates, Inc., P.O. Box 210, Dayton, Nev. 89403. SEND PROTESTS TO: District Supervisor Robert G. Harrison, Interstate Commerce Commission, Bureau of Operations, Room 203 Federal Building, 705 North Plaza Street, Carson City, Nev. 89701.

No. MC 138716 (Sub-No. 2 TA) filed May 29, 1973 Applicant: DIRECT TRANSFER COMPANY, INC. 1 Hackensack Avenue So. Kearny, N.J. 07032 Applicant's representative: Bert Collins 140 Cedar Street New York, N.Y. 10006 Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by retail department stores, between New York, N.Y.; points in Nassau, Suffolk, and Westchester Counties, N.Y.; Bergen, Burlington, Camden, Essex, Gloucester, Hudson, Mercer, Middlesex, Monmouth, Morris, Passaic, Somerset, Sussex and Union Counties, N.J. and those in the Philadelphia, Pa. commercial zone, on the one hand, and, on the other, Stone Mountain, Doraville, Decatur and Forest Park, Ga.; Ft. Lauderdale, Hialeah, Pompano, Lauderhill, West Palm Beach, Miami, and Hollywood, Fla., for 180 days. SUPPORTING SHIPPER: District Superivsor Robert E. Johnston, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, N.J. 07102.

No. MC 138741 (Sub-No. 1 TA) (CORRECTION) filed May 14, 1973, published in the Federal Register issue of May 31, 1973, as MC 107129 (Sub-No. 10 TA) and republished as corrected this issue. Applicant: E. K. MOTOR SERVICE, INC. 2005 N. Broadway Joliet, Ill. 60435. Applicant's representative: Tom B. Kretsinger Suite 910, Fairfax Bldg. 101 West Eleventh Kansas City, Mo. 64105 Note: The purpose of this partial republication is to show that applicant now seeks to operate as a *common carrier* in lieu of a contract carrier which was published in error. The correct MC number in No. MC 138741 (Sub-No. 1 TA) in lieu of MC 107129 (Sub-No. 10 TA). The rest of the application remains the same.

No. MC 138820 TA filed June 15, 1973 Applicant: PATTONS, INC. 2300 Canyon Road Ellensburg, Wash. 98926 Applicant's representative: James T. Johnson 1610 IBM Building Seattle, Wash. 98101 Authority sought to operate as *a contract carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products and meat byproducts*, from Ellensburg, Wash., to points in Multnomah, Columbia, Washington, Yamhill, Clackamas, Marion, Linn, Lane, Benton and Polk Counties, Oreg., for 180 days. SUPPORTING SHIPPER: Schaake Packing Company, Inc., RFD 1, Ellensburg, Wash. 98926. SEND PROTESTS TO: District Supervisor W. J. Huetig, Bureau of Operations, Interstate Commerce Commission, 450 Multnomah Bldg., 319 S.W. Pine Street, Portland, Oreg. 97204.

No. MC 138823 TA filed June 18, 1973 Applicant: CYRIL BUDDE TRUCKING CO., Avon, Minn. 56310. Applicant's representative: Cyril Budde (same address as above) Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles*, (except in bulk), between Albany, Minn.; Falum, Grantsburg and Siren, Wis., for 180 days. SUPPORTING SHIPPER: Avon Plastic's Inc., Avon, Minn. 56310 and North States Industries, Inc., 3650 Fremont Ave. N., P.O. Box 11037, Minneapolis, Minn. 55411. SEND PROTESTS TO: District Supervisor A. B. Spath, Interstate Commerce Commission, Bureau of Operations, 448 Federal Bldg., 110 S. 4th Street, Minneapolis, Minn. 55401.

Motor Carriers of Passengers

No. MC 123577 (Sub-No. 15 TA) filed June 18, 1973 Applicant: LAKE AND NEW YORK TRANSIT, INC. 419 Anderson Avenue Fairview, N.J. 07022 Applicant's representative: J. Millner 744 Broad Street Newark, N.J. 07102 Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage and express and newspapers*, in the same vehicle with passengers, between Ringwood, N.J. and New York, N.Y., serving no intermediate points, from junction of Greenwood Lake Turnpike, Skyland Drive and Erskine Road, over Skyland Drive to junction Colfax Avenue in Oakland, thence over Colfax Avenue to junction New Jersey Highway 208 in Oakland, thence over New Jersey Highway 208 to junction New Jersey Highway 4 in Fair Lawn, thence via New Jersey Highway 4 to junction New Jersey Highway 17 in Paramus, thence via New Jersey Highway 17 to junction Interstate Highway

80 in Hackensack, thence via Interstate Highway 80 to junction Interstate Highway 95 in Teaneck, thence via Interstate Highway 95 to junction New Jersey Highway 3 and Interstate Highway 495 in Secaucus, return over the same route, serving no intermediate points, for 180 days. Note: The applicant intends to join this route to its existing route between New York, N.Y. and Warwick, N.Y., thereby enabling it to serve Warwick and Greenwood Lake, N.Y., and Greenwood Lake, West Milford, and Ringwood, N.J., with MC 123577 (Sub-No. 1). SUPPORTING SHIPPER: Walter Kroegel, 18 Kendall Drive, Ringwood, N.J. 07456. SEND PROTESTS TO: District Supervisor Joel Morrows, Bureau of Operations, Interstate Commerce Commission, 9 Clinton Street, Room 618 Newark, N.J. 07102.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-13354 Filed 6-29-73;8:45 am]

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MONDAY, JULY 2, 1973
WASHINGTON, D.C.

Volume 38 ■ Number 126

PART II

ENVIRONMENTAL PROTECTION AGENCY

■

AIR PROGRAMS

Approval and Promulgation of Implementation Plans for Certain States

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Kansas Air Quality Control

On June 15, 1973 the Administrator disapproved the plan revision which the State of Kansas submitted to fulfill the requirement for a transportation and land use control plan in the Metropolitan Kansas City Interstate Region. That action was taken because there was not sufficient time to consider public comment on the revisions before June 15, 1973, when the Administrator was required to announce his approval/disapproval decision. No public comments were received on the plan revision during the comment period.

It has been determined after review that the nonregulatory plan revision submitted by the State of Kansas on May 29, 1973, is adequate to ensure that air quality standards for carbon monoxide will be met in the Metropolitan Kansas City Region by May 31, 1975. Information which was used to reach this decision may be found in "Evaluation Report of Transportation Controls for the Kansas City Air Quality Control Region," which is available at the Freedom of Information Center, EPA, Room 329, 401 M Street, S.W., Washington, D.C., and at the Office of Public Affairs, EPA, Region VII, 1735 Baltimore Street, Kansas City, Missouri 64108.

The approved implementation plan revisions were adopted in accordance with procedural requirements of State and Federal law, which provides for adequate public participation through notice, public hearings, and time for comment. Consequently, further public participation is not required.

(42 U.S.C. 1857c-5)

Dated: June 22, 1973.

ROBERT W. FRI,
Acting Administrator.

Part 52 of Chapter I, Title 40, of the Code of Federal Regulations is amended as follows:

Subpart R—Kansas

§ 52.873 [Amended]

1. Section 52.873 is amended by revising the attainment date tables as follows:

The date "May 31, 1975, d" for attainment of the national standards for carbon monoxide in the metropolitan Kansas City Interstate Region is replaced with the date "May 31, 1973."

§ 52.880 [Revoked]

2. Section 52.880 is revoked.

§ 52.881 [Revoked]

3. Section 52.881 is revoked.

[FR Doc.73-13038 Filed 6-29-73;8:45 am]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Louisiana Air Quality Control

On June 15, 1973, the Administrator disapproved the plan revision which the State of Louisiana submitted to fulfill the requirement for a transportation and/or land use control plan in Louisiana's portion of the Southern Louisiana-Southeast Texas Interstate Region. That action was taken because there was not sufficient time to consider public comment on the revision before June 15, 1973, at which time the Administrator was required to announce his approval/disapproval decision. No public comments were received on the plan revision during the comment period.

It has been determined after review that the plan revision submitted by Louisiana on March 30, 1973, is adequate to ensure that air quality standards for photochemical oxidants (hydrocarbons) will be met in Louisiana's portion of the Southern Louisiana-Southeast Texas Interstate Region by May 31, 1975. Information which was used to reach this determination may be found in the Evaluation Report which is available at the Freedom of Information Center, EPA, Room 329, 401 M Street, S.W., Washington, D.C. 20460, and at the EPA Region VI Office, 1600 Patterson Street, Suite 1100, Dallas, Texas 75201.

The approved implementation plan revisions were adopted in accordance with procedural requirements of State and Federal law, which provides for adequate public participation through notice, public hearings, and time for comment. Consequently, further public participation is not required.

(42 U.S.C. 1857c-5)

Dated: June 22, 1973.

ROBERT W. FRI,
Acting Administrator.

Part 52 of Chapter I, title 40, of the Code of Federal Regulations is amended as follows:

Subpart T—Louisiana

1. Section 52.970 is amended by revising paragraph (c) to read as follows:

§ 52.970 Identification of plan.

* * * * *

(c) Supplemental information was submitted on:

(1) February 28 and May 8, 1972, by the Louisiana Air Control Commission,

(2) July 17, 1972, and

(3) March 30, 1973.

§ 52.973 [Revoked]

2. Section 52.973 is revoked.

§ 52.979 [Amended]

3. Section 52.979 is amended by revising the attainment date table as follows:

The date "May 31, 1975, c" for attainment of the national standard for photochemical oxidants (hydrocarbons) in the Southern Louisiana-Southeast Texas Interstate Region with the date "May 31, 1975."

§ 52.980 [Revoked]

4. Section 52.980 is revoked.

[FR Doc.73-13039 Filed 6-29-73;8:45 am]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Missouri Air Quality Control

On June 15, 1973 the Administrator disapproved the plan revision which the State of Missouri submitted to fulfill the requirement for a transportation and land use control plan in the Metropolitan Kansas City Interstate Region. That action was taken because there was not sufficient time to consider public comment on the revisions before June 15, 1973, when the Administrator was required to announce his approval/disapproval decision. No public comments were received on the plan revision during the comment period.

It has been determined after review that the nonregulatory plan revision submitted by the State of Missouri on May 21, 1973, is adequate to ensure that air quality standards for carbon monoxide will be met in the Metropolitan Kansas City Region by May 31, 1975. Information which was used to reach this decision may be found in "Evaluation Report of Transportation Controls for the Kansas City Air Quality Control Region," which is available at the Freedom of Information Center, EPA, Room 329, 401 M Street, S.W., Washington, D.C., and at the Office of Public Affairs, EPA, Region VII, 1735 Baltimore Street, Kansas City, Missouri 64108.

The approved implementation plan revisions were adopted in accordance with procedural requirements of State and Federal law, which provides for adequate public participation through notice, public hearings, and time for comment. Consequently, further public participation is not required.

(42 U.S.C. 1857c-5)

Dated: June 22, 1973.

ROBERT W. FRI,
Acting Administrator.

Part 52 of Chapter I, title 40, of the Code of Federal Regulations is amended as follows:

Subpart AA—Missouri

§ 52.1332 [Amended]

1. Section 52.1332 is amended by revising the attainment date tables as follows:

The date "May 31, 1975, b" for attainment of the national standards for carbon monoxide in the metropolitan Kansas City Interstate Region is replaced with the date "May 31, 1975."

§ 52.1333 [Revoked]

2. Section 52.1333 is revoked.

§ 52.1334 [Revoked]

3. Section 52.1334 is revoked.

[FR Doc.73-13037 Filed 6-29-73;8:45 am]

[40 CFR Part 52]

CALIFORNIA AIR QUALITY CONTROL

Approval and Promulgation of Implementation Plans

This notice of proposed rulemaking sets forth a revised transportation control plan for the Metropolitan Los Angeles Intrastate Air Quality Control Region (hereinafter, Los Angeles AQCR or South Coast Air Basin).

Background

In accordance with an order of the U.S. District Court for the Central District of California, November 16, 1972, a transportation control plan for the Los Angeles AQCR was proposed on January 15, 1973, and published in the Federal Register of January 22, 1973, with minor corrections on February 7, 1973 (38 FR 2194, 3526). Pursuant to the notice published on February 1, 1973 (38 FR 3085), public hearings were held at nine locations throughout the South Coast Air Basin, over a three-week period from March 5 to March 22, 1973. 240 witnesses testified on all aspects of the proposed plan and on various alternatives. The complete transcript is available for inspection at the Federal Information Center, 300 North Los Angeles Street, Room 1011, Los Angeles, California 90012; the U.S. Environmental Protection Agency, Region IX, 100 California Street, San Francisco, California 94111, and the U.S. Environmental Protection Agency, Office of Public Affairs, Room W311, 401 M Street, S.W., Washington, D.C. 20460.

A final transportation control plan will be promulgated for the Los Angeles AQCR on August 15, 1973, along with plans for other AQCRs needing federal promulgation. This revised proposal is being set forth at this time in order to solicit public comment on the current thinking of the Agency.

Summary

Studies available to the Administrator at present indicate that a reduction on the order of 90 percent would be necessary in projected 1975 emissions of reactive hydrocarbons in order to attain the National Primary Ambient Air Quality Standard for photochemical oxidants in the Los Angeles AQCR. Much of that reduction will take place due to control measures submitted by the State and already approved, but these measures are not enough to meet the standards. The Administrator has concluded that an extension to 1977 of the deadline for achieving the standards under section 110(e) of the Clean Air Act, is justified because the necessary technology or other alternatives are not available and will not be available soon enough to permit full compliance. In reaching this conclusion the Agency has considered and applied as a part of its plan reasonably available alternative means of attaining the primary standard.

The plan set forth herein provides for the application of its requirements to all emission sources other than motor vehicles no later than May 31, 1975, as required by section 110(e)(2)(A), and provides for reasonable interim measures of control for motor vehicles prior to 1977.

Most of this plan concerns the reasonable and apparently available means of reducing oxidants (as well as nitrogen dioxide), including requirements for bus and carpool lanes on freeways and major streets, reductions in off-street public parking, limitations on the construction of additional parking facilities, limitations on motorcycles, mandatory inspection and maintenance of light-duty vehicles, and a lid on further increases in gasoline consumption. These will be required prior to 1975 in most cases.

Other portions of the plan concern measures which appear reasonable but do not, at present, appear to have been developed to the point of application in 1975, due to technical problems related to retrofit devices such as catalytic converters. These will be required beginning in 1976 with full implementation by 1977, although they will be required earlier if they become available earlier. Even if all the reasonable measures mentioned above are imposed, it is quite possible, indeed probable, that the national standard for photochemical oxidants cannot be met in the Los Angeles AQCR by 1977. Achievement of the nitrogen dioxide standard is likewise uncertain. Under the Clean Air Act as written, the Agency has no choice but to include in this plan a measure which can achieve the standards in 1977 even if it appears impractical and unworkable. Consequently, gasoline and diesel fuel limitations of whatever degree necessary have been included for 1977. (An alternative to diesel fuel reduction would have been drastic cuts in aircraft flights or relocation of stationary sources.) If implemented, this would achieve the standards for both photochemical oxidants and nitrogen dioxide. However, the Agency will utilize every means available to avoid the need to impose impractical measures to reach that goal by 1977. It should be noted that grounds for a one-year extension of the compliance date for certain sources under section 110(f) of the Clean Air Act may arise, meaning that certain requirements of this plan may not be imposed until May 31, 1978.

The Need for Mass Transit

The development of large-scale mass transit facilities in the Los Angeles area is essential to any effort to reduce automotive pollution through restrictions on vehicle use. The planning, acquisition, and operation of a mass transit system is, and should remain, a local responsibility. However, the automobile problem does not follow the boundaries of counties or cities in the South Coast Air Basin, and current planning and operating agencies for mass transit do not appear to have sufficient authority to provide for adequate regional public transit. Consequently, the Agency strongly endorses the concept of a regionwide transportation planning and operation authority.

The Agency also actively encourages the immediate and large-scale purchase of additional public transportation facilities, most specifically including additional buses and an increased examination of the feasibility of rail transit. To create conditions conducive to rapid bus transit, several of the measures in this plan give preferential treatment to buses.

The Agency also encourages close examination of such measures as fare reductions, bicycle lanes, provision of jitney service and more minibuses, fringe parking lots for buses and carpools, special parking privileges for carpools, on-street parking prohibitions for non-residents, state taxes to encourage VMT reductions while raising revenue to benefit mass transit, and provision of bus tokens in place of free parking privileges.

State and Local Implementation of Control Measures

In order to preserve the scheme of the Clean Air Act whereby local pollution problems will be dealt with primarily at the local level, the Agency will require State and local governmental entities to take actions wherever possible, and will not involve the Federal government in the administration of local programs and in direct enforcement against individual citizens. Requirements of this sort are proposed with regard to bus/carpool lanes, motorcycle controls, public parking facilities, inspection/maintenance, and gas limitations. Appropriate governmental entities will also be required to submit compliance schedules for these programs with complete details on their implementation.

Testimony both for and against controls on motorcycles was received, including commitments from motorcycle interests to bring the present high level of emissions down to the vicinity of those achieved by automobiles. Since neither widespread testing methods nor technology appears to exist at present, it is proposed that the worst polluters—two-stroke motorcycles—not be allowed to operate during the smog-prone daylight hours in the summer months within the Basin. In addition, an overall lid on the increase in numbers of motorcycles is proposed to prevent counterproductive shifts from automobiles to motorcycles as a result of other elements of the control strategy. The Agency will evaluate the feasibility of establishing emission standards for new motorcycles and will evaluate the availability of motorcycle emission control technology for meeting emission standards and for retrofit.

Publicly owned off-street parking facilities will be required to reduce their number of parking spaces in an effort to reduce the high number of low-occupancy private vehicles entering the Central Business Districts and other congested areas, and to promote voluntary carpooling and use of bus transit. Comment is invited on the possibility of extending this control to privately owned parking facilities, either by outright reduction in spaces or by imposing regulatory fees.

The State of California is proceeding with an inspection system, which will result in emission reductions. The proposal herein will require that such system be expanded to require mandatory annual inspection of all vehicles.

Catalytic converters would be required in 1976–77 for many pre-1975 vehicles. It cannot be concluded at present that the technology for retrofit converters has developed to the point that they could be installed effectively as "retrofit" devices in 1975. However, the Agency will monitor the status of development of this technology and accelerate the dates if feasible.

If the State submits adequate control measures in any of these areas, or substitute control measures which will achieve comparable reductions in pollution, then the Administrator can approve the State's measures rather than promulgate his own. However, the requirements to submit adequate compliance schedules and take other action will be enforced on a timely basis if the Agency's measures are promulgated. Therefore, it is suggested that planning to comply with these measures not be delayed in hopes of approval of substitute measures.

Revised Control Strategy—Mobile Sources

Substantial testimony at the public hearings supported the concept of converting lanes on existing freeways and streets to bus or bus/carpool lanes. The measures proposed herein will require conversion of some lanes on all major streets and highways, and it is expected that a widespread network of bus/carpool lanes will provide substantial incentives to the use of buses and carpools while making private vehicle travel by single drivers relatively less attractive. Planning for specific lanes is expected to take place at the local level, under the overall requirements herein. Exceptions to or modifications of the broad requirements will be approved when specifically justified. Since it will take some time before sufficient buses are available to carry the passengers currently using these lanes in private cars, these proposed regulations would permit the use of the lanes by carpools with three or more persons in the vehicle. The Department of Transportation recommended total conversion of all freeways and major arterial streets to the exclusive use of buses and carpools during rush hours, but it is believed that such a measure implemented in a short time frame would not provide sufficient transportation for the area, considering the number of persons who must travel to work and the large variety of trip origins and destinations.

Another provision would limit further construction of new parking areas in the Basin.

The Agency's earlier proposal for gasoline rationing was required to meet the court order. A system of rationing in the ordinary sense is not being proposed at this time. Instead, it is proposed that the continuing growth in vehicle miles traveled within the Basin be stopped by limiting the continued growth in gasoline consumption. Gasoline consumption has been increasing approximately 4.5 percent per year. It is proposed that distributors not be permited to deliver to retail outlets any more gasoline than was distributed during the "base year" of July 1972–June 1973. No requirements will be placed on individual motorists, unless the State of California chooses to do so. The impact of this limitation will be much less severe and far more easily administered than a rationing system of great magnitude as was earlier proposed. In fact, the limitations on vehicle miles traveled which are expected to result from the conversion of existing lanes to bus/carpool lanes, as well as the reductions in publicly owned parking spaces, expansion of service of bus companies, and various local efforts to shift to less-polluting transportation, may very well reduce the demand for gasoline consumption sufficiently that the ceiling on increase in consumption will have a relatively light impact. This approach of combining a number of measures rather than relying on a single measure was supported by numerous witnesses at the public hearings.

Regulations for gaseous fuel conversion are not being reproposed at this time due to the limited supply of gaseous fuels and the likelihood that the fleets to which the regulation would be applicable will continue to acquire the newer, cleaner gasoline-powered vehicles. Evaporative controls are not being reproposed due to the lack of demonstrated technology and the low likelihood of its development.

Control Strategy—Stationary Sources

In many instances, the controls on stationary sources in the South Coast Basin are among the most stringent in the country. It should be noted, however, that stationary source pollution could threaten the attainment and maintenance of the national standards even if automotive pollution were totally eliminated. Thus, serious consideration should be given to the exercise of land-use controls to control the growth of stationary sources, as well as to developing more stringent emission controls. The Agency is conducting an emission inventory of stationary sources and examining the question of reactivity of hydrocarbons, which may substantially change the emission numbers for stationary sources.

The Agency is considering modifications to the regulations proposed in January on vapor collection and disposal systems. The modifications would limit coverage to gasoline rather than other organic solvents, raise the degree of control necessary, and require control earlier for large tanks. Consideration is also being given to requiring use of water-based solvents and solid coatings for surface coating and to requiring use of non-photochemically-reactive solvents, rather than merely encouraging such use. EPA-industry studies underway at present are expected to result in further considerable reactive hydrocarbon and organic emission reductions. Although proposed regulations for control of dry-cleaning solvent evaporation, gasoline storage and transfer, degreasing operations, and organic solvent usage are not printed in this notice, regulations proposed for other states today indicate the kinds of measures being considered and it is anticipated that regulations of this sort will be promulgated for the South Coast Basin. (See table on Compilation of Control Strategy Effects)

Compilation of Control Strategy Effects

(tons/day reactive hydrocarbons)

	1970 Emissions	1977 Emissions [1] Without EPA Plan	1977 Emissions [2] With EPA Plan (30% VMT Reduction)	1977 Emissions With 100% Gasoline and 60% Diesel Fuel Reduction
LDV Exhaust	768	319	146	0
LDV Evap. Crankcase	396	118	83	0
HDV Exhaust	68	48	34	0
HDV Evap. Crankcase	18	8	6	0
Gasoline Marketing	137	151	14	0
HDV Diesel Exhaust	26	24	24	9
Motorcycles:				
2-Stroke	20	33	0	0
4-Stroke	7	12	9	0
Aircraft	38	25	25	25
Ships				
Railroads	5	6	6	6
Stationary	118	104	72	72
	1601	848	419 [3]	112 [4]

[1] Includes growth in sources from 1970. Emission reductions are due to federal/state controls on new vehicles, new aircraft, state VSAD and PCV retrofit on existing vehicles, and state controls on stationary sources.

[2] Includes all measures in this proposal except an impractical degree of gasoline and diesel fuel reduction, a relocation of stationery sources, or a drastic cut in aircraft flights.

[3] 419 tons/day are expected to prevent the worst oxidant readings from exceeding .20 to .25 ppm, and to reduce the number of hours with readings above .08 ppm by 75% to 90%.

[4] 112 tons/day are allowable to achieve the ambient air quality standard for photochemical oxidants of .08 ppm.

Submittal of Written Comments

Interested persons may participate in this rulemaking by submitting written comments, preferably in triplicate, to the Regional Administrator, EPA, 100 California Street, San Francisco CA 94111. All relevant comments received before July 10, 1973, will be considered. Receipt of comments will be acknowledged, but substantive responses to individual comments will not be provided. Comments received will be available for public inspection at the regional office. The final promulgation of regulations for the Metropolitan Los Angeles Intrastate Air Quality Control Region will take place on August 15, 1973. This notice of proposed rulemaking is issued under the authority of section 110(c) and section 301(a) of the Clean Air Act (42 U.S.C. 1857 et seq.).

Dated: June 22, 1973.

Robert W. Fri,
Acting Administrator.

It is proposed to amend Part 52 of Chapter I, title 40, of the Code of Federal Regulations by adding the following:

Subpart F—California

1. Subpart F is amended by adding the following sections:

§ 52.241 Gasoline limitations.

(a) Definitions:

(1) The term "base year" means the consecutive twelve month period commencing on July 1, 1972, and ending June 30, 1973.

(2) The term "distributor" means any corporation, partnership, or sole proprietorship which transports or stores or causes the transportation or storage of gasoline between any refinery and any retail outlet.

(3) The term "retail outlet" means any establishment at which gasoline is sold or offered for sale to the public, or introduced into any vehicle.

(b) This section is applicable in the Metropolitan Los Angeles Intrastate AQCR (hereinafter the "AQCR"), to all distributors of gasoline to any retail outlet in this area and to the owners of all retail outlets in this area.

(c)(1) Beginning July 1, 1974, the State of California shall implement regulations limiting the total gallonage delivered to retail outlets in the AQCR to the amount delivered to such outlets during the base year.

(2) Beginning May 31, 1977, the State of California shall implement regulations limiting the total gallonage of gasoline and diesel fuel delivered to retail outlets to that amount which, when combusted, will not result in the ambient air quality standard being exceeded. The State shall by January 1, 1977, submit to the Administrator regulations to accomplish this limitation and specifying the amount of limitation necessary.

(d) In order for the State to determine the amount of gasoline delivered during the base year and years during which control is in effect, all distributors to which this section applies shall provide the State with a detailed accounting of the amount of gasoline delivered to each retail outlet in the AQCR during the base year and years during which control is in effect. For each year during which control is in effect, the owner of each retail outlet to which this section applies shall provide the State with a detailed accounting of gasoline received from each distributor, the total amount of gasoline sold during the year, and the amount of gasoline on hand at the beginning and end of the year. The State may require any other reports as it may deem necessary for the implementation of this section.

(e) The State of California shall submit no later than October 1, 1973, a detailed compliance schedule showing steps it will take to establish and enforce the limitation program specified in paragraphs (c)(1) and (d) of this section, including the text of needed statutory proposals and needed regulations which it will propose for adoption. Each schedule shall also include the following:

(1) A date by which the State shall adopt procedures to ensure that no more than the amount of gasoline specified in paragraph (c)(1) of this section is delivered to retail outlets in the AQCR. Such date shall be no later than March 30, 1974.

(2) A date by which any report necessary for establishing such procedures will be furnished to the State by the distributors. Such date shall be no later than January 1, 1974.

(3) An agency responsible for implementation and monitoring of this program.

(f) Failure to comply with any provisions of this section shall render the person so failing to comply in violation of a requirement of an applicable implementation plan and subject to enforcement under section 113 of the Clean Air Act. With regard to compliance schedules, a State will be considered to have failed to comply with the requirements of this section if it fails to timely submit any required compliance schedule, or if the compliance schedule when submitted does not contain in satisfactory form each of the elements it is required to contain.

§ 52.242 Inspection and maintenance program.

(a) Definitions:

(1) "Inspection and maintenance program"—a program to reduce emissions from in-use vehicles through identifying vehicles which need emission control-related maintenance and requiring that maintenance be performed.

(2) All other terms used in this section which are defined in 40 CFR Part 51, Appendix N, are used herein with the meanings so defined.

(b) This section is applicable in the Metropolitan Los Angeles Intrastate Air Quality Control Region.

(c) The State of California shall establish an inspection and maintenance program applicable to all light duty vehicles which operate on streets or highways over which it has ownership or control. No later than March 1, 1974, the State shall submit legally adopted regulations to EPA establishing such a program. The regulations shall include:

(1) Provisions for inspection of all motor vehicles at periodic intervals no more than one year apart by means of a loaded test.

(2) Provisions for inspection failure criteria consistent with the emissions reductions claimed in the plan for the strategy. These criteria shall include failure of 50 percent of the vehicles in the first inspection cycle.

(3) Provisions to ensure that failed vehicles receive the maintenance necessary to achieve compliance with the inspection standards. This shall include sanctions against individual owners and repair facilities, retest of failed vehicles following maintenance, a certification program to insure that repair facilities performing the required maintenance have the necessary equipment, parts and knowledge to perform the tasks satisfactorily, and such other measures as may be necessary or appropriate.

(4) A program of enforcement to insure that vehicles are not intentionally readjusted or modified subsequent to the inspection and/or maintenance in such a way as would cause them to no longer comply with the inspection standards. This might include spot checks of idle adjustments and/or a suitable type of physical tagging.

(5) Designation of an agency or agencies responsible for conducting overseeing, and enforcing the inspection and maintenance program.

(d) After January 1, 1975, the State shall not register or allow to operate on its streets or highways any light duty vehicle which does not comply with the applicable standards and procedures adopted pursuant to paragraph (c) of this section.

(e) After January 1, 1975, no owner of a light duty vehicle shall operate or allow the operation of such vehicle which does not comply with the applicable standards and procedures adopted pursuant to paragraph (c) of this section.

(f) The State of California shall submit no later than October 1, 1973, a detailed compliance schedule showing the steps it will take to establish and enforce an inspection and maintenance program pursuant to paragraph (c) of this section, including the text of needed statutory proposals and needed regulations which it will propose for adoption.

(1) The compliance schedule shall also include:

(i) The date by which the State will recommend needed legislation to the State legislature.

(ii) The date by which necessary equipment will be ordered.

(iii) A signed statement from the Governor or his designee identifying the sources and amounts of funds for the program. If funds cannot legally be obligated under existing statutory authority, the text of needed legislation will be submitted.

(g) Failure to comply with any provisions of this section shall render the person so failing to comply in violation of a requirement of an applicable implementation plan and subject to enforcement under section 113 of the Clean Air Act. With regard to compliance schedules, the State will be considered to have failed to comply with the requirements of this section if it fails to timely submit any required compliance schedule, or if the compliance schedule when submitted does not contain in satisfactory form each of the elements it is required to contain.

§ 52.243 Bus/carpool lanes.

(a) Definitions:

(1) "Carpool"—a vehicle containing three or more persons.

(2) "Bus/carpool lane"—a lane on a street or highway open only to buses (or buses and carpools), whether constructed specially for that purpose or converted from existing lanes.

(3) "Major street or highway"—any street or highway which meets the criteria given in paragraph (b)(4)(ii) and (iii) of this section.

(b) The following constitutes the first stage of the bus/carpool control strategy

for the Metropolitan Los Angeles Intrastate Air Quality Control Region.

(1) Each incorporated city within the Metropolitan Los Angeles Air Quality Control Region shall establish bus/carpool lanes on the major streets and highways (as defined herein) over which it has ownership or control, according to the schedule in paragraph (b)(4)(v) of this section.

(2) Each county within the Metropolitan Los Angeles Air Quality Control Region shall establish bus/carpool lanes on the major streets and highways (as defined herein) within the Region over which it has ownership or control, according to the schedule in paragraph (b)(4)(v) of this section.

(3) The State of California shall establish bus/carpool lanes on the major streets and highways (as defined herein) within the Region over which it has ownership or control, according to the schedule in paragraph (b)(4)(v) of this section.

(4) Each of the governmental entities named in the previous three subparagraphs shall submit, no later than October 1, 1973, a detailed compliance schedule showing the steps which it will take to establish these bus/carpool lanes and to enforce the limitations on their use, with each schedule to include the following:

(i) Each street and highway which will have bus/carpool lanes must be identified with a schedule for the establishment of the lanes.

(ii) If a street or highway has four or more traffic lanes in one direction, at least one of these lanes must be open only to buses or buses and carpools) at all times. If only one lane is open to buses (or buses and carpools) at all times, a second lane must be open only to buses (or buses and carpools) from 6:30 a.m. to 9:30 a.m. and from 3:30 p.m. to 6:30 p.m.

(iii) If a street or highway has three traffic lanes in one direction, at least one of these lanes must be open only to buses (or buses and carpools) from 6:30 a.m. to 9:30 a.m. and from 3:30 p.m. to 6:30 p.m.

(iv) In unusual situations, a street or highway, or lane or segment thereof, may be exempt from these requirements if an approval of the exemption is obtained from the Administrator. The application for exemption shall not be submitted and will not be accepted after September 1, 1973. Special circumstances justifying the need for an exemption or modification (such as inappropriateness of use by buses or desire to allow bus/carpool lanes to be entered briefly by other vehicles for the purpose of crossing a lane or making a right turn) must be given in detail with the application.

(v) Bus/carpool lanes must be prominently indicated by overhead signs at least once every mile, and at each intersection or entry ramp. Twenty-five percent of the lane mileage for each of the governmental entities must be established and needed signs must be installed by March 1, 1974; fifty percent by June 1, 1974; seventy-five percent by September 1, 1974; one hundred percent by December 1, 1974.

(vi) Bus/carpool lanes must be prominently indicated by distinctive painted lines, pylons, or physical barrier.

(vii) A signed statement by the chief executive officer of each governmental entity or his designee will identify the sources and amounts of funds for all projects.

(5) Buses shall have the right of way whenever changing lanes on streets and highways with bus lanes. This shall take effect as each lane is established and identified.

(6) Buses shall be permitted to make left turns whether or not the intersection is posted for "No Left Turn" (except when a one-way street would be entered from the wrong direction). This shall take effect January 1, 1974.

(7) None of the governmental entities named in paragraph (b) of this section shall convert existing on-street parking spaces to use as motor vehicle traffic lanes unless the effect will be to increase the number of bus/carpool lanes on the affected street beyond the number otherwise required by paragraph (b) of this section.

(c) Failure to comply with any provisions of this section shall render the person so failing to comply in violation of a requirement of an applicable implementation plan and subject to enforcement under section 113 of the Clean Air Act. With regard to compliance schedules, a governmental entity will be considered to have failed to comply with the requirements of this section if it fails to timely submit any required compliance schedule, or if the compliance schedule when submitted does not contain in satisfactory form each of the elements it is required to contain.

§ 52.244 Management of parking supply.

(a) Definitions:

(1) "Construction" means fabrication, erection, or installation of a parking facility, or any conversion of land to use as a facility.

(2) "Modification" means any change to a parking facility which increases the motor vehicle capacity of such facility.

(3) "Enlargement" means any physical change or addition to a parking facility which increases the motor vehicle capacity of such facility.

(4) "Commenced" means the date on which an owner or operator, and a contractor to or affiliate of such owner or operator, enter into a binding agreement or contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction, modification or enlargement.

(5) "Parking facility" (also called "facility") means any facility, building, structure, or lot or portion thereof used primarily for temporary storage of motor vehicles.

(b) This regulation is applicable in the Metropolitan Los Angeles Air Quality Control Region.

(c) No person, after the date of this regulation, shall commence construction of any new parking facility or modify or enlarge any existing parking facility until he has first received from the Administrator or from an agency approved by the Administrator a permit stating that construction, modification or enlargement of such facility will not interfere with the attainment or maintenance of applicable Federal Air Quality Standards.

(d) In order for any agency to be approved by the Administrator for purposes of issuing permits for construction of any new parking facility or any modification or enlargement of any existing parking facility such agency shall demonstrate to the satisfaction of the Administrator that:

(1) Requirements for permit applications and issuance have been established. Such requirements shall include but not be limited to a requirement that before a permit may be issued, the following findings of fact or factually supported projections must be made:

(i) The location of the proposed facility.

(ii) The total motor vehicle capacity of the proposed facility.

(iii) The normal hours of operation of the proposed facility and the enterprises and activities which it serves.

(iv) The number of people using or engaging in any enterprises or activities which the proposed facility will serve.

(v) The number of motor vehicles using the proposed facility on an average hourly basis and a peak hour basis.

(vi) A projection of the geographic areas in the community from which people and motor vehicles will be drawn to the proposed facility. Such projections shall include data concerning the availability of public transit from such areas.

(2) Criteria for issuance of permits have been established and published. Such criteria shall include but not be limited to:

(i) Full consideration of all facts contained in the application.

(ii) Provisions that no permit shall be issued if such permit will result in the increase of VMT within any area the air quality of which fails to meet applicable Federal air quality standards.

(3) Agency procedures provide that no permit for the construction, enlargement or modification of a facility covered by this section shall be issued without notice and oportunity for public hearing. The public hearing may be of the legislative type; the notice shall conform to the requirements of 40 CFR 51.4(b); and the agency rules of procedure may provide that if no notice of intent to participate in the hearing is received from any member of the public (other than the applicant) prior to seven days before the scheduled hearing date, no hearing need be held. Such a requirement, if imposed, shall be noted prominently in the required notice of hearing.

§ 52.245 Limitation of public parking.

(a) Definitions:

(1) The term "off-street parking facility" means any land or building or portion of a building set aside for the

purpose of storing a maximum capacity of ten or more motor vehicles on a temporary basis.

(b) Off-street parking facilities:

(1) Each governmental entity or public agency owning or operating an off-street parking facility located within the Metropolitan Los Angeles Air Quality Control Region shall, by October 1, 1973, report to the Administrator the number of motor vehicle parking spaces in each such facility under its ownership or control.

(2) Each such owner or operator of any off-street parking facility located within the area specified in paragraph (b)(1) of this section shall reduce the number of motor vehicle parking spaces in each such facility from the number in existence as of October 1, 1973, according to the following schedule:

By January 31, 1974—a reduction of 5%
By July 31, 1974—a reduction of 10%
By December 31, 1974—a reduction of 15%
By April 30, 1975—a reduction of 20%

(3) Each such owner or operator of an off-street parking facility subject to the requirements of paragraph (b)(2) of this section shall submit to the Administrator, no later than October 31, 1973, a detailed compliance schedule showing the steps it will take to achieve the required reduction in motor vehicle parking spaces. Such schedule shall provide for the marking in some manner obvious to the public (such as painting over, roping off, or the like) of the spaces eliminated pursuant to this regulation on which parking is not permitted.

(c) Failure to submit a compliance schedule as required by this regulation shall render the person so failing in violation of a requirement of an applicable implementation plan and subject to enforcement action under section 113 of the Clean Air Act. Any owner or operator of a parking facility who allows any motor vehicle to be parked on any parking space which has been eliminated pursuant to this regulation, or who fails to mark clearly those spaces which have been eliminated, shall likewise be in violation and subject to enforcement.

§ 52.246 Motorcycle limitation program.

(a) Definitions:

(1) "Motorcycle"—any self-propelled two or three wheeled motor vehicle capable of carrying one or more persons.

(2) "Four stroke engine"—an internal combustion engine which requires four strokes of the engine's pistons for a complete cycle of operation.

(3) "Two stroke engine"—an internal combustion engine which requires two strokes of the engine's pistons for a complete cycle of operation.

(4) "Registration"—the action of a State allowing a vehicle to be operated on the streets and highways in that State during a defined period of time.

(5) "Registration period"—that period of time for which a vehicle is allowed to be used within the State.

(b) This section is applicable in the Metropolitan Los Angeles Intrastate Air Quality Control Region.

(c) As of January 1, 1974, or any registration period which commences during the calendar year 1974, the State of California shall not register in the Metropolitan Los Angeles Intrastate Air Quality Control Region more motorcycles than the total number registered in 1973.

(d) As of May 1, 1974, the State of California shall prohibit the operation of two stroke motorcycles in the Metropolitan Los Angeles Intrastate Air Quality Control Region between 6:00 a.m. and 8:00 p.m. during the months of May, June, July, August, September, and October.

(e) After January 1, 1974, no person shall operate any motorcycle on the streets and highways of the State within the Metropolitan Los Angeles Intrastate AQCR which is not validly registered by the State of California or by another State.

(f) No later than October 1, 1973, the State shall submit a detailed compliance schedule showing steps it will take to implement and enforce these requirements, including the text of needed statutory proposals and needed regulations which it will propose for adoption. Each schedule shall also include the following:

(1) A date by which the State will adopt procedures necessary to limit the number of motorcycles registered as required above, to restrict the operation of two-stroke motorcycles as required above and to require the registration of all motorcycles operated as required above.

(2) Proposed procedures to ensure that no motorcycle will be registered by the State in a county other than that of the owner's legal residence.

(3) A date by which such procedures will go into effect. Such date shall be no later than January 1, 1974.

(g) Failure to comply with any provisions of this section shall render the person so failing to comply in violation of a requirement of an applicable implementation plan and subject to enforcement under section 113 of the Clean Air Act. With regard to compliance schedules, the State will be considered to have failed to comply with the requirements of this section if it fails to timely submit any required compliance schedule, or if the compliance schedule when submitted does not contain in satisfactory form each of the elements it is required to contain.

§ 52.248 Oxidizing catalyst retrofit.

(a) Definitions:

(1) "Oxidizing catalyst" means a device installed in the exhaust system of the vehicle that utilizes a catalyst and, if necessary, an air pump to reduce emissions of hydrocarbons and carbon monoxide from that vehicle.

(2) All other terms used in this section which are defined in 40 CFR Part 51, Appendix N, are used herein with the meanings so defined.

(b) This section is applicable in the Metropolitan Los Angeles Intrastate Air Quality Control Region.

(d) The State of California shall establish a retrofit program to ensure that on or before May 1, 1977, certain gasoline powered light duty vehicles of model years 1966 through 1974 subject under presently existing legal requirements to registration in the area defined in paragraph (b) of this section above are equipped with an appropriate oxidizing catalyst retrofit device. No later than March 1, 1974, the State shall submit legally adopted regulations to EPA establishing such a program. The regulations shall include:

(1) Designation of an agency responsible for evaluating and approving such devices for use on vehicles subject to this section.

(2) Designation of an agency responsible for insuring that the provisions of paragraph (d)(3) of this section are enforced.

(3) A provision that starting no later than May 31, 1976, the State of California shall require those light-duty vehicles of 1974 model year and earlier, which are able to operate on 91 RON gasoline, to be retrofitted with an oxidizing catalytic converter.

(4) Method and proposed procedures for ensuring that those installing the retrofits have the training and ability to perform the needed tasks satisfactorily and will have an adequate supply of retrofit components.

(d) After May 1, 1977, the State shall not register or allow to operate on its streets or highways any light duty vehicle which does not comply with the applicable standards and procedures adopted pursuant to paragraph (c) of this section.

(e) After May 1, 1977, no owner of a vehicle subject to this section shall operate or allow the operation of any such vehicle which does not comply with the applicable standards and procedures implementing this section.

(f) The State of California shall submit, no later than October 1, 1973, a detailed compliance schedule showing the steps it will take to establish and enforce a retrofit program pursuant to paragraph (c) of this section, including the text of needed statutory proposals and needed regulations which it will propose for adoption. The compliance schedule shall also include a date by which the State shall evaluate and approve devices for use in this program. Such date shall be no later than September 30, 1975.

(g) Failure to comply with any provisions of this section shall render the person so failing to comply in violation of a requirement of an applicable implementation plan and subject to enforcement under section 113 of the Clean Air Act. A State will be considered to have failed to comply with the requirements of this regulation if it fails to timely submit the required compliance schedule, or if the compliance schedule when submitted does not contain in satisfactory form each of the elements it is required to contain.

[FR Doc.73-13033 Filed 6-29-73;8:45 am]

[40 CFR Part 52]

INDIANA AIR QUALITY CONTROL

Proposed Approval and Promulgation of Revisions to Implementation Plans

On May 31, 1972 (37 FR 10842), pursuant to section 110 of the Clean Air Act and 40 CFR Part 51, the Administrator approved, with specific exceptions, State plans for the implementation of the national ambient air quality standards. On that date, the Governor of Indiana was advised that the attainment date for the national photochemical oxidant and carbon monoxide standards in the Metropolitan Indianapolis Intrastate Region was extended for 2 years.

On January 31, 1973, the United States Court of Appeals for the District of Columbia Circuit found that the Administrator did not conform to the requirements of the Clean Air Act of 1970 in granting extensions until mid-1977 for attainment of the national primary ambient air quality standards. Accordingly, the court ordered that the Administrator rescind the extensions granted the States for implementation of the transportation and/or land use control portion of their implementation plans. The affected States, including Indiana, were required to submit control plans by April 15, 1973. The plans were required to show attainment of the national ambient air quality standards for photochemical oxidants and/or carbon monoxide as expeditiously as practicable, but no later than May 31, 1975.

On June 15, 1973, the Administrator approved, with specific exemptions, certain State transportation and/or land use control plans submitted in response to the January 31, 1973, court order. On April 9, 1973, the State of Indiana held public hearings in Indianapolis on proposed revisions to their existing plan but failed to submit revisons to the Administrator by April 15, 1973. Such proposed revisions to the plan indicated that the photochemical oxidant standard was never exceeded during the entire year of 1972, according to continuous-monitoring data from one location. It was concluded therein that attainment of the standards in 1972 demonstrated that the standards would continue to be maintained through and subsequent to 1975. However, there was no explanation of the substantial decrease in observed oxidant concentrations between 1971 and 1972.

In analyzing the oxidant air quality data for calendar years 1971 and 1972, EPA raised several questions concerning calibration of the monitor, which is presently located at the Indiana State Board of Health Building. During the summer study of 1973, the oxidant monitor was located at the Washington Township Fire Station. While at this location, the instrument was calibrated monthly via the EPA reference method (neutral buffered KI procedure) by EPA personnel. Following operational problems during the period of October through December 1971, the instrument was moved to the State Board of Health Building, 8 miles south of the previous site at the Fire Station. The instrument was not calibrated by means of the reference method until September of 1972, and has not been calibrated according to the required technique since that time. These facts create serious doubts regarding the validity of the 1972 oxidant data. Consequently, EPA is of the opinion that the 1971 data are far more representative of the region and should be used in developing the required transportation strategies.

In its proposed revisions, EPA set forth a plan which, in the Administrator's judgment, based upon the information and data before him, would provide for the attainment and maintenance of the national standards for photochemical oxidants in the Metropolitan Indianapolis Intrastate Region (hereafter referred to as the "Region").

Should a State plan be submitted and determined to be approvable prior to Federal promulgation, these proposed regulations will be withdrawn. Should a State plan be submitted and determined to be approvable after Federal promulgation, then the Federal regulation will be rescinded. It is the desire of the Environmental Protection Agency that the plan to attain and maintain the photochemical oxidant standard in the Region be a State plan carried out by the State or its designated representative.

Pollution in the Region

The Region is comprised of approximately 3,000 square miles of land located in the central portion of Indiana. It consists of eight counties: Boone, Hamilton, Hancock, Hendricks, Johnson, Marion, Morgan, and Shelby. The population of the Region is about 1.1 million, approximately 70 percent of which reside in Marion County, which includes Indianapolis.

The primary national ambient air quality standard for photochemical oxidants is 160 $\mu g/m^3$ (0.08 ppm) average for a 1-hour period not to be exceeded more than once per year. The standard promulgated on April 30, 1971 (36 FR 8186), is based on evidence of adverse health effects on days when estimated hourly average concentrations of photochemical oxidants reach 0.10 ppm. A level of 0.08 ppm was therefore judged necessary by the Administrator to protect public health with an adequate margin of safety, as required by the Act.

During the summer of 1971, this standard was exceeded during 101 hours on 22 days at one of the two locations where oxidants were being measured. Concentrations measured at the two locations showed good correlation and were generally within 10 percent of each other. The highest concentration recorded was 0.14 ppm on September 8.

The next highest concentration recorded was 0.13 ppm on both August 8 and September 8, 1971. Since the primary standard is written in terms of a concentration which is not to be exceeded more than once per year, the calculations in the original Indiana Implementation Plan, which demonstrated the need for extension, were based upon this second highest concentration. Monitoring was continued during 1972 at only one of the original two locations; this site was located adjacent to the Indiana State Board of Health Building. During 1972, the standard was not exceeded at that location. However, serious doubts have been cast on the validity of the 1972 data, as previously stated. Therefore, the EPA proposal is based upon the need for pollutant reduction as originally defined in the Indiana Implementation Plan submitted on January 31, 1972.

The formation of photochemical oxidants is dependent upon the interaction between oxides of nitrogen and hydrocarbons in the presence of sunlight. When either of these components is reduced, the formation of oxidants may be reduced. Of these components, hydrocarbon emissions present the greatest possibility for control. The extent of the reduction in hydrocarbon emissions which is required to meet the primary air quality standards for oxidants, based upon various measured concentrations, has been determined and is presented in Appendix J to 40 CFR Part 51.

Summary

Information presently available to the Administrator indicates that a reduction of approximately 38 percent from the 1971 hydrocarbon emissions is necessary to achieve the primary ambient air quality standard for photochemical oxidants by May 31, 1975, in the Region.

The presently adopted Indiana stationary source regulations, along with the Federal Motor Vehicle Control Program, will account for only a 19 percent reduction of total hydrocarbons in the Region. Calculations based upon data in the Indiana Implementation Plan show that over 25 percent of all hydrocarbons that will be emitted in 1975 will result from open burning. In order to provide the additional hydrocarbon reduction necessary, it is today being proposed that open burning, including residential site incineration, be banned in the Region. In order to comply with this regulation, an alternate means of solid waste disposal will be required.

Proposed Control Strategy

A 38 percent reduction in total hydrocarbon emissions in the Region is required between 1971 and 1975 to achieve attainment of the primary national photochemical oxidant and hydrocarbon standards by the prescribed date. Existing regulations will only provide a 19 percent reduction. Alternatives, when considered individually, would require an additional 75 percent reduction in transportation-related emissions, an additional 90 percent reduction in process losses from area sources (present Indiana regulations do not generally apply to area sources), or the reduction of 14,000 tons of hydrocarbons per year through the banning of open burning, which presently is allowed in the form of residential site incineration. This proposal consists of the last alternative, that of banning open burning at such locations in the Region.

Data for the estimation of stationary source emissions were obtained from the State-Implementation Plan, as submitted by the State of Indiana on January 31, 1972. Mobile source emission estimates were based on data presented in a document entitled "Transportation Controls to Reduce Motor Vehicle Emissions in Indianapolis, Indiana," prepared by GCA Corporation, April, 1973, under contract number 68-02-0041. Since the area covered by the GCA study was the IR TADS (Indianapolis Regional Transportation and Development Study) Area, adjustments were made so that the calculated emissions for both mobile and stationary sources represented the same area. Adjustments were also made to the mobile source emissions to account for the interim 1975 vehicle emission standards, as prescribed by the Administrator on April 11, 1973.

Alternative Strategies

As previously stated, the Administrator presently considers the elimination of residential site open burning within the Region to be the most reasonable and workable method of achieving the primary ambient air quality standard for photochemical oxidants in Indianapolis by 1975. However, if it is demonstrated in the forthcoming hearings that the banning of open burning will not have sufficient impact on emissions, or that other measures are better calculated to achieve and maintain these standards, the Administrator will promulgate such measures as necessary.

Among the other measures which could be considered for implementation are:

(i) Establishment of an annual inspection and maintenance program, using an idle-mode test; this program would cover all vehicles registered within Marion County and would be a prerequisite for vehicle registration;

(ii) Requirement that all pre-1968 and/or controlled automobiles (or trucks) presently in use within Marion County be retrofitted with noncatalytic emission reduction devices; such a requirement would be a prerequisite for vehicle registration;

(iii) Restriction on the delivery of gasoline to service station and/or distribution centers within Marion County calculated to achieve a further reduction in vehicle miles traveled in the Indianapolis area; and,

(iv) Requirement that all service stations in Marion County purchase, install, and employ appropriate vapor recovery control devices for all gasoline tank filling operations.

Air Pollution Impact of the Proposed EPA Strategy

As indicated by the Indiana Implementation Plan, as submited in January 1972, the present Indiana control strategy will not provide for the attainment of the photochemical oxidant air quality standard by 1975. Based upon 1971 air quality data, demonstration of attainment of the standard by 1975 must show that hydrocarbon emissions will be reduced by 38 percent between 1971 and 1975.

In Marion County, in 1971, 68,300 tons of hydrocarbons were emitted. For attainment of the primary standards by 1975, the emissions must be reduced to no more than 42,400 tons. The following is a summary of the effects of the strategy on the overall reduction necessary in Marion County.

Effects of Control Strategy by May 31, 1975

		Emissions, tons/year
Stationary source emissions, with present strategy		
Fuel combustion	1,466	
Process losses		
Point sources	730	
Area sources	14,750	
Solid waste disposal		
Incineration	50	
Open burning	14,804	
		31,800
Mobile source related emission, with present strategy		
Motor vehicles	21,000	
Railroads	516	
Gasoline handling	2,112	23,628
		55,428
Reduction due to proposed ban on residential site open-burning		−14,804
Remaining emissions		40,624

Solid waste disposal can be accomplished through land fill or incineration. If all solid wastes were incinerated in municipal incinerators, the hydrocarbon emissions from this operation would be fewer than 1,000 tons per year, which would still keep the total hydrocarbon emissions under the maximum emissions allowable.

This analysis was, of necessity, confined to the Marion County area because that was the only area compatible with the emissions information. The regulations are proposed to be effective throughout the Region.

Public Comments Solicited

Public hearings will be held on this proposal July 26, 1973, beginning at 1:30 p.m. in Holiday Hall, Holiday Inn Downtown, 500 West Washington, Indianapolis, Indiana 46204.

Interested persons may participate in this rule making by submitting oral or written comments at the hearing. Prior written comments may also be submitted to the Regional Administrator, EPA, Region V, One North Wacker Drive, Chicago, Illinois 60606. Receipt of advance written comments will be acknowledged, but substantive responses to individual comments will not be provided. Comments, together with the remainder of the entire hearing records and the proposed plan, will be available for public inspection during normal business hours at the EPA Region V Office. The changes proposed by this notice of proposed rulemaking are issued under the authority of sections 110(c) and 301(a) of the 1970 Clean Air Act (42 USC 1857 et seq.).

Dated: June 22, 1973.

Robert W. Fri,
Acting Administrator.

It is proposed to amend Part 52 of Chapter I, title 40, of the Code of Federal Regulations as follows:

Subpart P—Indiana

1. Subpart P is amended by adding § 52.777 as follows:

§ 52.777 Control strategy: Photochemical oxidants (hydrocarbons), Metropolitan Indianapolis Region.

(a) *Regulation banning incineration on residential property.* (1) APC-2 of Indiana's "Air Pollution Control Regulations" (open burning), which is a part of the photochemical oxidant (hydrocarbon) control strategy, is incorporated by reference, and, as incorporated, revised in part in that the exception (b), "Backyard incineration," is deleted and shall not constitute an exception to the open burning ban in the Metropolitan Indianapolis Intrastate Region.

(2) No person shall cause, permit, or allow the incineration of any materials or substances on the premises of single and multiple family residences.

(3) For purposes of this paragraph, "person" means any individual, corporation, partnership, State, municipality or unit of local government, commission, political subdivision of the State, or other entity, or the officials, employees, and agents thereof.

[FR Doc.73-13041 Filed 6-29-73;8:45 am]

[40 CFR Part 52]

MASSACHUSETTS AIR QUALITY CONTROL

Approval and Promulgation of Implementation Plans

On May 31, 1972 (37 FR 10842), pursuant to section 110 of the Clean Air Act and 40 CFR Part 51, the Administrator approved, with specific exceptions, State plans for implementation of the national ambient air quality standards and granted a 2-year extension of the date for attaining these standards in various air quality control regions.

On January 31, 1973, the United States Court of Appeals for the District of Columbia Circuit found that the Administrator did not conform to the strict requirements of the Clean Air Act of 1970 in permitting several States to delay submission of transportation control portions of their implementation plans until February 15, 1973, and in granting extensions until mid-1977 for attainment of the national primary ambient air quality standards without following the procedures established in section 110(e) 42 U.S.C. 1857c-5(e). Accordingly, the Court ordered the Administrator to rescind the extension granted the States for implementation of the transportation and/or land use control portion of their implementation plans. The affected States were required to submit a control plan by April 15, 1973. The plan was to insure attainment of the national air quality standards for oxidants and carbon monoxide as expeditiously as practicable, but no later than May 31, 1975.

Thus, on March 20, 1972 (38 FR 7327), the Administrator notified the Governor of the Commonwealth of Massachusetts that a control plan must be submitted by April 15, 1973, for the Massachusetts portion of the Hartford-New Haven-Springfield Interstate and for the Metropolitan Boston Intrastate Air Quality Control Regions (hereafter referred to as the "Interstate Region" and the "Boston

Intrastate Region," respectively). This proposal results from the failure of the Commonwealth of Massachusetts to submit an acceptable control plan for the attainment and maintenance of the national primary ambient air quality standards for oxidants and carbon monoxide in the Boston Intrastate and the Interstate Regions. This proposal sets forth an emission control plan designed to reduce the expected 1975 emission of hydrocarbons in the Boston Intrastate Region by 58 percent and to reduce the expected carbon monoxide emissions in the Boston core and East Boston areas of the Boston Intrastate Region by about 40 percent in order to attain the ambient air quality standards for photochemical oxidants by May 31, 1975. It also sets forth an emission control plan designed to reduce the expected 1975 emissions of carbon monoxide in the downtown Springfield area of the Interstate Region by approximately 46 percent in order to attain the ambient air quality standards for carbon monoxide by that date.

However, since it appears that neither the proposed control strategies nor any other strategies which are "reasonably available" will be adequate to attain the standards in these two regions by the deadline of May 31, 1975, the Administrator is proposing a grant of a two-year extension of the date for achieving the standards in these two regions under section 110(e) of the Clean Air Act.

Pollution in the Metropolitan Boston Intrastate and the Massachusetts Portion of the Hartford-New Haven-Springfield Interstate Air Quality Control Regions

Massachusetts portion of the Hartford-New Haven-Springfield interstate regions

The Massachusetts portion of the Hartford-New Haven-Springfield Air Quality Control Region conforms with the boundaries of the Massachusetts Pioneer Valley Air Pollution Control District.

The region of densest motor vehicle travel is located along the Connecticut River. The western boundary of the Interstate Region is delineated by the Berkshire Mountains and the eastern border by hilly, rolling country. Although not an entrapped geographical region like Los Angeles, the area is characterized by a definite north-south channel along the river valley. The control strategies proposed herein for this Region are directed at reducing carbon monoxide emissions from motor vehicles in the Springfield downtown area.

The primary national ambient air quality standard for photochemical oxidants is 160 $\mu g/m^3$ (0.08 parts per million (ppm)), average for a 1-hour period not to be exceeded more than once per year. The standard promulgated on April 30, 1971 (36 FR 8186), is based on evidence of adverse health effects experienced on days when estimated hourly average concentrations of photochemical oxidants reached 0.10 ppm. A level of 0.08 ppm was therefore judged necessary by the Administrator to protect public health with an adequate margin of safety, as required by the Act.

The highest recorded concentration of oxidants in the Interstate Region was 0.095 ppm, which was reached in Springfield in June 1972. The second highest recorded level was 0.060 ppm, reached in July 1972. Based on these levels and on the expected reduction in hydrocarbon emissions from motor vehicles resulting from the on-going Federal motor vehicles control program (FMVCP), it has been determined that ambient concentrations of oxidants in the Interstate Region will not exceed the national standards by May 31, 1975, and that no strategies are required.

The primary national ambient air quality standards for carbon monoxide (CO) are 35 ppm average for 1 hour and 9 ppm average for 8 hours, each to be exceeded no more than once per year. These standards are intended to prevent adverse health effects induced by carbon monoxide reactions with blood hemoglobin.

Carbon monoxide concentrations measured in downtown Springfield have not exceeded the 1-hour average, but the 8-hour average was exceeded 268 times from January through November 1972. The highest recorded concentration was 21.3 ppm, which occurred in January 1972, and the second highest was 20.9 ppm, which occurred on the same day. Studies have indicated that the density of carbon monoxide emissions from motor vehicles falls off sharply outside the Springfield downtown area and that other sources of carbon monoxide are negligible. On this basis, it has been determined that the high ambient CO concentrations measured are localized within an area of slightly less than 1 square mile (Zones 1 and 2 combined; see the following Table) in the Springfield downtown area, bounded approximately by the Connecticut River on the west, Lyman Street to the north, Maple Street to the east, and Washington Street and Summer Avenue to the south. This area includes a length of Interstate 91, the traffic on which makes a significant contribution to total emissions in the area.

The ambient concentrations of carbon monoxide in the Interstate Region area now either meet the 8-hour, 9-ppm standard, or will do so by May 31, 1975. The projected decrease in motor vehicle carbon monoxide emissions is a result of the on-going Federal motor vehicle control program (FMVCP).

However, in the downtown Springfield area defined above, in addition to the reductions obtained from FMVCP, it will necessary to further reduce emissions in order to meet the 8-hour, 9-ppm standard by May 31, 1975.

Summary of Emission Projections For Carbon Monoxide*

(kg/day)

	Zone 1	Zone 2
	(0.298 mi²)	(0.639 mi²)
Base year 1972	8,531	12,922
May 31, 1975, with existing regulations	6,802	12,328
Required to meet stanards	3,660	7,909
Reduction from May 31, 1975 projection	46%	36%

*Zones 1 and 2 are defined in the Technical Support Document.

The requirements for additional emission reductions are not so severe as to preclude the existence of a variety of control strategies for effecting such reductions, so that the Administrator has had some freedom to choose strategies on the basis of their cost-effectiveness and their impact on other aspects of life in the Springfield area. The strategies that follow have been chosen to attain air quality standards and, insofar as possible, to be consistent with the expressed policies and preferences of the Governor of the Commonwealth and the Bureau of Air Quality Control.

Metropolitan Boston Intrastate Region

The Boston Metropolitan area lies on Massachusetts Bay in relatively flat coastal terrain. Topography does not generally influence pollutant dispersal adversely, but meteorological influences, specifically the proximity of the ocean and the resultant sea breezes, have a minor but adverse influence on photochemical oxidant levels. Although the region is served by rail rapid transit and extensive bus service, automobile use is heavy, particularly in outlying manufacturing areas. The urban core, though handling fewer vehicles than some urban areas, is still subject to considerable traffic density and congestion, which are commonly attributed to the narrow antiquated streets and resulting traffic patterns. The control strategies proposed herein are directed at reducing emissions primarily within the area of the Region bounded by Route 128, an expressway that encompasses the Boston Metropolitan area.

The primary national ambient air quality standard for photochemical oxidants is 160 $\mu g/m^3$ (0.08 part per million (ppm)) average for a 1-hour period, not to be exceeded more than once per year. This standard, promulgated on April 30, 1971 (36 FR 8186), is based on occurrence of adverse health effects experienced on days when estimated hourly average concentrations of photochemical oxidants reached 0.10 ppm. A level of 0.08 ppm was therefore judged necessary by the Administrator to protect public health with an adequate margin of safety, as required by the Act. During 1972, this standard was exceeded on 43 out of 62 days during a 2-month mon-

itoring study. The maximum 1-hour reading for oxidants was 0.260 ppm; the second highest was 0.253 ppm.

The primary national ambient air quality standards for carbon monoxide (CO) are 35 ppm average for 1 hour and 9 ppm average for 8 hours, each to be exceeded no more than once per year. These standards are intended to prevent adverse health effects induced by carbon monoxide reaction with blood hemoglobin.

In the Boston Intrastate Region, the 1-hour CO standard is exceeded frequently; in 1970 it was exceeded on 56 days. The maximum 8-hour average recorded was 22.0 ppm, and the second highest was 21.9 ppm, both occurring during 1970.

Summary of Control Requirements: Boston Intrastate Region

The best information available to the Administrator, including previous studies specifically directed at the Boston problem, indicate that the anticipated decrease in motor vehicle hydrocarbon and carbon monoxide emissions resulting from the on-going Federal motor vehicle control program will be insufficient to permit meeting the national standards. In order to attain the standards by May 31, 1975, it will be necessary to reduce projected total emissions of hydrocarbons within the area encompassed by Route 128 by approximately 58 percent and to reduce projected emissions of carbon monoxide in the Boston core and East Boston areas of the Region by amounts approximating 40 percent in each area; the Table below summarizes the required reduction in quantitative terms.

Summary of Emission Projections

(kg/day)

	Hydrocarbons	Carbon monoxide	
	Rt. 128 area	Boston core	East Boston
Base year emissions (CO–1970, HC–1972)	367,100	99,820	7,630
May 31, 1975, with existing regulations	232,700	66,350	6,140
Allowable emission standards	97,000	41,020	3,730
Reduction from May 31, 1975, projection	118,900 (58.0%)	25,330 (38.2%)	2,410 (30.3%)

The strategies that follow have been chosen to ensure attainment of air quality standards and, insofar as possible, to be consistent with the expressed policies and preferences of the Governor of the Commonwealth and the Bureau of Air Quality Control.

Emission Control Alternatives

The emissions of carbon monoxide in the Boston Intrastate Region and in the Springfield area of the Interstate Region come almost entirely from motor vehicle sources, so that the reductions required beyond those provided by the Federal vehicle emission control program will need to be realized by transportation controls that reduce total motor vehicle emissions. In the case of hydrocarbon emissions in the Boston Intrastate Region, however, over half come from nonvehicular sources, so that an alternative exists for attaining some of the required reductions by further controlling these emissions. This possibility has been utilized, and the regulations here proposed for the Boston Intrastate Region are designed to reduce hydrocarbon emissions from stationary sources to the maximum degree considered feasible. Considerable further reductions will be required, however, and these will have to be achieved by transportation controls directed at motor vehicle emissions.

Transportation Control Alternatives

There are two general types of transportation controls available, those that effect emission reductions by reducing the average emissions from a vehicle-mile of travel (VMT), and those that effect reductions by reducing VMT, that is, by reducing the total amount of vehicle usage. The former, vehicle emission reductions, are generally able to effect sizable emission reductions in a short time but entail substantial costs. On the other hand, most VMT-reducing controls are more suited to the long-term maintenance of the standards than to meeting short-range needs. It is the expressed policy of the Governor of Massachusetts to discourage continued heavy reliance on the automobile for urban core travel by encouraging increased transit usage and by other means. The Bureau of Air Quality Control has also expressed a desire to avoid the use of the most costly of the vehicle emission reduction controls.

Consequently, in proposing the following mixture of the two types, the Administrator has selected insofar as possible those VMT-reducing controls whose impact will be realized within the time frame of the May 31, 1975, target date, in order to lay a firm foundation for the Commonwealth's on-going program to maintain the standards, and in order to hold to a minimum the need for vehicle-emission control devices for the general population of motor vehicles in the Boston Intrastate Region and the Interstate Region. The VMT-reducing controls proposed include increased costs and other restrictions on parking in the Boston core area, at Logan International Airport, and in the Springfield downtown area; and a seasonal program of restrictions on the use of vehicles within the Route 128 area. In addition, the VMT-reducing controls proposed for the Springfield downtown area include traffic flow improvements and the closing off of Main Street to form a vehicle-free pedestrian mall. The vehicle emission control devices for the Boston Intrastate Region include an inspection and maintenance system to ensure the adequate performance of vehicle emission controls; the retrofit of evaporative hydrocarbon emission controls on all pre-1972 gasoline-powered vehicles; vacuum spark-advance disconnect devices on pre-1970 vehicles; and catalytic control devices on light-duty vehicle fleets and 1973–1975 private light-duty vehicles. For the Interstate Region, the vehicle emission reducing strategies include an inspection and maintenance system and catalytic control devices on a proportion of heavy-duty gasoline-powered vehicles.

Proposed Controls for Stationary Hydrocarbon Sources: Boston Intrastate Region

Controls to prevent hydrocarbon emissions will be placed on a variety of stationary sources. In addition to the control of emission from the bulk storage of gasoline that will be required under existing state regulations, the regulations proposed herein will require the extensive control of evaporative losses from retail gasoline sales outlets and all significant users of organic solvents, including dry-cleaning establishments and various industrial solvent users. In addition, the regulations restrict the use of paints and other surface coatings that contain photochemically reactive solvents. These regulations will reduce the expected 1975 total of stationary-source hydrocarbon emissions from 130,600 kilograms per day (kg/day) to 50,500 kg/day, a reduction of 80,100 kg/day. This amount is about 59 percent of the 135,700 kg/day total hydrocarbon reduction required, leaving a balance of 55,600 kg/day to be achieved by reducing vehicular emissions.

Proposed Reductions in VMT

Boston Intrastate Region

The proposed regulations will impose stringent controls on commuter parking in the Boston core area and at Logan International Airport, including the banning of on-street parking in the core area from 6 to 10 a.m. and 4 to 6 p.m. on weekdays, and the imposition of a $5.00 surcharge on off-street parking from 6 to 10 a.m. in the Boston core area and from 6 a.m. to 10 p.m. at Logan International Airport. There is some legal question about EPA's authority to propose such a regulatory fee; it is, however, being proposed for comment.

Because the carbon monoxide problem is concentrated in the two relatively small areas, the VMT-reducing controls that are directed at limiting traffic in these areas are particularly appropriate. Of the various such controls possible, restrictions on commuter parking were selected because similar though less stringent measures have already been considered and recommended by the Governor and by the Boston City government. The specific hours selected are those that provide the maximum diversion of rush-hour commuters to other transit while causing the minimum inconvenience to shorter-term shopping and other commercial traffic.

In contrast to the situation with carbon monoxide, the photochemical oxidant problem is region-wide, however, and thus it is necessary to devise controls to reduce VMT on a broader basis. The proposed regulations provide for limitations on the use of light-duty vehicles; the restriction consists of seasonally prohibiting the use of vehicles 1 day out of 5 during the week (except on legal holidays). The prohibition would apply to all

gasoline-powered light-duty vehicles registered within this Region, divided into five groups, with an appropriate identification system of colored stickers or license plate variations for each group of vehicles. A predetermined group will be prohibited from operating within Route 128 on 1 of the 5 weekdays during weeks when the prohibition is in effect. The prohibition will be in effect periodically, whenever determined to be necessary by the Administrator from continuing review of the observed air quality levels; it is anticipated that the primary periods of prohibition will be during the summer and fall seasons.

Although the Administrator presently considers this 1-day-a-week vehicle use prohibition to be the most reasonable method of achieving an acceptable degree of VMT reduction in Boston by 1975, other control measures are also being considered for adoption, either in the event that this measure proves not to have a sufficient impact on emissions reduction realized, or in the event that comments received as part of this rulemaking process lead EPA to conclude by August 15 that other measures are preferable.

Among other measures being considered as part of this proposal (even though no draft regulations to implement them have been suggested) are:

1. Making effective reductions in the number of parking spaces available for use in downtown Boston between 6 a.m. and 10 a.m., and at Logan airport between 6 a.m. and 10 p.m.

2. Making a similar reduction in the number of available parking spaces (both on- and off-street) in parking facilities at other trip-attraction centers throughout the Metropolitan area.

3. Designating lanes on the expressways and other major roads leading into and out of the Boston core for the exclusive use of buses and car-pools. Unlike the express bus system presently used on the Southeast Expressway, these lanes would be taken from the part of the road used for automobile traffic moving in the same direction. This would provide incentives for a shift to these more efficient forms of transportation, both by decreasing their travel time and by reducing the road space available to partly occupied automobiles.

4. Restricting the flow of traffic through such nodal points as the Mystic River Bridge, the harbor tunnels, and the last toll gate on the Massachusetts Turnpike to a certain maximum rate per hour.

5. Restricting the amount of gasoline delivered to retail service stations and/or distribution centers in the Boston metropolitan area with the aim of achieving a moderate further reduction in VMT by this means.

6. Increasing the 1-day-a-week vehicle use prohibition to 2 or more days per week.

The Administrator recognizes that, in addition to these restraints on vehicle usage, there must be adequate alternative transportation available if the controls are, in fact, to have a beneficial effect rather than become a burden. The Administrator is not proposing regulations to specifically assure such alternatives because, on the basis of studies presently available, it appears that the best alternatives are among those that are not appropriately established by Federal regulation, and because the Commonwealth of Massachusetts has already assumed initiative for providing improved transit service in the Boston area. It is also anticipated that the imposition of restraints will prompt a variety of private decisions relative to work hours, car-pooling, and similar matters that will operate to ameliorate the adverse impact of the restraints.

Interstate Region

Since the carbon monoxide problem is concentrated in a relatively small area, the VMT-reducing controls that are directed at limiting traffic in this area are particularly appropriate.

The proposed regulations will impose stringent controls on commuter parking in downtown Springfield, including the banning of on-street parking all day on weekdays and the imposition of a $4.00 surcharge on off-street parking from 6 a.m. to 10 a.m. on weekdays. As a result of these measures, there will be a substantial reduction in the number of commuter trips made into the downtown area. There will also be an improvement in traffic flow and reduction in collector and local circulation.

In addition, the proposed regulations will call for the installation of a metering system for the downtown ramps of Interstate 91 in conjunction with a traffic-responsive, digital-computer-controlled signal system. These measures will improve traffic flow and increase capacity but, because of the inherent programming capacity of the system, VMT will also be reduced.

Finally, the proposed regulations will provide for the closing of Main Street to all traffic (except loading vehicles), from the railroad overpass at the north to State Street at the south. They will also provide for the closing off of major cross streets within this section of Main Street to create large blocks.

The Administrator recognizes that in addition to these restraints on vehicle usage, there must be adequate alternative transportation and/or fringe parking facilities if the controls are, in fact, to have a beneficial effect rather than become a burden. The Administrator is not proposing regulations to specifically assure such alternatives and facilities because, on the basis of studies presently available, it appears that the best alternatives are among those that are not appropriately established by Federal regulation. It is anticipated that the proposed restraints will prompt a variety of private decisions relative to work hours, car-pooling, and similar matters that will operate to ameliorate the adverse impact of the restraints. Similarly, it is anticipated that the proposed closing of Main Street will provide the opportunity for the implementation of a pedestrian shopping mall.

In all cases where VMT reducing regulations are being proposed the state or city will be required to take steps to accomplish the intended result. Failure to comply may result in such action by the Administrator as authorized in section 113 of the Act.

EPA doubts whether it has authority in all cases where it must promulgate portions of an implementation plan to require the state concerned to enforce that promulgation. This is so even though one Circuit Court of Appeals has indicated that such a power does indeed exist. (Natural Resources Defense Council v. EPA, No. 72-1219 (1st Cir. May 2, 1973)).

Instead, it is EPA's position that it may require states or cities to enforce regulations that are related to their position as owners of roads. As owners of roads, states and cities may be held directly responsible for the pollution caused by those roads, and by the traffic which the roads make possible, and may be required to take such steps as are necessary to ensure that the roads and the activities carried out on them cease to cause violations of air quality standards. Regulations have accordingly been drafted to impose enforcement responsibility on the states or cities only where the activity being regulated was, in the judgment of EPA, closely enough related to the government's position as owner of the roads to justify the imposition of responsibility under this theory.

Proposed Controls on Mobile Source Emissions

The magnitude of the emission reductions needed are such that full attainment by VMT reductions is not possible in the period prior to May 31, 1975, and it will be necessary to utilize vehicle-emission control to realize the balance. The following controls are proposed:

All light-duty gasoline-powered vehicles will be required to be inspected annually using an idle-mode emission test, a relatively inexpensive testing procedure, to assure compliance with established emission standards. EPA is also considering the requirement for a loaded, or dynamometer, emission test if continuing study of testing procedures indicates that it would be necessary and feasible. Vehicle owners will be required to obtain any maintenance necessary to ensure that all pollution control devices on the vehicle work properly and that the vehicle operates at established emission levels.

For the Boston Intrastate Region, the installation of evaporative controls to prevent evaporation of gasoline from the gas tank and carburetor will be required on all pre-1972 model year light-duty gasoline-powered vehicles and on all pre-1973 model year heavy-duty gasoline-powered vehicles. Retrofit of vacuum spark advance disconnect will be required on all pre-1970 model year light-duty gasoline-powered vehicles. A further requirement will be the installation of an oxidizing catalyst on all gasoline-powered light-duty vehicles in fleets of 10 or more vehicles, and on 1972-1975 light-duty gasoline vehicles.

Although the oxidizing catalyst and evaporative control devices are believed to be technologically feasible by 1975, the Administrator recognizes that it is not possible to implement these control measures in the Boston Intrastate Region and the Interstate Region by that date. Consequently, the Administrator proposes to grant an extension of 2 years for the implementation of catalytic retrofit control devices. The implementation of evaporative control devices will still not be possible in 1977. However, they may not be necessary if catalytic retrofits are implemented by May 31, 1977.

For the Interstate Region, all light-duty gasoline-powered vehicles will be required to be inspected annually using an idle-mode emission test, a relatively inexpensive testing procedure, to assure compliance with established emissions standards. Vehicle owners will be required to have performed any maintenance necessary to ensure that all pollution control devices on the vehicle work properly and that the vehicle operates at established emission levels.

A further requirement will be the installation of an oxidizing catalyst on a certain proportion of heavy-duty gasoline vehicles registered in the Region.

Although the oxidizing catalyst is believed to be technologically feasible by 1975, the Administrator recognizes that it is not possible to implement this control strategy by that date. Consequently, the Administrator proposes to grant an extension of 2 years for the implementation of this control strategy. However, by May 31, 1977, the reduction of carbon monoxide provided by the Federal motor vehicle emission control program will render the heavy-duty catalytic retrofit control strategy unnecessary for the Interstate Region.

Accordingly, the Administrator has reviewed possible interim measures in lieu of catalyst retrofit. It does not appear that any further reductions can be attained through more stringent controls of vehicle miles of travel. The suggested controls for implementation in the Springfield CBD are as stringent as technologically feasible at this time. Alternatively, restricting travel of Route I–91 was considered, but there is not sufficient capacity on existing highways to allow the curtailment of use of I–91 in the region of concern. Review of possible mobile source emission controls available indicated that the only possible measures not already scheduled for implementation which could be imposed in the 1975–1976 time frame are non-catalytic retrofit devices. These controls are only applicable to pre-1971 vehicles and would have to be implemented throughout the entire air quality control region to be effective. Even if imposed, these controls would not be adequate to attain the standards before May 31, 1977. It was felt that to impose these less than adequate controls on the entire region as an interim measure to achieve reductions of CO in a one square mile zone was economically unjustified.

Summary of Effects of Transportation Controls

Interstate Region

The following table is a summary of the effects of each element of the proposed strategy on the overall reduction necessary. The uncontrolled emissions of carbon monoxide within Zone 1 in 1975 are estimated at 6802 kg/day, whereas the total allowable emissions if the 8-hour, 9-ppm standard is to be met are 3660 kg/day. All calculations are based on the second highest recorded 8-hour average of 20.9 ppm, which occurred in Zone 1 in 1972. The proposed strategies will result in proportional reductions of emissions in Zone 2 of the downtown area, which will be adequate to meet the standards in Zone 2.

Compilation of Effects of Control Strategy May 31, 1975 (zone 1)

	Carbon monoxide emissions, kg/day		Percent of total reduction due to each control	
	1975	1977	1975	1977
Emissions from transportation sources	6802	5821		
Expected reduction:				
(a) Parking restrictions, traffic flow improvements, closing of streets	−2177	−1863	69	85
(b) Inspection and maintenance	−384	−329	13	15
(c) Oxidizing catalyst retrofit on certain heavy-duty vehicles	−581		18	
Total reductions	−3142	−2192	100	100
Emissions remaining	3660	3629		

Boston Intrastate Region

The following tables summarize the effects of each of the proposed controls on emissions in the three areas in which reductions are required. The May 31, 1975, summary column represents the controls herein proposed for meeting the national standards by that date. The May 31, 1977, summary column represents the effects of the proposed control measures after granting the 2-year extension for the implementation of the catalytic retrofit control devices.

Summary of Effects of Controls on Hydrocarbon Emissions (kg/day)

	May 31, 1975	May 31, 1977
Nonvehicular emissions without further control	130,600	138,400
Expected reductions:		
Retail gasoline sales	−16,830	−17,840
Paint use control	−39,600	−41,970
Organic solvent control	−23,670	−25,090
Total reductions	−80,100	−84,900
Remaining nonvehicular emissions	50,500	53,500
Motor vehicle emissions without further control	102,100	70,400

Summary of Effects of Controls of Hydrocarbon Emissions (kg/day)—Continued

	May 31, 1975	May 31, 1977
Expected reductions:		
Core on-street parking ban	−206	−142
Core off-street parking surcharge	−5,780	−3,985
Airport parking restrictions	−1,112	−767
Vehicle use prohibition	−9,950	−6,861
Inspection-maintenance	−6,160	−4,247
Evaporative control—LDV	−14,832	
Evaporative control—HDV	−1,449	
Vacuum spark advance disconnect control	−5,590	−1,227
Oxidizing catalyst—fleet	−2,364	−1,545
Oxidizing catalyst—LDV	−9,244	−9,618
Total reductions	−56,687	−28,392
Remaining motor vehicle emissions	45,413	42,008
Total emissions without further controls	232,700	208,800
Total reductions	−136,787	−113,292
Total emissions remaining	95,913	95,508
Equivalent to standard	97,000	97,000

Summary of Effects of Controls Boston Core Carbon Monoxide Emissions

(kg/day)

	May 31, 1975	May 31, 1977
Motor vehicle emissions without further control	66,350	49,870
Expected reductions:		
Core on-street parking ban	−265	−199
Core off-street parking surcharge	−7,454	−5,605
Airport parking restrictions	−1,523	−1,145
Vehicle use prohibition	−5,908	−4,443
Inspection-maintenance	−3,900	−2,689
Evaporative control—LDV	0	0
Vacuum spark advance disconnect control	1,556	−803
Oxidizing catalyst—fleet	2,270	−1,368
Oxidizing catalyst—LDV	6,393	−6,364
Total reductions	−29,269	−22,616
Total emissions without further controls	66,350	−49,870
Total reductions	−29,269	−22,616
Total emissions remaining	37,081	27,254
Equivalent to standard	41,020	41,020

Summary of Effects of Controls East Boston Carbon Monoxide Emissions

(kg/day)

	May 31, 1975	May 31, 1977
Motor vehicle emissions without further control	6,140	4,760
Expected reductions:		
Core on-street parking ban	30	23
Core off-street parking surcharge	844	658
Airport parking restrictions	1,315	1,019
Vehicle use prohibition	243	188
Inspection-maintenance	267	184
Evaporative control—LDV	0	0
Evaporative control—HDV	0	0
Vacuum spark advance disconnect control	101	60
Oxidizing catalyst—fleet	210	102
Oxidizing catalyst—LDV	414	475
Total reductions	3,424	2,711
Total emissions without further controls	6,140	4,760
Total reductions	−3,424	−2,711
	2,716	2,049
Equivalent to standard	3,730	3,730

INTERSTATE AND INTRASTATE REGIONS

Additional technical information is contained in "Technical Support Document for the Proposed Transportation Control Strategy for the Metropolitan Boston Intrastate Air Quality Control Region" and in "Technical Support Document for the Proposed Transportation Control Strategy for the Massachusetts Portion of the Hartford-New Haven-Springfield Interstate Air Quality Control Region." Both documents are available from the Environmental Protection Agency, Region I Office, Room 2203, John F. Kennedy Federal Building, Boston, Massachusetts.

ECONOMIC AND SOCIAL IMPACT OF THE TRANSPORTATION CONTROL PLAN

Congress recognized that achievement of the goals of the Clean Air Act would have a significant impact on many urban areas. A thorough and quantitative assessment of the impact of the plan on the economic and social fabric of the community has not been possible because of lack of time and the innate complexity of the issues. In the following discussion, we have tried to describe the type of impacts that would occur. First, vehicle owners may have to assume the direct costs of emissions abatement equipment required to bring their vehicles into compliance. Second, reduction in the mobility of workers and consumers could have a major impact on the econimic fabric of the community. Third, interference with the ability of citizens to move as freely as before may alter the life-style of the region slightly. Obviously, the severity of the impact depends on the degree of vehicle usage restrictions imposed, on the manner in which direct costs of abatement equipment are financed, and the degree to which effects can be ameliorated by the improvement of the transit system.

Because it is not possible to effect sufficient VMT reductions to meet the standards by that means alone, all the possible combinations of controls that were considered included an inspection and maintenance program and the use of additional emission control equipment on existing vehicles. The combination proposed requires the least possible expenditure by the individual light-duty vehicle owner. The probable annual cost of the required inspection should be about $5, with an additional $15 to $25 cost required if maintenance is needed; the maintenance is of course desirable on its own merit, and thus is not viewed as a serious burden. The vacuum spark advance disconnect devices are also inexpensive, about $10 to $15 per vehicle installed.

The oxidizing catalyst requirements are somewhat more expensive, about $200 per vehicle installed. This is of particular concern with respect to the provision of catalysts on older light-duty vehicles. Thus the requirement for catalyst controls for the Intrastate Region is placed on newer rather than older vehicles, since the cost is smaller in comparison with the greater value of the newer vehicle. If the catalyst costs fall directly on the individual light-duty vehicle owner, however, the specific burden will weigh more heavily on the low-income families. Consequently, it is suggested that the Commonwealth consider subsidizing these costs, perhaps through a bond issue retired from an additional gasoline tax.

EFFECTS ON THE ECONOMIC AND SOCIAL FABRIC OF THE COMMUNITY

Any direct or indirect effects of the plan on the economy of the area are primarily dependent on the extent of the reduction in VMT required. Since the degree of restriction is relatively small, it is expected that the principal effects will be more a matter of social adjustments than of serious economic consequences although the impact on a small number of businesses in urban core areas may be severe. This is contingent upon the continued availability of adequate mass transit capacity; this capacity will be strained, particularly during peak periods, for the initial time before other ameliorating private readjustments occur.

EPA EFFORTS TO MITIGATE THE EFFECTS OF PROPOSED REGULATIONS

The combined effects of these proposed regulations, together with the Massachusetts Implementation Plan, will eliminate the danger to human health and welfare that exists in the Boston Intrastate Region and in the Springfield area of the Interstate Region as the result of air pollution. They may, however, have adverse economic and social impacts, and the Administrator will make every effort possible to mitigate the effects of his final promulgation. He will be in contact with the Department of Transportation and other departments as necessary. The Administrator will request that the departments and agencies give special attention to the need for funding to provide adequate mass transit to replace the automobile travel eliminated by the proposed controls.

PUBLIC COMMENTS SOLICITED

The Administrator intends that the finally adopted plans be as responsive as possible to the needs of the Boston Intrastate Region and the Massachusetts portion of the Interstate Region; he therefore desires to obtain the comments and suggestions of the public on the problems of achieving the ambient air quality standards in the Boston Intrastate and the Interstate Region. Comments are particularly invited pertaining to the other measures that may be taken by Federal, State, or local authorities to support or supplement the proposed air pollution control measures.

Public hearings will be held on this and alternative proposals in Boston at Faneuil Hall starting at 10 a.m. on July 19 and 20, 1973. Hearings will also be held in Springfield at the Springfield Technical Community College, 1 Armory Square, starting at 10 a.m. on July 23, 1973.

The Administrator's final promulgation of transportation controls for the Boston Intrastate Region and the Massachusetts portion of the Interstate Region will be influenced by the comments and testimony he receives, as well as by any further approvable strategies submitted by the State as part of the State Implementation Plan. These influences, and the additional analysis of alternative strategies that can be made in the time between this proposal and final promulgation, may lead the Administrator to adopt final regulatons that differ in important ways from this proposal.

SUBMITTAL OF WRITTEN COMMENTS

Interested persons may participate in this rulemaking by submitting written comments, preferably in triplicate, to the Administrator, EPA, Region I, Room 2203, John F. Kennedy Federal Building, Boston, Massachusetts. All relevant comments received on or before August 1, 1972. Receipt of comments will be acknowledged, but substantive reponses to individual comments will not be provided. Comments received will be available for public inspection during normal business hours at the EPA Region I Office. The changes proposed by this notice, with appropriate modification, will be effective as noted. This notice of proposed rulemaking is issued under the authority of sections 110(c) and 301(a) of the Clean Air Act.

(42 U.S.C. 1857 et seq.)

Dated: June 22, 1973.

ROBERT W. FRI,
Acting Administrator.

It is proposed to amend Part 52 of Chapter I, Title 40, of the Code of Federal Regulations as follows:

Subpart W—Massachusetts

1. Section 52.1128 is amended by adding paragraphs (b) through (n) as follows:

§ 52.1128 Transportation and land use controls.

* * * * *

(b) *Definitions.* (1) For purposes of this section:

(i) "Register," as applied to a motor vehicle, means the licensing of such motor vehicle for general operation on public roads or highways by the appropriate agency of the Federal Government or by the State.

(ii) "Boston Intrastate Region" means the Metropolitan Boston Intrastate Air Quality Control Region, as defined in Title 40, Part 81, of the Code of Federal Regulations, § 81.19.

(iii) "Interstate Region" means the Massachusetts portion of the Hartford-New Haven-Springfield Interstate Air Quality Control Region as defined in § 81.26 of this tile.

(iv) "Boston core area" means that portion of the City of Boston, Massachusetts, contained within the following boundaries: the Charles River and Boston Inner Harbor on the northwest, north, and northeast; the Inner Harbor, Fort Point Channel, West Fourth Street, Fitzgerald Expressway, and the Massachusetts Avenue Expressway access branch on the east and southeast;

Massachusetts Avenue, Tremont Street, Ruggles Street, Huntington Avenue, and Longwood Street on the south; Riverway, Park Drive, Mountfort Street, and the Boston University Bridge on the west. Where a street or roadway forms a boundary, the entire right-of-way of the street is within the Boston core area as here defined.

(c) *Regulation on evaporative emissions from retail gasoline outlets.* (1) For purposes of this paragraph, "retail gasoline outlet" means any service station, filling station, garage, store, or other place of business at which gasoline is transferred directly to consumers in the regular course of business.

(2) This regulation is applicable within the Boston Intrastate Region. The requirements of this regulation shall be in effect in accordance with paragraph (f) of this section.

(3) No person shall load or permit the loading of gasoline into any storage tank at a retail gasoline outlet unless such tank is equipped with a vapor collection and disposal system, or its equivalent, properly installed, in good working order, and in operation. Loading shall be accomplished in such a manner that all displaced vapor and air will be vented only to the vapor disposal system. A means shall be provided to prevent gasoline drainage from the loading device when it is removed from the tank, or to accomplish complete drainage before such removal. The vapor disposal portion of the system shall consist of one of the following:

(i) An absorber system or condensation system with a minimum recovery efficiency of 90 percent by weight of all the volatile organic compound vapors and gases entering such disposal system.

(ii) A vapor handling system which directs all vapors to a fuel gas system.

(iii) Other equipment of at least 90 percent efficiency, provided plans for such equipment are submitted to and approved by the Administrator or his designee.

Intermediate storage vessels may be used prior to disposal of vapors under paragraph (c)(2) (i), (ii), or (iii) of this section, provided they are so designed as to prevent release of vapors at any time during use.

(4) No person shall fuel, or permit the fueling of, any motor vehicle with gasoline from a fueling system (i.e., nozzle, coupler, flexible hose, pump and appurtenances) that is not equipped with a vapor balance system or equally effective control system, certified by the Administrator or his designee as able to prevent all vapor emissions to the ambient air.

(5) The failure of any person to comply with any provision of this paragraph shall render such person in violation of a requirement of an applicable implementation plan, and subject to enforcement action under section 113 of the Clean Air Act.

(d) *Regulation on organic solvent use.* (1) For purposes of this paragraph:

(i) "Organic solvents" means those organic materials that are liquids at standard conditions and which are used as dissolvers, viscosity reducers, or cleaning agents.

(ii) "Photochemically reactive solvent" means any solvent with an aggregate of more than 20 percent of its total volume composed of the chemical compounds classified below or which exceeds any of the following individual percentage composition limitations in reference to the total volume of solvent:

(*a*) A combination of hydrocarbons alcohols, aldehydes, esters, ethers or ketones having an olefinic or cycloolefinic type of unsaturation: 5 percent;

(*b*) A combination of aromatic compounds with eight or more carbon atoms to the molecule (except ethylbenzene): 8 percent;

(*c*) A combination of ethylbenzene, ketones having branched hydrocarbon structures, trichloroethylene, or toluene: 20 percent.

Whenever any organic solvent or any constituent of an organic solvent may be classified from its chemical structure into more than one of the above groups of organic compounds, it shall be considered as a member of the most reactive chemical group, that is, that group having the least allowable percentage of the total volume of solvents.

(iii) "Organic material" means any chemical compound of carbon other than carbon monoxide, carbon dioxide, carbonic acid, metallic carbides and carbonates, and ammonium carbonate.

(iv) "Dry-cleaning operation" means that process in which an organic solvent is used in the commercial cleaning of garments and other fabric materials.

(2) This regulation is applicable within the Boston Intrastate Region. The requirements of this regulation shall be in effect in accordance with paragraph (f) of this section, except for paragraph (f)(12) of this section, which shall be effective upon promulgation in final form.

(3) No person shall cause, suffer, allow, or permit the emission of more than 15 pounds of organic materials in any one day (24 hours) or more than 3 pounds of organic materials in any one hour from any dry-cleaning operation or from any facility in which any organic material comes into contact with flame or is baked, heat-cured, or heat-polymerized, in the presence of oxygen, unless all organic materials emitted from such facility are reduced by at least 85 percent by weight through employment of suitable control equipment approved by the Administrator or his designee.

(4) No person shall cause, suffer, allow, or permit the emission of more than 40 pounds of organic materials in any one day (24 hours) or more than 8 pounds in any one hour from any facility, such as, but not limited to, the manufacture of solvents, coatings, rubber, plastics; the application of coatings by rolling, brushing, or spraying; degreasing and dry-cleaning operations which employ, evaporate, or dry any photochemically reactive hydrocarbon or material containing such hydrocarbon unless all organic materials emitted from such facility are reduced at least 85 percent by weight through employment of suitable control equipment approved by the Governor or his designee.

(5) Any series of articles, machines, equipment or other contrivances designed for processing a continuously moving sheet, web, strip, or wire which is subjected to any combination of operations described in paragraph (d)(3) or (4) of this section involving any photochemically reactive solvent, or material containing such solvent, shall be subject to compliance with paragraph (d)(4) of this section. Where only nonphotochemically reactive solvents are employed or applied, and where any portion or portions of said series of articles, machines, equipment or other contrivances involves operations described in paragraph (d)(3) of this section, said portions shall be collectively subject to compliance with paragraph (d)(3) of this section.

(6) Emissions of organic materials to the atmosphere from the clean-up with photochemically reactive solvents, of any article, machine, equipment, or other contrivance described in paragraph (d)(3), (4), or (5) of this section, shall be included with the other emissions of organic materials from that article, machine, equipment, or other contrivance for determining compliance with this rule.

(7) Emissions of organic materials to the atmosphere as a result of spontaneously continuing drying of products for the first 12 hours after their removal from any article, machine, equipment, or other contrivance described in paragraph (d)(3), (4), or (5) of this section, shall be included with other emissions of organic materials from that article, machine, equipment, or other contrivance for determining compliance with this rule.

(8) Emissions of organic materials into the atmosphere required to be controlled by paragraph (d)(3), (4) or (5) of this section, shall be reduced by incineration, adsorption, or other processing in a manner determined by the Governor or his designee to be not less effective than incineration or adsorption, provided that, if incineration is used, 90 percent or more of the carbon in the organic material is completely oxidized to carbon dioxide.

(9) A person incinerating, adsorbing, or otherwise processing organic materials pursuant to this rule shall provide; properly install; and maintain in calibration, in good working order, and in operation, devices as specified by the Governor or his designee for indicating temperatures, pressures, rates of flow, or other operating conditions necessary to determine the degree and effectiveness of the pollution control attained.

(10) Any person using organic solvents or any materials containing organic solvents shall supply the Governor or his designee, upon request and in the manner and form prescribed, written evidence of the chemical composition, physical properties, and amount consumed for each organic solvent used. The provisions of this regulation shall

not apply to the employment, application, evaporation, or drying of saturated halogenated hydrocarbons or perchlorethylene.

(11) No person shall cause, suffer, allow, or permit the disposal in any one day (24 hours) of a total of more than 1.5 gallons of any photochemically reactive hydrocarbon or of any material containing more than 1.5 gallons of any such photochemically reactive hydrocarbon by means which will permit the evaporation of such hydrocarbon into the atmosphere.

(12) The failure of any person to comply with any provision of this paragraph shall render such person in violation of a requirement of an applicable implementation plan, and subject to enforcement action under section 113 of the Clean Air Act.

(e) *Regulation on paints and architectural coatings.* (1) This regulation is applicable within the Boston Intrastate Region. All sources subject to this section shall be in compliance with paragraph (e)(2), (3) and (4) of this section on or before September 15, 1974.

(2) No person shall sell or offer for sale, for use within the Boston Interstate Region, in containers of 1 quart or greater capacity, any paint or other architectural coating containing photochemically reactive solvent, as defined in paragraph (c)(1) of this section.

(3) No person shall employ, apply, evaporate, or dry any paint or other architectural coating, purchased in containers of 1 quart or greater capacity, containing photochemically reactive solvent, as defined in paragraph (c)(1) of this section.

(4) No person shall thin or dilute paint or any other architectural coating with a photochemically reactive solvent, as defined in paragraph (c)(1) of this section.

(5) No person shall during any one day dispose of a total of more than 1.5 gallons of any photochemically reactive solvent, as defined in paragraph (c)(1) of this section, or of any material containing more than 1.5 gallons of any such photochemically reactive solvent by any means which will permit the evaporation of such solvent into the atmosphere.

(6) The failure of any person to comply with any provision of this paragraph shall render such person in violation of a requirement of an applicable implementation plan, and subject to enforcement action under section 113 of the Clean Air Act.

(f) *Federal compliance schedules.* (1) Except as provided in paragraph (f)(3) of this section, the owner or operator of a source subject to paragraph (c)(3) or (d) of this section shall comply with the increments of progress contained in the following schedule:

(i) Final control plans for emission control systems or process modifications must be submitted not later than September 15, 1973.

(ii) Contracts for emission control systems or process modifications must be awarded or orders must be issued for the purchase of component parts to accomplish emission control or process modification not later than November 15, 1973.

(iii) Initiation of on-site construction or installation of emission control equipment or process modification must begin not later than April 15, 1974.

(iv) On-site construction or installation of emission control equipment or process modification must be completed not later than April 15, 1975.

(v) Final compliance is to be achieved not later than May 31, 1975.

(vi) Any owner or operator of stationary sources subject to compliance schedule in this subparagraph shall certify to the Administrator, within five days after the deadline for each increment of progress, whether or not the required increment of progress has been met.

(2) Except as provided in paragraph (f)(4) of this section, the owner or operator of a source subject to paragraph (c)(4) of this section shall comply with the increments of progress contained in the following compliance schedule:

(i) Final control plans for emission control systems or process modifications must be submitted not later than Feb. 15, 1974.

(ii) Contracts for emission control systems or process modifications must be awarded or orders must be issued for the purchase of component parts to accomplish emission control or process modification not later than August 15, 1974.

(iii) Initiation of on-site construction or installation of emission control equipment or process modification must begin not later than February 15, 1975.

(iv) On-site construction or installation of emission control equipment or process modification must be cmpleted not later than February 15, 1976.

(v) Federal compliance is to be achieved not later than May 31, 1976.

(vi) Any owner or operator of stationary sources subject to the compliance schedule in this subparagraph shall certify to the Administrator, within five days after the deadline for each increment of progress, whether or not the required increment of progress has been met.

(3) Paragraph (f)(1) of this section shall not apply:

(i) To a source which is presently in compliance with paragraphs (c)(3) or (d) of this section and which has certified such compliance to the Administrator by September 15, 1973. The Administrator may request whatever supporting information he considers necessary for proper certification.

(ii) To a source for which a compliance schedule is adopted by the Commonwealth and approved by the Administrator.

(iii) To a source whose owner or operator submits to the Administrator, by September 15, 1973, a proposed alternative schedule. No such schedule may provide for compliance after May 31, 1975. If promulgated by the Administrator, such schedule shall satisfy the requirements of this paragraph for the affected source.

(4) Paragraph (f)(2) of this section shall not apply:

(i) To a source which is presently in compliance with paragraph (c)(4) of this section and which has certified such compliance to the Administrator by February 15, 1974. The Administrator may request whatever supporting information he considers necessary for proper certification.

(ii) To a source for which a compliance schedule is adopted by the State and approved by the Administrator.

(iii) To a source whose owner or operator submits to the Administrator, by February 15, 1974, a proposed alternative schedule. No such schedule may provide for compliance after May 31, 1975. If promulgated by the Administrator, such schedule shall satisfy the requirements of this paragraph for the affected source.

(5) Nothing in this paragraph shall preclude the Administrator from promulgating a separate schedule for any source to which the application of the compliance schedule in paragraph (f)(1) or (2) of this section fails to satisfy the requirements of 40 CFR 51.15 (b) and (c).

(g) *Regulation limiting on-street parking.* (1) For purposes of this paragraph, "on-street parking" means stopping a motor vehicle on a street or adjacent to a curb or sidewalk, whether or not a person remains in the vehicle.

(2) Beginning on or before May 1, 1974, the Commonwealth of Massachusetts, together with the City of Boston and other political or administrative subdivisions of the Commonwealth, shall prohibit on-street parking on all streets, highways, and other roadways within the Boston core area, as defined in paragraph (b) of this section, over which they have ownership or control, such prohibition to be in effect, as a minimum, during the hours of 6 to 10 a.m. and 4 to 6 p.m., except on Saturdays, Sundays, and legal holidays. The prohibition shall state that vehicles parked in violation of the prohibition shall be towed away, and that the owner be subject to a fine of not less than $50.00. The prohibition may provide procedures for exempting vehicles owned by residents of the Boston core area that are parked at or near the owner's residence, if such on-street parking is made necessary by the lack of other parking facilities, and if the parking is on a minor street which carries little traffic during the time of day the prohibition is in effect.

(3) Beginning on or before May 1, 1974, the Commonwealth of Massachusetts, together with the City of Springfield and other political or administrative subdivisions of the Commonwealth, shall prohibit on-street parking on all streets, highways, and other roadways within the Springfield downtown area (defined as the area bounded by the Connecticut River; Lyman, Maple, and Washington Streets; and Sumner Avenue) over which they have ownership or control, such prohibition to be in effect, as a minimum, during the hours of 6 a.m. to 6 p.m. except on Saturdays, Sundays, and legal holidays. The prohibition shall state that vehicles parked in violation of the prohibition shall be towed away,

and that the owner shall be subject to a fine of not less than $50.00.

(4) On or after May 1, 1974, no owner of a motor vehicle shall park, or permit the parking of, said vehicle on a street or roadway within the Boston core area as defined in paragraph (b) of this section, or within the Springfield downtown area as defined above, in violation of the prohibition called for in paragraph (g) (2) and (3) of this section.

(5) The Governor of the Commonwealth of Massachusetts, and the chief executive of each governmental entity subject to the other requirements of paragraph (g) (2) and (3) of this section within 6 months after the promulgation of these regulations in final form, shall submit to the Administrator for his approval a detailed statement of the legal and administrative steps chosen to effect the prohibition provided for in paragraph (g) (2) of this section, and a schedule for their implementation that provides for their full effectiveness no later than May 1, 1974. Such schedule shall include, as a minimum, the following:

(i) Designation of one or more agencies responsible for the administration and enforcement of the program.

(ii) The procedures by which the designated agency will enforce the prohibition provided for in paragraph (g) (2) of this section.

(6) The failure of any person to comply with any provision of this paragraph shall render such person in violation of a requirement of an applicable implementation plan, and subject to enforcement action under section 113 of the Clean Air Act.

As to compliance schedules, state or other governmental entity will be considered to have failed to comply with the requirements of this paragraph if it fails to timely submit any required compliance schedule, or if the compliance schedule when submitted does not contain in satisfactory form each of the elements it is required to contain.

(h) *Regulation for parking surcharge.* (1) For purposes of this paragraph, "off-street parking space" means any area or space below, above, or at ground level, open or enclosed, which is used for parking one light-duty vehicle at any given time.

(2) A surcharge of $5.00 per day vehicle in the Boston Intrastate Region, and of $4.00 per day per vehicle in the Interstate Region, shall be applied under conditions as provided in paragraph (h) (4) of this section to any contract or other agreement among private parties whereby parking a motor vehicle in an off-street parking space is permitted by any person in exchange for a consideration. Such surcharge shall be collected by the person providing the permission to park and paid to EPA, or any agency approved by EPA, on a periodic basis as EPA or the agency approved by it shall specify. EPA, or the agency approved by EPA, shall deduct such funds as necessary to properly administer and enforce the surcharge, and shall transfer the remainder to the Commonwealth of Massachusetts.

(3) A surcharge of $5.00 per day per vehicle in the Boston Intrastate Region, and of $4.00 per day per vehicle in the Interstate Region, shall be levied, under conditions as provided in paragraph (h) (4) of this section, for the use of any off-street parking space in any public parking facility owned, operated, or controlled by the Commonwealth of Massachusetts or the City of Boston or any agency, department, or commission of either. Such surcharge shall be collected by the Commonwealth of Massachusetts or the City of Boston or their designated agents, and such proceeds shall, after deduction of funds necessary to administer and enforce the collection of the surcharge, be utilized to fund mass transit facilities and service improvements.

(4) The surcharge provided for in paragraphs (h) (2) and (3) of this section, shall be applicable, beginning December 1, 1974, to all parking at Logan International Airport between the hours of 6 a.m. and 10 p.m.; to all parking arrangements within the Boston core area, as defined in paragraph (b) of this section wherein the motor vehicle is delivered for parking during the hours of 6 a.m. to 10 a.m.; and in the area bounded by the Connecticut River, Lyman Street, Maple Street, Washington Street, and Summer Avenue in the Interstate Region between 6 a.m. and 6 p.m. on a day other than Saturday, Sunday, or a legal holiday.

(5) Each owner or operator, whether a private person or a governmental entity, of an off-street parking facility located within the Boston Core Area, as defined in paragraph (b) of this section, at Logan International Airport, or within the Springfield downtown area as defined in paragraph (h) (4) of this section shall, by October 1, 1973, report to the Administrator the number of parking spaces in each such facility under his ownership or control.

(6) Each owner or operator of a parking facility subject to this paragraph shall submit an accounting of the number of parking spaces used during the hours the surcharge is in effect and the funds collected. This accounting shall be made on a quarterly basis, in such manner and form as the Administrator may subsequently provide for by regulation published in the FEDERAL REGISTER.

(7) The failure of any person to comply with any provision of this paragraph shall render such person in violation of a requirement of an applicable implementation plan, and subject to enforcement action under section 113 of the Clean Air Act.

(i) *Regulation for seasonal vehicle use prohibition program.* (1) "Vehicle use prohibition program" means a program whereby the operation of private light-duty vehicles within a specified area is intermittently prohibited in a manner equitable for all vehicle operators. The program shall include assurances that families owning more than one car receive only one category of identifying device under paragraph (i) (2) (ii) of this section for all the cars they own.

(i) "Control period" means a portion of a calendar year during which a vehicle use prohibition program is in effect.

(ii) "Private light-duty vehicle" means any light-duty vehicle that is not part of a fleet of 10 or more such vehicles.

(2) The Commonwealth of Massachusetts shall establish a seasonal vehicle use prohibition program applicable to all private light-duty vehicles which operate on street or highways over which it, or any of its subdivisions or agencies, have ownership or control. No later than November 1, 1974, the Commonwealth shall adopt regulations to establish such a program. The regulations shall:

(i) Provide for the division of the population of private light-duty vehicles registered within the Boston Intrastate Region into five equal groups, on a basis that is equitable and is not related to place of registration.

(ii) Provide for the issuance of windshield stickers or other appropriate identifying devices to assign the five groups to the five days of the week Monday through Friday.

(iii) Provide that, during a control period designated by the Administrator in accordance with paragraph (i) (4) of this section, the operation of a private light-duty vehicle within the area bounded by the northerly boundaries of the cities of Peabody and Salem, the southerly boundary of the City of Quincy, and Route 128 from the northerly boundary of Peabody to the southerly boundary of Quincy, on the day of the week to which such vehicle has been assigned, shall be prohibited. The regulations shall provide that travel on Route 128 will be permitted, and shall permit travel within the prohibited area by vehicles traveling from Route 128 to the Riverside transit station.

(3) On or before April 30, 1974, the Governor of the Commonwealth of Massachusetts shall submit to the Administrator for his approval a detailed description of the legal and administrative mechanisms adopted for operating the vehicle use prohibition program provided for in paragraph (i) (2) of this section, including as a minimum the following:

(i) Designation of one or more agencies responsible for the administration and enforcement of the program.

(ii) A description of the method by which the Commonwealth will divide the vehicle population into five groups, and a description of the system of devices to identify the groups.

(iii) The procedures by which the designated agency will identify, and issue citations to, those vehicle operators driving in violation of the prohibition.

(iv) The date by which the program provided for in paragraph (i) (2) of this section shall become operational; such date shall be as soon as expeditiously practicable, but in no case later than May 31, 1975.

(4) On or before April 1, 1975, and at appropriate later times, the Administrator may provide, by publication in the

FEDERAL REGISTER, that specific periods of time, beginning no sooner than 30 days after such publication, shall be control periods, during which the vehicle use prohibition program shall be in effect. Unless provided otherwise by regulation, during any such control period no owner of a private light-duty vehicle subject to the program shall operate or permit the operation of such vehicle on the day of the week to which said vehicle has been assigned.

(5) The failure of any person to comply with any provision of this paragraph shall render such person in violation of a requirement of an applicable implementation plan, and subject to enforcement action under section 113 of the Clean Air Act.

As to compliance schedules, state or other governmental entity will be considered to have failed to comply with the requirements of this paragraph if it fails to timely submit any required compliance schedule, or if the compliance schedule when submitted does not contain in satisfactory form each of the elements it is required to contain.

(j) *Regulation for traffic flow improvements.* (1) A traffic-responsive, digital-computer-controlled, traffic signal system shall be installed in the Springfield area. In conjunction with this system a ramp metering system shall be installed to control traffic on an appropriate length of Interstate 91. These two systems shall function together to improve traffic flow within the Springfield downtown area and also to limit VMT within the area, despite the potential traffic capacity increase provided by the system.

(2) The Governor shall, within 6 months after the promulgation of these regulations in final form, submit to the Administrator, for his approval, a detailed statement of the steps chosen to implement the actions in paragraph (j)(1) of this section and a schedule for such implementation that provides, as a minimum, the following:

(i) A date by which detailed plans will be given to EPA indicating the specific system design selected, including the method planned for use in ramp metering. Such date shall be no later than March 1, 1974.

(ii) A date by which equipment necessary to implement this program will be ordered.

(iii) A date by which the system will become operational. Such date shall be no later than May 31, 1975.

(3) The failure of any person to comply with any provision of this paragraph shall render such person in violation of a requirement of an applicable implementation plan, and subject to enforcement action under section 113 of the Clean Air Act.

(k) *Regulation for street closing.* (1) A section of Main Street in the downtown area of Springfield shall be permanently closed to all traffic except loading traffic. The section closed shall extend from the railroad overpass at the north to State Street at the south. Streets intersecting Main Street within the closed-off length shall also be closed where possible to maximize block size. A minimum of 15 block lengths of intersecting streets shall be closed off.

(2) The Governor shall, within 6 months after the promulgation of these regulations in final form, submit to the Administrator, for his approval, a detailed statement of the steps chosen to effect the actions in paragraph (k)(1), of this section, and a schedule for their implementation that provides for their full effectiveness no later than May 31, 1975.

(3) The failure of any person to comply with any provision of this paragraph shall render such person in violation of a requirement of an applicable implementation plan, and subject to enforcement action under section 113 of the Clean Air Act.

(l) *Regulation for yearly inspection and maintenance.* (1) For purposes of this paragraph:

(i) "Inspection and Maintenance Program" means a program to reduce emissions from in-use vehicles through identifying vehicles which need emission control related maintenance and requiring that maintenance be performed.

(ii) All other terms used in this paragraph that are defined in 40 CFR Part 51, Appendix N, are used herein with the meanings therein defined.

(2) This paragraph is applicable in the Boston Intrastate Region and the Interstate Region.

(3) The Commonwealth of Massachusetts shall establish an inspection and maintenance program applicable to all light-duty vehicles which operate on streets or highways over which it has ownership or control. No later than March 1, 1974, the Commonwealth shall submit legally adopted regulations to EPA establishing such a program. The regulations shall include:

(i) Provisions for inspection of all motor vehicles at periodic intervals at least once each year by means of an idle emission test.

(ii) Provisions for inspection failure criteria consistent with the failure of 40 percent of the vehicles tested during the first inspection cycle.

(iii) Provisions to require that failed vehicles receive, within 2 weeks, the maintenance necessary to achieve compliance with the inspection standards. This shall include sanctions against individual owners and repair facilities, retest of failed vehicles following maintenance, a certification program to ensure that repair facilities performing the required maintenance have the necessary equipment, parts and technical skills to perform the tasks satisfactorily, and such other measures as may be necessary or appropriate.

(iv) A program of enforcement to ensure that vehicles are not intentionally readjusted or modified subsequent to the inspection and/or maintenance in such a way as would cause them to no longer comply with the inspection standards. This might include spot checks of idle adjustments and/or a suitable type of physical tagging.

(v) An agency or agencies responsible for conducting, overseeing, and enforcing the inspection and maintenance program.

(4) After January 1, 1975, the State shall not register or allow to operate on its streets or highways any light-duty vehicles which do not comply with the application standards and procedures adopted pursuant to paragraph (l)(3) of this section.

(5) After January 1, 1975, no owner of a light-duty vehicle shall operate or allow the operation of such vehicle which does not comply with the applicable standards and procedures adopted pursuant to paragraph (l)(3) of this section.

(6) The Commonwealth of Massachusetts shall submit, no later than October 1, 1973, a detailed compliance schedule showing the steps it will take to establish and enforce an inspection and maintenance program pursuant to paragraph (l)(3), of this section, including the test of needed statutory proposals and needed regulations which it will propose for adoption. The compliance schedule shall also include:

(i) The date by which the State will recommend needed legislation to the State legislature.

(ii) The date by which necessary equipment will be ordered.

(iii) A signed statement from the Governor and State Treasurer identifying the sources and amounts of funds for the program. If funds cannot legally be obligated under existing statutory authority, the test of needed legislation will be submitted.

(7) Failure to comply with any provisions of this paragraph shall render such person in violation of a requirement of an applicable implementation plan and subject to enforcement action under section 113 of the Clean Air Act. With regard to compliance schedules, the State will be considered to have failed to comply with the requirements of this paragraph if it fails to timely submit any required compliance schedule, or if the compliance schedule when submitted does not contain in satisfactory form each of the elements it is required to contain.

(m) *Regulation for vacuum spark advance disconnect.* (1) For purposes of this paragraph, "vacuum spark advance disconnect" means a device or system installed on the vehicle which prevents the ignition vacuum advance from operating either when the vehicle's transmission is in the lower gears or when the vehicle is traveling below a predetermined speed.

(2) This paragraph is applicable in the Boston Intrastate Region.

(3) On or before January 1, 1975, all gasoline-powered light-duty vehicles of model year prior to 1970 and subject under presently existing legal requirements to registration in the area described in paragraph (m)(2) of this section shall be equipped with an appopriate vacuum spark advance disconnect device.

(4) The Commonwealth of Massachusetts shall submit, no later than Oc-

tober 31, 1973, a detailed compliance schedule showing the steps it will take to implement and enforce this requirement. Such schedule shall include, as a minimum, the following:

(i) A date by which the State will evaluate and approve devices for use in this program. Such date shall not be later than January 1, 1974.

(ii) A date by which installation of this equipment shall commence. Such date shall be no later than May 31, 1974.

(iii) A date by which all vehicles subject to this paragraph will be equipped with such devices. Such date shall be not later than January 1, 1975.

(iv) Designation of any agency or agencies responsible for evaluating and approving such devices for use on vehicles subject to this paragraph.

(v) Designation of an agency or agencies responsible for ensuring that the prohibitions of paragraph (m)(5)(ii) of this section shall be enforced.

(vi) Method and proposed procedures for ensuring that those persons installing the devices have the training, technical skills, and ability to perform the needed tasks satisfactorily and that an adequate supply of devices will be available.

(vii) Provision (apart from the requirements of any program for periodic inspection and maintenance of vehicles generally) for emission testing at the time of device installation or some other positive assurance that the device is installed and operating correctly.

(5) After January 1, 1975, the following shall apply within the Boston Intrastate Region:

(i) The State shall not register a vehicle subject to this paragraph which is not equipped in accordance with paragraph (m)(3) of this section.

(ii) No owner of a light-duty vehicle subject to this paragraph shall operate or allow the operation of any such vehicle that is not equipped in accordance with paragraph (m)(3) of this section.

(6) The failure of any person to comply with any provision of this paragraph shall render such person in violation of a requirement of an applicable implementation plan, and subject to enforcement action under section 113 of the Clean Air Act. As to compliance schedules, a State will be considered to have failed to comply with the requirements of this regulation if it fails to submit on a timely basis the required compliance schedule, or if the compliance schedule when submitted does not contain in satisfactory form each of the elements it is required to contain.

(n) *Regulation for oxidizing catalyst.* (1) For purposes of this paragraph:

(i) "Oxidizing catalyst" means a device installed in the exhaust system of the vehicle that utilizes a catalyst and, if necessary, an air pump to reduce emissions of hydrocarbons and carbon monoxide from that vehicle.

(ii) "Fleet vehicle" means any of 10 or more light-duty vehicles operated by the same person(s) or business and used principally in connection with the same or related occupations.

(2) This paragraph is applicable in the Boston Intrastate Region.

(3) On or before May 31, 1977, all gasoline-powered fleet vehicles, and all private light-duty vehicles of model year 1972 to 1975 subject to registration in the Boston Intrastate Region shall be equipped with an appropriate oxidizing catalyst control device.

(4) The Commonwealth of Massachusetts shall submit, no later than January 31, 1976, a detailed compliance schedule showing the steps it will take to implement and enforce this requirement. Such schedule shall include, as a minimum, the following:

(i) A date by which the State will evaluate and approve devices for use in this program. Such date shall be no later than July 1, 1977.

(ii) A date by which installation of this equipment shall commence. Such date shall be no later than September 1, 1976.

(iii) A date by which all vehicles subject to this paragraph will be equipped with such devices. Such date shall be no later than May 31, 1977.

(iv) Designation of any agency or agencies responsible for evaluating and approving such devices for use on vehicles subject to this paragraph.

(v) Designation of any agency or agencies responsible for ensuring that the prohibitions of paragraph (n)(5)(ii) of this section shall be enforced.

(vi) Method and proposed procedures for ensuring that those persons installing the devices have the training, technical skill, and ability to perform the needed tasks satisfactorily and that an adequate supply of devices will be available.

(vii) Provision (apart from the requirements of any program for periodic inspection and maintenance of vehicles generally) for emission testing at the time of device installation or some other positive assurance that the device is installed and operating correctly.

(5) After May 31, 1977, the following shall apply within the Boston Intrastate Region.

(i) The State shall not register a vehicle subject to this paragraph which is not equipped in accordance with paragraph (n)(3) of this section.

(ii) No owner of a light-duty vehicle subject to this paragraph shall operate or allow the operation of any such vehicle that is not equipped in accordance with paragraph (n)(3) of this section.

(6) The failure of any person to comply with any provision of this paragraph shall render such person in violation of a requirement of an applicable implementation plan, and subject to enforcement action under section 113 of the Clean Air Act. As to compliance schedules, a State will be considered to have failed to comply with the requirements of this regulation if it fails to submit on a timely basis the required compliance schedule, or if the compliance schedule when submitted does not contain in satisfactory form each of the elements it is required to contain.

[FR Doc.73-13034 Filed 6-29-73;8:45 am]

[40 CFR Part 52]

MINNESOTA AIR QUALITY CONTROL

Approval and Promulgation of Implementation Plans

BACKGROUND

On May 31, 1972 (37 FR 10842), pursuant to section 110 of the Clean Air Act of 1970 and 40 CFR Part 51, the Administrator approved, with specific exception, State plans for implementation of the national ambient air quality standards. On that date, the Governor of Minnesota was advised that in order to complete the requirements of §§ 51.11(b) and 51.14, a transportation and/or land use control strategy was to be submitted to the Administrator by February 15, 1973.

On January 31, 1973, the United States Court of Appeals for the District of Columbia Circuit found that the Administrator did not conform to the strict requirements of the Clean Air Act of 1970 in permitting several states to dalay submission of transportation control portions of their implementation plans until February 15, 1973, and in granting extensions until mid-1977 for attainment of the national primary ambient air quality standards. Accordingly, the court ordered that the Administrator rescind the extension granted to the states for implementation of the transportation and/or land use control portion of their plans. The affected states were then required to submit a control plan by April 15, 1973. The plan was to provide for the attainment and maintenance of the National Ambient Air Quality Standard for carbon monoxide as expeditiously as possible, but in no instance later than May 31, 1975.

The State of Minnesota held a preliminary hearing on its proposed plan on January 16, 1973 and subsequent formal public hearings were held on February 20, 1973 and May 3, 1973. However, the plan has not yet been submitted. Comments on the proposed plan dealt with the absence of a motor vehicle inspection/maintenance program, which several people felt to be necessary; the possible air quality effects caused by a domed stadium, which is presently under consideration for construction in Minneapolis; and the concern that the traffic flow improvements will in the long run cause greater traffic volumes to occur.

This notice of proposed rule making sets forth a transportation control plan for the Minneapolis-St. Paul Intrastate Air quality Control Region (hereinafter referred to as the Region), as required by the January 31, 1973, court order and 1970 amendments to the Clean Air Act. This Federal proposal results from the failure of the State of Minnesota to submit to the Administrator by April 15, 1973 an acceptable implementation plan for the attainment and maintenance of the National Ambient Air Quality Standard for carbon monoxide.

If a State plan is submitted and is determined to be approvable prior to Federal promulgation of a plan, contem-

plated by this notice, these proposed regulations will be withdrawn. If a State plan that is submitted is determined to be approvable after Federal promulgation has occurred, then the Federal plan will be rescinded. It is the desire of the Administrator that the plan to attain and maintain the carbon monoxide standard in the Region be a State plan, carried out by the State or its designated representative.

Pollution in the Region

The Region includes the seven counties (Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington) that encompass the urbanized areas of Minneapolis and St. Paul. The Twin Cities Metropolitan area is situated on a gently rolling plain where the Minnesota and St. Croix Rivers intersect the Mississippi River. The general elevation of the land is less than 1,000 feet above sea level. This physiological feature is usually favorable to the dispersion of carbon monoxide emissions through diffusion and other favorable climatic conditions.

The type of climate is controlled by the interrelationship of continental polar air and warm moist air from the Gulf of Mexico. The results are wide variations in temperature and a general tendency to reach the extremes in all climatic features. The three meteorological conditions of low wind speeds, temperature inversions, and condensation (which particularly affect the dispersion of pollutants) make the fall and winter months of the year of special importance during this period when frequently occurring stagnant conditions provide for the expectation of maximum carbon monoxide concentrations.

The National Primary Ambient Air Quality Standards for carbon monoxide are 10 milligrams per cubic meter (9 ppm), maximum 8-hr. concentration, and 40 milligrams per cubic meter (35 ppm), maximum 1-hr. concentration. Neither standard is to be exceeded more than once per year. The national standards for carbon monoxide promulgated on April 30, 1971 (36 FR 8186), are intended to prevent the occurrence of carboxyhemoglobin levels in the blood of more than 2 percent. It is the Administrator's judgement that attainment of the national standards for carbon monoxide will provide an adequate safety margin for the protection of public health, and will guard against known and anticipated adverse effects on public welfare, as required by the Act.

During the time period between January 1, 1971 and December 31, 1972, there was a total of 16,846 hourly average carbon monoxide readings taken in downtown Minneapolis. During this same time interval, the 8-hr. carbon monoxide standard was equaled or exceeded on 1,331 occasions (based upon a running 8-hr. average) or approximately 8 percent of the time. The maximum recorded 8-hr. average was 15.4 ppm, which is approximately 1.7 times the national standard of 9.0 ppm. Similarly, the second highest recorded 8-hr. average value was 15.0 ppm, which is more than 1.65 times the national standard. The downtown Minneapolis site is considered to be representative of the most polluted area of the Region (the Minneapolis Central Business District) because the sampling station is located within the zone which has, by far, the greatest carbon monoxide emission density found anywhere in the Region. This emission density is 23,186 kilograms of carbon monoxide/square mile/12 hours.

The degree of reduction in carbon monoxide necessary to provide for attainment of the national standard is determined assuming that there is a linear relationship between emissions and air quality—that is to say, that a given percentage change in emissions produces the same percentage change in air quality. Therefore, if a 40 percent

$$\left(\frac{15-9}{15}\times 100\right)$$

improvement in air quality is needed, a 40 percent decrease in carbon monoxide emissions must be achieved. It is also assumed that CO concentration in a given area or zone is directly proportional to the CO emission rate in that zone. Accordingly, the Region was divided into zones and CO emission rates for each zone were calculated. This analysis clearly shows that the greatest emissions density is in the Minneapolis CBD and that controls beyond the Federal Motor Vehicle Control Program are necessary to reduce CO concentrations within the zone.

Summary

Studies presently available to the Administrator indicate that of the 40 percent overall emission reduction necessary (in 1971 emissions) to achieve the air quality standard by May of 1975, an approximate reduction of 29 percent (of 1971 emissions) may be attributed to the impact of stationary source emission controls and the Federal motor vehicle emission control program. This estimate includes the impact of the interim 1975 motor vehicle emission standard for carbon monoxide as set by the Administrator on April 11, 1973. This prediction leaves an additional 11 percent overall reduction required in 1971 emissions, or based upon an overall expected CBD emission density in 1975 of 16,554 kg/mi²-1 hr, the 1975 vehicular emission reduction required is approximately 17.3 percent. Such a reduction would achieve the desired carbon monoxide emission density level of 13,912 kg/mi²-12 hr within the Minneapolis Central Business District. All other areas of the Region will have a CO emission density less than this safe emission density by 1975 because of the existing emission controls.

Transportation Control Alternatives

The Administrator's analysis of the air quality problems associated with the Region indicates that the following strategies could be applicable singly (or in combination) to various portions of the Region, with the implementation by May 31, 1975:

1. Fringe parking lots or structures around both CBDs coupled with shuttle bus service to the downtown areas.
2. Restriction of CBD core parking through the elimination of all on-street parking and the restriction of construction of future and additional parking facilities within the core area of each CBD.
3. Increases in average car occupancy through carpooling.
4. Establishment of an idle mode inspection—maintenance program applicable to all vehicles registered within Hennepin and Ramsey counties.

Although one or more of these strategies may already be planned by the State for intermittent or partial implementation by mid-1975, the Administrator is of the opinion that each of the above alternatives could serve to enhance the overall desirability and attractiveness of the CBDs in general in addition to their respective positive impact upon the air quality of the Region.

Proposed Control Strategy

In order to achieve the required carbon monoxide vehicle emission reduction of 16 percent by May 31, 1975, as previously noted, the Administrator proposes to implement all of the above alternatives on a concurrent basis, with the exception of the core parking restrictions, applicable to the city of St. Paul central business district and carpooling throughout the area. With respect to the city of Minneapolis CBD, imposition of total restrictions in the core parking strategy shall be dependent upon the need in terms of achievement and maintenance of the carbon monoxide standard, and upon the status of completion and use of the fringe parking for such CBD.

In essence, the following strategies are being proposed by the Administrator, with full implementation to be caused by May 31, 1975. The associated emissions impacts for each strategy imposed are also listed, based upon the assumption from an analysis of those facts available to the Administrator that light-duty vehicles will account for 81.7 percent of the total carbon monoxide emissions in and around both CBDs in 1975.

Proposed Control Strategy	Overall Reduction %	Total Reduction Achievable %
(1) Fringe parking* Approximately 7,000 fringe parking spaces are planned in the Minneapolis CBD (represented by Urban Activity Districts No. 57-61; Area=1.080 mi²) by 1975. An approximately equivalent number of parking spaces should be available around the St. Paul CBD (represented by UAD Nos. 84-88; Area=0.979 mi²) by 1975. On the design assumption that downtown circulation will be adequately augmented by shuttle bus operations in both CBDs, it is expected that fringe parking spaces will be used to 100 percent of available capacity, because on-street parking spaces will be eliminated by another strategy. This implies a 4.8 percent reduction of light-duty vehicle miles traveled.	3.9	25
(2) Inspection—Maintenance Program The Administrator proposes to require an annual idle emissions safety inspection of all vehicles registered within Hennepin and Ramsey Counties; designed to have an initial failure rate of 30%. It is anticipated that this strategy will affect approximately 700,000 vehicles per year, which will comprise at least 80 percent of the total vehicles traveling within the Minneapolis and St. Paul CBDs. This is equivalent to approximately a 6.4 percent reduction in LDV emissions.	5.2	31
(3) Core Parking Restrictions The Administrator proposes to cause to be required a restriction on parking in the Minneapolis CBD through the elimination of all on-street parking and the restriction of construction of future and additional parking facilities. It is anticipated that this strategy would increase average traffic speed by approximately 10 percent and therefore result in a reduction in carbon monoxide emissions of 7½ percent. This strategy will be effective on January 1, 1975.	7.5	44
TOTAL	16.6	100

*NOTE: This strategy is expected to be implemented regardless of Federal promulgation procedures.

ECONOMIC IMPACT OF THE PLAN

It is anticipated that the annual costs of the inspection/maintenance and retrofit programs will most likely be borne by the vehicle owner. Studies available to the Administrator through the EPA document "Control Strategies for In-Use Vehicles", November, 1972, indicate the following estimated costs:

Inspection/maintenance:

Anticipated inspection costs per vehicle (under idle exhaust emission inspection) may range from $1.50 to $7.50 per vehicle per year. The anticipated reduction in vehicle trips to the Minneapolis CBD resulting from the elimination of on-street parking and the lack of a location to terminate the trip can be absorbed by additional voluntary car pooling and the use of the anticipated fringe parking facilities including the provisions for shuttle service.

PUBLIC COMMENTS SOLICITED

Public hearings will be held on this and alternate proposals on July 24, 1973 at 9:30 A.M. in the Hall of Satellites, Holiday Inn (downtown), 1313 Nicollet Avenue, Minneapolis, Minnesota 55043.

Interested persons may participate in this rulemaking by submitting written comments to the Regional Administrator, EPA, Region V, 1 North Wacker Drive, Chicago, Illinois 60606. All relevant comments received on or before August 1, 1973, will be considered by the Administrator together with the remainder of the entire hearing records and the proposed plan. Receipt of comments will be acknowledged. Substantive responses to individual comments will not be provided. Such oral and written comments received together with the remainder of the entire hearing record and the proposed plan will be available for public inspection during normal business hours at the EPA Region V Office. The changes proposed by this notice, with the appropriate modification, will be effective on the date of final publication. This notice of proposed rulemaking is issued under the authority of sections 110(c) and 301(a) of the Clean Air Act (42 U.S.C. et seq.).

Dated: June 22, 1973.

ROBERT W. FRI,
Acting Administrator.

Part 52 of Chapter I, title 40, of the Code of Federal Regulations is proposed to be amended as follows:

Subpart Y—Minnesota

1. Subpart Y—is amended by adding § 52.1230 as follows:

§ 52.1230 Regulations for inspection and maintenance program.

(a) Definitions:

(1) "Inspection and maintenance program"—a program to reduce emissions from in-use vehicles through identifying vehicles which need emissions control-related maintenance and requiring that maintenance be performed.

(2) "Persons"—any individual corporation, partnership, State municipality or unit of local government, commission, political subdivision of a State, or other entity or the officials, employees, and agents thereof.

(3) All other terms used in this section which are defined in 40 CFR Part 51, Appendix N are used herein with the meanings so defined.

(b) This section is applicable to motor vehicles, both owned and operated in Ramsey and Hennepin Counties, Minnesota except as provided in paragraph (c)(4) of this section.

(c) The counties of Ramsey and Hennepin and the Cities of Minneapolis and St. Paul shall cause to be established an inspection and maintenance program applicable to light-duty vehicles, both owned and operated within Hamilton County on streets, roads, and highways over which they have ownership or control. No later than March 1, 1974, the Counties of Ramsey and Hennepin and the Cities of Minneapolis and St. Paul shall adopt a legally enforceable program and submit a description of such a program to EPA. The program shall include:

(1) Provisions for inspection of all motor vehicles at periodic intervals no more than one year apart by means of an idle test.

(2) Provisions for inspection failure criteria consistent with the emissions reductions claimed in the plan for the strategy. These criteria shall include projected failure rate of 30 percent of the vehicles in the first inspection cycle.

(3) Provisions to ensure that failed vehicles receive the maintenance necessary to achieve compliance with established emission standards. This shall include sanctions against individual owners and repair facilities, retest of failed vehicles following maintenance, a certification program to ensure that repair facilities performing the required maintenance have the necessary equipment, parts and technical skills to perform the tasks satisfactorily and such other measures as may be necessary or appropriate.

(4) A program of enforcement to insure that vehicles are not intentionally readjusted or modified subsequent to the inspection and/or maintenance in such a way as would cause them to no longer comply with the inspection standards. This might include spot checks of idle adjustments and/or a suitable type of physical tagging.

(5) An agency or agencies responsible for conducting, overseeing, and enforcing the inspection and maintenance program.

(d) After January 1, 1975, no person shall allow the registration of title or allow the operation on streets, roads, or highways of any light-duty motor vehicle both owned and operated in Ramsey and Hennepin Counties which does not comply with applicable standards and procedures in accordance with paragraph (c) of this section.

(e) After January 1, 1975, no person shall operate or allow the operation of a light duty vehicle both owned and operated in Ramsey and Hennepin Counties which does not comply with the applicable standards and procedures in ac- in accordance with paragraph (c) of this section.

(f) The Counties of Ramsey and Hennepin and the Cities of Minneapolis and St. Paul, shall cause to be submitted no later than October 1, 1973, a detailed compliance schedule showing the steps each will take to establish and enforce an inspection and maintenance program in accordance with paragraph (c) of this section.

(1) The compliance schedule shall also include:

(i) The date by which necessary equipment will be ordered.

(ii) A signed statement from the Chief Executives of the Counties of Ramsey and Hennepin and the Cities of Minneapolis and St. Paul identifying the sources and allocation of funds for the program. If funds cannot legally be obligated under existing authority, the text of the needed authority will be submitted.

(g) Failure to comply with any provisions of this section shall render the person so failing to comply in violation of a

requirement of an applicable implementation plan and subject to enforcement under section 113 of the Clean Air Act. With regard to compliance schedules, the Counties of Ramsey and Hennepin and the Cities of Minneapolis and St. Paul will be considered to have failed to comply with the requirements of this section if each fails to timely submit any required compliance schedule, or if the compliance schedule when submitted does not contain in satisfactory form each of the elements it is required to contain.

2. Subpart Y is amended by adding § 52.1231 as follows:

§ 52.1231 Regulation to restrict construction of new parking facilities.

(a) Definitions:

(1) "Minneapolis Central Business District" means that area within the City of Minneapolis bounded by Grant Street on the South from Portland to 1st Avenue, by 3rd Avenue from 12th to the Mississippi River on the northwest, by the Mississippi River on the northeast; and by Portland Avenue between the River and Grant Street on the southeast; otherwise described as Urban Activity Forecast Districts #57–61.

(2) "Off-street parking facility" means any land or building or portion of a building set aside for the purpose of storing a maximum capacity of ten or more vehicles on a temporary basis.

(3) After the promulgation date of this regulation, no person shall commence construction of or modify in such manner as to increase the capacity of, or open for use or operate any new off-street parking facility in the Minneapolis Central Business District without receiving approval from the Administrator. However, these subparagraphs shall not apply to any parking lot, garage or other off-street parking facility, the construction or modification of which was commenced before the promulgation date of this regulation.

(i) Application for approval to construct or open for use any such parking facility shall be made on such forms and in accordance with the procedure established by the Administrator.

(ii) No approval to construct or open for use any such parking facility shall be granted unless the applicant shows to the satisfaction of the Administrator that the new facility will not prevent or interfere with the attainment or maintenance of any national air quality standard.

3. Subpart Y is amended by adding § 52.1232 as follows:

§ 52.1232 Regulation for banning of on-street parking.

(a) Definitions:

(1) "Persons" means any individual, corporation, partnership, political subdivision of a state, or other entity, or the officials, employees and agents thereof.

(2) "Motor vehicle" means every self-propelled over-the-road vehicle.

(3) "Standing of motor vehicle" means any stopping of a motor vehicle, except when necessary for loading or unloading passengers or to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control sign or signal.

(b) This regulation is applicable within the Minneapolis Central Business District. The requirement hereof shall be effective commencing January 1, 1975.

(c) No person shall cause, permit or allow the standing of any motor vehicle on any of the streets, roads or highways within the Minneapolis Central Business District between the hours of 6:30 A.M. and 6:30 P.M. on Monday through Friday of each week.

(d) Failure to comply with any provisions of this paragraph shall render such person in violation of a requirement of an applicable implementation plan and subject to enforcement action under section 113 of the Clean Air Act.

[FR Doc.73-13042 Filed 6-29-73;8:45 am]

[40 CFR Part 52]

OHIO AIR QUALITY CONTROL

Approval and Promulgation of Implementation Plans

Background. On May 31, 1972 (37 FR 10842), pursuant to section 110 of the Clean Air Act and 40 CFR Part 51, the Administrator approved, with specific exceptions, State plans for implementation of nation ambient air quality standards. On that date, the Governor of Ohio was advised that the attainment date for the national standard for photochemical oxidants in the Ohio portion of the Metropolitan Cincinnati Interstate Region was extended for 2 years.

On January 31, 1973 the United States Court of Appeals for the District of Columbia Circuit found that the Administrator did not conform to the strict requirements of the Clean Air Act of 1970 in granting extensions until mid-1977 for attainment of the national primary air quality standard. Accordingly the court ordered that the Administrator rescind the extensions granted the states for implementation of the transportation and/or land use control portion of their implementation plans. The affected states were required to submit a control plan by April 15, 1973. The plan was to show attainment of the national ambient air quality standards for photochemical oxidants and/or carbon monoxide as expeditiously as possible but no later than May 31, 1973.

On June 15, 1973, the Administrator approved, with specific exceptions, transportation and/or land use control plans submitted in response to the January 31, 1973 court order. This proposal results from the failure of the State of Ohio to submit an acceptable control plan for the attainment and maintenance of the national primary ambient air quality standard for photochemical oxidants in the Ohio portion of the Metropolitan Cincinnati Region (herein after referred to as the "Region"). This proposal sets forth a plan which in the Administrator's judgment could be implemented to attain and maintain the national standards for photochemical oxidants in the Region.

If a State plan which is submitted is determined to be approvable prior to Federal promulgation of a plan, these proposed regulations will be withdrawn. If a State plan which is submitted is determined to be approvable after Federal promulgation of a plan, then the Federal plan will be rescinded. It is the desire of the Environmental Protection Agency that the plan to attain and maintain the photochemical oxidants standards in the Region be a State plan implemented and enforced by the State or its designated representative.

Pollution in the Region

The Region is comprised of approximately 3000 square miles of land area located in the extreme southwestern portion of Ohio and the adjacent State of Indiana and the Commonwealth of Kentucky. The Indiana portion contains Dearborn and Ohio Counties; the Kentucky portion contains Boone, Campbell, Kenton, Carroll, Gallatin, Grant, Owen and Pendleton Counties; the Ohio portion contains Butler, Clermont, Hamilton and Warren Counties. Since the Administrator, on May 31, 1972, approved the plans submitted by Indiana and Kentucky demonstrating the attainment of the photochemical oxidants national standard in their portions of the Region, this proposal is primarily directed at the Ohio portion of the Region. The population of the Region is about 1.7 million persons, approximately eighty percent of whom reside within the Ohio portion of the Region and sixty percent within Hamilton County.

The primary national ambient air quality standard for photochemical oxidants is 160 $\mu g/m^3$ (0.08 ppm) average for a one-hour period not to be exceeded more than once per year. The standard, promulgated on April 30, 1971 (36 FR 8186), is based on evidence of increased frequency of asthma attacks in some asthmatic subjects on days when estimated hourly average concentrations of photochemical oxidants reached 0.10 ppm. A level of 0.08 ppm was therefore judged necessary by the Administrator to protect public health with an adequate margin of safety, as required by the Act.

In 1971 this standard was exceeded 59 times at the CAMP Station in downtown Cincinnati. Since the standard is specified in terms of a concentration which is not to be exceeded more than once per year, this proposal is based upon the second highest measured concentration of photochemical oxidants during that year. This second highest concentration was 277 $\mu g/m^3$ (.14 ppm) and is the basis for the calculations in the Ohio Implementation Plan which originally demonstrated the need for an extension to the attainment date. There is no reason to believe that 1971 was a year of unusually high oxidant concentration; in fact, previous years have had comparable concentrations measured. This concentration was not exceeded during the first two quarters of 1972. Validated air quality data for the last 2 quarters of 1972 are not yet available. Part of the original implementation plan was a commitment

to enlarge the air monitoring network for measuring oxidants in the Region.

The formation of photochemical oxidants is dependent upon the interaction between oxides of nitrogen and hydrocarbons in the presence of sunlight. By reducing any of these components, the formation of oxidants will be reduced. Of these components, hydrocarbon emissions present the greatest possibility for control. The extent of the reduction in hydrocarbon emissions which is required to meet the air quality standards for oxidants, based upon various measured concentrations, has been determined and is presented in Appendix J to 40 CFR Part 51.

Summary

Studies presently available to the Administrator indicate that a reduction of approximately 43 percent of 1971 hydrocarbons is necessary to achieve the national primary ambient air quality standard for photochemical oxidants by May 31, 1975 in the Region. The presently adopted Ohio stationary source regulations along with the Federal Motor Vehicle Control Program will account for a 42 percent reduction. In order to attain the standard by the time prescribed, light duty vehicles registered in Hamilton County will be required to be inspected annually using an idle emission test. Vehicle owners will be required to have any maintenance performed which is needed to ensure that the vehicle operates at low pollution levels.

No air pollution control plan for the Region will be promulgated in final form until full public participation has taken place.

Proposed Control Strategy

The Administrator proposes to require the State of Ohio to assure that all light duty vehicles registered in Hamilton County will be maintained properly in order to reduce hydrocarbon emissions. This will be accomplished by requiring all light duty vehicles registered in Hamilton County to pass an annual idle inspection test. It is felt that a mandatory annual idle emission inspection program presents a means of controlling, at a reasonable level, hydrocarbon emissions from light duty vehicles which will be the major source of hydrocarbon emissions in the Region in 1975. It is felt that it can achieve the necessary reduction in a positive manner at minimum cost and inconvenience to the motoring public.

Other strategies presently being considered include various gasoline marketing controls and preferential treatment to mass transit or other multiple passenger vehicles.

Information regarding emissions from mobile sources was derived from "Prediction of Hydrocarbon Mobile Source Emissions for the Metropolitan Cincinnati Region" prepared by TRW, Transportation and Environmental Operations, March, 1973 under contract No. 68-02-0048 Task Order 14. The study accounted for expected growth in the freeway system. The interim 1975 model emission standards as announced April 11, 1973 by the Administrator was also considered. Additional documents which were used are "An Interim Report on Motor Vehicle Emission Estimation," by Kircher and Armstrong, EPA, October, 1972 and "Control Strategies for In-Use Vehicles," EPA, November 1972. Information regarding total emissions from stationary sources was derived from a report entitled "Stationary Source Emissions In Hamilton County, Ohio 1971–1975" prepared by PEDCO Environmental Specialists under contract No. 68-02-004 Task Order 44.

Air Pollution Impact of Control Strategy

As indicated by the Ohio Implementation Plan as submitted in January, 1972, the present Ohio Control strategy is not sufficient to provide for the attainment of the photochemical oxidant air quality standard in the Cincinnati Region until 1977. Based upon 1971 air quality data, demonstration of attainment of the standard by 1975 must show that hydrocarbon emissions will be reduced by 43 percent between 1971 and 1975.

The emissions in Hamilton County in 1971 were 61,700 tons of hydrocarbons. In order to demonstrate attainment of the standards by 1975 the emissions must be reduced to no more than 35,200 tons. The following table is a summary of the effect of the strategy on the overall reduction necessary in Hamilton County.

Compilation of Control Strategy Effects by May 31, 1975 (Tons/Year)

Stationary Source Emissions with Present Strategy	8,863	
		8,863
Mobile Source Emissions with Present Strategy	26,850	
Reduction Due to Inspection/Maintenance	800	
		25,050
Total		34,913

The regulation proposed herein implements the basic control strategy. Additional technical information is contained in: Technical Support Document for the Proposed Transportation Control Strategy for the Metropolitan Cincinnati Interstate Air Quality Control Region, available from the Region V Office, Environmental Protection Agency, 1 North Wacker Drive, Chicago, Illinois 60606.

Economic Impact of the Plan

Most likely the annual cost of the inspection system will be passed on to the consumer. Studies reported in EPA document "Control Strategies for In-use Vehicles" November 1972, indicate that these costs would be in the range of $1.50 to $7.50 per vehicle per year. This does not include the cost of the necessary automobile maintenance which may be required to bring the emissions within the prescribed limitations.

Public Comments Solicited

Public hearings will be held on this notice of proposed rulemaking on July 25, 1973, at 9:30 a.m. in the Skyline Room, Terrace Hilton, 5th and Race Streets, Cincinnati, Ohio 45201.

Interested persons may participate in this rule making by submitting written comments to the Regional Administrator, EPA Region V, 1 North Wacker Drive, Chicago, Illinois 60606. All relevant comments received not later than August 1, 1973, will be considered. Receipt of comments will be acknowledged, but substantive responses to individual comments will not be provided. Comments received will be available for public inspection during normal business hours at the EPA, Region V Office. The changes proposed by this notice of proposed rule making is issued under the authority of section 110(c) and 301(a) of the Clean Air Act.

(42 U.S.C. 1857 c-5 et seq.)

Dated: June 22, 1973.

Robert W. Fri,
Acting Administrator.

Part 52 of Chapter I, Title 40, of the Code of Federal Regulations is proposed to be amended as follows:

Subpart KK—Ohio

1. Subpart KK—is amended by adding § 52.1878 as follows:

§ 52.1878 Inspection and maintenance program.

(a) Definitions:

(1) "Inspection and maintenance" means a program to reduce emissions from in-use vehicles through identifying vehicles which need emission control-regulated maintenance and requiring that maintenance be performed.

(2) "Persons" means any individual corporation, partnership, State, municipality or unit of local government, commission, political subdivision of a State, or other entity or the officials, employees, and agents thereof.

(3) All other terms used in this section which are defined in 40 CFR Part 51, Appendix N are used herein with the meanings so defined.

(b) This program is applicable to light duty motor vehicles, both owned and operated in Hamilton County, Ohio except as provided in paragraph (c)(4).

(c) The County of Hamilton and City of Cincinnati, Ohio, shall cause to be established an inspection and maintenance program applicable to light duty motor vehicles, both owned and operated within Hamilton County, on streets, roads, and highways over which they have ownership or control. No later than March 1, 1974, the County of Hamilton and City of Cincinnati shall adopt a legally enforceable program and submit a description of such a program to EPA. The program shall include:

(1) Provisions for inspection of all light duty motor vehicles at periodic intervals no more than 1 year apart by means of an idle test.

(2) Provisions for inspection failure criteria consistent with the emissions reductions claimed in the plan for the strategy. These criteria shall include failure of 30 percent of the vehicles in the first inspection cycle.

(3) Provisions to ensure that failed vehicles receive the maintenance nec-

essary to achieve compliance with the inspection standards. This shall include sanctions against individual owners and repair facilities, retest of failed vehicles following maintenance, a certification program to ensure that repair facilities performing the required maintenance have the necessary equipment, parts and knowledge to perform the tasks satisfactorily, and such other measures as may be necessary or appropriate.

(4) A program of enforcement to insure that vehicles are not intentionally readjusted or modified subsequent to the inspector and/or maintenance in such a way as would cause them to no longer comply with the inspection standards. This might include spot checks of idle adjustments and/or a suitable type of physical tagging.

(5) An agency or agencies responsible for conducting, overseeing, and enforcing the inspection and maintenance program.

(d) After January 1, 1975, no person shall allow the registration of title or allow the operation on streets, roads, or highways of any light duty motor vehicle, both owned and operated in Hamilton County, Ohio which does not comply with the applicable standards and procedures in accordance with paragraph (c) of this section.

(e) After January 1, 1975, no person shall operate or allow the operation of a light duty vehicle, both owned and operated in Hamilton County, Ohio, which does not comply with the applicable standards and procedures in accordance with paragraph (c) of this section.

(f) The County of Hamilton and the City of Cincinnati, Ohio, shall cause to be submitted no later than October 1, 1973, a detailed compliance schedule showing the steps each will take to establish and enforce an inspection and maintenance program in accordance with paragraph (c) of this section. The compliance schedule shall also include:

(1) The date by which necessary equipment will be ordered.

(2) A signed statement from the Chief Executive of the County of Hamilton and City of Cincinnati, Ohio, identifying the sources and allocation of funds for the program. If funds cannot legally be obligated under existing authority, the text of needed authority shall be submitted.

(g) Failure to comply with any provision of this program shall render the person so failing to comply in violation of a requirement of an applicable implementation plan and subject to enforcement under section 113 of the Clean Air Act. With regard to compliance schedules, the County of Hamilton and City of Cincinnati, Ohio, will be considered to have failed to comply with the requirements of this program if each fails to timely submit any required compliance schedule, or if the compliance schedule when submitted does not contain, in satisfactory form, each of the elements it is required to contain.

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