federal register

TUESDAY, AUGUST 7, 1973

WASHINGTON, D.C.

Volume 38 ■ Number 151

Pages 21237–21380

PART I

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HIGHLIGHTS OF THIS ISSUE

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federal register

Area Code 202 Phone 523–5240

Published daily, Monday through Friday (no publication on Saturdays, Sundays, or on official Federal holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C., Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1973, and specifies how they are affected.

Presidential Documents

Title 3—The President

EXECUTIVE ORDER 11735

Assignment of Functions Under Section 311 of the Federal Water Pollution Control Act, as Amended

By virtue of the authority vested in me by section 311 of the Federal Water Pollution Control Act, as amended by the Federal Water Pollution Control Act Amendments of 1972 (Public Law 92-500; 86 Stat. 816 at 862; 33 U.S.C. 1321), hereinafter referred to as the act, by section 301 of title 3 of the United States Code, and as President of the United States, it is hereby ordered as follows:

SECTION 1. *Administrator of the Environmental Protection Agency.* The Administrator of the Environmental Protection Agency is hereby designated and empowered to exercise, without the approval, ratification, or other action of the President, the following:

(1) the authority of the President under subsections (b)(3) and (b)(4) of section 311 of the act relating to the determination of those quantities of oil and hazardous substances the discharge of which, at such times, locations, circumstances, and conditions, will be harmful to the public health or welfare of the United States and those which will not be harmful;

(2) the authority of the President under subsection (c)(2)(G) of section 311 of the act, relating to identification of dispersants and other chemicals to be used;

(3) the authority of the President under subsection (e) of section 311 of the act, relating to determinations of imminent and substantial threat because of actual or threatened discharges of oil or hazardous substances from non-transportation-related onshore and offshore facilities, and relating to securing relief necessary to abate such actual or threatened discharges through court action; and

(4) the authority of the President under subsection (j)(1)(C) of section 311 of the act, relating to the establishment of procedures, methods, and equipment and other requirements for equipment to prevent discharges of oil and hazardous substances from non-transportation-related onshore and offshore facilities, and to contain such discharges.

SEC. 2. *Secretary of Department in which the Coast Guard is Operating.* The Secretary of the Department in which the Coast Guard is operating is hereby designated and empowered to exercise, without the approval, ratification, or other action of the President, the following:

(1) the authority of the President under subsection (c) of section 311 of the act, relating to determinations of imminent and substantial threat because of actual or threatened discharges of oil or hazardous substances from transportation-related onshore and offshore facilities, and relating to securing relief necessary to abate such actual or threatened discharges through court action;

(2) the authority of the President under subsection (j)(1)(C) of section 311 of the act, relating to the establishment of procedures, methods, and equipment and other requirements for equipment to prevent discharges of oil and hazardous substances from vessels and transportation-related onshore and offshore facilities, and to contain such discharges;

(3) the authority of the President under subsection (j)(1)(D) of section 311 of the act, relating to the inspection of vessels carrying cargoes of oil and hazardous substances and the inspection of such cargoes;

(4) the authority to administer the revolving fund established pursuant to subsection (k) of section 311 of the act; and

(5) the authority under subsection (m) of section 311 of the act, relating to the boarding and inspection of vessels, the arrest of persons violating section 311, and the execution of warrants or other process pursuant to that section.

SEC. 3. *Federal Maritime Commission.* The Federal Maritime Commission is designated and empowered to exercise, without the approval, ratification, or other action of the President, the following:

(1) the authority of the President under subsection (p)(1) of section 311 of the act, relating to the issuance of regulations governing evidence of financial responsibility for vessels to meet liability to the United States; and

(2) the authority under subsection (p)(2) of section 311 of the act, relating to the administration of subsection (p).

SEC. 4. *Council on Environmental Quality.* The Council on Environmental Quality is hereby designated and empowered to exercise, without the approval, ratification, or other action of the President, the authority under subsection (c)(2) of section 311 of the act, providing for the preparation, publication, revision or amendment of a National Contingency Plan for the removal of oil and hazardous substance discharges (hereinafter referred to as the National Contingency Plan).

SEC. 5. *Other Assignments.*

(a) The head of each Federal department and agency having responsibilities under the National Contingency Plan (36 FR 16215), as now or hereafter amended, is designated and empowered to exercise, without the approval, ratification, or other action of the President, in accordance with that plan, the authority under subsection (c)(1) of section 311 of the act, relating to the removal of oil and hazardous substances discharged into or upon the navigable waters of the United

States, adjoining shorelines, or into or upon the waters of the contiguous zone.

(b) The Administrator of the Environmental Protection Agency and the Secretary of the Department in which the Coast Guard is operating, respectively, in and for the waters and areas for which each has responsibility for providing or furnishing on-scene-coordinators under the National Contingency Plan, are designated and empowered to exercise, without approval, ratification, or other action of the President, the following:

(1) the authority under subsection (c)(2)(C) of section 311 of the act, relating to the determination of major ports for establishment of emergency task forces;

(2) the authority under subsection (d) of section 311 of the act, relating to the coordination and direction of the removal or elimination of threats of pollution hazards from discharges, or imminent discharges, of oil or hazardous substances, and the removal and destruction of vessels;

(3) the authority of the President under subsection (j)(1)(A) of section 311 of the act, relating to the establishment of methods and procedures for the removal of discharged oil and hazardous substances; and

(4) the authority of the President under subsection (j)(1)(B) of section 311 of the act, relating to the establishment of criteria for the development and implementation of local and regional oil and hazardous substance removal contingency plans.

(c) The Administrator of the Environmental Protection Agency and the Secretary of the Department in which the Coast Guard is operating are designated and empowered to exercise, without the approval, ratification, or other action of the President, the authority of the President under section 311(j)(2) with respect to assessing and compromising civil penalties in connection with enforcement of the respective regulations issued by each pursuant to this order.

SEC. 6. *Consultation.* Authorities and functions delegated or assigned by this order shall be exercised subject to consultation with the Secretaries of departments and the heads of agencies with operating or regulatory responsibilities which may be significantly affected.

SEC. 7. *Agency to Receive Notices of Discharges of Oil or Hazardous Substances.* The Coast Guard is hereby designated the "appropriate agency" for the purpose of receiving the notice of discharge of oil or

hazardous substances required by subsection (b)(5) of section 311 of the act. The Commandant of the Coast Guard shall issue regulations implementing this designation.

SEC. 8. Without derogating from any action heretofore taken thereunder, Executive Order No. 11548 of July 20, 1970, is hereby superseded.

Richard Nixon

THE WHITE HOUSE,
August 3, 1973.

[FR Doc.73-16405 Filed 8-3-73;5:06 pm]

Rules and Regulations

Title 14—Aeronautics and Space

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER D—SPECIAL REGULATIONS

[Reg. SPR-71, Amdt. 8]

PART 378—INCLUSIVE TOURS BY SUPPLEMENTAL AIR CARRIERS, CERTAIN FOREIGN AIR CARRIERS, AND TOUR OPERATORS

Post-tour Reporting

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on August 1, 1973.

By SPR-70,[1] the Board adopted amendment No. 7 to Part 378 to authorize certificated route air carriers and, subject to conditions, foreign route air carriers, to perform inclusive tour charters.

Amendment No. 7 contains certain inadvertent technical errors. This amendment corrects these errors.

This regulation is issued by the undersigned pursuant to a delegation of authority from the Board to the General Counsel in 14 CFR § 385.19 and shall become effective on August 22, 1973, the effective date of SPR-70. Procedures for review of this amendment by the Board are set forth in Subpart C of Part 385 (14 CFR 385.50 and 385.54).

Accordingly, the Board hereby amends Part 378 of the Special Regulations (14 CFR Part 378) effective August 22, 1973, as follows:

Amend paragraphs (a) and (b) of § 378.20 to read as follows:

§ 378.20 Post-tour reporting.

(a) Within 30 days after termination of a tour or series of tours, the direct air carrier and tour operator or foreign tour operator shall jointly file with the Board (Supplementray Services Division, Bureau of Operating Rights) a post-tour report: *Provided*, That in the case of a series of tours which exceeds six months between commencement of the first tour and departure of the last tour, the direct air carrier and tour operator or foreign tour operator shall file a joint interim report within 30 days after the expiration of six months from commencement of the first tour, covering tours terminated during such six months. The post-tour and interim report shall indicate whether or not the tours authorized hereunder were, in fact, performed. To the extent that the operations differed from those described in the prospectus filed under § 378.10, such differences shall be fully detailed including the reasons therefor. However, the making of such an explanation shall not of itself operate as authority for or excuse any such deviation. The report shall be in the form attached hereto as Appendix B.[2]

(b) The direct air carrier shall promptly notify the Board regarding any tours covered by a prospectus filed under § 378.10 that are later canceled.

* * * * *

(Sec. 204(a), Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324)

By the Civil Aeronautics Board.

[SEAL] RICHARD LITTELL, *General Counsel.*

[FR Doc.73-16234 Filed 8-6-73;8:45 am]

[1] 38 FR 19680, July 23, 1973.

[2] Filed as part of SPR-62 (37 FR 22851).

Title 16—Commercial Practices

CHAPTER II—CONSUMER PRODUCT SAFETY COMMISSION

SUBCHAPTER E—POISON PREVENTION PACKAGING ACT OF 1970 REGULATIONS

PART 1700—POISON PREVENTION PACKAGING

Effective May 14, 1973, section 30(a) of the Consumer Product Safety Act (Public Law 92-573, 86 Stat. 1231; 15 U.S.C. 2079(a)), among other things, transferred from the Secretary of Health, Education, and Welfare to the Consumer Product Safety Commission functions under the Poison Prevention Packaging Act of 1970.

Before May 14, 1973, the Commisisoner of Food and Drugs, under delegated authority, promulgated regulations under the Poison Prevention Packaging Act of 1970 which appear in the Code of Federal Regulations as 21 CFR Part 295. The purpose of this document is to revise and transfer those regulations.

Accordingly, pursuant to section 30(a) of the Consumer Product Safety Act, the Consumer Product Safety Commission hereby (1) deletes Part 295 from Title 21, Chapter I, and (2) revises and reissues the regulations under the Poison Prevention Packaging Act of 1970 as Part 1700 of Title 16, Chapter II, as set forth below. This action also establishes Chapter II of Title 16 to which Chapter other regulations of the Consumer Product Safety Commission will be added.

Any provisions of 21 CFR Part 295 having delayed effective dates as of the date of publication of this document shall have the same delayed effective date in 16 CFR Part 1700, and these are noted. In some instances, effective dates that were delayed but also recently preceded the date of this publication have been noted for informational purposes.

The material is revised to update the names, titles, etc., and to add for convenience certain definitions and provisions of the Poison Prevention Packaging Act of 1970. Since no new requirements are added by this revision, notice and public procedure are not prerequisites to this issuance.

Part 1700 of Title 16, Chapter II, Subchapter E, reads as follows:

Sec.

AUTHORITY: Secs. 1-9, 84 Stat. 1670-74; 15 U.S.C. 1471-76, unless otherwise noted.

§ 1700.1 Definitions.

(a) As used in this part:

(1) "Act" means the Poison Prevention Packaging Act of 1970 (Public Law 91-601, 84 Stat. 1670-74; 15 U.S.C. 1471-75), enacted December 30, 1970.

(2) "Commission" means the Consumer Product Safety Commission established by section 4 of the Consumer Product Safety Act (86 Stat. 1210; 15 U.S.C. 2053).

(b) Except for the definition of "Secretary," which is obsolete, the definitions given in section 2 of the act are applicable to this part and are repeated herein for convenience as follows:

(1) [Reserved]

(2) "Household substance" means any substance which is customarily produced or distributed for sale for consumption or use, or customarily stored, by individuals in or about the household and which is:

(i) A hazardous substance as that term is defined in section 2(f) of the Federal Hazardous Substances Act (15 U.S.C. 1261(f));

(ii) An economic poison as that term is defined in section 2(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 135(a));

(iii) A food, drug, or cosmetic as those terms are defined in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321); or

(iv) A substance intended for use as fuel when stored in a portable container and used in the heating, cooking, or refrigeration system of a house.

(3) "Package" means the immediate container or wrapping in which any household substance is contained for consumption, use, or storage by individuals in or about the household and, for purposes of section 4(a)(2) of the act, also means any outer container or wrapping used in the retail display of any such substance to consumers. "Package" does not include:

(i) Any shipping container or wrapping used solely for the transportation of any household substance in bulk or in quantity to manufacturers, packers, or processors, or to wholesale or retail distributors thereof; or

(ii) Any shipping container or outer wrapping used by retailers to ship or deliver any household substance to consumers unless it is the only such container or wrapping.

(4) "Special packaging" means packaging that is designed or constructed to be significantly difficult for children under 5 years of age to open or obtain a toxic or harmful amount of the substance contained therein within a reasonable time and not difficult for normal adults to use properly, but does not mean packaging which all such children cannot open or obtain a toxic or harmful amount within a reasonable time.

(5) "Labeling" means all labels and other written, printed, or graphic matter upon any household substance or its package, or accompanying such substance.

§ 1700.2 Authority.

Authority under the Poison Prevention Packaging Act of 1970 is vested in the Consumer Product Safety Commission by section 30(a) of the Consumer Product Safety Act (15 U.S.C. 2079(a)).

§ 1700.3 Establishment of standards for special packaging.

(a) Pursuant to section 3 of the act, the Commission, after consultation with the technical advisory committee provided for by section 6 of the act, may establish by regulation standards for the special packaging of any household substance if the Commission finds:

(1) That the degree or nature of the hazard to children in the availability of such substance, by reason of its packaging, is such that special packaging is required to protect children from serious personal injury or serious illness resulting from handling, using, or ingesting sucsh substance; and

(2) That the special packaging to be required by such standard is technically feasible, practicable, and appropriate for such substance.

(b) In establishing such a standard, the Commission shall consider:

(1) The reasonableness of such standard;

(2) Available scientific, medical, and engineering data concerning special packaging and concerning childhood accidental ingestions, illness, and injury caused by household substances;

(3) The manufacturing practices of industries affected by the act; and

(4) The nature and use of the household substance.

(c) In the process of establishing such a standard, the Commission shall publish its findings and reasons therefor and shall cite the sections of the act that authorize its action.

(d) In establishing such standards, the Commission shall not prescribe specific packaging designs, product content, package quantity, or labeling except for labeling under section 4(a)(2) of the act. Regarding a household substance for which special packaging is required by regulation, the Commission can prohibit the packaging of such substance in a package which the Commission determines is unnecessarily attractive to children.

(e) Promulgations pursuant to section 3 of the act shall be in accordance with section 5 of the act as to procedure.

§ 1700.4 Effective date of standards.

(a) The FR document promulgating a regulation establishing a child protection packaging standard shall indicate the standard's effective date. Section 9 of the act specifies that the effective date shall not be sooner than 180 days or later than 1 year from the date the standard is promulgated in the FEDERAL REGISTER unless the Commission, for good cause found, determines that an earlier effective date is in the public interest and publishes in the FEDERAL REGISTER the reason for such finding, in which case such earlier effective date shall apply.

(b) Upon becoming effective, a child protection packaging standard shall apply only to household substances packaged on and after its effective date.

§ 1700.14 Substances requiring special packaging.

(a) *Substances.* The Commission has determined that the degree or nature of the hazard to children in the availability of the following substances, by reason of their packaging, is such that special packaging is required to protect children from serious personal injury or serious illness resulting from handling, using, or ingesting such substances, and that the special packaging herein required is technically feasible, practicable, and appropriate for these substances:

(1) *Aspirin.* Any aspirin-containing preparation for human use in a dosage form intended for oral administration shall be packaged in accordance with the provisions of § 1700.15(a), (b), and (c), except the following:

(i) Effervescent tablets containing aspirin, other than those intended for pediatric use, provided the dry tablet contains less than 10 percent of aspirin, the tablet has an oral LD–50 in rats of greater than 5 grams per kilogram of body weight, and the tablet placed in water releases at least 85 milliliters of carbon dioxide per grain of aspirin in the dry tablet when measured stoichiometrically at standard conditions (0° C. 760 mm. hg.).

(ii) Unflavored aspirin-containing preparations in powder form (other than those intended for pediatric use) that are packaged in unit doses providing not more than 10 grains of aspirin per unit dose and that contain no other substance subject to the provisions of this section.

(2) *Furniture polish.* Nonemulsion type liquid furniture polishes containing 10 percent or more of mineral seal oil and/or other petroleum distillates and having a viscosity of less than 100 Saybolt universal seconds at 100° F., other than those packaged in pressurized spray containers, shall be packaged in accordance with the provisions of § 1700.15(a), (b), and (d).

(3) *Methyl salicylate.* Liquid preparations containing more than 5 percent by weight of methyl salicylate, other than those packaged in pressurized spray containers, shall be packaged in accordance with the provisions of § 1700.15(a), (b), and (c).

(4) *Controlled drugs.* Any preparation for human use that consists in whole or in part of any substance subject to control under the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 801 et seq.) and that is in a dosage form intended for oral administration shall be packaged in accordance with the provisions of § 1700.15(a), (b), and (c).

(5) *Sodium and/or potassium hydroxide.* Household substances in dry forms such as granules, powder, and flakes, containing 10 percent or more by weight of free or chemically unneutralized sodium and/or potassium hydroxide, and all other household substances containing 2 percent or more by weight of free or chemically unneutralized sodium and/or potassium hydroxide, shall be packaged in accordance with the provisions of § 1700.15 (a) and (b).

NOTE: This subparagraph was originally promulgated October 13, 1972 (37 FR 21633), as 21 CFR 295.2(a)(5) with an effective date of April 11, 1973, except as the subparagraph applies to paste-type oven cleaners requiring a brush applicator and substances in pressurized spray containers, for which the effective date is July 10, 1973.

(6) *Turpentine.* Household substances in liquid form containing 10 percent or more by weight of turpentine shall be packaged in accordance with the provisions of § 1700.15 (a) and (b).

NOTE: This subparagraph was originally promulgated October 13, 1972 (37 FR 21635), as 21 CFR 295.2(a)(6) with an effective date of April 11, 1973. An order was published April 26, 1973 (38 FR 10267), extending the effective date of this subparagraph to July 1, 1973, for those packagers who ordered adequate stocks of special packaging well in advance of April 11, 1973, and who will immediately begin to use special packaging complying with this subparagraph when it is delivered to them.

(7) *Kindling and/or illuminating preparations.* Prepackaged liquid kindling and/or illuminating preparations, such as cigarette lighter fuel, charcoal lighter fuel, camping equipment fuel, torch fuel, and fuel for decorative or functional lanterns, which contain 10 percent or more by weight of petroleum distillates and have a viscosity of less than 100 Saybolt

universal seconds at 100° F., shall be packaged in accordance with the provisions of § 1700.15(a) and (b).

NOTE: This subparagraph was originally promulgated January 30, 1973 (38 FR 2757), as 21 CFR 295.2(a)(7) and was corrected February 8, 1973 (38 FR 3598). As corrected, the effective date of this subparagraph was established as October 29, 1973, except as the subparagraph applies to cigarette lighter fuel packaged with a spout-type dispensing closure, for which the effective date is January 30, 1974.

(8) *Methyl alcohol (methanol).* Household substances in liquid form containing 4 percent or more by weight of methyl alcohol (methanol), other than those packaged in pressurized spray containers, shall be packaged in accordance with the provisions of § 1700.15(a) and (b).

NOTE: This subparagraph was originally promulgated October 13, 1972 (37 FR 21632), as 21 CFR 295.2(a)(8) with an effective date of April 11, 1973. An order was published April 26, 1973 (38 FR 10267), extending the effective date of this subparagraph to July 1, 1973, for those packagers who ordered adequate stocks of special packaging well in advance of April 11, 1973, and who will immediately begin to use special packaging complying with this subparagraph when it is delivered to them.

(9) *Sulfuric acid.* Household substances containing 10 percent or more by weight of sulfuric acid, except such substances in wet-cell storage batteries, shall be packaged in accordance with the provisions of § 1700.15 (a) and (b).

NOTE: This subparagraph was originally promulgated February 15, 1973 (38 FR 4512), as 21 CFR 295.2(a)(9) and shall become effective August 14, 1973.

(10) *Prescription drugs.* Any drug for human use that is in a dosage form intended for oral administration and that is required by Federal law to be dispensed only by or upon an oral or written prescription of a practitioner licensed by law to administer such drug, except sublingual dosage forms of nitroglycerin, shall be packaged in accordance with the provisions of § 1700.15 (a), (b), and (c).

NOTE: This subparagraph was originally promulgated April 16, 1973 (38 FR 9431), as 21 CFR 295.2(a)(10) and shall become effective April 16, 1974.

(b) *Sample packages.* (1) The manufacturer or packer of any of the substances listed under paragraph (a) of this section as substances requiring special packaging shall provide the Commission with a sample of each type of special packaging, as well as the labeling for each size product that will be packaged in special packaging and the labeling for any noncomplying package. Sample packages and labeling should be sent to the Consumer Product Safety Commission, Attention: Bureau of Compliance, 5401 Westbard Avenue, Washington, D.C. 20207.

(2) Sample packages should be submitted without contents when such contents are unnecessary for demonstrating the effectiveness of the packaging.

(3) Any sample packages containing drugs listed under paragraph (a) of this section shall be sent by registered mail.

(4) As used in subparagraph (1) of this paragraph, the term "manufacturer or packer" does not include pharmacists and other individuals who dispense, at the retail or user level, drugs listed under paragraph (a) of this section as requiring special packaging.

(c) *Applicability.* Special packaging standards for drugs listed under paragraph (a) of this section shall be in addition to any packaging requirements of the Federal Food, Drug, and Cosmetic Act or regulations promulgated thereunder or of any official compendia recognized by that act.

(Secs. 2(4), 3, 5, 84 Stat. 1670–72; 15 U.S.C. 1471(4), 1472, 1474)

§ 1700.15 Poison prevention packaging standards.

To protect children from serious personal injury or serious illness resulting from handling, using, or ingesting household substances, the Commission has determined that packaging designed and constructed to meet the following standards shall be regarded as "special packaging" within the meaning of section 2(4) of the act. Specific application of these standards to substances requiring special packaging is in accordance with § 1700.14.

(a) *General requirements.* The special packaging must continue to function with the effectiveness specifications set forth in paragraph (b) of this section when in actual contact with the substance contained therein. This requirement may be satisfied by appropriate scientific evaluation of the compatibility of the substance with the special packaging to determine that the chemical and physical characteristics of the substance will not compromise or interfere with the proper functioning of the special packaging. The special packaging must also continue to function with the effectiveness specifications set forth in paragraph (b) of this section for the number of openings and closings customary for its size and contents. This requirement may be satisfied by appropriate technical evaluation based on physical wear and stress factors, force required for activation, and other such relevant factors which establish that, for the duration of normal use, the effectiveness specifications of the packaging would not be expected to lessen.

(b) *Effectiveness specifications.* Special packaging, tested by the method described in § 1700.20, shall meet the following specifications:

(1) Child-resistant effectiveness of not less than 85 percent without a demonstration and not less than 80 percent after a demonstration of the proper means of opening such special packaging. In the case of unit packaging, child-resistant effectiveness of not less than 80 percent.

(2) Adult-use effectiveness of not less than 90 percent.

(c) *Reuse of special packaging.* Special packaging for substances subject to the provisions of this paragraph shall not be reused.

(d) *Restricted flow.* Special packaging subject to the provisions of this paragraph shall be special packaging from which the flow of liquid is so restricted that not more than 2 milliliters of the contents can be obtained when the inverted, opened container is shaken or squeezed once or when the container is otherwise activated once.

(Secs. 2(4), 3, 5, 84 Stat. 1670–72; 15 U.S.C. 1471(4), 1472, 1474)

§ 1700.20 Testing procedure for special packaging.

(a) The protocol for testing "special packaging" as defined in section 2(4) of the act shall be as follows:

(1) Use 200 children between the ages of 42 and 51 months inclusive, evenly distributed by age and sex, to test the ability of the special packaging to resist opening by children. The even age distribution shall be determined by having 20 children (plus or minus 10 percent) whose nearest age is 42 months, 20 whose nearest age is 43 months, 20 at 44 months, etc., up to and including 20 at 51 months of age. There should be no more than a 10 percent preponderance of either sex in each age group. The children selected should be healthy and normal and should have no obvious or overt physical or mental handicap.

(2) The children shall be divided into groups of two each. The testing shall be done in a location that is familiar to the children; for example, their customary nursery school or regular kindergarten. No child shall test more than two special packages, and each package shall be of a different type. For each test, the paired children shall receive the same special packaging simultaneously. When more than one special packaging is being tested, they shall be presented to the paired children in random order, and this order shall be recorded. The special packaging, each test unit of which, if appropriate, has previously been opened and properly resecured by the tester, shall be given to each of the two children with a request for them to open it. (In the case of unit packaging, it shall be presented exposed so that the individual units are immediately available to the child.) Each child shall be allowed up to 5 minutes to open the special packaging. For those children unable to open the special packaging after the first 5 minutes, a single visual demonstration, without verbal explanation, shall be given by the demonstrator. A second 5 minutes shall then be allowed for opening the special packaging. (In the case of unit packaging, a single visual demonstration, without verbal explanation, will be provided at the end of the first 5 minutes only for those test subjects who have not opened at least one unit package, and a second 5 minutes allowed for all subjects.) If a child fails to use his teeth to open the special packaging during the first 5 minutes, the demonstrator shall instruct him, before the start of the second 5-minute period, that he is permitted to use his teeth if he wishes.

(3) Records shall be kept on the number of children who were and were not able to open the special packaging, with and without demonstration. (In the case of unit packaging, records shall be kept on the number of individual units opened or gained access to by each child.) The percent of child-resistant effectiveness shall be the number of children tested, less the test failures, divided by two. A test failure shall be any child who opens the special packaging or gains access to its contents. In the case of unit packaging, however, a test failure shall be any child who opens or gains access to the number of individual units which constitute, the amount that may produce serious personal injury or serious illness, or a child who opens or gains access to more than 8 individual units, whichever number is lower, during the full 10 minutes of testing. The determination of the amount of a substance that may produce serious personal injury or serious illness shall be based on a 25-pound child. Manufacturers or packagers intending to use unit packaging for a substance requiring special packaging are requested to submit such toxicological data to the Commission.

(4) One hundred adults, age 18 to 45 years inclusive, with no overt physical or mental handicaps, and 70 percent of whom are female, shall comprise the test panel for normal adults. The adults shall be tested individually, rather than in groups of two or more. The adults shall receive only such printed instructions on how to open and properly resecure the special packaging as will appear on the package as it is delivered to the consumer. Five minutes shall be allowed to complete the opening and, if appropriate, the resecuring process.

(5) Records shall be kept on the number of adults unable to open and the number of the other adults tested who fail to properly resecure the special packaging. The number of adults who successfully open the special packaging and then properly resecure the special packaging (if resecuring is appropriate) is the percent of adult-use effectiveness of the special packaging. In the case of unit packaging, the percent of adult-use effectiveness shall be the number of adults who successfully open a single package.

(b) The standards published as regulations issued for the purpose of designating particular substances as being subject to the requirements for special packaging under the act will stipulate the percent of child-resistant effectiveness and adult-use effectiveness required for each and, where appropriate, will include any other conditions deemed necessary and provided for in the act.

(c) It is recommended that manufacturers of special packaging, or producers of substances subject to regulations issued pursuant to the act, submit to the Commission summaries of data resulting from tests conducted in accordance with this protocol.

Dated: July 31, 1973.

GEORGE A. SMITH,
Acting Secretary, Consumer Product Safety Commission.

[FR Doc.73-16223 Filed 8-6-73;8:45 am]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. SIPA-5]

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

PART 249a—FORMS, SECURITIES INVESTOR PROTECTION ACT OF 1970

Completion of Open Contractual Commitments

The Securities and Exchange Commission today announced that it has adopted section S6d-1 [17 CFR 240.206d-1] and the forms thereunder the Securities Investor Protection Act of 1970 (SIPC Act), effective immediately. The section and forms were published for comment on December 21, 1972, in Securities Investor Protection Act Release No. 2. (38 FR 1127)[1] The Commission has considered the comments received in response to that release and now adopts that section and the forms thereunder as set forth below. The changes in the section and forms are mainly clarifying in nature, with some exceptions noted below.

Rule S6d-1. Section 6(d)(1) of the SIPC Act provides for the completion by a SIPC Act trustee of those "open contractual commitments" of the debtor in which a customer had an interest. Section S6d-1 places certain limitations on what open contractual commitments of a SIPC Act debtor shall be eligible for completion. The section provides that it is not in the public interest for the trustee of a SIPC Act debtor to complete open contractual commitments of the debtor consisting of fails to receive and fails to deliver as defined in the section open on the filing date[2] unless such fails were promptly bought-in or sold-out by the other broker-dealer[3] and certain reports made to the trustee in accordance with the provisions of the section.

The section does not affect the rights and responsibilities of the trustee regarding the completion of those open contractual commitments under section 6(d) of the SIPC Act which are not described in paragraph (a) of the section.

As the legislative history of the SIPC Act indicates, Congress provided the Commission broad rulemaking authority to determine how open contractual commitments should be handled to best serve the public interest.[4] The operation and interpretation of section 6(d)(1) has presented a great deal of difficulty, not only in determining conditions under which specific types of open contractual commitments may be completed by the trustee but also in determining what constitutes an open contractual commitment for purposes of the section. Moreover, a number of fraudulent open contractual commitments have been presented to trustees. As experience has been acquired in liquidating firms under the SIPC Act, a better assessment of how to deal with specific types of commitments can be made. Because the open contractual commitments to which the rule addresses itself, i.e. fails to receive and fails to deliver, constitute the vast majority of all commitments falling within the ambit of section 6(d)(1) of the SIPC Act, the Commission felt clarification in that area first would prove most beneficial. The Commission recognizes that certain problems have not been dealt with. In particular the section does not address itself to transactions which are cleared through a clearing organization which interposes itself as principal between brokers in the settlement of securities transactions. Also, certain types of commitments, for example underwriting commitments or when issued trades, are not dealt with by the section.[5] These and other problems require further investigation and the Commission intends to continue to study such problems with a view toward a further exercise of its rulemaking power under Subsections 6(d)(1) and 6(d)(2) of the SIPC Act if that appears to be appropriate.

In the overview, the purpose of the section is to complete only those fails to receive and fails to deliver described in paragraph (a) of the section which:

(i) Arose from a current transaction in which the other broker was acting as an agent for a customer or the other dealer was acting for a customer in certain narrowly defined principal transactions;

(ii) Are not stale as of the filing date;

(iii) Are bought-in, sold-out, or closed

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[1] On January 24, 1973, in Securities Investor Protection Act Release No. 3, the Commission extended the comment period on the proposal to February 24, 1973.

[2] Filing date is defined in section 5(b)(4)(B) of the SIPC Act.

[3] Or, at the option of the trustee, completed by the delivery of securities against receipt of payment or the receipt of securities against the payment of funds.

[4] "Experience may show that there are certain types of customer transactions which should not be completed, and certain types of noncustomer transactions which should be completed. The Commission is therefore given rule-making authority to prohibit or direct completion of these types of transactions." H.R. Rep. 91-1613, 91st Cong. 2d Sess. (1970), p. 9.

[5] Such transactions would be dealt with as provided under the statutory procedures of section 6(d) of the SIPC Act.

by delivery of funds and securities, promptly in accordance with the provisions of the section; and

(iv) Are reported promptly to the trustee and supported by appropriate documentation.

To be current, a failed to receive or failed to deliver as defined in paragraph (a) must have a settlement date not more than 30 calendar days prior to or 5 business days subsequent to the filing date and have a related trade date not more than five business days prior to such settlement date. In this section the Commission intends to close off stale transactions from receiving recognition, other than as a possible claim against the debtor's estate. Discouraging open fails has been an objective of the Commission in numerous other sections recently promulgated by it, and section S6d–1 further implements that concept. Transactions which are executed on a "when issued" basis would not be within the ambit of the section and would be left to existing statutory procedures.

The net money difference payable to the other broker or dealer in regard to the buy-in or sell-out of transactions is limited to $20,000 with regard to open contractual commitments for any separate customer account.[6] At present, section 6(d) contains no specific limitation on the amount which the trustee shall expend upon the completion of open contractual commitments. The Commission and SIPC have been concerned that without the $20,000 limitation in the section, the fund administered by SIPC derived from assessments upon broker-dealer members with a one billion dollar back-up by the United States Treasury, could be seriously eroded by the need for monies to complete open contractual commitments. It is doubtful that Congress intended that another broker-dealer should receive unlimited protection in regard to transactions for his customers when it provided that customers of the debtor were to receive from SIPC advances not more than $50,000 with regard to unsatisfied claims for securities and cash, and not in excess of $20,000 for claims for cash as distinct from securities. Accordingly, the section sets a $20,000 limitation on the net money difference payable to a broker-dealer as the result of the buy-in or sell-out of open contractual commitments for any separate customer account.

The net money difference resulting from the buy-in or sell-out of open contractual commitments would be paid by the trustee to another broker-dealer with respect to any separate customer account only if that broker-dealer properly disposed of all qualified open contractual commitments with respect to such separate customer account and filed the required reports in accordance with the time limitations of the section.

In determining whether a particular commitment should be completed, the term customer is limited to a person who is not (1) a broker-dealer, (2) a person who has a relationship to the debtor or the other broker-dealer of the types set forth in section 6(f)(1)(C) of the Act,[7] or (3) a person who has a claim for property which property was part of the capital of such other broker-dealer or was subordinated to the claims of the creditors of such other broker-dealer.

Only transactions in which a customer had an interest are eligible to be completed. A customer is deemed to have an interest if a broker was acting as agent for the customer or if a dealer, who is not a market maker in the security in question, held a firm customer's order to buy or sell and prior to executing such order with the customer, and in connection therewith, purchased or sold the same or a lesser number of shares from the debtor.

In determining whether a customer had an interest in the transaction out of which an open contractual commitment arose, a broker-dealer who maintains his records on a specific identification basis is required to prove to the satisfaction of the trustee and with appropriate supporting documentation that a customer in fact had such an interest and that such interest was not sold prior to the filing date to the same broker or dealer.

Where a broker or dealer maintains his records on other than a specific identification basis he must allocate the fails to receive and fails to deliver between customer and firm positions in a manner consistent with that used prior to the filing date to allocate such fails for purposes of Rule 15c3–3 under the Securities Exchange Act of 1934, and present the trustee with appropriate supporting documentation.

In the event that a broker or dealer did not fall within either of these categories, the allocation could be on any basis which the trustee found to be fair and equitable.

Procedurally, open contractual commitments would be (i) completed at the option of the trustee by the delivery of funds against receipt of securities or the delivery of securities against receipt of funds within thirty days after settlement date unless previously bought-in or sold-out by the other broker or dealer within or promptly upon the expiration of a period of thirty days after settlement date.

Where a commitment was not completed by either of the above methods the commitment could be disposed of by any method which the trustee in his discretion felt would most benefit the estate of the debtor.[8]

Despite any payment of a net money difference made by the trustee or the transmittal by the trustee of cash or securities to a broker-dealer in completion of an open contractual commitment, the trustee would be entitled to recover such money and securities from the other broker-dealer or to obtain damages or other remedies in the context of a court proceeding if the court should find that a transaction was not entered into by the debtor, the other broker-dealer or his customer in the ordinary course of business or was entered into by any of the parties for the purpose of creating a commitment in contemplation of a possible SIPC Act liquidation proceeding.

Irrespective of the various prescribed conditions and procedures of the section, upon application from SIPC or the trustee or upon its own motion, and in order to avoid a substantial detrimental impact upon the financial condition of one or more broker-dealers the Commission may, upon finding that it is in the public interest, order completion of any open commitment.

The forms. Promptly upon the publication of notice by the trustee, pursuant to section 6(e) of the Act, of the initiation of the liquidation of the debtor, each broker-dealer who has open contractual commitments of the type described in paragraph (a) of the rule is required to report the existence of such commitments to the trustee on Forms S6(d)A–1[9] and S6(d)A–2.[10]

Upon the expiration of 45 days after filing date[11] each broker-dealer filing Forms S6(d)A–1 and 2 is required to file Form S6(d)B listing those commitments which have been bought-in or sold-out and Forms S6(d)C–1[12] and S6(d)C–2[13] reconciling all open contractual commitments.

Commission action: Pursuant to authority in section 23(a) of the Securities Exchange Act of 1934 and section 6(d) of the Securities Investor Protection Act of 1970, the Securities and Exchange Commission hereby adopts a new Subpart B under Part 240 and a new § 240.206d–1 thereunder, as well as a new Part 249a and new §§ 249a.6d–1, 249a.-6d–2, 249a.6d–3, 249a.6d–3a, 249.6d–3b, 249a.6d–4a1 and 249a.6d–4a2, under Chapter II of Title 17 of the Code of Federal Regulations reading as follows:

§ 240.206d–1 Completion of open contractual commitments.

(a) *Definitions.* For the purpose of this section, adopted pursuant to subsection

[6] Separate customer account is defined in the SIPC Act and in the Series 100 Rules thereunder.

[7] Section 6(f)(1)(C) provides that no advance of funds shall be made by SIPC to the trustee "to pay or otherwise satisfy, directly or indirectly, any claims of any customer who is a general partner, officer, or director of the debtor, the beneficial owner of 5 per centum or more of any class of equity security of the debtor (other than a non-convertible stock having fixed preferential dividend and liquidation rights) or limited partner with a participation of 5 per centum or more in the net assets or net profits of the debtor * * *."

[8] Because funds or securities in the single and separate fund may be used to complete open contractual commitments, the trustee would be benefitting mainly public customers of the debtor.

[9] For fails to deliver.

[10] For fails to receive.

[11] If by the 45th day notice pursuant to section 6(e) has not yet been published then as soon thereafter as practicable.

[12] For fails to deliver.

[13] For fails to receive.

6(d) of the Securities Investor Protection Act of 1970 (hereinafter referred to as "the Act"):

(1) The term "failed to receive" shall mean a contractual commitment of the debtor made in the ordinary course of business, to pay to another broker or dealer the contract price in cash upon receipt from such broker or dealer of securities purchased, provided that the respective obligations of the parties remained outstanding until the close of business on the filing date as defined in section 5(b)(4)(B) of the Act (hereinafter referred to as the "filing date").

(2) The term "failed to deliver" shall mean a contractual commitment of the debtor, made in the ordinary course of business, to deliver securities to another broker or dealer against receipt from such broker or dealer of the contract price in cash, provided that the respective obligations of the parties remained outstanding until the close of business on the filing date.

(3) The term "open contractual commitment" shall mean a failed to receive or a failed to deliver which had a settlement date prior to the filing date and the respective obligations of the parties remained outstanding on the filing date or had a settlement date which occurs on or within five business days subsequent to the filing date: *Provided, however,* That the term open contractual commitment shall not include any contractual commitment for which the security which is the subject of the trade had not been issued by the issuer as of the trade date.

(4) The term "customer" shall mean a person (other than a broker or dealer) in whose behalf a broker or dealer has executed a transaction out of which arose an open contractual commitment with the debtor, but shall not include any person to the extent that such person at the filing date (i) had a claim for property which by contract, agreement or understanding, or by operation of law, was a part of the capital of the broker or dealer who executed such transaction or was subordinated to the claims of creditors of such broker or dealer, or (ii) had a relationship with the debtor which is specified in section 6(f)(1)(C) of the Act, or had a corresponding relationship with such other broker or dealer.

(b) It is hereby determined to be "in the public interest," within the meaning of section 6(d)(2) of the Act, for a trustee to complete such open contractual commitments as are specified in paragraph (c) below in accordance with the procedures prescribed in this section, irrespective of whether a customer did or did not have an interest therein; and, except as otherwise provided in paragraphs (h) and (i), it is also hereby determined to be "not in the public interest," within the meaning of section 6(d)(1) of the Act, for a trustee to complete such open contractual commitments as are described in paragraph (a)(3), other than those specified in paragraph (c).

(c) An open contractual commitment shall be completed if:

(1) The open contractual commitment:

(i) Arises from a transaction in which a customer (as defined in this rule) of the other broker or dealer had an interest. For purposes of this rule a customer is deemed to have an interest in a transaction if (A) the other broker was acting as agent for the customer or (B) the other dealer was not a market maker in the security involved, to the extent such other dealer held a firm order from the customer and in connection therewith: In the case of a buy order, prior to executing such customer's order purchased as principal the same number of shares or purchased shares to accumulate the number of shares necessary to complete the order; or in the case of a sell order, prior to executing such customer's order sold the same number of shares or a portion thereof; and

(ii) (A) Had a settlement date on or within 30 calendar days prior to the filing date and the respective obligations of the parties remained outstanding on the filing date or had a settlement date which occurs on or within five business days subsequent to the filing date; and

(B) Had a trade date on or within five business days prior to such settlement date; and

(2) the other broker or dealer can establish to the satisfaction of the trustee through appropriate documentation that:

(i) In the case of a broker or dealer who maintains his records on a specific identification basis:

(A) The open contractual commitment arose out of a transaction in which his customer had such an interest, and

(B) In the case of a failed to deliver of the debtor, as of the filing date such broker's or dealer's customer's interest had not been sold to such broker or dealer; or

(ii) In the case of a broker or dealer who maintains his records other than on a specific identification basis, that he has determined that a customer had such an interest in a manner consistent with that used by such broker or dealer prior to the filing date to allocate fails to receive and fails to deliver in computing the special reserve bank account requirement pursuant to the provisions of Rule 15c3-3 under the Securities Exchange Act of 1934; or

(iii) In the case of a broker or dealer not described in paragraph (c)(2)(i) or (ii) of this section that he has made the determination in a manner which the trustee finds to be fair and equitable.

(d)(1) The completion of an open contractual commitment meeting the requirements of paragraph (c) of this section shall be effected only:

(i) By the buy-in or sell-out of the commitment by the other broker or dealer in accordance with the usual trade practices initiated by the other broker or dealer within or promptly upon the expiration of a period of 30 calendar days after settlement date; or

(ii) At the option of the trustee by the delivery of securities against receipt of the contract price or payment of the contract price against the receipt of securities at any time within thirty calendar days after settlement date unless the commitment previously has been bought-in or sold-out in accordance with paragraph (d)(1)(ii) of this section; or

(iii) In the event of the refusal of the other broker or dealer to accept completion of an open contractual commitment in accordance with paragraph (d)(1)(ii) of this section, or the failure of the other broker or dealer to promptly buy-in or sell-out a commitment in accordance with paragraph (d)(1)(i) of this section, or in the event of the failure of the other broker or dealer to provide the trustee with appropriate documentation as required by this section, by delivery of securities against receipt of the contract price or payment of the contract price against receipt of securities, or the buy-in or sell-out of the commitment or cancellation of the commitment or otherwise, as may be appropriate, as the trustee in his discretion believes will most benefit the estate of the debtor.

(2) In the event of a close-out of an open contractual commitment pursuant to paragraph (d)(1)(i) of this section, the money difference resulting from such close-out shall be payable by the other broker or dealer to the trustee or by the trustee to the other broker or dealer, whichever would be entitled to receive such difference under the usual trade practices: *Provided, however,* (i) That prior to the payment of any such money difference by the trustee to such other broker or dealer with respect to transactions executed by such other broker or dealer for any separate customer account, all open contractual commitments with respect to such account which meet the requirements of paragraph (c) of this section must have been completed by the delivery of securities against receipt of the contract price, or by payment of the contract price against receipt of the securities in conformity with paragraph (d)(1)(ii) of this section, or by buy-in or sell-out in conformity with paragraph (d)(1)(i) of this section, and (ii) that the net amount so payable by the trustee to the other broker or dealer shall not exceed $20,000 with respect to any separate customer account.

(e)(1) As soon as practicable after publication pursuant to Section 6(c) of the Act of notice of the commencement of proceedings, a broker or dealer who has executed transactions out of which arose open contractual commitments with the debtor shall furnish to the trustee such information with respect to all open contractual commitments meeting the requirements of paragraph (c) of this section (including any of such commitments which have been bought-in or sold-out by the broker or dealer), as called for by Forms S6(d)A-1 and S6(d)A-2 (17 CFR 249a.6d-1, 249a.6d-2 of this chapter) including appropriate supporting documentation.

(2) Promptly upon the expiration of 45 calendar days after the filing date, or if by the expiration of such 45-day period notice pursuant to section 6(e) of the Act of the commencement of proceedings has not been published, then as soon as practicable after publication of such notice, a broker or dealer who had executed transactions in securities out of which arose open contractual commitments with the debtor shall furnish to the trustee such information with respect to the buy-in, sell-out or other status of open contractual commitments meeting the requirements of paragraph (c) of this section as called for by Forms S6(d)B, S6(d)C-1 and S6(d)C-2 (17 CFR 249a.6d-3, 249a.6d-4a1, and 249a.6d-4a2) including appropriate supporting documentation, and schedules.

(f)(1) Nothing stated in this section shall be construed to prejudice the right of a broker or dealer to any claim against the debtor's estate, or the right of the trustee to make any claim against a broker or dealer, with respect to a commitment of the debtor which was outstanding on the filing date, but (i) which is not described in paragraph (a)(3) of this section, or (ii) which, although described in paragraph (a)(3) of this section, does not meet the requirements specified in paragraph (c) of this section or was not completed in accordance with paragraph (d) of this section or was not reported to the trustee in conformity with paragraph (e) of this section or was not supported by appropriate documentation.

(2) Nothing stated in this section shall be construed to prejudice the right of a broker or dealer to a claim against the debtor's estate for the amount by which the money difference due the broker or dealer upon a buy-in or sell-out may exceed the amount paid by the trustee to such broker or dealer.

(g) Notwithstanding the fact that an open contractual commitment described in paragraph (a)(3) of this section meets the requirements of paragraph (c) of this section and the other requirements of this section, a Court shall not be precluded from canceling such commitment, awarding damages, or granting such other remedy as it shall deem fair and equitable if, on application of the trustee or the Securities Investor Protection Corporation ("SIPC"), it determines that such commitment was not entered into in the ordinary course of business or was entered into by the debtor, or the broker or dealer or his customer, for the purposes of creating a commitment in contemplation of a liquidation proceeding under the Act. Such a determination shall be made after notice and opportunity for hearing by the debtor, such broker or dealer, or such customer, and may be made before or after the delivery of securities or payment of the contract price or before or after any buy-in or sell-out of the open contractual commitment, or otherwise.

(h) Upon application to the Commission by SIPC or the trustee or upon its own motion, the Commission may, after notice and opportunity for hearing by interested persons find it to be in the public interest, in order to prevent a substantial detrimental impact upon the financial condition of one or more brokers or dealers, for the trustee to complete an open contractual commitment, irrespective of whether it is described in paragraph (a)(3) of this section or meets the requirements of paragraph (c) of this section or has been reported in conformity with paragraph (e) of this section, or is supported by appropriate documentation.

(i) Nothing contained in this section shall be construed as affecting in any way the power of the trustee (1) to complete, in such manner as may be approved by the Court, an open contractual commitment of the debtor not described in paragraph (a)(3) of this section the completion of which, apart from this section, is authorized or required by section 6(d) of the Act, or (2) to complete an open contractual commitment of the debtor, regardless of whether it is described in paragraph (a)(3) of this section or meets the requirements of paragraph (c) of this section or has been reported to the trustee in conformity with paragraph (e) of this section, to the extent that such commitment is completed with property which constituted specifically identifiable property on the filing date of the customer of the debtor for whose account the commitment was made, or was paid or delivered by or for the account of such customer to the debtor or trustee after the filing date.

Sec.

AUTHORITY: Sec. 6(d), 84 Stat. 1646, 15 U.S.C. 78fff(d).

§§ 249a.1–249a.5 [Reserved]

§ 249a.6d–1 Form S6(d)A–1 for notification of open contractual commitments at filing date consisting of fails to deliver and unsettled trades.

This form shall be filed as required by § 240.206d–1(e) of this chapter, as soon as practical after publication of notice of commencement of a proceeding under section 5 of the Securities Investor Protection Act of 1970 in which a trustee is appointed, with such trustee by a broker-dealer who has executed transactions in securities with the debtor in such proceeding, out of which arose a failed to deliver or unsettled trade as defined in § 240.206d–1(a) of this chapter.

§ 249a.6d–2 Form S6(d)A–2 for notification of open contractual commitments at filing date consisting of fails to receive and unsettled trades.

This form shall be filed as required by § 240.206d–1(e) of this chapter, as soon as practical after publication of notice of commencement of a preceeding under section 5 of the Securities Investor Protection Act of 1970 in which a trustee is appointed, with such trustee by a broker-dealer who has executed transactions in securities with the debtor in such proceeding, out of which arose a fail to receive or unsettled trade as defined in § 240.206d–1(a) of this chapter.

§ 249a.6d–3 Form S6(d)B for summary of close-outs of open contractual commitments in accordance with § 240.206(d)(1)(i).

This form shall be filed as required by § 240.206d–1(e)(2) of this chapter, promptly upon expiration of 45 days after the filing date as defined in section 5(b)(4) of the Securities Investor Protection Act of 1970 (SIPC Act), or if by that time notice of commencement of proceedings under section 5 of SIPC Act in which a trustee is appointed has not been published then as soon as practical after such publication of notice, with such trustee by a broker-dealer who has executed transactions in securities with the debtor in such proceedings, in which shall be furnished to the trustee information with respect to his close out of open contractual commitments meeting the requirements of paragraph (c) of § 204.206d–1 of this chapter.

§ 249a.6d–3a Schedule 1 to be attached to Form S6(d)B (17 CFR 249a.6d–3).

§ 249a.6d–3b Schedule 2 to be attached to Form S6(d)B (17 CFR 249a.6d–3).

§ 249a.6d–4a1 Form S6(d)c–1 for report of status of fails previously reported on Form S6(d)A–1 (§ 249a.–6d–1).

This form shall be filed as required by § 240.206d–1(e)(2) of this chapter, promptly upon expiration of 45 days after the filing date as defined in section 5(b)(4) of the Securities Investor Protection Act of 1970 (SIPC Act), or if by that time notice of commencement of proceedings under section 5 of the SIPC Act in which a trustee is appointed has not been published then as soon as practiced after such publication of notice, with such trustee by a broker-dealer who has executed transactions in securities with the debtor in such proceedings, in which shall be furnished to the trustee information with respect to the reconcilments which were or should have been reported on form s6(d)A–1.

§ 249a.6d–4a2 Form S6(d)C–2 for report of status of fails previously reported on form S6(d)A–2 (§ 249.–6d–2).

This form shall be filed as required by § 240.206d–1(e)(2) of this chapter, promptly upon expiration of 45 days after

the filing date as defined in section 5(b)(4) of the Securities Investor Protection Act of 1970 (SIPC Act), or if by that time notice of commencement of proceedings under section 5 of SIPC Act in which a trustee is appointed has not been published then as soon as practical after such publication of notice, with such trustee by a broker-dealer who has executed transactions in securities with the debtor in such proceedings, in which shall be furnished to the trustee information with respect to the reconcilments which were or should have been reported on form S6(d)A-2.

Incorporation by reference approved by the Director of the Office of the Federal Register on August 6, 1973.

Copies of all forms described above have been filed with the Office of the Federal Register, and copies thereof may be obtained on request from the Securities and Exchange Commission, Washington, D.C. 20549.

Since December 31, 1972, twenty-two firms have been placed in SIPC liquidation. The difficulties experienced in these liquidations evidence an urgent need for guidance in completing open contractual commitments and for standard forms for reporting such commitments to the trustee. Accordingly, the Commission finds that there is good cause and that it is necessary in the public interest and for the protection of investors that the foregoing rule become effective immediately. The Securities and Exchange Commission, acting pursuant to the provisions of the Securities Exchange Act of 1934 and the Securities Investor Protection Act of 1970 and particularly Sections 6(d)(1) and (2) of the Securities Investor Protection Act of 1970 and Section 23(a) of the Securities Exchange Act of 1934, hereby adopts Rule S6(d)(1) and the Forms thereunder as set forth below effective immediately. Accordingly, pursuant to section 4(c) of the Administrative Procedure Act, 5 U.S.C. 553(d), it hereby declares such amendments effective July 25, 1973.

(Sec. 23(a), 48 Stat. 901, Sec. 8, 49 Stat. 1379, Sec. 10, 78 Stat. 580, 15 U.S.C. 78w; Sec. 6, 84 Stat. 1646, 15 U.S.C. 78 FFF.)

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

JULY 25, 1973.

[FR Doc.73-16080 Filed 8-6-73;8:45 am]

Title 21—Food and Drugs

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

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

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

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

In FR Doc. 73-6370, appearing on page 8595 in the issue of Wednesday, April 4, 1973, in § 121.2526(b)(2) under *"List of substances"*, the item reading "Acrylamide copolymerized with ethylene and vinyl chloride * * *" is corrected to read "Acrylamide copolymerized with ethylene and vinyl chloride in such a manner that the finished copolymers have a minimum weight average molecular weight of 30,000 and contain not more than 3.5 weight percent of total polymer units derived from acrylamide, and in such a manner that the acrylamide portion may or may not be subsequently partially hydrolyzed."

Dated: July 31, 1973.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.73-16179 Filed 8-6-73;8:45 am]

SUBCHAPTER C—DRUGS

Recodification, Technical Changes, and Updating of Chloramphenicol Monographs

A notice was published in the FEDERAL REGISTER of September 19, 1972 (37 FR 19149), proposing to recodify the chloramphenicol monographs. Interested persons were afforded sixty days to submit written comments on the proposal. Comments were received from an industry trade association and two manufacturers. Comments from one manufacturer and the trade association were concerned with the amendment which added to the general labeling section a new paragraph § 148.3(d) regarding veterinary prescription labeling. The comments were that this regulation would have the effect of placing into prescription status all veterinary antibiotic drugs packaged for dispensing. The Commissioner of Food and Drugs has considered these comments and concludes that a revision is desirable to clarify the applicability of § 148.3(d) to prescription veterinary antibiotic drugs.

Comment from an antibiotic drug manufacturer objected to the recodification in general and requested justification since the proposed action would require revision of certain printed material and would involve a realignment of past records and files. The Commissioner finds that chloramphenicol monographs, as well as a number of other antibiotic monographs covered in separate documents, are in need of significant changes in text and format. Although such amendments will require changes in filing and record keeping for both industry and FDA, those affected have generally viewed such recodification and updating as substantially clarifying the antibiotic regulations.

One comment also requested clarification of the intent with respect to the monographs for bulk chloramphenicol which were revised to read "sterile chloramphenicol" and retained in Part 141d and 146d while an identical bulk monograph was included in the newly established Part 151c. The monographs providing for antibiotic drugs that were reviewed by the National Academy of Sciences—National Research Council (NAS-NRC), Drug Efficacy Study Group, will not be rewritten or transferred until conclusions concerning the efficacy of these drugs are final. To avoid delay in the recodification of chloramphenicol, the bulk drug monographs will be retained in Parts 141d and 146d for reference purposes until all the chloramphenicol monographs can be revised and transferred. After all the chloramphenicol monographs are transferred, the bulk monographs in Parts 141d and 146d will be revoked. An identical bulk monograph was included in Part 151c to provide reference for the monographs that were transferred so that additional amendments to these sections will not be necessary when the remaining original sections are revoked. The monograph heading was re-titled "Sterile chlorampenicol" in accordance with the definition of parenterals contained in the United States Pharmacopeia XVIII and to differentiate between the sterile drug and the proposed nonsterile drug monograph included in Part 151c.

An objection was made to the revocation of one particular monograph on the basis that approval of a new animal drug application is pending for that product. The Commissioner notes that there are no drugs currently being marketed under this monograph, and concludes that revocation of such monograph is proper at this time. A new monograph, based on an approved new drug or new animal drug application, will be established when appropriate.

One manufacturer objected to the addition of the test for crystallinity to certain monographs. The requirement for a crystallinity test is not new to this proposal. The Commissioner concludes that a crystallinity test is an appropriate certification requirement for products described as crystalline.

One comment suggested changes for the blending and extraction procedures used in the potency assay of chloramphenicol ointment. The Commission finds that the suggestions do not offer signficant improvements in the proposed methods. In the experience of the Food and Drug Administration, the proposed official method gives satisfactory results for all chloramphenicol ointments, regardless of the manufacturer. The regulations do provide for the use of alternate assay methods under § 141.1a (published in the FEDERAL REGISTER of April 15, 1972 (37 FR 7497)) and we have no objections to the use of alternate methods in accordance with that regulation provided the results obtained are equivalent.

One comment asked for clarification regarding the assay procedures in § 141d.303(a) since the procedure included in the proposal differs from the procedure included in an order published in the FEDERAL REGISTER on October 28, 1972 (37 FR 23105). The Commissioner finds that the following order amends the October 28, 1972 order as it pertains to § 141d.303(a). Thus, the procedure described below in § 141d.303(a) supercedes the procedure in that paragraph appearing in the October 28, 1972 Order.

The Commissioner notes that pursuant to the provisions of the October 28, 1972 Order, the sterility requirements for the antibiotic ointments described herein are not in effect until October 28, 1973. However, §§ 141d.303 and 141d.313 have been updated in this order to include the sterility test methods specified in the October 28, 1972 order.

An objection was made to the proposed lowering of the upper potency limit from 130 percent to 120 percent for chloramphenicol ophthalmic solution (§ 151c.15). After re-evaluating the information on which the proposal was based, the Commissioner concludes that there is justification for allowing the upper potency limit to remain at 130 percent of the number of milligrams of chloramphenicol that it is represented to contain. The order has been revised accordingly.

One manufacturer objected that the heading or title of the proposal was misleading since the proposal involved more than a "recodification" of the chloramphenicol monographs. The Commissioner recognizes that while the primary purpose of the proposal is recodification of the chloramphenicol monographs, there is considerable updating of the regulation involved and a number of technical and editorial changes, some of which are substantive. Since this proposal was published, it has been the policy of the Food and Drug Administration to title such proposed amendments and orders as "Recodification, technical changes, and updating".

After consideration of all comments received the Commissioner concludes that the antibiotic drug regulations should be amended, as set forth below.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 507, 512(n), 59 Stat. 463, as amended, 82 Stat. 350–351; 21 U.S.C. 357, 360b(n)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), Parts 135a, 135c, 141b, 141d, 141e, 146d, 148 and 148n are amended as follows:

PART 135a—NEW ANIMAL DRUGS FOR OPTHALMIC AND TOPICAL USE

§§ 135a.3 and 135a.9 [Amended]

1. § 135a.3 *Chloramphenicol-prednisolone-tetracaine-squalane suspension* is amended by revising the first sentence of paragraph (a) to read as follows: "The suspension conforms to the certification requirements of § 151c.16 of this chapter."

2. § 135a.9 *Chloramphenicol ophthalmic solution, veterinary* is amended by revising the first sentence of paragraph (a) to read as follows: "The solution conforms to the certification requirements of § 151c.18 of this chapter."

PART 135c—NEW ANIMAL DRUGS IN ORAL DOSAGE FORMS

§ 135c.63 [Amended]

3. Part 135c is amended in § 135c.63 *Chloramphenicol capsules, veterinary* by revising paragraph (a) to read as follows: "Chloramphenicol capsules, veterinary contain 50, 100, 250, and 500 milligrams of chloramphenicol and conform to the certification requirements of § 151c.12 of this chapter."

PART 141b—STREPTOMYCIN (OR DIHYDROSTREPTOMYCIN) AND STREPTOMYCIN-(OR DIHYDROSTREPTOMYCIN-) CONTAINING DRUGS; TESTS AND METHODS OF ASSAY

§ 141b.126 [Amended]

4. Part 141b is amended in § 141b.126 *Streptomycin-erythromycin ointment* by revising paragraph (b)(3) to read as follows: "*Toxicity.* Proceed as directed in § 141.5 of this chapter."

PART 141d—CHLORAMPHENICOL AND CHLORAMPHENICOL - CONTAINING DRUGS; TESTS AND METHODS OF ASSAY

5. Part 141d is amended:

a. In § 141d.301 by changing the heading, revising paragraphs (a) through (i), and by adding a new paragraph (j), to read as follows:

§ 141d.301 Sterile chloramphenicol.

(a) *Potency.* Use either of the following methods; however, the results obtained from the microbiological turbidimetric assay shall be conclusive.

(1) *Microbiological turbidimetric assay.* Proceed as directed in § 141.111 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighted portion of the sample in sufficient ethyl alcohol to give a solution containing 10,000 micrograms of chloramphenicol per milliliter (estimated). Add sufficient 1 percent potassium phosphate buffer, pH 6.0 (solution 1), to give a concentration of 1,000 micrograms of chloramphenicol per milliliter (estimated). Further dilute an aliquot with solution 1 to the reference concentration of 2.5 micrograms of chloramphenicol per milliliter (estimated).

(2) *Spectrophotometric method.* Dissolve approximately 50 milligrams each of the sample and working standard in 100 milliliters of distilled water. Warm if necessary to hasten dissolution. Transfer 10 milliliters into a 250-milliliter volumetric flask and fill to volume with distilled water. Using a suitable spectrophotometer equipped with a 1-centimeter cell and distilled water as the blank, determine the absorbance of each solution at 278 nonometers. Calculate the potency of chloramphenicol as follows:

$$\text{Potency of sample in micrograms per milligram} = \frac{\text{Absorbance of sample} \times \text{weight of standard in milligrams} \times \text{potency of standard in micrograms per milligram}}{\text{Absorbance of standard} \times \text{weight of sample in milligrams}}$$

(b) *Sterility.* Proceed as directed in § 141.2 of this chapter, using the method described in paragraph (e)(1) of that section, except use 50 milligrams in lieu of 300 milligrams.

(c) *Pyrogens.* Proceed as directed in § 141.4(a) of this chapter, using a solution containing 5 milligrams of chloramphenicol per milliliter. Apply sufficient heat to dissolve the chloramphenicol.

(d) *Safety.* Proceed as directed in § 141.5 of this chapter. Apply sufficient heat to dissolve the chloramphenicol.

(e) *Histamine.* Proceed as directed in § 141.7 of this chapter. Apply sufficient heat to dissolve the chloramphenicol.

(f) *pH.* Proceed as directed in § 141.503 of this chapter, using a saturated aqueous solution.

(g) *Specific rotation.* Accurately weigh approximately 1.25 grams of the sample in a 25-milliliter glass-stoppered volumetric flask and dissolve in about 15 milliliters of absolute alcohol, warming if necessary. Dilute the solution to 25 milliliters with absolute alcohol and mix thoroughly. Proceed as directed in § 141.520 of this chapter, using a 2.0 decimeter polarimeter tube.

(h) *Melting range.* Proceed as directed in § 141.515 of this chapter.

(i) *Absorptivity.* Proceed as directed in paragraph (a)(2) of this section except calculate the percent relative absorptivity as follows:

$$\text{Percent relative absorptivity} = \frac{\text{Absorbance of sample} \times \text{weight of standard in milligrams} \times \text{potency of standard in micrograms per milligram}}{\text{Absorbance of standard} \times \text{weight of sample in milligrams} \times 10}$$

(j) *Crystallinity.* Proceed as directed in § 141.504(a) of this Chapter.

b. By revising § 141d.303 to read as follows:

§ 141d.303 Chloramphenicol ointment.

(a) *Potency.* Proceed as directed in § 141.111 of this chapter, preparing the sample for assay as follows:

(1) *If the ointment is water miscible.* Place an accurately weighed representative portion of the sample into a high-speed glass blender jar containing 1.0 milliliter polysorbate 80 and sufficient 1 percent potassium phosphate buffer, pH 6.0 (solution 1), to give a stock solution of convenient concentration. Blend for 3 to 5 minutes. Remove an aliquot and further dilute with solution 1 to the reference concentration of 2.5 micrograms of chloramphenicol per milliliter (estimated).

(2) *If the ointment is not water miscible.* Place an accurately weighed representative portion of the sample into a separatory funnel containing approximately 50 milliliters of petroleum ether. Shake the sample and ether until homogeneous. Add 20 to 25 milliliters of 1 percent potassium phosphate buffer, pH

6.0 (solution 1), and shake well. Allow the layers to separate. Remove the buffer layer and repeat the extraction procedure with each of three more 20 to 25-milliliter quantities of solution 1. Combine the buffer extractives in a suitable volumetric flask and dilute to volume with solution 1. Remove an aliquot and further dilute with solution 1 to the reference concentration of 2.5 micrograms of chloramphenicol per milliliter (estimated). The potency of chloramphenicol ointment is satisfactory if it contains not less than 90 percent and not more than 130 percent of the number of milligrams of chloramphenicol that it is represented to contain.

(b) *Sterility.* If the ointment is intended for ophthalmic use, proceed as directed in § 141.2 of this chapter, using the method described in paragraph (e)(3) of that section. However, if the ointment is not soluble in isopropyl myristate proceed as directed in § 141.2 of this chapter, using the method described in § 141.2(e)(2), except use 100 milligrams in lieu of 300 milligrams of solids.

c. By revising § 141d.304 to read as follows:

§ 141d.304 Chloramphenicol ophthalmic.

(a) *Potency.* Use either of the following methods; however, the results obtained from the microbiological turbidimetric assay shall be conclusive.

(1) *Microbiological turbidimetric assay.* Proceed as directed in § 141.111 of this chapter, preparing the sample for assay as follows: Reconstitute as directed in the labeling. Dilute an accurately measured representative aliquot of the sample with sufficient 1 percent potassium phosphate buffer, pH 6.0 (solution 1), to give a convenient concentration. Further dilute with solution 1 to the reference concentration of 2.5 micrograms of chloramphenicol per milliliter (estimated).

(2) *Spectrophotometric assay.* Reconstitute the sample as directed in the labeling and dilute a 1.0-milliliter aliquot in sufficient distilled water to give a solution containing 20 micrograms of chloramphenicol per milliliter. Dissolve an accurately weighed portion of the working standard in sufficient distilled water to give a solution containing 20 micrograms per milliliter. Using a suitable spectrophotometer and distilled water as the blank, determine the absorbance of the sample and standard solutions at 278 nanometers. Calculate the potency of the sample as follows:

$$\text{Milligrams of chloramphenicol per milliliter} = \frac{\text{Absorbance of sample} \times \text{labeled potency per milliliter in milligrams}}{\text{Absorbance of standard}}$$

The potency of chloramphenicol ophthalmic is satisfactory if it contains not less than 90 percent and not more than 130 percent of the number of milligrams that it is represented to contain.

(b) *Sterility.* Use entire contents, and proceed as directed in § 141.2 of this chapter, using the method described in paragraph (e)(1) of that section, except if it contains a corticoid use 0.5 milliliter of the suspension prepared according to label directions and proceed as directed in paragraph (e)(2) of that section.

(c) *pH.* Proceed as directed in § 141.503 of this chapter, using the drug reconstituted as directed in the labeling.

d. By revising § 141d.308 to read as follows:

§ 141d.308 Chloramphenicol otic; chloramphenicol topical.

(a) *Potency.* Proceed as directed in § 141.111 of this chapter, preparing the sample for assay as follows: Dilute an accurately measured representative aliquot of the sample in sufficient 1 percent potassium phosphate buffer, pH 6.0 (solution 1), to give a convenient concentration. Further dilute with solution 1 to the reference concentration of 2.5 micrograms of chloramphenicol per milliliter (estimated). Its potency is satisfactory if it contains not less than 90 percent and not more than 130 percent of the number of milligrams it is represented to contain.

(b) *Moisture.* Proceed as directed in § 141.502 of this chapter.

(c) *pH.* Proceed as directed in § 141.503 of this chapter, using the sample diluted with an equal volume of distilled water.

e. By revising paragraphs (a)(1), the last sentence of paragraph (a)(2), and paragraph (b) in § 141d.313 to read as follows:

§ 141d.313 Chloramphenicol-polymyxin ointment.

(a) * * *

(1) *Chloramphenicol content.* Proceed as directed in § 141d.303. Its chloramphenicol content is satisfactory if it contains not less than 90 percent and not more than 120 percent of the number of milligrams per gram that it is represented to contain.

(2) *Polymyxin content.* * * * Its content of polymyxin is satisfactory if it contains not less than 90 percent and not more than 125 percent of the number of units per gram that it is represented to contain.

(b) *Sterility.* If the ointment is intended for ophthalmic use, proceed as directed in § 141.2 of this chapter, using the method described in paragraph (e)(3) of that section. However, if the ointment is not soluble in isopropyl myristate proceed as directed in § 141.2 of this chapter, using the method described in paragraph (e)(2) of that section, except use 100 milligrams in lieu of 300 milligrams of solids.

f. By revoking and reserving §§ 141d.302, 141d.305, 141d.306, 141d.307, 141d.309, 141d.310, 141d.311, 141d.312, 141d.314, 141d.315, 141d.317, 141d.318, 141d.319, and 141d.320 as follows:

§§ 141d.302, 141d.305 141d.306, 141d.307, 141d.309, 141d.310, 141d.311, 141d.312, 141d.314, 141d.315, 141d.317, 141d.318, 141d.319, and 141d.320 [Reserved]

PART 141e—BACITRACIN AND BACITRACIN-CONTAINING DRUGS; TESTS AND METHODS OF ASSAY

6. Part 141e is amended in § 141e.416 *Bacitracin methylene disalicylate* by revising paragraph (b) to read as follows:

§ 141e.416 Bacitracin methylene disalicylate.

* * * * *

(b) *Toxicity.* Proceed as directed in § 141.5 of this chapter.

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PART 146d—CERTIFICATION OF CHLORAMPHENICOL AND CHLORAMPHENICOL-CONTAINING DRUGS

7. Part 146d is amended:

a. In § 146d.301 by changing the heading and revising paragraphs (b), (c), and (d) to read as follows:

§ 146d.301 Sterile chloramphenicol.

* * * * *

(b) *Packaging.* It shall be packaged in accordance with the requirements of § 148.2 of this chapter.

(c) *Labeling.* It shall be labeled in accordance with the requirements of § 148.3 of this chapter.

(d) *Requests for certification; samples.* In addition to complying with the requirements of § 146.2 of this chapter, each such request shall contain:

(1) Results of tests and assays on the batch for potency, sterility, pyrogens, safety, histamine, pH, specific rotation, melting range, absorptivity, and crystallinity.

(2) Samples required:

(i) For all tests except sterility: 10 packages, each containing approximately 500 milligrams.

(ii) For sterility testing: 20 packages, each containing approximately 50 milligrams.

b. By revoking and reserving §§ 146d.302, 146d.305, 146d.306, 146d.307, 146d.309, 146d.310, 146d.311, 146d.312, 146d.314, 146d.315, 146d.317, 146d.318, 146d.319, and 146d.320 as follows:

§§ 146d.302, 146d.305, 146d.306, 146d.307, 146d.309, 146d.310, 146d.311, 146d.312, 146d.314, 146d.315, 146d.317, 146d.318, 146d.319 and 146d.320 [Reserved]

PART 148—ANTIBIOTIC DRUGS; PACKAGING AND LABELING REQUIREMENTS

8. Part 148 is amended in § 148.3 by adding a new paragraph (d) to read as follows:

§ 148.3 **Labeling requirements.**

* * * * *

(d) If an antibiotic drug is subject to section 512(n) of the act:

(1) It shall be labeled in accordance with the requirements prescribed by § 1.106(c) of this chapter and each package shall include information containing directions and warnings adequate for the veterinary use of the drug by the laity in lieu of the statement "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian" (as provided in § 1.106(c)(2)(i) of this chapter) unless such statement is required by regulations issued under section 512(i) of the act.

(2) Its labeling shall bear any additional information required for the drug by specific regulations.

(3) Each package shall bear on its outside wrapper or container and the immediate container an expiration date prescribed for the drug as provided in paragraph (a)(3) of this section with the exception provided in paragraph (c) of this section.

(4) If it is intended for udder instillation in cattle, it shall be exempt from the requirements of § 1.106(c)(2)(v) of this chapter.

PART 148n—OXYTETRACYCLINE

9. Part 148n is amended in § 148n.3 *Calcium oxytetracycline* by revising paragraph (b)(2) to read as follows:

§ 148n.3 **Calcium oxytetracycline.**

* * * * *

(b)(2) *Toxicity.* Proceed as directed in § 141.5 of this chapter.

* * * * *

10. The following new Part 151c is added to this chapter:

PART 151c—CHLORAMPHENICOL

Sec.

AUTHORITY: The provisions of this Part 151c issued under the Federal Food, Drug, and Cosmetic Act (secs. 507, 512(n)), 59 Stat. 463, as amended, 82 Stat. 350–351; 21 U.S.C. 357, 360b(n) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

§ 151c.1 **Sterile chloramphenicol.**

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Sterile chloramphenicol is a white to grayish-white or yellowish-white powder, occurring as needles or elongated plates. It is neutral, slightly soluble in water, but freely soluble in alcohol. It has the chemical formula (D-(—)-*threo*-1-*p*-nitrophenyl-2-dichloracetamido-1,3-propanediol. It is so purified and dried that:

(i) Its potency is not less than 900 micrograms per milligram.

(ii) It is sterile.

(iii) It is nonpyrogenic.

(iv) It passes the safety test.

(iv) It contains no histamine nor histamine-like substances.

(vi) Its pH in a saturated aqueous solution is not less than 4.5 nor more than 7.5.

(vii) Its specific rotation in absolute ethyl alcohol at 20° C. is +20°±1.5°, and at 25° C. is +18.5°±1.5°.

(viii) Its melting range is 151°±2° C.

(ix) Its absorptivity at 278 nanometers is ±3 percent of that of the chloramphenicol working standard similarly treated.

(x) It is crystalline.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 148.3(b) of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency, sterility, pyrogens, safety, histamine, pH, specific rotation, melting range, absorptivity, and crystallinity.

(ii) Samples required:

(*a*) For all tests except sterility: 10 packages, each containing approximately 500 milligrams.

(*b*) For sterility testing: 20 packages, each containing approximately 50 milligrams.

(b) *Tests and methods of assay—*(1) *Potency.* Use either of the following methods; however, the results obtained from the microbiological turbidimetric assay shall be conclusive.

(i) *Microbiological turbidimetric assay.* Proceed as directed in § 141.111 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed portion of the sample in sufficient ethyl alcohol to give a solution containing 10,000 micrograms of chloramphenicol per milliliter (estimated). Add sufficient 1 percent potassium phosphate buffer, pH 6.0 (solution 1), to give a concentration of 1,000 micrograms of chloramphenicol per milliliter (estimated). Further dilute an aliquot with solution 1 to the reference concentration of 2.5 micrograms of chloramphenicol per milliliter (estimated).

(ii) *Spectrophotometric method.* Dissolve approximately 50 milligrams each of the sample and working standard in 100 milliliters of distilled water. Warm if necessary to hasten dissolution. Transfer 10 milliliters into a 250-milliliter volumetric flask and fill to volume with distilled water. Using a suitable spectrophotometer equipped with a 1-centimeter cell and distilled water as the blank, determine the absorbance of each solution at 278 nanometers. Calculate the potency of chloramphenicol as follows:

$$\text{Potency of sample in micrograms per milligram} = \frac{\text{Absorbance of sample} \times \text{weight of standard in milligrams} \times \text{potency of standard in micrograms per milligram}}{\text{Absorbance of standard} \times \text{weight of sample in milligrams}}$$

(2) *Sterility.* Proceed as directed in § 141.2 of this chapter, using the method described in paragraph (e)(1) of that section, except use 50 milligrams in lieu of 300 milligrams.

(3) *Pyrogens.* Proceed as directed in § 141.4(a) of this chapter, using a solution containing 5 milligrams of chloramphenicol per milliliter. Apply sufficient heat to dissolve the chloramphenicol.

(4) *Safety.* Proceed as directed in § 141.5 of this chapter. Apply sufficient heat to dissolve the chloramphenicol.

(5) *Histamine.* Proceed as directed in § 141.7 of this chapter. Apply sufficient heat to dissolve the chloramphenicol.

(6) *pH.* Proceed as directed in § 141.503 of this chapter, using a saturated aqueous solution.

(7) *Specific rotation.* Accurately weigh approximately 1.25 grams of the sample in a 25-milliliter glass-stoppered volumetric flask and dissolve in about 15 milliliters of absolute alcohol, warming if necessary. Dilute the solution to 25 milliliters with absolute alcohol and mix thoroughly. Proceed as directed in § 141.520 of this chapter, using a 2.0 decimeter polarimeter tube.

(8) *Melting range.* Proceed as directed in § 141.515 of this chapter.

(9) *Absorptivity.* Proceed as directed in subparagraph (1)(ii) of this paragraph except calculate the percent relative absorptivity as follows:

$$\text{Percent relative absorptivity} = \frac{\text{Absorbance of sample} \times \text{weight of standard in milligrams} \times \text{potency of standard in micrograms per milligram}}{\text{Absorbance of standard} \times \text{weight of sample in milligrams} \times 10}$$

(10) *Crystallinity.* Proceed as directed in § 141.504(a) of this chapter.

§ 151c.2 **Chloramphenicol.**

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Chloramphenicol is a white or grayish-white or yellowish-white powder, occurring as needles or leongated plates. It is neutral, slightly soluble in water, but freely soluble in alcohol. It has the chemical formula D-

(—)-*threo*-1-p-nitrophenyl-2-dichloroacetamido-1,3-propanediol. It is so purified and dried that:

(i) Its potency is not less than 900 micrograms per milligram.

(ii) It passes the safety test.

(iii) Its pH in a saturated aqueous solution is not less than 4.5 nor more than 7.5.

(iv) Its specific rotation in absolute ethyl alcohol at 20° C. is +20°±1.5°, and at 25° C. is +18.5°±1.5°.

(v) Its melting range is 151°±2° C.

(vi) Its absorptivity at 278 nanometers is ±3 percent of that of the chloramphenicol working standard similarly treated.

(vii) It is crystalline.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 148.3 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency, safety, pH, specific rotation, melting range, absorptivity, and crystallinity.

(ii) Samples required: 10 packages, each containing approximately 500 milligrams.

(b) *Tests and methods of assay*—(1) *Potency.* Use either of the following methods; however, the results obtained from the microbiological turbidimetric assay shall be conclusive.

(i) *Microbiological turbidimetric assay.* Proceed as directed in § 141.111 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed portion of the sample in sufficient ethyl alcohol to give a solution containing 10,000 micrograms of chloramphenicol per milliliter (estimated). Add sufficient 1 percent potassium phosphate buffer, pH 6.0 (solution 1), to give a concentration of 1,000 micrograms of chloramphenicol per milliliter (estimated). Further dilute an aliquot with solution 1 to the reference concentration of 2.5 micrograms of chloramphenicol per milliliter (estimated).

(ii) *Spectrophotometric method.* Dissolve approximately 50 milligrams each of the sample and working standard in 100 milliliters of distilled water. Warm if necessary to hasten dissolution. Transfer 10 milliliters into a 250-milliliter volumetric flask and fill to volume with distilled water. Using a suitable spectrophotometer equipped with a 1-centimeter cell and distilled water as the blank, determine the absorbance of each solution at 278 nanometers. Calculate the potency of chloramphenicol as follows:

$$\text{Potency of sample in micrograms per milligram} = \frac{\text{Absorbance of sample} \times \text{weight of standard in milligrams} \times \text{potency of standard in micrograms per milligram}}{\text{Absorbance of standard} \times \text{weight of sample in milligrams}}$$

(2) *Safety.* Proceed as directed in § 141.5 of this chapter.

(3) *pH.* Proceed as directed in § 141.503 of this chapter, using a saturated aqueous solution.

(4) *Specific rotation.* Accurately weigh aproximately 1.25 grams of the sample into a 25-milliliter glass-stoppered volumetric flask and dissolve in about 15 milliliters of absolute alcohol, warming if necessary. Dilute the solution to 25 milliliters with absolute alcohol and mix thoroughly. Proceed as directed in § 141.520 of this chapter, using a 2.0-decimeter polarimeter tube.

(5) *Melting range.* Proceed as directed in § 141.515 of this chapter.

(6) *Absorptivity.* Proceed as directed in subparagraph (1)(ii) of this paragraph, except calculate the percent relative absorptivity as follows:

$$\text{Percent relative absorptivity} = \frac{\text{Absorbance of sample} \times \text{weight of standard in milligrams} \times \text{potency of standard in micrograms per milligram}}{\text{Absorbance of standard} \times \text{weight of sample in milligrams} \times 10}$$

(7) *Crystallinity.* Proceed as directed in § 141.504(a) of this chapter.

§ 151c.3 Chloramphenicol palmitate.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Chloramphenicol palmitate is the white to grayish-white, tasteless palmitic acid ester of chloramphenicol. It is so purified and dried that:

(i) It contains not less than 555 micrograms nor more than 595 micrograms of chloramphenicol per milligram.

(ii) It passes the safety test.

(iii) Its melting range is 91°±4° C.

(iv) Its specific rotation in absolute ethyl alcohol at 25° C. is +23°±2°.

(v) It is crystalline.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 148.3(b) of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency, safety, melting range, specific rotation, and crystallinity.

(ii) Samples required: 10 packages, each containing approximately 500 milligrams.

(b) *Tests and methods of assay*—(1) *Potency.* Dissolve approximately 90 milligrams of the sample and 50 milligrams of the chloramphenicol working standard in separate 100-milliliter volumetric flasks with absolute ethyl alcohol. Fill to volume with absolute ethyl alcohol. Transfer 10.0 milliliters of each solution into separate 250-milliliter volumetric flasks and fill to volume with absolute ethyl alcohol. Using a suitable spectrophotometer equipped with a 1.0-centimeter cell and absolute ethyl alcohol as a blank, determine the absorbance of the sample at 271 nanometers and that of the chloramphenicol working standard at 276 nanometers. Calculate the potency of the chloramphenicol palmitate as follows:

$$\text{Potency of sample in micrograms per milligram} = \frac{\text{Absorbance of sample} \times \text{weight of standard in milligrams} \times \text{potency of standard in micrograms per milligram}}{\text{Absorbance of standard} \times \text{weight of sample in milligrams}}$$

(2) *Safety.* Proceed as directed in § 141.5 of this chapter. Apply sufficient heat to dissolve the chloramphenicol.

(3) *Melting range.* Proceed as directed in § 141.515 of this chapter.

(4) *Specific rotation.* Accurately weigh approximately 1.25 grams of sample in a 25-milliliter, glass-stoppered volumetric flask and dissolve in about 15 milliliters of absolute alcohol, warming if necessary to effect solution. Bring the solution to 25° C. Dilute the solution to 25 milliliters with absolute alcohol and mix thoroughly. Proceed as directed in § 141.520 of this chapter, using a 2.0-decimeter polarimeter tube.

(5) *Crystallinity.* Proceed as directed in § 141.504(a) of this chapter.

§ 151c.4 Sterile chloramphenicol sodium succinate.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Chloramphenicol sodium succinate is the light-yellow, water-soluble, ethanol-soluble sodium salt of the 3-monosuccinate ester of chloramphenicol. It is so purified and dried that:

(i) Its potency is not less than 650 and not more than 765 micrograms per milligram. If it is packaged for dispensing, its potency when reconstituted as directed in the labeling is satisfactory if it is not less than 90 percent and not more than 115 percent of the number of milligrams of chloramphenicol per milliliter that it is represented to contain.

(ii) It is sterile.

(iii) It is nonpyrogenic.

(iv) It passes the safety test.

(v) It contains no histamine nor histamine-like substances.

(vi) Its moisture content is not more than 5.0 percent.

(vii) Its pH in an aqueous solution containing 250 milligrams of chloramphenicol per milliliter is not less than 6.4 and not more than 7.0.

(viii) Its specific rotation in an aqueous solution containing 50 milligrams per

milliliter at 25° C. is +6.5°±1.5°.

(ix) It is crystalline.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 148.3 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency, sterilty, pyrogens, safety, histamine, moisture, pH, specific rotation, and crystallinity.

(ii) Samples required:

(*a*) If the batch is packaged for repacking or for use in the manufacture of another drug:

(*1*) For all tests except sterility: 10 packages, each containing approximately 500 milligrams.

(2) For sterility testing: 20 packages, each containing approximately 500 milligrams.

(*b*) If the batch is packaged for dispensing:

(*1*) For all tests except sterility: A minimum of 8 immediate containers.

(2) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.

(b) *Tests and methods of assay*—(1) *Potency*—(i) *Working standard.* Dissolve an accurately weighed portion of the chloramphenicol working standard in sufficient distilled water to give a solution containing 20 micrograms per milliliter. Using a suitable spectrophotometer and distilled water as the blank, determine the absorbance of this solution in a 1-centimeter cell at a wavelength of 278 nanometers.

(ii) *Procedure.* Dissolve an accurately weighed portion of the sample to be tested in sufficient distilled water to give a solution containing 30 micrograms of the sample per milliliter (estimated); and also if it is packaged for dispensing, reconstitute as directed in the labeling. Remove an accurately measured representative portion from each container and further dilute this portion with sufficient distilled water to give a concentration of 20 micrograms of chloramphenicol per milliliter (estimated). Using a suitable spectrophotometer and distilled water as the blank, determine the absorbance of this solution in a 1-centimeter cell at a wavelength of 276 nanometers. Calculate the micrograms per milligram of the dry powder as follows:

$$\text{Micrograms of chloramphenicol per milligram} = \frac{\text{Absorbance of sample at 276 nanometers} \times \text{micrograms of standard per milliliter} \times \text{potency of chloramphenicol working standard in micrograms per milligram}}{\text{Absorbance of standard at 278 nanometers} \times \text{micrograms of sample per milliliter}}$$

Calculate the milligrams per milliliter of the reconstituted solution in the dispensing container as follows:

$$\text{Milligrams per milliliter of the reconstituted vial} = \frac{\text{Absorbance of sample at 276 nanometers} \times \text{micrograms of standard per milliliter} \times \text{labeled content of reconstituted vial in milligrams per milliliter}}{\text{Absorbance of standard at 278 nanometers} \times 20}$$

(2) *Sterility.* Proceed as directed in § 141.2 of this chapter, using the method described in paragraph (e)(1) of that section.

(3) *Pyrogens.* Proceed as directed in § 141.4(a) of this chapter, using a solution containing 5 milligrams of chloramphenicol per milliliter.

(4) *Safety.* Proceed as directed in § 141.5 of this chapter.

(5) *Histamine.* Proceed as directed in § 141.7 of this chapter.

(6) *Moisture.* Proceed as directed in § 141.502 of this chapter.

(7) *pH.* Proceed as directed in § 141.503 of this chapter, using an aqueous solution containing 250 milligrams of chloramphenicol per milliliter.

(8) *Specific rotation.* Dilute the sample with sufficient distilled water to give a solution containing approximately 50 milligrams per milliliter. Proceed as directed in § 141.520 of this chapter, using a 1.0-decimeter polarimeter tube.

(9) *Crystallinity.* Proceed as directed in § 141.504(a) of this chapter.

§ 151c.11 Chloramphenicol capsules.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Chloramphenicol capsules are composed of chloramphenicol with or without one or more suitable and harmless diluents and lubricants. Each capsule contains 50, 100, or 250 milligrams of chloramphenicol. Its potency is satisfactory if it is not less than 90 percent and not more than 120 percent of the number of milligrams of chloramphenicol that it is represented to contain. The chloramphenicol used conforms to the standards prescribed by § 151c.2(a)(1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 148.3 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The chloramphenicol used in making the batch for potency, safety, pH, specific rotation, melting range, absorptivity, and crystallinity.

(*b*) The batch for potency.

(ii) Samples required:

(*a*) The chloramphenicol used in making the batch: 10 packages, each containing approximately 300 milligrams.

(*b*) The batch: A minimum of 30 capsules.

(b) *Tests and methods of assay; potency.* Use either of the following methods; however, the results obtained from the microbiological turbidimetric assay shall be conclusive.

(1) *Microbiological turbidimetric assay.* Proceed as directed in § 141.111 of this chapter, preparing the sample for assay as follows: Place a representative number of capsules into a high-speed, glass blender jar containing 100 milliliters of 95 percent ethyl alcohol. Blend for 2 minutes. Then add 400 milliliters of 1 percent potassium phosphate buffer, pH 6.0 (solution 1), and blend again for 2 minutes. Remove an aliquot and further dilute with solution 1 to the reference concentration of 2.5 micrograms of chloramphenicol per milliliter (estimated).

(2) *Spectrophotometric assay*—(i) *Preparation of working standard solution.* Dissolve approximately 50 milligrams of the working standard in 100 milliliters of distilled water. Warm if necessary to hasten dissolution. Transfer 10 milliliters into a 250-milliliter volumetric flask and fill to volume with distilled water.

(ii) *Procedure.* Place the contents of 10 capsules into a 250-milliliter volumetric flask. Add 50 milliliters of pure methyl alcohol to the flask and shake for at least 1 minute. Fill to volume with distilled water and mix thoroughly. Withdraw an aliquot and dilute with sufficient distilled water to give a concentration of 20 micrograms per milliliter. Using a suitable spectrophotometer equipped with a 1.0-centimeter cell and distilled water as the blank, determine the absorbance of the working standard and sample solutions at 278 nanometers. Calculate the potency as follows:

$$\text{Milligrams per capsule} = \frac{\text{Absorbance of sample} \times \text{labeled potency per capsule in milligrams}}{\text{Absorbance of standard}}$$

§ 151c.12 Chloramphenicol capsules, veterinary.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Chloramphenicol capsules, veterinary are composed of chloramphenicol with or without one or more suitable diluents and lubricants. Each capsule contains 50, 100, 250, or 500 milligrams of chloramphenicol. Its potency is satisfactory if it is not less than 90 percent and not more than 120 percent of the number of milligrams of chloramphenicol that it is represented to

contain. The chloramphenicol used conforms to the standards prescribed by § 151c.2(a)(1).

(2) *Labeling.* In addition to the labeling requirements of §§ 148.3 and 135c.63 of this chapter, its label and labeling shall bear the statement, "Warning: Not for use in animals which are raised for food production."

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The chloramphenicol used in making the batch for potency, safety, pH, specific rotation, melting range, absorptivity, and crystallinity.

(*b*) The batch for potency.

(ii) Samples required:

(*a*) The chloramphenicol used in making the batch: 10 packages, each containing approximately 300 milligrams.

(*b*) The batch: A minimum of 30 capsules.

(b) *Tests and methods of assay; potency.* Proceed as directed in § 151c.11(b).

§ 151c.13 Chloramphenicol injection.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Chloramphenicol injection is chloramphenicol, with or without one more suitable and harmless buffer substances, dissolved in one or more suitable and harmless solvents. Each milliliter contains 250 milligrams of chloramphenicol. Its potency is satisfactory if it is not less than 90 percent and not more than 130 percent of the number of milligrams of chloramphenicol that it is represented to contain. It is sterile. It is nonpyrogenic. It passes the safety test. It contains no histamine nor histamine-like substances. Its pH is not less than 4.7 and not more than 5.0. The chloramphenicol used conforms to the standards prescribed by § 151c.1(a)(1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 148.3 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The chloramphenicol used in making the batch for potency, pH, specific rotation, melting range, absorptivity, and crystallinity.

(*b*) The batch for potency, sterility, pyrogens, safety, histamine, and pH.

(ii) Samples required:

(*a*) The chloramphenicol used in making the batch: 10 packages, each containing approximately 300 milligrams.

(*b*) The batch:

(*1*) For all tests except sterility: A minimum of eight immediate containers.

(*2*) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.

(b) *Tests and methods of assay*—(1) *Potency.* Proceed as directed in § 141.111 of this chapter, preparing the sample for assay as follows: Dilute an accurately measured representative aliquot of the sample in sufficient 1 percent potassium phosphate buffer, pH 6.0 (solution 1), to give a convenient concentration. Further dilute with solution 1 to the reference concentration of 2.5 micrograms of chloramphenicol per milliliter (estimated).

(2) *Sterility.* Proceed as directed in § 141.2 of this chapter, using the method described in paragraph (e)(1) of that section, except add the contents of each container directly to the dry filter, thus eliminating the preliminary solubilization step.

(3) *Pyrogens.* Proceed as directed in § 141.4(a) of this chapter, using a solution containing 5 milligrams per milliliter.

(4) *Safety.* Proceed as directed in § 141.5 of this chapter.

(5) *Histamine.* Proceed as directed in § 141.7 of this chapter.

(6) *pH.* Proceed as directed in § 141.503 of this chapter, using the undiluted drug.

§ 151c.14 Fibrinolysin and desoxyribonuclease, combined (bovine) with chloramphenicol ointment.

(a) *Requirements for cedtification—*(1) *Standards of identify, strength, quality, and purity.* Fibrinolysin and desoxyribonuclease, combined (bovine) with chloramphenicol ointment is fibrinolysin, desoxyribonuclease, and chloramphenicol in a suitable and harmless ointment base. It contains a suitable and harmless preservative. Each gram contains 1 unit of fibrinolysin, 666 units of desoxyribonuclease, and 10 milligrams of chloramphenicol. Its chloramphenicol content is satisfactory if it is not less than 90 percent and not more than 120 percent of the number of milligrams of chloramphenicol that it is represented to contain. The chloramphenicol used conforms to the standards prescribed by § 151c.2(a)(1), except safety. In addition to the requirements prescribed by this paragraph, the drug satisfies the requirements designated therefor by the Division of Biologics Standards, National Institutes of Health, Department of Health, Education, and Welfare.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 148.3 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The chloramphenicol used in making the batch for potency, pH, specific rotation, melting range, absorptivity, and crystallinity.

(*b*) The batch for potency.

(ii) Samples required:

(*a*) The chloramphenicol used in making the batch: 10 packages, each containing approximately 300 milligrams.

(*b*) The batch: A minimum of 5 containers if it is packaged in immediate containers of tin or glass, and a minimum of 20 immediate containers if it is packaged in immediate containers other than tin or glass.

(b) *Tests and methods of assay; potency.* Proceed as directed in § 141.111 of this chapter, preparing the sample for assay as follows: Place an accurately weighed representative portion of the sample into a high-speed glass blender jar containing 1 milliliter polysorbate 80 and sufficient 1 percent potassium phosphate buffer, pH 6.0 (solution 1), to give a stock solution of convenient concentration. Blend 3 to 5 minutes. Remove an aliquot and further dilute with solution 1 to the reference concentration of 2.5 micrograms of chloramphenicol per milliliter (estimated).

§ 151c.15 Chloramphenicol ophthalmic solution.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Chloramphenical apthal*ity, and purity.* Chloramphenicol ophthalmic solution contains in each milliliter 5 milligrams of chloramphenicol with or without one or more suitable and harmless preservatives, buffer substances, and surfactants in an aqueous solution. Its potency is satisfactory if it is not less than 90 percent and not more than 130 percent of the number of milligrams of chloramphenicol that it is represented to contain. It is sterile. Its pH is not less than 3 nor more than 6; however, if the solution is buffered, its pH is not less than 7.0 nor more than 7.5. The chloramphenicol used conforms to the standards prescribed by § 151c.2(a)(1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 148.3 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The chloramphenicol used in making the batch for potency, safety, pH, specific rotation, melting range, absorptivity, and crystallinity.

(*b*) The batch for potency, sterility, and pH.

(ii) Samples required:

(*a*) The chloramphenicol used in making the batch: 10 containers, each containing approximately 300 milligrams.

(*b*) The batch:

(*1*) For all tests except sterility: A minimum of five immediate containers.

(*2*) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filing operation.

(b) *Tests and methods of assay*—(1) *Potency.* Use either of the following methods; however, the results obtained from the microbiological turbidimetric assay shall be conclusive.

(i) *Microbiological turbidimetric assay.* Proceed as directed in § 141.111 of this chapter, preparing the sample for assay as follows: Dilute an accurately measured representative aliquot of the sample in sufficient 1 percent potassium phosphate buffer, pH 6.0 (solution 1), to give a stock solution of convenient concentration. Further dilute and aliquot of the stock solution with solution 1 to the reference concentration of 2.5 micro-

grams of chloramphenicol per milliliter (estimated).

(ii) *Spectrophotometric assay.* Dilute a 1-milliliter aliquot of the sample in sufficient distilled water to make a solution containing 20 milligrams of chloramphenicol per milliliter. Dissolve an accurately weighed portion of the working standard in sufficient distilled water to give a solution containing 20 milligrams per milliliter. Warm if necessary to hasten solution of the working standard. Cool. Using a suitable spectrophotometer and distilled water as the blank, determine the absorbance of the sample and standard solutions at 278 nanometers. Calculate the potency of the sample as follows:

$$\text{Milligrams of chloramphenicol per milliliter} = \frac{\text{Absorbance of sample} \times \text{labeled potency per milliliter in milligrams}}{\text{Absorbance of standard}}$$

(2) *Sterility.* Proceed as directed in § 141.2 of this chapter, using the method described in paragraph (e)(1) of that section.

(3) *pH.* Proceed as directed in § 141.503 of this chapter, using the undiluted solution.

§ 151c.16 Chloramphenicol - prednisolone-tetracaine-squalane topical suspension, veterinary.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* This drug is a suspension composed of chloramphenicol, prednisolone, tetracaine, and squalane in a suitable and harmless vehicle. Each milliliter contains 4.2 milligrams of chloramphenicol, 1.7 milligrams of prednisolone, 4.2 milligrams of tetracaine, and 0.21 milliliter of squalane. Its moisture content is not more than 1 percent. Its antibiotic potency is not less than 90 percent and not more than 125 percent of the number of milligrams of chloramphenicol that it is represented to contain. The chloramphenicol used conforms to the standards prescribed by § 151c.2(a)(1), except safety.

(2) *Labeling.* It shall be labeled in accordance with the requirements of §§ 148.3 and 135a.3 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The chloramphenicol used in making the batch for potency, pH, specific rotation, melting range, absorptivity, and crystallinity.

(*b*) The batch for potency and moisture.

(ii) Samples required:

(*a*) The chloramphenicol used in making the batch: 10 containers, each containing approximately 300 milligrams.

(*b*) The batch: A minimum of six immediate containers.

(b) *Tests and methods of assay—*(1) *Potency.* Proceed as directed in § 141.111 of this chapter, preparing the sample for assay as follows: Transfer an accurately measured portion of the sample into a separatory funnel containing 50 milliliters of petroleum ether. Shake the separatory funnel vigorously to bring about complete mixing of the sample and the petroleum ether. Add 20 milliliters of 1 percent potassium phosphate buffer, pH 6.0 (solution 1), and shake well. Remove the buffer layer and repeat the extraction with three additional 20-milliliter portions of solution 1. Combine the extractives and dilute to an appropriate volume with solution 1. Further dilute in solution 1 to the reference concentration of 2.5 micrograms of chloramphenicol per milliliter (estimated).

(2) *Moisture.* Proceed as directed in § 141.502 of this chapter, using 1 or 2 milliliters of the suspension.

§ 151c.17 Chloramphenicol palmitate oral suspension.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Chloramphenicol palmitate oral suspension is chloramphenicol palmitate and one or more suitable and harmless buffer substances, suspending agents, preservatives, colorings, and flavorings suspended in a suitable and harmless vehicle. Each milliliter contains 31.25 milligrams of chloramphenicol. Its potency is satisfactory if it is not less than 90 percent and not more than 120 percent of the number of milligrams of choramphenicol that it is represented to contain. Its pH is not less than 4.5 nor more than 7.0. Its content of polymorph A crystals does not exceed 10 percent. The chloramphenicol palmitate used conforms to the standards prescribed by § 151c.3(a)(1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 148.3 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The chloramphenicol palmitate used in making the batch for potency, safety, melting range, specific rotation, and crystallinity.

(*b*) The batch for potency, pH, and content of polymorph A crystals.

(ii) Samples required:

(*a*) The chloramphenicol palmitate used in making the batch: 10 packages, each containing approximately 500 milligrams.

(*b*) The batch: A minimum of six immediate containers.

(b) *Tests and methods of assay—*(1) *Potency—*(i) *Preparation of chloramphenicol working standard solution.* Dissolve approximately 50 milligrams of the chloramphenicol working standards, accurately weighed, in a 100-milliliter volumetric flask with absolute ethyl alcohol. Fill to volume with absolute ethyl alcohol. Transfer 10.0 milliliters into a 250-milliliter volumetric flask and fill to volume with absolute ethyl alcohol.

(ii) *Procedure.* Transfer an accurately measured amount of the suspension, equivalent to about 125 milligrams of chloramphenicol, to a separatory funnel. Add 10 milliliters of water and then extract completely with 25-milliliter portions of chloroform, allowing the layers to separate and filtering each successive chloroform extract through a pledget of cotton into a 250-milliliter volumetric flask, then add chloroform to volume, and mix. Pipette 4 milliliters of the clear chloroform solution into a 100-milliliter volumetric flask, dilute with ethyl alcohol to volume, and mix. Using a suitable spectrophotometer equipped with a 1.0-centimeter cell and a blank composed of 1.0 milliliter of chloroform, U.S.P. diluted to 25 milliliters with absolute ethyl alcohol, determine the absorbance of the chloroform working standard solution at 276 nanometers and that of the sample solution at 271 nanometers. Calculate the potency of the sample as follows:

$$\text{Milligrams of chloramphenicol per milliliter} = \frac{\text{Absorbance of sample} \times \text{labeled potency per milliliter in milligrams}}{\text{Absorbance of standard}}$$

(2) *pH.* Proceed as directed in § 141.503 of this chapter, using the undiluted sample.

(3) *Content of polymorph A crystals—*(i) *Preparation of standards—*(a) *Standard containing 20 percent of polymorph A.* Prepare a thoroughly mixed, dry powder composed by weight of 1 part of polymorph A crystals of chloramphenicol palmitate and 4 parts of nonpolymorph A crystals of chloramphenicol palmitate.

(*b*) *Standard containing 10 percent of polymorph A.* Prepare a thoroughly mixed, dry powder composed by weight of 1 part of polymorph A crystals of chloramphenicol palmitate and 9 parts of nonpolymorph A crystals of chloramphenicol palmitate.

(ii) *Preparation of sample.* Place 20 milliliters of thoroughly mixed oral suspension into a 50-milliliter centrifuge tube. Add 20 milliliters of water and mix. Centrifuge for 10 to 15 minutes at a speed not less than 18,000 revolutions per minute. Decant the supernatant liquid. Wash the residue as follows: Add 2 milliliters of water to the residue, mix to make paste, add 18 milliliters of water, and mix thoroughly. Centrifuge, decant

the supernatant liquid, and wash the residue two more times. Remove the washed residue from the centrifuge tube and dry it at least 14 hours in a vacuum desiccator at room temperature.

(iii) *Procedure.* Weigh 150 to 200 milligrams of liquid petrolatum into an agate mortar and add about 100 milligrams of standard or sample. Mix with a small spatula and then mull thoroughly with a pestle until a uniform consistency is obtained. Adjust a suitable infrared spectrophotometer so that 100 percent transmittance is recorded over the range of 11.0 to 13.0 microns. Use two rock salt plates as an absorption cell. Place a small drop of the mull in the center of one of the plates. Gently put the other plate on the mull and slowly squeeze the plates together to spread the mull uniformly. Clamp the two plates firmly together in a metal cell holder. Examine the assembled cell by holding it up to the light. It should appear smooth and free of any air bubbles and when placed in the instrument it should give a percent transmittance of 20 to 30 percent at 12.3 microns. Place the cell in the infrared spectrophotometer and record the absorption spectrum from 11.0 to 13.0 microns.

(iv) *Treatment of spectra—(a) Standard containing 20 percent of polymorph A.* Determine by inspection of the recorded spectrum the exact wavelengths of minimum absorption at approximately 11.3 and 12.65 microns. Also determine by inspection the exact wavelengths of maximum absorption at approximately 11.65 and 11.86 microns. In the following subdivision, references to these four nominal wavelengths are to the exact wavelengths observed on the particular instrument being used.

(*b*) *Standard containing 10 percent of polymorph A.* Draw a straight baseline between the minima occurring at 11.3 and 12.65 microns. Draw straight lines at 11.65 and 11.86 microns intersecting both the recorded spectrum and the baseline. Obtain the corrected absorbances at 11.65 and 11.86 microns and calculate the absorbance ratios as follows:

$$\text{Absorbance ratio} = \frac{{}^{a}11.65 - {}^{b}11.65}{{}^{a}11.86 - {}^{b}11.86}$$

where:

$^{a}11.65$ = Absorbance value of recorded spectrum at 11.65 microns;

$^{b}11.65$ = Absorbance value at point of intersection of the 11.65-micron line with the baseline;

$^{a}11.86$ = Absorbance value of recorded spectrum at 11.86 microns;

$^{b}11.86$ = Absorbance value at point of intersection of the 11.86-micron line with the baseline.

(*c*) *Sample.* Proceed as described in subdivision (iv) (*b*) of this subparagraph.

(v) *Calculation.* The absorbance ratio of the sample must be greater than the absorbance ratio of the standard containing 10 percent of polymorph A.

§ 151c.18 Chloramphenicol opthalmic solution, veterinary.

(a) *Requirements for certification—(1) Standards of identity, strength, quality, and purity.* Chloramphenicol ophthalmic solution contains in each milliliter 5 milligrams of chloramphenicol with or without one or more suitable and harmless preservatives and surfactants in an aqueous solution. Its potency is not less than 90 percent and not more than 130 percent of the number of milligrams of chloramphenicol that it is represented to contain. It is sterile. Its pH is not less than 3 nor more than 6. The chloramphenicol used conforms to the standards prescribed by § 151c.2(a)(1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of §§ 148.3 and 135a.9 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The chloramphenicol used in making the batch for potency, safety, pH, specific rotation, melting range, absorptivity, and crystallinity.

(*b*) The batch for potency, sterility, and pH.

(ii) Samples required:

(*a*) The chloramphenicol used in making the batch: 10 containers, each containing not less than 300 milligrams.

(*b*) The batch:

(1) For all tests except sterility: A minimum of five immediate containers.

(2) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.

(b) *Tests and methods of assay—(1) Potency.* Use either of the following methods; however, the results obtained from the microbiological turbidimetric assay shall be conclusive.

(i) *Microbiological turbidimetric assay.* Proceed as directed in § 141.111 of this chapter, preparing the sample for assay as follows: Dilute an accurately measured representative portion of the sample in sufficient 1 percent potassium phosphate buffer, pH 6.0 (solution 1), to give a stock solution of convenient concentration. Further dilute an aliquot of the stock solution with solution 1 to the reference concentration of 2.5 micrograms of chloramphenicol per milliliter (estimated).

(ii) *Spectrophotometric assay.* Dilute a 1-milliliter aliquot of the sample in sufficient distilled water to make a solution containing 20 milligrams of chloramphenicol per milliliter. Dissolve an accurately weighed portion of the working standard in sufficient distilled water to give a solution containing 20 milligrams per milliliter. Warm if necessary to hasten solution of the working standard. Cool. Using a suitable spectrophotometer and distilled water as the blank, determine the absorbance of the sample and standard solutions at 278 nanometers. Calculate the potency of the sample as follows:

$$\text{Milligrams of chloramphenicol per milliliter} = \frac{\text{Absorbance of sample} \times \text{labeled potency per milliliter in milligrams}}{\text{Absorbance of standard}}$$

(2) *Sterility.* Proceed as directed in § 141.2 of this chapter, using the method described in paragraph (e)(1) of that section.

(3) *pH.* Proceed as directed in § 141.503 of this chapter, using the undiluted solution.

Effective date. This order shall become effective September 6, 1973.

(Secs. 507, 512(n), 59 Stat. 463, as amended, 82 Stat. 350–351; 21 U.S.C. 357, 360b(n))

Dated: July 30, 1973.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.73-16105 Filed 8-6-73;8:45 am]

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

PART 278—REGULATIONS FOR THE ADMINISTRATION AND ENFORCEMENT OF THE RADIATION CONTROL FOR HEALTH AND SAFETY ACT OF 1968

Subpart C—Performance Standards for Electronic Products

MICROWAVE OVENS

On April 9, 1973, the Commissioner of Food and Drugs published in the FEDERAL REGISTER (38 FR 9027) a notice of proposed rulemaking to amend the performance standard for microwave ovens (21 CFR 278.212) by adding performance requirements to improve the reliability of safety inter-lock systems.

As defined in § 278.212(b)(1): "microwave ovens are limited to those manufactured for use in homes, restaurants, food vending or service establishments, on interstate carriers, and in similar facilities."

Prior to publication as a proposed rule, these amendments were reviewed by the Technical Electronic Product Radiation Safety Standards Committee, a statutory committee which by law must be consulted prior to the promulgation or amendment of electronic product standards established under the Act. In addition, more than 60 representatives of manufacturers, radiation control and public health agencies, consumer groups, and others were invited to submit written comments on the proposed amendments and to discuss them in a meeting held January 9, 1973. The proposed amendments were based on these reviews and discussions as well as on research and testing carried out by the Bureau of Radiological Health.

Interested persons were given 30 days in which to file written comments regarding this proposal. No requests for extension of the review period were received.

Nine comments on the proposal were received. Eight comments generally sup-

ported all or part of the proposal and four of these anticipated that the proposed controls would result in improved reliability of ovens. None of the comments expressed significant opposition to the proposal. However, five comments suggested some changes or additions or alternative means of achieving radiation safety. Actions taken in response to comments are summarized as follows:

1. A suggestion to require the primary safety interlock to be monitored and to remove the emission limitation on the secondary interlock was not accepted, because the suggested change would result in equal or greater radiation safety to the user only in limited situations and would provide less radiation protection in all other situations.

2. A suggestion to change the test conditions of the standard to include measuring the emission of microwave radiation from the door at discrete door travel positions was not accepted on the basis that more general requirements, which provide equivalent radiation protection to the user, already are in effect.

3. One suggestion to have the power density emission limits of the microwave ovens lowered was not accepted on the basis that that present requirements were developed to keep the emissions at levels which would lead to individual exposures well below levels known to cause biological damage.

4. A suggestion to have microwave ovens bear a warning sign to alert pacemaker wearers was not accepted because the Bureau believes that a recommendation for generalized use of warning signs related to microwave oven installations would be impractical and ineffectual. Further, it would tend to focus attention on a single source of possible electromagnetic interference and would fail to warn the pacemaker wearer of other important sources of interference that could not be effectually delimited by signs. It would, in effect, label all types of microwave ovens as incompatible regardless of the quality inherent in some makes and models of the product.

5. One commentor stated it is not feasible to require interlock protect circuits to sense microwave radiation emission in excess of 5.0 mW/cm² and suggested that the language expressing the functions of the safety interlocks be clarified. This suggestion was not accepted because the monitor system is not expected to sense emission from the microwave oven, but only failure of the safety interlocks.

For uniformity and clarity of terminology throughout § 278.212, including this amendment, the following changes have also been made. The words "prevent microwave radiation emission' have been substituted for "not allow leakage" in two places in the first sentence of paragraph (c)(2)(v). The words "radiation emission" or "emission" have been substituted for the word "leakage" where it appears in paragraphs (b)(3) and (c)(2)(iii), (iv) and (3)(ii).

The Commissioner of Food and Drugs has determined that the amendment to § 278.212 is necessary for the protection of the public health and safety.

Therefore, pursuant to the Public Health Service Act, as amended by the Radiation Control for Health and Safety Act of 1968 (sec. 358, 82 Stat. 1177–1179; 42 U.S.C. 263f) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), § 278.212 is amended by revising paragraphs (b)(3) and (c)(2) and (3) to read as follows:

§ 278.212 Microwave ovens.

* * * * *

(b) * * *

(3) "Door" means the movable barrier which prevents access to the cavity during operation and whose function is to prevent emission of microwave energy from the passage or opening which provides access to the cavity.

* * * * *

(c) * * *

(2) *Door and safety interlocks.* (i) Microwave ovens shall have a minimum of two operative safety interlocks one of which must be concealed. A concealed safety interlock on a fully assembled microwave over must not be operable by (*a*) any part of the body, or (*b*) a rod 3 millimeters or greater in diameter and with a useful length of 10 centimeters. A magnetically operated interlock is considered to be concealed only if a test magnet, held in place on the oven by gravity or its own attraction, cannot operate the safety interlock. The test magnet shall have a pull at zero air gap of at least 4.5 kilograms and a pull at 1 centimeter air gap of at least 450 grams when the face of the magnet which is toward the interlock switch when the magnet is in the test position is pulling against one of the large faces of a mild steel armature having dimensions of 80 millimeters by 50 millimeters by 8 millimeters.

(ii) Failure of any single mechanical or electrical component of the microwave oven shall not cause all safety interlocks to be inoperative.

(iii) Service adjustments or service procedures on the microwave oven shall not cause the safety interlocks to become inoperative or the microwave radiation emission to exceed the power density limits of this section as a result of such service adjustments or procedures.

(iv) Insertion of an object into the oven cavity through any opening while the door is closed shall not cause microwave radiation emission from the oven to exceed the applicable power density limits specified in this section.

(v) One (the primary) required safety interlock shall prevent microwave radiation emission in excess of the requirement of paragraph (c)(1) of this section; the other (secondary) required safety interlock shall prevent microwave radiation emission in excess of 5 milliwatts per square centimeter at any point 5 centimeters or more from the external surface of the oven. The two required safety interlocks shall be designated as primary or secondary in the service instructions for the oven.

(vi) A means of monitoring one or both of the required safety interlocks shall be provided which shall cause the oven to become inoperable and remain so until repaired if the required safety interlock(s) should fail to perform required functions as specified in this section. Interlock failures shall not disrupt the monitoring function.

(3) *Measurements and test conditions.* (i) Compliance with the power density limits in this paragraph shall be determined by measurements of microwave power density made with an instrument system which (*a*) reaches 90 percent of its steady-state reading within 3 seconds when the system is subjected to a stepped input signal and which (*b*) has a radiation detector with an effective aperture of 25 square centimeters or less as measured in a plane wave, said aperture having no dimension exceeding 10 centimeters. This aperture shall be determined at the fundamental frequency of the oven being tested for compliance. The instrument system shall be capable of measuring the power density limits of this section with an accuracy of plus 25 percent and minus 20 percent (plus or minus 1 decibel).

(ii) Microwave ovens shall be in compliance with the power density limits if the maximum reading obtained at the location of greatest microwave radiation emission does not exceed the limits specified in this paragraph when the emission is measured through at least one stirrer cycle. Pursuant to § 278.203, manufacturers may request alternative test procedures if, as a result of the stirrer characteristics of a microwave oven, such oven is not susceptible to testing by the procedures described in this subdivision.

(iii) Measurements shall be made with the microwave oven operating at its maximum output and containing a load of 275±15 milliliters of tap water initially at 20°±5° centigrade placed within the cavity at the center of the load-carrying surface provided by the manufacturer. The water container shall be a low form 600-milliliter beaker having an inside

diameter of approximately 8.5 centimeters and made of an electrically nonconductive material such as glass or plastic.

(iv) Measurements shall be made with the door fully closed as well as with the door fixed in any other position which allows the oven to operate.

* * * * *

Effective date. This order shall become effective August 7, 1974.

(Sec. 358, 82 Stat. 1177–1179; 42 U.S.C. 263f)

Dated: July 31, 1973.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.73-16178 Filed 8-6-73;8:45 am]

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

Revision and Transfer of Regulations

Appearing on page -- in this issue of the FEDERAL REGISTER is a document deleting 21 CFR Part 295 and revising and reissuing the material, for reasons given, as Part 1700 of Title 16, Chapter II, Subchapter E.

Dated: July 31, 1973.

GEORGE A. SMITH,
Acting Secretary, Consumer Product Safety Commission.

[FR Doc.73-16224 Filed 8-6-73;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

[Docket No. FI-185]

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

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 reads 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
* * *	* * *	* * *	* * *	* * *	* * *	* * *
Illinois	Madison	Unincorporated areas.				Aug. 6, 1973, Emergency.
New Hampshire.	Grafton	Hanover, Town of.				Do.
New Mexico	Rio Arriba	Gallup, City of				Do.

(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: July 30, 1973.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.73-16110 Filed 8-6-73;8:45 am]

Title 36—Parks, Forests and Memorials

CHAPTER I—NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

Guadalupe Mountains National Park, Texas; Cave Entry and Exploration

A proposal was published at page 1122 of the FEDERAL REGISTER of January 9, 1973, to establish a § 7.93 within Part 7, Special Regulations, Areas of the National Park System, to deal with Guadalupe Mountains National Park. The effect of this section is to establish restrictions on entry and exploration of all cave formations now known or to be found within the park.

Interested persons were given 30 days within which to submit written comments, suggestions, or objections with respect to the proposed section. No comments, suggestions or objections have been received pursuant to publication of the proposal, and the proposed section is hereby adopted without change and set forth below. This section shall take effect September 6, 1973.

(39 Stat. 535; 16 U.S.C. 3; 80 Stat. 920)

The section reads as follows:

§ 7.93 Guadalupe Mountains National Park.

(a) *Cave entry*—(1) *Closed areas.* No person shall enter any cave or passageway of any cave without a written permit from the Superintendent.

(2) *Permits.* The Superintendent may issue written permits for cave entry to persons engaged in scientific investigations, and educational investigations. The Superintendent shall approve issuance of a permit: *Provided,*

(i) That the investigation planned will have demonstrable value to the National Park Service in its management or understanding of park resources, and

(ii) That the permit applicant is adequately equipped and experienced so as to assure the protection and preservation of park resources, and personal safety.

(iii) Solo exploration or investigation is not permitted in any cave or passageway of any cave within the park.

FRANK J. KOWSKI,
Director, Southwest Region.

[FR Doc.73-16182 Filed 8-6-73;8:45 am]

Title 39—Postal Service

CHAPTER I—U.S. POSTAL SERVICE

SUBCHAPTER D—ORGANIZATION AND ADMINISTRATION

PART 226—POSTAL DATA CENTERS

Administrative Office

Correction

In FR Doc. 73-15750 appearing at page 20402 for the issue of Tuesday, July 31, 1973, make the following changes:

1. In the second line of the authority citation in the first column of page 20414,

the number which reads "224" should read "226."

2. In the second column of page 20414, under § 226.3, the paragraphs beginning with "(vi)" and continuing to the third column to § 226.4 should be transferred to follow paragraph (e)(1)(vi) of § 226.4.

Title 40—Protection of Environment

CHAPTER V—COUNCIL ON ENVIRONMENTAL QUALITY

PART 1500—PREPARATION OF ENVIRONMENTAL IMPACT STATEMENTS: GUIDELINES

Correction

In FR Doc. 73-15783 appearing at page 20550 of the issue for Wednesday, August 1, 1973, on page 20557 the effective date at the end of the first paragraph, which now reads "January 28, 1973", should read "January 28, 1974".

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 18179; FCC 73-806]

PART 73—RADIO BROADCAST SERVICES

Commercial Television Stations and CATV Systems

First report and order. In the matter of amendment of Part 73 of the Commission's rules with respect to the availability of television programs produced by non-network suppliers to commercial television stations and CATV systems, Docket No. 18179.

1. On May 10, 1968, the Commission released a notice of proposed rulemaking (FCC 68-511, 33 FR 7158) proposing a new rule concerning the geographical exclusivity that would be permitted in programming contracts between television station licensees and non-network program suppliers. The proceeding was begun because of complaints of the non-availability of syndicated programs (due to exclusivity arrangements) made by independent UHF stations and because of a resolution on that subject by the Committee for the Full Development of All Channel Broadcasting. The rule, as proposed, reads as follows:

Section 73.659 *Territorial exclusivity agreements in non-network program arrangements.* No license shall be granted to a television broadcast station having any contract, arrangement, or understanding, express or implied, with a non-network program supplier which prevents or hinders another television broadcast station located in a different community from broadcasting the program purchased by the former station. As used in this section, the term "community" is defined as the community specified in the instrument of authorization as the location of the station.

2. Several extensions of time were granted in response to a request by the NAB and several other requests by the law firm of Phillips, Nizer, Benjamin, Krim & Ballon representing eight program suppliers; the initial comments were due on February 10, 1969, and the reply comments on March 10, 1969. Comments and reply comments were filed by the following parties:

American Broadcasting Companies, Inc.
All-Channel Television Society (ACTS)
Appalachian Broadcasting Corporation (WCYB-TV)
Columbia Broadcasting System, Inc.
Continental Urban Television Corporation (KGSC(TV))
Covington & Burling (on behalf of 18 television stations)
Fletcher, Heald, Rowell, Kenehan & Hildreth (on behalf of 9 television stations)
General Electric Broadcasting Company, Inc.
Golden West Broadcasters (KTLA(TV))
Greensboro News Company (WFMY-TV)
Gross Telecasting, Inc. (WJIM-TV)
The Hearst Corporation (WBAL-TV)
Herald Corporation (KETV(TV))
Kaiser Broadcasting Corporation
KFIZ Broadcasting Company (KFIZ-TV)
KLOC Broadcasting Company, Inc. (KLOC (TV))
McClatchy Newspapers (KOVR(TV) and KMJ-TV)
Meredith Broadcasting Company
Multimedia, Inc. (WFBC-TV, WBIR-TV, and WMAZ-TV)
National Association of Broadcasters
National Broadcasting Company, Inc.
Northwest Publications, Inc. (WDSM-TV)
Palmer Broadcasting Company (WHO-TV)
WOC Broadcasting Company (WOC-TV)
Pappas Electronics, Inc. (KMPH(TV))
Pierson, Ball & Dowd (on behalf of 13 television stations)
Phillips, Nizer, Benjamin, Krim & Ballon (on behalf of 8 program suppliers)
Sangre de Cristo Broadcasting Corporation (KOAA-TV)
Storer Broadcasting Company
Summit Radio Corporation (WAKR-TV)
Tribune Publishing Company (KTNT-TV).
Triangle Broadcasting Corporation (WSJS-TV)
U.S. Communications Corporation
WGAL Television, Inc. (WGAL-TV and WTEV-TV)
WGN Continental Broadcasting Company
WLVA, Incorporated (WLVA-TV)
WPIX, Inc. (WPIX-TV)

Reply comments were filed by Summit, Kaiser, McClatchy, KLOC and U.S. Communications. Although labeled reply comments, Mid-Continent Television Corporation (WKTO-TV); Iowa Broadcasting Company (KWIG-TV), TVue Associates, Inc. (KVVV-TV); Toledo Telecasting Corporation (WKDS-TV); and Southwestern Ohio Television, Inc. (WSWO-TV) filed comments in the nature of initial comments. Screen Gems filed a statement controverting certain factual statements made in the comments by KLOC. By a reply comment of July 19, 1972, Channel 3, Inc., licensee of KVDO-TV, Salem, Oregon, also commented on this phase of the proceeding. Pappas filed a supplement to comments in opposition on September 19, 1972, and United Television Company of New Hampshire, Inc. (WMUR(TV)) filed a motion to supplement the record on October 10, 1972.

3. On January 18, 1971, the Commission released a further notice of proposed rulemaking (FCC 71-42, 36 FR 935) which enlarged the proceeding to also consider time exclusivity and to consider the matter as applies to cable television systems. A second further notice (FCC 72-306, April 11, 1972, 37 FR 7531) set the final dates for comments and reply comments on time exclusivity matters as June 19, 1972 and July 19, 1972, respectively. It also deleted the cable television aspects from this proceeding. The program availability question as it applies to cable television was included in this proceeding because of the Commission's rule requiring cable systems with over 3,500 subscribers to originate programs. It was deleted because of the program availability rules that were adopted by the Cable Television Report and Order issued February 3, 1972, 36 F.C.C. 2d 141. The cable rules adopted in that Report and Order represent our resolution of the problem until a body of experience has been gathered in the cable area concerning program availability. In this First Report and Order, we shall deal with the question of geographical exclusivity for television stations and shall defer action on the time exclusivity aspect of the proceeding because of the severability of the two aspects of exclusivity.

4. The comments generally fall into three general areas, viz: (1) Outright support of the proposed rule; (2) outright opposition to the rule; and (3) opposition to any rule, but should the Commission find a rule to be necessary the geographical exclusivity should extend some distance beyond the same community (as proposed in the rule) such as to a specific mileage, or within the market area, or to a certain signal intensity contour (e.g. Grade A contour).

5. While specific comments will be set forth where appropriate, the comments will generally be summarized on a topical basis. Comments directly supporting the rule were filed by Summit (WAKR-TV); KLOC Broadcasting (KLOC-TV); KFIZ Broadcasting (KFIZ); Continental Urban (KGSC-TV and Pappas (KMPH (TV)). Reply comments supporting the rule were filed by Iowa Broadcasting (KWIG-TV); Southwestern Ohio (WSWO-TV); Mid-Continent Television (WKTO-TV); Toledo Telecasting (WDKS-TV); and TVue Associates (KVVV-TV). KGSC-TV, while directly supporting the proposed rule, states that if the Commission finds the proposed rule to be too strict, geographical exclusivity should be limited to 35 miles between the main post offices of the communities. ABC, General Electric and Sangre de Christo (KOAA-TV) support the philosophy of the rule because it would permit more free competition in bargaining for programming and would minimize abuses as to exclusivity provisions. However, KOAA-TV believes that the "same community" limitation may be too restrictive, and that the rule should permit exclusivity against all stations in cities with which a station has the right to identify.

6. Comments in direct opposition were filed by Meredith, Gross, U.S. Communications, and CBS relying mainly on the great reservoir of programs and the impracticality of any general rule. NAB, NBC, Kaiser, Pierson, Ball & Dowd (on behalf of 13 stations), and Covington & Burling (on behalf of 16 commercial and

2 educational stations) oppose any rule on the theory that any violations can be reached by complaint based on antitrust law and policy. ACTS opposes any general rule, stating that the Commission should issue a policy statement outlining its concern over excessive geographical exclusivity when it reaches into another television market (especially a smaller one) and that any abuses could then be handled on a complaint basis.

7. Pierson, Ball & Dowd urge that any general rule would be unworkable, but state that if one must be adopted minimum exclusivity should be permitted through Grade A contour, if substantial overlap does not exist; if it does exist, then exclusivity should be permitted within a 75 mile radius of a station. Hearst (WBAL) and WPIX do not object to a geographical exclusivity rule, but state that a same community exclusivity rule is too stringent. Hearst says that a rule should permit exclusivity within the metropolitan area of the station; WPIX urges that exclusivity be permitted against stations whose transmitters are located within the station's Grade B contour. Herald (KETV(TV)), WGN (WGN–TV), Golden West (KTLA–TV), Palmer (WHO–TV) and WOC (WOC–TV), Appalachian (WCYB–TV), Triangle (WSJS–TV), Greensboro (WFMY–TV), WGAL (WGAL–TV and WTEV–TV), WLVA (WLVA–TV), Multimedia (WFBC–TV, WBIR–TV, and WMAZ–TV), Storer, the law firm of Fletcher, Heald, Rowell, Kenehan & Hildreth (on behalf of 9 television stations) and the law firm of Phillips, Nizer, Benjamin, Krim & Ballon (on behalf of 8 program suppliers) oppose the adoption of a geographical exclusivity rule, but set forth various alternatives if the Commission finds that adoption of a rule is necessary. The following alternatives were set forth: Herald and WGN—against stations whose transmitters are located in a station's predicted Grade B contour; Golden West, Palmer, WOC, Tribune, McClatchy, Northwest Publications, Appalachian, Triangle and Gross—against stations whose predicted Grade A contour would invade a station's predicted Grade A contour; Greensboro, WGAL, WTEV, and WLVA—against stations serving substantially the same market; Multimedia, the law firm of Fletcher, Heald, Rowell, Kenehan & Hildreth and the law firm of Phillips, Nizer, Benjamin, Krim & Ballon—against stations whose transmitters are located in the predicted Grade A contour of a station; and Storer—the Area of Dominant Influence (ADI) as shown in the ARB ratings.

8. The comments supporting the proposed rule rest on the theory that negotiations will be opened and there will be more free competition for the bargaining for non-network programming. ABC, GE, Summit, Sangre de Cristo, and KFIZ state that the pattern of present program distribution would not change greatly, but that programs could be negotiated for and excessive geographic exclusivity abuses would be minimized. They also point out that geographical exclusivity is a problem only where there is overlap of service areas and in these cases the bargaining for programming is most vigorous. The most critical areas are in the overshadowed markets. The "overshadowed" problem is most extensively presented by Summit, the licensee of WAKR–TV, Akron, which is located slightly less than 30 miles from Cleveland. Summit also stresses the point of its objective to serve as an Akron station and does not object to the same programs being shown in Cleveland. Summit, Continental Urban, Iowa, Toledo, Mid-Continent, TVue Associates, Southwestern Ohio and KFIZ urge that the Commission support the "separate community" theory underlying its Table of Assignments by not permitting geographical exclusivity in non-network program contracts of stations located in one community (usually a larger market) that have the effect of barring even negotiation for a program by a station in another community, especially a smaller community. They point out that, under existing conditions, all that is available for bargaining are the "leftover" programs. KLOC–TV, Modesto, KGSC–TV, San Jose, WMUR(TV), Manchester, New Hampshire, and WAKR–TV set forth several examples of their frustrations in negotiation attempts to secure programming from non-network sources due to geographic exclusivity provisions in contracts by stations located in Stockton, San Francisco, Boston and Cleveland, respectively.

9. The opponents of the proposed rule contend that there has been no showing of a need for the rule, and even if need had been shown, any general rule would be unworkable and impractical because of the unique situations present in every market and contract situation. Some of the various factors present in each contractual situation are the location of the communities, the power and antenna height, geographical terrain, and the presence or absence of other markets. These parties urge the thesis that exclusivity will never be excessive, because exclusivity is an element of the cost in the contract price—a station will buy no more than is needed and a supplier will sell no more since it wants to sell to as many stations as reasonably possible. As set forth in paragraph 6, Kaiser, NAB, NBC, Pierson, Ball & Dowd, and Covington & Burling stress that any abuses in non-network contracts can be clearly reached by existing antitrust laws and policies and that these should be handled on a case-by-case complaint basis.

10. Many of the opponents of the rule urge that the adoption for non-network programs of the rule applicable to network programs[1] is completely inappropriate, because there is simply no analogy between the two situations and types of distribution. It is said that without any understandings with stations, the networks are not going to affiliate with stations close together and having considerable duplication of coverage. This is true, we are told, because they must keep network television a reasonably efficient medium for advertisers, so that it will be competitive with other media, and thus must avoid wasteful duplication. By contrast, it is said, in the case of non-network programs the suppliers have no motive but to sell to as many stations as possible, which they will be free to do if stations are precluded from securing reasonable exclusivity. Thus there is "built-in exclusivity" in one case but not the other. It is said that exclusivity agreements serve the same purpose as the network system, and are necessary if the analogy is to be valid. It is urged that independent stations—already under some handicaps in competing with network-affiliated stations and their popular programs—should not be additionally handicapped by not being able to obtain the degree of exclusivity which the latter obtain for their network programs. Existing independents, it is urged, should not be penalized for the benefit of "small-market" stations.

11. Other differences are also noted and advanced as reason for different treatment. It is said that network affiliates risk only their time in a network program, and are usually reasonably well compensated for it regardless of whatever duplication by other affiliates may occur; whereas stations procuring non-network programming risk not only time but the large amount of money they must put up to buy the program, a risk which entitles them to reasonable exclusivity with respect to what they have bought. It is asserted that program success is no certainty, so that there is a real risk involved. Moreover, it is pointed out that with network programs the advertising support involved is furnished by and through the network; with non-network programs the station itself must make the effort to sell the time and run the risk of not doing so.

12. The parties contend that without this geographic exclusivity, there will be substantial duplication of programming rather than diversity which is the programming objective stated on numerous occasions by the Commission. This, they state, will in turn act as a deterrent to the creation of new programs. It is also maintained that stations need geographical exclusivity to give certainty to their operations after purchasing a program so that another station will not, during the term of the contract, dilute their audience. These parties contend that exclusivity is sorely needed by the independent stations (especially UHF) to develop and retain shares of an audience within their respective service areas. Kaiser states that a station needs both geographic exclusivity and time exclusivity—geographic, to prevent dilution of audience, and time, to recoup high costs of programming by reasonably resting programs during the contract period. This position is strongly supported by U.S. Communications and others. A number of the parties maintain that there is no shortage of available non-network

[1] Section 73.658(b) of the Commission's rules.

program materials. Meredith avers that the proposed rule is illegal because it enters into the normal business practices of the industry and would abrogate legal rights of copyright holders and licensees.

13. Most of the comments stress the market concept that governs television broadcasting, i.e., programs are bought to serve a market from which advertising revenues are secured to defray those costs. In the comments that oppose the rule but also set forth an alternative to the same community standard of the proposed rule, the alternatives presented are their respective concepts of the best definition of the television market (which are set forth in paragraph 7, supra). Northwest Publications, Appalachian, Triangle, Gross, Greensboro, WGAL, WTEV and WLVA stress that exclusivity should be given against all stations serving substantially the same market and they set forth the specific cities applicable to their respective market situations. Storer contends that the problem is not one of exclusivity, but of price—that is, smaller, near-by stations are simply not willing to pay the price necessary to secure a particular program. Pierson, Ball & Dowd, Kaiser, WPIX and Phillips, Nizer, Benjamin, Krim & Ballon also point out the problem of duplication that would be presented in situations in which stations use the same or a nearby transmitter site. For example it is stated that Los Angeles stations use Mt. Wilson as their transmitter site, as does the station licensed to serve Fontana (about 60 miles from Los Angeles). Because of this, the Fontana station places at least a Grade A signal into Los Angeles. It is argued that it would be unfair and unrealistic to preclude Los Angeles stations from bargaining for exclusivity over the Fontana station which clearly is in substantial competition with the Los Angeles stations and serves a substantial part of the same audience. Similar situations are pointed out with regard to Philadelphia-Burlington, N.J., and New York City-Linden, N.J.

14. The reply comments of Summit state that the case-by-case approach is not practical and that the alternatives (e.g. Grade A, etc.) will not help the Akron situation. While exclusivity may well help a Cleveland UHF station, it contends it will result in the Akron station's demise. Summit, while recognizing that adoption of the proposed rule is not a "cure-all", believes it would promote bargaining competition for programs. Summit also believes that with the rule, programs may be able to be sold in both Cleveland and Akron at reasonable prices. The reply comments of McClatchy and of Screen Gems (a program supplier) deny statements of KLOC–TV at Modesto that McClatchy and the program suppliers acted in concert to deny programs to KLOC–TV. U.S. Communications, in reply comments, reiterates that it considers KGSC–TV at San Jose to be a competitor of its San Francisco station because of service contours and advertising sales.[3] KGSC–TV submitted a letter from U.S. Communications to a program supplier in which it stated that it would require exclusivity against KGSC–TV and would not consider any program owned by KGSC–TV.

15. Most of the opposition comments rule out the Commission alternatives set forth in the Notice, e.g., percentage of overlap, percentage of duplicated circulation, etc., as being either impractical or unworkable. Kaiser and NBC pointed out that the sliding scales exemplified by percentage of overlap and duplicated circulation are too cumbersome and nearly impossible to administer in the marketplace. Covington & Burling state that the specific mileage and contour standards do not necessarily reflect a television market.

16. Information submitted concerning exclusivity provisions in existing contracts indicates about every type of geographic provision ranging from same-city exclusivity through exclusivity against stations located in the Grade B contour. It appears that the most common exclusivity given is against stations located in the Grade A contour. (As to time provisions, which we are not here directly considering, it appears that feature films have 5 to 7 years exclusivity, and series not more than two years or a specific number of runs. Specials quite often have only a one-year or one-showing time exclusivity. Usually the film or series contract terminates on the expiration of the contract, but in some cases, the contract terminates upon a specific number of showings of the film or series. In most cases, the contracts were not assignable.)

17. The alternative urged most strenuously is the ad hoc concept based on complaints, that would rely on antitrust principles as well as other law, rules and policies. An administrative agency, with certain limitations, may proceed either by a general rule or on the case-by-case method. See SEC v. Chenery Corp., 332 U.S. 194 (1947). The most apparent advantage of the use of the ad hoc method in situations is that the particular facts of the case may be more fully explored and the specifically needed remedy in the situation may be adopted. Thus, it gives an edge of flexibility not available under a general rule. However, such proceedings are usually very time consuming. We believe the benefit of a simple self-executing rule is more applicable to the situation here where time is such a significant factor. By the time the ad hoc proceeding would be completed, the term of the non-network contract might well have expired.

18. As mentioned previously, several of the parties, even though opposing any rule, suggested the alternative of limiting territorial exclusivity in syndicated program contracts as against stations in "the market" or against stations located within a particular signal contour or within the Area of Dominant Influence (ADI). Use of the foregoing standards would create uncertainty in negotiations because of factual disputes concerning the location of the boundaries and because such boundaries would be changing. To avoid these complications we are rejecting these proposed standards.[3]

19. It would appear that one reasonable standard would be the specified zone of a television broadcast station, which is defined as the area extending 35 air miles from the Commission's specific reference point in a given community. The purpose of the specified zone concept is to govern carriage of television signals on a cable system as set forth in the Commission's rules. (It has no direct connection to the provisions of § 76.151 which prescribe exclusivity that cable systems must give to non-network syndicated programming which provisions are not based on mileage standards.) Although the 35-mile specified zone has proved a useful standard for cable we are of the view that it would not serve to solve the problems presented to us in this voluminous record as to overshadowed markets. Accordingly, we seek a standard more nearly tailored to the uniqueness of the overshadowed market problem.

20. In addition to rejecting the approaches mentioned in the immediately preceding paragraphs, we regard various other proposals, e.g., permitting exclusivity within a 75-mile radius of a station, as thwarting the objectives of this proceeding, i.e., opening up contract negotiations for syndicated programming. On the other hand, we believe that our proposed rule that would provide exclusivity only as against stations in the same community as unduly restrictive. The standard adopted today, which will operate prospectively,[4] is that geographical exclusivity will be permitted in non-network contracts only against stations licensed to the same community or to a community whose reference point contained in § 76.53 of the rules is located

[3] U.S. Communications no longer is operating the San Francisco UHF station.

[3] An additional drawback to using ADI as a standard is that some cities, e.g., Akron, Ohio, do not appear in an ADI.

[4] Contracts, arrangements, or understandings that are complete under the practices of the industry prior to August 7, 1973 (publication of this Report and Order in the FEDERAL REGISTER) will not be disturbed. Extensions or renewals of such agreements are not permitted because they would in effect be new agreements without competitive bidding. However, such agreements that were based on the broadcaster's advancing "seed money" for the production of a specific program or series that specify two time periods—a tryout period and a period thereafter for general exhibiting—may be extended or renewed as contemplated in the basic agreement.

within 25 miles of the said reference point of the station entering into the contract. Such a rule will give administrative certainty with regard to programming and economic judgments of stations seeking to purchase programs that are being shown on other stations.

21. The Commission has developed a Table of Assignments for television with the objective of providing a complete television service for the nation based on the priorities set forth in the Sixth Report and Order, 1 R.R. (Volume 3) 91:601 at 91:620 (1962). We believe adoption of the gographical exclusivity rule using a 25-mile standard will assist in the implementation of that nationwide television service. Such a rule will allow the numerous stations more than 25 miles from a TV community to attempt to secure many programs not now available because of exclusivity provisions in contracts.[5] By having a specific mileage criterion, excess geographic exclusivity cannot be secured by contract.

22. The 25-mile standard gives the degree of specificity required and gives stations in the major cities a protected area of approximately 1,900 square miles in any given contract. The Commission believes that this reasonable standard strikes an equitable and readily understandable standard for the use of negotiating non-network contracts. The twenty-five mile standard between reference points will permit geographical exclusivity against adjacent communities and other nearby communities. We hope that this rule will assist the development of a national television service that is envisioned in the Communications Act and the Commission's rules and policies by the institution of new program distribution techniques. It is further hoped that the competitive bargaining will be based on vigorous competition and that a larger audience will be able to view good non-network programs. This hope recognizes the fact that programs will not necessarily be sold to all stations participating in the bidding competition.

23. The arguments of the opponents of the proposed rule have merit. This is especially true of the need for reasonable exclusivity to protect a station and give incentive to program suppliers to create and develop new programs. We believe the 25-mile standard meets that criterion. Most of the opposition comments rest on the theory that exclusivity is needed throughout the market area. The Commission believes that overshadowed stations some distance from a large community (although located in the same television market) must be permitted to attempt to secure programs contracted to major market stations so that, based on competition, those overshadowed stations have a chance to develop. With regard to possible duplication, it is believed that the parties (competing stations and the program suppliers) will adequately protect their respective interests as to excessive duplication by negotiations. The adopted rule may well promote program diversification to many "fringe area" station audiences.

24. The parties contend that the network rule analogy relied on in the Notice is not a proper support for a non-network programming rule (paras. 10–11, supra). It is recognized that the creation and distribution patterns of network and non-network programming are different. However, since we have abandoned our proposed "different community" standard, we need not discuss this subject in detail. Suffice it to say that the rule we adopt recognizes the degree of station commitment involved in obtaining non-network programming to the extent it is appropriate; and, like the network rule, which allows fringe area stations to seek affiliations, permits stations in overshadowed markets to negotiate for non-network programming.

25. Some parties urge that exclusivity should run against any station in a community that is a part of a generally recognized hyphenated market. Because the geographic separations of communities in such hyphenated markets may vary from small to quite significant distances, we do not believe that for hyphenated market situations there should be any departure from the 25-mile rule adopted herein.

26. One of the parties raised the point that the proposed rule is illegal. Such a contention is not valid. The Commission is charged with the duty under the Communications Act (sections 303(g) and 307(b)) of regulating broadcasting in the public interest. Ability to secure programing is a very important factor for a station to be able to render the proper service to a community in the public interest. It is the Commission's duty to create conditions favorable to the development of broadcast stations to operate in the public interest. When possible antitrust or anti-competitive forces in the marketplace render it difficult, if not nearly impossible to operate, it has the duty to act. That is the purpose of this rule enacted under out statutory mandate.

27. In view of the foregoing, and pursuant to authority contained in sections 4(i), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended: *It is ordered*, That effective September 7, 1973, § 73.658 of the Commission's rules and regulations is amended as set forth below.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Adopted: July 26, 1973.

Released: August 3, 1973.

FEDERAL COMMUNICATIONS COMMISSION,[6]
VINCENT J. MULLINS,
Acting Secretary.

Part 73 of the Commission's rules is amended as follows:

1. Section 73.658 is amended by changing the headnote and by adding new paragraph (m) to read as follows:

§ 73.658 Affiliation agreements and network program practices; territorial exclusivity in non-network program arrangements.

* * * * *

(m) *Territorial exclusivity in non-network arrangements.* No television station shall enter into any contract, arrangement or understanding, express or implied, with a non-network program producer, distributor, or supplier, or other person which prevents or hinders another television station located in a community over 25 miles away, as determined by the reference points contained in § 76.53 of this chapter, from broadcasting any program purchased by the former station from such non-network program producer, distributor, supplier, or other person. As used in this subsection, the term "community" is defined as the community specified in the instrument of authorization as the location of the station.

NOTE: Contracts, arrangements, or understandings that are complete under the practices of the industry prior to August 7, 1973, will not be disturbed. Extensions or renewals of such agreements are not permitted because they would in effect be new agreements without competitive bidding. However, such agreements that were based on the broadcaster's advancing "seed money" for the production of a specific program or series that specify two time periods—a tryout period and a period thereafter for general exhibition—may be extended or renewed as contemplated in the basic agreement.

[FR Doc.73-16188 Filed 8-6-73;8:45 am]

[5] In just New York and Chicago, there are approximately 20 UHF channel assignments within 75 miles of those cities, a number of which are idle.

[6] Commissioners Burch, Chairman; Johnson, Reid, and Wiley concurring in the result; Commissioner H. Rex Lee absent.

Title 7—Agriculture

CHAPTER VIII—AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE (SUGAR), DEPARTMENT OF AGRICULTURE

SUBCHAPTER G—DETERMINATION OF PROPORTIONATE SHARES

PART 859—TEXAS CANE SUGAR PRODUCING AREA

Farm Proportionate Shares Not Required for 1974-Crop Sugarcane

The Sugar Act requires the Secretary of Agriculture to determine whether the production of sugar from any crop of sugarcane in the Texas Cane Sugar Producing Area will, in the absence of proportionate shares (farm acreage allotments) be greater than the quantity needed to enable the area to meet its quota and provide a normal carryover inventory. The sugarcane producing area in the lower Rio Grande Valley of Texas has an annual quota of not more than 100,000 short tons of sugar, raw value.

Such determination may be made only after due notice and opportunity for an informal public hearing. A public hearing was held in Washington, DC, on May 18, 1973.

Pursuant to the provisions of section 302 of the Sugar Act of 1948, as amended,

the following determination is hereby issued.

§ 859.8 Proportionate shares for the 1974 crop of sugarcane not required.

It is determined for the 1974 crop of sugarcane in the Texas Cane Sugar Area that, in the absence of proportionate shares, the production of sugar from such crop will not be greater than the quantity needed to enable the area to meet its quota for 1975, the calendar year during which the larger part of the sugar from such crop normally will be marketed, and provide a normal carryover inventory. Consequently, proportionate shares will not be in effect in the Texas Cane Sugar Producing Area for the 1974 crop.

(Sections 202, 301, 302, 403, 61 Stat. 924, as amended, 929, as amended, 930, as amended, 932; 7 U.S.C. 1112, 1131, 1132, 1153)

STATEMENT OF BASES AND CONSIDERATIONS

Requirements of the Act. Section 302 of the Sugar Act of 1948, as amended (7 U.S.C. 1132), provides, in part, that the Secretary shall determine for each crop year whether the production of sugar from any crop of sugarcane will, in the absence of proportionate shares, be greater than the quantity needed to enable the area to meet its quota and provide a normal carryover inventory, as estimated by the Secretary for such area for the calendar year during which the larger part of the sugar from such crop normally would be marketed. Such determination may be made only after due notice and opportunity for an informal public hearing.

Public hearing. In accordance with the provisions of the Act, an informal public hearing was held in Washington, DC, on May 18, 1973. Interested persons were invited to submit views and recommendations on the need for establishing proportionate shares for the 1974 crop of Texas sugarcane.

Written statements were submitted by representatives of the Rio Grande Valley Sugar Growers, Inc. They recommended that proportionate shares not be established for the 1974 crop of Texas sugarcane. They pointed out that only 24,500 acres of the area's initial allocation of 25,700 acres were planted to the 1973 crop of sugarcane; and that due to these underplantings coupled with the expectation that yields will be somewhat lower than originally anticipated, the current estimate of 1973-crop production is only 90,000 tons of raw sugar. The representatives further indicated that about 500 acres of 1973 crop sugarcane will be used as seed to replant a number of poor stands and to plant enough additional acreage to bring the 1974 crop up to a total of 27,500 acres. They expect this target of 27,500 acres of sugarcane to be sufficient to produce the area's quota of not more than 100,000 short tons of sugar, raw value, and provide a 12–13 percent carryover, plus enough seed to establish an orderly crop rotation plan of 25 percent per year.

Determination. This determination provides that proportionate shares will not be established for farms in the Texas Cane Sugar Producing Area for the 1974 crop of sugarcane.

A thorough review of all pertinent information indicates that the production of sugar from the 1974 crop of sugarcane will not, in the asbence of proportionate shares, be greater than the quantity needed to enable the Texas Cane Sugar Area to meet its quota and provide a normal carryover inventory.

Accordingly, I hereby find and conclude that the foregoing regulation will effectuate the applicable provisions of the Sugar Act of 1948, as amended.

Effective date: August 7, 1973.

Signed at Washington, DC on: August 2, 1973.

KENNETH E. FRICK,
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.73-16279 Filed 8-6-73;8:45 am]

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

[Papaya Reg. 3, Amdt. 2]

PART 928—PAPAYAS GROWN IN HAWAII

Limitation of Shipments

This amendment to Papaya Regulation 3, as amended (37 FR 28410; 38 FR 2959) requires that all papayas handled grade at least Hawaii No. 1 grade. Such fruit when handled to destinations within the production area must weight at least 14 ounces while papayas grading Hawaii Fancy must weigh not less than 16 ounces. The current regulation, in regards to handling within the production area, permits Hawaii No. 2 grade fruit which must weigh not less than 12 ounces. Ample supplies of papaya of the Hawaii No. 1 and higher grades are available to supply the market. The proposal was recommended by the Papaya Administrative Committee established pursuant to the said marketing agreement and order. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The 1973 crop of Hawaiian papayas is estimated at 33 million pounds, 31 percent larger than last year's record crop of 25.1 million pounds. Fresh shipments are expected to account for 88 percent of the total produced and will approximate 29 million pounds. Slightly less than half of the fresh shipments are for local consumption with most of the remainder shipped to the mainland.

The committee estimates that production in the last six months of this year will total 17.8 million pounds, 12 percent greater than the January-June period of this year and 34 percent more than July-December last year.

Findings. (1) Pursuant to the marketing agreement and Order No. 928 (7 CFR Part 928), regulating the handling of papaya grown in Hawaii, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations of the Papaya Administrative Committee, and upon other available information, it is hereby found that the limitation of shipments of papaya, as hereinafter set forth, and in the manner herein provided, will tend to effectuate the declared policy of the act.

(2) The recommendation by the Papaya Administrative Committee reflects current appraisal of the 1973 Hawaiian papaya crop and the current and prospective market conditions for such fruit. Shipments of Hawaiian papayas are now in progress and current regulations permit handling of Hawaiian No. 2 grade papayas within the production area. The amendment will provide fruit of a more desirable quality to the Hawaiian consumer without materially reducing the total supply available, while standardizing the quality of all papayas offered for consumption throughout the United States.

(3) It is hereby further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) in that, as hereinafter set forth, 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 not later than the date hereinafter specified. A telephone meeting was held by the Papaya Administrative Committee, after giving due notice hereof, to consider the need for increasing the quality of papayas being handled within the State of Hawaii and the recommendation and supporting information where promptly submitted to the Department after such meeting was held.

Shipments of the current crop of such papayas are currently underway; this regulation should be applicable to all such shipments in order to effectuate the declared policy of the act; the regulatory provisions of this amendment are identical with the aforesaid recommendation of the committee, information concerning such provisions and effective time has been disseminated among handlers of such papayas; and compliance with the provisions of this section will not require of handlers any preparation therefor which cannot be completed by the effective time hereof. Such committee

meeting was held on July 20, 1973.

Order. During the period August 8, 1973 through September 9 Subparagraph (a)(1) of § 928.303 is revised to read as follows:

§ 928.303 Papaya Regulation 3.

(a) * * *

(1) To any destination within the production area unless said papayas grade at least Hawaii No. 1 and are of a size which individually weigh not less than 14 ounces: *Provided,* That papayas may be shipped if they grade Hawaii Fancy and are of a size which individually weigh not less than 16 ounces.

* * * * *

Dated: August 3, 1973.

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

[FR Doc.73-16406 Filed 8-6-73;8:45 am]

Proposed Rules

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

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[21 CFR Parts 301, 311]

MANUFACTURE & IMPORT OF CONTROLLED SUBSTANCES

Extension of Time for Filing Comments

On July 6, 1973, the Drug Enforcement Administration published a notice of proposed rule making in the FEDERAL REGISTER (38 FR 18032) regarding application procedures for the registration and reregistration of bulk manufacturers and importers of schedule I and II substances. At the request of an interested party the time for filing comments and objections has been extended.

All interested persons are invited to submit their comments and objections in writing regarding this proposal. Comments and objections should be submitted in quintuplicate to the Hearing Clerk, Office of Chief Counsel, Drug Enforcement Administration, Department of Justice, Room 611, 1405 I Street, NW., Washington, D.C., 20537, and must be received no later than August 30, 1973.

Dated: July 30, 1973.

JOHN R. BARTELS, Jr.,
Acting Administrator,
Drug Enforcement Administration.

[FR Doc.73-16208 Filed 8-6-73;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 931]

FRESH BARTLETT PEARS GROWN IN OREGON AND WASHINGTON

Proposed Handling Limitations

This notice proposes to extend the regulatory requirements of Bartlett Pear Regulation 8 from September 2, 1973, to August 31, 1974. Such extension is designed to provide consumers with an ample supply of acceptable quality pears. Bartlett Pear Regulation 8 requires that pears in several commonly used containers grade U.S. No. 1 grade and be 180 size, although U.S. No. 2 grade pears may be handled if at least 150 size. Bartlett pears in the western lug shall grade at least U.S. No. 2, and have a minimum size of 2¼ inches. Pears in 14 to 15 pound, net weight, containers shall grade at least U.S. No. 2 and have a minimum size of 2⅛ inches.

Notice is hereby given that the Department is considering the following proposal of the Northwest Fresh Bartlett Pear Marketing Committee, established under the marketing agreement and Order No. 931 (7 CFR Part 931), regulating the handling of Bartlett Pears grown in Oregon and Washington, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The proposal would extend the grade, size, pack and container limitations, in Bartlett Pear Regulation 8, for the period September 3, 1973, through August 31, 1974.

The recommendation of the Northwest Fresh Bartlett Pear Marketing Committee reflects its appraisal of the need for continued regulation on and after September 3, 1973, based on current and prospective market conditions. The Washington-Oregon Bartlett pear crop is estimated at 191,000 tons, compared with last season's production of 150,000 tons. Total fresh shipments are expected to total 54,112 tons. This proposed amendment to Bartlett Pear Regulation 8 is designed to prevent the handling on and after September 3, 1973, of lower quality and smaller size Bartlett pears and provide orderly marketing in the interest of producers and consumers, consistent with the objectives of the act.

The proposal is as follows:

Amend paragraph (a) of Bartlett Pear Regulation 8 (38 FR 20234) to read as follows:

§ 931.308 Bartlett Pear Regulation 8.

(a) *Order.* During the period August 1, 1973, through August 31, 1974, no handler shall handle any lot of Bartlett pears unless such pears meet the following applicable requirements, or are handled in accordance with subparagraphs (4) or (5) of this paragraph:

* * * * *

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals should file the same in quadruplicate, with the Hearing Clerk, United States Department of Agriculture, Room 112–A, Administration Building, Washington, D.C. 20250, not later than August 16, 1973. All written submissions made pursuant to this notice will be made available for public inspection at the Office of Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: August 2, 1973.

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

[FR Doc.73-16277 Filed 8-6-73;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 3]

LABELING OF NONSTANDARDIZED BAKERY PRODUCTS FORTIFIED WITH VITAMINS AND IRON

Notice of Termination of Proposed Rule Making

A proposed statement of policy concerning labeling of nonstandardized bakery products fortified with vitamins and iron was published in the FEDERAL REGISTER of January 20, 1971 (36 FR 928).

Subsequently, an order published in the FEDERAL REGISTER of March 14, 1973 (38 FR 6951), adding § 1.17 to Part 1 of Title 21, established comprehensive rules governing nutrition labeling of foods.

Section 1.17 applies to foods including nonstandardized bakery products, and its publication renders this proposed statement of policy unnecessary and obsolete.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 403, 701(a), 52 Stat. 1047–1048, as amended, 1055; 21 U.S.C. 341, 371(a)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), notice is hereby given that the above identified proposal in the matter of labeling of nonstandardized bakery products fortified with vitamins and iron is terminated.

Dated: July 27, 1973.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.73-16171 Filed 8-6-73;8:45 am]

Social Security Administration

[20 CFR Part 422]

ORGANIZATION AND PROCEDURES

Issuance of Social Security Numbers

Notice is hereby given, pursuant to the Administrative Procedure Act (5 U.S.C. 553), that the amendments to the regulations set forth in tentative form are proposed by the Acting Commissioner of Social Security, with the approval of the Secretary of Health, Education, and Welfare. The proposed amendments implement, for the most part, section 137 of the Social Security Amendments of 1972 (P.L. 92–603) which (1) directs the Secretary to take affirmative measures to assign social security numbers to aliens at the time of their lawful admission to

the United States for permanent residence or under other authority of law permitting them to engage in employment in the United States, to other aliens at such time as their status is so changed as to make it lawful for them to engage in employment, and to members of other groups or categories of individuals, and (2) directs the Secretary to require applicants for social security numbers to furnish evidence to establish their age, citizenship, or alien status, and true identity, and to furnish evidence to enable the Secretary to determine whether a social security number has previously been assigned to the individual and, if so, the number already assigned. The proposed amendments to the regulations also reflect the new procedures for issuance of social security numbers from the Central Office of the Social Security Administration. These measures are designed to enable the Secretary to more effectively carry out his responsibilities of establishing and maintaining records of earnings for individuals.

The proposed amendments to the regulations also provide for the issuance of social security numbers for a nonwork purpose to aliens who are legally in the United States but without authority to engage in employment. They also provide in § 422.107(d) that the Social Security Administration will furnish to the Immigration and Naturalization Service, under specified conditions, certain information obtained in connection with an application for a social security number by an alien, or in connection with the issuance of the number. For example, it is proposed that the Immigration and Naturalization Service will be notified where an alien applicant refuses to comply with a request for information, or where earnings are reported by an employer for an alien who has been issued a number for a nonwork purpose. This proposal is a change from the present policy of furnishing information about aliens to the Immigration and Naturalization Service only in response to specific requests.

Additional regulations are being developed for measures to be taken in connection with issuance of social security numbers to welfare program beneficiaries, and for a definition of the term "benefits under any program financed in whole or in part from Federal funds" as a basis for enumeration policies with respect to persons who are applicants for or recipients of such benefits.

Prior to the final adoption of the proposed amendments to the regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing in triplicate to the Commissioner of Social Security, Department of Health, Education, and Welfare Building, Fourth and Independence Avenue SW., Washington, D.C. 20201, on or before September 6, 1973.

Copies of all comments received in response to this notice will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Public Affairs, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 4146, 330 Independence Avenue SW., Washington, D.C. 20201.

The proposed amendments to the regulations are to be issued under the authority contained in sections 205 and 1102, 53 Stat. 1368, as amended, and 49 Stat. 647, as amended; 42 U.S.C. 405 and 1302.

(Catalog of Federal Domestic Assistance Program Nos. 13.800–13.806, Social Security)

Dated: June 26, 1973.

ARTHUR E. HESS,
Acting Commissioner of Social Security.

Approved: July 31, 1973.

CASPAR W. WEINBERGER,
Secretary of Health, Education, and Welfare.

Subpart B of Regulation No. 22 is amended as set forth below.

1. Section 422.103 is revised to read as follows:

§ 422.103 Social security numbers for employees and self-employed persons.

(a) *General.* The Social Security Administration maintains a record of the earnings reported for each individual. (When an individual obtains a social security number card, a social security earnings record is set up.) The individual's name, together with the number on the card, identifies the record so that the wages or self-employment income reported for or by the individual can be properly posted to such individual's record. Additional procedures concerning social security numbers may be found in Internal Revenue Service, Department of the Treasury regulation 26 CFR 31.-6011(b)–2.

(b) *Applying for a number.* Every individual required to have a social security number may apply for one by filing Treasury Department Form SS–5, "Application for Social Security Number," at any local social security office, or, if the individual is in the Philippines, at the Veterans' Administration Regional Office, Manila, Philippines. Form SS–5 may be obtained at:

(1) Any local social security office;

(2) The Social Security Administration, Baltimore, Maryland 21235;

(3) Offices of District Directors of Internal Revenue;

(4) U.S. Postal Service offices (except the main office in cities having a social security office);

(5) U.S. Employment Service offices in cities which do not have a social security office; and

(6) The Veterans' Administration Regional Office, Manila, Philippines.

Upon request, the social security office will distribute a quantity of application forms SS–5 to labor unions, employers, or other representative organizations.

(c) *Assignment procedure.* Social security numbers are assigned by the Central Office of the Social Security Administration in Baltimore, Maryland. Upon receipt of a completed form SS–5, the local social security office, or the Veterans' Administration Regional Office, Manila, Philippines, will require the applicant to furnish evidence, as necessary, to assist the Social Security Administration in establishing his or her age, citizenship, alien status, true identity, and previously assigned social security number(s), if any. (See § 422.107 for evidence requirements.) Upon satisfactory establishment of the pertinent items, the social security office or Veterans' Administration Regional Office forwards the application to the Social Security Administration Central Office for checking against the Administration's files. If the applicant requests a social security number card immediately, a temporary unnumbered card (form OAAN–5028) will be issued. If the investigation does not disclose a previously assigned number, the Central Office assigns a number and forwards to the applicant Form OA–702, "Social Security Number Card." If the investigation discloses a previously assigned number, a duplicate social security number card is issued to the applicant. For issuance of social security numbers to aliens and other groups or categories, see § 422.104.

(d) *Replacement of lost or damaged social security number card.* In case of loss of or damage to the social security number card, a duplicate card bearing the same number will be issued. If the individual has the "stub" portion of the card or the damaged card in legible condition, any local social security office or the Veterans' Administration Regional Office, Manila, Philippines will issue the duplicate card. In all other instances the individual should submit a properly completed application for a social security number (form SS–5).

2. Section 422.104 is added to read as follows:

§ 422.104 Assignment of social security numbers to groups and categories of persons.

In carrying out its responsibilities of establishing and maintaining a record of earnings reported for each individual, the Social Security Administration, to the maximum extent practicable, shall assign social security numbers to members of groups and categories as follows:

(a) To aliens at the time of their lawful admission to the United States either for permanent residence or under other authority of law permitting them to engage in employment in the United States;

(b) Upon request, to aliens who are legally in the United States but not under authority of law permitting them to engage in employment, but only for a nonwork purpose (see § 422.107(d)(1) and (2));

(c) To other aliens already in the United States at such time as their status is so changed as to make it lawful for them to engage in employment in the United States;

(d) To any individual who is an applicant for or recipient of benefits under any program financed in whole or in part from Federal funds, e.g., an applicant for or recipient of periodic benefits or other financial assistance to persons in need provided by "grants to States" programs under the Social Security Act, including any child on whose behalf such benefits are claimed by another person; and

(e) To any other individual when it appears that he could have been but was not assigned a social security number under paragraph (a), (b), (c), or (d) of this section, but only after satisfactory establishment of the identity of the individual, the fact that the individual does not have a previously assigned number, and the fact that the individual is not an alien who is prohibited from engaging in employment.

3. Section 422.105 is added to read as follows (present §§ 422.105 and 422.110 are renumbered §§ 422.110 and 422.112 respectively):

§ 422.105 Obtaining applications from immigrants and certain nonimmigrant classes.

As a part of the visa process, United States consular offices throughout the world obtain applications for social security numbers from immigrants entering the United States for permanent residence, from fiances of U.S. citizens and children of these fiances. The consular office also verifies the age, identity, and alien status of these individuals. The Immigration and Naturalization Service performs a similar function with respect to aliens who are already in the United States. When an alien's status changes so as to make it lawful for such person to engage in employment, the Immigration and Naturalization Service obtains from such person an application for a social security number. After verification of the age, identity, and alien status of the individual, the consular office or the Immigration and Naturalization Service, as applicable, forwards the application to the Central Office of the Social Security Administration. If investigation does not disclose a previously assigned number, the Central Office assigns a number and forwards a social security number card to the applicant at the United States address given on the application.

4. Section 422.107 is added to read as follows:

§ 422.107 Evidence requirements.

Applicants for social security numbers are required to submit such evidence as may be necessary to establish their age, citizenship, or alien status, and true identity. An applicant is also required to submit evidence to assist the Administration in determining the existence and identity of any previously assigned number(s). In the case of a noncitizen, evidence is also required to establish whether the applicant, because of his alien status, is prohibited from engaging in employment in the United States. A social security number will not be assigned unless all of the evidence requirements are met. (For verification of age, identity, and alien status of immigrants and certain nonimmigrant classes entering the United States, see § 422.105.)

(a) *Evidence of age.* Upon request, all applicants for a social security number are required to submit evidence of age to support the date of birth alleged. Examples of the types of evidence which may be submitted are birth or baptismal certificates, school and church records, census records, insurance policies, marriage records, employment records, and passports.

(b) *Evidence of identity.* Upon request, all applicants for a social security number are required to submit corroborative evidence of their identity. Corroborative evidence of identity may consist of a driver's license, a voter registration card, a birth certificate, a passport, or other similar document serving to identify the individual. It is preferable that the document contain the applicant's signature for comparison with his signature on the application for a social security number.

(c) *Evidence of U.S. citizenship.* Generally, an allegation of U.S. citizenship by birth will be supported by the evidence of age and identity described in paragraphs (a) and (b) of this section. Upon request, however, additional evidence must be supplied. Where an applicant indicates that he is foreign born and that he is a U.S. citizen, he is required to present documentary evidence of U.S. citizenship. Any of the following is acceptable evidence of U.S. citizenship:

(1) Certificate of naturalization;

(2) Certificate of citizenship;

(3) U.S. passport;

(4) U.S. citizen identification card (INS form I–179 or I–197); or

(5) Consular report of birth (State Department form FS–240). If such required evidence is not available, and U.S. district court records do not confirm the allegation of U.S. citizenship, the Immigration and Naturalization Service will be contacted. If the Service has no record of the applicant's citizenship, a social security number will not be assigned until satisfactory evidence of U.S. citizenship is furnished.

(d) *Evidence of alien status*—(1) *Citizen of country other than Canada or Mexico.* Where the applicant is a foreign citizen (of a country other than Canada or Mexico), such applicant is required to have an Alien Registration Receipt Card (I–151) or an Arrival-Departure Record (I–94) and will be asked to produce such document. If the applicant fails to do so, a social security number will not be issued and the Immigration and Naturalization Service will be notified of these circumstances. If the applicant produces an Alien Registration Receipt Card, or produces an Arrival-Departure Record which contains an authorization to work, a social security number card will be issued. However, if the Arrival-Departure Record does not contain authorization to work and the social security number is for a work purpose, it will not be issued and the Immigration and Naturalization Service will be notified of the circumstances. If the applicant requests the number for a nonwork purpose, e.g., an Internal Revenue Service purpose, the number will be issued and the record will be annotated. In the latter case, if earnings are later reported to the Administration, the Immigration and Naturalization Service will be notified of such report.

(2) *Mexican or Canadian citizen.* If a Canadian or Mexican citizen has an Alien Registration Receipt Card or an Arrival-Departure Record, the rules in paragraph (d)(1) of this section apply. If a Canadian or Mexican citizen is legally in the United States with a border crossing card, a border visitor's permit (or, in the case of a Canadian citizen, without documentation), but does not have an Alien Registration Receipt Card or an Arrival-Departure Record, and wishes a social security number for a nonwork purpose, e.g., an Internal Revenue Service purpose, the Administration will assign a number to the applicant and issue a number card, except that the record will be annotated and, in addition, the Immigration and Naturalization Service will be notified if earnings are reported to the earnings record.

(3) *Failure to submit evidence.* In any case where an alien applicant refuses to comply with a request for evidence of citizenship or other information or where he or she furnished invalid or expired Immigration and Naturalization Service documents, the Administration will immediately notify the Immigration and Naturalization Service. If the applicant does not comply with a request for needed evidence or other information within a reasonable time, the Administration will again attempt to contact him. If there is still no response, the Immigration and Naturalization Service will be notified.

(4) *Notice to alien applicant.* An alien who applies for a social security number will be advised that information obtained by the Social Security Administration in connection with his application for, and issuance of, a social security number might be transmitted to the Immigration and Naturalization Service.

5. Section 422.108 is added to read as follows:

§ 422.108 Criminal penalties.

A person may be subject to criminal penalties for furnishing false information in connection with earnings records or for wrongful use or misrepresentation in connection with social security numbers, pursuant to section 208 of the Social Security Act and sections of Title 18 of the United States Code (42 U.S.C. 408; 18 U.S.C. 1001 and 1546).

6. Renumbered § 422.110 (former § 422.105) is revised to read as follows:

§ 422.110 Individual's request for change in record.

Form OAAN–7003, "Request for Change in Social Security Records," should be completed by any person who wishes to change the name or other personal identifying information previously

submitted. This form may be obtained from any local social security office or from one of the sources noted in § 422.103(b). The completed request for change in records may be submitted to any office of the Social Security Administration, or, if the individual is in the Philippines, to the Veterans' Administration Regional Office, Manila, Philippines. If the request is for a change in name, a new social security number card will be issued to the person making the request bearing the same number previously assigned.

7. Present § 422.110 is renumbered § 422.112 as follows:

§ 422.112 Employer identification numbers.

* * * * *

[FR Doc.73-16172 Filed 8-6-73;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Parts 71, 75]

[Airspace Docket No. 72-SW-74]

JET ROUTE AND REPORTING POINT

Proposed Designation

The Federal Aviation Administration (FAA) is considering amendments to Parts 71 and 75 of the Federal Aviation Regulations that would designate the United States portion of a jet route from Humble, Tex., via Houston, Tex., to Tampico, Mex., and a reporting point at the intersection of this route with Houston Oceanic CTA/FIR boundary.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southwest Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101. All communications received on or before September 6, 1973, will be considered before action is taken on the proposed amendments. The proposals contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue, SW., Washington, D.C. 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

As parts of these proposals 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 the domestic airspace of the United States 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 United States 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 these actions involve, in part, the designation of a route 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. At the request of the Department of Defense, a minimum enroute altitude of flight level 290 is proposed for this route.

The route proposed herein would be shorter than overland routes between Houston and Tampico and would have an alignment identical to that presently used by several air carrier flights when Warning Area W-228B is not being used by the Navy for its established purpose.

The airspace actions proposed in this docket would:

a. Designate the Kan, Tex., reporting point at Lat. 26°00'00" N., Long. 69°35'26" W. (intersection of the Houston, Tex., 198°T (190°M) radial and the Houston Oceanic CTA/FIR boundary.)

b. Designate J-177 to extend from Humble, Tex., via Houston, Tex., to Tampico, Mex., excluding the portion south of Lat. 26°00'00" N.

(Sec. 307(a), 1110, Federal Aviation Act of 1958, 49 U.S.C. 1348(a), 1510, Executive Order 10854, 24 FR 9565; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on July 31, 1973.

CHARLES H. NEWPOL,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.73-16176 Filed 8-6-73;8:45 am]

CIVIL AERONAUTICS BOARD

[14 CFR Part 221]

[Docket No. 24415; EDR-225A]

PUBLICATION OF TARIFFS FOR SERVICES NOT ACTUALLY PROVIDED TO THE PUBLIC

Notice of Proposed Rulemaking

AUGUST 1, 1973.

Notice is hereby given that the Civil Aeronautics Board has under consideration proposed amendment of Part 221 of the Economic Regulations (14 CFR Part 221) to require that tariffs on file with the Board with respect to fares, rules, classifications, practices or services for passenger service correspond with the services actually scheduled in the particular market. The principal features of the proposed rule are set forth in the attached Explanatory Statement, and the amendment is proposed under the authority of sections 204, 403, and 404 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 758 (as amended by 74 Stat. 445) and 760; 49 U.S.C. 1324, 1373 and 1374.

Interested persons may participate in the proposed rulemaking through submission of twelve (12) copies of written data, views or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. All relevant matters received on or before September 7, 1973, will be considered by the Board before taking final action on the proposed rule. Copies of such communications will be available for examination by interested persons in the Docket Section of the Board, Room 712 Universal Building, 1825 Connecticut Avenue, NW, Washington, D.C. upon receipt thereof.

By the Civil Aeronautics Board:

[SEAL] EDWIN Z. HOLLAND,
Secretary.

EXPLANATORY STATEMENT

By Advance Notice of Proposed Rule Making, EDR-225, issued on April 14, 1972, the Board announced that it had under consideration the adoption of new or amended regulations which would be directed to the elimination of the practice on the part of some air carriers of maintaining tariffs representing services which were not actually provided by the carrier. (Hereafter for convenience, such tariffs will be referred to as "dormant tariffs.") The principal impetus for initiating this rule making was an action on the part of Eastern Air Lines, Inc. and Pan American World Airways, Inc. whereby the carriers ceased to offer service at the third-class fare in the Miami-San Juan market and offered in lieu thereof a newly-instituted second-class service at the previously dormant tariff rate for second-class service. Through this approach, an increase was effected in the lowest basic fare in the market without the necessity for any tariff filing and concomitantly without such increase

being subject to review and possible suspension by the Board.

In the Advance Notice, the Board concluded that continuance of this practice was incompatible with the intent and purpose of the Act and the Board's responsibilities thereunder. We then suggested three possible amendments to the regulations which we believed might be effective in preventing recurrence of such a problem. Those alternatives were: (1) An amendment to the regulations absolutely prohibiting the elimination of a class of service in a market, or the institution of such service, except upon the cancellation or amendment of the appropriate tariff, or the filing of a new tariff; (2) an amendment which would subject a carrier's general schedule filings effectuating changes in services offered to the public to suspension and/or investigation by the Board; or (3) either of the above alternatives or some other restriction upon a carrier's discretion to make changes in classes of service offered in a market by general schedule filings, but only in cases where the changes have substantial impact upon the public or upon air transportation in the affected market.

Comments have been filed in response to the Advance Notice by Braniff Airways, Inc. (Braniff), Continental Air Lines, Inc. (Continental), Delta Air Lines, Inc. (Delta), Eastern Air Lines, Inc. (Eastern), Northwest Airlines, Inc. (Northwest), Southern Airways, Inc. (Southern), Trans World Airlines, Inc. (TWA), the Commonwealth of Puerto Rico (Commonwealth), the American Society of Travel Agents, Inc. (ASTA), and the General Services Administration (GSA). GSA, the Commonwealth and ASTA all support the principle that the Board should be in a position to prevent an air carrier from simply designating a class of service into or out of existence without any notice to the public or without responsibility to public complaint, but do not offer specific suggestions as to the means for effecting such regulation.[1] Two of the air carriers, Eastern and Northwest, are absolutely opposed to any action on the part of the Board aimed at eliminating the practice of maintaining dormant tariffs. They argue that the alternatives suggested in the Advance Notice are beyond the Board's statutory authority; that the public is not harmed by the existence of dormant tariffs; and that, indeed, in some instances dormant tariffs are necessary for purposes of constructing other fares. Therefore, they urge that the Board dismiss the proceeding.

The remaining air carriers appear to agree that a problem exists and generally do not oppose some regulation on the part of the Board in this area, but they oppose the alternatives set forth in the Advance Notice, and most propose alternatives which they consider more acceptable.

Braniff, in its comments, has suggested that the Board simply amend Part 221 to provide that tariffs shall not contain matter pertaining to services which the issuing carrier does not provide. Continental has suggested instead that the Board adopt a regulation requiring that dormant tariffs be canceled after a reasonable period of dormacy. It suggests a period of one year as appropriate.

Delta has urged that any regulation of dormant tariffs be applied, as suggested in the third alternative of the Advance Notice, only in markets where service changes would have substantial impact. It specifically urges that off-peak services be excepted from any new rule relating to unused tariffs.

Southern would have the Board deal with each specific problem of dormancy on a case-by-case basis rather than adopt any regulation which would have overall applicability. No regulation is suggested, however, for implementing such an ad hoc approach. In the event that the Board intends to adopt a regulation having overall application, Southern urges that it follow its third alternative limiting application to situations involving substantial impact. Southern would limit the definition of "substantial" to situations wherein the elimination by a carrier of a class of service or fare would leave the market entirely without the service (*i.e.*, elimination of a fare class by only one carrier in a multicarrier market would not be prohibited). The carrier would also limit the scope of any such regulation to only the usual daytime service classes—first, coach, thrift, economy, standard and the like.

TWA has urged that any regulation adopted by the Board to deal with dormant tariffs be strictly circumscribed to deal specifically with the factual pattern illustrated by the Miami-San Juan fare-class change. It would limit the rule not only to major markets but also to only those markets having a three-class fare structure. To accomplish this end, TWA suggests that the rule provide that where a carrier operates a three-tier service, the carrier's configuration tariff must reflect not only each class of service, but also each major market in which the lowest class fare is offered. Thus, reasons TWA, elimination of the lowest class of service in one of those markets would require an amendment to the carrier's configuration tariff which would assure the opportunity for complaint and review with possible suspension by the Board.

We find unpersuasive the arguments urging that any additional regulation by the Board in this area is both unwarranted and beyond the scope of the Board's statutory authority. The basic premise for these arguments appears to be that: (1) The Board already has adequate authority to deal with this problem through an adequacy-of-service proceeding, and (2) any attempt at further regulation in this area would run afoul of section 401(e)(4) of the Act prohibiting certificate restrictions on the right of a carrier to add or change schedules. These arguments wholly misconstrue the impact of the Advance Notice. It is not the Board's intent in this proceeding to question the propriety of any carrier's schedules nor to attempt in any way the regulation of those schedules. The matter which concerns us here and to which we address our proposed regulations is that there be an accurate correspondence between the services specified in a carrier's tariff and the services actually provided to the public. The Federal Aviation Act of 1958, and particularly section 403, clearly empowers us to adopt regulations designed to assure truth in tariff filings, and to exclude the specification in tariffs of rates and fares, etc., for which no service is provided. This clearly comports with the statutory intent that the carrier's tariffs shall be the official representations to the public and the Board of services and fares available to the public. Moreover, as in the factual situation which prompted this rule making, the maintenance of such dormant tariffs can be used to effect a fare increase which is completely insulated from review by the Board. This is clearly contrary to the requirements of the Act that fare changes be made only upon 30 days' notice and subject to complaint and to possible suspension by the Board.

Accordingly, we find unpersuasive the carrier arguments regarding lack of need or authority for the adoption of new regulations to deal with dormant tariffs. We propose, therefore, to adopt a regulation along the lines of alternative one in the advance notice requiring that tariffs be maintained in conformance with services offered. We therefore propose to add to Part 221 of the Economic Regulations two new sections which will (1) forbid the adding or dropping of a class of service in a market without corresponding amendment of the underlying tariff pursuant to which such service is offered, and (2) forbid the maintenance of tariffs for which no service is offered. The principle which these two regulations embody, that tariffs should not be maintained for service which is not in fact provided, is in our view a clearly logical corollary of the mandate of section 403 of the Act that tariffs must be maintained for all services offered. Moreover, the essence of the proposed regulations, simply that tariffs shall be truthful and accurate in their representations as to services offered and at what price, is so clearly consistent with, and indeed required by considerations of the public interest and the letter and spirit of the Act that the Board's power and duty to act in this regard is manifestly clear.

We take note that Delta urges that any proposed rules include a specific exception for off-peak fare service. In support, Delta states that the ability to provide off-peak schedules depends to a significant extent upon the first-class/day-coach schedules and equipment rotation pattern in effect at any particular time

[1] ASTA has also urged that the Board provide for increased notice to the public and to travel agents for all fare changes, but appeared to recognize that such was beyond the scope of the Advance Notice. To the extent that the ASTA comment is intended as a petition to include such issues in this rule making proceeding, we will deny the request as unduly broadening the intent and scope of this proceeding.

and that the schedules upon which the latter service is provided are periodically revised. As a result, the carrier states that off-peak fare service is occasionally eliminated for a period of time, and it asserts that the public and travel agents have come to expect an ebb and flow in off-peak fare services.

We are not persuaded that the burden of filing tariff changes to conform to changes in off-peak fare service warrants the exception urged by Delta. Delta has made no showing of undue burden in its comment, and the comments as a whole do not indicate that there is any particular problem necessitating an exception for off-peak fare service. On the present record we shall not, therefore, propose an exception for off-peak service or other services which may be susceptible to temporary interruption for operational reasons.[3] Nevertheless, the Board will be receptive to specific suggestions raised in comments on the proposed rule directed to exceptions which would be consistent with the purposes of the regulation and which are demonstrated to be needed to alleviate undue burden.

Under the proposed rules, the maintenance of a tariff which is or has become dormant will be inconsistent with the regulations and the issuing or participating air carrier will have the duty to promptly cancel such tariff. In the event of the air carrier's failure to so cancel pursuant to § 221.4(a) of the regulations to reject or order canceled such a tariff. However, to avoid the uncertainty which could arise, were a dormant tariff activated by the institution of service without refiling the tariff, with the accompanying potential for later rejection of the dormant tariff by the Board, the proposed rule has been drafted to provide that such rejection by the Board must occur within thirty days after the institution of service pursuant to a dormant tariff. In effect, provision of service pursuant to a dormant tariff for a period of more than thirty days will cure the dormancy.

We are not disposed to limit the prohibitions against maintenance of dormant tariffs to the particular factual pattern which prompted this rule making proceeding. Whatever their nature, dormant tariffs involve misrepresentations to the public as to the availability of services which in fact are not provided, in addition to the occasional outright abuse which, as here, develops from their existence. Moreover, except for those used for fare construction purposes for which we have already provided, we know of no need which dormant tariffs serve in terms of carriers' operational flexibility, given the rather long period of non-use which we propose to permit before declaring a given tariff dormant.

Finally we expect the carriers to put forth a good faith effort at removing existing instances or dormancy when discovered.

It is therefore proposed to amend Part 221 of the Economic Regulations (14 CFR Part 221) as follows:

1. Amend the Table of Contents by adding new § 221.8 and § 221.9.

* * * * *

221.8 Conformance between tariffs and services operated.
221.9 Dormant tariffs prohibited.

2. Add new § 221.8 and § 221.9 as follows:

§ 221.8 Conformance between tariffs and services operated.

The initiation or termination of a class of service offered in a particular market, where such change would be inconsistent with the terms of the existing tariff for that market, shall not occur except upon a contemporaneous effective amendment of the existing tariff to reflect such changed service pattern.

§ 221.9 Dormant tariffs prohibited.

(a) Tariff publications shall not contain rates, fares, or charges, or their become dormant, except that tariffs which are intended solely for use in constructing other rates or fares, when clearly designated on the face of the tariff as having such sole purpose, shall not be prohibited by this section. For purposes of this section tariff matter shall be considered as dormant when the issuing or participating carrier provides no regularly scheduled service pursuant to the given rate, fare or charge.

(b) It shall be the duty of every air carrier to promptly cancel any of its filed tariffs upon such tariff's becoming dormant. In the event such a tariff is not canceled by the air carrier, the Board may reject the tariff or require the cancellation thereof: *Provided, however,* That if, after a tariff has become dormant, new service is offered pursuant to such tariff, the power of the Board to reject or require cancellation shall terminate upon the conclusion of the thirtieth (30th) day following such institution of service.

[FR Doc.73-16235 Filed 8-6-73;8:45 am]

[3] We are of the view, however, that tariffs which are used solely for construction purposes do not create a problem of dormancy so long as these tariffs are clearly labeled as to their intended purpose. The proposed rule is drafted accordingly.

COST ACCOUNTING STANDARDS BOARD

[4 CFR Part 406]

COST ACCOUNTING PERIOD

Proposed Cost Accounting Standard

Notice is hereby given of a proposed cost accounting standard on the selection of cost accounting periods which the Cost Accounting Standards Board is considering for promulgation to implement further the requirements of section 719 of the Defense Production Act of 1950, as amended, Public Law 91-379, 50 U.S.C. App. 2168. When promulgated, the standard will be used by all relevant Federal agencies and national defense contractors and subcontractors.

The proposed standard, if adopted, will be one of a series of cost accounting standards which the Board is promulgating "to achieve uniformity and consistency in the cost-accounting principles followed by defense contractors and subcontractors under Federal contracts." (See section 719(g) of the Defense Production Act of 1950, as amended.) It is anticipated that any contractor receiving an award of a contract on or after the effective date of this standard will be required to follow it as of the date of such award.

The Cost Accounting Standards Board solicits comments on the proposed cost accounting standard from any interested person on any matter which will assist the Board in its consideration of the proposal.

Interested persons should submit written data, views, and arguments concerning the proposed cost accounting standard to the Cost Accounting Standards Board, 441 G Street, NW., Washington, D.C. 20548.

To be given consideration by the Board in its determination relative to final promulgation of the cost accounting standard covered by this notice, written submissions must be made to arrive no later than Friday, October 5, 1973. All written submissions made pursuant to this notice will be made available for public inspection at the Board's office during regular business hours.

PART 406—COST ACCOUNTING STANDARD—COST ACCOUNTING PERIOD

Sec.
406.10 General applicability.
406.30 Definitions.
406.40 Fundamental requirement.
406.50 Techniques for application.
406.60 Illustrations.
406.70 Exemptions.
406.80 Effective date.

AUTHORITY: Sec. 719 of the Defense Production Act of 1950, as amended, Public Law 91-379, 50 U.S.C. App. 2168.

§ 406.10 General applicability.

This standard shall be used by defense contractors and subcontractors under Federal contracts entered into after the effective date hereof and by all relevant Federal agencies in estimating, accumulating, and reporting costs in connection with the pricing, administration, and settlement of all negotiated prime contract and subcontract national defense procurements with the United States in excess of $100,000 other than contracts or subcontracts where the price negotiated is based on: (a) Established catalog or market prices of commercial items sold in substantial quantities to the general public, or (b) prices set by law or regulation.

§ 406.20 Purpose.

The purpose of this Cost Accounting Standard is to provide criteria for the selection of the time periods to be used for contract cost accumulation and allocation. This Standard should enhance objectivity, consistency, and verifiability; reduce the effects of variations in the flow of costs within a year; and promote uniformity and comparability in contract cost measurements.

§ 406.30 Definitions.

(a) The following definitions which are prominent in this Standard are reprinted from Part 400 of this chapter for convenience. Other terms which are used in this standard and are defined in Part 400 of this chapter have the meanings ascribed to them in that part unless the text demands a different definition or the definition is modified in paragraph (b) of this section.

(1) *Allocate.* To assign an item of cost, or a group of items of cost, to one or more cost objectives. This term includes both direct assignment of cost and the reassignment of a share from an indirect cost pool.

(2) *Cost objective.* A function, organizational subdivision, contract or other work unit for which cost data are desired and for which provision is made to accumulate and measure the cost of processes, products, jobs, capitalized projects, etc.

(3) *Fiscal year.* The accounting period for which annual financial statements are regularly prepared, generally a period of 12 months, 52 weeks, or 53 weeks.

(4) *Indirect cost pools.* Groupings of incurred costs identified with two or more cost objectives but not identified specifically with any final cost objective.

(b) The following modifications of definitions set forth in Part 400 of this chapter are applicable. None.

§ 406.40 Fundamental requirement.

(a) A contractor shall use his fiscal year for contract cost accumulation and allocation purposes, except that:

(1) Costs of a function which exists only for a portion of a fiscal year may be allocated on a directly measured representation of activity or output to cost objectives of that same portion of the fiscal year;

(2) A fixed annual period other than the fiscal year may be used where it is mutually agreed that its use will assist in allocating costs to cost objectives on a causal or beneficial basis; and

(3) A transitional period other than a year may be used in connection with a change of fiscal year.

(b) Each contractor shall follow consistent practices from one fiscal year to the next in his selection of the fiscal year in which individual types of expenses and individual types of adjustments to expenses, including prior-period adjustments, are accumulated and allocated.

(c) The time period used for accumulating costs in an indirect cost pool shall be the same as the time period used for establishing its base.

§ 406.50 Techniques for application.

(a) With respect to the allocation of the costs of an indirect function which exists for only a part of the fiscal year, it is permissible to use a period corresponding to the period of existence of the function within a fiscal year where the cost is (1) material in amount, (2) accumulated in a separate pool, and (3) allocated based on an appropriate direct measure of the activity or output of the function during the same period. This Standard, however, does not require that a short period must be used.

(b) The practices to be followed consistently in accordance with the provisions of § 406.40(b) shall include appropriate techniques (such as deferrals, accruals, and other adjustments) to be used in identifying the time periods among which individual types of costs and expenses and individual types of adjustments to costs and expenses are distributed. If an expense, such as taxes, insurance or employee leave, is identified with a fixed, recurring period which is different from the contractor's fiscal year, the Standard does not require a change in that period. Rather, such expenses shall be distributed to fiscal years in accordance with the contractor's established practices for handling accruals, deferrals and other adjustments.

(c) For the purpose of expediting the settlement or closing of contracts which are terminated or completed prior to the end of a fiscal year, overhead rates other than those finally determined or negotiated may be used for that fiscal year based on a combination of actual and estimated cost data, including prior year data, for a full fiscal year.

(d) Pursuant to the provisions of § 406.40(a)(2), a contractor may, upon mutual agreement with the Government, use as his cost accounting period a fixed annual period which is other than his fiscal year, where the use of such a period is an established practice and is consistently used for managing and controlling the business, and where appropriate accruals, deferrals or other adjustments are made with respect to such annual periods. In such cases, the term "fiscal year" as used in this Standard shall be deemed to mean the agreed-upon fixed annual period.

§ 406.60 Illustrations.

(a) A contractor allocates general and administrative expenses (G&A) on the basis of total cost input. In a proposal for a covered negotiated fixed-price contract, he estimates the allocable G&A based solely on the estimated amount of the G&A pool and the amount of the total cost input base estimated to be incurred during the eight months in which performance is scheduled to be commenced and completed. Such a proposal would be in violation of the requirements of this Standard that the calculation of the amounts of both the indirect cost pools and the allocation bases be based on the contractor's fiscal year.

(b) A contractor whose fiscal year is the calendar year installs a computer service center to begin operations on May 1. The operating expense related to the new service center is expected to be material in amount, will be accumulated in a separate indirect cost pool, and will be allocated to the benefiting cost objectives on the basis of measured usage (adjusted for the scheduling priority, if any, requested). The total operating expenses of the eight-month period may be allocated to the work of that same eight-month period.

(c) A contractor's established fiscal year had been the calendar year. For valid reasons not related to contract costing, his fiscal year is changed to the 12 month period ending May 31. For financial reporting purposes he has a five-month transitional "fiscal year." The change in his fiscal year ending date is a change in accounting practices. An adjustment of the contract price may therefore be required in accordance with the contract clause set out at § 331.5 of this title.

(d) Financial reports to stockholders are made on a calendar year basis for the entire contractor corporation. However, the contractor does all internal financial planning, budgeting, and internal reporting on a "model year" basis. The contracting parties agree to negotiate overhead rates on the "model year" basis, and they agree on an acceptable technique for prorating fiscal year assignments of corporate home office expenses to model years. This agreement is an appropriate application of the Standard.

(e) Financial accounts and contract cost records are generally maintained on the basis of a fiscal year which ends November 30 each year. However, employee vacation allowances are regularly managed on the basis of a "vacation year" which ends September 30 each year. Vacation expenses are estimated uniformly during each "vacation year." Adjustments are made each October to adjust the accrued liability to actual, and the estimating rates are modified to the extent deemed appropriate. This use of a separate annual period on vacation allowance conforms to the provisions of the Standard.

§ 406.70 Exemptions.

None for this Standard.

§ 406.80 Effective date.

(a) The effective date of this Standard is [reserved].

(b) This Standard shall be followed by each contractor as of the beginning of his fiscal year next beginning after receipt of a contract to which this Standard is applicable, but in no event earlier than (Date).

ARTHUR SCHOENHAUT,
Executive Secretary.

[FR Doc.73-16175 Filed 8-6-73;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-48]

STUDY GROUP 6 OF U.S. NATIONAL COMMITTEE FOR INTERNATIONAL RADIO CONSULTATIVE COMMITTEE (CCIR)

Notice of Meeting

The Department of State announces that Study Group 6 of the U.S. National Committee for the International Radio Consultative Committee (CCIR) will meet on August 20, 1973, at 9:00 a.m. in Room 1107, Radio Building, Department of Commerce Laboratories, Boulder, Colorado.

Study Group 6 deals with matters relating to the propagation of radio waves through the ionosphere. The meeting on August 20 will consider new draft texts in the following areas which are proposed as U.S. contributions to the international meeting of Study Group 6 in 1974:

a. Ionospheric effects on satellite communications;

b. Communication parameters in ionospheric propagation;

c. Nonlinear effects in the ionosphere induced by radio waves.

Members of the general public who desire to attend the meeting on August 20 will be admitted up to the limits of the capacity of the meeting room.

Dated: July 31, 1973.

GORDON L. HUFFCUTT,
Chairman,
U.S. CCIR National Committee.

[FR Doc.73-16189 Filed 8-6-73;8:45 am]

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 73-13]

JOHN GARDNER, d/b/a QUALITY MEDICAL PHARMACY, ET AL

Notice of Hearing

Notice is hereby given that on May 3, 1973, the Drug Enforcement Administration (formerly the Bureau of Narcotics and Dangerous Drugs), Department of Justice, issued to Quality Professional Pharmacy, Los Angeles, California; Quality Medical Pharmacy, Los Angeles, California; and Fleet Pharmacy, Inc., Los Angeles, California; Orders to Show Cause as to why the Bureau of Narcotics and Dangerous Drugs registration No.'s AB2078978, AQ 5330042, and AF0318659 respectively, issued to them pursuant to section 303 of the Controlled Substances Act (21 U.S.C. 823) should not be revoked. Also, on May 2, 1973, a Notice of Termination was issued to Manchester-Community Hospital Pharmacy, Los Angeles, California; terminating their registration No. AM5080281.

A written request for a hearing having been filed with the Administrator of the Drug Enforcement Administration, Notice is hereby given that a hearing on the aforementioned matters will be held commencing at 10 a.m. on August 7, 1973, in Room 8549, 300 N. Los Angeles Street, Los Angeles, California, 90012.

Dated: JULY 31, 1973.

JOHN R. BARTELS, Jr.,
Acting Administrator, Drug Enforcement Administration.

[FR Doc.73-16207 Filed 8-6-73;8:45 am]

Law Enforcement Assistance Administration

PASADENA POLICE HELIPORT

Draft Environmental Impact Statement

Notice is hereby given that on July 18, 1973, the Law Enforcement Assistance Administration issued the Draft Environmental Impact Statement, Pasadena Police Heliport. Copies of this statement are available and may be obtained from the LEAA Region IX Office.

U.S. Department of Justice
Law Enforcement Assistance Administration
1860 El Camino Real, 4th Floor
Burlingame, California 94010

DONALD E. SANTARELLI,
Administrator.

[FR Doc.73-16190 Filed 8-6-73;8:45 am]

DEPARTMENT OF THE INTERIOR

National Park Service

NATIONAL REGISTER OF HISTORIC PLACES

List of Additions, Deletions and Corrections

By notice in the FEDERAL REGISTER of February 28, 1973, Part II, there was published a list of the properties included in the National Register of Historic Places. This list has been amended by a notice in the FEDERAL REGISTER of March 6, (pp. 6084-6086), April 10 (pp. 9095-9097), May 1 (pp. 10745-10748), June 5 (pp. 14770-14777), and July 3 (pp. 17744-17749). Further notice is given that certain amendments or revisions in the nature of additions, deletions, or corrections to the previously published list are adopted as set out below.

It is the responsibility of all Federal agencies to take cognizance of the properties included in the National Register as herein amended and revised in accordance with section 106 of the National Historic Preservation Act of 1966, 80 Stat. 915, 16 U.S.C. 470.

The following properties have been demolished and removed from the National Register:

California

Los Angeles County
San Fernando
San Fernando Mission
15151 San Fernando Mission Boulevard
Sacramento County
Sacramento
Alhambra Theatre
1101 Alhambra Boulevard

Oregon

Deschutes County
Bend
Pilot Butte Inn
1121 Wall Street

Tennessee

Hamilton County
Chattanooga
Chattanooga Union Station
W. 9th and Broad streets

The following are corrections to previous listings in the FEDERAL REGISTER:

Iowa

Lee County
Fort Madison
Old Fort Madison Site
315-335 Avenue H

Massachusetts

Middlesex County
Acton
Faulkner Homestead
High Street
Acton
Isaac Davis Trail (Acton Trail)
From Acton, along Hayward Street, Musket Drive, Main Street, Strawberry Hill Road, Barrett's Mill Road, and Barnes Hill Road to Concord

Minnesota

St. Louis County
Hibbing vicinity
**Hull-Rust-Mahoning Open Pit Iron Mine*
Third Avenue East

New Hampshire

Merrimack County
Concord
Pierce, Franklin, Manse
18 Penacook Street

Texas

Harrison County
Marshall
Old Pierce House (Magnolia Hall)
303 N. Columbus Street

Virginia

Lexington (independent city)
Alexander-Withrow House
N corner of Main and Washington streets

The following properties were omitted from previous FEDERAL REGISTERS:

Virginia

Bath County
Warm Springs vicinity
Warm Springs Bath Houses
NE of Warm Springs off Rte. 220

Gloucester County
Gloucester vicinity
Little England
E of Gloucester on W end of Rte. 672

Lexington (independent city)
* *Washington and Lee University Historic District*

The following properties have been added to the National Register since July 3:

Alabama

Colbert County
Tuscumbia
Colbert County Courthouse Square Historic District

Mobile County
Mobile
Protestant Children's Home
911 Dauphin Street
Walker County
Jasper
Bankhead House
1400 7th Avenue

Alaska

Southeastern District
Skagway vicinity
Pleasant Camp
Haines Hwy. on Canadian/Alaska border

Arkansas

Phillips County
Helena
Allis House
515 Columbia Street
Helena
Moore-Hornor House
323 Beech Street

Helena
Tappan, James C., House
717 Poplar Street
Pike County
Murfreesboro vicinity
Crater of Diamonds State Park
S of Murfreesboro on the Little Missouri River
Pulaski County
Little Rock
Fowler, Absalom, House
502 E. 7th Street

California

Alameda County
Hayward
Meek Mansion and Carriage House
240 Hampton Road
Oakland
Cohen, Alfred H., House
1440 29th Avenue
Calaveras County
Murphys
Murphys Grammar School
Jones Street

Los Angeles County
South Pasadena
Adobe Flores
1804 Foothill Street
Whittier
Pio Pico Casa
6003 Pioneer Boulevard
San Francisco County
San Francisco
Haas-Lilienthal House
2007 Franklin Street
Santa Cruz County
Felton
Felton Covered Bridge
Covered Bridge Road

Shasta County
Whiskeytown
Tower House District
Whiskeytown National Recreation Area

Delaware

Kent County
Clayton vicinity
Jones, Enoch, House
SW of Clayton, off Del. 300

Little Creek
Old Stone Tavern
Main Street

Little Heaven
Reed, Jehu, House
U.S. 113 and Del. 18

New Castle County
Claymont
Darley House
Darley Road and Philadelphia Pike

Marshallton
Greenbank Historic Area
Off Del. 41, N of Del. 2

Middletown vicinity
Nozontown
S of Middletown off Del. 896

Newark
Old College Historic District (Delaware College)
Main and College streets

Odessa vicinity
Williams House (Woodlawn)
1.2 miles NW of Odessa on Mari Pit Road

Wilmington vicinity
Lobdell Estate (Minquadale Home)
Off U.S. 13
Sussex County
Delmar
Highball Signal
City Park, near Penn-Central Railroad
Georgetown
Sussex County Courthouse and the Circle
The Circle
Lewes vicinity
Pagan Creek Dike
W of Lewes on Pagan Creek near New Road
Milton
Hazzard House
327 Union Street
Milton
Ponder, Governor James, House
416 Federal Street
Woodland
Cannon's (Woodland) Ferry
Across the Nanticoke River

District of Columbia

Washington
Forrest-Marbury House
3350 M Street, N.W.
Georgetown University Astronomical Observatory
37th and O Streets, N.W.
Owens, Isaac, House (Gannt-Williams House)
2806 N Street, N.W.
Washington Navy Yard Historic District
Bounded by Isaac Hull Avenue, M and 9th streets and the Anacostia River

Florida

Alachua County
Gainesville
Matheson House
528 Southeast 1st Avenue
Windsor vicinity
Neilson House
N of Windsor off S.R. 325
Brevard County
Titusville vicinity
Launch Complex 39
Kennedy Space Center

Clay County
Hibernia vicinity
St. Margaret's Episcopal Church
Old Church Road
Franklin County
St. Teresa vicinity
Yent Mound
E of St. Teresa off U.S. 98 at Alligator Harbor
Gadsden County
Chattahoochee
U.S. Arsenal Officers Quarters
U.S. 90
Monroe County
Key West
Porter, Dr. Joseph Y., House
429 Caroline Street
Nassau County
Fernandina Beach
Bailey House
NE corner of 7th and Ash streets
Fernandina Beach
Fairbanks House
227 S. 7th Street

Fernandina Beach
The Tabby House (C. W. Lewis House)
NW corner of 7th and Ash streets

Palm Beach County

Canal Point vicinity
Big Mound City
About 10 miles E of Canal Point

West Palm Beach
Seaboard Coast Line Railroad Passenger Station
Tamarind Avenue and Datura Street

Georgia

Cobb County

Kennesaw
General, The
Big Shanty Museum, Cherokee Street

Mableton vicinity
Johnston's Line
SE of Mableton off U.S. 78 at the Chattahoochee River

Fulton County

Atlanta
Texas, The
Cyclorama Building, Grant Park

Liberty County
Riceboro vicinity
LeConte-Woodmanston Site
SW of Riceboro off Barrington Road
Meriwether County
Alvaton vicinity
White Oak Creek Covered Bridge
3 miles SE of Alvaton on Covered Bridge Road
Muscogee County
Columbus
Illges House
1428 2nd Avenue
Spalding County
Williamson vicinity
Old Gaissert Homeplace (Mary Brook Farm)
NE of Williamson on Ga. 362

Hawaii

Hawaii County
Kailua-Kona
Hulihee Palace
Alii Drive
Mahukona
Lapakahi Complex
0.5 mile S of Mahukona

Honolulu County
Honolulu
Falls of Clyde
Pier 5, Honolulu Harbor
Honolulu
Kapuaiwa Building
426 Queen Street
Honolulu
Merchant Street Historic District
Honolulu
St. Andrew's Cathedral
Beretania Street (Queen Emma Square)
Honolulu

Washington Place
Beretania and Miller Streets
Haleiwa vicinity
Kupopolo Heiau
S of Waimea Bay on Kamehameha Hwy.

Idaho

Bannock County
Pocatello
Pocatello Carnegie Library
105 S. Garfield Avenue

Bonner County
Sandpoint
Sandpoint Burlington Northern Railway Station
Cedar Street at Sand Creek
Bonneville County
Idaho Falls
Eagle Rock Street Historic District
353, 357, 361, and 375 Eagle Rock Street
Latah County
Moscow
Moscow Post Office and Courthouse
Washington and 3rd streets

Illinois

Bureau County
Princeton
Lovejoy, Owen, Homestead
Peru Street (U.S. 6)
Fayette County
Vandalia
Little Brick House
621 St. Clair
Gallatin County
Equality vicinity
Saline Springs
3.5 miles SE of Equality
Jefferson County
Mt. Vernon
Appellate Court
14th and Main streets
Jo Daviess County
Galena
Washburne, Elihe Benjamin, House
908 3rd Street
White County
Carmi
Ratcliff Inn
214 E. Main Street

Indiana

Allen County
Fort Wayne
Fort Wayne City Hall
308 E. Berry Street
Clark County
Borden
Borden Institute
West Street
Jeffersonville
Howard Home
1101 E. Market Street

Franklin County
Metamora
Whitewater Canal Historic District
From Laurel Feeder Dam to Brookville

Jasper County
Rensselaer vicinity
St. Joseph's Indian Normal School
St. Joseph's College campus off U.S. 231

Jefferson County
Madison
Jefferson County Jail
Corner of Main and Walnut streets

Knox County
Vincennes
Territorial Capitol of Former Indiana Territory
Bounded by Harrison, First, Scott, and Park streets

Marion County
Indianapolis
Christ Church Cathedral
131 Monument Circle
Indianapolis
Schmidt, John W., House
1410 N. Delaware Street

St. Joseph County
South Bend
Tippecanoe Place (Studebaker House)
620 W. Washington Avenue

Iowa

Black Hawk County
Waterloo
Russell, Rensselaer, House
520 W. Third Street
Henry County
Mount Pleasant
Harlan-Lincoln House
101 W. Broad
Johnson County
Iowa City
Congregational Church of Iowa City
30 N. Clinton Street
Keokuk County
What Cheer
What Cheer Opera House, Inc.
201 Barnes Street
Page County
Clarinda
Hepburn, Colonel William Peters, House
321 W. Lincoln
Washington County
Washington
Blair House
E. Washington Street and S. 2nd Avenue

Kansas

Marion County
Peabody
Old Peabody Library
E. Division and Walnut Street

Kentucky

Boyd County
Ashland
First Presbyterian Church
1600 Winchester Avenue
Fayette County
Lexington
Kennedy House
216 N. Limestone Street
Logan County
Russellville
Forst, William, House
SE Corner of 4th and Winter Streets
McCracken County
Paducah
Market House
S. 2nd Street between Broadway and Kentucky Avenue
Madison County
Richmond
Old Central University
University Drive
Ohio County
Hartford
Hartford Seminary
224 E. Center Street
Scott County
Georgetown vicinity
Buford-Duke House
SE of Georgetown off U.S. 75
Warren County
Bowling Green vicinity
Ironwood
N of Bowling Green on Old Richardsville Road

Louisiana

East Baton Rouge Parish
Baton Rouge
Powder Magazine
State Capitol Drive
East Feliciana Parish
Clinton
East Feliciana Parish Courthouse
Bounded by St. Helena, Woodville, Liberty, and Bank streets
Iberia Parish
Delcambre vicinity
Jefferson, Joseph, House (Bob Acres Plantation)
N of Delcambre at Jefferson Island
Orleans Parish
New Orleans
Bank of Louisiana
334 Royal Street

Maine

Cumberland County
South Portland
Portland Breakwater Light
NE end of Portland Breakwater, Portland Harbor
Hancock County
Ellsworth vicinity
Stanwood Homestead (Birdsacre Sanctuary)
1 mile S of Ellsworth on Me. 3
Oxford County
Paris Hill
Paris Hill Historic District
Penobscot County
Bangor
Godfrey-Kellogg House
212 Kenduskeag Avenue
East Corinth vicinity
Skinner Settlement, Corinth Village
3.5 miles W of East Corinth on Kenduskeag-Exeter Mills Road
Orono
Colburn, William, House
91 Bennoch Road
Waldo County
Liberty
Old Post Office
Main Street (Rte. 173)
York County
South Berwick
Jewett, Sarah Orne, House
Junction of Me. 4 and 236

Maryland

Allegany County
Cumberland
Western Maryland Railway Station
Canal Street
Lonaconing
Lonaconing Furnace
Behind the Central Elementary School, on E. Main Street
Anne Arundel County
Deale vicinity
Sudley
N of Deale off Md. 468 on Old Sudley Road
Owensville
Christ Church
Owensville Road (Md. 255)
Baltimore (independent city)
Battle Monument
Center of Calvert Street between Fayette and Lexington streets
Emerson Bromo-Seltzer Tower
312–318 W. Lombard Street
Engine House #6
416 N. Gay Street
First Presbyterian Church and Manse
200–210 W. Madison Street
Howard Street Tunnel
Beneath Howard Street from Mt. Royal Station to Camden Station
Mount Royal Station
1400 Cathedral Street
Poole and Hunt Company Buildings
3500 Clipper Road
Calvert County
Barstow vicinity
Willow Glenn
NW of Barstow off Md. 507
Garrett County
Westernport vicinity
Meyer Site
SW of Westernport on the north branch of the Potomac River

Massachusetts

Bristol County
Fall River
Academy Building
S. Main Street
Essex County
Marblehead
Gerry, Elbridge, House
44 Washington Street
Marblehead
St. Michael's Church
28 Pleasant Street
Peabody
Peabody Institute Library
Main Street
Middlesex County
Newton
Jackson Homestead
527 Washington Street
Norfolk County
Quincy
Quincy Granite Railway Incline
Mullin Avenue
Plymouth County
Cohasset vicinity
Cushing Homestead
W of Cohasset on Mass. 128
Middleboro vicinity
Wapanucket Site
SW of Middleboro off Mass. 25
Suffolk County
Boston
Arlington Street Church
Corner of Arlington and Boylston streets

Michigan

Antrim County
Holtz Site
Central Antrim County
Baraga County
Sand Point Site
Northern Baraga County
Jackson County
Clark-Stringham Site
Southern quarter of Jackson County
Midland County
Oxbow Archeological District
Eastern Midland County

Minnesota

Cass County
Pillager vicinity
Hole-in-the-Day II Cabin Site
N of Pillager on the NE corner of Hole-in-the-Day Lake
Cottonwood County
Mountain Lake vicinity
Mountain Lake Site
Goodhue County
Old Frontenac
Old Frontenac Historic District
Red Wing
Minnesota State Training School
E. 7th Street
Hubbard County
Park Rapids vicinity
Shell River Prehistoric Village and Mound District
15 miles SE of Park Rapids near the confluence of the Shell and Crow Wing rivers
Marshall County
Newfolden vicinity
Old Mill
About 9 miles W of Newfolden on the Middle River in Old Mill State Park
Morrison County
Belle Prairie
Ayer Mission Site
0.5 mile N of Belle Prairie off U.S. 371
Nicollet County
New Ulm vicinity
Harkin, Alexander, Store
About 10 miles W of New Ulm on County Road 21
Otter Tail County
Battle Lake vicinity
Morrison Mounds
On the south bank of the Otter Tail River
Renville County
Morton vicinity
Birch Coulee
1.5 miles N of Morton off U.S. 71 in Birch Coulee State Park

Mississippi

Coahoma County
Yazoo Pass Levee
At Miss. 1 near Moon Lake

Grenada County
Grenada vicinity
Confederate Earthworks
E of Grenada off Miss. 8 near Grenada Reservoir

Hinds County
Jackson
Millsaps-Buie House
628 N. State Street

Humphreys County
Belzoni vicinity
Jaketown Site
3 miles N of Belzoni on Miss. 7

Leflore County
Greenwood vicinity
Fort Pemberton Site
2 miles SW of Greenwood off U.S. 49E

Monroe County
Amory vicinity
Inzer Site
3 miles W of Amory off U.S. 278

Montana

Deer Lodge County
Anaconda
Hearst Free Library
Main and 4th streets
Lake County
St. Ignatius
St. Ignatius Mission
Off U.S. 93

Nebraska

Polk County
Stromsburg vicinity
Morrill, Charles H., Homestead
0.5 mile SE of Stromsburg on U.S. 81

New Hampshire

Grafton County
Bethlehem vicinity
Felsengarten
SW of Bethlehem off Lewis Hill Road

Hillsborough County
Manchester
Stark, General John, House
2000 Elm Street

Rockingham County
Exeter
Front Street Historic District
Hampton Falls
Weare, Governor Meshech, House
Exeter Road (N.H. 88)
New Castle
Fort Constitution (Fort William and Mary Site)
Walbach Street (off N.H. B1)
Portsmouth
Wentworth, Governor John, House
346 Pleasant Street
Sullivan County
Newport
Sullivan County Courthouse (Grange Hall)
Court Square

New Jersey

Bergen County
Rutherford
Williams, William Carlos, House
9 Ridge Road
Burlington County
Mount Holly vicinity
Peachfield
N of Mount Holly on Burr Road
Camden County
Cherry Hill
Coles, Samuel House
1743 Old Cuthbert Road
Essex County
Newark
Newark Orphan Asylum
High and Bleecker streets
Middlesex County
New Brunswick
Queen's Campus, Rutgers University
Bounded by College Avenue, George, Hamilton and Somerset streets
Morris County
Dover vicinity
Friends Meetinghouse
S of Dover at Quaker Avenue and Quaker Church Road, off N.J. 10
Parsippany
Bowers-Livingston-Osborn House
25 Parsippany Road
Pompton Plains
Berry, Martin, House
581 N.J. 23
Union County
Plainfield
Drake, Nathaniel, House
602 W. Front Street

New Mexico

Valencia County
Albuquerque vicinity
Pueblo of Laguna
About 45 miles W of Albuquerque off U.S. 66

New York

Albany County
Cohoes
Olmstead Street Historic District
Green Island
Green Island Car Shops
James and Tibbits streets and the Delaware and Hudson Railroad tracks
Allegany County
Alfred
Steinheim, Allen, Museum
Alfred University campus
Broome County
Binghamton
Phelps Mansion
191 Court Street
Chautauqua County
Chautauqua
Chautauqua Institution Historic District
Essex County
Essex vicinity
Church of the Nazarene
W of Essex on N.Y. 22
Genesee County
Batavia
Batavia Club
Corner Main and Bank streets
Batavia
Genesee County Courthouse
Main and Ellicott streets
New York County
New York
Church of the Trnasfiguration and Rectory
1 E. 29th Street
New York
John Street Methodist Church
44 John Street
Niagara County
Lockport
Lowertown Historic District
Lockport
Moore, Benjamin C., Mill (Lockport City Hall, Holly Water Works)
Pine Street on the Erie Canal
Orange County
New Windsor vicinity
Haskell House
W of New Windsor off N.Y. 32
Rensselaer County
Troy
Church of the Holy Cross

136 8th Street
Warren County
Lake George
Old Warren County Courthouse Complex
Corner of Canada and Amherst streets
Westchester County
Ossining County
Site of Old Croton Dam; New Croton Dam
About 10 miles N of Ossining on N.Y. 129

North Carolina

Burke County
Morganton vicinity
Magnolia Place
S of Morganton on U.S. 64
Caswell County
Prospect Hill
Warren House and Warren's Store
On N.C. 86
Yanceyville
Caswell County Courthouse
Courthouse Square
Cherokee County
Andrews vicinity
Andrews Mound
W of Andrews
Craven County
New Bern
Baxter Clock
323 Pollock Street
New Bern
Mace, Ulysses S., House
518 Broad Street
New Bern
New Bern Historic District
New Bern
New Bern Municipal Building
Pollock and Craven Street
New Bern
York-Gordon House
213 Hancock Street
Halifax County
Airlie
Oakland
On N.C. 4
Halifax
Davie, William R., House
Norman Street
Iredell County
Elmwood vicinity
Farmville Plantation
SE of Elmwood off U.S. 70 on S.R. 2362
Martin County
Hamilton vicinity
Fort Branch Site
SE of Hamilton on S.R. 1416
Swain County
Bryson City vicinity
Governor's Island (Kituhwa)
3.5 miles E of Bryson City off U.S. 19
Wake County
Raleigh
Peace College Main Building
Peace Street at N end of Wilmington Street
Raleigh vicinity
Jones, Crabtree, House
N of Raleigh on Old Wake Forest Road

Ohio

Clark County
Springfield vicinity
Newlove Works
E of Springfield
Cuyahoga County
Brecksville
Brecksville Town Hall
Public Square
Cleveland
Merwin, George, House
3028 Prospect Avenue
Cleveland
Rockefeller Building
614 Superior Avenue
Cleveland
Trinity Cathedral
Euclid Avenue and E. 22nd Street
Cleveland
Wade Memorial Chapel
12316 Euclid Avenue (Lakeview Cemetery)

Erie County
Kelleys Island
Inscription Rock
On Water Street off Ohio 575

Fayette County
Washington Court House
Fayette County Courthouse
Main and Columbus streets

Franklin County
Columbus
Smith, Benjamin, House
181 E. Broad Street

Columbus
Toledo & Ohio Central Railroad Station
379 W. Broad Street

Worthington
Worthington Manufacturing Company Boarding House
25 Fox Lane

Hamilton County
Cincinnati
Cary Cottage
7000 Hamilton Avenue

Newtown
Odd Fellows' Cemetery Mound
In Flagstone Cemetery on Roundbottom Road

Highland County
Marshall vicinity
Rocky Fort Park Group
2 miles NW of Marshall at Rocky Fort Lake

Hocking County
Laurelville vicinity
Ross, Edith, Mound
0.75 mile N of Laurelville

Knox County
Fredericktown vicinity
Braddock Mound and Works
0.45 mile E of Fredericktown

Mount Vernon
Knox County Courthouse
High Street

Licking County
Homer
Dixon Mound
On the north fork of the Licking River
Newark
Home Building Association Bank
6 W. Main Street

Logan County
Bellefontaine
Logan County Courthouse
Public Square

Montgomery County
Dayton vicinity
Lichliter Mound and Village Site
1.5 miles W of Dayton at intersection of Little Richmond Road and Olive Road

Trotwood vicinity
Wolf Creek Mound
1.5 miles W of Trotwood off Seybold Road

Ross County
Chillicothe vicinity
Metzger, Charles, Mound
10.4 miles NW of Chillicothe

Scioto County
Portsmouth
Kinney, Aaron, House
Waller Street
Portsmouth vicinity
Feurt Mounds and Village Site
4 miles N of Portsmouth

Wyandot County
Upper Sandusky
Wyandot County Courthouse and Jail
Courthouse Square

Oklahoma

Lincoln County
Stroud vicinity
Keokuk, Moses, House
About 6 miles W of Stroud

Wagoner County
Coweta vicinity
Koweta Mission Site
1 mile S of Coweta

Pennsylvania

Allegheny County
Braddock
Carnegie Free Library of Braddock
419 Library Street

Berks County
Yellow House vicinity
Fisher, Henry, House
About 1.25 miles N of Yellow House on Pa. 662
Cambria County
Johnstown
Johnstown Inclined Railway
Johns Street and Edgehill Drive
Chester County
Chadds Ford vicinity
Brinton, Edward, House
NW of Chadds Ford on Pa. 100
Mont Clare vicinity
Rapps Bridge
W of Mont Clare off Pa. 724 on Mowere Road
Phoenixville vicinity
Martin-Little House
S of Phoenixville off Pa. 113 on Church Road
Clinton County
Lock Haven
Water Street District
Dauphin County
Middletown
St. Peter's Kierch
31 W. High Street
Delaware County
Chester (Upland)
Old Main
21st Street and Upland Avenue
Fayette County
Brier Hill
Brier Hill
On U.S. 40
Perryopolis
Searight's Fulling Mill
Cemetery Road
Lancaster County
Letort vicinity
Conestoga Town (36 LA 52)
1.25 miles S of Letort
Mount Joy
Central Hotel/A. Bube's Brewery
102 N. Market Street
Washington vicinity
Strickler Site (36 LA 3)
About 1 mile S of Washington Off Pa. 441
Montgomery County
Bryn Mawr
Bryn Mawr (Harriton)
500 Harriton Road
Harmonville vicinity
Corson, Alan W., Homestead
NE of Harmonville at 5130 Butler Pike
Schwenksville vicinity
Englehardt, John, Homestead
W of Schwenksville off Pa. 73 on Keyser Road
Schwenksville vicinity
Grubb, Conrad, Homestead
NW of Schwenksville off Pa. 73 on Perkiomenville Road
Schwenksville vicinity
Long Meadow Farm
NW of Schwenksville on Pa. 73
Northampton County
Bethlehem
Grist Miller's House
459 Old York Road
Philadelphia County
Philadelphia

Fidelity Mutual Life Insurance Company Building
Fairmount and Pennsylvania avenues
Philadelphia
Old Fellow's Hall
800 N. 3rd Street, N.W.

Sullivan County
Hillsgrove vicinity
Hillsgrove Covered Bridge
3 miles E of Hillsgrove off Pa. 87

Rhode Island

Newport County
Jamestown
Conanicut Battery
W of Beaver Tail Road

Newport
Mawdsley, Captain John, House
228 Spring Street

Providence County
Johnston
Clemence-Irons House
38 George Waterman Road

Washington County
North Kingstown
Old Narragansett Church
60 Church Lane, Wickford

South Carolina

Charleston County
Charleston
Dock Street Theatre (Planters' Hotel)
135 Church Street

Edisto Island vicinity
Peter's Point Plantation
SW of Edisto Island off S.C. 174 on County Road 764

Sullivan's Island
U.S. Coast Guard Historic District

Richland County
Columbia
Columbia City Hall
Main and Laurel Streets

Columbia
Union Station
401 S. Main Street

South Dakota

Meade County
Sturgis vicinity
Bear Butte

Tennessee

Cannon County
Readyville
Readyville Mill
On U.S. 70S

Cocke County
Parrotsville vicinity
Swaggerty Blockhouse
E of Parrottsville on U.S. 411

Hawkins County
Rogersville vicinity
Amis House
E of Rogersville on the Burem Pike

Maury County
Columbia vicinity
Cherry Glen
SW of Columbia off U.S. 43

Perry County
Linden vicinity
Cedar Creek Furnace
9 miles SW of Linden on Furnace Creek

Robertson County
Cedar Hill
St. Michael's Catholic Church
4 miles W of Tenn. 49

Rutherford County
Readyville
Ready, Charles, House (The Corners)
On U.S. 70S

Smith County
Dixon Springs vicinity
Dixona
NW of Dixon Springs on Tenn. 25

Unicoi County
Erwin vicinity
Clarksville Iron Furnace
SW of Erwin off Tenn. 107 in Cherokee National Forest

Washington County
Johnson City vicinity
Dungan's Mill and Stone House
NE of Johnson City on Watauga Road

Jonesboro vicinity
DeVault Tavern
W of Jonesboro on Leesburg Road (Rte. 6)
White County
Sparta vicinity
Lincoln, Jesse, House
W of Sparta on Tenn. 26

Texas

Briscoe County
Silverton vicinity
Mayfield Dugout (41 BI 52)
7 miles WNW of Silverton

Galveston County
Galveston
St. Mary's Cathedral
2011 Church Avenue

Presidio County
Presidio vicinity
Fort Leaton (41PS 18)
4 miles E of Presidio on FM 170

Travis County
Austin
Porter, William Sidney (O. Henry), House
409 E. 5th Street

Vermont

Addison County
Ripton
Ripton Community House
On Vt. 125
Franklin County
Swanton vicinity
Swanton Covered Railroad Bridge
S of Swanton across the Missisquoi River
Washington County
Barre
Barre City Hall and Opera House
12 N. Main Street
Windham County
Bartonsville
Bartonsville Covered Bridge
Across the Williams River at South end of Bartonsville
Grafton vicinity
Kidder Covered Bridge
0.3 mile SE of Grafton across the south branch of Saxtons River
Windsor County
Windsor vicinity
Best's Covered Bridge
About 8 miles W of Windsor off Vt. 44

Virginia

Accomack County
Chincoteague vicinity
Assateague Lighthouse
S of Chincoteague at southern end of Assateague Island
Alexandria (independent city)
Bank of Alexandria
125 N. Fairfax Street
Bedford County
Forest vicinity
Woodbourne
NE of Forest off Va. 609
Cumberland County
Hamilton vicinity
Clifton
1.1 miles NE of intersection of Va. 690 and 605
Fairfax County
Fort Belvoir
Belvoir Site
SE of intersection of 23rd Street and Belvoir Road
Fauquier County
Delaplane vicinity
Oak Hill
2.2 miles SE of Delaplane off U.S. 17 (I-66)
Isle of Wight County
Smithfield
Smithfield Historic District
James City County
Toano vicinity
Hickory Neck Church
N of Toano on U.S. 60
Loudoun County
Middleburg vicinity
Farmer's Delight
About 3 miles N of Middleburg off Rte. 745
Louisa County
Trevilians vicinity
Grassdale
W of Trevilians off U.S. 15
Page County
Luray
Page County Courthouse
116 S. Court Street
Prince William County
Occoquan
Rockledge
Telegraph Road
Richmond (independent city)
Mason's Hall
1807 E. Franklin Street
Rockbridge County
Brownsburg
Brownsburg Historic District
Shenandoah County
Woodstock
Shenandoah County Courthouse
W. Court and S. Main streets
Spotsylvania County
Fredericksburg vicinity
Fall Hill
NW of Fredericksburg off Va. 639
Virginia Beach (independent city)
Keeling House
3157 Adam Keeling Road

Washington

Chelan County
Cashmere vicinity
Burbank Homestead Waterwheel
SE of Cashmere off U.S. 2/97 on the Lower Monitor Road
Wenatchee
Wells House
1300 5th Street
King County
Redmond
Clise, James W., House
6046 Lake Sammamish Parkway, N.E.
Seattle
Fire Station #18
5427 Russell Avenue, N.W.
Seattle
Old Public Safety Building
4th Avenue, Terrace, 5th Avenue, and Yeslerway
Okanogan County
Bridgeport vicinity
Sites of Fort Okanogan
N of Bridgeport between the Columbia and the Okanogan rivers
San Juan County
Shaw Island
Little Red Schoolhouse
Corner of Hoffman Cove and Neck Point Cove Road
Snohomish County
Stanwood
Pearson, D. O., House
Pearson and Market streets

West Virginia

Hancock County
New Manchester
Old Courthouse

High and Elm streets
Hardy County
Moorefield vicinity
Mill Island
S of Moorefield
Moorefield vicinity
The Willows
S of Moorefield
Old Fields vicinity
Willow Wall
S of Old Fields
Jefferson County
Charles Town
Jefferson County Courthouse
Corner of N. George and E. Washington streets
Charles Town vicinity
Richwood Hall
About 4 miles W of Charles Town off W. Va. 51
Charles Town vicinity
Washington, Charles, House (Happy Retreat)
S of Charles Town off W. Va. 9
Charles Town vicinity
Worthington, Robert, House (Piedmont)
About 2 miles W of Charles Town off W. Va. 51
Monongalia County
Pentress vicinity
Brown's Hill-Mason and Dixon Survey Terminal Point
2.25 miles NE or Pentress, W. Va. 39
Preston County
Aurora vicinity
Red Horse Tavern; Old Stone House
1 mile E of Aurora on U.S. 50
Tyler County
Sistersville
Durham, E. A., House
110 Chelsea Street

Wyoming

Bighorn County
Hyattville vicinity
Medicine Lodge Creek Site
NE of Hyattville
Carbon County
Encampment vicinity
Grand Encampment Mining Region: The Boston-Wyoming Smelter Site
E of Encampment on Encampment River
Encampment vicinity
Grand Encampment Mining Region: The Ferris-Haggarty Mine Site
W of Encampment
Hot Springs County
Grass Creek vicinity
Legend Rock Petroglyph Site
S of Grass Creek
Park County
Powell
Shoshone Project Headquarters Office Building
305 E. 1st Street

ROBERT M. UTLEY,
Director, Office of Archeology and Historic Preservation.

[FR Doc.73-15919 Filed 8-6-73;8:45 am]

Office of the Secretary

AREA DIRECTORS, ET AL.

Delegation of Authority

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant to the Secretary for Indian Affairs in Amendment 2 to Secretarial Order 2950.

Section 3.1 of 10 BIAM was published on page 813 of the January 4, 1973, FEDERAL REGISTER (38 FR 813). It is being amended to give the Project Officer of the Joint Use Administrative Office similar authorities to those given to Area Directors.

As amended, 10 BIAM 3.1 reads as follows:

3.1 *Authorities from the Commissioner.* The authorities of the Secretary of the Interior delegated to the Commisisoner in Secretarial Order 2508 (10 BIAM 2.1), 25 CFR, 43 CFR 2.6, and 43 CFR 417.5 are hereby redelegated to the Area Directors; the Director of Southeastern Agencies; and the Project Officer, Joint Use Administrative Office.

This redelegation also includes future authorities of the Secretary of the Interior to the Commissioner which:

A. Do not by their own terms disallow exercise by officials below the Commissioner;

B. Are not within the generally applicable exceptions in section 3.3 below; or

C. Are not expressly excluded, by additional provisions to this Chapter, from being exercised by officials below the Commissioner.

MARVIN L. FRANKLIN,
Assistant to the Secretary of the Interior.

[FR Doc.73-16191 Filed 8-6-73;8:45 am]

DEPARTMENT OF AGRICULTURE

Office of the Secretary

NATIONAL MEAT AND POULTRY INSPECTION ADVISORY COMMITTEE

Notice of Reestablishment

Pursuant to section 9(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), and after consultation with the Office of Management and Budget, notice is hereby given that the Secretary of Agriculture has reestablished the National Meat and Poultry Inspection Advisory Committee. Reestablishment of this Committee is in the public interest in connection with the duties imposed on the Department by law.

The purpose of this Committee is to provide advice to the Department of Agriculture on the broad range of its activities concerning State and Federal programs with respect to meat and poultry inspection and related matters within the scope of the Wholesome Meat Act and the Wholesome Poultry Products Act. Membership on this Committee consists of individuals who are responsible for or engaged in State meat and poultry inspection systems.

Dated: August 2, 1973.

JOSEPH R. WRIGHT, JR.,
Assistant Secretary for Administration.

[FR Doc.73-16278 Filed 8-6-73;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business

COLLEGE OF PHYSICIANS & SURGEONS OF COLUMBIA UNIVERSITY

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

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

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

Docket Number: 73-00517-33-46040. Applicant: College of Physicians and Surgeons of Columbia University, Department of Pathology—15th floor, 630 West 168th Street, New York, N.Y. 10032. Article: electron microscope, model Elmiskop IA. Manufacturer: Siemens, West Germany. Intended Use of Article: The article is intended to be used for studies of human brain biopsies, experimental animals (BALB mice), tissue culture cells (Hamster cells), viruses (including Harvery virus, and Picronavirus), human fibroblasts, HeLa cells, Vero, L, KB, H Ep 2, and MDBK and myoblast cell lines. Ultrastructural changes in cells organelles and membranes associated with exposure to Murine Sarcoma Virus and the effects of carcinoidal agents will be investigated. A separate study will examine effects of cytochalasin D (CD) on various cell lines with particular attention to aggregations of microfilaments and effects of CD on fibrillogenesis in cell cultures of human fibroblasts. A separate study will also be made of murine sarcoma virus examining ultrastructurally for cell changes and tracing the development of the viruses at cell surfaces. Effects of altered polyamine concentrations on virus development and tumor transformation is also to be studied using aminoguanidine, a diamine oxidase inhibitor. In addition the article is to be used for training of selected residents involved in research projects.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article has a specified resolving capability of 3.5 Angstroms. The most closely comparable domestic instrument is the Model EMU-4C electron microscope manufactured by the Forgflo Corporation. The Model EMU-4C has a specified resolving capability of 5 Angstroms. (The lower the numerical rating in terms of Angstrom units, the better the resolving capability.) We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated July 20, 1973 that the additional resolving capability of the foreign article is pertinent to the purposes for which the foreign article is intended to be used. We, therefore, find that the Model EMU-4C is not of equivalent scientific value to the foreign article for such purposes as the article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of

equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

A. H. STUART,
Director, Special Import Programs Division.

[FR Doc.73-16216 Filed 8-6-73;8:45 am]

STANFORD UNIVERSITY HOSPITAL

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

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

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

Docket Number: 73-00523-33-46500. Applicant: Stanford University Hospital, 820 Quarry Road, Palo Alto, Calif. 94304. Article: Ultramicrotome, model LKB 8800 A. Manufacturer: LKB Produkter AB, Sweden. Intended Use of Article: The article is intended to be used in the processing and cutting of myriad types of tissues for various members of the faculty. The article will also be used for analyzing all routine renal biopsies for the hospital.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: Examination of the applicant's thin sections under the electron microscope will provide optimal information when such sections are uniform in thickness and have smoothly cut surfaces. Conditions for obtaining high quality sections depend to a large extent on the properties of the specimen being sectioned (e.g., hardness, consistency, toughness, etc.), the properties of the embedding media and the geometry of the block. In connection with prior case (Docket No. 69-00665-33-46500) which relates to the duty-free entry of an identical foreign article, the Department of Health, Education, and Welfare (HEW) advised that "Smooth cuts are obtained when the speed of cutting, (among such [other] factors as knife edge condition and angle), is adjusted to the characteristics of the material being sectioned. The range of cutting speeds and a capability for the higher cutting speeds is, therefore, a pertinent characteristic of the ultramicrotome to be used for sectioning materials that experience has shown difficult to section." In connection with another prior case (Docket No. 70-00077-33-46500) relating to the duty-free entry of an identical foreign article, HEW advised that "ultrathin sectioning of a variety of tissues having a wide range in density, hardness, etc." requires a maximum range in cutting speed and, further, that "The production of ultrathin serial sections of specimens that have great variation in physical properties is very difficult." The foreign article has a cutting speed range of 0.1 to 20 millimeters/second (mm/sec). The most closely comparable domestic instrument is the Model MT-2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm/sec. We are advised by HEW in its memorandum of July 20, 1973 that cutting speeds in the excess of 4mm/sec. are pertinent to the applicant's research studies.

We therefore, find that the Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used. The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

A. H. STUART,
Director Special Import Programs Division.

[FR Doc.73-16213 Filed 8-6-73;8:45 am]

SUPERIOR AUDIO REHABILITATION CORP.

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

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 30 Stat. 897) and the regulations issued thereunder as amended (37 FR 3892 et seq).

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

Docket Number: 73-00521-99-03400. Applicant: Superior Audio Rehabilitation Corp., 823 Belknap Street, Superior, Wisconsin 54880. Article: Auditory Training Unit consisting of one each; Selective Auditory Filter Amplifier, Friction Indicator, Set of Ten Vibrators, Selector and Intensity Indicator. Manufacturer: Institute for Experimental Phonetics and Speech Pathology, Yugoslavia. Intended use of article: The article is intended to be used for intensive group and individual training in the language and communication classes for the deaf and hard of hearing children (kindergarten through ninth grade).

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

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

Reasons: The article provides a variety of modalities for selective amplification in the 80 to 120 decibel range and filtering with visual and tactile outputs. The Department of Health, Education, and Welfare (HEW) advised in its memorandum dated July 20, 1973 that the capabilities described above are pertinent to the applicant's use in interactive individual and group teaching of language and communication to hard of hearing children. HEW also advised that it knows of no domestic instrument of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

A. H. STUART,
Director, Special Import Programs Division.

[FR Doc.73-16214 Filed 8-6-73;8:45 am]

TULANE UNIVERSITY, ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, on or before August 27, 1973.

Amended regulations issued under cited Act, as published in the February 24, 1972 issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C. 20230.

Docket Number: 74-00017-33-46040. Applicant: Tulane University, Delta Regional Primate Reseach Center, Covington, Louisiana 70433. Article: Electron Microscope, Model Elmiskop 101. Manufacturer: Siemens AG, West Germany. Intended Use of Article: The article will be used to examine neoplastic and other pathological tissues of nonhuman primates for evidence of viruses that can be correlated with the disease. Particular emphasis will be placed on the recognition of viral particles in tumor tissues

arising spontaneously or by experimental induction in nonhuman primates. Viral particles as small as 20 nm in diameter lying within the ultrastructure of infected cells will be examined. In addition quantitative ultrastructural determinations of the effects of environmental insults on presynaptic and post synaptic dense material or specializations, types of synaptic vesicles and on differentiation of various types of synapses will be performed. Subtle alterations in cytoplasmic and pre- and postsynaptic membrane structure and relationships, synaptic clefts, and glia/neuron relationships will be under investigation. The objectives pursued in the course of these investigations are: (1) Recognition and description of viral pathogens for diagnosis of clinical disease, (2) determination of viral etiology in naturally occurring and experimentally induced neoplastic diseases, (3) a better understanding of tumor induction by viruses and viral replication or latency in infected primates, (4) to determine the effects of ionizing irradiation on growth of the brain and ultrastructural maturation of the cerebral cortex in the squirrel monkey, (5) to determine the effects of postnatal malnutrition on the ultrastructural maturation of brain and on learning, neurochemistry and general growth of the brain in infant squirrel monkeys, and (6) to evaluate the effects of chronic radiation on aging changes including ultrastructural alterations in the brain of the rat and rhesus monkey.

The article will also be used in a Freshman neuroscience (neuroanatomy) course in which electron micrographs of brain tissues from normal and experimental subjects will be employed in lectures and other instructional programs to provide instruction in principles of neuroscience as applied to the practice of medicine. Application received by Commissioner of Customs: July 9 1973.

Docket Number: 74–00018–01–11000. Applicant: Yale University, Purchasing Department, 260 Whitney Avenue, New Haven, Connecticut 06520. Article: Gas Chromatograph-Mass Spectrometer, Model MAT–111 and accessories. Manufacturer: Varian MAT GmbH, West Germany. Intended Use of Article: The article will be used for the separation and structure identification of the endogenous metabolites in blood and urine from patients with metabolic diseases and also from control subjects. The main emphasis will be placed on the analysis of organic acids and amino acids. However, fatty acids, sterols, steroids and sugars will also be analyzed. Application received by Commissioner of Customs: July 11, 1973.

Docket Number: 74–00019–33–46500. Applicant: New York State Institute for Basic Research in Mental Retardation, 1050 Forest Hill Road, Staten Island, New York 10314. Article: Ultramicrotome, Model Om U3. Manufacturer: C. Reichert Optische Werke, Austria. Intended Use of Article: The article will be used to examine through serial sectioning, the nuclear and cytoplasmic ultrastructural characteristics of human blast-like cells derived from short term leucocyte cultures with the objective of screening large populations of individuals as well as cells, which have been exposed to different in vivo or in vitro environmental conditions with the hope of delineating striking and/or subtle differences between various individuals or groups of individuals and perhaps, further defining mentally retarded populations. The article will also be used for training research scientists as well as assistants in specimen preparation for electron microscopy and to make available demonstrations for students and professionals touring the laboratory. Application received by Commissioner of Customs: July 5, 1973.

Docket Number: 74–00021–37–46040. Applicant: Children's Hospital of Philadelphia, Department of Pathology, 18th and Bainbridge Streets, Philadelphia, Pennsylvania 19146. Article: Electron Microscope, Model EM 201. Manufacturer: Philips Electronic Instruments NVD, The Netherlands. Intended Use of Article: The article will be used in the following research and clinical diagnostic projects:

(1) Research into the role of bilirubin in the pathogenesis of intrahepatic cholestasis, as investigated through the manganese-bilirubin model, with studies on bile composition;

(2) Research into the effect of Novobiocin on bile flow rate, and the pathogenesis of such effects, with studies of bile composition;

(3) Research into the evolution of the pathologic lesions of childhood inherited renal disease, particularly cystinosis, in order to elucidate the mechanisms of tissue injury in this disease;

(4) Study of renal biopsy material for the purposes of diagnosis, prognostication, and evaluation of therapeutic approaches in childhood renal disease;

(5) Examination of tumors for the purpose of diagnosis classification, and evaluation of therapy; and

(6) Examination of various other tissues removed in the course of surgical and/or autopsy procedures for diagnosis of conditions in which this procedure is of established value (e.g., primary myopathies, storage disorders, etc.)

The article will also be used in the following educational projects:

(1) Ongoing training of pathology and pediatric trainees and medical students on electives in pediatric pathology in the use and application of electron microscopy in research and human disease;

(2) Preparation of electron micrographs of normal and pathologic material for use in conferences for the instruction of practicing physicians; and

(3) Preparation of electron micrographs of normal and pathologic material for use in the instruction of medical students in pediatrics and in sophomore pathology.

Application received by Commissioner of Customs: July 11, 1973.

Docket Number: 74–00022–01–07500. Applicant: University of Florida, Department of Materials Science and Engineering, Gainesville, Florida 32611. Article: LKB Batch Microcalorimeter, Model 10700–2. Manufacturer: LKB Produkter AB, Sweden. Intended Use of Article: The article is intended to be used for teaching and research in the general area of surface reactions between liquids and various solid substrates. In particular, it will be used to determine the heats of reaction between polyelectrolytes and phosphate slimes and to measure the energy evolved when collagen-like polypeptides interact with powdered glasses. Application received by Commissioner of Customs: July 11, 1973.

Docket Number: 74–00023–33–90000. Applicant: University of Iowa Hospitals & Clinics, Newton Road, Iowa City, Iowa 52242. Article: EMI Scanner system. Manufacturer: EMI Limited, United Kingdom. Intended Use of Article: The article will be used to evaluate a diagnostic technique based on studying differential absorption coefficients of tissue densities within the skull. Application received by Commissioner of Customs: July 11, 1973.

Docket Number: 74–00024–33–46040. Applicant: University of Virginia School of Medicine, Department of Neurological Surgery, Charlottesville, Virginia 22901. Article: Electron Microscope, Model HU–12A and accessories. Manufacturer: Hitachi, Ltd., Japan. Intended Use of Article: The article will be used for an ultrastructural analysis of central nervous system tissue. The following problems will be under investigation:

1. Examination of the ultrastructure of normal and abnormal synaptic types in the visual cortex of the rat and tree shrew, especially the investigation of the lower laminae of visual cortex after laminar lesions have been made on the surface of the cortex. In this study the degenerating boutons will be examined at different survival times in the attempt to determine if there is a selective loss of certain types of synapses on particular areas of the neuron or its processes with the hope of correlating the behavioral changes induced by this lesion with the morphological changes seen with the electron microscope.

2. Examination of the morphology of normal and abnormal synaptic complexes. This involves determining whether the synapses fall into symmetrical or asymmetrical categories as determined by differences in the synaptic cleft and vesicle size and shape. The capability for a high degree of tilt at high resolution is also of high priority for examining the region of the synaptic cleft and more importantly the postsynaptic density. In addition, this analysis will include serial section composites of normal and abnormal neurons, processes and synaptic complexes in different laminae under investigation.

Application received by Commissioner of Customs: July 5, 1973.

Docket Number: 74–00025–33–46040. Applicant: Louisiana State University and A & M College, School of Veterinary Medicine, Baton Rouge, LA 70803. Article: Electron Microscope, Model EM 10. Manufacturer: Carl Zeiss, West Germany. Intended Use of Article: The foreign article will be used for research and educational programs related to the professional curriculum at the applicant institution. This consists of faculty research and curriculum objectives which are divided into three phases, i.e., Phase I, basic sciences, (normal biochemistry, ultrastructure, microstructure, gross structure and normal functions of the various cells, tissues and organs of the body); Phase II, preclinical sciences,

(abnormal structure and function) and Phase III, clinical sciences, (involving complexities related to diagnosis of various animal diseases). In Phase I (nine courses) the article will be used to strengthen didactic methodology in meeting instructional objectives and students achievement criteria, in Phase II (4 courses) the article will be used to define the ultrastructure of animal viruses as well as to associate viral ultrastructure with cytopathic changes occuring in invaded animal cells and in Phase III (2 courses) the article will be used as a tool for teaching diagnostic pathology. Application received by Commissioner of Customs: July 5, 1973.

Docket Number: 74-00026-33-46040. Applicant: Bridgewater State College, Bridgewater, Mass. 02324. Article: Electron Microscope, Model EM 9S-2. Manufacturer: Carl Zeiss, West Germany. Intended Use of Article: The article will be used in, or in conjunction with, several biology courses for the training of college freshmen, sophomores, juniors and seniors in the techniques of electron microscopy and the operation of the electron microscope. Application received by Commissioner of Customs: July 11, 1973.

Docket Number: 74-00027-33-46040. Applicant: Leo Goodwin Institute for Cancer Research, 3301 College Avenue, Fort Lauderdale, Florida 33314. Article: Electron Microscope, Model EM 201. Manufacturer: Philips Electronic Instruments NVD, The Netherlands. Intended Use of Article: The article is intended to be used in a number of programs concerned with the nature of malignant disease. These include investigations of viral and chemically induced tumors; the immune response in experimental cancers; the search for viruses in human and animal tumors; development of new chemotherapeutic drugs and the biochemical changes in malignant transformations.

The article will also be used in graduate courses leading to the Ph.D. degree in microbiology. Pre-doctoral as well as domestic and international post-doctoral students are to be trained in virology, immunology, biochemistry and cytology which includes instruction in basic principles of electron microscopy as well as related techniques in photography. After appropriate training, selected students will be permitted to operate the article independently in the conduct of their own thesis research. Application received by Commissioner of Customs: July 9, 1973.

Docket Number: 74-00029-33-46040. Applicant: The University of Iowa, Department of Anatomy, Iowa City, Iowa 52242. Article: Electron Microscope, Model EM 201 and accessories. Manufacturer: Philips Electronic Instruments, NVD, The Netherlands. Intended Use of Article: The article will be used for research in (1) collateral nerve sprouting (2) fine structure of interneurons and synapses (3) electron-microscopic and EM radio autographic studies of the synthesis and release of hormones produced in the hypothalmus and (4) ultrastructural study of electron-dense particles in the cholinergic synaptic vesicles. The article will also be used in teaching courses in electron microscopy to graduate students and faculty members. Application received by Commissioner of Customs: July 9, 1973.

A. H. STUART,
Director, Special Import Programs Division.

[FR Doc.73-16219 Filed 8-6-73;8:45 am]

UNIVERSITY OF OREGON

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

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

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

Docket Number: 73-00520-33-09300. Applicant: University of Oregon, Department of Chemistry, Eugene, Oreg. 94703. Article: Microcell for T-Jump, gold electrodes. Manufacture: Messanlagen Studiengesellschaft m.b.H., West Germany. Intended Use of Article: The article is intended to be used in a scholarly research study of conformation changes in model biological macromolecules. The article will also be used by graduate and undergraduate students in the pursuit of their respective research projects.

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

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

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

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

A. H. STUART,
Director Special Import Programs Division.

[FR Doc.73-16215 Filed 8-6-73;8:45 am]

UNIVERSITY OF MICHIGAN

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

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

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

Docket Number: 73-00513-33-46040. Applicant: The University of Michigan, Department of Environmental and Industrial Health, 109 South Observatory, Ann Arbor, Mich. 48104. Article: Electron microscope, model Corinth 275. Manufacturer: AEI Scientific Apparatus, Ltd., United Kingdom. Intended Use of Article: The article is intended to be used for research purposes to examine ultrathin sections and freeze etch replicas of biological materials. Specifically, the article will be used to elucidate the structural differences of epidermal desmosomes in normal epidermis and in chemically induced basal cell carcinoma (BCC) (epidermis) of rats as a model system. This study is part of an overall research program to determine the structural and biochemical characteristics of epidermal cancer and to further our knowledge of the epidermal differentiation process. A second research for which the article is intended to be used deals with the general area of subcellular responses to environmental stress. The response of interest in this study is the formation of the autophagic vacuoles (AV), an intracellular organelle which has some enzymatic properties of lysosomes and consists of a series of wholed myelin-like membranes inside of which are trapped components of the cell such as mitochondria, peroxisomes, endoplasmic reticulum, glycogen, etc. In addition the article is to be used for educational purposes in the following courses:

Environmental and Industrial Health (EIH) 536,
Introductory Biochemistry—Biochem 416,
Elements of Environmental Biology EIH 507,
Microbial Etology EIH 576,
Fund. of Instrumental Methods of Chemical Analysis, and
Thesis Research EIH 995.

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

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

Reasons: The applicant requires an electron microscope which is suitable for instruction in the basic principles of electron microscopy. The foreign article is a relatively simple, medium resolution electron microscope designed for confident use by beginning students with a minimum of detailed programming. The most closely comparable domestic instrument is the Model EMU-4C electron microscope manufactured by the Forgflo Corporation. The Model EMU-4C electron microscope is a relatively complex

instrument designed for research, which requires a skilled electron microscopist for its operation. We are advised by the Department of Health, Education, and Welfare in its memorandum dated July 20, 1973 that the relative simplicity of design and ease of operation of the foreign article is pertinent to the applicant's educational purposes. We, therefore, find that the Model EMU-4C electron microscope is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

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

A. H. STUART,
Director, Special Import Programs Division.

[FR Doc.73-16217 Filed 8-6-73;8:45 am]

WEST VIRGINIA UNIVERSITY SCHOOL OF MEDICINE

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

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

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

Docket Number: 73-00475-33-46500. Applicant: W.V.U. School of Medicine, Department of Anesthesiology, Morgantown, W. Va. 26506. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended Use of Article: The article is intended to be used in carrying out experiments on the normal, physiological structure of cells and tissues in regard to the transport and ingestion of macromolecules. In addition, variations in the structure of cells and tissues under experimental pathological conditions will be studied. Special projects include: (1) The passage of protein tracers into skeletal muscle cells during pathological conditions induced by degeneration; (2) immunocytochemical localization of autonomic nervous system proteins; and (3) autoradiographic localization of anesthetic agents at the level of the electron microscope. Studies will be conducted to determine the effect of anesthetic agents on lung cytology and to study the damage of lung tissue resulting from pulmonary edema. The article will also be used for graduate level teaching in various courses depending on students point of origin.

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

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

Reasons: The applicant requires an instrument that allows systematic solution of sectioning problems as an aid in teaching standard techniques in microtomy at the graduate student level. The foreign article provides a knife-edge viewing system consisting of a rotatable microscope and light source, which is equipped with scales for measuring the true angle at the knife edge to an accuracy of one degree, thereby facilitating precise knife angle settings. The article also provides a mobile dual light system which can be positioned in a manner that contributes to accurate adjustment of block face and knife edge alignment, and a wide range of cutting speeds (0.1 to 20 millimeters/second (mm/sec)) which facilitates sectioning in situations involving a large variety of specimens and embedding materials. The most closely comparable domestic instrument is the Model MT-2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Model MT-2B can be provided with a spot illuminator which provides a means for visual inspection of the knife edge and selection of that portion of the edge that is free from defects.

Knife edge angle can be roughly estimated during this inspection. Cutting speeds of the MT-2B range from 0.09 to 3.2 mm/sec. We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated June 22, 1973 that the Sorvall Model MT-2B does not have the capability for accurately measuring the true knife edge angle. HEW further advises that the features of the article which allow systematic variation of sectioning parameters such as the knife edge angle measurement and the dual illumination system are pertinent to the applicant's educational purposes. HEW cites as a precedent its prior recommendation relating to Dockets No. 72-00026-33-46500 and 73-00317-33-46500 which conform in certain particulars to the captioned application.

For the foregoing reasons, we find that the Sorval Model MT-2B is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

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

A. H. STUART,
Director, Special Import Programs Division.

[FR Doc.73-16218 Filed 8-6-73;8:45 am]

Maritime Administration

[Docket No. S-378]

PACIFIC FAR EAST LINE, INC. AND WATERMAN STEAMSHIP CORP.

Notice of Application

Notice is hereby given of the applications of Pacific Far East Line, Inc., as owner and of Waterman Steamship Corp. as charterer for written permission under section 805(a) of the Merchant Marine Act, 1936, as amended (the Act), to subcharter the SS AMERICA BEAR, to be renamed SS JOHN PENN to load a full cargo of bulk barytes at Castle Island, Alaska, for Arnold and Clark Chemical Co. during the period August 5-15, 1973, for discharge at Houston, Tex.

Interested parties may inspect this application in the Office of the Secretary, Maritime Administration, Department of Commerce Building, Fourteenth & E Streets, NW, Washington, D.C. 20230.

Any person, firm or corporation having any interest (within the meaning of section 805(a)) in this application and desiring to be heard on issues pertinent to section 805(a) or desiring to submit comments or views concerning the application must, by close of business on August 9, 1973, file same with the Maritime Administration, in writing, in triplicate, together with petition for leave to intervene which shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief.

If no petitions for leave to intervene are received within the specified time or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Administration will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing has been tentatively scheduled for August 10, 1973, in Room 4896 Department of Commerce Building, Fourteenth & E Streets, NW, Washington, D.C. 20230. The purpose of the hearing will be to receive evidence under section 805(a) relative to whether the proposed operation (a) could result in unfair competition to any person, firm or corporation operating exclusively in the coastwise or intercoastal services, or (b) would be prejudicial to the objects and policy of the Act.

By Order of the Maritime Administration.

Dated: August 3, 1973.

JAMES S. DAWSON, JR.,
Secretary.

[FR Doc.73-16287 Filed 8-6-73;8:45 am]

National Bureau of Standards

COMMERCIAL STANDARDS

Notice of Intent to Withdraw

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 two Commercial Standards CS 125-47, "Prefabricated Homes" and CS 233-63, "Laminated Hardwood Block Flooring." It has been tentatively determined that these standards are no longer technically adequate and revision would serve no useful purpose.

Any comments or objections concerning the intended withdrawal of these

standards 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 September 6, 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.

Dated: July 31, 1973.

RICHARD W. ROBERTS,
Director.

[FR Doc.73-16187 Filed 8-6-73;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[CAP 4C0108]

COMBE INC.

Notice of Filing of Petition for Color Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 706 (d), 74 Stat. 402; 21 U.S.C. 376(d)), notice is given that a petition (CAP 4C0108) has been filed by Combe Inc., 240 Westchester Ave., White Plains, NY 10604, proposing issuance of a color additive regulation (21 CFR Part 8) to provide for suitable and safe use of bismuth citrate as a color additive in cosmetics that are hair colors.

The Environmental Impact Analysis Report (EIAR) and other relevant material have been reviewed, and it has been determined that the proposed use will not have a significant environmental impact. Copies of the EIAR are available in the Office of the Assistant Commissioner for Public Affairs, Rm. 15B-42, or the Office of the Hearing Clerk, Rm. 6-88, 5600 Fishers Lane, Rockville, MD 20852.

Dated: July 26, 1973.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.73-16181 Filed 8-6-73;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

MARYLAND

Notice of Proposed Action Plan

The Maryland Department of Transportation has submitted to the Federal Highway Administration of the U.S. Department of Transportation a proposed Action Plan as required by Policy and Procedure Memorandum 90-4 issued on June 1, 1973. The Action Plan outlines the organizational relationships, the assignments of responsibility, and the procedures to be used by the State to assure that economic, social and environmental effects are fully considered in developing highway projects and that final decisions on highway projects are made in the best overall public interest, taking into consideration: (1) Needs for fast, safe and efficient transportation; (2) public services; and (3) costs of eliminating or minimizing adverse effects.

The proposed Action Plan is available for public review at the following locations:

1. Maryland Department of Transportation
   Headquarters Building
   Friendship International Airport
   Room—Division of Public Affairs
2. State Highway Administration
   Bureau of Highway Information
   Room 307
   300 West Preston Street
   Baltimore, Maryland 21201
3. State Highway Administration District Offices:
   District #1—
   William K. Lee III
   West Road (off Booth Street)
   Salisbury, Maryland 21801
   District #2—
   James M. Wright
   Old American Legion Building
   Morgnec Road
   Maryland Route 291
   Chestertown, Maryland 21620
   District #3—
   M. S. Caltrider
   9300 Kenilworth Avenue
   Greenbelt, Maryland 20770
   District #4—
   Harry J. Pistel, Jr.
   Joppa and Falls Road
   Baltimore Beltway—Exit 23
   Brooklandville, Maryland 21022
   District #5—
   Allen W. Tate
   Patuxent River Administration Building
   Maryland Route 231
   Prince Frederick, Maryland 20678
   District #6—
   John D. Bushby
   1221 Braddock Road
   Maryland Route 49
   La Vale, Maryland 21502
   District #7—
   Thomas G. Mohler
   4 Locust Street
   Frederick, Maryland 21701
4. Maryland Division Office—FHWA
   31 Hopkins Plaza
   Baltimore, Maryland 21201
5. FHWA Regional Office—Region 3
   31 Hopkins Plaza
   Baltimore, Maryland 21201
   (Room 1615)
6. U.S. Department of Transportation
   Federal Highway Administration
   Environmental Development Division
   Nassif Building—Room 3246
   400 7th Street, S.W.
   Washington, D.C. 20590

Comments from intereted groups and the public on the proposed Action Plan are invited. Comments should be sent to the FHWA Regional Office shown above before September 1, 1973.

Issued on July 31, 1973.

RALPH BARTELSNEYER,
Deputy
Federal Highway Administrator.

[FR Doc.73-16212 Filed 8-6-73;8:45 am]

ATOMIC ENERGY COMMISSION

[Docket Nos. 50-315, 50-316]

INDIANA AND MICHIGAN ELECTRIC CO.

Notice of Availability of Final Environmental Statement

Pursuant to the National Environmental Policy Act of 1969 and the United States Atomic Energy Commission's regulations in Appendix D to 10 CFR Part 50, notice is hereby given that the Final Environmental Statement prepared by the Commission's Directorate of Licensing, related to the proposed Donald C. Cook Nuclear Plant, Units 1 and 2, currently under construction by the Indiana and Michigan Electric Company, in Berrien County, Michigan, is available for inspection by the public in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C., and in the St. Joseph Public Library, 500 Market Street, St. Joseph, Michigan 49085. The Final Environmental Statement is also being made available at the Office of Planning Coordination, Executive Office of the Governor, Lewis Cass Building, Lansing, Michigan 48913.

The notice of availability of the Draft Environmental Statement for the Donald C. Cook Nuclear Plant, Units 1 and 2, and requests for comments from interested persons was published in the FEDERAL REGISTER on December 21, 1972 (37 FR 28204). The comments received from Federal, State, local officials and interested members of the public have been included as appendices to the Final Environmental Statement.

Single copies of the Final Environmental Statement may be obtained by writing the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing.

Dated at Bethesda, Md., this 2d day of August 1973.

For the Atomic Energy Commission.

GEORGE W. KNIGHTON,
Chief, Environmental Projects Branch 1, Directorate of Licensing.

[FR Doc.73-16329 Filed 8-6-73;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS ACRS SUBCOMMITTEE ON RANCHO SECO NUCLEAR GENERATING STATION, UNIT ONE

Notice of Meeting

AUGUST 3, 1973.

In accordance with the purposes of section 29 and 182 b. of the Atomic En-

ergy Act (42 U.S.C. 2039, 2232 b.), the Advisory Committee on Reactor Safeguards Subcommittee on Rancho Seco Nuclear Generating Station, Unit One, will hold a meeting on August 22, 1973, in Room 1046, 1717 H Street, NW., Washington, D.C. The purpose of this meeting will be to review the application of the Sacramento Municipal Utility District a license to operate Unit One which is located in Sacramento County, about 25 miles southeast of Sacramento, California.

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

WEDNESDAY, AUGUST 22, 1973, 9:30 A.M.—3:30 P.M.

Review of the application for an operating license (presentations by the AEC Regulatory Staff and the Sacramento Municipal Utility District and its consultants, and discussions with these groups).

In connection with the above agenda item, the Subcommittee will hold an executive session at 8:30 a.m. which will involve a discussion of its preliminary views, and an executive session at the end of the day, consisting of an exchange of opinions of the Subcommittee members and internal deliberations and formulation of recommendations to the ACRS. In addition, prior to the executive session at the end of the day, the Subcommittee may hold a closed session with the Regulatory Staff and Applicant to discuss privileged information relating to plant security and nuclear fuel design, if necessary.

I have determined, in accordance with subsection 10(d) of Public Law 92-463, that the executive sessions at the beginning and end of the meeting will consist of an exchange of opinions and formulation of recommendations, the discussion of which, if written, would fall within exemption (5) of 5 U.S.C. 552(b); and that a closed session may be held, if necessary, to discuss certain documents which are privileged, and fall within exemption (4) of 5 U.S.C. 552(b). It is essential to close such portions of the meeting to protect such privileged information and to protect the free interchange of interval views and to avoid undue interference with agency or Committee operation.

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

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

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

(a) Persons wishing to submit written statements regarding the agenda item may do so by mailing 25 copies thereof, postmarked no later than August 15, 1973 to the Executive Secretary, Advisory Committee on Reactor Safeguards, U.S. Atomic Energy Commission, Washington, D.C. 20545. Such comments shall be based upon the application for an operating license and related documents which are on file and available for public inspection at the Atomic Energy Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20545, and the Sacramento City County Library, 1930 T Street, Sacramento, California 95814.

(b) Those persons submitting a written statement in accordance with paragraph (a) above may request an opportunity to make oral statements concerning the written statement. Such requests shall accompany the written statement and shall set forth reasons justifying the need for such oral statement and its usefulness to the Subcommittee. To the extent that the time available for the meeting permits, the Subcommittee will receive oral statements during a period of no more than 30 minutes at an appropriate time, chosen by the Chairman of the Subcommittee, between the hours of 1:00 p.m., and 3:00 p.m. on the day of the meeting, August 22, 1973.

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

(d) Information as to whether the meeting has been cancelled or rescheduled, and in regard to the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted can be obtained by a prepaid telephone call on August 20, 1973, to the Office of the Executive Secretary of the Committee (telephone: 301-973-5651) between 8:30 a.m. and 5:15 p.m., e.d.t.

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

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

(g) A copy of the transcript of the open portions of the meeting will be available for inspection during the following workday at the Atomic Energy Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20545 and within approximately nine days at the Sacramento City County Library, 1930 T Street, Sacramento, California 95814. On request, copies of the minutes of the meeting will be made available for inspection at the Atomic Energy Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20545 on or after October 22, 1973. Copies may be obtained upon payment of appropriate charges.

JOHN C. RYAN,
Acting Advisory,
Committee Management Officer.

[FR Doc.73-16408 Filed 8-6-73;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 22908; Order 73-7-147]

AMERICAN AIRLINES, INC. ET AL.

Order of Investigation and Interim Approval of a Capacity Reduction Agreement Relating to Four Transcontinental Markets

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 27th day of July 1973.

In the period October 1971-April 1973, nonstop passenger capacity offered by American, TWA and United (hereafter the "agreement carriers" or "applicant") was limited by a Board-approved capacity agreement in four markets: New York/Newark-Los Angeles; New York/Newark-San Francisco; Baltimore/Washington-Los Angeles; and Chicago-San Francisco (hereafter the "agreement markets").[1] In February 1973 the agreement carriers requested Board approval of discussions looking toward extension of their capacity agreement in the agreement markets. By Order 73-4-98, the Board authorized those discussions.

The discussions were held, and on May 24 a new agreement (hereafter "the agreement") was submitted to the Board. In basic outline the agreement is much the same as the previous one. As in the case of the agreement's predecessor, each of the three agreement carriers is allotted a level of capacity that it ordinarily may not exceed in the agreement markets. Allotments are on a city-pair market basis (Baltimore/Washington and New York/Newark each being treated as one city) and maximum capacity varies by season of the year. (See Appendix A)[2]

Nineteen parties filed comments in respect to the agreement.[3] The Virginia and Washington, D.C. parties support the agreement without qualification. The Port Authority of New York and New Jersey also asks that the agreement be approved. The Chicago and Maryland parties oppose the agreement, as do the Department of Justice, DOT, the Postmaster General, and, in general, all commenting carriers other than the applicants. The Air Line Pilots Association seeks an immediate hearing.

For reasons we shall discuss below, the Board has determined to (1) hold a hearing on the agreement; and (2) approve the agreement on an interim basis, for six months or until the conclusion of the hearing proceeding, whichever is first.

I. At the outset, the Board rejects the argument that the agreement must be disapproved—without a hearing—because of its antitrust implications. The Act, of course, favors "competition to the extent necessary to assure the development of" an economically sound air transportation system (49 U.S.C. 1302 (d)). Accenting the pro-competition as-

[1] See Orders 71-8-91 and 72-11-6. The original agreement expired in September 1972, but was extended by Order 72-11-6.

[2] Filed as part of the original document.

[3] The three applicants (American, TWA, and United), Braniff, Continental, Delta, Northwest, the National Air Carrier Association, the Air Line Pilots Association, the Environmental Defense Fund, the City of Chicago, the Fairfax County Economic Development Authority, the Maryland Department of Transportation, the Metropolitan Washington Board of Trade, the Port Authority of New York and New Jersey, the State Corporation Commission of Virginia, the Department of Justice, the Department of Transportation ("DOT"), and the Postmaster General. The Environmental Defense Fund's comments are in the form of a Petition for the preparation and circulation of an environmental impact statement.

pect of this mandate, the agreement's opponents say that if the agreement carriers want to continue reduced capacity in the agreement markets, they are compelled to rely exclusively upon unilateral restraint.

Under the Act, the Board is not permitted to take such a dogmatic approach. Our statute recognizes that free competition is not a categorical imperative. In fashioning the Act Congress determined that the air transportation industry could not operate successfully if left wholly subject to the forces of the open market place. The Board was therefore given extensive regulatory powers and told to consider "competition to the extent necessary" as one, but only one, of several policy objectives. Being granted the right to confer antitrust immunity, the Board was clearly empowered to approve agreements which would otherwise violate the antitrust laws. By the same token, the Board was enjoined to give weight to pro-competitive considerations in its decisions. Put another way, when (as here) an agreement is challenged as contrary to the antitrust principles, the Board is called upon to judge whether pro-competition objections are outweighed by a serious transportation need, or by the need to secure important public benefits. See Local Cartage Agreement Case, 15 C.A.B. 850, 852–53 (1952).

In the past, the Board has been reluctant to authorize capacity or schedule limitation agreements. Where the Board believed that individual carriers could control schedules or capacity by unilateral action, the Board regarded this course as preferable and could not conclude that a serious transportation need outweighed the anti-competitive effects of multilateral agreements. But where individual carriers could not solve capacity or schedule problems unilaterally, the Board has authorized discussions and resulting agreements of a limited nature.

When this agreement's predecessor was presented, its sponsors noted developments which, they believed, justified a more permissive policy towards capacity agreements. The Board, however, concluded that the agreement was of such short duration and scope that it constituted only a "limited departure" from the "normal" policy. Because of this, the Board did not feel required to institute a proceeding that would provide for a full scale reexamination of past policy.

However, the time is now ripe for such a proceeding. The Board has embarked upon a comprehensive program to encourage and develop an economically sound air transportation system which can assure high quality service to the consumer at the lowest reasonable fares. During most of the last 15 years, the airline industry's financial results have been generally disappointing, with cyclical periods of large losses, investor disenchantment, and fare increases. Recognizing the interdependence of rate and route matters, the Board hopes to create a milieu in which responsible airline management can stabilize economic conditions, avoid wasteful practices, and pass along to rate payers the benefits of new technology. The question is whether our policy towards capacity reduction agreements should be reevaluated to determine whether such agreements can or should play a part in the Board's overall program.

A keystone of our current approach is a new ratemaking policy designed to promote low-cost air transportation. In the Domestic Passenger-Fare Investigation (DPFI), Phase 6B, the Board determined that it would not allow airlines to charge the public for excess capacity, and would henceforth establish fares on a basis that disregards the costs of those wasteful practices. Obviously, for this Board policy to succeed, carriers must have an opportunity to hold the line against the operation of wasteful overcapacity so that they can bring their actual costs into line with those which the Board will recognize for ratemaking purposes.

In some regulated industries, the regulatory agency can enforce its ratemaking proscriptions against wasteful overcapacity through its control over capacity additions. For example, some agencies are empowered to license all new capacity and can withhold approval for excessive plant additions; other agencies can refuse to permit new financing which would be used to underwrite uneconomic plant additions. Because the Board lacks these powers, it is forced to rely upon fare policy and voluntary carrier efforts to curb excess capacity. The present carrier agreement represents one form of such a voluntary effort and, its sponsors contend, is necessary to help them conform their route operations to the Board's new ratemaking standards.

In the long run, the Board believes that individual carriers can tailor their aircraft purchases so that schedules can be operated at economic load factors. This view, which underlies the Board's past attitude towards capacity controls, has led the Board to approve capacity agreements only for very temporary periods. According to the agreement carriers, however, inhibitions to unilateral actions may persist for the moderate near term. The carriers have already acquired large fleets of aircraft whose capacity exceeds the available traffic needs. In the latter part of the 1960's, when future traffic was almost universally overestimated, the carriers ordered many new aircraft, particularly widebodied types which offer so many seats that their schedules cannot easily be fine-tuned to traffic demands. Concurrently, the passenger traffic (on which the carriers depended to fill their new planes) failed to grow as expected. According to the agreement carriers, the carriers' introduction of the excess new aircraft on highly competitive routes (such as the agreement markets) can hinder any one carrier's ability to reduce excess capacity by unilateral action.

Earlier we noted that—when the Board approved the present agreement's predecessor—it was dealing with a "limited" agreement which did not compel the Board to reexamine past policy, particularly without a hearing. In addition, the Board was faced with vigorous contentions that the predecessor agreement would harm nonparties. Although the Board was unconvinced by these assertions, its predictions about the future operations of the agreement were necessarily somewhat conjectural at that time. As actual experience with the agreement accumulated, however, it began to become evident that no such disastrous consequences as had been predicted by the objectors had in fact come to pass. In addition, it appeared that the agreement, at least on the short-term basis approved to date, has also had a favorable financial impact on the agreement carriers without having a demonstrably unfavorable adverse effect on non-agreement carriers or on service to the traveling public.

In addition to these factors, since the issuance of Board orders in respect to the previous capacity agreement, it has become increasingly apparent that all practicable steps must be taken to conserve the nation's energy resources. It appears that capacity limitation agreements such as the one here at issue can effect significant fuel savings.

Accordingly, in Order 73–4–98, the Board authorized discussions looking towards an agreement like the one filed. Nonetheless, as discussed above, Board approval of the agreement for its proposed two-year term would constitute an important step. Moreover, the Board wishes to make this agreement a vehicle for a thorough policy reevaluation. For these reasons, the Board has decided that the agreement should be fully examined in an evidentiary hearing.

Accordingly we are setting down for hearing the question of whether the agreement is adverse to the public interest or in violation of the Federal Aviation Act of 1958. As specified in the subsequent pages of this order, the issues at the hearing shall include all those raised by the Board, the objecting parties, and the agreement's sponsors, as well as a searching analysis of the agreement's environmental impact.

II. Having decided to hold a hearing on the agreement, the Board must face the question whether to allow the three carriers to continue an agreed-upon reduction of capacity on a provisional basis. This is not a case where interim approval will allow the parties to change their operations radically and thus to put a new policy into effect before its propriety has been determined. On the contrary, since late 1971 the three carriers have reduced their capacity in the agreement markets pursuant to the Board's approval of this agreement's predecessor. The sole function of interim approval would be to enable the carriers to maintain the legal status quo pending further Board action.

The Board has considered whether action other than interim approval would be preferable. One possibility is to take

no action at all and to trust that the carriers, acting unilaterally, could not only avoid the reinstitution of wasteful capacity, but actually achieve the higher load factors contemplated by the new agreement. But, as noted later, this appears unlikely, at least during the months immediately ahead. Indeed, one of the applicants has already begun to add capacity in the agreement markets. In May 1973 (the month following the end of the previous agreement), United increased the capacity it operated in the agreement markets by an average of 16 percent over the previous month.[4] (See Appendix B.)[5] A refusal by the Board to approve the agreement for an interim period could thus have at least some appreciable deleterious effects on the nation's fuel conservation program, on the environment, and on the finances of the agreement carriers.

Another alternative would be for the Board to attempt to revive the predecessor agreement, now expired, and approve its extension to govern the interim period. We recognize, of course, that the new agreement differs in some respects from its predecessor. But the differences are not great, and a Board order requiring the carriers to duplicate the prior agreement would require further discussion among the carriers, might possibly prevent agreement among the carriers, and, in any event, would delay implementation of the agreement.

In sum, for reasons touched upon above, and as will be more fully discussed below, the facts presently available to the Board indicate that a refusal by the Board to permit the agreement to be implemented may have a net detrimental effect on the public interest. We are not persuaded that short-term interim approval—and maintenance of the legal status quo—will have any serious injurious effects. But even assuming for the sake of argument that such effects could occur, we believe it probable that they will be considerably less significant, and more easily remedied by subsequent Board action, if necessary, than the adverse effects that might result from Board inaction on, or disapproval of, the agreement at this time.[6]

The Board will limit its interim approval of the agreement to a six-month period in order to enable the Board to reevaluate the agreement in the light of the additional information then available.

III. Our decision to grant interim approval is justified by available information indicating, at least provisionally, that the agreement can achieve important public benefits in the months ahead in two areas—improved financial results for the agreement carriers and fuel savings.

A. It appears that the previous agreement led to substantial cost savings by the agreement carriers (see Appendix C)[7] and commensurate profit increases. In respect to the proposed agreement, the extent of the cost savings that may be achieved during the period of our interim approval depends on several possible assumptions.

One assumption is that, if interim approval is denied, the carriers would not restrain capacity unilaterally in the agreement markets and, consequently, would drift back into the excessive capacity in pre-agreement days. If that occurred, the carriers' load factors would sink from the 60 percent level contemplated by the agreement to the 42 percent level which prevailed before this agreement's predecessor came into effect. As detailed in Appendix E,[7] that would result in additional monthly costs of about $7 million. Even if load factors in the agreement markets fell to only 53 percent—the agreement carriers' domestic systemwide average—the additional monthly costs would approximate $2 million.

An alternate assumption would be that the agreement carriers would exercise unilateral restraint and would not permit their load factors in the agreement markets to fall below the levels already achieved,[8] or might even raise those levels somewhat. Nevertheless, it is not likely that during the interim period they could raise their load factors in these markets from the achieved average level of 54 percent to the 60 percent level contemplated by the new agreement. Even assuming that the carriers could in this space of time achieve one-third of the contemplated gain in agreement market load factors (e.g., by freezing present capacity in the face of normal traffic growth), their monthly costs would still exceed those achievable under the agreement by $1 million.[9]

The above assumptions frame the range of possible cost savings attributable to the agreement during the period of our interim approval. Thus pending examination of these assumptions at the hearings, the Board believes that it is reasonable to assume at this time that the agreement will produce costs savings of at least $1 million a month and possibly substantially more.

Thus available information shows that the agreement will materially help in the improvement of the finances of the agreement carriers specifically and thus of the air transportation system generally.[10] None of the three carriers is financially on the ropes. They are, however, emerging from a period of dismal operating results. This agreement's predecessor appears to have been a significant factor in the carriers' recovery. Although some parties argue that the agreement carriers have clear sailing ahead, the most recent information suggests continued cause for concern. Indeed, one of the three carriers is now predicting resumed losses. Rather than attempt to determine in the abstract what significance should be attached to this announcement, or to the other two carriers' complaints that their profits are "softening," the Board believes the matter should be evaluated in the context of the full scale evidentiary hearing. Meanwhile, the Board can continue the legal status quo in the agreement markets.

In the Domestic Passenger Fare Investigation, Phase 8, the Board decided to set a reasonable rate of return on investment of 12 percent (up from an earlier target of about 10½ percent). The Board believes that interim approval is especially appropriate because, by either ratemaking standard, none of the three carriers has earned a reasonable return on investment since 1967 (and in that year only United did):

RATE OF RETURN, 1967-1972

	1967	1968	1969	[1] 1970	[1] 1971	[1] 1972
American	8.77	6.66	7.06	0.34	3.39	3.38
TWA	7.96	6.09	6.07	−2.98	2.84	5.86
United	10.39	6.04	6.71	0.61	2.42	6.30

[1] On system operating investment.

The year 1973 will not bring a change in this pattern. Based on the most current information available to the Board, including the three carriers' reported 1973 earnings to date and current passenger yields, the agreement carriers will not attain a fair return on investment.[11]

B. Fuel savings can be another important advantage resulting from the agreement. The President, noting America's "serious energy problem," made fuel conservation a national priority. In fact, the President stated that "* * * I have directed the Secretary of Transportation to work with the Nation's airlines, the Civil Aeronautics Board, and the Federal Aviation Administration to reduce flight speeds and, where possible, the frequency

[4] According to reports filed by the agreement carriers, United's capacity increases continued into June (even taking account of seasonal changes.)

[5] Filed as part of the original document.

[6] The Board will at all times be in a position to modify the agreement, or terminate it, if conditions so warrant.

[7] Filed as part of the original document.

[8] The agreement carriers' average load factors in the agreement markets for the year ended June 30, 1973, were 54.1 percent.

[9] See Appendix E. These estimates are predicated on the assumptions that (a) the agreement carriers will not increase their capacity in other markets to any substantial extent—or, at least, more than they would do so in any event (see p. 12, infra); and (b) that the equipment mix in the agreement markets, with or without the agreement, will be approximately the same as during the course of the prior agreement (see Appendix D which is filed as part of the original document).

[10] In 1972, American, TWA, and United operated 52 percent of revenue passenger miles flown by the trunkline industry domestically.

[11] Excludes most nontransport investment and nontransport profits or losses. 1967-1969 rate of return figures are not available on this basis.

[12] It is the Board's expectation that, as a result of the agreement, the carriers will earn in excess of the Board established 12 percent reasonable rate of return in the agreement markets. However it has been generally believed that in order for carriers to be able to earn a reasonable rate of return, carrier profits in some markets have to be considerably above that level in order to offset below-par profits or losses in other markets.

of commercial airline flights." (See the President's Energy and Natural Resources message of June 29, 1973, 9 Presidential Documents: Richard Nixon, 1973 at 867, 872.)

Consequently, there can be no argument that actions that will economize the nation's fuel resources must be considered a public benefit. In this respect it is the Board's provisional estimate that implementation of the agreement will, on the average, result in fuel savings of between 1 million and 5 million gallons a month.[13]

It is no answer to say, as some of the agreement's opponents do, that fuel savings can be derived from other actions. The carriers should seek through all possible means to conserve as much fuel as possible. At the hearings, the parties will be expected to explore the risk that fuel shortages can disrupt flight operations. And they should attempt to determine whether schedule reductions, reductions in cruising speed, and other steps, taken together or separately, will be ample to avoid the possibility of such operational disruptions—or to ease fuel shortages in other areas of the economy. Meanwhile, the Board believes that it can conclude provisionally that fuel savings of the magnitude promised by the agreement are of real public benefit.

IV. A number of opposing parties acknowledge that the above benefits will indeed flow from the implementation of the agreement. They and the other parties opposing approval nonetheless argue against approval on the grounds that the problems the agreement would engender outweigh those benefits, and that there are alternative means of achieving the benefits the agreement would provide. Final resolution of these arguments will best be made in the course of the hearing proceeding. However, presently available facts persuade us, for purposes of interim action on the agreement, that any detrimental effects of the agreement likely to occur during the period of interim approval will be outweighed by the agreement's benefits during such period, and that the alternative actions various parties put forward as substitutes for Board approval of the agreement would not provide the benefits that will result from interim approval of the agreement.

To begin, we turn to contentions related to the agreement's alleged effects on service.

A. The City of Chicago is the only party to complain in terms about the extent of the passenger capacity reduction that would stem from the agreement. Chicago argues that: (1) Under previous Board orders, 65-percent load factors were an indication of a need for new service rather than appropriate goals; and (2) the target load-factors of the agreement are inconsistent with the Board's 55-percent load-factor standards.

The agreement carriers originally sought to achieve an agreement that provided for 65-percent load factors. As submitted to the Board, however, the agreement will result in load factors in the agreement markets of about 60 percent initially, and 63 percent by summer 1974.[14] In the past, the Board has considered load factors in the 65-percent range as one evidentiary factor in deciding whether new service was needed. The Board, however, is in the process of re-evaluating its criteria as to what load factors indicate a need for new service. Further, the issue of appropriate load-factor goals for agreement markets will be considered at the hearing. In the meantime, we have not been shown that 60 percent load factors will result in inadequate service for travelers in the Chicago-San Francisco market.[15] While we believe that also holds true with respect to the 63 percent load factors forecast for the summer months of 1974, that need not be resolved here in view of the limited period of our approval.

In regard to the variance between the agreement's load factor goals and the Board's load-factor standard, that standard is intended as an average for all markets. In order for that overall standard to be attained, it is evident that some markets will have to have higher load factors, some lower. The Board's decision in the Domestic Passenger-Fare Investigation, Phase 6B, made this plain. In this same connection, we note that in arriving at the 55-percent load-factor standard, the Board's computation took into account an adjusted load factor for the Chicago-San Francisco market of 65 percent. (Order 71-4-54, App. C.)

B. The City of Baltimore opposes the agreement on the ground it has resulted in insufficient service to Friendship Airport vis-a-vis service at Dulles International. (The agreement treats Baltimore and Washington, D.C. as one point.) The applicants and several Washington, D.C. and Virginia parties disagree.

On the facts before us we are unwilling to order the agreement carriers to add capacity at that airport. The ratio of Dulles versus Friendship flights in the the Baltimore/Washington-Los Angeles market (the only agreement market involving Baltimore/Washington) does not appear out of line with comparable ratios in other markets, and the level of service in the Baltimore/Washington-Los Angeles market appears satisfactory. For example, the percentage of flights operated at 95-percent load factors generally has been lower in the Baltimore/Washington-Los Angeles market than any of the other three agreement markets.[16] However, we agree that the hearing we have ordered should deal with the question of whether the agreement ought to be conditioned with respect to minimum levels of service at Friendship.[17]

C. DOT argues that if the Board approves the agreement, it should condition its approval to require lower fares in the agreement markets. In a similar vein, the city of Chicago also states that approval of the agreement should result in lower fares in the Chicago-San Francisco market. We are putting into issue in the hearing the question of whether the agreement should affect fares. But we cannot conclude at this juncture that requiring such fare reductions would be warranted. One problem is that lower fares in the agreement markets might have ripple effects throughout the air transportation system, perhaps unduly affecting non-agreement carriers. Further, as previously stated the near-term profits of any of the agreement carriers are unlikely to reach, much less exceed, the Phase 8 rate of return.[18] Finally, the Board has explained that the fact that load factors in the agreement markets will be higher than average domestic load factors is not inconsistent with the Board's passenger fare policies. (See n. 9 and pp. 9-10, supra.)

D. The Postmaster General urges that we condition approval of the agreement on the retention by the agreement carriers of a number of existing flights that are considered important for the carriage of mail. As the agreement carriers point out, only one of the flights will be directly affected by the agreement. We are cognizant of our responsibilities under sections 412 and 102(a) of the Act, insofar as they relate to the needs of the Postal Service. However we cannot conclude that the possibility that the implementation of the agreement will affect one flight of interest to the Postal Service warrants action in an interim order of approval.

V. The agreement does lessen capacity competition, and we consider that the agreement's impact on competition is an important factor in public interest and accordingly must be weighed in the Board's evaluation of whether the agreement meets the standards of section 412 of the Act. In evaluating the weight to

[13] See Appendix F which is filed as part of the original document. The variables which determine fuel savings are essentially the same as those which determine cost savings. For the Board's tentative conclusions on these points, see page 6 supra. Fuel savings are also discussed on page 15 infra.

[14] See Appendix A.

[15] For the period November 1972–May 1973 (the period for which figures are available) relatively few flights in the agreement markets operated with all seats filled. See Appendix H. While load factors will be higher under the interim agreement, we do not expect that the percentage of such flights will increase substantially. We note that passengers in the agreement markets generally have had fewer complaints about the service they received than passengers traveling on the agreement carriers in other markets. See Appendix G. It should also be noted that the agreement permits the carriers to add extra sections and use larger aircraft on an ad hoc basis where demand so warrants. See Appendix A.

[16] See Appendix H which is filed as part of the original document. See also Appendix G for a tabulation of passenger complaint figures in the Baltimore/Washington-Los Angeles market.

[17] The Port Authority of New York and New Jersey, while favoring approval of the agreement, exresses concern about operations to and from Newark, and asks for reporting conditions in this respect. As we shall discuss below, the Board has determined to adopt in large part the Port Authority's proposed conditions.

[18] See p. 7 supra.

be given to this factor, however, we believe that the following matters are appropriate for consideration.

First, competition in the form of excess capacity is an expensive and wasteful form of competition in the air transportation industry. Further, excess capacity generally is of marginal or no utility to the traveling public.

Second, as a result of its form, the agreement affects maximum capacity levels, but over the period of our interim approval it should not lessen the incentive of each carrier member to gain traffic at the expense of its fellow agreement members. For this reason it is our judgment that interim approval of the agreement will have minimal impact on the agreement carriers' concern for providing service that is attractive to the public.[19]

Third, noncapacity forms of competition between the agreement carriers appear to have continued unabated. There has been no showing, in other words, that the prior agreement led the carriers to settle down into a comfortable status quo. For example, since the Board first approved the prior agreement, the following have occurred: (a) United began offering travel group charter service at prices that have enabled travelers to travel in several of the agreement markets at prices far below scheduled fares. (b) TWA began offering low fare ninety-day advance-purchase transportation in the three transcontinental agreement markets. (American and United both opposed TWA's tariff filing.) American, but not United, followed suit. (c) American first, and subsequently TWA, began offering one-stop night coach service in several of the agreement markets. (Both United and TWA opposed American's night coach tariff filing. American opposed TWA's.)

We have no reason to believe that interim approval of the agreement now before us will have a different competitive impact than did approval of the prior agreement.

VI. Various parties argue that the agreement will permit the agreement carriers to add capacity in non-agreement markets, to the detriment of competing carriers in those markets. Those parties also point out that the use of capacity freed by the agreement would to a large extent nullify the intended benefits of the agreement. We have not been shown that the past capacity agreements had any causative effect on the capacity offered by the agreement carriers in other markets. Any large scale shifting of capacity would require our reconsideration of our interim approval of the agreement, and we have retained jurisdiction over the agreement with this matter, among others, in mind.[20]

Several parties have asked that our approval of the agreement be conditioned upon the acceptance by the applicants of reporting requirements by which the applicants would account for the use made of capacity freed by the agreement. However, no party has proposed how such a reporting requirement should be fashioned, and the applicants argue that there is no practicable way to provide that kind of accounting. It would appear that a reporting condition concerning freed capacity could be useful to an evaluation of the merits of the agreement, even if the data thereby produced were not necessarily definitive. The Board does not now have sufficient information, however, to be able to formulate a requirement of that nature that would be both effective and within the ability of the applicants to meet without incurring excessive added costs. Accordingly, the Board will be receptive to petitions for reconsideration that put forth suggested freed-capacity reporting conditions.

VII. The Justice Department and Department of Transportation argue that load factors can be best increased by permitting greater price competition between carriers, by the formulation of a cost-based fare structure, and by the establishment of higher load factor standards and a concomitant decrease in the fare level.

The Justice Department recognizes, in respect to its price competition argument, that the question whether the Board should permit greater price competition among carriers, and, if so, the appropriate extent of that competition, is squarely an issue in Phase 9 of the Domestic Passenger Fare Investigation and will be decided in that proceeding on the basis of the record therein.

In respect to the claim that the Board should increase load factors through the use of load factor standards for ratemaking purposes and by revision of the current fare structure, those also are issues pending in the Fare Investigation.

Further, even assuming, arguendo, that DOT's fare proposals would be a viable alternative course of action in respect to increasing load factors in the agreement markets to the level that will obtain under the agreement, the agreement would still be far more effective during the immediate future in reducing fuel consumption than would Board fare action. Fuel use is a function of aircraft use. The agreement can lead to reduced aircraft use. A fare reduction, on the other hand, would increase load factors in large part by attracting more traffic. Aircraft use might decline very little and, in fact, might even increase, depending upon elasticity of demand.

VIII. Other objections do not preclude interim approval. To be sure, DOT argues that the agreement would violate the ongoing price freeze. However the agreement does not go into effect until the freeze ends (even assuming the agreement would otherwise be in violation of the price freeze). Indeed, the Cost of Living Council has proposed regulations for the post-freeze period that would exempt air carriers from Phase IV controls. (38 FR 19464, 19472 (July 20, 1973).)

The Air Line Pilots Association expresses concern about the effect of the agreement on employees. ALPA seeks a hearing on the agreement, however, not disapproval; and a hearing will be held. Insofar as interim approval is concerned, it would appear that the effect of the agreement on employees for the relatively short period our interim approval will be in effect will be very limited. We thus conclude that the impact of the agreement on employees, together with the other adverse effects of the agreement, will not outweigh the beneficial aspects of the agreement during the period of our interim approval.

IX. The Environmental Defense Fund and DOT argue that Board action on the agreement would amount to "major" Federal action "significantly affecting the quality of the human environment" within the meaning of section 102 of the National Environmental Policy Act ("NEPA"). The Board agrees that Board action on the agreement might well fall within that standard. That, in turn, raises difficult questions. Plainly a full environmental impact statement (or perhaps, a negative statement) would be useful in considering even interim action on the agreement. On the other hand, as we shall discuss below, on the basis of the limited data now available it appears that the effect of the agreement on the environment will be almost wholly beneficial.[21] It is by no means clear that NEPA's requirement for an environmental impact statement applies in such a case.[22] More importantly, avail-

[19] DOT argues that the agreement lessens the incentive of each agreement carrier to compete for passengers since, with capacity fixed, gains in passengers means more flights filled, which in turn means that prospective passengers will turn back to the other two carriers. We do not agree with DOT's reasoning. An airline's share of the traffic may be appreciably greater or less than its share of the capacity operated in the markets. Further, the available evidence shows that agreement carriers work hard to gain traffic in the agreement markets. Finally, even assuming that DOT's reasoning would be valid in the case of a two-year agreement, we are here approving the agreement for a lesser, interim period.

[20] See also Order 73-4-98, at 5. Complaining carriers will, of course, have the opportunity to present evidence at the hearing and cross-examine witnesses in respect to the use made by the agreement carriers of capacity freed by the agreement. The hearing is also the place to take evidence on the suggestion that freed capacity cannot be effectively traced. There has been some claim that the agreement carriers will be in a position to compete unfairly as a result of the financial gains resulting from the agreement. That argument appears unsound on a number of counts. Unfair competition is not a function of profitability, and in any event other carriers are more profitable than the agreement carriers. Further, the Board will be in a position to deal with such matters as they arise.

[21] DOT suggests that the agreement could possibly have a detrimental impact on the environment if it were to cause a substantial increase in one-stop and multi-stop operations in the agreement markets. However, there has been no showing that the agreement is likely to have that effect.

[22] See, *e.g.*, Howard v. E.P.A., 4 E.R.C. 1371 (W.D. Va., Sept. 1972). Compare Council on Environmental Quality Guidelines, section 5(c), 36 FR 7724 (1971).

able facts show that any delay by the Board in acting on the agreement in order to prepare, circulate and finalize an environmental impact statement could itself have a detrimental impact on the environment.

Because of this, and because the introductory language of section 102 recognizes that agencies may find themselves in circumstances in which all the usual requirements of section 102 of NEPA cannot be met, we have determined to issue this interim order of approval without awaiting the completion of an environmental impact statement. However the procedures set forth in § 399.110 of the Board's Policy Statement ("Implementation of the National Environmental Policy Act of 1969") will be followed in the hearing proceeding we are ordering. Moreover, because of the likelihood that final Board action in this proceeding would have a significant impact on the quality of the human environment, we are directing the Director, Bureau of Operating Rights, to have prepared a draft environmental impact statement for consideration at the hearing. The draft statement will be circulated for the consideration and comment of the parties, other environmentally concerned Federal agencies, and other interested persons, at least 15 days prior to the hearing date.

In respect to the probable impact of the agreement on the environment, we have already discussed the fuel savings that could result from implementation of the agreement. As indicated in the proposed guidelines recently issued by the Council on Environmental Quality [23] fuel savings can be deemed to be beneficial to the quality of the human environment.

Secondly, the agreement could result in a decrease in aircraft operations on the part of the three agreement carriers. That, in turn, can have a salutary impact on noise pollution (see Appendix I) [24] and can decrease the generation by the agreement carriers' aircraft of air pollutants in and around the agreement market airports. (Id.)

Thirdly, while it is not clear that approval of the agreement will necessarily lessen airport congestion and the air pollution and noise that results therefrom, it is reasonably clear that disapproval of the agreement might well add to airport congestion.[25]

We are not aware of any significant adverse secondary effects that would accrue from Board approval of the agreement on an interim basis, although this matter will undoubtedly be dealt with in the impact statement to come out of the hearing process. In markets of such great traveling distance, the Board believes it is unlikely that implementation of the agreement will result in a significant increase in persons traveling by surface vehicle. But even if that would be the case, and an increase in the quantity of pollutants would thereby occur, the increase would appear to be de minimis.[26]

We know of no alternative action that would achieve the same level of environmental benefits that will result from the agreement during the period of our interm approval.[27] However, we do note that the agreement before us has not been drafted to provide maximum environmental benefits. For example, the agreement might result in greater environmental benefits if it provided for the operation of less capacity than does the present order, and, perhaps, if the "standard seating configurations" used in the agreement were varied.[28] However, these matters, which raise highly complex issues of fact and judgment, are more appropriately left to the hearing.

X. In accordance with the comments of the Port Authority of New York and New Jersey and the City of Chicago, the agreement carriers will be required to continue the reports they submitted pursuant to our prior capacity orders, with the following changes: (1) Figures for monthly totals [29] should be broken out by airport, in the case of Baltimore/Washington and New York/Newark and, in respect to the Chicago-San Francisco market in terms of flights to and from San Francisco International, on the one hand, and Oakland and San Jose, on the other; and (2) the carriers' 95-percent reports [30] should list the flight number of each flight that departed with 95 percent or more of its seats filled.

XI. The Board has accumulated considerable data on the workings of capacity limitation agreements in the agreement markets as a result of the agreement that was in effect from October 1971 to April 1973. However, factual gaps remain, particularly in the environmental area. It is the Board's hope that those gaps will be filled by the evidence adduced at the hearing we are ordering.

Recognizing that the present agreement is of limited duration, the Board intends to make every effort to see that the evidentiary hearing is concluded speedily. Nonetheless, Board inaction on the agreement, pending conclusion of the hearing, would not be neutral. Rather, as explained, it would appear that such inaction could have a net detrimental impact on the air transportation system, on the nation's fuel conservation program, and on the environment. Accordingly, we are approving the agreement on an interim basis.[31] We emphasize, however, that should circumstances upon which our interim approval is based change, or if additional facts come to light that call into question the predicates for our action, we shall be in a position to take whatever action in respect to the agreement may be appropriate. In the meantime, the reports filed by the carriers pursuant to Board-imposed reporting conditions, other periodic reports submitted to the Board, and the additional information which will become available in the hearing proceeding, will enable the Board and its staff to monitor the effects of the agreement closely.

XII. The evidentiary hearing the Board is here ordering is of major scope and considerable complexity. Nonetheless, we will instruct the Board's staff and the Administrative Law Judge assigned to the case that we expect it to be commenced and processed as a matter of the highest priority and with the utmost expedition consistent with a fair opportunity for all interested persons to be heard. We furthermore expect the cooperation of all parties, particularly the applicants, in seeing that every stage of the case is thus expedited. If necessary, the time demands of other Board proceedings will have to give way to the urgency of this one. Our goal will be to have all the essential evidence submitted prior to the time our six-month interim approval expires. The Board is making no present commitment to extend its interim approval of the agreement beyond this six-month period. If it is necessary for the applicants to seek extension of this interim approval, the Board will expect parties to file briefs based on the record compiled as of that date. Whether or not the Board will extend its approval, if necessary, will depend not only upon the data then available but also upon how forthcoming the parties have been with their evidence and arguments.

Accordingly, it is ordered, That:

1. The joint application of American Airlines, Inc., Trans World Airlines, Inc., and United Airlines, Inc., for approval of an agreement be and it hereby is set for hearing before an Administrative Law Judge of the Board, at a time and place to be hereafter designated.

2. The issues at the hearing shall include (but not be limited to) the following:

(a) The effect of the agreement on the traveling and shipping public and the Postal Service.

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[23] 38 FR 10856 (May 2, 1973).

[24] Filed as part of the original document.

[25] O'Hare, Los Angeles International, Kennedy, and San Francisco International airports are among the busiest in the country. By airport congestion, we refer to congestion caused by too many aircraft. We are unaware of any facts indicating that the agreement will have a perceptible impact on passenger congestion or surface vehicle congestion at or near the airports.

[26] See also Office of Emergency Planning Study entitled, "The Potential for Energy Conservation" (October, 1972) at page ii and Appendix C.

[27] See, in this regard, p. 13, supra.

[28] See Appendix J.

[29] See Appendix to Order 72-4-63.

[30] See Order 72-11-6, at p. 6, Ordering Paragraph 1(b).

[31] The Board will deny Continental's request to withhold approval until after that carrier completes negotiations looking towards capacity limitation agreements in the Chicago-Los Angeles and Chicago-Denver markets. The Board has no reason for assuming that the three transcontinental carriers will not act in good faith towards Continental and other carriers if the transcontinental agreement is approved. The Board's retained power to further condition or withdraw its approval of the transcontinental agreement is a sufficient safeguard in this respect.

(b) The effect of the agreement on the health of the nation's air transportation system.

(c) The effect of the agreement on competition between carriers generally, and between the applicants in the agreement markets, specifically.

(d) Whether the agreement will reduce aviation fuel consumption, and the importance of any such reductions.

(e) If approval of the agreement would achieve public interest benefits, whether such benefits could be better achieved through practicable alternative means.

(f) Whether the load-factor goals of the agreement are appropriate, and, if not, what the load factor goals should be. Whether such goals should vary on a city-pair, or airport-pair, basis. To what extent should load-factor goals be left to the discretion of the agreement carriers.

(g) Whether the Board should condition the agreement in respect to schedule spread.[32] Could such condition be imposed without also allowing the carriers to agree among themselves as to schedules. Should the Board condition the agreement in respect to the allocation of flights between airports at multi-airport points (Friendship/Dulles and Kennedy/Newark).[33]

(h) Should there be *ad hoc* fare adjustments in the agreement markets to reflect the economic impact of the agreement.

(i) If the agreement should be approved, what conditions, if any, should be imposed on the agreement carriers.

(j) What would be the effect of the agreement on airline employees. What impact would that have on the public interest. Should labor protective conditions be imposed.

(k) What would be the environmental impact of the various possible Board actions in respect to the agreement.

3. Pending final Board action upon conclusion of the aforesaid hearing, or until March 15, 1974, whichever occurs first, the joint application be and it hereby is approved subject to the following conditions:

(a) Within 15 days after the end of each calendar month each applicant shall submit to the Docket Section three copies of a report in the form required by Order 72-4-63, stating for each total market affected by the agreement (including satellite airports in each market)[34] and for each flight flown therein (including extra sections), by flight number, departure time and aircraft type, the revenue passengers carried, number of seats flown, and load factor for each day of the week and for the month; and as an attachment to that report, each applicant shall report the number of times an aircraft being operated in any of the four markets departed with 95 percent or more of its seats filled.[35]

(b) A copy of such reports shall be served upon each airport operator in the cities which are the subject of the report.

4. Pursuant to section 412 of the Federal Aviation Act, 49 U.S.C. 1382, the Board shall retain continuing jurisdiction over this agreement and may modify or amend its interim approval of, or disapprove, the agreement at any time, or take whatever other action may be deemed appropriate.

5. Any comments or requests filed by any person with the Board pertaining to Agreement CAB 23703 shall be served on the carrier parties, the subject cities and airport operators, the Departments of Justice and Transportation, and the Postal Service, and replies thereto shall be filed within 10 days thereafter, and shall be similarly served.

6. The motions of American, TWA, and the State Corporation Commission of Virginia for permission to file otherwise unauthorized documents be and they hereby are granted.

7. This proceeding shall be conducted in accordance with the standards established in 14 CFR 399.110; provided, the Director, Bureau of Operating Rights, shall have a draft environmental impact statement prepared and circulated at least 15 days prior to the date of the hearing to be held pursuant to paragraph 1, supra.

8. To the extent not granted, the requests herein be and they hereby are denied.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,[36] *Secretary.*

[FR Doc.73-16232 Filed 8-6-73;8:45 am]

[Docket No. 23719; Order 73-8-3]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Passenger Fares

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 1st day of August 1973.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers and other carriers embodied in the resolutions of Traffic Conference 3 of the International Air Transport Association (IATA). The Agreement, which was adopted by mail vote, has been assigned the above-designated C.A.B. agreement number.

By Agreement C.A.B. 23619, the IATA member carriers proposed to increase normal first-class and economy fares within the area comprised of Asia/Australia/Australasia. This agreement was approved by Order 73-4-93 of April 24, 1973, insofar as it applied between foreign points and was not therefore directly applicable in air transportation. Action on that portion of the agreement involving the U.S. points Guam and American Samoa was deferred for simultaneous disposition with the overall trans-Pacific fare agreement. Subsequently, the Board disapproved the proposed increases in North/Central Pacific normal fares between all U.S. points and the Far East including those to/from Guam.[3]

The agreement now before the Board proposes somewhat lesser increases in normal fares between Guam and Tokyo/Osaka. Since the fares would remain at a level above that of present fares, the Board will herein disapprove the agreement for the reasons outlined in Order 73-7-54.

The Board, acting pursuant to sections 102, 204(a), and 412 of the Act, finds that the following resolutions, incorporated in Agreement C.A.B. 23719 as indicated, are adverse to the public interest and in violation of the Act:

Agreement C.A.B. 23719	IATA Resolution
R-1	300(Mail 405)053
R-2	300(Mail 405)063

Accordingly, it is ordered, That:

Agreement C.A.B. 23719, R-1 and R-2, be and hereby is disapproved.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND, *Secretary.*

[FR Doc.73-16233 Filed 8-6-73;8:45 am]

[Docket No. 25682, etc.; Order 73-8-1]

WESTERN AIR LINES, INC.

Order Rejecting Tariff Regarding Compensation for Failure to Provide Advertised Features of First-Class Service

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 1st day of August 1973.

By tariff revision[1] marked to become effective August 15, 1973, Western Air Lines, Inc. (Western) proposes a rule which provides that a first-class passenger will receive the following compensation when the carrier fails to provide one of its advertised special first-class services:

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[32] See Order 73-4-98.

[33] Id.

[34] For purposes of compiling monthly total figures, New York, N.Y., Newark, N.J., Baltimore, Md., and Washington, D.C., shall each be considered separate points. Similarly, in respect to the Chicago-San Francisco market, San Francisco, on the one hand, and San Jose and Oakland, on the other, shall be considered separate points for purposes of compiling total monthly figures.

[35] For the purpose of the 95-percent reports, the applicants shall take into account both revenue and positive space non-revenue passengers. Such reports shall include flight numbers.

[36] Concurring statement of Minetti, member and concurring and dissenting statement of Murphy, member filed as part of the original document.

[3] Order 73-7-54, July 12, 1973.

[1] Revision to Airline Tariff Publishers, Inc., Agent, Tariff C.A.B. No. 142.

Scheduled, enroute flight time of the passenger's first-class flight	Amount of Compensation
Under one hour	$ 5.00
One or two hours	10.00
Two to three hours	15.00
Over three hours	25.00

In support of the proposal, Western states that its system first-class load factor was only 37 percent for the year 1972, allegedly due principally to its lack of wide-bodied equipment which have proven especially attractive to first-class passengfiers on those competitive routes with a high proportion of first-class traffic. Western plans to institute a special promotional campaign describing the deluxe quality of its first-class service on all of its DC–10 (which went into service June 16, 1973), B–707, B–720, and B–727 flights. The carrier alleges that, since it is placing special emphasis on its first-class service features, the passenger has legitimate reason to expect some redress should these special services not be provided as the passenger had been led to anticipate. Western alleges that its proposal is closely analogous to the existing tariff rules providing compensation for denied boarding since in both situations the carrier has failed to provide the expected services, and in both situations a measure of redress is provided.

Northwest Airlines, Inc. (Northwest), Pan American World Airways, Inc. (Pan American), Trans World Airlines, Inc. (TWA), and United Air Lines, Inc. (United) have filed complaints against the proposal requesting its rejection, or suspension and investigation. The carriers allege, inter alia, that the tariff should be rejected since it does not comply with § 221.38(e) of the Board's Economic Regulations, which specify that indefinite terms or language shall not be used. They state that at no place in the tariff rule are the so-called first-class features described and that the passenger is therefore unable to determine his entitlement under the rule.

These carriers further allege that the rule is not cost related,[2] but rather is related to the duration of the flight. The compensation therefore reflects an uneven treatment among first-class passengers, since failure to provide the same amenity will result in payment of $5.00 if the flight is under one hour and $25.00 if the flight is over three hours. The rule is also alleged to discriminate against second- and third-class passengers inasmuch as they may be subjected to inadvertent loss-of-service amenities without any recourse to compensation.

In answer to the complaints, Western alleges that its proposal is a legitimate effort to "catch up" with the rest of the industry in the first-class travel market by promising customer satisfaction in the strongest possible terms. It asserts that the amount of compensation proposed seeks only to parallel the degree of inconvenience to which a passenger may have been subjected, and that lack of a given amenity will tend to be magnified on a long journey.

The Board concludes that the proposed rule does not meet the criteria established by § 221.38(e) of the Board's Economic Regulations which requires that tariffs be clear and explicit, and accordingly the tariff will be rejected. The rule fails to define with any degree of detail the "special, first-class service features" to which it relates, other than to state that those features are as described in Western's advertising and other promotional material. There is no single, stable outside reference as to the first-class features covered, and indeed the content of the carrier's advertising can and very likely will vary from time to time.[3]

Aside from the proposal's technical deficiency, we have difficulty with the fact that the compensation tendered appears to have no discernible relationship to the cost of the particular amenity the carrier fails to furnish. We recognize that value of service considerations may be a valid factor in a proposal such as this. However, we believe it most important to protect against the possibility that the provision of first-class service might have the ultimate effect of burdening second- and third-class passengers. Stated differently, we have serious reservations about any proposal which would have the net result of lowering the first-class fare level.

Finally, we are unable to agree with Western that the proposed rule is closely analogous to the existing denied boarding compensation rule. Denied boarding compensation is tied to a very specific and readily identifiable occurrence—failure to accommodate the passenger on a flight for which he has a reservation. Moreover, the amount of compensation bears a reasonable relationship to that which the passenger has not been furnished—the dollar value of the air transportation. On the other hand, we perceive no such visible relationship in the case of Western's proposal.

Accordingly, it is ordered, That:

1. Seventh revised page 17 of Airline Tariff Publishers, Inc., Agent, Tariff C.A.B. No. 142 is hereby rejected;

2. The complaints in Dockets 25682, 25683, 25685, and 25689 are dismissed as moot; and

3. Copies of this order will be filed in the aforesaid tariff and served upon Northwest Airlines, Inc., Pan American World Airways, Inc., Trans World Airlines, Inc., United Air Lines, Inc., and Western Air Lines, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.73-16231 Filed 8-6-73;8:45 am]

[2] For example, the failure to serve a free glass of champagne during a three-hour flight—a service worth something less than $1.50—would entitle the pasesnger to $25.00.

[3] Moreover, in the case of a passenger using multi-stop and/or connecting service, it is unclear whether scheduled enroute flight time means the flight time of the segment on which the deficiency occurs; the total flight time for all segments of the flight on which the passenger is aboard; or the total flight time of two or more flights used.

FEDERAL MARITIME COMMISSION

[Independence Ocean Freight Forwarder License No. 1155]

CONSOLIDATED EXPRESS, INC.

Order of Revocation

By letter of July 17, 1973, the Federal Maritime Commission received notification that Consolidated Express, Inc., G.P.O. Box 2080, San Juan, Puerto Rico 00936 wishes to voluntarily surrender its Independent Ocean Freight Forwarder License No. 1155 for revocation.

By virture of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (revised) section 7.04 (f) (dated 5/1/72);

It is ordered, that Independent Ocean Freight Forwarder License No. 1155 be returned to the Commission for cancellation.

It is further ordered, that the Independent Ocean Freight Forwarder License of Consolidated Express, Inc. be and is hereby revoked effective July 17, 1973, without prejudice to reapply for a license at a later date.

It is further ordered, that a copy of this Order be published in the FEDERAL REGISTER and served upon Consolidated Express, Inc.

WM. JARRELL SMITH, Jr.,
Deputy Managing Director.

[FR Doc.73-16225 Filed 8-6-73;8:45 am]

[Independent Ocean Freight Forwarder License No. 901]

WM. R. NEAL, INC.

Order of Revocation

On July 9, 1973, the Federal Maritime Commission received notification that Wm. R. Neal, Inc., 128 Dearborn Street, Buffalo, N.Y. 14207 wishes to voluntarily surrender its Independent Ocean Freight Forwarder License No. 901 for revocation, effective August 1, 1973.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (revised) section 7.04 (f) (dated 5/1/72);

It is ordered, that Independent Ocean Freight Forwarder License No. 901 be returned to the Commission for cancellation.

It is further ordered, that the Independent Ocean Freight Forwarder License of Wm. R. Neal, Inc. be and is hereby revoked effective August 1, 1973, without prejudice to reapply for a license at a later date.

It is further ordered, that a copy of this Order be published in the FEDERAL

REGISTER and served upon Wm. R. Neal, Inc.

WM. JARREL SMITH, JR.,
Deputy Managing Director.

[FR Doc.73-18226 Filed 8-6-73;8:45 am]

FEDERAL POWER COMMISSION

ALGONQUIN GAS TRANSMISSION CO.

Notice of Rate Change Pursuant to Purchased Gas Cost Adjustment Provision

JULY 30, 1973.

Take notice that Algonquin Gas Transmission Co. (Algonquin Gas), on July 24, 1973, tendered for filing Substitute Second Revised Sheet No. 3-A to its FPC Gas Tariff, Original Volume No. 1.

Algonquin Gas states that this sheet is being filed pursuant to Algonquin Gas' Purchased Gas Cost Adjustment Provision set forth in section 22 of the General Terms and Conditions of its FPC Gas Tariff, Original Volume No. 1, as approved by the Commission Order Approving Settlement Agreement in Docket Nos. RP70-30, RP71-92, and RP72-110, issued September 7, 1972. The rate adjustment, amounting to a reduction of 0.02¢ per Mcf in Algonquin Gas' sales rates, is being filed to reflect amortization of the balance in Account 186, according to the company's statement.

The proposed effective date of the revised tariff sheet is September 1, 1973.

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, NE., Washington, D.C. 20426, in accordance with §§ 1.8, 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 August 13, 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.73-16260 Filed 8-6-73;8:45 am]

[Docket No. CP73-322]

CROWN ZELLERBACH CORP.

Notice of Amendment to Application

AUGUST 1, 1973.

Take notice that on July 9, 1973, Crown Zellerbach Corporation (Applicant), One Bush Street, San Francisco, California 94119, filed in Docket No. CP73-322 an amendment to its application filed June 1, 1973, in said docket pursuant to section 7(c) of the Natural Gas Act providing for the continued operation of Applicant's existing facilities for the transportation of gas from various points in Mississippi to Applicant's pulp mill in Bogalusa, Louisiana, all as more fully set forth in the application, as amended, which is on file with the Commission and open to public inspection.

Applicant amends its application by deleting therefrom the request for certification of its 0.10195005 interest in a hydrocarbon recovery unit at Pistol Ridge, Mississippi, operated by Sun Oil Company and the three compressor units used to gather small volumes of gas from three gas fields adjacent to Applicant's pipeline system. Applicant submits that these facilities are not subject to the Commission's jurisdiction. Applicant further amends its application by stating that it is not offering facilities used for the production and gathering of natural gas for certification in the instant proceeding.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before August 27, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules. Persons who have heretofore filed protests and petitions to intervene need not file again.

MARY B. KIDD,
Acting Secretary.

[FR Doc.73-16248 Filed 8-6-73;8:45 am]

[Docket No. CI72-845]

EMERALD PETROLEUM CORP. ET AL

Notice of Petition To Amend

JULY 31, 1973.

Take notice that on July 24, 1973, Emerald Petroleum Corporation (Petitioner), P.O. Box 15325, Lafayette, Louisiana 70501, filed in Docket No. CI72-845 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 so as to authorize the continued sale for resale and delivery of natural gas in interstate commerce to Transcontinental Gas Pipe Line Corporation (Transco) from the Southwest Lake Boeuf Field, Lafourche Parish, Louisiana, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner was authorized by the order issued August 1, 1972, in said docket to sell approximately 2,000 Mcf of gas per day at 35.0 cents per Mcf at 15.025 psia for one year ending August 10, 1973, pursuant to § 2.70 of the Commission's General Policy and Interpretations (18 CFR 2.70). Petitioner now proposes to continue said sale for an additional year to Transco at an increased rate of 50.0 cents per Mcf at 15.025 psia within the contemplation of Section 2.70.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said petition to amend should on or before August 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.

MARY B. KIDD,
Acting Secretary.

[FR Doc.73-16253 Filed 8-6-73;8:45 am]

[Docket No. CI74-42]

GAS MARKETING, INC.

Notice of Application

JULY 30, 1973.

Take notice that on July 20, 1973, Gas Marketing, Inc. (Applicant), P. O. Box 748, Salina, Kansas 67401, filed in Docket No. CI74-42 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 Stafford County, Kansas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to sell approximately 30,000 Mcf of gas per month for one year at 42.5 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). Initial downward Btu adjustment is expected to be 2.5 cents per Mcf.

It appears reasonable and consistent with the public intrest 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 August 16, 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.73-16262 Filed 6-8-73;8:45 am]

[Docket No. CI74-46]

GLENWOOD, INC.

Notice of Application

JULY 30, 1973.

Take notice that on July 23, 1973, Glenwood, Inc. (Applicant), 1011 Hamilton Building, Wichita Falls, Texas 76301, filed in Docket No. CI74-46 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 Company from the Colburn No. 1 Well, Steward County, Kansas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to sell up to 750 Mcf of gas per day for two years at 50.0 cents per Mcf at 14.65 psia, subject to Btu adjustment, within the contemplation of § 2.70 of the Commission's General Policy Interpretations (18 CFR 2.70).

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before August 16, 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 a 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.73-16263 Filed 6-8-73; 8:45am]

[Docket No. CP66-110]

GREAT LAKES GAS TRANSMISSION CO.

Notice of Petition To Intervene and for Interconnection of Facilities and Allocation of Gas

JULY 31, 1973.

Take notice that on July 23, 1973, Michigan Power Company (Petitioner), P. O. Box 43, Three Rivers, Michigan 49093, filed in Docket No. CP66-110 a petition to intervene, pursuant to section 15(a) of the Natural Gas Act and § 1.8 of the Commission's rules of practice and procedure (18 CFR 1.8), in opposition to the grant of the petition to amend certificate filed by Great Lakes Gas Transmission Company (Great Lakes) on May 23, 1973, in said docket, all as more fully set forth in the petition to intervene which is filed with the Commission and open to public inspection.

Great Lakes was authorized by the order of June 20, 1967, in said docket (37 FPC 1070), among other things, to sell up to 57,000 Mcf of gas per day to Michigan Consolidated Gas Company (Michigan Consolidated) for resale in six communities in Michigan, including Manistique, Newberry and St. Ignace. After Michigan Consolidated failed to initiate service to Manistique, Great Lakes was ordered in Opinion No. 640, issued December 13, 1972, in Docket No. CP72-68 to sell gas to Petitioner for resale in Manistique. On May 23, 1973, Great Lakes filed a petition to amend the order of June 20, 1967, in Docket No. CP66-110 so as to delete authorization for the construction of delivery facilities necessary for Michigan Consolidated to sell gas to Newberry and St. Ignace after being advised that Michigan Consolidated does not intend to require Great Lakes to install such delivery facilities. In the alternative to amendment of the order issuing certificate, Great Lakes requests a declaratory order clarifying its obligations under the certificate issued in Docket No. CP66-110.

Petitioner requests that it be permitted to intervene in opposition to the granting of the amendment in Great Lakes' application and be treated as a party in any proceeding therein. Petitioner proposes that an order be issued deleting Great Lakes' authority to sell gas to Michigan Consolidated for resale in St. Ignace and Newberry and directing Great Lakes to connect its facilities with those of Petitioner and to sell and deliver to Petitioner fourth year peak day requirements of 1,318 Mcf of gas for resale in St. Ignace and 2,649 Mcf of gas for resale in Newberry. Estimated fourth year annual requirements for St. Ignace and Newberry are 159,033 and 412,437 Mcf of gas, respectively. To facilitate said resale Petitioner states that it intends to construct and operate a distribution system in the two towns at a total cost of $1,693,300 which will be financed from available funds. Petitioner states that St. Ignace and Newberry support Petitioner's efforts to supply gas therein.

Any person desiring to be heard or to make any protest with reference to said petition should on or before August 24, 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.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-16259 Filed 8-6-73;8:45 am]

[Docket No. CI74-43]

UNION TEXAS PETROLEUM, AND ALLIED CHEMICAL CORP.

Notice of Application

JULY 31, 1973.

Take notice that on July 16, 1973, Union Texas Petroleum, a Division of Allied Chemical Corporation (Applicant), Post Office Box 2120, Houston, Texas 77001, filed in Docket No. CI74-43 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 Pipeline Company from the Chaney Dell processing plant, Major County, Oklahoma, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to sell approximately 30,000 Mcf of gas per month for

a term of 36 months from the first day of the month in which deliveries are commenced 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).

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 August 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 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.

MARY B. KIDD,
Acting Secretary.

[FR Doc.73-16254 Filed 8-6-73;8:45 am]

[Docket No. CI74-53]

LOUIS H. HARING, JR.

Notice of Application

JULY 31, 1973.

Take notice that on July 25, 1973, Louis H. Haring, Jr. (Applicant), 742 Milam Building, San Antonio, Texas 78205, filed in Docket No. CI74-53 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Texas Eastern Transmission Corporation from acreage in San Patricio 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 he commenced the sale of gas on July 19, 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 up to 1,000 Mcf of gas per day at 45.0 cents per Mcf at 14.65 psia, subject to downward Btu adjustment. Deliveries are estimated at 30,000 Mcf of gas per month.

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 August 13, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to interevene 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.

MARY B. KIDD,
Acting Secretary.

[FR Doc.73-16251 Filed 8-6-73;8:45 am]

[Docket No. RP73-82]

PACIFIC GAS TRANSMISSION CO.

Notice of Further Extension of Time and Postponement of Prehearing Conference and Hearing

AUGUST 1, 1973.

On July 25, 1973, Pacific Gas Transmission Co. filed a motion for a further extension of all of the procedural dates fixed by notice issued June 28, 1973, in the above-designated matter. The motion states that Staff Counsel and Counsel for the California Public Utilities Commission and People of the State of California are not opposed to the motion.

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

Service of testimony and exhibits by Pacific Gas Transmission Co., September 24, 1973.
Service of testimony and exhibits by Staff, October 15, 1973.
Prehearing Conference, October 23, 1973 (10 am, e.d.t.).
Service of testimony and exhibits by interveners, October 29, 1973.
Service of rebuttal evidence by Pacific Gas Transmission Co., November 13, 1973.
Cross-examination, November 26, 1973 (10 am, e.s.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-16264 Filed 8-6-73;8:45 am]

[Docket Nos. CI73-723, CI73-724, CI73-732]

PETROLEUM CORP. OF DELAWARE, ET AL.

Extension of Time and Postponement of Hearing

JULY 30, 1973.

On July 27, 1973, Florida Gas Transmission Co. and Florida Gas Exploration Co. requested an extension of the procedural dates as fixed by order issued July 16, 1973, in the above-designated matter. The request states that neither applicants nor staff counsel have any objection to the request.

Upon consideration, notice is hereby given that the procedural dates in the above matter are postponed as follows:

Testimony and exhibits by applicants Hearing, August 13, 1973, August 27, 1973, (10 am, e.d.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-16268 Filed 8-6-73;8:45 am]

[Docket No. CI73-869]

PHILLIPS PETROLEUM CO.

Order Granting Intervention, Setting Hearing Date and Prescribing Procedure

JULY 31, 1973.

On June 8, 1973, Phillips Petroleum Company (Phillips) filed an application in Docket No. CI73-869 for a limited term certificate of public convenience and necessity with pregranted abandonment authority, pursuant to § 157.23 of the Commission's regulations under the Natural Gas Act and § 2.70 of the Commission's General Policy and Interpretations under the Natural Gas Act, for the sale of gas to El Paso Natural Gas Company (El Paso) from the Drag B-2 well in Eddy County, New Mexico (Permian Basin).

Specifically, Phillips proposes to sell approximately 46,000 Mcf per month to El Paso for one year pursuant to a letter agreement dated March 23, 1973. The

proposed rate is 52.0 cents per Mcf, subject to upward and downward Btu adjustment.

Phillips commenced a 60 day emergency sale pursuant to § 157.29 of the Commission's regulations under the Natural Gas Act from the subject well on May 31, 1973.

A timely petition to intervene in support of the application was filed by El Paso on June 25, 1973.

The application in this proceeding represents a sizeable volume of gas potentially available to the interstate market. It is of critical importance that interstate pipelines procure emergency supplies of gas to avoid disruption of service to consumers, nevertheless, we must determine whether the rate to be paid serves the public convenience and necessity. It is therefore necessary that this application be set for public hearing and expeditious determination. The hearing will be held to allow presentation, cross-examination, and rebuttal of evidence by any participant. This evidence should be directed to the issue of whether the present or future public convenience and necessity requires issuance of a limited-term certificate on the terms proposed in that application.

The Commission finds.

(1) The intervention of El Paso in this proceeding may be in the public interest.

(2) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the issues in this proceeding be scheduled for hearing in accordance with the procedures set forth below.

The Commission orders.

(A) El Paso is hereby permitted to intervene in this proceeding, subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such intervener shall be limited to matters affecting asserted rights and interests as specifically set forth in said petition for leave to intervene: *And provided, further,* That the admission of said intervener shall not be construed as recognition by the Commission that it might be aggrieved by any order or orders of the Commission entered in this proceeding.

(B) Pursuant to the authority of the Natural Gas Act, particularly sections 7 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act, a public hearing shall be held on September 6, 1973, at 10 a.m. e.d.t. in a hearing room of the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, concerning the issue of whether a certificate of public convenience and necessity should be granted as requested by the applicant.

(C) On or before August 23, 1973, Phillips and any supporting party shall file with the Commission and serve upon all parties, including Commission Staff, their testimony and exhibits in support of their positions.

(D) An Administrative Law Judge to be designated by the Chief Administrative Law Judge—See Delegation of Authority, 18 CFR 3.5(d)—shall preside at, and control this proceeding in accordance with the policies expressed in the Commission's rules of practice and procedure and the purposes expressed in this order.

By the Commission.

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

[FR Doc.73-16252 Filed 8-6-73;8:45 am]

[Docket No. E-7669, etc.]

PUBLIC SERVICE CO. OF INDIANA, INC. ET AL

Order Instituting an Investigation on Complaint, Accepting for Filing and Suspending Proposed Rate Changes in Agreement, Consolidating Proceedings, Prescribing Hearing Procedures, and Permitting Intervention

JULY 31, 1973.

On August 2, 1971, Public Service Company of Indiana, Inc. (PSI) tendered for filing a superseding Kentucky-Indiana Pool Planning and Operating Agreement dated July 9, 1971, (KIP Agreement) on behalf of and between PSI, Indianapolic Power and Light Company (IPL), Kentucky Utilities Company (KU) and East Kentucky Rural Electric Cooperative Corporation (EK). Subsequently, PSI submitted the Kentucky-Indiana Pool Facilities Agreement No. 2 (Facilities Agreement) to supplement the above KIP Agreement. Certificates of concurrence to the KIP filings were submitted by IPL and KU. All related KIP filings were assigned a filing date of October 1, 1971, upon completion of the filings. The proposed effective date was September 1, 1971.

PSI, IPL and KU are interconnected and operated under a 1968 KIP pooling agreement which provides for coordinated planning and operation and equalization of reserves. The new Agreement effects revisions in the existing KIP Pool by reason of the addition of a new member, EK. Since EK allegedly peaks diversely with respect to the existing three members, the instant agreement embodies changes and additions designed to take advantage of such seasonal diversity.

Public notice of the proposed filing was issued on December 28, 1971, which set January 25, 1972, as the date by which petitions or protests should be filed. On January 25, 1972, the Electric and Water Plant Board of the City of Frankfort, Kentucky (Frankfort) filed a protest and petition to intervene, a motion to reject the rate schedule filing, or, in the alternative to suspend the operation of the rate schedule for five months to order a hearing, and for other appropriate relief. On January 25, 1972, the City of Paris, Kentucky, (Paris) filed a conditional petition to intervene in the event the matter is set for hearing.

Frankfort asserts two reasons for rejecting the KIP Agreement filing: (1) It imposes conditions which prevent or tend to prevent East Kentucky from entering into joint transmission or generation arrangements with Frankfort and (2) it appears to violate Kentucky law by restricting the use of the transmission facilities of KIP members. On March 1, 1972, the four utilities answered Frankfort's petition to intervene denying Frankfort's allegations concerning anticompetitive behavior.

The proposed superseding KIP Agreement and related filings in Docket No. E-7669 became effective by operation of law on November 1, 1971, or such later date as was authorized by the Cost of Living Counsel under Executive Order 11615.

On February 18, 1972, the four parties filed a motion to strike certain antitrust and/or anticompetitive allegations contained in Frankfort's petition to intervene, which pertain to the Interconnection Agreement between PSI, Southern Indiana Gas and Electric Company, Indiana Statewide Rural Electric Cooperative, Inc., and the United States of America, acting by and through the Administrators of the Rural Electrification Administration. In the alternative, the movants request that the Commission issue an order that such allegations will not be considered and determined in this docket, or, in the alternative, to treat such allegations as a complaint under section 306 of the Federal Power Act and consolidate with Docket No. E-7647. On March 2, 1973, Frankfort answered this motion and requested it be denied. Frankfort asserts that PSI has presented no justification for removing these issues to Docket No. E-7647. On March 31, 1972, the utilities replied to Frankfort's answer.

The issues raised by the above pleadings cannot be decided summarily but rather require development in an evidentiary proceeding. Accordingly, we shall deny Frankfort's January 25, 1972, motion to reject and treat the matters raised by Frankfort and Paris as a complaint under section 306 of the Federal Power Act so that they can have the opportunity to present evidence in support of their assertions. Accordingly, the above mentioned petitions to intervene and the answer of the utilities will be treated as a complaint and answer thereto, respectively, and a public hearing will be held. Since none of the parties or petitioners in this proceeding except PSI are parties to Docket No. E-7647, we will deny the four parties February 18, 1972, request for consolidation.

At the hearing established herein Frankfort and Paris shall have the burden of proving that the four utilities have engaged in anti-competitive conduct, that such acts and practices are continuing or are likely to continue, and to what extent the Commission has jurisdiction to remedy such acts and practices.

On December 11, 1972, PSI tendered for filing Amendment No. 1 to the KIP Agreement in Docket No. E-7669 on behalf of and between the four parties to the KIP Agreement. The proposed Amendment was designated as Docket No. E-7937. IPL and KU filed certificates of concurrence.

In support of its filing, in Docket No. E–7937, PSI states that it has redesignated the units from which Unit Power Sales may be made in order to improve the reliability of Unit Power Transactions and that it will have no effect upon the present schedule of the quantity of unit power to be exchanged among the parties. Further, PSI states that no changes in the existing demand and energy charges are proposed.

Public notice of PSI's proposal in Docket No. E–7937 was issued on January 22, 1973, which required petitions to intervene and protests be filed by February 2, 1973. On February 6, 1973, a petition to intervene and a request to file out of time was filed by Frankfort. Since Frankfort's petition to intervene raises issues of law and fact which may be similar to those in Docket No. E–7669, we will, consistent with our actions above, treat Frankfort's petition as a complaint under Section 306 of the Act, consolidate Docket No. E–7937 with Docket No. E–7996, and hold public hearings.

The proposal filed in Docket No. E–7937 became effective by operation of law on January 22, 1973, thirty days after the completion of the filing by receipt of KU's certificate of concurrence.

On February 28, 1973, KU tendered for filing proposed changes in Service Schedule B of the KIP Agreement on behalf of and between PSI, KU, IPL, and EK. The proposal is designated Docket No. E–8053. The proposal provides for an increase in the demand charge for unit power for the 1973 unit year. The four utilities requested an effective date of April 1, 1973. On March 30, 1973, the Commission's Secretary notified KU that the filing was deficient and informed KU that a filing date would not be assigned this docket until it has been cured. On July 2, 1973, KU cured the deficiency and requested an effective date of August 2, 1973, or in the alternative April 1, 1973, as originally requested.

Public notice of Docket No. E–8053 was issued March 12, 1973, with protests or petitions to intervene due on or before March 23, 1973. On March 23, 1973, Frankfort filed a protest and petition to intervene, request for hearing, and request for consolidation of this docket with the proceedings in Docket Nos. E–7669 and E–7937. Frankfort incorporates by reference in its petitions to intervene in this docket its petition to intervene dated January 25, 1972, in Docket No. E–7669.

Review of the rate filing and the pleadings in Docket No. E–8053 indicate that issues are raised which require development in an evidentiary hearing. The proposed increased rates and charges have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential or otherwise unlawful. Accordingly, we shall suspend the proposed charges for one day and order a public hearing. Moreover, since all three dockets involve the KIP Agreement and may involve similar issues of fact and law, we will consolidate the proceedings in Docket No. E–8053 with Docket Nos. E–7669 and E–7937.

The Commission finds.

(1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Federal Power Act that the Commission enter upon a hearing concerning the lawfulness of the rates and charges contained in the KIP Agreement, Service Schedule B, as proposed to be amended in Docket No. E–8053 and that the proposed changes be suspended as hereinafter provided.

(2) It is necessary and appropriate in the proper exercise of the Commission's responsibilities under the Federal Power Act that the issues raised by Frankfort and Paris in their petitions filed in Docket No. E–7669 and the issues raised by Frankfort in its petition filed in Docket No. E–7937 be investigated as a complaint pursuant to section 306 of the Federal Power Act to determine the merits of the assertions contained therein and to provide such relief, if any, which is within this Commission's authority to grant.

(3) The disposition of the proceedings in Docket Nos. E–7669, E–7937, and E–8053 should be expedited in accordance with the procedure set forth below.

(4) The participation of Frankfort in Docket No. E–8053 may be in the public interest.

The Commission orders.

(A) Pursuant to the authority of the Federal Power Act, particularly section 205(e) thereof, the Commission's rules of practice and procedure, and the regulations under the Federal Power Act (18 CFR Ch. I), a public hearing shall be held commencing with a prehearing conference on November 27, 1973, at 10:00 a.m., e.s.t., in a hearing room of the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, concerning the lawfulness of the rates, charges, classifications and services contained in the KIP Agreement, Service Schedule B as proposed to be revised in Docket No. E–8053.

(B) Pending hearing and a final decision in Docket No. E–8053, the proposed changes in Service Schedule B of the KIP Agreement originally tendered on February 28, 1973, and with an official filing date of July 2, 1973, are hereby accepted for filing, suspended, and the use thereof deferred until August 2, 1973.

(C) Pursuant to the authority of the Federal Power Act, particularly section 306 thereof and the Commission's rules of practice and procedure, an investigation is hereby instituted to determine through an evidentiary hearing the issues raised by the complaints of Frankfort and Paris in Docket No. E–7669 and the issues, raised by Frankfort's complaint in Docket No. E–7937 and, if necessary, to prescribe such relief as is appropriate within the Commission's authority under the Federal Power Act.

(D) Since Docket Nos. E–7669, E–7937 and E–8053 involve the KIP Agreement and may involve similar issues of law and fact, we shall consolidate these proceedings.

(E) Frankfort and Paris shall file with the Commission and serve on all parties to the proceedings in Docket No. E–7669 and Frankfort shall also file with the Commission and serve on all parties to the proceedings in Docket No. E–7937, direct testimony and exhibits in support of their allegations on or before October 9, 1973.

(F) With respect to Docket Nos. E–7669 and E–7937 the dates for service of evidence are as follows: on or before October 23, 1973, the Commission Staff shall serve its prepared testimony and exhibits. The prepared testimony and exhibits of PSI, IPL, KU, and EK shall be served on or before November 6, 1973. Any rebuttal evidence by Frankfort in Docket Nos. E–7669 and E–7937 and Paris in Docket No. E–7669 shall be served on or before November 20, 1973.

(G) With respect to Docket No. E–8053 the dates for service of evidence are as follows: on or before October 23, 1973, the Commission Staff shall serve its prepared testimony and exhibits. The prepared testimony and exhibits of Frankfort shall be served on or before November 6, 1973. Any rebuttal evidence by the four utilities shall be served on or before November 20, 1973.

(H) Cross-examination on the evidence submitted shall commence on December 4, 1973, at 10 a.m.

(I) At the prehearing conference on November 27, 1973, all prepared testimony in the three dockets together with KU's entire rate filing in Docket No. E–8053 shall be admitted to the record subject to appropriate motions, if any, by parties to the proceedings. All parties will be expected to come to this conference prepared to effectuate the provisions of the Commission's Rules of Practice.

(J) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5 (d)), shall preside at the hearing in this proceeding, shall prescribe relevant procedural matters not herein provided, and shall control the proceeding in accordance with the policies expressed in the Commission's Rules of Practice and Procedure.

(K) The above-named petitioner in Docket No. E–8053 is hereby permitted to intervene in this proceeding, subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such intervenor shall be limited to matters affecting rights and interests specifically set forth in the petition to intervene: *And Provided, further,* That the admission of such intervenor shall not be construed as recognition by the Commission that it, might be aggrieved because of any order or orders issued by the Commission in these proceedings.

(L) Nothing contained in this order shall relieve the applicant of any responsibility imposed by the Economic Stabilization Act of 1970, (Public Law 91-

379, 84 Stat. 799, as amended by Public Law 92-15, 85 Stat. 38), or by any Executive Order or rules and regulations promulgated pursuant to such Act.

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

By the Commission.

[SEAL] MARY B. KIDD,
Acting Secretary.

[FR Doc.73-16255 Filed 8-6-73;8:45 am]

[Docket No. E-8242]

PUBLIC SERVICE CO. OF OKLAHOMA

Order Accepting for Filing and Suspending Proposed Rate Increases and Permitting Interventions

JULY 30, 1973.

Public Service Co. of Oklahoma (PSCO) on May 30, 1973, tendered for filing proposed changes in its FPC Rate Schedule Nos. 163, 168-171, 173, 176-179, 182, and 189[1] with a proposed effective date of August 1, 1973. PSCO asserts that the increased rates are occasioned by: (1) A need to equalize charges to similarly situated customers; (2) a desire to simplify rate schedules; (3) a necessity to more adequately cover the cost of service of the company; and finally (4) an attempt to increase revenue to assure necessary expansion for future needs and attract capital. The proposed charges would increase revenues from jurisdictional sales by approximately $505,862, based on a test year of calendar year 1971.

Notice was given of the filing on June 19, 1973, specifying that protests and/or petitions to intervene be filed on or before July 12, 1973. A timely petition to intervene was filed by the Oklahoma Consumer Protection Agency, a private organization, on June 1, 1973. In addition, petitions to intervene, protest and motion to reject were filed by six customers of PSCO on July 12, 1973.[2]

In support of their motion to reject, Cities claim that the proposed filing violates the Mobile-Sierra[3] doctrine; or that the effective date of the rates be postponed until their lawfulness is determined.

Cities also complain that the increase in rates to certain wholesale customers while retaining rates of other customers constitutes discrimination under section 205 of the Federal Power Act and requests an investigation of them under section 206 of the Act; the prohibited capacity charge adjustment of PSCO's proposed rate schedule violates section 205 of the Federal Power Act; and the tax clause and fuel clause of the proposed rate schedule should be rejected on the basis of previous Commission holdings, in particular New England Power Co., Opinion No. 633 (October 30, 1972).

Intervenors also maintain that the proposed rate schedules restrict the ability of the petitioners to seek alternative sources of power and therefore are discriminatory.

The proposed rate schedules will purportedly prevent petitioners from effectively competing with PSCO for industrial customers and therefore are discriminatory. The proposed rate schedules are based on "stale" data and are therefore unrepresentative and prohibited under the Federal Power Act, and therefore should be rejected, the rate of return is excessive, the proposed 80 percent ratchet may be unfair and unjust, the method of allocation of cost of service is questionable, and the proposed rates are inflationary and violate current Phase III guidelines.

Finally, petitioners recommend a suspension of the rates for the full five-month period if the application is not rejected.

With regard to the contention of the applicability of the Mobile-Sierra doctrine to the proposed changes in terms and conditions we agree.

Our review of the applicable contracts indicates that PSCO does not have the contractual authority to unilaterally file changes in terms and conditions of the contract during the life of the contract. Therefore, since the contract presently bars a change in the terms and conditions the filing is not appropriate under section 205. We will, however, institute a proceeding under section 206 as to the justness and reasonableness of the proposed changes in terms and conditions to be conducted in conjunction with the section 205 proceeding ordered herein.

Concerning the City of Pawhuska and the Anadarko Public Works Authority, who have not intervened in this proceeding, our reading of their respective contracts with PSCO leads us to conclude that the company in these two instances is contractually prohibited not only from unilaterally altering the terms and conditions but also from unilaterally changing the rates in the contracts as well. Accordingly, the section 206 proceeding will consider both the terms and conditions and the rates to be charged in these two instances.

As to the possible anti-competitive issues raised by petitioners, by order issued May 31, 1973, in Indiana and Michigan Electric Company, Docket No. E-7740 we set minimum standards for those who would raise anti-competitive issues. These standards are that the petition to intervene must clearly specify (1) the facts relied upon, (2) the anti-competitive practices challenged, (3) the requested relief which is within this Commission's authority to direct. Our review of the petition to intervene indicates that it fails to specify the relief it seeks from this Commission which is within our authority to grant. Accordingly, we shall limit petitioners' participation in this proceeding to matters other than the alleged anti-competitive activities. This action is without prejudice to petitioners' right to file an appropriate amended petition which set forth the relief for the alleged anti-competitive conduct that is within this Commission's authority to grant.

The other questions raised by the petition for intervention have either been resolved by action taken herein or require development at an evidentiary hearing and cannot be dealt with summarily.

Our review of the application indicates that the rates and charges included therein have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential or otherwise unlawful. In addition, our review of the filing and the complaints raised by the protest and petition to intervene discussed above indicates issues that may require development in an evidentiary hearing. Accordingly, we will suspend the effectiveness of the proposed rates for the full five-month statutory period.

In order that we may have a complete record, in light of our caveat in Duke Power Company, Opinion No. 642 (December 18, 1972), we are going to direct PSCO to file within 60 days of this order an updated cost of service study for the twelve-month period ending June 30, 1973 (including statements A through O as required by regulation § 35.13).

The Commission finds.

(1) Participation by the petitioners for intervention in this proceeding may be in the public interest.

(2) The proposed increased rates and charges may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful under section 205 of the Federal Power Act and accordingly shall be suspended as hereinafter ordered.

(3) The motion to reject the filing should be denied for the reasons stated above.

(4) Good cause exists to institute a proceeding under section 206 with respect to the terms and conditions proposed to be changed in the instant filing and with respect to the rates charged the City of Pawhuska and the Anadarko Public Works Authority.

The Commission orders:

(A) PSCO's proposed rate increase is accepted for filing under section 205 of

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[1] City of Mannford (FPC #163), City of Altus (FPC #168), City of Frederick (FPC #169), City of Cordell (FPC #170), City of Kaw City (FPC #171), Anadarko Public Works Authority (FPC #173), City of Pawhuska (FPC #176), Verdigris Valley Electric Cooperative, Inc. (FPC #177), Indian Electric Cooperative, Inc. (FPC #178), Red River Valley Rural Electric Association (FPC #179), Kiwash Electric Cooperative, Inc. (FPC #182), and City of Marlow (FPC #185).

[2] The cities of Frederick, Cordell, Altus, and Mannford, Oklahoma and by the Verdigris Valley Electric Cooperative, Inc. and the Indian Electric Cooperative. (Cities).

[3] United Gas Pipe Line Co. v. Mobile Service Corp., 350 U.S. 332 (1956); F.P.C. v. Sierra Pacific Power Co., 350 U.S. 348 (1956).

the Federal Power Act and an investigation under section 206 is initiated as to the proposed changes in terms and conditions of the contracts between PSCO and its customers herein and with respect to the rates charged the City of Pawhuska and the Anadarko Public Works Authority. Pending a hearing and decision, thereon, the proposed rates are hereby suspended and the use thereof deferred until January 1, 1974, or until such time as they are made effective in the manner provided in the Federal Power Act. Increased rates and charges collected after January 1, 1974, and found by the Commission in this proceeding to be unjustified, shall be refunded according to the Commission's regulations.

(B) The petitioners for intervention are hereby permitted in this proceeding, subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such intervenors shall be limited to matters affecting rights and interests specifically set forth in the respective petitions to intervene and specifically limited to matters other than alleged anti-competitive activities: *Provided, further,* That the admission of such intervenors shall not be construed as recognition by the Commission that they, or any of them, might be aggrieved because of any order or orders issued by the Commission in this proceeding.

(C) Petitioners' motion to reject the filing is hereby denied.

(D) On or before October 1, 1973, PSCO shall file an updated cost of service study for the twelve-month period ended June 30, 1973, including statements A through O as required by § 35.13 of the Commission's regulations.

(E) Pursuant to the authority of the Federal Power Act, particularly section 205(d) thereof, the Commission's rules of practice and procedure, and the regulations under the Federal Power Act (18 C.F.R., Chapter I) a public hearing shall be held, commencing with a prehearing conference on January 8, 1974, at 10 a.m., e.s.t., in a hearing room of the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, concerning the lawfulness of the rates, charges, classifications, and services contained in PSCO's rate increase filing.

(F) At the prehearing conference on January 8, 1974, PSCO's prepared testimony together with its entire rate filing shall be admitted to the record as its complete case-in-chief subject to appropriate motions, if any, by parties to the proceedings. All parties will be expected to come to this conference prepared to effectuate the provisions of the Commission's rules of practice and procedure.

(G) On or before November 27, 1973, the Commission Staff shall serve its prepared testimony and exhibits. The prepared testimony of intervenors shall be served on or before December 13, 1973. Any rebuttal evidence by PSCO shall be served on or before January 3, 1974. Cross-examination of the evidence will commence on January 15, 1974.

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

(I) Any future change in rates resulting from application of the tax adjustment clause of PSCO's FPC Electric Tariff should be accompanied by appropriate data and computations showing the basis for change in rates.

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

By the Commission.

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

[FR Doc. 73-16267 Filed 8-6-73;8:45 am]

[Docket No. CI74-50]

R. M. MORAN, ET AL.

Notice of Application

JULY 31, 1973.

Take notice that on June 25, 1973, R. M. Moran, et al. (Applicants), P.O. Box 1919, Hobbs, New Mexico 88240, filed in Docket No. CI74-50 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon the sale of natural gas in interstate commerce to Skelly Oil Company from the Drinkard Field, Lea County, New Mexico, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants state that they make percentage sales of casinghead gas to Skelly Oil Company which resells the gas to El Paso Natural Gas Company (El Paso), that the producing well has been reclassified from an oil well to a gas well by the New Mexico Oil Conservation Commission, and that Applicants intend to sell their gas to El Paso under an existing contract.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 24, 1973, filed 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 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 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 Applicants to appear or be represented at the hearing.

MARY B. KIDD, *Acting Secretary.*

[FR Doc.73-16250 Filed 8-6-73;8:45 am]

[Docket No. CI73-870]

RYDER SCOTT MANAGEMENT CO., INC., ET AL.

Order Granting Intervention, Setting Hearing Date and Prescribing Procedure

JULY 31, 1973.

On June 8, 1973, Ryder Scott Management Co., Inc. (Ryder) filed an application in Docket No. CI73-870 for a limited term certificate of public convenience and necessity with pregranted abandonment authority, pursuant to § 157.23, as amended, of the Commission's regulations under the Natural Gas Act, for the sale of gas to Natural Gas Pipeline Company of America (Natural) from acreage in Wise County, Texas.

Specifically, Ryder proposes to sell approximately 60,000 Mcf per month to Northern for one year pursuant to a letter agreement dated March 27, 1973. The proposed rate of 50.0¢, subject to upward and downward Btu adjustment from a 1,000 Btu base, exceeds the applicable area ceiling rate for wellhead deliveries of 22.5¢.

Ryder commenced a 60 day emergency sale to Natural on May 25, 1973, pursuant to § 157.29 of the Commission's regulations under the Natural Gas Act.

Ryder, in its application has requested that the intermediate decision be omitted, that oral hearing be waived and that the application be heard under the shortened procedure afforded by § 1.32 of the Commission's rules of practice and procedure.

A petition to intervene in support of the application was filed by Natural Gas Pipeline Company of America (Natural) on July 2, 1973.

The application in this proceeding represents a sizeable volume of gas potentially available to the interstate market. It is of critical importance that interstate pipelines procure emergency supplies of gas to avoid disruption of service to consumers, nevertheless, we must determine whether the rate to be paid serves the public convenience and necessity. It is therefore necessary that this application be set for public hearing and

expeditious determination. The hearing will be held to allow presentation, cross-examination, and rebuttal of evidence by any participant. This evidence should be directed to the issue of whether the present or future public convenience and necessity requires issuance of a limited-term certificate on the terms proposed in that application.

The Commission finds.

(1) The intervention of Natural in this proceeding may be in the public interest.

(2) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the issues in this proceeding be scheduled for hearing in accordance with the procedures set forth below.

The Commission orders.

(A) Applicant's request that the intermediate decision be omitted, that oral hearing be waived and that the Application be heard under the shortened procedure afforded by § 1.32 of the Commission's rules of practice and procedure is not in the public interest and is hereby denied.

(B) Natural is hereby permitted to intervene in this proceeding, subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such intervener shall be limited to matters affecting asserted rights and interests as specifically set forth in said petition for leave to intervene: *And Provided, further,* That the admission of said intervener shall not be construed as recognition by the Commission that it might be aggrieved by any order or orders of the Commission entered in this proceeding.

(C) Pursuant to the authority of the Natural Gas Act, particularly sections 7 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act, a public hearing shall be held on August 29, 1973, at 10 am (e.d.t.) in a hearing room of the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, concerning the issue of whether a certificate of public convenience and necessity should be granted as requested by the applicant.

(D) On or before August 15, 1973, Ryder and any supporting party shall file with the Commission and serve upon all parties, including Commission Staff, their testimony and exhibits in support of their positions.

(E) An Administrative Law Judge to be designated by the Chief Administrative Law Judge—See Delegation of Authority 18 CFR 3.5(d)—shall preside at, and control this proceeding in accordance with the policies expressed in the Commission's Rules of Practice and Procedure and the purposes expressed in this order.

By the Commission.

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

[FR Doc.73-16266 Filed 6-8-73;8:45 am]

[Docket No. CP74-22]

TENNESSEE GAS PIPELINE CO., AND TENNECO INC.

Notice of Application

JULY 30, 1973.

Take notice that on July 23, 1973, Tennessee Gas Pipeline Co., a Division of Tenneco Inc. (Applicant), P. O. Box 2511, Houston, Texas 77001, filed in Docket No. CP74-22 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, during the remainder of 1973 and the operation 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 the total cost of the proposed construction and abandonment will not exceed $3,000,000 and the cost for any single project will not exceed $500,000. These costs will be financed from general funds and/or from revolving credit borrowings.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 23, 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 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 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.73-16261 Filed 6-8-73;8:45 am]

[Docket No. RP73-113]

TENNESSEE GAS PIPELINE CO., AND TENNECO INC.

Order Accepting for Filing, and Suspending, Proposed Increased Rates and Establishing Hearing Procedures

AUGUST 1, 1973.

Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee) on June 15, 1973, filed revised tariff sheets to its FPC Gas Tariff, Ninth Revised Volume No. 1 and Sixth Revised Volume No. 2.[1] The proposed effective date is August 1, 1973.

According to Tennessee, the proposed rates would increase revenues from jurisdictional sales by $150,194,754 based on a test year ended February 28, 1973, adjusted for changes known and measurable through November 30, 1973. Tennessee's filing also reflects cancellation of Tennessee's Rate Schedule TWS, under which they state they no longer render service.

Tennessee states that the increased rates are required to reflect a proposed book depreciation and amortization rate of 5.75 percent, substantial additional advance payments to obtain additional natural gas supplies, a rate of return of 9.25 percent, increases in the cost of purchased gas, increases in cost of material, supplies and wages, and increases in property, franchise, payroll and state income taxes.

Tennessee has included $18,694,743 million of non-certificated facilities in its rate base. Tennessee has likewise included certain other gathering facilities costs of $14,877,790, some of which is in excess of the dollar limitation in its 1973 budget certificate in Docket CP73-129. Tennessee has requested an increase in the expenditure limitation, and this application is pending before the Commission. Therefore, Tennessee requests waiver of § 154.63(e)(2)(ii) of the Commission's regulations to permit inclusion of such costs. In the event these facilities are not certificated and placed in service prior to January 1, 1974, Tennessee shall file revised tariff sheets adjusting its rates to reflect elimination of non-certificated facilities and shall also file supplemental cost and revenue data which reflects the elimination of these non-

[1] See appendix A, attached.

certificated facilities from its section 4(e) application in these proceedings.

Numerous petitions to intervene have been filed. (See Appendix B below) The proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful. We will therefore suspend the filing for the full statutory period and establish hearing procedures.

The Commission finds.

(1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the rates and charges contained in Tennessee's FPC Gas Tariff, as proposed to be amended in this docket, and that the tendered tariff sheets be accepted for filing and suspended as hereinafter provided.

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

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

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

(5) Because the petitioners who did not timely file may be affected by the rates proposed herein and because their participation will not delay this proceeding, good cause exists to permit the late filings and to permit their participation in future proceedings in this docket.

(6) Waiver of § 154.63(e)(2)(ii) of the Commission's regulations subject to the conditions herein specified may be in the public interest.

(7) Good cause exists to permit Tennessee to cancel its existing Rate Schedule TWS.

The Commission orders.

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

(B) Tennessee's tendered tariff sheets are accepted for filing subject to the conditions stated in this order.

(C) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 5 thereof, the Commission's rules of practice and procedure, and the regulations Under the Natural Gas Act (18 CFR Ch. I), a public hearing shall be held, commencing with a prehearing conference on January 24, 1974 at 10 a.m., e.s.t., in a hearing room of the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, concerning the lawfulness of the rates, charges, classification, and services contained in Tennessee's FPC Gas Tariff, as proposed to be amended herein.

(D) At the prehearing conference on January 24, 1974, Tennessee's prepared testimony (Statement P) together with its entire rate filing shall be admitted to the record as its complete case-in-chief subject to appropriate motions, if any, by parties to the proceeding. All parties will be expected to come to this conference prepared to effectuate the provisions of §§ 1.18 and 2.59 of the Commission's rules of practice and procedure.

(E) On or before December 14, 1973, the Commission Staff shall serve its prepared testimony and exhibits. The prepared testimony and exhibits of all Intervenors shall be served on or before January 4, 1974. Any rebuttal evidence by Tennessee shall be served on or before January 14, 1974. The public hearing herein ordered shall convene on January 29, 1974, at 10:00 a.m., e.s.t.

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

(G) Pending hearing and a decision thereon Tennessee's tariff sheets are suspended for five months and the use thereof deferred until January 1, 1974, or until such further time as they are made effective in the manner provided in the Natural Gas Act provided that Tennessee must file appropriate substitute rates to reflect only facilities which have been in certified and in service on or before January 1, 1974.

(H) Waiver of § 154.63(e)(2)(ii) of the Commission's regulations is hereby granted to Tennessee.

(I) Tennessee's Rate Schedule TWS is hereby cancelled.

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

By the Commission.

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

APPENDIX A

TENNESSEE GAS PIPELINE COMPANY, A DIVISION OF TENNECO, INC.

DOCKET NO. RP73-113

Proposed Revised Tariff Sheets to FPC Gas Tariff, Ninth Revised Volume No. 1
First Revised Sheet No. 35
Second Revised Sheet Nos. 50, 52, 53 and 58
Fourth Revised Sheet Nos. 54 and 59
Sixth Revised Sheet Nos. 14, 20, 26, 30, 33, 41, 46, 56 and 57
Proposed Revised Tariff Sheets to FPC Gas Tariff, Sixth Revised Volume No. 2
First Revised Sheet Nos. 53, 54, 77, 78 and 141
Fourth Revised Sheet Nos. 11, 12, 27, 28, 44 and 45.

APPENDIX B

I. TIMELY PETITIONS TO INTERVENE

1. Alabama-Tennessee Natural Gas Company
2. Aluminum Company of America
3. The Berkshire Gas Company et al.
4. Brooklyn Union Gas Company
5. Central Hudson Gas & Electric Corporation
6. Chattanooga Gas Company
7. Columbia Gas Transmission Corporation
8. Columbia Gas of Ohio, Inc.
9. City of Columbus, Ohio
10. Consolidated Edison Company of New York, Inc.
11. Consolidated Gas Supply Corporation
12. Dayton Power and Light Company
13. East Tennessee Natural Gas Company
14. Elizabethtown Gas Company
15. Equitable Gas Company
16. Iroquois Gas Corporation, et al.
17. Knoxville Utilities Board, et al.
18. New York State Electric & Gas Corporation
19. Northern Illinois Gas Company
20. Northern Indiana Public Service Company
21. North Penn Gas Company
22. Orange and Rockland Utilities, Inc.
23. The Peoples Gas Light and Coke Company
24. Pennsylvania Gas and Water Company
25. Public Service Electric and Gas Company
26. Rochester Gas and Electric Corporation
27. General Services Administration
28. Texas Gas Transmission Corporation
29. Trunkline Gas Company
30. Western Kentucky Company

II. UNTIMELY PETITIONS TO INTERVENE

1. Tennessee Natural Gas Line, Inc.
2. Washington Gas Light Company

III. NOTICES OF INTERVENTION

1. Public Service Commission of the State of New York
2. Public Service Commission of West Virginia
3. New Hampshire Public Utilities Commission

[FR Doc.73-16256 Filed 8-6-73;8:45 am]

[Docket No. CP74-21]

UNITED GAS PIPE LINE CO.

Notice of Application

JULY 31, 1973.

Take notice that on July 23, 1973, United Gas Pipe Line Company (Applicant), 1500 Southwest Tower, Houston, Texas 77002, filed in Docket No. CP74-21 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon service to Co-op Gas Company, Inc. (Co-op), near Arp, Smith County, Texas, and to abandon by removal and salvage certain measuring facilities used to serve Co-op, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The service to be abandoned was authorized by the order of August 1, 1952, in G-2019 (11 FPC 1162). Said order authorizes Applicant to sell gas to Co-op for resale to fifteen consumers. Applicant was requested in a letter dated July 15, 1973, by Co-op that gas service to it

should be terminated as of July 31, 1973, as all consumers previously served would have butane service available as of that date. Applicant also proposes to abandon by removal and salvage the measuring facilities used to serve Co-op at a cost of $375.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 24, 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 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.73-16237 Filed 8-6-73;8:45 am]

[Project No. 1979]

WISCONSIN PUBLIC SERVICE CORP.

Notice of Application for New License for Constructed Project

AUGUST 1, 1973.

Public notice is hereby given that application for new license was filed on March 29, 1971, under the Federal Power Act (16 U.S.C. 791a–825r) by Wisconsin Public Service corporation (Correspondence to: Mr. C. A. McKenna, Secretary, Wisconsin Public Service Corporation, 700 North Adams Street, P.O. Box 700, Green Bay Wisconsin 54305) for its constructed Alexander Project No. 1979, located in Lincoln County, Wisconsin, near the City of Merrill, on the Wisconsin River. The project affects navigable waters of the United States.

The existing Alexander Project includes a dam, which consists of a concrete section in the northeast end 148 feet long, a tainter gate section 338 feet long with eleven 26 foot steel gates and an 8 foot trash sluiceway, and a power house section 95 feet long, housing three vertical water wheels. There are three vertical turbo generators each having a capacity of 1400 kw at .8 power factor. A concrete retaining wall and an earth dyke extend upstream from the power house on the westerly side. The reservoir has an area of approximately 803 acres.

The project occupies 3.59 acres of land of the United States in lot 7, sec. 4, and lot 4, sec. 5, T. 31 N., R. 6 E., 4th principal meridian, Wisconsin. The land is more commonly known as Rock Island.

According to the application: (1) The estimated net investment is $276,304, (2) the estimated fair value is $1,193,947, (3) the estimated severance damages in the event of takeover are $130,000, and (4) the annual taxes paid to local governmental bodies are about $15,000.

Applicant states that public recreational activities within the project boundaries include: boating, bathing, hiking, water sports, and hunting.

Any person desiring to be heard or to make protest with reference to said application should on or before October 8, 1973, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to 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 available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.73-16240 Filed 8-6-73;8:45 am]

[Docket No. CP74-19]

ALGONQUIN GAS TRANSMISSION CO.

Notice of Application

JULY 27, 1973.

Take notice that on July 20, 1973, Algonquin Gas Transmission Company (Applicant), 1284 Soldiers Field Road, Boston, Massachusetts 02135, filed in Docket No. CP74-19 an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the relocation of a meter and regulating station and for permission and approval to abandon by sale to Southern Connecticut Gas Company (Southern Connecticut) certain pipeline and appurtenant facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to relocate a meter and regulator station used as a delivery point for gas service to Southern Connecticut from New Haven to North Haven, Connecticut.

The total cost of the proposed relocation is $240,682 which will be financed from funds on hand.

Applicant also proposes to abandon by sale to Southern Connecticut at the depreciated book value as of June 30, 1973, ($242,314.23) approximately 54 feet of 10-inch pipeline and approximately 38,412 feet of 12-inch pipeline all located in New Haven County, Connecticut. The purpose of the proposed abandonment is to enable Southern Connecticut to provide better gas service to its customers in the area contiguous to such facilities through improved system integration. Applicant asserts that the proposed abandonment by sale will also result in eliminating the need to construct a 1.2 mile 16-inch pipeline loop between North Haven and New Haven, Connecticut, at a cost, estimated in 1969, to be $463,000.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 23, 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 Commisison 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 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.73-16242 Filed 8-6-73;8:45 am]

[Docket No. RP74-4]

CITIES SERVICE GAS CO.

Notice of Proposed Changes in Rates and Charges

JULY 30, 1973.

Take notice that on July 23, 1973, Cities Service Gas Company (Cities Service) tendered for filing the following revisions to its FPC Gas Tariff, Second Revised Volume No. 1:

Sixth Revised Sheet PGA-1
First Revised Sheet No. 37D
Original Sheet Nos. 37H, 37I, 37J, 37K, 37L, 37M, and 37N

The increase in revenues from jurisdictional sales will be $20,990,103 based on a twelve-month test period ending March 31, 1973. An effective date of August 23, 1973 is requested.

Cities Service claims that the additional revenues from the proposed rate increases are essential to offset a revenue deficiency of that amount that occurred during the test period. The revisions to its gas tariff are explained by Cities Service as follows:

Sixth Revised Sheet PGA-1 would replace the currently effective rates of Fifth Revised Sheet PGA-1;

First Revised Sheet No. 37D provides for a change in the base cost of purchased gas in Cities Service Purchased Gas Cost Rate Adjustment Provision (PGA);

Original Sheet Nos. 37H-37N reflects the inclusion of a coal gasification rate adjustment provision and an advance payment rate adjustment provision.

In seeking approval of its application, Cities Service requests waiver of several of the Commission's rules and regulations. First, Cities Service states that it realizes that coal gasification and advance payments rate adjustment provisions are precluded by section 154.38(d)(3) of the Commission's regulations, but asserts that the need to augment its gas supplies (as it asserts these provisions would do) should constitute good cause for waiver of this section. If these provisions are not waived and Original Sheet Nos. 37H-37H are rejected, Cities Service requests that the rest of its application still be accepted for filing.

Second, Cities Service requests waiver of section 154.63 (e)(2)(ii) so that certificates of public convenience and necessity may be issued for selected facilities. Application is pending for certification of these facilities in Docket Nos. CP74-6 and CP74-10, according to Cities Service, and their minor nature and the need to have them completed before the winter of 1973-74 should constitute good cause for waiver of the designated provisions.

Third, Cities Service requests waiver of the provisions of Commission Order No. 441 which excluded advance payments for lease acquisition under agreements executed after November 10, 1971. Advance payments for lease acquisition by Cities Service to Woods Petroleum Company were derived from an agreement dated December 15, 1971, but Cities Service states that the actual agreement was negotiated prior to November 10, 1971, and thus should be removed from the requirements of Order No. 441.

Finally, Cities Service asks that it be exempted from the extensive filing requirements of Commission Order No. 488 (July 17, 1973). Their application had already been compiled and bound when Order No. 488 was issued, according to Cities Service, and the company claims that it would be unfair to force them to submit a new filing at this date. Cities Service only requests waiver to allow them extra time to supplement the application to bring it within the perameter of Order No. 488.

In addition, Cities Service requests authorization to charge nonrecoverable advance payments to Monsanto to FPC Account 186 and amortize it over a five-year period to FPC Account 813, as of the effective date of the proposed rates.

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 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 August 14, 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.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-16241 Filed 8-6-73;8:45 am]

[Project No. 2016]

CITY OF TACOMA, WASHINGTON

Notice of Application for Approval of Exhibit R

AUGUST 1, 1973

Public notice is hereby given that application was filed on July 6, 1971, under the Federal Power Act (16 U.S.C. 791a-825r) by the City of Tacoma, Washington (Correspondence to: City of Tacoma, Department of Public Utilities, P.O. Box 1107, Tacoma, Washington 98411, attention: Mr. A. J. Benedetti, Director of Utilities) for approval of Exhibit R for constructed Project No. 2016, known as the Cowlitz Project, located on the Cowlitz River, in Lewis County, Washington, in the vicinity of Centralia and Chehalis, Washington.

The Exhibit R (recreational use plan) was filed in compliance with Articles 39 and 51 contained in an order issued on November 17, 1964, which further amended the project's license.

The project has two reservoirs, Mayfield Lake formed by Mayfield Dam and Davisson Lake formed by Mossyrock Dam. Applicant is presently developing Mossyrock Park on Davisson Lake which will include picnicking, camping, boating, swimming, and sanitary facilities. Applicant has a visitor's center near Mossyrock Dam and a vista overlook point near Mayfield Dam. Visitors are welcome at the salmon and trout hatcheries, both located downstream from Mayfield Dam. Boat launching facilities are provided near both hatcheries.

Additional recreation facilities are currently provided by the State of Washington, Lewis County, and certain private concerns on land leased from the Applicant at Mayfield Lake.

Future facilities planned by the Applicant include an additional park at both reservoirs and boat camps at Davisson Lake, with and without automobile access.

Applicant has estimated that the total acreage needed for public recreation will be 844 acres by 1985 and an additional 516 acres by the year 2015. Such acreage can be found within the existing project boundary.

Any person desiring to be heard or to make reference to said application should on or before September 11, 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 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 available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.73-16245 Filed 8-6-73;8:45 am]

[Docket No. RP72-157]

CONSOLIDATED GAS SUPPLY CORP.

Notice of Proposed Changes in FPC Gas Tariff

JULY 27, 1973.

Take notice that Consolidated Gas Supply Corporation (Consolidated), on July 24, 1973, tendered for filing proposed changes in its FPC Gas Tariff, First Revised Volume No. 1. The proposed changes are an amendment of Consolidated's PGA filing previously submitted on June 15, 1973, which as amended would increase revenues from jurisdictional sales and service by approximately $4.1 million based on the 12 month period ending April 30, 1973.

Consolidated states that the amendment is due to a rate increase filed by Texas Eastern Transmission Corporation (Texas Eastern), a major pipeline supplier of Consoliated, on June 13, 1973, for effectiveness August 1, 1973. Consolidated further states that it did not receive notice until July 19, 1973, and accordingly was unable to include this change in its June 15, 1973 filing. An effective date of August 1, 1973, is requested.

Copies of the filing were served upon Consolidated's jurisdictional customers,

as well as 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 August 15, 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.73-16243 Filed 8-6-73;8:45 am]

[Docket No. E-7803]

CONSUMERS POWER CO.

Further Extension of Time and Postponement of Prehearing Conference and Hearing

JULY 30, 1973.

On July 26, 1973, Staff Counsel requested an extension of time in which to file its testimony and for an equivalent extension of the other procedural dates as set by the order issued July 25, 1973. The request states that no party objects to the extension.

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

Service of direct case by Staff, August 17, 1973.
Service of Interveners' direct case, August 31, 1973.
Prehearing Conference, September 20, 1973 (10 a.m., e.d.t.).
Service of rebuttal by Consumers, October 5, 1973.
Cross-examination, October 29, 1973 (10 a.m., e.s.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-16271 Filed 8-6-73;8:45 am]

[Docket No. CP74-20]

EL PASO NATURAL GAS CO.

Notice of Application

JULY 27, 1973.

Take notice that on July 20, 1973, El Paso Natural Gas Company (Applicant), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP74-20 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 tap facilities and the sale and delivery of gas to Pioneer Natural Gas Company (Pioneer) and Arizona Public Service Company (APS) for resale to right-of-way grantors on Applicant's Southern Division System, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate the E. A. Bass Tap in Parmer County, Texas, the Kenneth Thomas Tap in Lamb County, Texas, and the Irene Arnold Tap in Maricopa County, Arizona, for sale and delivery of gas to Pioneer and APS for resale to three of Applicant's right-of-way grantors for residential and irrigation uses. Estimated peak day and annual natural gas requirements during the third year of operation are 7.8 Mcf and 694 Mcf. Applicant proposes to render said service according to the appropriate rate schedules contained in its FPC Gas Tariff, Original Volume No. 1. The total estimated cost of the proposed facilities is $3,215 which will be financed from working funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 23, 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.73-16240 Filed 8-6-73;8:45 am]

[Docket Nos. CI73-593 and CI73-656]

GETTY OIL CO. AND CITIES SERVICE GAS RESOURCES CO.

Notice of Amendment to Application

JULY 30, 1973.

Take notice that on July 23, 1973, Getty Oil Company (Applicant), P. O. Box 1404, Houston, Texas 77001, filed in Docket No. CI73-593 an amendment to its application pending in said docket to withdraw its request for a certificate of public convenience and necessity under § 2.75 of the Commission's General Policy and Interpretations (18 CFR 2.75) and to request that a certificate be issued at the prevailing area ceiling rate without pregranted abandonment authorization, all as more fully set forth in the amendment to the application which is on file with the Commission and open to public inspection.

In its application filed March 6, 1973, pursuant to section 7(c) of the Natural Gas Act, Applicant requests that the Commission issue a certificate of public convenience and necessity within the contemplation of § 2.75 of the Commission's General Policy and Interpretations authorizing the sale for resale and delivery of natural gas in interstate commerce to Cities Service Gas Company from the Locke (Brown Dolomite) Field, Roberts County, Texas, for 20 years at an initial rate of 40.0 cents per Mcf at 14.65 psia plus periodic escalations. By order of July 6, 1973, the subject application was consolidated for hearing with the application filed by Cities Service Gas Resources Company in Docket No. CI73-656.

Applicant now requests that it be authorized to sell gas at the area ceiling rate without pre-granted abandonment authorization, that Docket No. CI73-593 be severed from the consolidated proceeding, that the Commission set aside its order of July 6, 1973, insofar as said order provides for a formal hearing on the subject application, and that the proceeding in Docket No. CI73-593 be terminated except for issuance of a certificate as requested in the instant amendment. Applicant states the reserves available for the proposed sale are too little to justify the expenditures for participation in a contested, adversary proceeding on the certificate application.

Any person desiring to be heard or to make any protest with reference to said application, as amended, should on or before August 23, 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. Persons who have heretofore filed petitions to intervene need not file again.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-16272 Filed 8-6-73;8:45 am]

[Docket No. E-8382]

GULF STATES UTILITIES CO.

Order Authorizing Issuance of First Mortgage Bonds, Granting Intervention, and Consolidating Proceedings

JULY 27, 1973.

Gulf States Utilities Co. (Applicant) a corporation organized under the laws of the State of Texas and doing business in the States of Texas and Louisiana, filed an application on June 15, 1973, seeking an order pursuant to section 204 of the Federal Power Act authorizing it to issue and sell at competitive bidding $50,000,000 principal amount of First Mortgage Bonds, series due 2003.

The Applicant proposes to issue the Bonds under its Indenture of Mortgage to Manufacturers Hanover Trust Company dated September 1, 1926, as supplemented and proposed to be further supplemented by a Thirty-First Supplemental Indenture, to be dated as the first day of the month in which the New Bonds are to be issued.

Applicant proposes to sell its New Bonds at competitive bidding in compliance with the Commission's requirements of § 34.1(a) of the regulations under the Federal Power Act.

Applicant's public invitation for bids will provide that each bid for the proposed Bonds must be for the purchase of all the Bonds and may be made by a single bidder or a group of bidders. All bids shall be presented to the company at Manufacturers Hanover Trust Company, The Federal Room, Fourth Floor, 40 Wall Street, New York, New York 10015, before 11:00 a.m. New York Time on August 8, 1973 (or such later time as may be designated by the Company according to the procedures set forth in their public invitation). Each bid must be accompanied by a certified or official bank check or checks in the aggregate amount of $1,500,000.

In addition, each bid must be on the form of bid furnished by the Company and signed by the bidder or bidders and shall specify (1) the interest rate of the Bonds, which shall be a multiple of ⅛ of 1 percent; and (2) the price (expressed as a percentage of the principal amount) exclusive of the accrued interest to be paid to the Company for the Bonds, which will not be less than 99 percent and not more than 102½ percent of the principal amount of the Bonds, and that accrued interest on the Bonds from the first day of the month in which the bonds are issued to the date of payment therefor and delivery thereof will be paid to the company by the purchaser or purchasers.

The Applicant states that the proceeds from the sale of the New Bonds will be used by the Company to refund and payoff a portion of its commercial paper and short-term bank loans expected to be outstanding as of the date of the issuance. The Applicant estimates that on the date the securities are expected to be sold, there will be outstanding approximately $65,000,000 principal amount of commercial paper and short-term loans. The aforesaid commercial paper and short-term bank loans constitute an issuance of securities previously authorized by the Commission (Docket No. E-7805).

Written notice of the application has been given to the Texas Railroad Commission, the Louisiana Public Service Commission and to the Governor of each of those States. Notice has also been given by publication in the FEDERAL REGISTER on July 10, 1973 (38 FR 18429) stating that any person desiring to be heard or to make any protest with reference to the application should on or before July 16, 1973, file a petition or protest with the Federal Power Commission, Washington, D.C. 20426.

On July 13, 1973, the Cities of Lafayette and Plaquemine, Louisiana, (Cities) filed a Protest and Petition to Intervene in the proceeding, stating inter alia:

> In Docket E-7805 the Company represented that the purpose of the short-term authorization there was to obtain money and that "the proceeds from the notes will be added to the general funds of the Company to be used, among other things, to provide part of the interim funds for construction expenditures." Thus the refinancing proposed by Gulf States in the instant application will act to free $50,000,000 to use for purposes which the Cities have previously contended may be illegal and anticompetitive in nature and violative of the objectives of the Federal Power Act, particularly Section 202, 204, 205 and 206 * * *.
>
> Cities further state:
>
> The application filed by Gulf States herein if approved will place $50,000,000 into the company's hands without any indication as to the lawfulness of its use. This is clearly inconsistent with the recent Supreme Court decision in Gulf States Utilities v. F.P.C. — U.S. — 36 L.Ed. 2d 635 (1973), where the Court held at page 642 that under Section 204 the Commission is impowered "to authorize the issue of a security * * * only 'if it finds that such issue * * * is for some lawful object within the corporate purposes of the Applicant and compatible with the public interest.'" (emphasis in original). The Court concluded that this review must include consideration of the anticompetitive aspects of the proposed security issue.
>
> As the Supreme Court stated in its decision in Gulf States Utilities, the Commission's duty of inquiry under Section 204 does not end where it finds that the object of a proposed security issue is lawful. "For, in addition, the object must be 'compatible with the public interest.'" Gulf States Utilities, supra at page 642. Thus, even if the Commission should determine that the specific purpose of the instant security issue, as stated in the application filed by Gulf States, (i.e., the refunding and refinancing of outstanding short-term debt) is lawful, the Commission must also satisfy itself that the funds which will accrue in the hands of Gulf States as a result of the refinancing will be used for a purpose which is "compatible with the public interest."

The Cities therefore, oppose the authorization sought by Gulf States and request that the Application be set for hearing in accordance with the provisions of section 204 of the Federal Power Act or in the alternative; if Cities requested hearing, prior to Commission action, on the authorization as denied, the Cities request that this proceeding be consolidated with a previous Commission proceeding (Docket No. E-7676) for hearing purposes, and provision be made for subsequent action to rescind or condition any authorization granted if it is determined after hearing that the funds are to be used for anticompetitive or otherwise unlawful purposes.

As further support, the Cities incorporate by reference the protest and petitions and interventions filed by the Cities in Docket Nos. E-7567, E-7663, E-7696, E-7682, and E-7805 in addition to all pleadings previously filed by them in Docket No. E-7676.

On July 19, 1973, Applicant filed "Answer of Gulf States Utilities Company to Protest and Petition to Intervene." Applicant's Answer to Cities Petition to Intervene denies all incorporated allegations of Cities that Applicant has over a period of years in the past combined or conspired in restraint of trade; to expand or maintain monopoly; to obtain captive markets or allocate same; or destroy the Cities Pool Agreement and compress competition. Applicant further states:

> The lawful object of the proposed financing to refinance authorized short-term borrowings is evident from Applicant's application. Refinancing is implicit within the original Commission authorization for short-term notes. It is not only "compatible with" but essential to the public interest that the financial integrity of Applicant be preserved so that reliable electric service can be maintained at reasonable costs. Basis for such finding is evident in the application filed and in other voluminous records and reports on file with the Commission concerning Applicant, its business and finances.

Applicant in its Answer requests the Commission to deny the Petition to Intervene and without hearing, issue its order approving its application for the issuance of securities.

The Commission in reaching its determination with regard to this application must consider the filing in the light of other previous proceedings. Applicant has previously filed applications for authorization of various types of security issues in Docket Nos. E-7567, E-7682, E-7663, and E-7805. Protests and petitions to intervene alleging antitrust violations were filed in each of those dockets by the Cities of Lafayette and Plaquemine, Louisiana.

Docket No. E-7567 was appealed to the United States Circuit Court of Appeals for the District of Columbia, and on October 12, 1971, the Court of Appeals issued a decision, City of Lafayette, Louisiana v. SEC 454 F.2d 921, wherein it remanded to the Commission for further proceedings not inconsistent therewith, an order issued by the Commission stating in part that:

> The alleged violations which Petitioners attempt to raise in this proceeding are irrelevant to requested authorization of securities. There is no relief that the Commission can order in authorizing the issuance of bonds for refinancing purposes that would have any effect on the interest on the Petitioners, or solve any of the problems outlined by them.

On May 30, 1972, the Supreme Court granted a writ of certiorari to Gulf States Utilities to review the Court of Appeals decision.

Prior to the Supreme Court grant of a writ of certiorari, Applicant filed three additional securities application with the Commission pursuant to section 204 (Docket Nos. E–7663, E–7682, and E–7805). The Commission in following the guidelines of the Court of Appeals decision approved the securities issuances in the above dockets but severed the antitrust allegations into a separate complaint proceeding under section 306 of the Federal Power Act (Docket No. E–7676). Pursuant to the grant of certiorari the Commission by order issued in Docket No. E–7676 on June 1, 1972 stated all further proceedings in the docket before the Commission until the Supreme Court entered a final decision on the appeal of the City of Lafayette Case.

The Commission in its order of December 29, 1972, in Docket No. E–7805 quoted a previous order issued by them on November 4, 1971 in Docket No. E–7663, stating that:

> The Commission in reviewing Cities contentions as set forth in their petition has done so in the light of its overall responsibilities under the Federal Power Act. The Commission is aware of its responsibilities with regard to interconnection and coordination of the facilities, for purposes throughout the United States with the greatest possible economy and with regard to proper utilization and conservation of natural resources. Further, the Commission is aware of its responsibilities to enhance optimum interconnection and interchange of electric energy as well as other activities in furtherance of electric energy capabilities. All of the Commission's responsibilities being directed toward safe-guarding cost rates and reliability.
>
> At the same time, the Commission realizes that security issues to provide funds for utility construction and financing programs must be decided in a time frame much more limited than that contemplated for consideration of the alleged anticompetitive activities.
>
> With an awareness of its responsibilities, the Commission, however, is unable to determine the merits of the Cities contention and the Commission's authority to grant relief sought without further proceedings and the benefit of a hearing in which evidence is presented and legal authority is cited to grant the relief sought.

The Commission by using the above language made it clear that it did not intend to pre-judge the merits of anticompetitive allegations without a full and complete hearing, and at the same time, the Commission made it clear that it did not intend to jeopardize adequate electrical service to consumers of Gulf States Utilities Company by placing undue restrictions on Gulf States' ability to finance electric facilities required to provide adequate service.

This Commission cannot allow consumers served by utilities under its jurisdiction to suffer inadequate service by precipitous Commission action. The consideration of public interest must necessarily take into account a myriad of factors including anticompetitive allegations. The Commission cannot however, allow a utility to stop efficient operations pending its determination of the validity of the merits of such allegations. Until a complete evidentiary record has been developed in this Docket and other related dockets the Commission cannot assign weight to unproved anticompetitive allegations by the Cities or unproved defenses by the Company when the result of doing so would occasion the loss or reduction of a vital service to the consuming public. To do so would only encourage a private interest to the subversion to the public interest.

The Commission in reaching this conclusion feels it is in complete compliance with the Supreme Court's ruling in Gulf States Utilities Company v. F.P.C. — U.S.—36 L.Ed 2nd 635 (1937), where at page 642 the Court said:

> In making its determination under Section 204(a) the Commission is given broad powers of inquiry and enforcement. By Section 204(b) it may hold hearings on the application, may grant the application "in whole or conditions as it may find necessary or appropriate." After opportunity for hearing and for good cause shown, it may supplement, modify, or condition any previous order "as it may find necessary or appropriate." * * * The court went on further to say at page 646: Our conclusion that, as a general rule, the Commission must consider anticompetitive consequences of the security issue under Section 204 does not mean that the Commission must hold a hearing on objections on every case. Neither does it mean that every allegation must be fully investigated regardless of its facial merit, or that consideration of the allegations may not, in appropriate circumstances, be deferred, or that a major portion of the securities issue may not forthwith be authorized and only the remainder withheld for further study.

The Commission agrees with Intervenors to the extent that, "even if the Commission should determine that the specific purpose of the instant security issue, as stated in the application filed by Gulf States, (i.e., the refunding and refinancing of outstanding short-term debt) is lawful, the Commission must also satisfy itself that the funds which will accrue in the hands of Gulf States as a result of the refinancing will be used for a purpose which is compatible with the public interest."

The Commission cannot allow the private interest of either the Applicant or the Cities to override the consideration we must necessarily give to the public now being provided adequate electric service.

Inasmuch as the issues presented by the Cities in this proceeding involve the same subject matter as those presently being considered in Docket No. E–7676, the Commission feels that it is appropriate to consider the petitions to intervene filed in this Docket as complaints under Section 306 of the Federal Power Act and to consolidate those complaints with the complaints previously filed in Docket No. E–7676.

Since the $50,000,000 aggregate principal amount of Bonds proposed to be issued by Applicant will be used to refinance short-term borrowings authorized by the Commission in Docket No. E–7805, the Commission feels it appropriate to reduce the previously granted dollar authority in Docket E–7805 by $50,000,000.

The Commission finds:

(1) The Applicant, a corporation, is a public utility within the meaning of Section 204 of the Federal Power Act subject to the jurisdiction of this Commission as heretofore determined and set forth in the Commission's order issued November 27, 1957, in the matter of Gulf States Utilities Co., Docket No. E–6785 (18 FPC 701).

(2) The proposed issuance and sale of First Mortgage Bonds as described above will constitute an issuance of securities within the purview of section 204 of the Act.

(3) Applicant is not organized and operating in a State under the laws of which the securities issue here involved is regulated by a state commission within the meaning of section 204(f) of the Act; and the proposed issuance of securities is, therefore, not exempt by virtue of that section from the requirements of section 204 of the Act.

(4) The proposed issuance and sale of bonds of common Stock is hereinafter authorized, will be for a lawful object, within the corporate purposes of Applicant and compatible with the public interest, which is appropriate for and consistent with the proper performance by Applicant of service as a public utility and which will not impair its ability to perform in that service, and is reasonably necessary and appropriate for such purposes.

(5) Intervention by the above mentioned Petitioners may be in the public interest for purposes of Commission consideration of their petition.

(6) Matters of certain activities alleged in the filed protest and petition to intervene by the Cities of Lafayette and Plaquemine, Louisiana, raise issues which should be heard in the proceeding separate from this docket.

(7) The protest and petitions to intervene filed in this docket by the Cities of Lafayette and Plaquemine, Louisiana should be considered as a complaint filed under section 306 of the Federal Power Act.

(8) The protest and petitions to intervene filed in this docket by Lafayette and Plaquemine, Louisiana raise issues similar to those being considered in Docket No. E–7676, a complaint proceeding now before the Commission, and it is therefore appropriate that the complaints filed in this Docket should be consolidated with Docket No. E–7676 for purposes of hearing and decision.

(9) The period of public notice given in this matter is reasonable.

The Commission orders.

(A) The above-mentioned petitioners are hereby permitted to intervene in this proceeding subject to the Rules and Regulations of the Commission. Provided, however, The admission of the aforementioned petitioners shall not be construed as recognition by the Commission that the petitioners might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(B) The proposed issuance and sale of First Mortgage Bonds upon the terms and conditions and for the purposes specified in the application as described above, is hereby authorized subject to the provisions of this order.

(C) The proposed issuance and sale of Bonds at competitive bidding shall not be consummated until:

(i) Applicant shall have amended its application pursuant to the requirements of § 34.2(g) of the Commission's Regulations under the Federal Power Act relating to compliance with competitive bidding requirements, and § 34.2(h) of those Regulations relating to affiliation, and shall have either filed such amendments, or shall have mailed them and advised the Commission by telephone and telegraph, as contemplated in § 34.9 of the regulations.

(ii) The Commission, by further order shall have approved the price to be received by Applicant for the proposed issuance of Bonds and the interest rate thereof.

(D) The foregoing authorization is without prejudice to the authority of this Commission or any other regulatory body with respect to rates, service, accounts, valuation, estimates, or determination of cause or any other matter whatsoever now pending or which may come before this Commission.

(E) Nothing in this order shall be construed to imply any guarantee or obligation on the part of the United States in respect to any security to which this order relates.

(F) Pursuant to the authority of the Federal Power Act, particulary §§202, 306, and 307 thereof in the Commission's rules of practice and procedure, an investigation is hereby instituted to determine the justification of the Protest and Petitions to Intervene by the Cities of Lafayette and Plaquemine, Louisiana and, if necessary, to prescribe such relief as is appropriate within the boundaries of the Federal Power Act.

(G) All further proceedings in this docket shall be consolidated with the Complaint proceeding previously instituted in Docket No. E–7676.

(H) Inasmuch as Louisiana Power and Light Co. and Central Louisiana Electric Co. as well as Gulf States Utilities Co. were named as parties in Docket No. E–7676, with which this proceeeding will be consolidated, a copy of the Cities complaint shall be served on Louisiana Power and Light Co. and Central Louisiana Electric Co. and their response thereto shall be filed with the Commission within 15 days from the date of issuance of this order.

(I) The Commission's order issued December 29, 1972 in Docket No. E–7805, authorizing the issuance of $125,000,000 aggregate amount of short-term borrowing is hereby amended to reduce the total aggregate amount outstanding at any one time to $75,000,000. The reduction of $50,000,000 in this Docket represents the face value of the Bonds authorized to be issued by this order. All other terms and conditions of the Commission's order issued in Docket No. E–7805 on December 29, 1972, shall remain in full force and effect.

By the Commission.

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

[FR Doc.73–16274 Filed 8–6–73;8:45 am]

[Docket No. CP74–23]

KANSAS-NEBRASKA NATURAL GAS CO., INC.

Notice of Application

JULY 31, 1973.

Take notice that on July 23, 1973, Kansas-Nebraska Natural Gas Co., Inc. (Kansas-Nebraska), Hastings, Nebraska 68901, filed in Docket No. CP74–23 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 pipeline, compressor and storage facilities in central Kansas, the construction and operation of certain pipeline and compression facilities, the establishment of a new redelivery point for the exchange of gas with Cities Service Gas Co. (Cities Service), and the continuation of gas service to certain customers for resale in interstate commerce, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Kansas-Nebraska proposes to operate in interstate commerce the Adolph Storage facilities near Pawnee Rock, Kansas, including its 1,000 horsepower injection-withdrawal compressor, the Pawnee Rock Compressor Station with 1,275 compression horsepower and gas sweetening and dehydration facilities, the Otis Station with 960 horsepower of compression, approximately 105 miles of 2-inch to 12-inch pipeline, two town border stations, and metering and appurtenant facilities by which Kansas-Nebraska makes both direct sales and sales for resale to its customers. It is stated that heretofore these facilities were used only in intrastate commerce. Kansas-Nebraska further proposes to sell in interstate commerce for resale and to deliver natural gas, heretofore sold and delivered in intrastate commerce, to Central Kansas Power Co., Inc., at Toulon, Kansas, to Producers Gas Equities, Inc., at points in Ellis, Ness, and Rush Counties, Kansas, to Greeley Gas Company at Alexander, Bazine, McCraken and Ness City, Kansas, and to the City of Albert, Kansas. Kansas-Nebraska states that it intends to make such sales according to its FPC Gas Tariff, Second Revised Volume No. 1 for Zone 1 customers.

Kansas-Nebraska also proposes to construct and operate approximately 600 feet of 6-inch interconnecting pipeline in Edwards County, Kansas, to facilitate the proposed new redelivery point and a 500 horsepower compressor station to be located in Rooks County, Kansas.

Kansas-Nebraska was authorized by order of July 22, 1970, as amended in Docket No. CP70–239 (44 FPC 149), among other things, to exchange gas with Cities Service. Kansas-Nebraska now proposes to establish a new redelivery point for said exchange in the vicinity of its gathering system and Cities pipeline in Edward County, Kansas. It is stated that Cities will construct and operate the facilities at a site provided by Kansas-Nebraska.

The estimated cost of the proposed new facilities is $180,000 which will be financed from working capital and interim bank loans.

The stated purpose of these proposals is to conserve gas reserves in central Kansas by making quantities available to Kansas-Nebraska's interstate system at times when the deliverable capacity of the area producing fields exceeds the area needs while assuring central Kansas customers of future reliable service by the addition of an interconnecting point south of the area between Kansas-Nebraska's Pawnee Rock Unruh gathering system and Cities Service's transmission line.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 24, 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 matters 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.

MARY B. KIDD, *Acting Secretary.*

[FR Doc.73–16276 Filed 8–6–73;8:45 am]

[Docket Nos. CI74-37, CI74-38, CI74-39]

KOPPERS CO., INC., ET AL.

Notice of Applications Pursuant to Section 2.75 of the Commission's General Policy and Interpretations and for Declaratory Orders

JULY 27, 1973.

Take notice that on July 16, 1973, Koppers Company, Inc. (Koppers), 1500 Koppers Building, Pittsburgh, Pennsylvania 15219, in Docket No. CI74-37, St. Regis Paper Company (St. Regis), 916 Pacific Avenue, Takoma, Washington 98401, in Docket No. CI74-38, and Escuhbia Oil Company (Escuhbia), Scott Plaza, Philadelphia, Pennsylvania 19113, in Docket No. CI74-39, filed applications 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 certificates of public convenience and necessity authorizing sales for resale and deliveries of natural gas in interstate commerce to Southern Natural Gas Company (Southern) from the Big Escambia Creek Field, Escambia County, Alabama. In addition, Applicants request declaratory orders that the transportation and sale of condensate and light liquid products to Southern, together with Applicants' facilities for such operations, are not subject to the Commission's jurisdiction under the Natural Gas Act. Applicants proposals and requests are more fully set forth in the applications which are on file with the Commission and open to public inspection.

Koppers in Docket No. CI74-37 proposes under the optional gas pricing procedure to sell all the gas it can deliver, estimated initially at 275 Mcf per day, from its acreage in the Big Escambia Field, Escambia County, Alabama to Southern at an initial rate of 55.0 cents per million Btu at 14.65 psia, pursuant to a contract dated December 1, 1972. Said contract provides for a 1.0-cent per million Btu price escalation every two years after initial deliveries, for tax reimbursement to the seller for ⅞ of any new or additional taxes and for a term of twenty years from the end of the month upon which deliveries commence. Koppers estimates monthly deliveries of gas at 7,250 Mcf.

St. Regis in Docket No. CI74-38 proposes to sell all the gas it can deliver, estimated initially at 275 Mcf per day, from its acreage in the Big Escambia Creek Field to Southern at an initial rate of 55.0 cents per million Btu at 14.65 psia, pursuant to a contract dated December 1, 1972. Said contract provides for a 1.0-cent per million Btu price escalation every two years after initial deliveries, for tax reimbursement to the seller for ⅞ of any new or additional taxes and for a term of twenty years from the end of the month upon which deliveries commence. St. Regis estimates monthly deliveries of gas at 7,250 Mcf.

Escuhbia in Docket No. CI74-39 proposes to sell all the gas it can deliver, estimated initially at 650 Mcf per day, from its acreage in the Big Escambia Creek Field to Southern at an initial rate of 55.0 cents per million Btu at 14.65 psia, pursuant to a contract dated December 1, 1972. Said contract provides for a 1.0-cent per million Btu price escalation every two years after initial deliveries, for tax reimbursement to the seller for ⅞ of any new or additional taxes and for a term of twenty years from the end of the month of initial deliveries. Escuhbia estimates monthly deliveries of gas at 17,700 Mcf.

Applicants state that the gas offered for certification pursuant to the contracts with Southern has not been previously sold in the interstate market nor have any applications been previously filed with the Commission for certification of the sales of such gas.

Applicants assert that the instant sales at the proposed initial rates with escalations are of critical importance in assisting Southern to meet its requirements for gas on its system as Southern is confronted with increasing shortages of natural gas supplies. Applicants further assert that the proposed rates are competitive with offers from other potential buyers, including those in the intrastate market and is lower than prices for base load and peak-shaving liquefied natural gas and synthetic gas. In addition, it is stated that the Applicants will incur substantial costs in removing sulfur from the gas prior to delivery to Southern.

Applicants also request that the Commission issue declaratory orders disclaiming jurisdiction over the transportation and sale of condensate and light liquid products to Southern (on an optional basis) and the facilities necessary therefor. Applicants state that they will construct a gas treating plant to remove sulfur, carbon dioxide, and liquid hydrocarbons from the gas proposed to be sold to Southern in the instant applications. After stabilization, the condensate and light liquid products will be removed and stored for subsequent delivery to Southern. Applicants are advised that upon delivery, Southern will transport both commodities to a Maximum Utilization Plant to be constructed in Escambia County where it will be converted into methane and subsequently sold in interstate commerce through Southern's system.

Any person desiring to be heard or to make any protest with reference to said applications should on or before August 23, 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 these applications if no petitions to intervene are filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificates is required by the public convenience and necessity. If petitions for leave to intervene are timely filed, or if the Commission on its own motion believes that formal hearings are required, further notice of such hearings 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.

[Filed Doc.73-16244 Filed 8-6-73;8:45 am]

[Docket Nos. E-8251, E-8169]

NEW ENGLAND POWER CO.

Order Accepting for Filing and Suspending Proposed Electric Rate Schedule Supplement, Permitting Interventions, Consolidating Prior Docket, Providing for Hearing, and Establishing Procedures

JULY 30, 1973.

On June 1, 1973, New England Power Service Co. (NEPCO) tendered for filing a proposed rate schedule supplement, constituting an amendment to the Contract for Primary Service for Resale between NEPCO and each of thirty-three named customers presently served under rate R-6.[1] NEPCO requests that the proposed increased rates be permitted to become effective on August 1, 1973.

Notice of NEPCO's proposed rate schedule supplement was issued on June 15, 1973, providing for protests or petitions to intervene to be filed on or before July 13, 1973. Petitions to intervene were filed on June 15, 1973, by the Rhode Island Consumer's Council, and on July 13, 1973, by the Commonwealth of Massachusetts through its Attorney General, and by the NEPCO Customer Rate Committee and twenty-seven other parties.[2] NEPCO states that the proposed rate, R-7, will increase the Demand Charge from $2.96/KW/Mo. to $3.18/KW/Mo. and the Energy Charge from 6.9 mills per KWh to 7.3 mills per KWh, and that such changes will increase NEPCO's annual revenues by approximately $12,500,000 based on a calendar 1972 test year. According to NEPCO, this filing is necessary to increase revenues to continue to raise the debt capital required for construction of generation and transmission facilities necessary to meet projected increased customer demand, while at the same time providing a fair rate of return to shareholders.

Our review of NEPCO's proposed rate schedule supplement indicates that there are issues raised in the pleadings that may require development in an evidentiary hearing. Accordingly, the proposed

[1] See Appendix A
[2] See Appendix B

rate schedule supplement will be accepted for filing and suspended for a period of five months and set for hearing.

An April 30, 1973, NEPCO filed an amendment to its Contract for Primary Service for Resale with Narragansett Electric Co., at Docket No. E–8169. Intervenors in that case requested that the Commission consolidate that case with NEPCO's newly filed proposed rate schedule, Docket No. E–8251. At the time of our order in Docket No. E–8169, June 29, 1973, we stated that the Commission had insufficient opportunity to review the filing in Docket No. E–8251 and therefore denied the request for consolidation as premature. Our review of that filing indicates that there may be raised issues of law and fact common to both filings and that consolidation of Docket Nos. E–8169 and E–8251 is appropriate. Consistent with this action, we will amend our order of June 29, 1973, to provide procedural dates reflecting our action herein.

The Commission finds.

(1) It is necessary and proper in the public interest and in carrying out the provisions of the Federal Power Act, that the Commission enter upon a hearing concerning the lawfulness of NEPCO's proposed general rate schedule supplement, and that such rate schedule supplement be suspended as hereinafter provided.

(2) The proposed increased rate and charges have not been shown to be justified and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful.

(3) The prior order of the Commission issued in Docket No. E–8169 should be amended as hereinafter ordered.

(4) Good cause exists to consolidate the proceedings at Docket Nos. E–8251 and E–8169.

(5) Good cause exists to grant the petitions to intervene mentioned above.

The Commission orders.

(A) Pursuant to the authority of the Federal Power Act, particularly sections 205, 206, 301, 308, and 309 thereof, and the Commission's rules and regulations, a public hearing shall be held concerning the lawfulness of NEPCO's proposed rate schedule herein, commencing with a prehearing conference to be held on December 18, 1973.

(B) Pending such hearing and decision thereon, NEPCO's proposed rate schedule (R–7) to its Contract for Primary Service for Resale with the thirty-three customers is hereby accepted for filing, suspended for five months, and the use thereof deferred until January 1, 1974, or until such time as they are made effective in the manner in the Federal Power Act.

(C) At the prehearing conference on December 18, 1973, all evidence shall be admitted into the record, and procedures adopted for an orderly and expeditious hearing.

(D) On or before November 20, 1973, the Commission's Staff shall serve its prepared testimony and exhibits if any. The prepared testimony and exhibits of intervenors, if any, shall be served on or before November 29, 1973. Any rebuttal evidence by NEPCO shall be served on or before December 13, 1973. Cross-examination of the evidence filed shall commence at 10:00 A.M. on December 19, 1973, in a hearing room of the Federal Power Commission.

(E) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose shall preside at the hearing initiated by this order, and shall conduct such hearing in accordance with the Federal Power Act, the Commission rules and regulations, and the terms of this order.

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

(G) Docket Nos. E–8251 and E–8169 are hereby consolidated and the procedural dates previously established in Docket No. E–8169 are amended to coincide with the dates set forth above.

(H) Nothing contained in this order shall relieve the applicant of any responsibility imposed by the Economic Stabilization Act of 1970, (Public Law 91–379, 84 Stat. 799, as amended by Public Law 92–15, 85 Stat. 38), or by any Executive Order or rules and regulations promulgated pursuant to such Act.

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

By the Commission.

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

APPENDIX A

NEW ENGLAND POWER COMPANY

Designations Rate R–7

Sixth Revised Sheet No. 11 to Exhibit B (Superseding Fifth Revised Sheet No. 11)
Seventh Revised Sheet No. 12 to Exhibit B (Superseding Sixth Revised Sheet No. 12)
Original Sheet No. 12A to Exhibit B

The above designations apply to the following rate schedules:

Customer	Rate Schedule
The Narragansett Electric Company	161
Massachusetts Electric Company	162
Granite State Electric Company	163
Green Mountain Power Corporation	164
Manchester Electric Company	165
Town of Groveland	166
Town of Littleton (New Hampshire)	167
Town of Georgetown	169
Town of Mansfield	170
Town of Middleton	171
Town of Sterling	172
Town of Hull	173
Town of Merrimac	174
Town of Littleton (Massachusetts)	175
Town of Groton	176
Town of Boylston	177
Town of Paxton	178
Town of Danvers	179
Town of Templeton	180
Town of Marblehead	181
Town of Ashburnham	182
Town of Princeton	183
Town of Hingham	184
Town of North Attleborough	185
City of Peabody	186
Town of Holden	187
Town of West Boylston	188
Town of Ipswich	189
Department of the Army	199
New Hampshire Electric Cooperative, Inc	200
Town of Hudson	202
Town of Shrewsbury	207
Town of Wakefield	258

APPENDIX B

PARTIES JOINING IN A FILING TO PROTEST, PETITION TO INTERVENE, MOVE FOR SUSPENSION, AND RENEW A MOTION TO CONSOLIDATE, FILED JULY 13, 1973

NEPCO Customer, Rate Committee, The Electrical Departments and Plants of the following Massachusetts Towns and Cities:

Ashburnham	Marblehead
Boylston	Merrimac
Danvers	Middleton
Georgetown	North Attleboro
Groton	Paxton
Hingham	Peabody
Holden	Princeton
Hudson	Shrewsbury
Hull	Sterling
Ipswich	Templeton
Littleton	Wakefield
Mansfield	West Boylston

Littleton, New Hampshire,
The Manchester Electric Company, and
The New Hampshire Electric Cooperative.

[FR Doc.73-16270 Filed 8-6-73;8:45 am]

[Docket No. E–8252]

NORTHERN STATES POWER CO.

Order Accepting for Filing and Suspending Proposed Electric Rate Increase and Permitting Interventions

JULY 30, 1973.

Northern States Power Co. (NSP) tendered for filing on June 1, 1973, First Revised Schedule A to NSP's contracts with sixteen total requirements wholesale customers.[1] NSP asserts that the resulting rate increase of nearly 30% is necessary to bring the rate of return on total requirements wholesale business into line with the rate of return on overall electric business. The revenues resulting from the requested increase, NSP states, would be approximately $1,400,610, based on a calendar 1972 test-year basis with a projected rate of return of 7.80 percent on the affected business. An effective date of August 1, 1973, is requested.

The notice of the proposed changes, published in the FEDERAL REGISTER on June 21, 1973, provided that the closing date for petitions to intervene, protests, and comment would be July 12, 1973. On July 9, 1973, the City of Anoka, Minne-

[1] See Appendix.

sota filed a motion requesting an extension of the period for intervention and/or protest and on July 13, 1973, fifteen of the sixteen affected customers, including the City of Anoka, filed a protest, motion to reject, and petition to intervene (Cities).[2] Cities allege the following defects in NSP's application:

The inclusion of the addition of pollution control facilities in NSP's rate base, as well as the inclusion of working capital, depreciation, and income taxes relating thereto is claimed to be improper. In addition, Cities state that NSP's computation of working capital requirements for its fuel stock inventory by using December, 1972 replacement costs rather than the original cost of such inventory does not conform to the Commission's regulations. It is also maintained that NSP's inclusion of out-of-period wage increases without regard for increased revenues is in violation of the Commission's guidelines in Union Electric Co., Opinion No. 609 (January 24, 1972).

Cities submit that the inclusion by NSP of pension cost increases is improper; and that NSP's proposed rate compensates it for past inflation. Cities also allege that the revision in rate design, fuel adjustment clause, power factor provision, billing determinant provision and the continuation of the sole supplier provisions of its contracts are unjustified and anti-competitive in their effects on Cities.

Cities request that the Commission reject NSP's application or, in the alternative, suspend the proposed rates and allow Cities to intervene in the proceedings.

As to the anti-competitive issues raised above, by order issued May 31, 1973, in Indiana and Michigan Electric Co., Docket No. E-7740, we set standards for those who would raise anti-competitive issues. These standards are that the petition to intervene must clearly specify (1) the facts relied upon, (2) the anti-competitive practices challenged, and (3) the requested relief which is within this Commission's authority to direct. (mimeo p. 3). Our review of Cities' petition to intervene indicates that it fails to specify the relief sought which is within this Commission's authority to grant. Accordingly, we shall limit Cities' participation in this proceeding to matters other than the alleged anti-competitive activities. This action is without prejudice to Cities' right to file an appropriate amended petition which sets forth the relief for the alleged anti-competitive conduct that is within this Commission's authority to grant.

With respect to the other allegations by Cities, these involve matters that cannot be dealt with summarily but rather require development at an evidentiary hearing.

[2] Only Home Light and Power Company did not join in the petition.

Our review of the application indicates that the rates and charges requested have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful. We will suspend the effectiveness of the proposed rates for sixty days and provide for hearing.

The Commission finds.

(1) Participation by petitioners for intervention in this proceeding may be in the public interest.

(2) The proposed increased rates and charges may be unjust, unreasonable, unduly discriminatory, preferential, otherwise unlawful under Section 205 and accordingly shall be suspended as hereinafter ordered.

The Commission orders.

(A) NSP's application is accepted for filing under Section 205 of the Federal Power Act. Pending a hearing and decision thereon, the requested rates and charges are hereby suspended for sixty days and the use thereof deferred until October 1, 1973, or until such time as they are made effective in the manner prescribed by the Federal Power Act.

(B) Increased rates and charges collected after October 1, 1973, and found by the Commission in this proceeding to be unjustified shall be refunded according to the Commission's rules and regulations.

(C) The above-named petitioners are hereby permitted to intervene in this proceeding, subject to the rules and regulations of the Commission: Provided, however, That the participation of such intervenors shall be limited to matters affecting rights and interests specifically set forth in the respective petitions to intervene, except that Cities' participation is limited to matters other than alleged anti-competitive activities, and Provided, further, That the admission of such intervenors shall not be construed as recognition by the Commission that they, or any of them, might be aggrieved because of any order or orders issued by the Commission in this proceeding.

(D) Pursuant to the authority of the Federal Power Act, particularly § 205 thereof, the Commission's rules of practice and procedure, and the Regulations Under the Federal Power Act (18 CFR, Chapter 1), a public hearing shall be held, commencing with a prehearing conference on December 18, 1973, at 10 a.m., e.s.t., in a hearing room of the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, concerning the lawfulness of the rates, charges, classifications, and services contained in NSP's rate increase filing.

(E) At the prehearing conference on December 18, 1973, NSP's prepared testimony together with its entire rate filing shall be admitted to the record as its complete case-in-chief subject to appropriate motions, if any, by parties to the proceedings. All parties will be expected to come to this conference prepared to effectuate the provisions of § 1.18 of the Commission's rules of practice.

(F) On or before November 6, 1973, the Commission Staff shall serve its prepared testimony and exhibits. The prepared testimony and exhibits of any and all intervenors shall be served on or before November 20, 1973. Any rebuttal evidence by NSP shall be served on or before December 4, 1973. Cross-examination of the evidence shall commence on December 19, 1973.

(G) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5(d)) shall preside at the hearing initiated by this order, shall prescribe relevant procedural matters not herein provided, and shall control the proceeding in accordance with the Commission's rules of practice and procedure.

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

By the Commission.

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

APPENDIX

NORTHERN STATES POWER COMPANY (MINNESOTA)

Filed: June 1, 1973

Designations	Descriptions	Other party
Supplement No. 1 to Rate Schedule FPC No. 338	First Revised Schedule A	City of Anoka
Supplement No. 1 to Rate Schedule FPC No. 378	First Revised Schedule A	City of Arlington
Supplement No. 1 to Rate Schedule FPC No. 324	First Revised Schedule A	Village of Browntown
Supplement No. 1 to Rate Schedule FPC No. 369	First Revised Schedule A	Village of Buffalo
Supplement No. 2 to Rate Schedule FPC No. 323	First Revised Schedule A	City of Chaska
Supplement No. 2 to Rate Schedule FPC No. 355	First Revised Schedule A	City of Granite Falls
Supplement No. 1 to Rate Schedule No. 335	First Revised Schedule A	Home Light & Power Company
Supplement No. 1 to Rate Schedule FPC No. 318	First Revised Schedule A	Village of Kasota
Supplement No. 1 to Rate Schedule FPC No. 379	First Revised Schedule A	Village of Kasson
Supplement No. 1 to Rate Schedule FPC No. 361	First Revised Schedule A	City of Lake City
Supplement No. 1 to Rate Schedule FPC No. 371	First Revised Schedule A	Village of North St. Paul
Supplement No. 1 to Rate Schedule FPC No. 325	First Revised Schedule A	City of St. Peter
Supplement No. 1 to Rate Schedule FPC No. 368	First Revised Schedule A	City of Shakopee
Supplement No. 1 to Rate Schedule FPC No. 366	First Revised Schedule A	Town of Valley Springs
Supplement No. 1 to Rate Schedule FPC No. 380	First Revised Schedule A	Town of Waseca
Supplement No. 1 to Rate Schedule FPC No. 364	First Revised Schedule A	City of Winthrop

[FR Doc.73-16269 Filed 8-6-73;8:45 am]

[Docket No. CI74-41]

PETROLEUM, INC.

Notice of Application

JULY 27, 1973.

Take notice that on July 20, 1973, Petroleum, Inc. (Applicant), 300 West Douglas, Wichita, Kansas 67202, filed in Docket No. CI74-41 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 the Mocane-Laverne Field, Harper County, Oklahoma, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to sell approximately 17,500 Mcf of gas per month for two years at 45.0 cents per Mcf at 14.65 psia the first year and 46.0 cents per Mcf at 14.65 psia the second year, subject to upward and downward Btu adjustment, within the contemplation of § 2.70 of the Commission's general policy and interpretations.

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 August 13, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petititon 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.73-16239 Filed 8-6-73;8:45 am]

[Docket No. RP72-98]

TEXAS EASTERN TRANSMISSION CORP.

Notice of Motion for Approval of Second Revised Stipulation and Agreement

AUGUST 1, 1973.

Take notice that on July 25, 1973, Texas Eastern Transmission Corporation (Texas Eastern) filed a motion for approval of a Second Revised Stipulation and Agreement providing for a proposed settlement of the issues in the above-entitled proceedings.

Copies of the motion and the Second Revised Stipulation and Agreement were served on all parties to the proceeding, Texas Eastern's jurisdictional customers and interested state regulatory commissions.

Any person desiring to do so may file comments in writing with the Commission concerning the proposed settlement. Such comments should be filed on or before August 17, 1973. The motion and the Second Revised Stipulation and Agreement are on file with the Commission and available for public inpsection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.73-16247 Filed 8-6-73;8:45 am]

[Docket No. CI74-51]

TEXACO INC.

Notice of Application

JULY 31, 1973.

Take notice that on July 25, 1973, Texaco Inc. (Applicant), P.O. Box 3109, Midland, Texas 79701, filed in Docket No. CI74-51 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 the Vacuum (Morrow) Field, Lea 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 gas on July 18, 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 up to 10,000 Mcf of gas per day at 50.0 cents per Mcf at 14.65 psia, subject to upward and downward Btu adjustment. Upward Btu adjustment is estimated at 7.6 cents per Mcf. Deliveries are estimated at 102,000 Mcf of gas per month.

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 August 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.

MARY B. KIDD,
Acting Secretary.

[FR Doc.73-16275 Filed 8-6-73;8:45 am]

[Docket No. RP72-99]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Order Denying Motion for Reconsideration, Permitting Intervention, Fixing Date of Hearing, Specifying Procedures, and Suspending Proposed Revised Tariff Sheets

JULY 30, 1973.

This proceeding arises out of Transcontinental Gas Pipe Line Corp. (Transco) filing on May 17, 1971, of tariff changes pursuant to Order No. 431 in order to effectuate a gas curtailment policy in the event of a gas shortage. By order of November 15, 1971, in Docket No. RP71-118, the Commission approved an interim curtailment plan effective for the period November 16, 1971, through November 15, 1972, and provided that Transco file a permanent curtailment plan which it filed on January 17, 1972, in this Docket. The Commission suspended this filing and provided for a hearing. However, after discussions between Transco, its customers and the staff, an interim settlement agreement to cover the period November 16, 1972, through November 15, 1973, was arrived at which interim settlement agreement was approved by this Commission by order of November 15, 1972. On May 1, 1973, Transco filed a motion requesting a one-year extension of its interim curtailment plan which motion was denied by order of the Commission issued May 23, 1973. The Commission's May 23, 1973, order

also ordered Transco to file an appropriate curtailment plan on or before July 1, 1973. On June 29, 1973, Transco submitted for filing in conformance with the Commission's May 23, 1973, order revised tariff sheets[1] to its presently effective FPC Gas Tariff First Revised Volume No. 1 constituting its permanent curtailment plan. The Commission issued a notice of filing of Transco's proposed curtailment plan on July 11, 1973, (38 FR 19253). On July 6, 1973, Transco filed a renewal of its motion for a one-year extension of its interim curtailment plan.

We shall construe Transco's July 6, 1973, refiling of its motion as a petition for reconsideration and deny same. Review of the curtailmen provisions contained in Transco's current interim curtailment plan currently in effect shows that they do not conform to the standards for priorities of deliveries during periods of curtailment as enunciated by Order Nos. 467, 467–A and 467–B. Consistent with our order of April 11, 1973, in Docket No. RP72–64, Texas Gas Transmission Corporation, we cannot grant a motion to extend Transco's present interim plan for an additional year when such plan deviates from our announced policy on curtailment priorities. Accordingly, Transco's motion for a one-year extension of its interim curtailment plan, constituting a motion for reconsideration, should be denied.

In addition to the parties already granted intervention in this Docket, petitions to intervene in this proceeding have been received from: General Motors Corp., The Brick Institute of America, Owens-Corning Fiberglas Corp., Ball Corp., and Brick Association of North Carolina.

In summary, Transco's proposed permanent curtailment plan embodies the end-use priorities established by the Commission in Order No. 467–B as modified in Opinion No. 647–A issued May 30, 1973, in United Gas Pipe Line Company, Docket Nos. RP71–29 and RP71–120. The proposed tariff sheets utilize the definitions of service proposed by the Commission in Docket No. R–474.

Transco's proposed curtailment plan, however, deviates from Order No. 467–B in the following respects:

(1) Transco requests that its direct interruptible customers be completely curtailed prior to any other curtailment on its system.

(2) Customers which obtain more than the system average gas supply will pay $.25 per Mcf for such over supply of gas and customers which receive less than the system average gas supply will obtain a credit of $.25 per Mcf for such under supply.

Additionally, certain other changes have been made. The definition of gas supply deficiency has been broadened to include any occurrence which adversely affects the supply of gas into Transco's main line including gathering system outages, the possibility of husbanding, and the failure of producers and other suppliers to deliver for any reason. Concomitantly, the definition of force majeure has been narrowed to eliminate gas supply related outages from that definition. Transco, however, still proposes to make demand charge adjustments for gas supply deficiency curtailments and assess these charges to its customers through a deferred accounting and tracking procedure.

Since Transco's proposed curtailment procedures contain, inter alia, the procedures set forth in our Statement of Policy, Order No. 467–B, issued March 2, 1973, in Docket No. R–469, we are of the view that intervenors opposing the proposed 467–B procedures should be required to submit testimony and exhibits in support of any deviations therefrom in Transco's proposed curtailment plan, as well as in support of their objections to other tariff provisions contained in Transco's filing of June 29, 1973. Transco, on the other hand, should submit evidence supporting its revised tariff provisions other than those relating to priority of service during curtailed deliveries.

The Commission finds.

(1) The proposed changes to Transco's FPC Gas Tariff have not been shown to be justified and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful.

(2) It is necessary and proper in the public interest and to aid in the enforcement of the Natural Gas Act that the Commission enter upon a hearing regarding the lawfulness of the proposed revised tariff sheets filed by Transco and that such tariff sheets be suspended and the use thereof be deferred as herein provided.

(3) The participation in the above-named petitioners may be in the public interest.

The Commission orders.

(A) Pursuant to the authority of the Natural Gas Act, particularly §§ 4, 5, and 15 thereof, the Commission's rules of practice and procedure and the regulations of the Natural Gas Act (18 CFR Chapter 1) a public hearing shall be held commencing August 27, 1973, at 10:00 a.m. in a hearing room of the Federal Power Commission, 825 North Capitol St., Washington, D.C. 20426, concerning the lawfulness of the curtailment provisions contained in Transco's FPC Gas Tariff as proposed to be revised herein. The hearing shall begin with admission into the record of Transco's direct case, subject to appropriate motions, followed by cross examination of Transco's witnesses.

(B) Pending hearing and decision on the issues raised by Transco's filing in Docket No. RP72–99, the proposed tariff sheets filed by Transco, and identified in footnote 1, are hereby suspended and the use thereof is deferred until November 16, 1973, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(C) On or before August 13, 1973, Transco shall prepare and file with the Commission and serve on the Commission Staff and all parties to this proceeding its direct testimony and exhibits in support of the proposed tariff sheets submitted on June 29, 1973.

(D) Testimony in opposition to Transco's curtailment procedures shall be filed on or before August 13, 1973.

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

(F) Transco's renewal of its motion for a one-year extension of its interim curtailment plan, constituting a motion for reconsideration, and filed on July 6, 1973, is hereby denied.

(G) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (see delegation of authority 18 CFR 3.5 paragraph (d)) shall preside at the hearing in this proceeding pursuant to the Commission's rules of practice and procedure.

By the Commission.

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

[FR Doc.73–16273 Filed 8–6–73;8:45 am]

[1] First Revised Sheet No. 136, Second Revised Sheet No. 138, Second Revised Sheet No. 139, Second Revised Sheet No. 140, Second Revised Sheet No. 141, Second Revised Sheet No. 142, First Revised Sheet No. 143, First Revised Sheet No. 144.

FEDERAL RESERVE SYSTEM

BANKAMERICA CORPORATION

Order Denying Acquisition of GAC Finance, Inc.

BankAmerica Corporation, San Francisco, California, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval, under sections 4 (c) (8) and (13) of the Act and § 225.4 (b)(2) of the Board's Regulation Y, to acquire voting shares of GAC Finance, Inc., Allentown, Pennsylvania. GAC Finance, Inc. through its subsidiaries engages in the activities of making direct loans to consumers; purchasing sales finance paper; financing inventory of distributors of and dealers in various consumer durable goods through agreements with manufacturers in the case of distributors and with distributors in the case of dealers; servicing manufacturer-funded receivables arising from inventory financing by certain manufacturers of consumer durable goods; rediscount financing for non-affiliated consumer sales finance companies; and sale to its

direct consumer borrowers of credit life and credit health and accident insurance and of insurance coverage against damage to personal property securing extensions of credit made by the subsidiary to its direct consumer borrowers. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Notice of the application, affording opportunity for interested persons to submit comments and views on the public interest factors, has been duly published (38 FR 6103). The time for filing comments and views has expired, and the Board has considered all comments received, including those of the Department of Justice, in the light of the public interest factors set forth in section 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)).

On the basis of the record, the application is denied for the reasons set forth in the Board's Statement, which will be released at a later date.

By order of the Board of Governors,[1] effective July 27, 1973.

[SEAL] CHESTER B. FELDBERG,
Secretary of the Board.

[FR Doc.73-16198 Filed 8-6-73;8:45 am]

CITIZENS COMMERCIAL CORPORATION

Formation of Bank Holding Company

Citizens Commercial Corporation, Flint, Michigan, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of all of the voting shares of the successor by merger to Citizens Commercial & Savings Bank, Flint, Michigan. 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 Chicago. 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 August 13, 1973.

Board of Governors of the Federal Reserve System, July 27, 1973.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.73-16195 Filed 6-8-73;8:45 am]

COMMERCE BANCSHARES, INC.

Proposed Retention of Commerce Mortgage Company

Commerce Bancshares, Inc., Kansas City, Missouri, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, for permission to retain voting shares of Commerce Mortgage Company, Kansas City, Missouri which were previously held under authority of section 4(c)(5) of the Act. Notice of the application was published on May 10, 1973 in the Kansas City Star, a newspaper circulated in Kansas City, Jackson County, Missouri; on April 18, 1973 in the Columbia Missourian, a newspaper circulated in Columbia, Boone County, Missouri; and on April 9, 1973 in the St. Louis Globe-Democrats, a newspaper circulated in St. Louis, Missouri.

Applicant states that the subsidiary would continue to engage in the activities previously engaged in pursuant to section 4(c)(5) of the Bank Holding Company Act: Making, purchasing, or otherwise obtaining loans for itself and as agent for others, taking or receiving evidences of indebtedness therefor, and obtaining as security for the payment thereof mortgages, trust deeds, pledges or security creating documents upon real estate, improved or unimproved, as well as servicing mortgage loans for itself and for others, including foreclosure in event of default. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissable for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than August 26, 1973.

Board of Governors of the Federal Reserve System, July 30, 1973.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.73-16197 Filed 6-8-73;8:45 am]

MULTIBANK FINANCIAL CORP.

Acquisition of Bank

Multibank Financial Corp., Boston, Massachusetts, 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 80 per cent or more of the voting shares of Northampton National Bank, Northampton, Massachusetts. 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 Boston. 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 August 26, 1973.

Board of Govenors of the Federal Reserve System, July 30, 1973.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.73-16196 Filed 8-6-73;8:45 am]

SECURITY PACIFIC CORP.

Proposed Acquisition of Midwestern Financial Corp.

Security Pacific Corporation, Los Angeles, California, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, for permission to acquire voting shares of Midwestern Financial Corporation, Denver, Colorado. Notice of the application was published as follows:

Date	Newspaper	State/City
May 30, 1973	Anchorage Times	Anchorage, Alaska
May 30, 1973	Republic Gazette	Phoenix, Arizona
May 30, 1973	The Daily Reporter	Tucson, Arizona
May 28, 1973	Anaheim Bulletin	Anaheim, California
May 30, 1973	Downey Southeast News and Downey Champion	Downey, California
May 31, 1973	El Monte Herald	El Monte, California
May 31, 1973	Van Nuys News and Valley Green Sheet	Encino & Mission Hills, California
May 31, 1973	Hawthorne Press Tribune	Hawthorne California
May 30, 1973	Long Beach Independent	Long Beach, California
May 30, 1973	The Inter-City Express	Oakland, California
May 30, 1973	Press-Courier	Oxnard, California
May 30, 1973	The Recorder	San Francisco, California
May 30, 1973	Contra Costa Times	Walnut Creek, California
May 30, 1973	Star Sentinel	Aurora, Colorado
May 30, 1973	Colorado Springs Gazette Telegraph	Colorado Springs, Colorado
May 31, 1973	Daily Journal	Denver, Colorado
May 31, 1973	The Lakewood Sentinel	Lakewood Colorado
May 29, 1973	Fulton County Daily Report	Atlanta, Georgia
May 30, 1973	The Hawaii Times	Honolulu, Hawaii
May 31, 1973	Evergreen Park Courier	Evergreen Park, Illinois
May 30, 1973	The Johnson County Scout	Mission, Kansas
May 30, 1973	Albuquerque Journal	Albuquerque, New Mexico
May 30, 1973	Houston Post	Houston, Texas
May 29, 1973	Seattle Times	Seattle, Washington
May 30, 1973	Chronicle Review	Spokane, Washington
May 30, 1973	News Tribune	Tacoma, Washington

[1] Voting for this action: Chairman Burns and Governors Brimmer, Bucher, and Holland. Voting against this action: Governors Mitchell, Daane, and Sheehan.

Applicant states that the proposed subsidiary would sell or spin off certain subsidiaries and will only engage in the activities of mortgage banking. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than August 23, 1973.

Board of Governors of the Federal Reserve System, July 27, 1973.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.73-16192 Filed 8-6-73;8:45 am]

SOUTH MIDLAND FINANCIAL CORP.

Formation of Bank Holding Company

South Midland Financial Corp., Milwaukee, Wisconsin, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of approximately 99 per cent of the voting shares of South Midland Bank, Milwaukee, Wisconsin. 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 Chicago. Any person wishing to comment on the application should submit his views in writing to the Federal Reserve Bank, to be received not later than August 26 1973.

Board of Governors of the Federal Reserve System, July 30, 1973.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.73-16193 Filed 8-6-73;8:45 am]

GENERAL SERVICES ADMINISTRATION

[Federal Property Management Regs.; Temporary Reg. F-188]

SECRETARY OF DEFENSE

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in rulemaking proceedings before the Internal Revenue Service, Department of the Treasury.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the Internal Revenue Service, Department of the Treasury, in rulemaking proceedings concerning the adoption of proposed rule 1.167(l)-1, regarding "Property of Certain Public Utilities Proposed Depreciation Allowance."

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and, further, shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

ARTHUR F. SAMPSON,
Administrator of General Services.

AUGUST 1, 1973.

[FR Doc.73-16222 Filed 8-6-73;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

I. D. PRECISION COMPONENTS CORP.

Order Suspending Trading

JULY 31, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $.10 par value, and all other securities of I. D. Precision Components 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 10 a.m. (e.d.t.) on July 31, 1973 and continuing through August 9, 1973.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.73-16199 Filed 8-6-73;8:45 am]

[70-5366]

MIDDLE SOUTH UTILITIES, INC.

Notice of Proposed Issue and Sale of Short-Term Promissory Notes to Banks for Borrowings Under a Revolving Credit Agreement

JULY 31, 1973.

Notice is hereby given that Middle South Utilities, Inc., 280 Park Avenue New York, New York 10017 ("Middle South"), 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 transactions. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

Middle South proposes, under a $135,000,000 revolving credit agreement dated as of July 1, 1973, to initially issue and sell its unsecured promissory notes, in an aggregate amount not to exceed $30,000,000 outstanding at any one time, to a group of 7 commercial banks headed by Manufacturers Hanover Trust Company of New York ("MHTC"). Middle South proposes to (a) apply $10,000,000 of the proceeds of the initial borrowing to purchase an additional 435,000 shares of common stock without nominal or par value of Mississippi Power & Light Company, its electric utility subsidiary, for an aggregate of $10,005,000 in cash (such purchase is a subject of a pending application-declaration filed by Mississippi Power & Light Company and Middle South, File No. 70-5371) and (b) use the balance of the proceeds of the borrowing, $20,000,000, to pay off a similar principal amount of short-term notes held by MHTC and Chase Manhattan Bank, in the amounts of $10,000,000 each. Such borrowings were under an interim arrangement, pending the development of the present credit agreement, and were used to purchase common stock of Arkansas Power & Light Company, an electric utility subsidiary of Middle South (Holding Company Act Rel. No. 17958, dated May 10, 1973).

Under the terms of the revolving credit agreement, Middle South may borrow and reborrow until June 30, 1975, up to an aggregate of $135,000,000 outstanding at any one time. The names of the banks participating in the agreement and their respective commitments are as follows:

Bank	Commitment
Manufacturers Hanover Trust Company, New York	$55,000,000
First National City Bank, New York	25,000,000
Bank of America National Trust & Savings Association, Los Angeles	15,000,000

Bank	Commitment
Continental Illinois National Bank and Trust Company of Chicago	10,000,000
Irving Trust Company, New York	10,000,000
Northern Trust Company Bank, Chicago	10,000,000
The First National Bank of Chicago	10,000,000
	135,000,000

Each borrowing and each payment by Middle South will be made pro rata among the lending banks according to their original commitment. The credit agreement additionally provides that loans thereunder will be evidenced by unsecured promissory notes payable 90 days from the date of issuance thereof, but in no event later than June 30, 1975; will bear interest on the unpaid principal amount thereof from the date thereof at a rate per annum equal to MHTC's prime rate, defined as the commercial loan rate of MHTC from time to time in effect on borrowings having a 90-day maturity, until and including June 30, 1974, and thereafter at a rate per annum equal to ¼ of 1 percent above MHTC's prime rate, as defined. The notes will be prepayable at any time on two business days notice in whole or in part without premium. The effective cost of borrowing to Middle South under the credit agreement after the full $135,000,000 has been borrowed, assuming compensating balances of approximately 15 percent to be maintained with each of the banking institutions, and assuming a MHTC prime rate of 8½ percent, as defined, would be 10.4 percent per annum.

In connection with the line of credit, Middle South has agreed to pay the banks a commitment fee for the period from and including July 1, 1973 to June 30, 1975, (or earlier date of termination of the commitments), computed at the rate of ½ of 1 percent per annum on the average daily unused portion of the commitments in effect during the period for which payment is made. Such commitment fee will be payable to each bank quarterly on the last day of each March, June, September and December, commencing September 30, 1973, and on the date on which Middle South shall terminate its commitments.

Middle South intends to pay the principal of its proposed notes out of the proceeds of the sale of additional shares of its common stock. It is stated that repayments so made from the proceeds of the sale of common stock shall reduce borrowings authorized by this Commission by the amount of such repayments.

Middle South states it intends to utilize the balance of the bank loan agreement to make capital contributions to Louisiana Power & Light Company and Arkansas Power & Light Company, its wholly-owned electric utility subsidiaries, aggregating $55,000,000 during the last quarter of 1973, and $50,000,000 during the first and second quarter of 1974. Middle South states the aggregate borrowings under the proposed line of credit will total $135,000,000 at the close of the second quarter of 1974. All such additional borrowings and reborrowings under the credit agreement will be subject to subsequent filings and approval by this Commission.

The declaration states that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions. No special or separate expenses are anticipated in connection with the various transactions referred to herein.

Notice is further given that any interested person may, not later than August 24, 1973, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said 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 its 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.73-16202 Filed 8-6-73;8:45 am]

[811-1488]

MOODY'S CAPITAL FUND, INC.

Notice of Proposal to Terminate Registration

JULY 31, 1973.

Notice is hereby given that the Commission proposes, pursuant to Section 8(f) of the Investment Company Act of 1940 ("Act"), to declare by order upon its own motion that Moody's Capital Fund, Inc., 100 Church Street, New York, New York 10007 ("Fund"), a corporation organized under the laws of the State of Maryland, and registered under the Act as an open-end, diversified management investment company, has ceased to be an investment company as defined in the Act.

Fund was organized in Maryland on March 28, 1967; it filed a notification of registration on Form N-8A on April 5, 1967 and a registration statement on Form N-8B-1 on April 11, 1967.

At a Special Meeting of Stockholders of the Fund, held on February 26, 1972, the holders of a majority of Fund's outstanding voting securities approved (1) a Plan of Reorganization ("Plan") providing for the acquisition by Smith, Barney Equity Fund, Inc. ("Equity", also an investment company registered under the Act) of substantially all of the assets of the Fund in exchange for shares of Equity common stock; (2) the Articles of Exchange ("Articles") necessary to effectuate the Plan; (3) the distribution of Equity common stock to the Fund's shareholders; and (4) the dissolution of the Fund.

Pursuant to the foregoing action by shareholders of the Fund, substantially all of the assets of the Fund were acquired by Equity as of February 26, 1972; the Equity common stock was distributed to Fund shareholders on February 28, 1972; and the Fund was dissolved on April 28, 1972 by filing Articles of Dissolution with the Maryland Department of Assessments and Taxation.

Counsel represents that while the Fund has been formally dissolved, its directors, acting as trustees for the dissolved corporation, are still in the process of winding up the company's financial affairs. This process will be completed upon the final liquidation of the Fund's remaining assets, which include the settlement proceeds of certain litigation in which the Fund had been involved. Counsel to the Fund further represents that all but approximately $1,400 of the Fund's current assets, which amount to $432,585.43, are being held in interest-bearing accounts at the Chase Manhattan Bank, with the balance deposited in a checking account at the Irving Trust Company.

Counsel further represents that upon the resolution by the Internal Revenue Service of the proper treatment of these assets under the federal income tax laws, such assets will be distributed to shareholders of record of the Fund as of the close of business on February 25, 1972.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, on its own motion, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the effectiveness of such order, which may be issued upon the Commission's own motion where appropriate, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than August 27, 1973, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communi-

cations should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall 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 Fund at the address stated above. Proof of service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the matter herein may be issued by the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.73-16204 Filed 8-6-73;8:45 am]

[812-3419]

PUTNAM INVESTORS FUND, INC.

Notice of Filing of Application for Order Exempting Proposed Transactions

JULY 31, 1973.

Notice is hereby given that the Putnam Investors Fund, Inc., 265 Franklin Street, Boston, Massachusetts 02110 ("Applicant"), registered under the Investment Company Act of 1940 ("Act") as an open-end diversified management investment company, has filed an application pursuant to Section 6(c) of the Act for an order of the Commission exempting from the provisions of section 22(d) of the Act and from Rule 22c-1 under the Act a transaction in which Applicant's redeemable securities will be issued at a price other than the current public offering price in exchange for substantially all of the assets of Southern Mill Supply Company, Inc. ("Southern").

Southern is a personal holding company all of whose outstanding stock is owned of record and beneficially by only one person. It is exempt from registration under the Act under the provisions of section 3(c)(1) of the Act.

On January 15, 1973, Applicant and Southern entered into an Agreement and Plan of Reorganization ("Agreement") whereby substantially all of the cash and securities owned by Southern, with a value of approximately $256,502 as of February 23, 1973, are to be transferred to Applicant in exchange for shares of Applicant's capital stock. Pursuant to the Agreement, the number of shares of Applicant to be issued to Southern is to be determined by dividing the aggregate market value of the assets of Southern to be transferred to Applicant by the net asset value per share of Applicant.

The application states that as a condition to the consummation of the transaction by the Applicant at least 60 percent of the value of the assets of Southern being transferred to the Applicant at the valuation time shall consist of securities which the Applicant wishes to acquire and hold for investment in its portfolio.

Pursuant to the Agreement, the value of the assets of Southern to be transferred and the net asset value of the shares of Applicant to be issued in exchange therefor, will be determined as of the close of business on the first full business day prior to the actual issue of said shares. The Agreement also requires that in determining the number of shares of Applicant to be delivered to Southern, the aggregate market value of the assets of Southern shall be reduced by an amount, if any, determined by application of a formula designed to compensate Applicant for any increased tax liability which may result by reason of its acquisition of the assets of southern. If the valuation under the Agreement had taken place on February 23, 1973, when the net asset value of Applicant's stock was $10.29 per share, Southern would have received 24,927 shares of Applicant's stock.

When received, Southern will distribute Applicant's shares to its shareholder and will dissolve. The stockholder of Southern has represented to Applicant that his present intention is to hold the shares of Applicant received in the transaction for at least 12 months after the close of the transaction.

Applicant represents that there is no affiliation or relationship between Applicant or its officers and directors and Southern or its officers and directors. The application also states that the proposed transaction is a result of arms-length negotiations.

Section 22(d) of the Act, in pertinent part, prohibits a registered investment company from selling any redeemable security issued by it to any person except to or through a principal underwriter for distribution or at a current public offering price as described in the prospectus. The public offering price of Applicant's shares is net asset value plus varying sales charges depending upon the amount purchased and owned.

Section 22(c) of the Act and Rule 22c-1 thereunder, taken together, provide, in pertinent part, that a registered investment company may not issue its redeemable securities except at a price based on the current net asset value of such security computed as of the close of trading on the New York Stock Exchange next following receipt of the order to purchase the security. Because the valuation date will precede the closing date by one business day in the proposed transaction, the provisions of section 22(c) and Rule 22c-1 may be deemed to be contravened.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes intended by the policy and provisions of the Act.

NOTICE IS FURTHER GIVEN that any interested person may, not later than August 24, 1973, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for a hearing thereon shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.73-16201 Filed 8-6-73;8:45 am]

[812-3418]

PUTNAM INVESTORS FUND, INC.

Notice of Filing of Application for Order Exempting Proposed Transactions

JULY 31, 1973.

Notice is hereby given that the Putnam Investors Fund, Inc., 265 Franklin Street, Boston, Massachusetts 02110, ("Applicant"), registered under the Investment Company Act of 1940 ("Act") as an open-end diversified management investment company, has filed an application pursuant to section 6(c) of the Act for an order of the Commission exempting from the provisions of section 22(d) of the Act and from Rule 22c-1 under the Act a transaction in which Applicant's redeemable securities will be

issued at a price other than the current public offering price in exchange for substantially all of the assets of Refractory Service, Inc. ("Refractory").

Refractory is a personal holding company all of whose outstanding stock is owned of record and beneficially by only one person. It is exempt from registration under the Act under the provisions of section 3(c)(1) of the Act.

On January 15, 1973, Applicant and Refractory entered into an Agreement and Plan of Reorganization ("Agreement") whereby substantially all of the cash and securities owned by Refractory, with a value of approximately $364,438 as of February 23, 1973, are to be transferred to Applicant in exchange for shares of Applicant's capital stock. Pursuant to the Agreement, the number of shares of Applicant to be issued to Refractory is to be determined by dividing the aggregate market value of the assets of Refractory to be transferred to Applicant by the net asset value per share of Applicant.

The application states that as a condition to the consummation of the transaction by the Applicant at least 60 percent of the value of the assets of Refractory being transferred to the Applicant at the valuation time shall consist of securities which the Applicant wishes to acquire and hold for investment in its portfolio.

Pursuant to the Agreement, the value of the assets of Refractory to be transferred and the net asset value of the shares of Applicant to be issued in exchange therefor, will be determined as of the close of business on the first full business day prior to the actual issue of said shares. The Agreement also requires that in determining the number of shares of Applicant to be delivered to Refractory, the aggregate market value of the assets of Refractory shall be reduced by an amount, if any, determined by application of a formula designed to compensate Applicant for any increased tax liability which may result by reason of its acquisition of the assets of Refractory. If the valuation under the Agreement had taken place on February 23, 1973, when the net asset value of Applicant's stock was $10.29 per share, Refractory would have received 35,417 shares of Applicant's stock.

When received Refractory will distribute Applicant's shares to its shareholder and will dissolve. The sole stockholder of Refractory has represented to Applicant that his present intention is to hold the shares of Applicant received in the transaction for at least 12 months after the close of the transaction.

Applicant represents that there is no affiliation or relationship between Applicant or its officers and directors and Refractory or its officers and directors. The application also states that the proposed transaction is a result of arms-length negotiations.

Section 22(d) of the Act, in pertinent part, prohibits a registered investment company from selling any redeemable security issued by it to any person except to or through a principal underwriter for distribution or at a current public offering price as described in the prospectus. The public offering price of Applicant's shares is net asset value plus varying sales charges depending upon the amount purchased and owned.

Section 22(c) of the Act and Rule 22c-1 thereunder, taken together, provide, in pertinent part, that a registered investment company may not issue its redeemable securities except at a price based on the current net asset value of such security computed as of the close of trading on the New York Stock Exchange next following receipt of the order to purchase the security. Because the valuation date will precede the closing date by one business day in the proposed transaction, the provisions of section 22(c) and Rule 22c-1 may be deemed to be contravened.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than August 24, 1973, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.73-16203 Filed 8-6-73;8:45 am]

[File No. 500-1]

SYNER DATA, INC.

Order Suspending Trading

JULY 31, 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 Syner Data, 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 10 a.m. (e.d.t.) on July 31, 1973 and continuing through August 9, 1973.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.73-16200 Filed 8-6-73;8:45 am]

TARIFF COMMISSION

[AA1921-127]

ELEMENTAL SULPHUR FROM CANADA

Rescheduling of Hearing Date

Notice is hereby given that the hearing in Investigation No. AA1921-127, scheduled to be held in the Tariff Commission's Hearing Room, Tariff Commission Building, 8th and E Streets, NW., Washington, D.C., beginning at 10 a.m., e.d.t., on September 5, 1973, has been rescheduled for 10 a.m., e.d.t., on September 25, 1973. Requests to appear at the public hearing should be received by the Secretary of the Tariff Commission, in writing, at its offices in Washington, D.C., no later than noon, Thursday, September 20, 1973.

Written submissions. Interested parties may submit written statements of information and views, in lieu of their appearance at the public hearing, or they may supplement their oral testimony by written statements of any desired length. In order to be assured of consideration, all written statements should be submitted at the earliest practicable date, but not later than the close of business on October 9, 1973.

The hearing is being held in connection with a Commission investigation under the provisions of section 201(a) of the Antidumping Act, 1921, as amended, to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established by reason of the importation of elemental sulphur from Canada which the Assistant Secretary of the Treasury has determined are being, or are likely to be, sold at less than fair value. Notice of the investigation was published in the

FEDERAL REGISTER of July 31, 1973 (38 FR 20381).

Issued: August 2, 1973.

By order of the Commission.

[SEAL] KENNETH R. MASON, *Secretary.*

[FR Doc.73-16237 Filed 8-6-73;8:45 am]

COLLECTION OF F.O.B. AND C.I.F. DATA ON IMPORTS

Notice of Amendment of General Statistical Headnote of the Tariff Schedules of the United States Annotated (TSUSA)

Pursuant to section 484(e) of the Tariff Act of 1930 (19 U.S.C. 1484(e)), general statistical headnote 1 of the TSUSA is hereby amended, effective with respect to imported articles entered, or withdrawn from warehouse, for consumption on or after October 1, 1973, as hereinafter provided.

The primary purpose of amendments to the headnote provisions is to provide for the collection and reporting of additional information on all imported merchandise, as follows:

(1) Its purchase price (i.e., its actual transaction value) adjusted, when necessary, to obtain its so-called f.o.b. value at the port of exportation (or the equivalent thereof for merchandise not acquired by purchase).

(2) In the case of merchandise not acquired in an arm's-length transaction, the equivalent of the arm's-length value therefor to be derived, to the extent practicable, from customs values, as generally determined under section 402 and 402a, Tariff Act of 1930, as amended.

(3) Separately, the aggregated costs incurred in bringing the merchandise from the port of exportation in the country of exportation to the first port of entry in the United States.

The responsibility for obtaining and providing the data required by the statistical annotations of the TSUSA rests with the person making entry or withdrawal of articles imported into the customs territory of the United States. Entries or withdrawals not complying with statistical requirements will be cause for rejection by customs officers.

In the following, the new provisions of the headnote are underscored, and changes in the format are obvious and are, therefore, not included.

General statistical headnotes: 1. *Statistical requirements for imported articles.* (a) Persons making customs entry or withdrawal of articles imported into the customs territory of the United States shall complete the entry or withdrawal forms, as provided herein and in regulations issued pursuant to law, to provide for statistical purposes information as follows:

(i) The number of the Customs district and of the port where the articles are being entered for consumption or warehouse, as shown in Statistical Annex A of these schedules;

(ii) The name and flag of the vessel or the name of the airline, or in the case of shipment by other than vessel or air, the means of transportation by which the articles first arrived in the United States;

(iii) The foreign port of lading;

(iv) The United States port of unlading for vessel and air shipments;

(v) The date of importation;

(vi) The country of origin of the articles expressed in terms of the designation therefor in Statistical Annex B of these schedules;

(vii) The country of exportation expressed in terms of the designation therefor in Statistical Annex B of these schedules;

(viii) The date of exportation;

(ix) A description of the articles in sufficient detail to permit the classification thereof under the proper statistical reporting number in these schedules;

(x) The statistical reporting number under which the articles are classifiable;

(xi) Gross weight in pounds for the articles covered by each reporting number when imported in vessels or aircraft;

(xii) The net quantity in the units specified herein for the classification involved;

(xiii) The U.S. dollar value in accordance with the definition of section 402 or 402a of the Tariff Act of 1930, as amended, for all merchandise including that free of duty or dutiable at specific rates;

(xiv) The purchase price (i.e., the actual transaction value), in U.S. dollars, of imported merchandise plus, when not included in such price, all charges, costs, and expenses incurred in placing such merchandise alongside the carrier at the port of exportation in the country of exportation (or, in the case of merchandise not acquired by purchase, e.g., acquired on consignment, lease, or as gifts, the equivalent of such price, charges, costs, and expenses);

(xv) In addition to the value required under subparagraph (xiv), if the merchandise was not acquired in an arm's-length transaction, the equivalent of the arm's-length value therefor, in U.S. dollars, plus; when not included in such value, all charges, costs, and expenses incurred in placing such merchandise alongside the carrier at the port of exportation in the country of exportation;

(xvi) The aggregate cost (not including U.S. import duty, if any), in U.S. dollars, of freight, insurance, and all other charges, costs, and expenses (each of which charges, costs, and expenses shall be separately itemized on or attached to the related invoice) incurred in bringing the merchandise from alongside the carrier at the port of exportation in the country of exportation and placing it alongside the carrier at the first U.S. port of entry (in the case of overland shipments originating in Canada or Mexico, such cost, if any, shall not be reported); and

(xvii) Such other information with respect to the imported articles as is provided for elsewhere in these schedules.

(b) *For the purpose of pargraph (a), the following definitions shall govern.* (i) The country of exportation shall be the country of origin, except when the merchandise while located in a third country is the subject of a new purchase in which event the third country shall be regarded and reported as the country of exportation, and the date of exportation from the third country shall be regarded and reported as the date of exportation.

(ii) The value of imported merchandise contemplated by subparagraph (xv) shall be, to the extent practicable, a value derived from the value of such merchandise as generally determined under section 402 or 402a of the Tariff Act, as the case may be.

(iii) An arm's-length transaction shall be a transaction between a buyer and seller independent of each other, i.e., persons who are not related in any respect specified in section 402(g)(2) of the Tariff Act of 1930, as amended.

Issued: August 3, 1973.

For the Committee.

A. F. PARKS, *Chairman.*

[FR Doc.73-16349 Filed 8-6-73;8:45 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

RHODE ISLAND DEVELOPMENTAL PLAN

Submission and Availability for Public Comment; Correction

In FR Doc. 73-15490, published at page 20130 of the issue dated Friday, July 27, 1973, a correction is made by revising the last sentence in the second paragraph of item 1 to read as follows:

The State of Rhode Island desires to assume enforcement responsibility for the issues and standards covered by 29 CFR Part 1910, Subparts D through S and 29 CFR Part 1926, Subparts C through V.

Signed at Washington, D.C., this 2d day of August 1973.

JOHN STENDER, *Assistant Secretary of Labor.*

[FR Doc.73-16221 Filed 8-6-73;8:45 am]

[S-72-7; V-73-15]

UNITED STATES STEEL CORP. AND ALLIED CHEMICAL CORP.

Effective Date of Orders Regarding Variances; Corrections

1. In FR Doc. 73-14829 appearing at page 19296 in the issue of Thursday, July 19, 1973, the effective date of the order granted to United States Steel Corporation is corrected by changing "August 18, 1973" to "July 19, 1973."

2. In FR Doc. 73-15043 appearing at pages 19720-19721 in the issue of Monday, July 23, 1973, the effective date of the interim order granted to Allied Chemical Corporation is corrected by changing "August 22, 1973" to "July 23, 1973."

Signed at Washington, D.C., this 2d day of August 1973.

JOHN STENDER, *Assistant Secretary of Labor.*

[FR Doc.73-16220 Filed 8-6-73;8:45 am]

COMMITTEE FOR IMPLEMENTATION FOR TEXTILE AGREEMENTS

COTTON, WOOL, MAN-MADE FIBER TEXTILES AND TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN THE REPUBLIC OF CHINA

Entry or Withdrawal From Warehouse for Consumption

JULY 30, 1973.

On October 3, 1972, there was published in the FEDERAL REGISTER (37 FR 20745), a letter dated September 27, 1972 from the Chairman, Committee for the Implementation of Textile Agreements, to the Commissioner of Customs prohibiting entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textiles and textile products produced or manufactured in the Republic of China and exported from the Republic of China for which the Republic of China had not issued a visa. One of the visa require-

ments is that each visa include the signature of an official authorized to issue visas. The Government of the Republic of China has requested that Mr. C. S. Pan be authorized to issue visas replacing Mr. P. Y. Liu. Textile shipments having visas signed by either of the previously named officials and which have been exported from the Republic of China to the United States prior to October 1, 1973, will not be denied entry.

Accordingly, there is published below a letter of July 30, 1973, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs directing that Mr. C. S. Pan be authorized to issue visas for textile shipments exported from the Republic of China to the United States; and further directing that textile shipments exported from the Republic of China to the United States prior to October 1, 1973 which have visas signed by either Mr. Pan or Mr. Liu shall not be denied entry. A facsimile of Mr. Pan's signature is published as an enclosure to that letter.

SETH M. BODNER,
Chairman, Committee for the Implementation of Textile Agreements, and 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.

JULY 30, 1973.

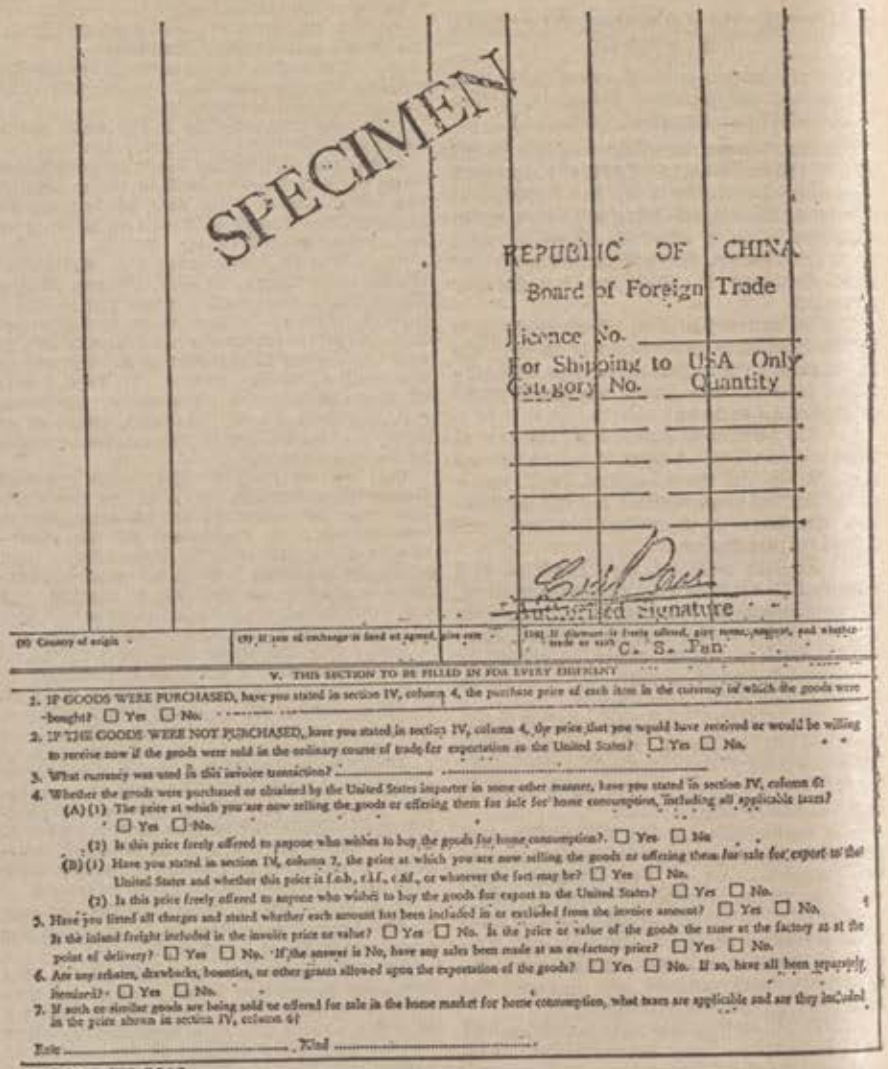
DEAR MR. COMMISSIONER: This directive amends but does not cancel, the directive of September 27, 1972, from the Chairman, Committee for the Implementation of Textile Agreements, that directed you to prohibit entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textiles and cotton textile products in Categories 1–64; wool textile products in Categories 101–126, 128, and 131–132; and man-made fiber textile products in Categories 200–243 produced or manufactured in the Republic of China for which the Republic of China had not issued a visa. One of the visa requirements is that the visa include the signature of an official authorized to issue visas.

Under the provisions of the bilateral Cotton Textile Agreement and the bilateral Wool and Man-Made Fiber Agreement, both of December 30, 1971, between the Governments of the United States and the Republic of China, and in accordance with the procedures of Executive Order 11651 of March 3, 1972, the directive of September 27, 1972 is amended to authorize Mr. C. S. Pan to issue visas replacing Mr. P. Y. Liu. The signatures of both Mr. Pan and Mr. Liu will be recognized as valid for shipments exported prior to October 1, 1973. A facsimile of Mr. Pan's signature is enclosed.

The actions taken with respect to the Government of the Republic of China and with respect to imports of cotton, wool, and man-made fiber textiles and textile products from the Republic of China have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

SETH M. BODNER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance.



[FR Doc.73–16327 Filed 8–6–73;8:45 am]

CERTAIN WOOL AND MAN-MADE FIBER TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN THE REPUBLIC OF CHINA

Entry or Withdrawal From Warehouse for Consumption

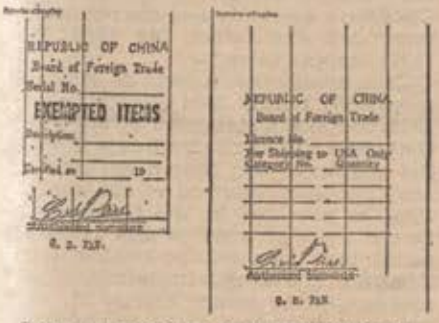
JULY 30, 1973.

On April 24, 1973, there was published in the FEDERAL REGISTER (38 FR 10132) a letter dated April 19, 1973 from the Chairman, Committee for the Implementation of Textile Agreements, to the Commissioner of Customs announcing an administrative mechanism to certify for exemption from the levels of restraint established by the Bilateral Wool and Man-Made Fiber Textile Agreement of December 31, 1971, between the Governments of the United States and the Re-

public of China, specific wool and man-made fiber textile products comprising Annex C of that agreement. To qualify for exemption each shipment must be accompanied by a visa for exempt items and the visa agreed to by the Governments of the United States and the Republic of China on August 16, 1972 (See 37 FR 20745). Each visa must also include, among other specifications, the signature of an official authorized to issue such visas. The Government of the Republic of China has requested that Mr. C. S. Pan be authorized to issue the visas, replacing Mr. P. Y. Liu. Exempt textile shipments having visas signed by either of the previously named officials and which have been exported from the Republic of China to the United States prior to October 1, 1973 will not be denied entry.

Accordingly, there is published below a letter of July 30, 1973, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs directing that Mr. C. S. Pan be authorized to issue visas for exempt wool and man-made fiber textile shipments exported from the Republic of China to the United States; and further directing that such shipments exported from the Republic of China to the United States prior to October 1, 1973 which have visas signed by either Mr. Pan or Mr. Liu shall not be denied entry. A facsimile of Mr. Pan's signature on each of the required visas is published as an enclosure to that letter.

SETH M. BODNER,
Chairman, Committee for the Implementation of Textile Agreements, and 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.

JULY 30, 1973.

DEAR MR. COMMISSIONER: This directive amends but does not cancel the directive issued to you on April 19, 1973 by the Chairman of the Committee for the Implementation of Textile Agreements which established an export visa requirement for the entry into the United States for consumption and withdrawal from warehouse for consumption of certain wool and man-made fiber textile products, produced or manufactured in the Republic of China which are exempt from the levels of restraint of the Bilateral Wool and Man-Made Fiber Textile Agreement of December 30, 1971 between the Governments of the United States and the Republic of China.

Under the provisions of the aforementioned agreement and in accordance with the procedures of Executive Order 11651 of March 3, 1972, the directive of April 19, 1973 is hereby amended to authorize Mr. C. S. Pan to issue visas, replacing Mr. P. Y. Liu. The signature of both Mr. Pan and Mr. Liu will be recognized as valid for such shipments exported prior to October 1, 1973. A facsimile of Mr. Pan's signature on each of the required visas is enclosed.

The actions taken with respect to the Government of the Republic of China and with respect to imports of wool and man-made fiber textile products from the Republic of China have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

SETH M. BODNER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance.

[FR Doc.73-16328 Filed 8-6-73;8:45 am]

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

PROCUREMENT LIST 1973

Addition to Procurement List 1973

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

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

COMMODITY

	Price
Class 6350:	
Catheter, External (IB) 6530 864635 temp	$0.14 Each

By the Committee.

CHARLES W. FLETCHER,
Executive Director.

[FR Doc.73-16211 Filed 8-6-73;8:45 am]

PROCUREMENT LIST 1973

Proposed Additions

Notice is hereby given pursuant to section 2(a)(2) of Public Law 92-28; 85 Stat. 79, of the proposed additions of the following commodities and service to Procurement List 1973, March 12, 1973 (38 FR 6742).

COMMODITIES

Class 6532:
Smock, man's, reversible:
6532-115-8766
6532-115-8767
6532-115-8768
Smock, man's, dental:
6532-004-6820
Class 6532—Continued
6532-004-6821
6532-004-6822
6532-004-6823
6532-004-6824
6532-004-6825
6532-004-6826
Class 7210:
Pillowcase:
7210-081-1380
Class 8415:
Apron, food serving:
8415-105-5939

SERVICE

Industrial Class 7399:
Microfilm stripping
Defense Logistics Service Center
Battle Creek, Michigan

Comments and views regarding these proposed additions may be filed with the Committee not later than September 16, 1973. Communications should be addressed to the Executive Director, Committee for Purchase of Products and Services of the Blind and Other Severely Handicapped, 2009 Fourteenth Street North, Suite 610, Arlington, Virginia 22201.

By the Committee.

CHARLES W. FLETCHER,
Executive Director.

[FR Doc.73-16209 Filed 8-6-73;8:45 am]

PROCUREMENT LIST 1973

Deletions From Procurement List 1973

Notice of proposed deletion from Procurement List 1973, March 12, 1973 (38 FR 6742), was published in the FEDERAL REGISTER on May 2, 1973 (38 FR 10834).

Pursuant to the above notice the following commodities are deleted from Procurement List 1973, March 12, 1973 (38 FR 6742).

COMMODITIES

Class 7920:
Broom, Upright:
7920-292-2368
7920-292-2369
7920-292-4370
Brush, Sanitary:
7920-141-5450

By the Committee.

CHARLES W. FLETCHER,
Executive Director.

[FR Doc.73-16210 Filed 8-6-73;8:45 am]

COST OF LIVING COUNCIL

FOOD INDUSTRY WAGE AND SALARY COMMITTEE

Notice of Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463, 86 Stat. 770) notice is hereby given that the Food Industry Wage and Salary Committee, established under the authority of section 212(f) of the Economic Stabilization Act, as amended, section 4(a)(iv) of Executive Order 11695, and Cost of Living Council Order No. 14, will meet at 10 a.m., Wednesday, August 15, 1973, at 2025 M Street, N.W., Washington, D.C.

The agenda will consist of discussions leading to recommendations on specific

Phase II and Phase III wage cases in the food area, and future wage policy.

Since the above stated meeting will consist of discussions of future food wage policy and Phase II and III cases for decision, pursuant to authority granted me by Cost of Living Council Order 25, I have determined that the meeting would fall within exemption (5) of 5 U.S.C. 552 (b) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with the operation of the Committee.

Issued in Washington, D.C. on August 3, 1973.

HENRY H. PERRITT, Jr.,
Executive Secretary,
Cost of Living Council.

[FR Doc.73-16325 Filed 8-3-73;10:52 am]

LABOR-MANAGEMENT ADVISORY COMMITTEE

Determination To Close Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463, 86 Stat. 770) notice is hereby given that a meeting of the Labor-Management Advisory Committee created by section 8 of Executive Order 11695 will be held on August 14, 1973.

The purpose of the meeting is to discuss policy matters relating to the timing and substance of Phase IV.

Pursuant to authority granted me by Cost of Living Council Order 25, I have determined that the meeting of the Labor-Management Advisory Committee will consist of exchanges of opinions, that the discussions, if written, would fall within exemption (5) of 5 U.S.C. 552 (b) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with the operation of the Committee.

Issued in Washington, D.C. on August 3, 1973.

HENRY H. PERRITT, Jr.,
Executive Secretary,
Cost of Living Council.

[FR Doc.73-16324 Filed 8-3-73;10:52 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 313]

ASSIGNMENT OF HEARINGS

AUGUST 2, 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-34156 Sub 5, Niedert Motor Service, Inc., now being assigned hearing October 1, 1973 (1 week), at Chicago, Ill., in a hearing room to be later designated.

MC 125996 Sub 33, Road Runner Trucking, Inc., now being assigned hearing October 10, 1973 (2 days), at Chicago, Ill., in a hearing room to be later designated.

MC 71035 Sub 1, W. T. Gibson Transportation, Inc., now being assigned hearing October 12, 1973 (1 day), at Kansas City, Mo., in a hearing room to be later designated.

MC-C-8089, Interstate Motor Freight System, A Corporation—Investigation and Revocation of Certificates—now being assigned hearing October 15, 1973, at Kansas City, Mo., in a hearing room to be later designated.

MC 35628 (Sub 343), Interstate Motor Freight System, now being assigned hearing October 15, 1973 (1 week), at Kansas City, Mo., in a hearing room to be later designated.

MC 127042 Sub 103, Hagen, Inc., now being assigned continued hearing October 11, 1973 (2 days), at Chicago, Ill., in a hearing room to be later designated.

MC 138548, Indianoaks Transportation Co., now being assigned hearing October 10, 1973 (1 day), at Chicago, Ill., in a hearing room to be later designated.

MC 138479, C & C Cartage, Inc., now being assigned hearing October 9, 1973 (1 day), at Chicago, Ill., in a hearing room to be later designated.

MC-F-11662, Denver-Midwest Motor Freight, Inc.—Purchase—Streator Transfer & Storage Company, and MC 127602 Sub 12, Denver-Midwest Motor Freight, Inc., now being assigned hearing October 15, 1973 (1 week), at Chicago, Ill., in a hearing room to be later designated.

MC 114211 Sub 187, Warren Transport, Inc., MC 123048 Sub 222, Diamond Transportation System, Inc.-Extension-Wallboard, MC 124174 Sub 92, Momsen Trucking Co., Extension-Wallboard, now assigned August 6, 1973, at Washington, D.C., is postponed indefinitely.

MC-C-8101, Belknap Van & Storage of San Antonio, Inc., Belknap Warehouse Corporation, Burnham Van Service, Inc., and U.S. Van Lines, Inc.—Investigation of Operations—now being assigned hearing October 23, 1973, (1 day), at Dallas, Tex., in a hearing room to be lated designated.

MC 83835 Sub 99, Wales Transportation, Inc., now being assigned hearing October 24, 1973, (1 day), at Dallas, Texas, in a hearing room to be later designated.

FF-C-52, Darrell J. Sekin & Company, Inc., and Regional International Services, Inc.—Investigation of Operations, now being assigned hearing October 25, 1973 (2 days), at Dallas, Texas, in a hearing room to be later designated.

MC 115841 Sub 440, Colonial Refrigerated Transportation, Inc., now being assigned hearing October 29, 1973 (1 week), at Dallas, Texas, in a hearing room to be later designated.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-16228 Filed 8-6-73;8:45 am]

FOURTH SECTION APPLICATIONS FOR RELIEF

AUGUST 2, 1973.

An application, as summarized below, has been filed requesting relief from the requirements of section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordane with rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed on or before August 22, 1973.

FSA No. 42725—Soybean Flour or Grits to Gulf Ports, Pensacola, Florida to Corpus Christi, Texas for Export. Filed by Southwestern Freight Bureau, Agent, (No. B-426), for interested rail carriers. Rates on soybean flour or grits, in bags or in packages, in carloads, as described in the application, from Arkansas, Colorado, Iowa, Kansas, Missouri (including East St. Louis, Ill.), Nebraska, Oklahoma, Texas and Wyoming, to Gulf Ports Pensacola, Florida to Corpus Christi, Texas, for export.

Grounds for relief—Motor competition and rate relationship.

Tariffs—Supplement 53 to Texas-Louisiana Freight Bureau, Agent, tariff 61-I, I.C.C. No. 1137, and 8 other schedules named in the application. Rates are published to become effective on September 10, 1973.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-16230 Filed 8-6-73;8:45 am]

[Notice No. 329]

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 27, 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 matter relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-74202. By order of July 30, 1973, the Motor Carrier Board approved the transfer to Ebb Van Lines, Inc., Garden City Park, N.Y., of the operating rights in Certificate No. MC-74674 issued July 23, 1970, to Robert Case, doing business as Ebb Vans, Queens Villiage, N.Y., authorizing the transportation of household goods as defined in Practices of Motor Common Carriers of Household Goods, between New York, N.Y., on the one hand, and, on the other, points in

New York, Connecticut, New Jersey, and Pennsylvania. Ira Wallace, 212-29 Jamaica Avenue, Queens Village, N.Y. 110.40. Attorney for applicants.

No. MC-FC-74580. By order of July 31, 1973, the Motor Carrier Board approved the transfer to Security Storage Company, Inc., Goldsboro, N.C., of Certificate of Registration No. MC-97817 (Sub No. 1) issued to Harry J. Kane, dba Coastal Plains Distributing Company, Kinston, N.C., authorizing the transportation of: Groceries, canned goods, and paper products, between specified points solely within the State of North Carolina. Vaughan S. Winborne, Attorney, 1108 Capitol Club Bldg., Raleigh, N.C. 27601.

No. MC-FC-74590. By order of July 30, 1973, Motor Carrier Board approved the transfer to Priority Freight Systems, Inc. Charlotte, N.C., of the operating rights in Certificate No. MC-3810 issued February 12, 1964, to Bison Fast Freight, Inc., Charlotte, N.C., authorizing the transportation of general commodities, with exceptions, radially, between Augusta and Savannah, Ga., and points in North Carolina and South Carolina, on the one hand, and, on the other, Parkersburg and Charleston, W. Va., and roofing, builders supplies, and hardware, rock, granite, rock and granite memorial products, cotton yarn, fabric, empty spools, bottling machinery, beer and wine, and bottle caps, from specified points in South Carolina, Ohio and Illinois, to specified points in North Carolina, South Carolina, West Virginia, Indiana, Illinois, and Ohio, varying with the particular commodity involved. John P. McMahon, 100 East Broad Street, Columbus, Ohio 43215 Attorney for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-16229 Filed 8-6-73;8:45 am]

CUMULATIVE LISTS OF PARTS AFFECTED—AUGUST

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during August.

FEDERAL REGISTER PAGES AND DATES—AUGUST

Pages	*Date*
20423–20601	Aug. 1
20603–20798	2
20800–21139	3
21141–21235	6
21237–21380	7

federal register

TUESDAY, AUGUST 7, 1973
WASHINGTON, D.C.

Volume 38 ■ Number 151

PART II

ENVIRONMENTAL PROTECTION AGENCY

■

GENERAL, STATE AND LOCAL ASSISTANCE GRANTS

Proposed Policy Requirements

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Parts 30, 35]

GENERAL, STATE AND LOCAL ASSISTANCE GRANTS

Proposed Policy Requirements

Notice is hereby given that the Environmental Protection Agency proposes to amend general grant regulations (40 CFR Part 30) and the State and local assistance grant regulations (40 CFR Part 35) to more fully implement the grants policy requirements of Office of Management and Budget Circular No. A-102, Attachment A through O.

Interested parties are encouraged to submit written comments, views, or data concerning the proposed regulations to the Director, Grants Administration Division, Environmental Protection Agency, Washington, D.C. 20460. All such submissions received within 30 days of the date of publication will be considered prior to the promulgation of final EPA general or supplemental regulations.

Any Environmental Protection Agency grants awarded after publication of the proposed regulation, but prior to promulgation of final regulations, may be subject to a special grant condition incorporating these regulations by reference.

ROBERT W. FRI,
Acting Administrator.

JULY 24, 1973.

A. Pursuant to the authorities cited in 40 CFR 30.101, Part 30 is amended as follows:

§ 30.301–1 [Amended]

Change first sentence to read:

"An application for an EPA grant shall be submitted upon such form as the Director, Grants Administration Division shall prescribe."

* * * * *

§ 30.304 [Amended]

Change section title to read: "Responsible grantee."

§ 30.304–1 [Amended]

Change sentence to read:

"The policy and procedures established by this section shall be followed to determine, prior and subsequent to award of any grant, whether a grantee will qualify as responsible."

§ 30.304–2 [Amended]

Change last sentence to read:

* * * * *

"A responsible grantee is one which is found to meet, and will maintain for the life of the grant, the minimum standards set forth in § 30.304–3 and such additional standards as may be prescribed and promulgated for a specific purpose.

§ 30.304–3 Substitute the following:

In order to qualify as responsible, a grantee must meet and maintain for the life of the grant the following standards as they relate to a particular grant:

(a) Has adequate financial resources for performance, or has the ability to obtain such resources as required;

(b) Has the necessary experience, organization, technical qualifications, and facilities, or has the ability to obtain them (including proposed subagreements);

(c) Is able to comply with the proposed or required completion schedule for the project;

(d) Has a satisfactory record of integrity, judgment, and performance, including, in particular, any prior performance upon grants and contracts from the Federal Government;

(e) Has an adequate financial management system which provides an efficient and effective accountability and control of all property, funds, and assets. Standards applicable to State and local grantees are further defined in OMB Circular A–102, Attachment G. (Appendix D)

(f) Maintains an internal audit procedure which as a minimum reviews, at least once every two years, the fiscal integrity of financial transactions and reports, compliance with laws, regulations, and administrative requirements and provides for the resolution of audit findings and recommendations in a timely manner. Standards applicable to State and local grantees are further defined in OMB Circular A–102, Attachment G. (Appendix D)

(g) Maintains a standard of procurement which as a minimum provides for a code of conduct for the grantee's procurement agents, which protects the interests and rights of potential contractors and grant sponsors; and which results in procurement actions by the grantee which provide required goods or services in a timely and cost effective manner. Standards applicable to State and local grantees are further defined in OMB Circular A–102, Attachment O. (Appendix D)

(h) Maintains a property management system which provides adequate administrative procedures for the acquisition, maintenance, and/or the disposition of real, personal, nonexpendable personal, expendable personal, and excess properties. Standards applicable to State and local grantees are further defined in OMB Circular A–102, Attachment N. (Appendix D)

(i) Conforms with the Equal Opportunity requirements of these regulations;

(j) Is otherwise qualified and eligible to receive a grant award under applicable laws and regulations.

Acceptable "ability to obtain" financial resources, experience, organization, technical qualifications, skills, and facilities (see paragraphs (a) and (b) of this section) generally shall comprise a firm commitment or arrangement to obtain financial resources, experience, organization, technical qualifications, skills or facilities.

§ 30.304–4 [Amended]

Change first sentence to read:

"No grant shall be awarded to any applicant unless after adequate and appropriate evaluation a determination has first been made that the applicant is responsible within the meaning of §§ 30.304–2 and 30.304–3. Any applicant who is not determined to be responsible shall be notified in writing of such finding and of the basis therefor.

* * * * *

§ 30.602–1 [Amended]

Substitute the following for § 30.602–1:

EPA may withhold grant funds under the following circumstances:

(a) If a grantee has failed to comply with the program objectives, the grant award conditions, or reporting requirements set forth in the grant agreement, provided that such withholding will not exceed the minimum amount required to correct the grant deficiency and further that such withholding shall not exceed ten percent of the grant award amount, or

(b) If the grantee is indebted to the United States and collection of the indebtedness will not impair accomplishment of the objectives of any grant program sponsored by the United States.

Under such conditions, EPA may, upon reasonable notice (pursuant to Appendix A, General Grant Conditions numbers 4 and 5) inform the grantee that payments will not be made for costs incurred after a specified date until the conditions are corrected or the indebtedness to the United States is liquidated.

§ 30.603 [Amended]

Substitute the following for § 30.603 *Grant Related Income:*

Except as otherwise provided herein all program/project income earned (including, but not limited to, taxes, permit fees, license fees, special assessments, levies, fines, etc.) during the grant budget period shall be retained by the grantee and in accordance with the terms of the grant agreement, shall be added to funds committed to the program/project by EPA and the grantee and be used to further support eligible program/project objectives. Where funds cannot be used to further support eligible program/project objectives such funds shall be deducted from the total program/project costs for the purpose of determining the net costs on which the EPA share of cost will be based. In no case will EPA be entitled to a credit in excess of the total amount of the EPA share established in the grant agreement. Reasonable expense incurred by the grantee for the administration of program/project income shall be an allowable cost under the grant. For the purpose of this regulation, grant related income means gross income earned by the grant supported program/project.

§ 30.603–1 Proceeds from sale of real or personal property.

Income derived from the sale of real or personal property, either provided by EPA, or purchased in whole, or in part with EPA funds (see § 30.800–3) during the period of EPA support until final settlement (see § 30.802) shall be credited to the EPA grant payment in a propor-

tion equal to the ratio of the EPA grant to total project costs. In the case of grant awards to State and local governments, however, the specific provisions governing the ownership, use, and distribution of property purchased in whole or in part with Federal funds shall be in accordance with the provisions of OMB Circular No. A–102, Attachment N. (Appendix D)

§ 30.603–2 Royalties received from copyrights and patents.

Royalties received from copyrights and patents during the grant period shall be handled as grant related income, except however, after termination or completion of the grant, the EPA share of royalties in excess of $200 received annually, unless otherwise specified in the grant agreement, shall be returned to EPA in the same proportion as the ratio of the EPA grant was to the total project cost.

§ 30.603–3 Interest earned on grant funds.

The State and any agency or instrumentality of a State shall not be held accountable for interest earned on grant funds, pending their disbursement for program/project purposes. All other grantees, including units of local government, shall be required to return to EPA interest earned on advances of grant funds.

§ 30.603–4 Income exceptions.

Fines and penalties levied as a result of court action due to program/project violations and which will become a part of court funds will not be considered program income.

§ 30.603–5 Receipt and expenditure of revenues.

EPA grantees shall be required to record the receipt and expenditure of all project revenues as part of grant project transactions.

§ 30.800–2 [Amended]

Add the following at the end of this section:

* * * * *

In the case of grant awards to State and local governments, the specific provisions governing the ownership, use, and distribution of property purchased in whole or in part with Federal funds shall be in accordance with the provisions of OMB Circular No. A–102, Attachment N. (Appendix D)

§ 30.800–3 [Amended]

Substitute the following for § 30.800–3:

Upon written approval by the Grants Officer prior to final accounting (see § 30.801), materials (a) may be sold by the grantee and the (1) proceeds of sale or (2) fair market value at the time of sale, whichever is greater, shall be paid to the United States in the proportion which EPA assistance bears to the actual allowable project cost, or (b) may be disposed of in any other manner by the grantee upon payment to the United States of such proportion of the fair market value at time of final accounting. In the case of grant awards to State and local governments, however, the specific provisions governing the ownership, use, and distribution of property purchased in whole or in part with Federal funds shall be in accordance with the provisions of OMB Circular No. A–102, Attachment N. (Appendix D)

Add the following new section:

§ 30.1000–20 In-kind contribution.

The value of a noncash contribution provided by (a) the grantee, (b) other public agencies and institutions, and (c) private organizations and individuals. An in-kind contribution may consist of charges for real property and equipment, and value of goods and services directly benefiting and specifically identifiable to the grant program.

Appendix A [Amended]

Section 2. Audits and records. Substitute the following:

* * * * *

2. Audits and records:

(a) The grantee shall maintain books, records, documents, and other evidence and accounting procedures and practices, sufficient to reflect properly (1) the amount, receipt and disposition by the grantee of all assistance received for the project, including both Federal assistance and any matching share or cost sharing, and (2) the total costs of the project, including all direct and indirect costs of whatever nature incurred for the performance of the project for which the EPA grant has been awarded. In addition, contractors of grantees shall also maintain books, documents, papers, and records which are pertinent to a specific EPA grant award. The foregoing constitute "records" for the purposes of this article.

(b) The grantee's facilities, or such facilities of contractors of grantees as may be engaged in the performance of the project for which the EPA grant has been awarded, and their records shall be subject at all reasonable times to inspection and audit by the Grants Officer, the Comptroller General of the United States, or any authorized representative, until completion of the project for which the EPA grant was awarded.

(c) The grantee and contractors of grantees shall preserve and make their records available to the Grants Officer, the Comptroller General of the United States, or any authorized representative (1) until expiration of 3 years from the date of the submission of the final expenditure report or, for grants which are awarded annually, from the date of the submission of the annual expenditure report, and (2) for such longer period, if any, as is required by applicable statute or lawful requirement, or by (i) or (ii) below.

(i) If this grant is terminated completely or partially, the records relating to the work terminated shall be preserved and made available for a period of 3 years from the date of any resulting final termination settlement.

(ii) Records which relate to (a) appeals under the "Disputes" clause of this grant, (b) litigation or the settlement of claims arising out of the performance of the project for which this grant was awarded, or (c) costs and expenses of the project as to which exception has been taken by the Grants Officer or any of his duly authorized representatives, shall be retained until such appeals, litigation, claims, or exceptions have been disposed of.

(d) Unless otherwise required by law, EPA will not place restrictions on grantees which will limit public access to grantee records except when records must remain confidential to prevent a clearly unwarranted invasion of personal privacy; or where specifically required by Executive Order or statute to be kept secret (e.g. Trade Secrets and Confidential Financial Information).

Substitute the following section:

§ 35.935–3 Bonding and insurance.

On contracts for the building and erection of treatment works (Step 3) exceeding $100,000, each bidder must furnish a bid guarantee equivalent to five percent of the bid price. In addition the contractor awarded either a design/construct contract or a construction contract for Step 3 must furnish performance and payment bonds, each of which shall be in an amount not less than 100 percent of the contract price. Construction contracts less than $100,000 shall be subject to State and local requirements relating to bid guarantees, performance and payment bonds. All contracts shall be subject to State and local requirements relating to construction insurance (e.g., fire and extended coverage, workmen's compensation, public liability and property damage, and "all risk" builders risk).

APPENDIX D

OFFICE OF MANAGEMENT AND BUDGET CIRCULAR A—102

ATTACHMENT G:

UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS-IN-AID TO STATE AND LOCAL GOVERNMENTS

Standards for Grantee Financial Management Systems 1. This Attachment prescribes standards for financial management systems of grant-supported activities of State and local governments. Federal grantor agencies shall not impose additional standards on grantees unless specifically provided for in other Attachments to this Circular. However, grantor agencies are encouraged to make suggestions and assist the grantees in establishing or improving financial management systems when such assistance is needed or requested.

2. Grantee financial management systems shall provide for:

a. Accurate, current, and complete disclosure of the financial results of each grant program in accordance with Federal reporting requirements. When a Federal grantor agency requires reporting on an accrual basis and the grantee's accounting records are not kept on that basis, the grantee should develop such information through an analysis of the documentation on hand or on the basis of best estimates.

b. Records which identify adequately the source and application of funds for grant-supported activities. These records shall contain information pertaining to grant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income.

c. Effective control over and accountability for all funds, property, and other assets. Grantees shall adequately safeguard all such assets and shall assure that they are used solely for authorized purposes.

d. Comparison of actual with budgeted amounts for each grant. Also, relation of financial information with performance or productivity data, including the production of unit cost information whenever appropriate and required by the grantor agency.

e. Procedures to minimize the time elapsing between the transfer of funds from the U.S. Treasury and the disbursement by the grantee, whenever funds are advanced by the Federal Government. When advances are made by a letter-of-credit method, the grantee shall make drawdowns from the U.S. Treasury through his commercial bank as close as possible to the time of making the disbursements.

f. Procedures for determining the allowability and allocability of costs in accordance with the provisions of Office of Management and Budget Circular No. A-87.

g. Accounting records which are supported by source documentation.

h. Audits to be made by the grantee or at his direction to determine, at a minimum, the fiscal integrity of financial transactions and reports, and the compliance with laws, regulations and administrative requirements. The grantee 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.

i. A systematic method to assure timely and appropriate resolution of audit findings and recommendations.

3. Grantees shall require subgrantees (recipients of grants which are passed through by the grantee) to adopt all of the standards in paragraph 2 above.

ATTACHMENT N:

UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS-IN-AID TO STATE AND LOCAL GOVERNMENTS

PROPERTY MANAGEMENT STANDARDS:

1. This Attachment prescribes uniform standards governing the utilization and disposition of property furnished by the Federal Government or acquired in whole or in part with Federal funds by State and local governments. Federal grantor agencies shall require State and local governments to observe these standards under grants from the Federal Government and shall not impose additional requirements unless specifically required by Federal law. The grantees shall be authorized to use their own property management standards and procedures as long as the provisions of this Attachment are included.

2. The following definitions apply for the purpose of this Attachment:

a. *Real property.*—Real property means land, land improvements, structures and appurtenances thereto, excluding movable machinery and equipment.

b. *Personal property.*—Personal property means property of any kind except real property. It may be tangible—having physical existence, or intangible—having no physical existence, such as patents, inventions, and copyrights.

c. *Nonexpendable personal property.*—Nonexpendable personal property means tangible personal property having a useful life of more than one year and an acquisition cost of $300 or more per unit. A grantee may use its own definition of nonexpendable personal property provided that such definition would at least include all tangible personal property as defined above.

d. *Expendable personal property.*—Expendable personal property refers to all tangible personal property other than nonexpendable property.

e. *Excess property.*—Excess property means property under the control of any Federal agency which, as determined by the head thereof, is no longer required for its needs.

3. Each Federal grantor agency shall prescribe requirements for grantees concerning the use of real property funded partly or wholly by the Federal Government. Unless otherwise provided by statute, such requirements, as a minimum, shall contain the following:

a. The grantee shall use the real property for the authorized purpose of the original grant as long as needed.

b. The grantee shall obtain approval by the grantor agency for the use of the real property in other projects when the grantee determines that the property is no longer needed for the original grant purposes. Use in other projects shall be limited to those under other Federal grant programs, or programs that have purposes consistent with those authorized for support by the grantor.

c. When the real property is no longer needed as provided in a. and b., above, the grantee shall return all real property furnished or purchased wholly with Federal grant funds to the control of the Federal grantor agency. In the case of property purchased in part with Federal grant funds, the grantee may be permitted to take title to the Federal interest therein upon compensating the Federal Government for its fair share of the property. The Federal share of the property shall be the amount computed by applying the percentage of the Federal participation in the total cost of the grant program for which the property was acquired to the current fair market value of the property.

4. Standards and procedures governing ownership, use, and disposition of nonexpendable personal property furnished by the Federal Government or acquired with Federal funds are set forth below:

a. *Nonexpendable personal property acquired with Federal funds.* When nonexpendable personal property is acquired by a grantee wholly or in part with Federal funds, title will not be taken by the Federal Government except as provided in paragraph 4a (4), but shall be vested in the grantee subject to the following restrictions on use and disposition of the property:

(1) The grantee shall retain the property acquired with Federal funds in the grant program as long as there is a need for the property to accomplish the purpose of the grant program whether or not the program continues to be supported by Federal funds. When there is no longer a need for the property to accomplish the purpose of the grant program, the grantee shall use the property in connection with other Federal grants it has received in the following order of priority:

(a) Other grants of the same Federal grantor agency needing the property.

(b) Grants of other Federal agencies needing the property.

(2) When the grantee no longer has need for the property in any of its Federal grant programs, the property may be used for its own official activities in accordance with the following standards:

(a) *Nonexpendable property with an acquisition cost of less than $500 and used four years or more.*—The grantee may use the property for its own official activities without reimbursement to the Federal Government or sell the property and retain the proceeds.

(b) *All other nonexpendable property.*—The grantee may retain the property for its own use provided that a fair compensation is made to the original grantor agency for the latter's share of the property. The amount of compensation shall be computed by applying the percentage of Federal participation in the grant program to the current fair market value of the property.

(3) If the grantee has no need for the property, disposition of the property shall be made as follows:

(a) *Nonexpendable property with an acquisition cost of $1,000 or less.*—Except for that property which meets the criteria of (2) (a) above, the grantee shall sell the property and reimburse the Federal grantor agency an amount which is computed in accordance with (iii) below.

(b) *Nonexpendable property with an acquisition cost of over $1,000.*—The grantee shall request disposition instructions from the grantor agency. The Federal agency shall determine whether the property can be used to meet the agency's requirement. If no requirement exists within that agency, the availability of the property shall be reported to the General Services Administration (GSA) by the Federal agency to determine whether a requirement for the property exists in other Federal agencies. The Federal grantor agency shall issue instructions to the grantee within 120 days and the following procedures shall govern:

(i) If the grantee is instructed to ship the property elsewhere, the grantee shall be reimbursed by the benefiting Federal agency with an amount which is computed by applying the percentage of the grantee's participation in the grant program to the current fair market value of the property, plus any shipping or interim storage costs incurred.

(ii) If the grantee is instructed to otherwise dispose of the property, he shall be reimbursed by the Federal grantor agency for such costs incurred in its disposition.

(iii) If disposition instructions are not issued within 120 days after reporting, the grantee shall sell the property and reimburse the Federal grantor agency an amount which is computed by applying the percentage of Federal participation in the grant program to the sales proceeds. Further, the grantee shall be permitted to retain $100 or 10 percent of the proceeds, whichever is greater, for the grantee's selling and handling expenses.

(4) Where the grantor agency determines that property with an acquisition cost of $1,000 or more and financed solely with Federal funds is unique, difficult, or costly to replace, it may reserve title to such property, subject to the following provisions:

(a) The property shall be appropriately identified in the grant agreement or otherwise made known to the grantee.

(b) The grantor agency shall issue disposition instructions within 120 days after the completion of the need for the property under the Federal grant for which it was acquired. If the grantor agency fails to issue disposition instructions within 120 days, the grantee shall apply the standards of 4a(1), 4a(2)(b), and 4a(3)(b).

b. *Federally-owned nonexpendable personal property.*—Unless statutory authority to transfer title has been granted to an agency, title to Federal-owned property (property to which the Federal Government retains title including excess property made available by the Federal grantor agencies to grantees) remains vested by law in the Federal Government. Upon termination of the grant or need for the property, such property shall be reported to the grantor agency for further agency utilization or, if appropriate, for reporting to the General Services Administration for other Federal agency utilization. Appropriate disposition instructions will be issued to the grantee after completion of Federal agency review.

5. The grantees' property management standards for nonexpendable personal property shall also include the following procedural requirements:

a. Property records shall be maintained accurately and provide for: a description of the property; manufacturer's serial number or other identification number; acquisition date and cost; source of the property; per-

centage of Federal funds used in the purchase of property; location, use, and condition of the property; and ultimate disposition data including sales price or the method used to determine current fair market value if the grantee reimburses the grantor agency for its share.

b. A physical inventory of property shall be taken and the results reconciled with the property records at least once every two years to verify the existence, current utilization, and continued need for the property.

c. A control system shall be in effect to insure adequate safeguards to prevent loss, damage, or theft to the property. Any loss, damage, or theft of nonexpendable property shall be investigated and fully documented.

d. Adequate maintenance procedures shall be implemented to keep the property in good condition.

e. Proper sales procedures shall be established for unneeded property which would provide for competition to the extent practicable and result in the highest possible return.

6. When the total inventory value of any unused expendable personal property exceeds $500 at the expiration of need for any Federal grant purposes, the grantee may retain the property or sell the property as long as he compensates the Federal Government for its share in the cost. The amount of compensation shall be computed in accordance with 4a(2)(b).

7. Specific standards for control of intangible property are provided as follows:

a. If any program produces patents, patent rights, processes, or inventions, in the course of work aided by a Federal grant, such fact shall be promptly and fully reported to the grantor agency. The grantor agency shall determine whether protection on such invention or discovery shall be sought and how the rights in the invention or discovery—including rights under any patent issued thereon—shall be disposed of and administered in order to protect the public interest consistent with "Government Patent Policy" (President's Memorandum for Heads of Executive Departments and Agencies, August 23, 1971, and Statement of Government Patent Policy as printed in 36 FR 16889).

b. Where the grant results in a book or other copyrightable material, the author or grantee is free to copyright the work, but the Federal grantor agency reserves a royalty-free, nonexclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use the work for Government purposes.

ATTACHMENT O: UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS-IN-AID TO STATE AND LOCAL GOVERNMENTS

PROCUREMENT STANDARDS

1. This attachment provides standards for use by the State and local governments in establishing procedures for the procurement of supplies, equipment, construction, and other services with Federal grant funds. These standards are furnished to insure that such materials and services are obtained in an effective manner and in compliance with the provisions of applicable Federal law and Executive orders. No additional requirements shall be imposed by the Federal agencies upon the grantees unless specifically required by Federal law or Executive orders.

2. The Standards contained in this Attachment do not relieve the grantee of the contractual responsibilities arising under its contracts. The grantee is the responsible authority, without recourse to the grantor agency regarding the settlement and satisfaction of all contractual and administrative issues arising out of procurements entered into, in support of a grant. This includes but is not limited to: disputes, claims, protests of award, source evaluation or other matters of a contractual nature. Matters concerning violation of law are to be referred to such local, State, or Federal authority as may have proper jurisdiction.

3. Grantees may use their own procurement regulations which reflect applicable State and local law, rules and regulations provided that procurements made with Federal grant funds adhere to the standards set forth as follows:

a. The grantee shall maintain a code or standards of conduct which shall govern the performance of its officers, employees, or agents in contracting with and expending Federal grant funds. Grantee's officers, employees or agents, shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or potential contractors. To the extent permissible by State or local law, rules or regulations, such standard shall provide for penalties, sanctions, or other disciplinary actions to be applied for violations of such standards by either the grantee officers, employees, or agents, or by contractors or their agents.

b. All procurement transactions regardless of whether negotiated or advertised and without regard to dollar value shall be conducted in a manner so as to provide maximum open and free competition. The grantee should be alert to organizational conflicts of interest or noncompetitive practices among contractors which may restrict or eliminate competition or otherwise restrain trade.

c. The grantee shall establish procurement procedures which provide for, as a minimum, the following procedural requirements:

(1) Proposed procurement actions shall be reviewed by grantee officials to avoid purchasing unnecessary or duplicative items. Where appropriate, an anlysis shall be made of lease and purchase alternatives to determine which would be the most economical, practical procurement.

(2) Invitations for bids or requests for proposals shall be based upon a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features which unduly restrict competition. "Brand name or equal" description may be used as a means to define the performance or other salient requirements of a procurement, and when so used the specific features of the named brand which must be met by offerors should be clearly specified.

(3) Positive efforts shall be made by the grantees to utilize small business and minority-owned business sources of supplies and services. Such efforts should allow these sources the maximum feasible opportunity to compete for contracts to be performed utilizing Federal grant funds.

(4) The type of procuring instruments used (i.e., fixed price contracts, cost reimbursable contracts, purchase orders, incentive contracts, etc.), shall be appropriate for the particular procurement and for promoting the best interest of the grand program involved. The "cost-plus-a-percentage-of-cost" method of contracting shall not be used.

(5) Formal advertising, with adequate purchase description, sealed bids, and public openings shall be the required method of procurement unless negotiation pursuant to paragraph (6) below is necessary to accomplish sound procurement. However, procurements of $2,500 or less need not be so advertised unless otherwise required by State or local law or regulations. Where such advertised bids are obtained the awards shall be made to the responsible bidder whose bid is responsive to the invitation and is most advantageous to the grantee, price and other factors considered. (Factors such as discounts, transportation costs, taxes may be considered in determining the lowest bid.) Invitations for bids shall clearly set forth all requirements which the bidder must fulfill in order for his bid to be evaluated by the grantee. Any or all bids may be rejected when it is in the grantee's interest to do so, and such rejections are in accordance with applicable State and local law, rules, and regulations.

(6) Procurements may be negotiated if it is impracticable and unfeasible to use formal advertising. Generally, procurements may be negotiated by the grantee if:

(a) The public exigency will not permit the delay incident to advertising;

(b) The material or service to be procured is available from only one person or firm; (All contemplated sole source procurements where the aggregate expenditure is expected to exceed $5,000 shall be referred to the grantor agency for prior approval.)

(c) The aggregate amount involved does not exceed $2,500;

(d) The contract is for personal or professional services, or for any service to be rendered by a university, college, or other educational institutions;

(e) The material or services are to be procured and used outside the limits of the United States and its possessions;

(f) No acceptable bids have been received after formal advertising;

(g) The purchases are for highly perishable materials or medical supplies, for material or services where the prices are established by law, for technical items or equipment requiring standardization and interchangeability of parts with existing equipment, for experimental, developmental or research work, for supplies purchased for authorized resale, and for technical or specialized supplies requiring substantial initial investment for manufacture;

(h) Otherwise authorized by law, rules, or regulations.

Notwithstanding the existence of circumstances justifying negotiation, competition shall be obtained to the maximum extent practicable.

(7) Contracts shall be made only with responsible contractors who possess the potential ability to perform successfully under the terms and conditions of a proposed procurement. Consideration shall be given to such matters as contractor integrity, record of past performance, financial and technical resources, or accessibility to other necessary resources.

(8) Procurement records or files for purchases in amounts in excess of $2,500 shall provide at least the following pertinent information: justification for the use of negotiation in lieu of advertising, contractor selection, and the basis for the cost or price negotiated.

(9) A system for contract administration shall be maintained to assure contractor conformance with terms, conditions, and specifications of the contract or order, and to assure adequate and timely followup of all purchases.

4. The grantee shall include, in addition to provisions to define a sound and complete agreement, the following provisions in all contracts and subgrants:

a. Contracts shall contain such contractual provisions or conditions which will allow for administrative, contractual, or legal remedies in instances where contractors violate or breach contracts terms, and provide for such sanctions and penalties as may be appropriate.

b. All contracts, amounts for which are in excess of $2,500, shall contain suitable provi-

sions for termination by the grantee including the manner by which it will be effected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.

c. In all contracts for construction or facility improvement awarded in excess of $100,000, grantees shall observe the bonding requirements provided in Attachment B to this Circular.

d. All contracts and subgrants in excess of $10,000 shall include provisions for compliance with Executive Order No. 11246, entitled, "Equal Employment Opportunity," as supplemented in Department of Labor Regulations (41 CFR, Part 60). Each contractor or subgrantee shall be required to have an affirmative action plan which declares that it does not discriminate on the basis of race, color, religion, creed, national origin, sex, and age and which specifies goals and target dates to assure the implementation of that plan. The grantee shall establish procedures to assure compliance with this requirement by contractors or subgrantees and to assure that suspected or reported violations are promptly investigated.

e. All contracts and subgrants for construction or repair shall include a provision for compliance with the Copeland "Anti-Kick Back" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR, Part 3). This Act provides that each contractor or subgrantee shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The grantee shall report all suspected or reported violations to the grantor agency.

f. When required by the Federal grant program legislation, all construction contracts awarded by grantees and subgrantees in excess of $2,000 shall include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 276a to a–7) and as supplemented by Department of Labor regulations (29 CFR, Part 5). Under this Act contractors shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages not less often than once a week. The grantee shall place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation and the award of a contract shall be conditioned upon the acceptance of the wage determination. The grantee shall report all suspected or reported violations to the grantor agency.

g. Where applicable, all contracts awarded by grantees and subgrantees in excess of $2,000 for construction contracts and in excess of $2,500 for other contracts which involve the employment of mechanics or laborers shall include a provision for compliance with sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR, Part 5). Under section 103 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work day of 8 hours and a standard work week of 40 hours. Work in excess of the standard workday or workweek is permissible provided that the worker is compensated at a rate of not less than 1½ times the basic rate of pay for all hours worked in excess of 8 hours in any calendar day or 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction, safety, and health standards promulgated by the Secretary of Labor. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

h. Contracts or agreements, the principal purpose of which is to create, develop, or improve products, processes or methods; or for exploration into fields which directly concern public health, safety, or welfare; or contracts in the field of science or technology in which there has been little significant experience outside of work funded by Federal assistance, shall contain a notice to the effect that matters regarding rights to inventions, and materials generated under the contract or agreement are subject to the regulations issued by the Federal grantor agency and the grantee. The contractor shall be advised as to the source of additional information regarding these matters.

i. All negotiated contracts (except those of $2,500 or less) awarded by grantees shall include a provision to the effect that the grantee, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the contractor which are directly pertinent to a specific grant program for the purpose of making audit, examination, excerpts, and transcriptions.

j. Each contract of an amount in excess of $2,500 awarded by a grantee or subgrantee shall provide that the recipient will comply with applicable regulations and standards of the Cost of Living Council in establishing wages and prices. The provision shall advise the recipient that submission of a bid or offer or the submittal of an invoice or voucher for property, goods, or services furnished under a contract or agreement with the grantee shall constitute a certification by him that amounts to be paid do not exceed maximum allowable levels authorized by the Cost of Living Council regulations or standards. Violations shall be reported to the grantor agency and the local Internal Revenue Service field office.

k. Contracts and subgrants of amounts in excess of $100,000 shall contain a provision which requires the recipient to agree to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act of 1970. Violations shall be reported to the grantor agency and the Regional Office of the Environmental Protection Agency.

[FR Doc.73-15819 Filed 8-6-73;8:45 am]

federal register

TUESDAY, AUGUST 7, 1973

WASHINGTON, D.C.

Volume 38 ■ Number 151

PART III

ENVIRONMENTAL PROTECTION AGENCY

■

CONTROL OF AIR POLLUTION FROM NEW MOTOR VEHICLES AND NEW MOTOR VEHICLE ENGINES

Light Duty Trucks and Diesel-Powered Vehicles

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

Light Duty Diesel Regulations for 1975 and 1976 Model Year Vehicles

On October 4, 1972 (37 FR 20914) EPA proposed that light duty diesel-powered vehicles meet the statutory standards for 1975 and 1976 model year light duty gasoline-fueled vehicles. The proposal also contained modifications to the existing analytical and measurement portions of the 1975 model year constant volume sampler (CVS) test procedures for gasoline-fueled vehicles to allow diesel-powered vehicles to be tested on that procedure for prototype certification purposes. Comments on that proposal have been received and analyzed and the final regulations are promulgated as set forth below.

One change to the regulations from the proposal was a revision of the format from that proposed in order to conform to the recodification of the motor vehicle regulations published in the FEDERAL REGISTER on November 15, 1972 (37 FR 24250). Subpart B, Emission Regulations for New Diesel Light Duty Vehicles, has been added and contains all the general provisions, standards, and test procedures applicable to diesel-powered light duty vehicles.

Other changes to the regulations reflect the adoption of comments to the proposal. These changes were to correct errors in the proposal, to make the testing procedure as similar as possible to that for gasoline-fueled vehicles, and to improve instrumentation techniques.

Part 85 of Chapter 1, Title 40 of the Code of Federal Regulations as applicable to 1975 and later model year diesel-powered light duty vehicles is amended below and is effective on Sept. 6, 1973.

Dated: July 27, 1973.

ROBERT W. FRI,
Acting Administrator.

Subpart B—Emission Regulations for New Diesel Light Duty Vehicles

AUTHORITY: Sec. 202(b) and 206 of the Clean Air Act, as amended (42 U.S.C. 1857f-1(b) and 1857f-5).

Subpart B—Emission Regulations for New Diesel Light Duty Vehicles

§ 85.101 General applicability.

The provisions of this subpart are applicable to new diesel light duty motor vehicles.

§ 85.102 Definitions.

(a) As used in this subpart, all terms not defined herein shall have the meaning given them in the Act:

(1) "Act" means Part A of title II of the Clean Air Act, 42 U.S.C. 1857 f-1 through f-7, as amended by Public Law 91-604.

(2) "Administrator" means the Administrator of the Environmental Protection Agency or his authorized representative.

(3) "Model year" means the manufacturer's annual production period (as determined by the Administrator) which includes January 1 of such calendar year: *Provided*, That if the manufacturer has no annual production period, the term "model year" shall mean the calendar year.

(4) "Gross vehicle weight" means the manufacturer's gross weight rating for the individual vehicle.

(5) "Light duty vehicle" means any motor vehicle either designed primarily for transportation of property and rated at 6,000 pounds GVW or less or designed primarily for transportation of persons and having a capacity of 12 persons or less.

(6) "Vehicle curb weight" means the actual or the manufacturer's estimated weight of the vehicle in operational status with all standard equipment, and weight of fuel at nominal tank capacity, and the weight of optional equipment computed in accordance with § 85.175-5(g).

(7) "Loaded vehicle weight" means the vehicle curb weight of a light duty vehicle plus 300 pounds.

(8) "System" includes any motor vehicle engine modification which controls or causes the reduction of substances emitted from motor vehicles.

(9) "Engine family" means the basic classification unit of a manufacturer's product line used for the purpose of test fleet selection and determined in accordance with § 85.175-5(a).

(10) "Engine-system combination" means an engine family-exhaust emission control system-fuel evaporative emission control system (where applicable) combination.

(11) "Fuel system" means the combination of fuel tank, fuel pump, fuel lines, and carburetor, or fuel injection components, and includes all fuel system vents and fuel evaporative emission control systems.

(12) "Exhaust emissions" means substances emitted to the atmosphere from any opening downstream from the exhaust port of a motor vehicle engine.

(13) "Tank fuel volume" means the volume of fuel in the fuel tank, prescribed to be 40 percent of nominal tank capacity rounded to the nearest whole U.S. gallon.

(14) Zero (0) miles means that point after initial engine starting (not to exceed 10 miles of vehicle operation or 1 hour of engine operation) at which normal assembly line operations and adjustments are completed.

(15) "Calibrating gas" means a gas of known concentration which is used to establish the response curve of an analyzer.

(16) "Span gas" means a gas of known concentration which is used routinely to set the output level of an analyzer.

(17) "Oxides of nitrogen" means the sum of the nitric oxide and nitrogen dioxide contained in a gas sample as if the nitric oxide were in the form of nitrogen dioxide.

(18) "Useful life" means a period of use of 5 years or 50,000 miles, whichever first occurs.

(19) "Scheduled maintenance" means any adjustment, repair, removal, disassembly, cleaning, or replacement of vehicle components or systems which is performed on a periodic basis to prevent part failure or vehicle malfunction.

(20) "Unscheduled maintenance" means any adjustment, repair, removal, disassembly, cleaning, or replacement of vehicle components or systems which is performed to correct a part failure or vehicle malfunction.

§ 85.103 Abbreviations.

The abbreviations used in this subpart have the following meanings in both capital and lowercase:

Accel.—Acceleration.
ASTM—American Society for Testing and Materials.
C.—Centigrade.
C.f.h.—Cubic feet per hour.
CO_2—Carbon dioxide.
CO—Carbon monoxide.

Conc.—Concentration.
C.f.m.—Cubic feet per minute.
Cu. in.—Cubic inch(es).
Decel.—Deceleration.
F.—Fahrenheit.
Gal.—U.S. gallon(s).
Gm.—Gram(s).
GVW—Gross Vehicle Weight.
HC—Hydrocarbon(s).
Hg—Mercury.
Hi.—High.
HP.—Horsepower.
ID—Internal diameter.
Lb.—Pound(s).
Lb.-ft.—Pound-feet.
Min.—Minute(s).
Ml.—Milliliter(s).
M.p.h.—Miles per hour.
Mm.—Millimeter(s).
Mv.—Millivolt(s).
N_2—Nitrogen.
NO—Nitric oxide.
NO_2—Nitrogen dioxide.
NO_x—Oxides of nitrogen.
No.—Number.
P.p.m.—Parts per million by volume.
P.s.i.—Pounds per square inch.
P.s.i.g.—Pounds per square inch gauge.
R—Rankine.
R.p.m.—Revolutions per minute.
S.A.E.—Society of Automotive Engineers.
Sec.—Second(s).
Sp.—Speed.
SS—Stainless steel.
V.—Volts.
Vs.—Versus.
WOT.—Wide open throttle.
Wt.—Weight.
'—Feet.
"—Inches.
°—Degrees.
%—Percent.

§ 85.104 General standards: increase in emissions; unsafe conditions.

(a) (1) Every new motor vehicle manufactured for sale, sold, offered for sale, introduced or delivered for introduction into commerce, or imported into the United States for sale or resale which is subject to any of the standards prescribed in this subpart shall be covered by a certificate of conformity issued pursuant to sections 85.175–2 through 85.175–4 and 85.175–29 through 85.175–34 of this subpart.

(b) (1) Any system installed on or incorporated in a new motor vehicle to enable such vehicle to conform to standards imposed by this subpart:

(i) Shall not in its operation or function cause the emission into the ambient air of any noxious or toxic substance that would not be emitted in the operation of such vehicle without such system, except as specifically permitted by regulation; and

(ii) Shall not in its operation, function, or malfunction result in any unsafe condition endangering the motor vehicle, its occupants, or persons or property in close proximity to the vehicle.

(2) Every manufacturer of new motor vehicles subject to any of the standards imposed by this subpart shall, prior to taking any of the actions specified in section 203(a)(1) of the Act, test or cause to be tested motor vehicles in accordance with good engineering practice to ascertain that such test vehicles will meet the requirements of this section for the useful life of the vehicle.

§ 85.105 Hearings on certification.

(a) (1) After granting a request for a hearing under § 85.175–30, the Administrator will designate a Presiding Officer for the hearing.

(2) The General Counsel will represent the Environmental Protection Agency in any hearing under this section.

(3) If a time and place for the hearing have not been fixed by the Administrator under § 85.175–30, the hearing shall be held as soon as practicable at a time and place fixed by the Administrator or by the Presiding Officer.

(b) (1) Upon his appointment pursuant to paragraph (a) of this section, the Presiding Officer will establish a hearing file. The file shall consist of the notice issued by the Administrator under § 85.175–30, together with any accompanying material, the request for a hearing and the supporting data submitted therewith and all documents relating to the request for certification, including the application for certification and all documents submitted therewith, and correspondence and other data material to the hearing.

(2) The appeal file will be available for inspection by the applicant at the office of the Presiding Officer.

(c) An applicant may appear in person, or may be represented by counsel or by any other duly authorized representative.

(d) (1) The Presiding Officer upon the request of any party, or in his discretion, may arrange for a prehearing conference at a time and place specified by him to consider the following:

(i) Simplification of the issues;

(ii) Stipulations, admissions of fact, and the introduction of documents;

(iii) Limitation of the number of expert witnesses;

(iv) Possibility of agreement disposing of all or any of the issues in dispute;

(v) Such other matters as may aid in the disposition of the hearing, including such additional tests as may be agreed upon by the parties.

(2) The results of the conference shall be reduced to writing by the Presiding Officer and made part of the record.

(e) (1) Hearings shall be conducted by the Presiding Officer in an informal but orderly and expeditious manner. The parties may offer oral or written evidence, subject to the exclusion by the Presiding Officer of irrelevant, immaterial, and repetitious evidence.

(2) Witnesses will not be required to testify under oath. However, the Presiding Officer shall call to the attention of witnesses that their statements may be subject to the provisions of title 18 U.S.C. 1001 which imposes penalties for knowingly making false statements or representations, or using false documents in any matter within the jurisdiction of any department or agency of the United States.

(3) Any witness may be examined or cross-examined by the Presiding Officer, the parties, or their representatives.

(4) Hearings shall be reported verbatim. Copies of transcripts of proceedings may be purchased by the applicant from the reporter.

(5) All written statements, charts, tabulations, and similar data offered in evidence at the hearing shall, upon a showing satisfactory to the Presiding Officer of their authenticity, relevancy, and materiality, be received in evidence and shall constitute a part of the record.

(6) Oral argument may be permitted in the discretion of the Presiding Officer and shall be reported as part of the record unless otherwise ordered by him.

(f) (1) The Presiding Officer shall make an initial decision which shall include written findings and conclusions and the reasons or basis therefor on all the material issues of fact, law, or discretion presented on the record. The findings, conclusions, and written decision shall be provided to the parties and made a part of the record. The initial decision shall become the decision of the Administrator without further proceedings unless there is an appeal to the Administrator or motion for review by the Administrator within 20 days of the date the initial decision was filed.

(2) On appeal from or review of the initial decision the Administrator shall have all the powers which he would have in making the initial decision including the discretion to require or allow briefs, oral argument, the taking of additional evidence or the remanding to the Presiding Officer for additional proceedings. The decision by the Administrator shall include written findings and conclusions and the reasons or basis therefor on all the material issues of fact, law, or discretion presented on the appeal or considered in the review.

§ 85.106 Maintenance of records; submittal of information; right of entry.

(a) The manufacturer of any new motor vehicle subject to any of the standards prescribed in this subpart shall establish and maintain the following adequately organized and indexed records:

(1) Identification and description of all vehicles for which testing is required under this subpart.

(2) A description of all emission control systems which are installed on or incorporated in each vehicle.

(3) A description of the procedures used to test such vehicles.

(4) Test data on each emission data vehicle which will show its emissions at 0 and 4,000 miles.

(5) Test data on each durability vehicle which will show the performance of the systems installed on or incorporated in the vehicle during extended mileage as well as a record of all pertinent maintenance performed on the vehicle.

(b) The manufacturer of any new motor vehicle subject to any of the standards prescribed in this subpart shall submit to the Administrator at the time of issuance by the manufacturer copies of all instructions or explanations regarding the use, repair, adjustment, maintenance, or testing of such vehicle relevant to the control of crankcase, exhaust, or evaporative emissions, issued by the manufacturer for use by other

manufacturers, assembly plants, distributors, dealers, and ultimate purchasers: *Provided*, That any material not translated into the English language need not be submitted unless specifically requested by the Administrator.

(c) The manufacturer of any new motor vehicle subject to any of the standards prescribed in this subpart shall permit officers or employees duly designated by the Administrator, upon presenting appropriate credentials and a written notice to the manufacturer:

(1) To enter, at reasonable times, any premises used during the certification procedures for purposes of monitoring tests and mileage accumulation procedures, observing maintenance procedures, and verifying correlation or calibration of test equipment, or

(2) To inspect, at reasonable times, records, files, and papers compiled by such manufacturer in accordance with paragraph (a) of this section.

A separate notice shall be given for each such inspection, but a separate notice shall not be required for each entry made during the period covered by the inspection. Each such inspection shall be commenced and completed with reasonable promptness.

§ 85.175–1 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.

(b) The standards set forth in paragraph (a) of this section refer to the exhaust emitted over a driving schedule as set forth in § 85.175–9 through § 85.175–23 and measured and calculated in accordance with those procedures.

§ 85.175–2 Application for certification.

(a) An application for a certificate of conformity to the regulations applicable to any new motor vehicle shall be made to the Administrator by the manufacturer, and shall be kept current and accurate by amendment.

(b) The application shall be in writing, signed by an authorized representative of the manufacturer, and shall include the following:

(1) Identification and description of the vehicles covered by the application and a description of their emission control systems.

(2) Projected U.S. sales data sufficient to enable the Administrator to select a test fleet representative of the vehicles for which certification is requested.

(3) A description of the test equipment and fuel proposed to be used.

(4) A description of the proposed mileage accumulation procedure for durability testing.

(5) A statement of recommended maintenance and procedures necessary to assure that the vehicles covered by a certificate of conformity in operation conform to the regulations, and a description of the program for training of personnel for such maintenance, and the equipment required.

(6) At the option of the manufacturer, the proposed composition of the emission data and durability data test fleet.

§ 85.175–3 Approval of procedure and equipment; test fleet selections.

Based upon the information provided in the application for certification, and any other information the Administrator may require, the Administrator will approve or disapprove in whole or in part the mileage accumulation procedure and equipment and fuel proposed by the manufacturer, and notify him in writing of such determination. Where any part of a proposal is disapproved, such notification will specify the reasons for disapproval. The Administrator will select a test fleet in accordance with § 85.175–5.

§ 85.175–4 Required data.

The manufacturer shall perform the tests required by the applicable test procedures, and submit to the Administrator the following information:

(a) Durability data on such vehicles tested in accordance with the applicable test procedures of this subpart, and in such numbers as therein specified, which will show the performance of the systems installed on or incorporated in the vehicle for extended mileage, as well as a record of all pertinent maintenance performed on the test vehicles.

(b) Emission data on such vehicles tested in accordance with the applicable emission test procedures of this subpart and in such numbers as therein specified, which will show their emissions after 0 miles and 4,000 miles of operation.

(c) A description of tests performed to ascertain compliance with the general standards in § 85.175–1 and the data derived from such tests.

(d) A statement that the test vehicles with respect to which data are submitted have been tested in accordance with the applicable test procedures, that they meet the requirement of such tests, and that, on the basis of such tests, they conform to the requirements of the regulations in this subpart. If such statements cannot be made with respect to any vehicle tested, the vehicle shall be identified, and all pertinent test data relating thereto shall be supplied.

§ 85.175–5 Test vehicles.

(a) (1) The vehicles covered by the application for certification will be divided into groupings of vehicles whose engines are expected to have similar emission characteristics. Each group of engines with similar emission characteristics shall be defined as a separate engine family.

(2) To be classed in the same engine family, engines must be identical in all the following respects:

(i) The cylinder bore center to center dimensions.

(ii) The dimension from the centerline of the crankshaft to the centerline of the camshaft.

(iii) The dimension from the centerline of the crankshaft to the top of the cylinder block head face.

(iv) The cylinder block configuration (air-cooled or water-cooled; L–6, 90° V–8, etc.).

(v) The location of intake and exhaust valves and the valve sizes (within a ⅛-inch range on the valve head diameter).

(vi) The method of air aspiration.

(vii) The combustion cycle.

(3) Engines identical in all the respects listed in subparagraph (2) of this paragraph may be further divided into different engine families if the Administrator determines that they may be expected to have different emission characteristics. This determination will be based upon a consideration of the following features of each engine:

(i) The bore and stroke.

(ii) The surface to volume ratio of the nominally dimensioned cylinder at the top dead center position.

(iii) The intake manifold induction port size and configuration.

(iv) The exhaust manifold port size and configuration.

(v) The intake and exhaust valve sizes.

(vi) The fuel system.

(vii) The camshaft timing and ignition timing characteristics.

(4) Where engines are of a type which cannot be divided into engine families based upon the criteria listed in subparagraphs (2) and (3) of this paragraph, the Administrator will establish families for those engines based upon the features most related to their emission characteristics.

(b) Emission data vehicles:

(1) Vehicles will be chosen to be operated and tested for emission data based upon the engine family groupings. Within each engine family, the requirements of this paragraph must be met.

(2) Vehicles of each engine family will be divided into engine displacement-exhaust emission control system-combinations. A projected sales volume will be established for each combination for the model year for which certification is sought. One vehicle of each combination will be selected in order of decreasing projected sales volume until 70 percent of the projected sales of a manufacturer's total production of vehicles of that engine family is represented, or until a maximum of four vehicles is selected.

If any single combination represents over 70 percent, then two vehicles of that combination may be selected. The vehicle selected for each combination will be specified by the Administrator as to transmission type, fuel system, and inertia weight class.

(3) The Administrator may select a maximum of four additional vehicles within each engine family based upon features indicating that they may have the highest emission levels of the vehicles in that engine family. In selecting these vehicles, the Administrator will consider such features as the emission control system combination, induction system characteristics, ignition system characteristics, fuel system, rated horsepower, rated torque, compression ratio, inertia weight class, transmission options and axle ratios.

(4) If the vehicles selected in accordance with subparagraphs (2) and (3) of this paragraph do not represent each engine-system combination, then one vehicle of each engine-system combination not represented will be selected by the Administrator. The vehicle selected shall be of the engine displacement with the largest projected sales volume of vehicles with the control system combination in the engine family and will be designated by the Administrator as to transmission type, fuel system, and inertia weight class.

(c) Durability data vehicles:

(1) A durability data vehicle will be selected by the Administrator to represent each engine-system combination. The vehicle selected shall be of the engine displacement with the largest projected sales volume of vehicles with that control system combination in that engine family and will be designated by the Administrator as to transmission type, fuel system and inertia weight class.

(2) A manufacturer may elect to operate and test additional vehicles to represent any engine-system combination. The additional vehicles must be of the same engine displacement, transmission type, fuel system and inertia weight class as the vehicle selected for that engine-system combination in accordance with the provisions of subparagraph (1) of this paragraph. Notice of an intent to operate and test additional vehicles shall be given to the Administrator not later than 30 days following notification of the test fleet selection.

(d) For purposes of testing under § 85.175–7(g) the Administrator may require additional emission data vehicles and durability data vehicles identical in all material respects to vehicles selected in accordance with paragraphs (b) and (c) of this section: *Provided*, That the number of vehicles selected shall not increase the size of either the emission data fleet or the durability data fleet by more than 20 percent or one vehicle, whichever is greater.

(e) Any manufacturer whose projected sales of new motor vehicles subject to this subpart for the 1975 model year is less than 2,000 vehicles may request a reduction in the number of test vehicles determined in accordance with the foregoing provisions of this section. The Administrator may agree to such lesser number as he determines would meet the objectives of this procedure.

(f) In lieu of testing an emission data or durability data vehicle selected under paragraph (b) or (c) of this section and submitting data therefore, a manufacturer may, with the prior written approval of the Administrator, submit data on a similar vehicle for which certification has previously been obtained.

(g)(1) Where it is expected that more than 33 percent of an engine family will be equipped with an optional item, the full estimated weight of that item shall be included, if required by the Administrator, in the curb weight computation for each vehicle available with that option in the engine family. Where it is expected that 33 percent or less of the vehicles in an engine family will be equipped with an item of optional equipment, no weight for that item will be added in computing curb weight. In the case of mutually exclusive options, only the weight of the heavier option will be added in computing curb weight. Optional equipment weighing less than 3 pounds per item need not be considered.

(2) Where it is expected that more than 33 percent of an engine family will be equipped with an item of optional equipment that can reasonably be expected to influence emissions, then such items of optional equipment shall actually be installed, unless specifically excluded by the Administrator, on all emission data and durability data vehicles in the engine family on which the option is intended to be offered in production. Optional equipment that can reasonably be expected to influence emissions are the air conditioner, power steering, power brakes, and other items determined by the Administrator.

(3) Optional equipment that can reasonably be expected to influence emissions which is utilized on 33 percent or less of the vehicle in the engine family shall not be installed on any vehicle in the engine family unless specifically required under this section.

§ 85.175–6 Maintenance.

(a)(1) Scheduled maintenance on the engine, emission control system, and fuel system of durability vehicles shall be performed only under the following provisions and shall be specified in the manufacturer's maintenance instructions furnished to the ultimate purchaser of the motor vehicle.

(i) One major engine tuneup to manufacturer's specifications may be performed no more frequently than every 12,500 miles provided that no tuneup may be performed after 45,000 miles of scheduled driving.

rated horsepower per cubic inch of displacement) major engine tuneups may be performed at 12,000, 24,000, and 36,000 miles (±250 miles) of scheduled driving. Other maintenance intervals may be used if approved in advance by the Administrator. A major engine tuneup shall be restricted to the following:

(*a*) Adjust low idle speed.

(*b*) Adjust valve lash if required.

(*c*) Adjust injector timing.

(*d*) Adjust governor.

(*e*) Clean and service injector tips.

(*f*) Adjust drive belt tension on engine accessories.

(*g*) Check engine bolt torque and tighten as required.

(ii) Injectors may be changed if a persistent misfire is detected.

(iii) Normal vehicle lubrication services (engine and transmission oil change and oil filter, fuel filter, and air filter servicing) will be allowed at manufacturer's recommended intervals.

(iv) Readjustment of the engine idle settings may be performed only if there is a problem of stalling at stops.

(v) Engine idle speed may be adjusted at the 5,000-mile test point.

(vi) Any other engine, emission control system, or fuel system adjustment, repair, removal, disassembly, cleaning, or replacement on durability vehicles shall be performed only with the advance approval of the Administrator.

(2) Where the Administrator agrees under § 85.175–7 to a mileage accumulation of less than 50,000 miles for durability testing, he may modify the requirement of this paragraph.

(b) Adjustment of engine idle speed may be performed once before the 4,000 mile test point on emission data vehicles. Any other engine emission control system, or fuel system adjustment, repair, removal, disassembly, cleaning, or replacement on emission data vehicles shall be performed only with the advance approval of the Administrator.

(c) Repair to vehicle components of the durability or emission data vehicle, other than the engine, emission control system, or fuel system, shall be performed only as a result of part failure or vehicle system malfunction or with the advanced approval of the Administrator.

(d) Complete emission tests (see §§ 85.175–9 to 85.175–23) shall be run, unless waived by the Administrator, before and after any vehicle maintenance which may reasonably be expected to affect emissions. These test data shall be supplied to the Administrator immediately after the tests, along with a complete record of all pertinent maintenance, including an engineering report of any malfunction diagnosis and the corrective action taken. In addition, all test data and maintenance reports shall be compiled and provided to the Administrator in accordance with § 85.175–4.

(e) If the Administrator determines that compenent failure or repairs performed have resulted in a substantial change to the engine-system combination, the vehicle shall not be used as a durability or emission data vehicle.

(f) The use of instruments, tools, or emission tests to identify malfunctioning, maladjusted, or defective engine components is not allowed unless specifically authorized by the Administrator.

§ 85.175–7 Mileage accumulation and emission measurements.

The procedure for mileage accumulation will be the Durability Driving Schedule as specified in Appendix IV to this

part. A modified procedure may also be used if approved in advance by the Administrator. Except with the advance approval of the Administrator, all vehicles will accumulate mileage at a measured curb weight which is within 100 pounds of the estimated curb weight. If the loaded vehicle weight is within 100 pounds of being included in the next higher inertia weight class as specified in § 85.175–13(d), the manufacturer may elect to conduct the respective emission data vehicle test at the inertia weight corresponding to the higher loaded vehicle weight.

(a) Emission data vehicles: Each emission data vehicle shall be driven 4,000 miles with all emission control systems installed and operating. Emission tests shall be conducted at zero miles and 4,000 miles.

(b) Durability data vehicles: Each durability data vehicle shall be driven with all emission control systems installed and operating, for 50,000 miles or such lesser distance as the Administrator may agree to as meeting the objectives of this procedure. Complete emission tests (see § 85.175–10 through § 85.175–23) shall be made at the following mileage points: 0, 5,000, 10,000, 15,000, 20,000, 25,000, 30,000, 35,000, 40,000, 45,000, and 50,000.

(c) All tests required by this subpart to be conducted after 5,000 miles of driving for durability vehicles and 4,000 miles for emission data vehicles must be conducted at any accumulated mileage within 250 miles of each of those test points.

(d)(1) The results of each emission test shall be supplied to the Administrator immediately after the test. The manufacturer shall furnish to the Administrator explanation for voiding any test. The Administrator will determine if voiding the test was appropriate based upon the explanation given by the manufacturer for the voided test. If a manufacturer conducts multiple tests at any test point at which the data are intended to be used in the calculation of the deterioration factor, the number of tests must be the same at each point and may not exceed three valid tests. Tests between test points may be conducted as required by the Administrator. Data from all tests (including voided tests) shall be air posted to the Administrator within 24 hours (or delivered within three working days). In addition, all test data shall be compiled and provided to the Administrator in accordance with § 85.175–4. Where the Administrator conducts a test on a durability vehicle at a prescribed test point, the results of each test will be used in the calculation of the deterioration factor.

(d)(2) The results of all emission test results shall be recorded and reported to the Administrator using three significant figures. These numbers shall be rounded in accordance with the "Rounding-Off Method" specified in ASTM E 29–67.

(e) Whenever the manufacturer proposes to operate and test a vehicle which may be used for emission or durability data, he shall provide the zero mile test data to the Administrator and make the vehicle available for such testing under § 85.175–29 as the Administrator may require before beginning to accumulate mileage on the vehicle. Failure to comply with this requirement will invalidate all test data submitted for this vehicle.

(f) Once a manufacturer begins to operate an emission data or durability data vehicle, as indicated by compliance with paragraph (e) of this section, he shall continue to run the vehicle to 4,000 miles or 50,000 miles, respectively, and the data from the vehicle will be used in the calculations under § 85.175–28. Discontinuation of a vehicle shall be allowed only with the written consent of the Administrator.

(g)(1) The Administrator may elect to operate and test any test vehicle during all or any part of the mileage accumulation and testing procedure. In such cases, the manufacturer shall provide the vehicle(s) to the Administrator with all information necessary to conduct this testing.

(2) The test procedures (§§ 85.175–9 to 85.175–23) will be followed by the Administrator. The Administrator will test the vehicles at each test point. Maintenance may be performed by the manufacturer under such conditions as the Administrator may prescribe.

(3) The data developed by the Administrator for the engine system combination shall be combined with any applicable data supplied by the manufacturer on other vehicles of that combination to determine the applicable deterioration factors for the combination. In the case of a significant discrepancy between data developed by the Administrator and that submitted by the manufacturer the Administrator's data shall be used in the determination of deterioration factors.

(h) Emission testing of any type with respect to any certification vehicle other than that specified in this subpart is not allowed except as such testing may be specifically authorized by the Administrator.

§ 85.175–8 Special test procedures.

The Administrator may, on the basis of a written application therefor by a manufacturer, prescribe test procedures, other than those set forth in this subpart, for any motor vehicle which he determines is not susceptible to satisfactory testing by the procedures set forth herein.

§ 85.175–9 Test procedures.

The procedures described in this and subsequent sections will be the test program to determine the conformity of diesel light duty vehicles with the standards set forth in § 85.175–1.

(a) The test consists of prescribed sequences of fueling, parking, and operating conditions. The exhaust gases generated during vehicle operation are diluted with air and sampled continuously for analysis of diesel exhaust hydrocarbon and subsequent analysis of other specific components by prescribed techniques. The test applies to vehicles equipped with catalytic or direct flame afterburners, other control systems or to uncontrolled vehicles and engines. All test phases are conducted with an ambient temperature range between 68° and 86° F.

(b) The exhaust emission test is designed to determine hydrocarbon, carbon monoxide, and oxides of nitrogen mass emissions while simulating an average trip in an urban area of 7.5 miles. The test consists of engine startups and vehicle operation on a chassis dynamometer through a specified driving schedule, as described in Appendix I to this part. Using a constant volume (variable dilution) sampler, a proportional part of the diluted exhaust gas is analyzed continuously for hydrocarbons and an additional proportional part of the diluted exhaust gas is collected in a bag for subsequent analysis of the other components.

(c) Except for component malfunction or failure, all emission control systems installed on or incorporated in a new motor vehicle shall be functioning during all procedures in this subpart. Component malfunction or failure shall be repaired in accordance with § 85.175–6.

§ 85.175–10 Diesel fuel specifications.

(a) The diesel fuels employed for testing shall be clean and bright, with pour and cloud points adequate for operability. The fuels may contain nonmetallic additives as follows: Cetane improver, metal deactivator, antioxidant, dehazer, antirust, pour depressant, dye, and dispersant.

(b) Fuel meeting the following specifications, or substantially equivalent specifications approved by the Administrator, shall be used in exhaust emissions testing. The grade of fuel recommended by the engine manufacturer, commercially designated as "Type 1–D" or "Type 2–D", shall be used.

Item	ASTM test method No.	Type 1–D	Type 2–D
Cetane	D 613	48–54	42–50
Distillation range	D 86		
IBP, °F		330–390	340–400
10-percent point, °F		370–430	400–460
50-percent point, °F		410–480	470–540
90-percent point, °F		460–520	550–610
EP, °F		500–560	580–660
Gravity, ° API	D 287	40–44	33–37
Total Sulfur, percent	D 129 or D 2622	0.05–0.20	0.2–0.5
Hydrocarbon composition	D 1319		
Aromatics, percent		8–15	27 (Min.)
Paraffins, Naphthenes, Olefins		Remainder.	Remainder.
Flashpoint, °F. (minutes)	D 93	120	130
Viscosity, Centistokes	D 445	1.6–2.0	2.0–3.2

(c) Fuel meeting the following specifications, or substantially equivalent specifications approved by the Administrator, shall be used in service accumulation. The grade of fuel recommended by the engine manufacturer, commercially designated as "Type 1–D" or "Type 2–D", shall be used.

Item	ASTM test method No.	Type 1-D	Type 2-D
Cetane	D 613	48–54	42–48
Distillation range	D 86		
IBP, ° F		330–390	340–410
10-percent point, ° F		370–430	400–470
50-percent point, ° F		410–480	470–540
90-percent point, ° F		460–520	550–610
EP, ° F		500–560	580–660
Gravity, ° API	D 287	40–44	33–40
Total Sulfur, percent	D 129 or D 2622	0.05–0.20	0.2–0.5
Flash point, ° F. (minute)	D 93	130	130
Viscosity, Centistokes	D 445	1.6–2.0	2.0–3.2

(d) Other Petroleum Distillation Fuel Specifications:

(i) Other petroleum distillate fuels may be used for testing and service accumulation provided they are commercially available, and

(ii) Information, acceptable to the Administrator, is provided to show that only the designated fuel would be used in customer service, and

(iii) Use of a fuel listed under paragraphs (b) and (c) of this section would have a detrimental effect on emissions or durability, and

(iv) Written approval from the Administrator of the fuel specifications was provided prior to the start of testing.

(e) The specification range of the fuels to be used under paragraphs (b), (c), and (d) of this section shall be reported in accordance with § 85.175–2(b)(3).

§ 85.175–11 Vehicle preconditioning.

Vehicles to be tested for compliance with the exhaust emission standards of this part shall be preconditioned as follows:

(a) The fuel tank of the test vehicle shall be drained and charged with the specified test fuel, § 85.175–10(b), to the prescribed "tank fuel volume," defined in § 85.102. The vehicle manufacturer shall provide additional fittings and adapters, as required to accommodate a fuel drain at the lowest point possible in the tank as installed on the vehicle. Test fuel, when charged to the tank shall be at ambient temperature, § 85.175–9(a).

(b) The test vehicle shall be placed on the dynamometer and operated over a simulated trip, according to the applicable requirements and procedures of §§ 85.175–12 to 85.175–17 except that the engine need not be cold when starting the run on the dynamometer and only a single trip of 7.5 miles shall be run. The test vehicle may be used to set dynamometer horsepower, if necessary.

(c) The engine and cooling fan shall be stopped upon completion of the dynamometer operation and the vehicle permitted to soak either on or off the dynamometer stand for a period of not less than 12 hours prior to the dynamometer test.

§ 85.175–12 Dynamometer driving schedule.

(a) The dynamometer driving schedule to be followed consists of a nonrepetitive series of idle, acceleration, cruise, and deceleration modes of various time sequences and rates. The driving schedule is defined by a smooth transition through the speed vs. time relationships listed in Appendix I to this part. The time sequence begins upon starting the vehicle according to the startup procedure described in § 85.175–17.

(b) The speed tolerance at any given time on the dynamometer driving schedule prescribed in Appendix I to this part or as printed on a driver's aid chart approved by the Administrator is defined by upper and lower limits. The upper limit is 2 m.p.h. higher than the highest point on the trace within 1 second of the given time. The lower limit is 2 m.p.h. lower than the lowest point on the trace within 1 second of the given time. Speed variations greater than the tolerances (such as occur when shifting manual transmission vehicles) are acceptable provided they occur for less than 2 seconds on any one occasion. Speeds lower than those prescribed are acceptable provided the vehicle is operated at maximum available power during such occurrences. Further, speed deviations from those prescribed due to stalling are acceptable provided the provisions of § 85.175–17(d) are adhered to.

§ 85.175–13 Dynamometer procedure.

(a) The dynamometer run consists of two tests, a "cold" start test after a minimum 12 hour soak and a "hot" start test with a 10 minute soak between the two tests. Engine startup, operation over the driving schedule, and engine shutdown make a complete cold start test. Engine startup and operation over the first 505 seconds of the driving schedule complete the hot start test. The exhaust emissions are diluted with air to a constant volume and a portion is sampled continuously during each test. Diesel hydrocarbons are analyzed continuously, with manual or electronic integration, during each test. The composite (flow integrated) samples collected in bags are analyzed for carbon monoxide, carbon dioxide, and oxides of nitrogen. A parallel sample of dilution air is analyzed for hydrocarbon, carbon monoxide and oxides of nitrogen.

(b) During dynamometer operation, a fixed speed cooling fan shall be positioned so as to direct cooling air to the vehicle in an appropriate manner with the engine compartment cover open. The fan capacity shall normally not exceed 5,300 c.f.m. If, however, the manufacturer can show that during field operation the vehicle received additional cooling, the fan capacity may be increased or additional fans used if approved in advance by the Administrator. In the case of vehicles with front engine compartments, the fan(s) shall be squarely positioned between 8 and 12 inches in front of the cooling air inlets (grill). In the case of vehicles with rear engine compartments (or if special designs make the above impractical), the cooling fan(s) shall be placed in a position to provide sufficient air to maintain engine cooling.

(c) The vehicle shall be nearly level when tested in order to prevent abnormal fuel distribution.

(d) Flywheels, electrical or other means of simulating inertia shall be used. If the equivalent inertia specified in the following table is not available on the dynamometer being used, the next higher equivalent inertia (not to exceed 250 lbs.) available shall be used.

Loaded vehicle weight, pounds	Equivalent inertia weight, pounds	Road load power at 50 m.p.h. horsepower
Up to 1,125	1,000	5.9
1,126 to 1,375	1,000	6.5
1,376 to 1,625	1,500	7.1
1,626 to 1,875	1,750	7.7
1,876 to 2,125	2,000	8.3
2,126 to 2,375	2,250	8.8
2,376 to 2,625	2,500	9.4
2,626 to 2,875	2,750	9.9
2,876 to 3,250	3,000	10.3
3,251 to 3,750	3,500	11.2
3,751 to 4,250	4,000	12.0
4,251 to 4,750	4,500	12.7
4,751 to 5,250	5,000	13.4
5,251 to 5,750	5,500	13.9
5,751 to above	5,500	14.4

(e) Power absorption unit adjustment:

(1) The power absorption unit shall be adjusted to reproduce road load power at 50 m.p.h. true speed. The indicated road load power setting shall take into account the dynamometer friction. The relationship between road load (absorbed) power and indicated road load power for a particular dynamometer shall be determined by the procedure outlined in Appendix II to this part or other suitable means.

(2) The road load power listed in the table above shall be used or the vehicle manufacturer may determine the road load power by the following procedure and request its use:

(i) Measuring the fuel flow rate of a representative vehicle of the same equivalent inertia weight class, when operated on a level road under balanced wind conditions at a true speed of 50 m.p.h., and

(ii) Noting the dynamometer indicated road load horsepower setting required to reproduce that fuel flow rate when the same vehicle is operated on the dynamometer at a true speed of 50 m.p.h. The tests on the road and on the dynamometer shall be performed with the same vehicle ambient absolute pressure (usually barometric), i.e. within ±5 mm. Hg.

(iii) The road load power shall be determined according to the procedure outlined in Appendix II to this part and adjusted according to the following if applicable.

(3) Where it is expected that more than 33 percent of the vehicles in an engine family will be equipped with air-conditioning, the road load power listed above or as determined in subparagraph (2) of this paragraph shall be increased by 10 percent for testing all test vehicles representing such engine family.

(f) The vehicle speed (m.p.h.) as measured from the dynamometer rolls shall be used for all conditions. A speed vs. time recording, as evidence of dynamometer test validity, shall be supplied on request of the Administrator.

(g) Practice runs over the prescribed driving schedule may be performed to find the minimum accelerator pedal action to maintain the proper speed-time relationship.

NOTE: When using two-roll dynamometers a truer speed-time trace may be obtained by minimizing the rocking of the vehicle in the rolls. The rocking of the vehicle changes the tire rolling radius on each roll. The rocking may be minimized by restraining the vehicle horizontally (or nearly so) by using a cable and winch.

(h) The drive wheel tires may be inflated up to 45 p.s.i.g. in order to prevent tire damage. The drive wheel tire pressure shall be reported with the test results.

(i) If the dynamometer has not been operated during the 2-hour period immediately preceding the test it shall be warmed up for 15 minutes by operating it at 30 m.p.h. using a nontest vehicle.

(j) Changes to dynamometer horsepower settings, if required, shall be made prior to the beginning of the exhaust emission measurement test phase. If a vehicle is needed to make this adjustment a nontest vehicle shall be used.

§ 85.175–14 Three-speed manual transmissions.

(a) All test conditions except as noted shall be run in highest gear.

(b) Cars equipped with free wheeling or overdrive units shall be tested with this unit (free wheeling or overdrive) locked out of operation.

(c) Idle shall be run with transmission in gear and with clutch disengaged (except first idle; see § 85.175–17).

(d) The vehicle shall be driven with minimum accelerator pedal movement to maintain the desired speed.

(e) Acceleration modes shall be driven smoothly with the shift speeds as recommended by the manufacturer. If the manufacturer does not recommend shift speeds, the vehicle shall be shifted from first to second gear at 15 m.p.h. and from second to third gear at 25 m.p.h. The operator shall release the accelerator pedal during the shift, and accomplish the shift with minimum time. If the vehicle cannot accelerate at the specified rates, the vehicle shall be accelerated at maximum available power until the vehicle speed reaches the speed at which it should be at that time during the test.

(f) The deceleration modes shall be run with clutch engaged and without shifting gears from the previous mode, using brakes or accelerator pedal as necessary to maintain the desired speed. For those modes which decelerate to zero, the clutch shall be depressed when the speed drops below 15 m.p.h. when engine roughness is evident, or when engine stalling is imminent.

(g) Downshifting is allowed at the beginning of or during a power mode if recommended by the manufacturer or if the engine obviously is lugging.

§ 85.175–15 Four-speed and five-speed manual transmissions.

(a) Use the same procedure as for three-speed manual transmissions for shifting from first to second gear and from second to third gear. If the manufacturer does not recommend shift speeds, the vehicle shall be shifted from third to fourth gear at 40 m.p.h. Fifth gear may be used at the manufacturer's option.

(b) If transmission ratio in first gear exceeds 5:1, follow the procedure for three- or four-speed manual transmission vehicles as if the first gear did not exist.

§ 85.175–16 Automatic transmissions.

(a) All test conditions shall be run with the transmission in "Drive" (highest gear). Automatic stick-shift transmissions may be shifted as manual transmissions at the option of the manufacturer.

(b) Idle modes shall be run with the transmission in "Drive" and the wheels braked (except first idle; see § 85.175–17).

(c) The vehicle shall be driven with minimum accelerator pedal movement to maintain the desired speed.

(d) Acceleration modes shall be driven smoothly allowing the transmission to shift automatically through the normal sequence of gears. If the vehicle cannot accelerate at the specified rates, the vehicle shall be accelerated at maximum available power until the vehicle speed reaches the speed at which it should be at that time during the driving schedule.

(e) The deceleration modes shall be run in gear using brakes or accelerator pedal as necessary to maintain the desired speed.

§ 85.175–17 Engine starting and restarting.

(a) The engine shall be started according to the manufacturer's recommended starting procedures. The initial 20-second-idle period shall begin when the engine starts. The transmission shall be placed in gear 15 seconds after the engine is started. If necessary, braking may be employed to keep the drive wheels from turning.

(b) If the vehicle does not start after 10 seconds of cranking, cranking shall cease and the reason for failure to start shall be determined. The revolution counter on the constant volume sampler and the hydrocarbon integrator (see § 85.175–21 *Dynamometer test runs*) shall be turned off and the sample solenoid valves placed in the "dump" position during this diagnostic period. In addition, either the positive displacement pump should be turned off or the exhaust tube disconnected from the tailpipe during the diagnostic period. If failure to start is an operational error, the vehicle shall be rescheduled for testing from a cold start. If failure to start is caused by vehicle malfunction, corrective action of less than 30 minutes duration may be taken and the test continued. The sampling system shall be reactivated at the same time cranking is started. When the engine starts, the driving schedule timing sequence shall begin. If failure to start is caused by vehicle malfunction and the vehicle cannot be started, the test shall be voided, the vehicle removed from the dynamometer, corrective action taken, and the vehicle rescheduled for test. The reason for the malfunction (if determined) and the corrective action taken shall be reported.

(c) If the engine "false starts", the operator shall repeat the recommended starting procedure.

(d) Stalling:

(1) If the engine stalls during an idle period, the engine shall be restarted immediately and the test continued. If the engine cannot be started soon enough to allow the vehicle to follow the next acceleration as prescribed, the driving schedule indicator shall be stopped. When the vehicle restarts the driving schedule indicator shall be reactivated.

(2) If the engine stalls during some operating mode other than idle, the driving schedule indicator shall be stopped, the vehicle restarted, accelerated to the speed required at that point in the driving schedule and the test continued.

(3) If the vehicle will not restart within 1 minute, the test shall be voided, the vehicle removed from the dynamometer, corrective action taken, and the vehicle rescheduled for test. The reason for the malfunction (if determined) and the corrective action taken shall be reported.

§ 85.175–18 Sampling and analytical system (exhaust emissions).

(a) *Schematic drawings.* The following figures (Fig. B 175–1, B 175–2, and B 175–3) are schematic drawings of the exhaust gas sampling and analytical systems which will be used for testing under the regulations in this part. Additional components such as instruments, valves,

solenoids, pumps, and switches may be used to provide additional information and coordinate the functions of the component systems.

(b) *Component description (exhaust gas sampling system).* The following components will be used in the exhaust gas sampling system for testing under the regulations in this part. See Figure B 175–1. Other types of constant volume samplers may be used if shown to yield equivalent results, and if approved in advance by the Administrator.

(1) A dilution air filter assembly consisting of a particulate (paper) filter to remove solid matter from the dilution air and thus increase the life of the charcoal filter; a charcoal filter to reduce and stabilize the background hydrocarbon level; and a second particulate filter to remove charcoal particles from the air stream. The filters shall be of sufficient capacity and the duct which carries the dilution air to the point where the exhaust gas is added shall be of sufficient size so that the pressure at the mixing point is less than 1 inch of water pressure below ambient when the constant volume sampler is operating at its maximum flow rate.

(2) A leak-tight conector and tube to the vehicle tailpipe. The flexible tubing shall be sized and connected in such a manner that the static pressure variations in the vehicle tailpipe(s) remain within ±5 inches of water of the static pressure variations measured during a dynamometer driving cycle with no connection to the tailpipe(s). Sampling systems capable of tolerances to ±1 inch of water will be used by the Administration upon written request by the manufacturer.

(3) A heating system to preheat the heat exchanger to within ±10° F. of its operating temperature before the test begins.

(4) A heat exchanger capable of limiting the gas mixture temperature variation during the entire test to ±10° F. as measured at a point immediately ahead of the positive displacement pump.

(5) A positive displacement pump to pump dilute exhaust mixture. The pump capacity (300 to 350 c.f.m. is sufficient for testing most vehicles) shall be large enough to virtually eliminate water condensation in the system. See Appendix III to this part for one flow calibration technique. Other suitable calibration techniques may be used if approved in advance by the Administrator.

(6) Temperature sensor (T1) with an accuracy of ±2° F. to allow continuous recording of the temperature of the dilute exhaust mixture entering the positive displacement pump. (See § 85.175–19(k)).

(7) Gage (G1) with an accuracy of ±3 mm. Hg to measure the pressure depression of the dilute exhaust mixture entering the positive displacement pump, relative to atmospheric pressure.

(8) Gage (G2) with an accuracy of ±3 mm. Hg to measure the pressure increase across the positive displacement pump.

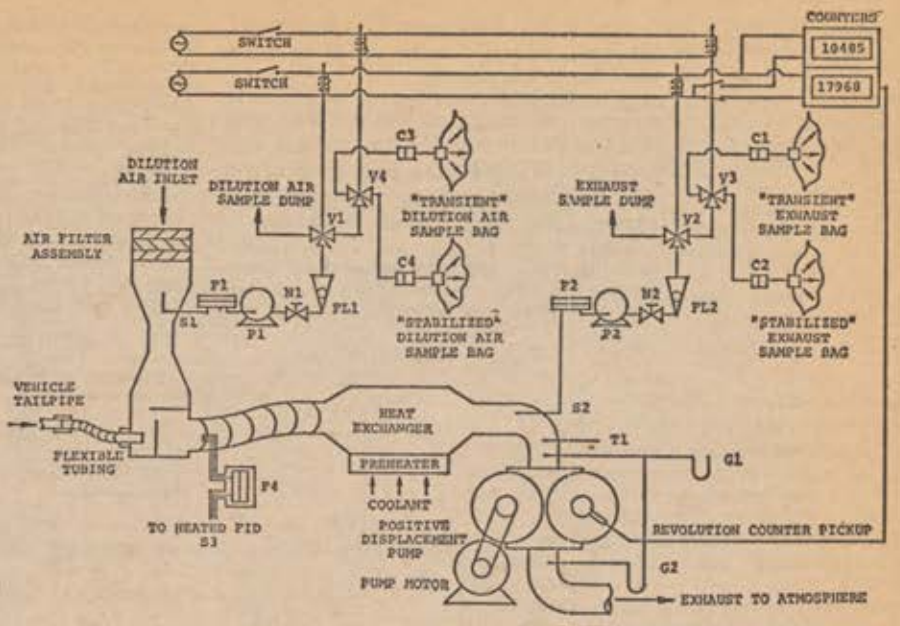


Figure B 175-1 Exhaust Gas Sampling System

(9) Sample probes (S1, S2, and S3) pointed upstream to collect samples from the dilution air stream and the dilute exhaust mixture. Additional sample probes may be used, for example, to obtain continuous concentration traces of the dilute exhaust stream. In such case the sample flow rate, in standard cubic feet per test phase, must be added to the calculated dilute exhaust volume. The position of the sample probes in Figure B 175–1 is pictorial only. The heated sample line (S3) between the sampling point and the analyzer shall be as short as possible.

(10) Filters (F1 and F2) to remove particulate matter from dilution air and dilute exhaust samples.

(11) Pumps (P1 and P2) to pump the dilution air and dilute exhaust into their respective sample collection bags.

(12) Flow control valves (N1 and N2) to regulate flows to sample collecton bags, at constant flow rates. The minimum sample flow rate shall be 10 c.f.h.

(13) Flowmeters (FL1 and FL2) to insure, by visual observation, that constant flow rates are maintained throughout the test.

(14) Three-way solenoid valves (V1, V2, V3, and V4) to direct sample streams to either their respective bags or overboard.

(15) Quick-connect, leak-tight fittings (C1, C2, C3, and C4) with automatic shut-off on bag side to attach sample bags to sample system.

(16) Sample collection bags for dilution air and exhaust samples of sufficient capacity so as not to impede sample flow.

(17) Revolution counters to count the revolutions of the positive displacement pump while each test phase is in progress and samples are being collected.

(c) *Component description (exhaust gas batch analytical system).* The following components will be used in the exhaust gas batch analytical system for testing under the regulations in this part. The analytical system provides for the determination of carbon monoxide and carbon dioxide concentrations by nondispersive infrared (NDIR) analysis and the determination of oxides of nitrogen concentrations by chemiluminescence (CL) analysis in dilute exhaust samples. The chemiluminescence method of analysis requires that the nitrogen dioxide present in the sample be converted to nitric oxide before analysis. Other types of analyzers may be used if shown to yield equivalent results and if approved in advance by the Administrator. See Figure B 175–2.

(1) Quick-connect, leak-tight fitting (C5) to attach sample bags to analytical system.

(2) Filter (F3) to remove any residual particulate matter from the collected sample.

(3) Pump (P3) to transfer samples from the sample bags to the analyzers.

(4) Selector valves (V5, V6, V7, V8, and V9) for directing samples, span gases or zeroing gases to the analyzers.

(5) Flow control valves (N3, N4, N5, N6, N7, N8, N9, N10, N11, and N12) to regulate the gas flow rates.

(6) Flowmeters (FL3, FL4, and FL5) to indicate gas flow rates.

(7) Manifold (M1) to collect the expelled gases from the analyzers.

(8) Pump (P4) to transfer expelled gases from the collection manifold to a vent external to the test room (optional).

(9) Analyzers to determine carbon monoxide, carbon dioxide, and oxides of nitrogen concentrations.

(10) An oxides of nitrogen converter to convert any NO_2 present in the samples to NO before analysis.

(11) Selector valves (V10 and V11) to allow the sample, span, calibrating or zeroing gases to bypass the converter.

(12) Water trap (T1) to partially remove water and a valve (V12) to allow the trap to be drained.

(13) Sample conditioning columns to remove remainder of water (WR1 and WR2 containing indicating calcium sulfate or indicating silica gel), and carbon dioxide (CDR1 and CDR2 containing ascarite) from the CO analysis stream.

NOTE: If CO instruments which are essentially free of CO_2 and water vapor interference are used, the use of the water trap (T1) and these conditioning columns is unnecessary and the trap and columns may be deleted. See § 85.175-19(m) and § 85.175-23(c). A CO instrument will be considered to be essentially free of CO_2 and water vapor interference if its response to a mixture of 3 percent CO_2 and 3 percent water vapor in N_2 produces 3 p.p.m. or less equivalent CO response.

(14) Selector valves (V13 and V14) to permit switching from exhausted absorbing columns to fresh columns.

(15) Water bubbler (W1) to allow saturation of the CO_2 span gas to check efficiency of absorbing columns.

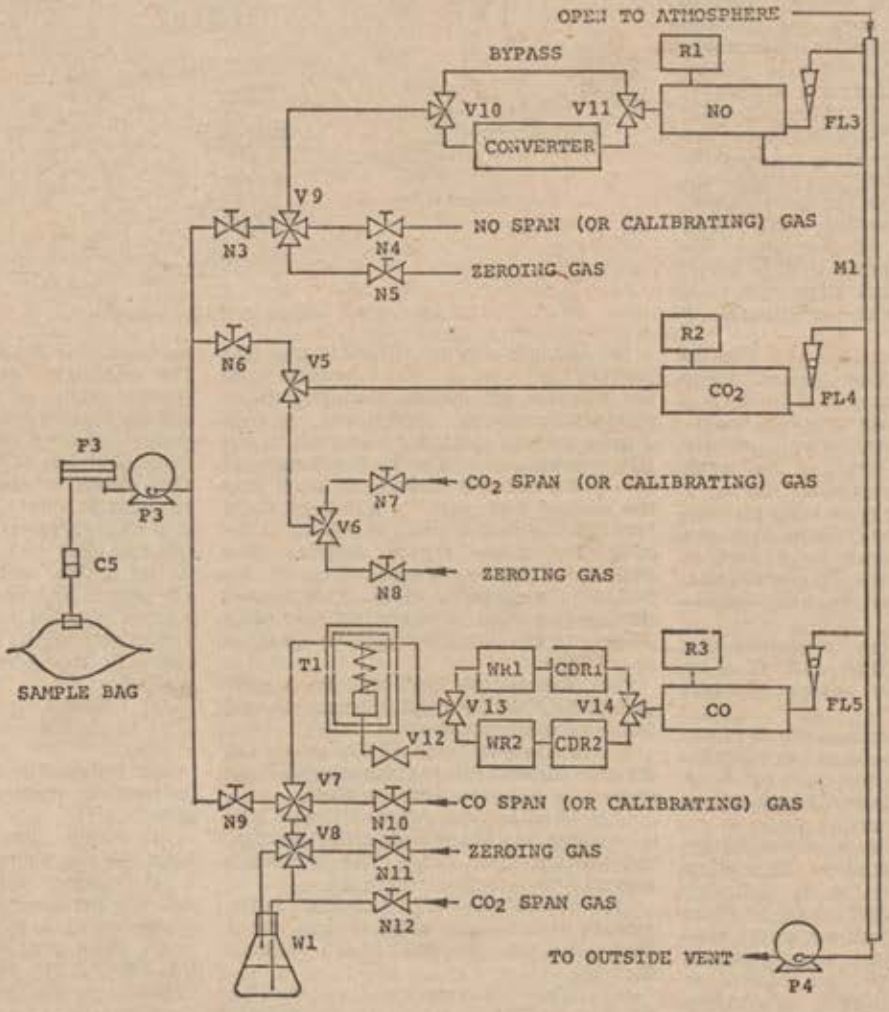


Figure B 175-2 Exhaust Gas Batch Analytical System

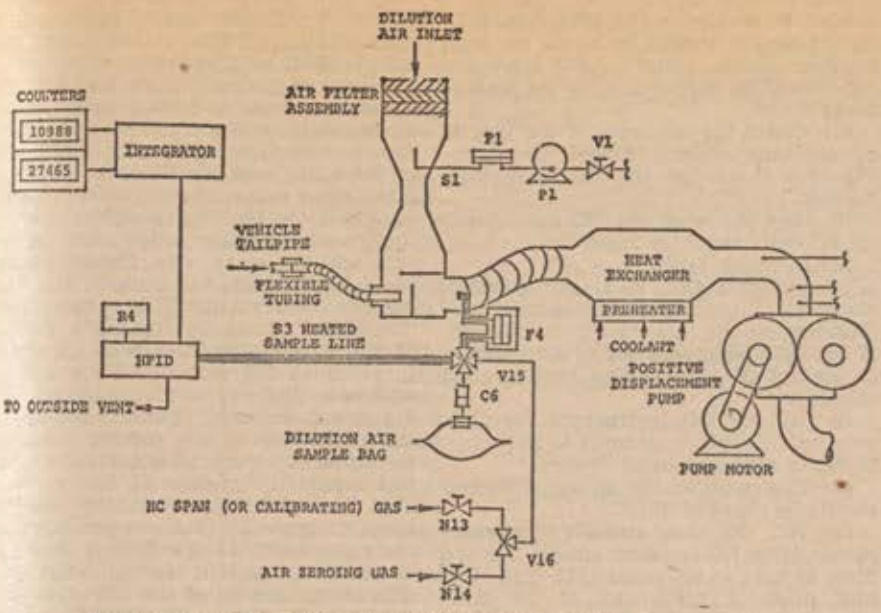


Figure B 175-3 Diesel Hydrocarbon Continuous Analysis System

(16) Recorders (R1, R2, and R3) or digital printers to provide permanent records of calibration, spanning and sample measurements; or in those facilities where computerized data acquisition systems are incorporated, the computer facility printout may be used.

(d) *Component description (exhaust gas continuous analytical system).* The following components will be used in the exhaust gas continuous analytical system for testing under the regulations in this part. This analytical system provides for the continuous determination of exhaust hydrocarbon concentration by heated flame ionization detector (HFID) analysis. Other types of analyzers may be used if shown to yield equivalent results and if approved in advance by the Administrator. See Figure B175–3.

(1) Heated continuous sampling line (S3).

(2) Heated filter (F4) to remove particulate matter from heated hydrocarbon sample.

(3) Selector valves (V15, and V16) for directing the continuous dilute exhaust sample, dilution air bag sample, span or zeroing gases to the analyzers.

(4) Quick-connect, leak-tight fitting (C6) to attach dilution air sample bag to analytical system.

(5) Heated hydrocarbon analyzer (HFID) complete with heated pump, filter, and flow control system. The response time of this instrument shall be less than 1 second for 90 percent of full scale response. Sample transport time from sampling point to inlet of instrument shall be less than 4 seconds.

(6) Chart recorder (R4), chart recorder (R4) and analog integrator with two readouts, or chart recorder (R4) and on-line digital computer for manual or electronic integration of analyzer output signal during the three operating phases of the test.

(7) Flow control valves (N13 and N14) to regulate the gas flow rates.

§ 85.175–19 Information to be recorded.

The following information shall be recorded with respect to each test:

(a) Test number.

(b) System or device tested (brief description).

(c) Date and time of day for each part of the test schedule.

(d) Instrument operator.

(e) Driver or operator.

(f) Vehicle: Make—Vehicle identification number—Model year—Transmission type—Odometer reading—Engin displacement—Engine family—Idle r.p.m.—Inertia loading—Estimated curb weight—Actual road load HP at 50 m.p.h. and drive wheel tire pressure.

(g) Dynamometer serial number and indicated road load power absorption at 50 m.p.h.

(h) All pertinent instrument information such as tuning—gain—serial numbers—detector numbers—range. As an alternative, a reference to a vehicle test cell number may be used with the advance approval of the Administrator, provided test cell calibration records show the pertinent instrument information.

(i) Recorder charts: Identify zero, span, exhaust gas, and dilution air sample traces.

(j) Test cell barometric pressure, ambient temperature and humidity.

(k) Pressure of the mixture of exhaust and dilution air entering the postive displacement pump, the pressure increase across the pump, and the temperature set point of the temperature control system. The sample temperature at the inlet to the pump may be measured if desired, to verify that the temperature variations are within ±5° F. of the set point.

(l) The number of revolutions of the positive displacement pump accumulated while the test is in progress and exhaust flow samples are being collected.

(m) The humidity of the dilution air (necessary only if trap T1 and conditioning columns WR1, WR2, CD1, and CD2 are used for CO measurements). See § 85.175–18(c)(13).

(n) Temperature set point of the heated sample line and heated hydrocarbon detector temperature control system.

§ 85.175–20 Analytical system calibration and sample handling.

(a) Calibrate the analytical assembly at least once every 30 days. Use the same flow rate as when analyzing samples.

(1) Adjust analyzers to optimize performance. Operate heated hydrocarbon analyzer, sampling line, and filter at 375°±10° F.

(2) Zero the hydrocarbon analyzer with zero grade air and the carbon monoxide, carbon dioxide, and oxides of nitrogen analyzers with zero grade nitrogen. The allowable zero gas impurity concentrations should not exceed 1 p.p.m. equivalent carbon response, 1 p.p.m. carbon monoxide, 300 p.p.m. (0.03 mole percent) carbon dioxide, and 0.1 p.p.m. nitric oxide.

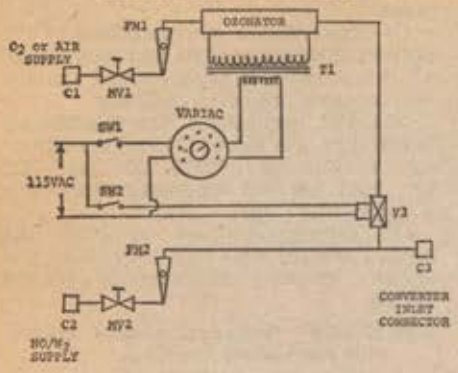
(3) Set the CO and CO_2 analyzer gains to give the desired ranges. Select the desired attenuation scale of the HC analyzer, set the sample capillary flow rate by adjusting the back pressure regulator, and adjust the electronic gain control, if provided, to give the desired range. Select the desired scale of the NO_x analyzer and adjust the phototube high voltage supply or amplifier gain to give the desired range.

(4) Calibrate the HC analyzer with propane (air diluent) gases having nominal concentrations equal to 50 and 100 percent of full scale. Calibrate the CO analyzer with carbon monoxide (nitrogen diluent) gases and the CO_2 analyzer with carbon dioxide (nitrogen diluent) gases having nominal concentrations equal to 10, 25, 40, 50, 60, 70, 85, and 100 percent of full scale. Calibrate the NO_x analyzer with nitric oxide (nitrogen diluent) gases having nominal concentrations equal to 50 and 100 percent of full scale. The actual concentrations should be known to with ±2 percent of the true values.

(5) Compare values obtained on the CO and CO_2 analyzers with previous calibration curves. Any significant change reflects some problem in the system. Locate and correct problem, and recalibrate. Use best judgment in selecting curves for data reduction.

(6) NO_x converter efficiency determination. The apparatus described and illustrated in Figure B 175–7 is to be used to determine the conversion efficiency of devices that convert NO_x to NO.

FIG. B 175-7—NO_x CONVERTER EFFICIENCY DETECTOR



The following procedure is to be used for determining the values to be used in Equation (A).

(i) Attach the NO/N_2 supply (150–250 p.p.m.) at C2, the O_2 supply at C1 and the analyzer inlet connection to the efficiency detector at C3. If lower concentrations of NO are used, air may be used in place of O_2 to facilitate better control of the NO_2 generated during step (iv).

(ii) With the efficiency detector variac off, place the NO_x converter in bypass mode and close valve V3. Open valve MV2 until sufficient flow and stable readings are obtained at the analyzer. Zero and span the analyzer output to indicate the value of the NO concentration being used. Record this concentration.

(iii) Open valve V3 (on/off flow control solenoid valve for O_2) and adjust valve MV1 (O_2 supply metering valve) to blend enough O_2 to lower the NO concentration (ii) about 10 percent. Record this concentration.

(iv) Turn on the ozonator and increase its supply voltage until the NO concentration of (iii) is reduced to about 20 percent of (ii). NO_2 is now being formed from the $NO+N_2$ reaction. There must always be at least 10 percent unreacted NO at this point. Record this concentration.

(v) When a stable reading has been obtained from (iv), place the NO_x converter in the convert mode. The analyzer will now indicate the total NO_x concentration. Record this concentration.

(vi) Turn off the ozonator and allow the analyzer reading to stabilize. The mixture $NO+O_2$ is still passing through the converter. This reading is the total NO_x concentration of the dilute NO span gas used at step (iii). Record this concentration.

(vii) Close valve V3. The NO concentration should be equal to or greater than the reading of (ii) indicating whether the NO contains any NO_2.

Calculate the efficiency of the NO_x converter by substituting the concentrations obtained during the test into Equation (A).

EQUATION A

$$\%\text{Eff.} = \frac{(v)-(iv)}{(vi)-(iv)} \times 100\%$$

The efficiency of the converter should be greater than 90 percent. Adjustment of the converter temperature may be needed to maximize the efficiency. Efficiency checks should be made on each analyzer range using an NO span gas concentration appropriate to the instrument range.

(7) Check the efficiency of the sample conditioning system, if used (see § 85.-175-18(c)(13)), by the following procedure:

(i) Zero and span the CO instrument on its most sensitive scale.

(ii) Recheck zero.

(iii) Bubble CO_2 span gas through water and then through the sample conditioning system into the CO instrument. If the CO instrument shows no response to the wet CO_2, the columns are in good condition.

(iv) If the CO instrument responds to wet CO_2, replace columns as necessary to bring response back to zero.

(v) The conditioning system efficiency should be checked daily.

(b) HC, CO, CO_2, and NO_x measurement: Allow HC analyzer sample line and filter to heat to set point (375°±10° F.), and allow a minimum of 20 minutes warmup for the HC analyzer electronics and 2 hours for the CO, CO_2 and NO_x analyzers. (Power is normally left on infrared and chemiluminescence analyzers; but when not in use, the chopper motors of the infrared analyzers are turned off and the phototube high voltage supply of the chemiluminescence analyzer is placed in the standby position.) The following sequence of operations should be performed in conjunction with each series of measurements:

(1) Zero the analyzers. Obtain a stable zero on each amplifier meter and recorder. Recheck after tests.

(2) Introduce span gases and set the CO and CO_2 analyzer gains, the HC analyzer sample capillary flow rate and electronic gain control, if provided, and the NO, analyzer high voltage supply or amplifier gain to match the calibration curves. In order to avoid corrections, span and calibrate at the same flow rates used to analyze the test samples. Span gases should have concentrations equal to approximately 80 percent of full scale. If gain has shifted significantly on the CO or CO_2 analyzers, check tuning. If necessary, check calibration. Recheck after test. Show actual concentrations on chart.

(3) Check zeros; repeat the procedure in subparagraphs (1) and (2) of this paragraph if required.

(4) Check flow rates and pressures.

(5) Continuously record (and integrate electronically, if desired) dilute hydrocarbon emission levels during test.

(6) Measure CO, CO_2, and NO_x concentrations of samples. Care should be exercised to prevent moisture from condensing in the sample collection bag.

(7) Check zero and span points.

(c) For the purposes of this section, the term "zero grade air" includes artificial "air" consisting of a blend of nitrogen and oxygen with oxygen concentrations between 18 and 21 mole percent.

§ 85.175-21 Dynamometer test runs.

(a) The vehicle shall be allowed to stand with the engine turned off for a period of not less than 12 hours before the cold start exhaust emission test. The vehicle shall be stored prior to the emission tests in such a manner that precipitation (e.g. rain or dew) does not occur on the vehicle. The complete dynamometer test consists of a cold start drive of 7.5 miles and simulates a hot start drive of 7.5 miles. The vehicle is allowed to stand on the dynamometer during the 10-minute time period between the cold and hot start tests. The cold start test is divided into two periods. The first period, representing the cold start "transient" phase, terminates at the end of the deceleration which is scheduled to occur at 505 seconds of the driving schedule. The second period, representing the "stabilized" phase, consists of the remainder of the driving schedule including engine shutdown. The hot start test similarly consists of two periods. The first period, representing the hot start "transient" phase, terminates at the same point in the driving schedule as the first phase of the cold start test. The second period of the hot start test, "stabilized" phase is assumed to be identical to the second period of the cold start test. Therefore, the hot start test terminates after the first period (505 seconds) is run.

(b) The following steps shall be taken for each test:

(1) Place drive wheels of vehicle on dynamometer without starting engine.

(2) Open the vehicle engine compartment cover and start the cooling fan.

(3) With the sample solenoid valves in the "dump" position connect evacuated sample collection bags to the two dilute exhaust sample connectors and to the two dilution air sample line connectors.

(4) Start the positive displacement pump, the sample pumps, the temperature recorder, and the heated hydrocarbon analysis recorder. (The constant volume sampler heat exchanger, the hydrocarbon analyzer continuous sample line and filter should be preheated to their respective operating temperatures before the test begins.)

(5) Adjust the sample flow rates to the desired flow rate (minimum of 10 c.f.h.). Set the hydrocarbon integrator counters and pump revolution counters to zero.

(6) Attach the flexible exhaust tube to the vehicle tailpipe(s).

(7) Simultaneously start the revolution counter for the positive displacement pump, position the sample solenoid valves to direct the sample flows into the "transient" exhaust sample bag and the "transient" dilution air sample bag, turn on the hydrocarbon analyzer system integrator and mark recorder chart, and start cranking engine.

(8) Fifteen seconds after the engine starts, place the transmission in gear.

(9) Twenty seconds after the engine starts, begin the initial vehicle acceleration of the driving schedule.

(10) Operate the vehicle according to the dynamometer driving schedule.

(11) At the end of the deceleration which is scheduled to occur at 505 seconds, simultaneously switch the sample

flows from the "transient" bags to the "stabilized" bags, switch off revolution counter No. 1 and hydrocarbon integrator No. 1, mark hydrocarbon recorder chart and start counter No. 2 and hydrocarbon integrator No. 2. As soon as possible and in no case longer than 20 minutes after the end of this portion of the test disconnect the "transient" exhaust and dilution air sample bags, transfer them to the analytical system and process the samples according to § 85.175–20.

(12) Turn the engine off 2 seconds after the end of the last deceleration (at 1,369 seconds).

(13) Five seconds after the engine stops running, simultaneously turn off revolution counter No. 2 and hydrocarbon integrator No. 2, mark hydrocarbon recorder chart and position the sample solenoid valves to the "dump" position. As soon as possible and in no case longer than 20 minutes after the end of this portion of the test disconnect the "stabilized" exhaust and dilution air sample bags, transfer them to the analytical system and process the samples according to § 85.175–20.

(14) Immediately after the end of the sample period disconnect the exhaust tube from the tailpipe(s), turn off the cooling fan and close the engine compartment cover.

(15) Turn off the positive displacement pump.

(16) Repeat the steps in subparagraphs (2) through (10) of this paragraph for the hot start test except only one evacuated sample bag is required for sampling exhaust gas and one for dilution air. The step in subparagraph (7) of this paragraph shall begin between 9 and 11 minutes after the end of the sample period for the cold start test.

(17) At the end of the deceleration which is scheduled to occur at 505 seconds, simultaneously turn off the No. 1 revolution counter and hydrocarbon integrator No. 1, mark hydrocarbon recorder chart and position the sample solenoid valve to the "dump" position. (Engine shutdown is not part of the hot start sample period.)

(18) As soon as possible and in no case longer than 20 minutes after the end of this portion of the test disconnect the hot start "transient" exhaust and dilution air sample bags, transfer them to the analytical system and process the samples according to § 85.175–20.

(19) Disconnect the exhaust tube from the vehicle tailpipe(s) and remove vehicle from dynamometer.

(20) The positive displacement pump may be turned off, if desired.

§ 85.175–22 Chart reading.

(a) Determine the HC, CO, CO_2, and NO_x concentrations of the dilution air and the CO, CO_2, and NO_x concentration of the dilute exhaust sample bags from the instrument deflection, computer printout, or recordings making use of appropriate calibration charts.

(b) Record integrated HC results, or manually integrate continuous chart. This chart provides a permanent record and can be graphically integrated if verification of the results of electronic integration is required.

(c) Determine the average dilute exhaust mixture temperatures from the temperature recorder trace if a recorder is used.

§ 85.175–23 Calculations (exhaust emissions).

The final reported test results shall be computed by use of the following formulae:

(a) For light duty vehicles:

$$Y_{wm} = (0.43\ Y_{ct} + 0.57\ Y_{ht} + Y_s)/7.5$$

Where:
Y_{wm} = Weighted mass emissions of each pollutant, i.e. HC, CO, or NO_x, in grams per vehicle mile.
Y_{ct} = Mass emissions as calculated from the "transient" phase of the cold start test, in grams per test phase.
Y_{ht} = Mass emissions as calculated from the "transient" phase of the hot start test, in grams per test phase.
Y_s = Mass emissions as calculated from the "stabilized" phase of the cold start test, in grams per test phase.

(b) The mass of each pollutant for each phase of both the cold start test and the hot start test is determined from the following:

(1) Hydrocarbon Mass:

$$HC_{mass} = V_{mix} \times Density_{HC} \times \frac{HC_{conc}}{1{,}000{,}000}$$

(2) Oxides of nitrogen Mass:

$$NO_{x_{mass}} = V_{mix} \times Density_{NO_2} \times \frac{NO_{x_{conc}}}{1{,}000{,}000} \times K_H$$

(3) Carbon monoxide Mass:

$$CO_{mass} = V_{mix} \times Density_{CO} \times \frac{CO_{conc}}{1{,}000{,}000}$$

(c) Meaning of symbols:

HC_{mass} = Hydrocarbon emissions, in grams per test phase.

$Density_{HC}$ = Density of hydrocarbons in the exhaust gas, assuming an average carbon to hydrogen ratio of 1:1.85, in grams per cubic foot at 68° F. and 760 mm. hg. pressure (16.33 gm./cu. ft.).

HC_{conc} = Hydrocarbon concentration of the dilute exhaust sample corrected for background, in p.p.m. carbon equivalent, i.e. equivalent propane×3.

$$HC_{conc} = HC_e - HC_d(1 - 1/\overline{DF})$$

Where:
HC_e = Average hydrocarbon concentrations of the dilute exhaust sample as calculated from the integrated HC traces, in p.p.m. carbon equivalent.
HC_d = Hydrocarbon concentration of the dilution air as measured in p.p.m. carbon equivalent.

$NO_{x_{mass}}$ = Oxides of nitrogen emissions, in grams per test phase.

$Density_{NO_2}$ = Density of oxides of nitrogen in the exhaust gas, assuming they are in the form of nitrogen dioxide, in grams per cubic foot at 68° F. and 760 mm. Hg pressure (54.16 gm./cu. ft.).

$NO_{x_{conc}}$ = Oxides of nitrogen concentration of the dilute exhaust sample corrected for background, in p.p.m.

$$NO_{x_{conc}} = NO_{x_e} - NO_{x_d}(1 - 1/DF)$$

Where:
NO_{x_e} = Oxides of nitrogen concentration of the dilute exhaust sample as measured, in p.p.m.
NO_{x_d} = Oxides of nitrogen concentration of the dilution air as measured, in p.p.m.

CO_{mass} = Carbon monoxide emissions, in grams per test phase.

$Density_{CO}$ = Density of carbon monoxide in grams per cubic foot at 68° F. and 760 mm. Hg pressure (32.97 gm./cu. ft.).

CO_{conc} = Carbon monoxide concentration of the dilute exhaust sample corrected for background, water vapor and CO_2 extraction, in p.p.m.

$$Co_{conc} = CO_e - CO_d\ (1 - 1/DF)$$

Where:
CO_e = Carbon monoxide concentration of the dilute exhaust sample volume corrected for water vapor and carbon dioxide extraction, in p.p.m. The calculation assumes the carbon to hydrogen ratio of the fuel is 1:1.85.

$$CO_e = (1 - 0.01925\ CO_{2e} - 0.000323\ R)\ CO_{em}$$

Where:
CO_{em} = Carbon monoxide concentration of the dilute exhaust sample as measured in p.p.m.
CO_{2e} = Carbon dioxide concentration of the dilute exhaust sample, in mole percent.
R = Relative humidity of the dilution air, in percent.
CO_d = Carbon monoxide concentration of the dilution air corrected for water vapor extraction, in p.p.m.

$$Co_d = (1 - 0.000323\ R)\ CO_{dm}$$

Where:
CO_{dm} = Carbon monoxide concentration of the dilution air sample as measured, in p.p.m.

NOTE: If a CO instrument free of CO_2 and water vapor interference is used (§ 85.175–18(c)(13)) and the water trap and conditioning columns are not, CO_{em} can be substituted directly for CO_e and CO_{dm} can be substituted directly for CO_d.

$$DF = \frac{13.4}{CO_{2e} + (HC_e + CO_e) \times 10^{-4}}$$

V_{mix} = Total dilute exhaust volume in cubic feet per test phase corrected to standard conditions (528° R and 760 mm. Hg).

$$V_{mix} = V_R \times N \frac{(P_B - P_1)\ (528°\ R)}{(760\ \text{mm. Hg})(T_p)}$$

Where:
V_R = Volume of gas pumped by the positive displacement pump, in cubic feet per revolution. This volume is dependent on the pressure differential across the positive displacement pump.
N = Number of revolutions of the positive displacement pump during the test phase while samples are being collected.
P_B = Barometric pressure in mm. Hg.
P_1 = Pressure depression below atmospheric measured at the inlet to the positive displacement pump.
T_p = Average temperature of dilute exhaust entering positive displacement pump during test while samples are being collected, in degrees Rankine.
K_H = Humidity correction factor.

$$K_H = \frac{1}{1 - 0.0047\ (H - 75)}$$

NOTE: The constant 0.0047 will be updated to reflect any data which becomes available on Light-Duty diesel engine tests.

Where:
H = Abolute humidity in grains of water per pound of dry air.

$$H = \frac{(43.478)\ R_a \times P_d}{P_B - (P_d \times R_a/100)}$$

R_a = Relative humidity of the ambient air, in percent.
P_d = Saturated vapor pressure, in mm. Hg at the ambient dry bulb temperature.

(d) Example calculation of mass emissions values:

(1) For the "transient" phase of the cold start test assume V_0=0.29344 cu. ft. per revolution; N=10,485; R=48.0 percent; R_a=48.2 percent; P_B=762 mm. Hg; P_d=22.225 mm. Hg; P_1=70 mm. Hg; T_p=570° R; HC_e=105.8 p.p.m. carbon equivalent; NO_{xe}=11.2 p.p.m.; CO_{em}=306.6 p.p.m.; CO_{2e}=1.43 percent; HC_d=12.1 p.p.m.; NO_{xd}=0.8 p.p.m.; CO_{dm}=15.3 p.p.m. Then:

$$V_{mix}=\frac{(0.29344)\ (10,485)\ (762-70)\ (528)}{(760)\ (570)}=2505.0 \text{ cu. ft. per test phase.}$$

$$H=\frac{(43.478)(48.2)(22.225)}{762-(22.225\times 48.2/100)}$$

$$K_H=\frac{1}{1-0.0047(62-75)}=0.9424.$$

$$CO_e=(1-0.01925(1.43)-0.000323(48))306.0=293.4 \text{ p.p.m.}$$
$$CO_d=(1-0.000323(48))15.3=15.1 \text{ p.p.m.}$$

$$DF=\frac{13.4}{1.43+(105.8+293.4)\times 10^{-4}}=9.116.$$

$$HC_{exh}=105.8-12.1(1-1/9.116)=95.03.$$
$$HC_{mass}=(2505)(16.33)(95.03/1,000,000)=4.027 \text{ grams per test phase.}$$
$$NO_{x_{exh}}=11.2-0.8(1-1/9.116)=10.49.$$
$$NO_{x_{mass}}=(2505)(54.16)(10.49/1,000,000)(0.9424)=1.389 \text{ grams per test phase.}$$
$$CO_{exh}=293.4-15.1(1-1/9.116)=280.$$
$$CO_{mass}=(2505)(32.97)(280/1,000,000)=23.96 \text{ grams per test phase.}$$

(2) For the "stabilized" portion of the cold start test assume that similar calculations resulted in HC_{mass}=0.62 grams per test phase; NO_{xmass}=1.27 grams per test phase; and CO_{mass}=5.98 grams per test phase.

(3) For the "transient" portion of the hot start test assume that similar calculations resulted in HC_{mass}=0.51 grams per test phase; NO_{xmass}=1.38 grams per test phase; and CO_{mass}=5.01 grams per test phase.

(4) For a 1975 light-duty vehicle:

$$HC_{vm}=((0.43)(4.027)+(0.57)(0.51)+0.62)/7.5=0.352 \text{ grams per vehicle mile.}$$
$$NO_{xvm}=((0.43)(1.389)+(0.57)(1.38)+1.27)/7.5=0.354 \text{ grams per vehicle mile.}$$
$$CO_{vm}=((0.43)(23.96)+(0.57)(5.01)+5.98)/7.5=2.55 \text{ grams per vehicle mil .}$$

§§ 85.175–24—85.175–27 [Reserved]

§ 85.175–28 Compliance with emission standards.

(a) The exhaust emission standards in § 85.175–1 apply to the emissions of vehicles for their useful life.

(b) Since it is expected that emission control efficiency will change with mileage accumulation on the vehicle, the emission level of a vehicle which has accumulated 50,000 miles will be used as the basis for determining compliance with the standards.

(c) The procedure for determining compliance of a new light duty motor vehicle with exhaust emission standards is as follows:

(1) Separate emission deterioration factors shall be determined from the emissions results of the durability data vehicles for each engine-system combination. A separate factor shall be established for exhaust HC, exhaust CO, and exhaust NO_x.

(i) The applicable results to be used in determining the deterioration factors for each combination shall be:

(a) All valid emission data from the tests required under § 85.175–7(b), except the zero mile tests. This shall include the official test results as determined in § 85.175–29 for all tests conducted on all durability vehicles of the combination selected under § 85.175–5(c) (including all vehicles elected to be operated by the manufacturer under § 85.175–5(c)(3)).

(b) All emission data from the tests conducted before and after the maintenance provided in § 85.175–6(a)(1)(i).

(c) All emission data from tests required by maintenance approved under § 85.175–6(a)(1)(vi) in those cases where the Administrator conditioned his approval for the performance of such maintenance on the inclusion of such data in the deterioration factor calculation.

(ii) All applicable results shall be plotted as a function of the mileage on the system, rounded to the nearest mile, and the best fit straight lines, fitted by the method of least squares, shall be drawn through these data points. The interpolated 5,000 and 50,000 mile points on this line must be within the standards provided in § 85.175–1 or the data will not be acceptable for use in calculation of a deterioration factor.

(iii) An exhaust emission deterioration factor shall be calculated for each combination as follows:

$$\text{factor}=\frac{\text{exhaust emissions interpolated to 50,000 miles}}{\text{exhaust emissions interpolated to 5,000 miles.}}$$

These interpolated values shall be carried out to a minimum of four decimal points to the right before dividing one by the other to determine the deterioration factor. The results shall be rounded to three places to the right of the decimal point in accordance with ASTM E 29–67.

(2) The exhaust emission test results for each emission data vehicle shall be multiplied by the appropriate deterioration factor: *Provided*, That if a deterioration factor as compared in subparagraph (1)(iii) of this paragraph is less than one, that deterioration factor shall be one for the purposes of this subparagraph.

(3) The emissions to compare with the standard shall be the adjusted emissions of paragraph (c)(2) for each emission data vehicle.

Before any emission value is compared to the standard, it shall be rounded, in accordance with ASTM E 29–67, to two significant figures. The rounded emission values shall not exceed the standard.

(4) Every test vehicle of an engine family must comply with all applicable standards, as determined in paragraph (c)(3), before any vehicle of that family may be certified.

§ 85.175–29 Testing by the Administrator.

(a) The Administrator may require that any one or more of the test vehicles be submitted to him, at such place or places as he may designate, for the purpose of conducting emissions tests. The Administrator may specify that he will conduct such testing at the manufacturer's facility, in which case instrumentation and equipment specified by the Administrator shall be made available by the manufacturer for test operations. Any testing conducted at a manufacturer's facility pursuant to this paragraph shall be scheduled by the manufacturer as promptly as possible.

(b)(1) Whenever the Administrator conducts a test on a test vehicle, the results of that test shall comprise the official data for the vehicle at that prescribed test point and the manufacturer's data for that prescribed test point shall not be used in determining compliance with emission standards.

(2) Whenever the Administrator does not conduct a test on a test vehicle at a test point, the manufacturer's test data will be accepted as the official data for that test point: *Provided*, That if the Administrator makes a determination based on testing under paragraph (a) of this section, that there is a lack of correlation between the manufacturer's test equipment and the test equipment used by the Administrator, no manufacturer's test data will be accepted for purposes of certification until the reasons for the lack of correlation are determined and the validity of the data is established by the manufacturer.

(3)(i) The emission data vehicle presented to the Administrator for testing shall be calibrated within the production tolerances applicable to the manufacturer's specifications to be shown on the vehicle label (see § 85.175–35(a)(4)(iv)) as specified in the application for certification. If the Administrator determines that a vehicle is not within such tolerances, the vehicle shall be adjusted, at the facility designated by the Administrator, prior to the test and an engineering report shall be submitted to the Administrator describing the corrective action taken. Based on the engineering report, the Administrator will determine if the vehicle shall be used as an emission data vehicle.

(ii) If the Administrator determines that the test data developed under paragraph (b)(3)(i) would cause an emission data vehicle to fail due to excessive 4,000 mile emissions or by application of the appropriate deterioration factor, then the following procedure shall be observed:

(a) The manufacturer may request a retest. Before the retest, the vehicle may be readjusted to manufacturer's specifications, if these adjustments were made

incorrectly prior to the first test, and parts may be replaced in accordance with § 85.175–6. All work on the vehicle shall be done at such location and under such conditions as the Administrator may prescribe.

(b) The vehicle will be retested by the Administrator and the results of this test shall comprise the official data for that prescribed test point.

(4) If sufficient durability data are not available, at the time of any emission test conducted under paragraph (a) of this section, to enable the Administrator to determine whether an emission data vehicle would fail, the manufacturer may request a retest in accordance with the provisions of paragraph (c)(3)(i)(*a*) and (*b*) of this paragraph. If the manufacturer does not promptly make such request, he shall be deemed to have waived the right to a retest. A request for retest must be made before the manufacturer removes the vehicle from the test premises.

§ 85.175–30 Certification.

(a) (1) If, after a review of the test reports and data submitted by the manufacturer and data derived from any additional testing conducted pursuant to § 85.175–29, the Administrator determines that a test vehicle(s) conforms to the regulations of this subpart, he will issue a certificate of conformity with respect to such vehicle(s).

(2) Such certificate will be issued for such period not more than 1 year as the Administrator may determine and upon such terms as he may deem necessary to assure that any new motor vehicle covered by the certificate will meet the requirements of the Act and this subpart.

(b) (1) The Administrator will determine whether a vehicle covered by the application complies with applicable standards by observing the following relationships:

(i) A test vehicle selected under § 85.175–5(b)(2) or (4) shall represent all vehicles in the same engine family of the same engine displacement-exhaust emission control system-evaporative emission control system combination.

(ii) A test vehicle selected under § 85.175–5(b)(3) shall represent all vehicles in the same engine family of the same engine displacement-exhaust emission control system-transmission type-fuel system combination.

(iii) A test vehicle selected under § 85.175–5(c)(1) shall represent all vehicles of the same engine-system combination.

(2) The Administrator will proceed as in paragraph (a) of this section with respect to the vehicles belonging to an engine family all of which comply with applicable standards.

(3) If, after a review of the test reports and data submitted by the manufacturer and data derived from any additional testing conducted pursuant to § 85.175–29, the Administrator determines that one or more test vehicles of the certification test fleet do not meet applicable standards, he will notify the manufacturer in writing, setting forth the basis for his determination. Within 30 days following receipt of the notification, the manufacturer may request a hearing on the Administrator's determination. The request shall be in writing, signed by an authorized representative of the manufacturer and shall include a statement specifying the manufacturer's objections to the Administrator's determination, and data in support of such objections. If, after a review of the request and supporting data, the Administrator finds that the request raises a substantial factual issue, he shall provide the manufacturer a hearing in accordance with § 85.105 with respect to such issue.

(4) The manufacturer may, at his option, proceed with any of the following alternatives with respect to any engine family represented by a test vehicle(s) determined not in compliance with applicable standards:

(i) Request a hearing under § 85.105, or

(ii) Delete from the application for certification the vehicles represented by the failing test vehicle. (Vehicles so deleted may be included in a later request for certification under § 85.175–32.) The Administrator will then select in place of each failing vehicle an alternate vehicle chosen in accordance with selection criteria employed in selecting the vehicle that failed, or

(iii) Modify the test vehicle and demonstrate by testing that it meets applicable standards. Another vehicle which is in all material respects the same as the first vehicle, as modified, shall then be operated and tested in accordance with applicable test procedures.

(5) If the manufacturer does not request a hearing or present the required data under subparagraph (4) of this paragraph, the Administrator will deny certification.

§ 85.175–31 Separate certification.

Where possible a manufacturer should include in a single application for certification all vehicles for which certification is required. A manufacturer may, however, choose to apply separately for certification of part of his product line. The selection of test vehicles and the computation of test results will be determined separately for each application.

§ 85.175–32 Addition of a vehicle after certification.

(a) If a manufacturer proposes to add to his product line a vehicle of the same engine-system combination as vehicles previously certified but which was not described in the application for certification when the test vehicle(s) representing other vehicles of that combination was certified, he shall notify the Administrator. Such notification shall be in advance of the addition unless the manufacturer elects to follow the procedure described in § 85.175–34. This notification shall include a full description of the vehicle to be added.

(b) The Administrator may require the manufacturer to perform such tests on the test vehicle(s) representing the vehicle to be added which would have been required if the vehicle had been included in the original application for certification.

(c) If, after a review of the test reports and data submitted by the manufacturer, and data derived from any testing conducted under § 85.175–29, the Administrator determines that the test vehicle(s) meets all applicable standards, the appropriate certificate will be amended accordingly. If the Administrator determines that the test vehicle(s) does not meet applicable standards, he will proceed under § 85.175–30(b).

§ 85.175–33 Changes to a vehicle covered by certification.

(a) The manufacturer shall notify the Administrator of any change in production vehicles in respect to any of the parameters listed in § 85.175–5(a)(3) or § 85.175–5(b)(3), giving a full description of the change. Such notification shall be in advance of the change unless the manufacturer elects to follow the procedure described in § 85.175–34.

(b) Based upon the description of the change, and data derived from such testing as the Administrator may require or conduct, the Administrator will determine whether the vehicle, as modified, would still be covered by the certificate of conformity then in effect.

(c) If the Administrator determines that the outstanding certificate would cover the modified vehicles, he will notify the manufacturer in writing. Except as provided in § 85.175–34, the change may not be put into effect prior to the manufacturer's receiving this notification. If the Administrator determines that the modified vehicles would not be covered by the certificate then in effect, then the modified vehicles shall be treated as additions to the product line subject to § 85.175–32.

§ 85.175–34 Alternative procedure for notification of additions and changes.

(a) A manufacturer may, in lieu of notifying the Administrator in advance of an addition of a vehicle under § 85.175–32 or a change in a vehicle under § 85.175–33, notify him concurrently with the making of the change if the manufacturer believes the addition or change will not require any testing under the appropriate section. Upon notification to the Administrator, the manufacturer may proceed to put the addition or change into effect.

(b) The manufacturer may continue to produce vehicles as described in the notification to the Administrator for a maximum of 30 days, unless the Administrator grants an extension in writing. This period may be shortened by a notification in accordance with paragraph (c) of this section.

(c) If the Administrator determines, based upon a description of the addition or change, that no test data will be required, he will notify the manufacturer in writing of the acceptability of the addition or change. If the Administrator determines that test data will be required, he will notify the manufacturer to rescind the change within 5 days of receipt of the notification. The Administrator will then proceed as in § 85.175–32 (b)

and (c), or § 85.175–33 (b) and (c) as appropriate.

(d) Election to produce vehicles under this section will be deemed to be a consent to recall all vehicles which the Administrator determines under § 85.175–32(c) do not meet applicable standards, and to cause such nonconformity to be remedied at no expense to the owner.

§ 85.175–35 Labeling.

(a)(1) The manufacturer of any light duty motor vehicle subject to the standards prescribed in § 85.175–1 shall, at the time of manufacture, affix a permanent, legible label, of the type and in the manner described below, containing the information hereinafter provided, to all production models of such vehicles available for sale to the public and covered by a certificate of conformity under § 85.175–30(a).

(2) A plastic or metal label shall be welded, riveted, or otherwise permanently attached in a readily visible position in the engine compartment.

(3) The label shall be affixed by the vehicle manufacturer, who has been issued the certificate of conformity for such vehicle, in such a manner that it cannot be removed without destroying or defacing the label, and shall not be affixed to any equipment which is easily detached from such vehicle.

(4) The label shall contain the following information lettered in the English language in block letters and numerals, which shall be of a color that contrasts with the background of the label:

(i) The label heading: Vehicle Emission Control Information;

(ii) Full corporate name and trademark of manufacturer;

(iii) Engine displacement (in cubic inches) and engine family identification;

(iv) Engine tuneup specifications and adjustments, as recommended by the manufacturer, including idle speed, ignition timing, and the idle air-fuel mixture setting procedure and value (e.g. idle CO, idle air-fuel ratio, idle speed drop). These specifications should indicate the proper transmission position during tuneup and what accessories (e.g., air-conditioner), if any should be in operation;

(v) The statement: "This Vehicle Conforms to U.S.E.P.A. Regulations Applicable to 1975 Model Year New Motor Vehicles."

(b) The provisions of this section shall not prevent a manufacturer from also reciting on the label that such vehicle conforms to any applicable State emission standards for new motor vehicles or any other information that such manufacturer deems necessary for, or useful to, the proper operation and satisfactory maintenance of the vehicle.

§ 85.175–36 Submission of vehicle identification numbers.

(a) The manufacturer of any light duty motor vehicle covered by a certificate of conformity under § 85.175–30(a) shall, not later than 60 days after its manufacture, submit to the Administrator the vehicle identification number of such vehicle: *Provided*, That this requirement shall not apply with respect to any vehicle manufactured within any State, as defined in section 302(d) of the Act.

(b) The requirements of this section may be waived with respect to any manufacturer who provides information satisfactory to the Administrator which will enable the Administrator to identify those vehicles which are covered by a certificate of conformity.

§ 85.175–37 Production vehicles.

(a) Any manufacturer obtaining certification under this subpart shall supply to the Administrator, upon his request, a reasonable number of production vehicles selected by the Administrator which are representative of the engines, emission control systems, fuel systems, and transmissions offered and typical of production models available for sale under the certificate. These vehicles shall be supplied for testing at such time and place and for such reasonable periods as the Administrator may require.

(b) Any manufacturer obtaining certification under this subpart shall notify the Administrator, on a quarterly basis, of the number of vehicles of each engine family - engine displacement - exhaust emission control system-fuel system-transmission type-inertia weight class combination produced for sale in the United States during the preceding quarter. A manufacturer may elect to provide this information every 60 days instead of quarterly, to combine it with the notification required under § 85.175–36.

(c) All light duty vehicles covered by a certificate of conformity under § 85.175–30(a) shall be adjusted by the manufacturer to the ignition timing specification detailed in § 85.175–35(a)(4)(iv).

§ 85.175–38 Maintenance instructions.

(a) The manufacturer shall furnish or cause to be furnished to the ultimate purchaser of each new motor vehicle subject to the standards prescribed in § 85.175–1, written instructions for the maintenance and use of the vehicle by the ultimate purchaser as may be reasonable and necessary to assure the proper functioning of emission control systems.

(1) Such instructions shall be provided for those vehicle and engine components listed in Appendix VI to this part (and for any other components) to the extent that maintenance of these components is necessary to assure the proper functioning of emission control systems.

(2) Such instructions shall be in clear, and to the extent practicable, nontechnical language.

(b) The maintenance instructions required by this section shall contain a general description of the documentation which the manufacturer will require from the ultimate purchaser or any subsequent purchaser as evidence of compliance with the instructions.

§ 85.175–39 Submission of maintenance instructions.

(a) The manufacturer shall provide to the Administrator, no later than the time of the submission required by § 85.175–4, a copy of the maintenance instructions which the manufacturer proposes to supply to the ultimate purchaser in accordance with § 85.175–38(a). The Administrator will review such instructions to determine whether they are reasonable and necessary to assure the proper functioning of the vehicle's emission control systems. The Administrator will notify the manufacturer of his determination whether such instructions are reasonable and necessary to assure the proper functioning of the emission control systems.

(b) Any revision to the maintenance instructions which will affect emissions shall be supplied to the Administrator at least 30 days before being supplied to the ultimate purchaser unless the Administrator consents to a lesser period of time.

§ 85.176–1 Emission standards for 1976 model year vehicles.

With the exception of the nitrogen oxides exhaust emission standard, the standards and test procedures set forth in § 85.175 remain applicable for the 1976 model year. Exhaust emissions from 1976 model year vehicles shall not exceed:

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

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

(c) Oxides of nitrogen 0.40 grams per vehicle mile.

[FR Doc.73–15820 Filed 8–6–73;8:45 am]

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

Emissions Standards for Light Duty Trucks

Regulations to establish emission standards for light duty trucks beginning with the 1975 model year were proposed by the Environmental Protection Agency on March 14, 1973 (38 FR 6906). This action was in response to the U.S. Court of Appeals decision regarding 1975 model year light duty vehicle emission standards, issued February 10, 1973, in which the Court ordered EPA to remove light duty trucks from the light duty vehicle category (International Harvester Co. v. Ruckelshaus, D.C. Cir. No. 72–1517, Feb. 10, 1973). The Notice of Proposed Rulemaking proposed new definitions for "light duty vehicle" and "light duty truck", and a range of possible emission levels to be prescribed for 1975 light duty trucks. The definitions of light duty vehicle and light duty truck were revised on April 11, 1973 in the Administrator's suspension decision by incorporating multipurpose vehicles into the light duty truck class. Comments received in response to the published proposal and the Administrator's modification of the light duty truck definition have led to revisions in the regulations promulgated below.

Much comment was received regarding the proposed definition of light duty vehicles and light duty trucks. Concern was expressed that, though multipurpose

vehicles were to be considered light duty trucks in accordance with the Administrator's decision, only those available with special features enabling off-road operation and use were specifically included in EPA's revised light duty truck definition. Some confusion resulted as to the classification of multipurpose vehicles with both passenger and cargo carrying capacity, but without off-road capability.

To eliminate confusion, the proposed definitions have been revised so that all passenger car derivatives will be considered light duty vehicles and all truck derivatives under 6000 pounds GVW will be considered light duty trucks. Truck derivatives are designed similarly to other light duty trucks (i.e., pickup and panel trucks), and differ importantly only in that they are intended to carry passengers as well as cargo. Because, in actual use, other light duty trucks are frequently employed in a manner similar to passenger vehicles, EPA does not consider that difference significant enough to justify including truck derivatives equipped to carry passengers in the light duty vehicle category.

Passenger car derivatives are designed and used in the same manner as other light duty vehicles and will remain in the light duty vehicle class.

Question was raised in the comments as to the effect these proposed regulations will have on the status of special purpose vehicles—e.g., vehicles of 6000 pounds GVW or more which are used as ambulances, hearses, and flower cars. To the extent that such vehicles are passenger car derivatives, they will continue to be considered as light duty vehicles. To the extent that such special purpose vehicles are truck derivatives (e.g., motor homes), they will be subject to the light duty truck or heavy duty engine standards, depending whether the vehicle's GVW is below or above 6000 pounds.

As a result of the April 11 suspension decision, off-road utility vehicles—e.g., vehicles equipped with four wheel drive—will be included in the light duty truck category beginning in 1975. Through the 1974 model year, a 15% allowance on the light duty vehicle standards was permitted for off-road vehicles. This allowance was terminated with the promulgation of the 1975 light duty vehicle emission standards, in June of 1971. Certification test data indicate that emission test results from off-road utility vehicles and other vehicles in the same engine family are approximately equal. Therefore there is no technological basis for reversing the decision of 2 years ago under which the 15 percent allowance for off-road utility vehicles will be discontinued beginning with the 1975 model year.

Analysis of certification test results for 1973 model year light duty trucks (converted to equivalent values using the 1975 Federal Test Procedure) indicates that approximately 32, or 50 percent, of the light duty trucks tested were capable of achieving exhaust emissions levels of 2.0 grams per mile for hydrocarbons and 20 grams per mile for carbon monoxide. These levels were supported generally by comments of light duty truck manufacturers on the proposal, wherein they recommended standards ranging from 1.7 to 2.5 grams per mile for hydrocarbons and from 20 to 25 grams per mile for carbon monoxide.

Based upon the certification test data and the comments of manufacturers, it is the Administrator's judgment that the improvements in emission control necessary for achievement of the emission standards for hydrocarbons and carbon monoxide can be accomplished in time for certification in the 1975 model year. There is no evidence to suggest that any manufacturer would be required to utilize catalytic control devices to meet these standards.

The 3.1 grams per mile standard for oxides of nitrogen and the 2.0 grams per test standard for evaporative hydrocarbons prescribed below were applicable to light duty trucks beginning in model year 1973, since these trucks fell under the general classification of light duty vehicles. Certification test results for 1973 demonstrate the achievability of these standards by light duty trucks. No manufacturer expressed any reservations about continuing to meet the oxides of nitrogen standard while complying with hydrocarbon and carbon monoxide standards more stringent than the 1973–74 standards.

Subpart A of Part 85, Title 40 of the Code of Federal Regulations as applicable to 1975 and later model year light duty vehicles is amended below and is effective on September 6, 1973.

Subpart C of Part 85, Title 40 of the Code of Federal Regulations as applicable to 1975 and later model year light duty trucks is added below and is effective on September 6, 1973.

Dated: July 27, 1973.

ROBERT W. FRI,
Acting Administrator.

1. Subpart A of Part 85, Title 40 of the Code of Federal Regulations as applicable to 1975 and later model year light duty vehicles is amended as follows:

§ 85.002 Definitions.

(a) * * *

(5) "Light-duty vehicle" means a passenger car or passenger car derivative capable of seating 12 passengers or less.

* * * * *

2. Subpart C of Part 85, Title 40 of the Code of Federal Regulations as applicable to 1975 and later model year light duty trucks is added as follows:

Subpart C—Emission Regulations for New Gasoline-Fueled Light Duty Trucks

Sec.

AUTHORITY: The provisions of this Part 85 issued under sections 202, 206, and 301(a) of the Clean Air Act, as amended (42 U.S.C. 1857f–1, 1857f–5, and 1857g(a)).

Subpart C—Emission Regulations for New Gasoline-Fueled Light Duty Trucks

§ 85.201 General applicability.

The provisions of this subpart are applicable to new gasoline-fueled light duty trucks.

§ 85.202 Definitions.

(a) As used in this subpart, all terms not defined herein shall have the meaning given them in the Act:

(1) "Act" means Part A of title II of the Clean Air Act, 42 U.S.C. 1857 f–1 through f–7, as amended by Public Law 91–604.

(2) "Administrator" means the Administrator of the Environmental Protection Agency or his authorized representative.

(3) "Model year" means the manufacturer's annual production period (as determined by the Administrator) which

includes January 1 of such calendar year: *Provided*, That if the manufacturer has no annual production period, the term "model year" shall mean the calendar year.

(4) "Gross vehicle weight" means the manufacturer's gross weight rating for the individual vehicle.

(5) "Light duty truck" means any motor vehicle, rated at 6,000 pounds GVW or less, which is designed primarily for purposes of transportation of property or is a derivative of such a vehicle, or is available with special features enabling off-street or off-highway operation and use.

(6) "Vehicle curb weight" means the actual or the manufacturer's estimated weight of the vehicle in operational status with all standard equipment, and weight of fuel at nominal tank capacity, and the weight of optional equipment computed in accordance with § 85.275–5(g).

(7) "Loaded vehicle weight" means the vehicle curb weight of a light duty vehicle plus 300 pounds.

(8) "System" includes any motor vehicle engine modification which controls or causes the reduction of substances emitted from motor vehicles.

(9) "Engine family" means the basic classification unit of a manufacturer's product line used for the purpose of test fleet selection and determined in accordance with § 85.275–5(a).

(10) "Engine-system combination" means an engine family-exhaust emission control system-fuel evaporative emission control system (where applicable) combination.

(11) "Fuel system" means the combination of fuel tank, fuel pump, fuel lines, and carburetor, or fuel injection components, and includes all fuel system vents and fuel evaporative emission control systems.

(12) "Crankcase emissions" means airborne substances emitted to the atmosphere from any portion of the engine crankcase ventilation or lubrication systems.

(13) "Exhaust emissions" means substances emitted to the atmosphere from any opening downstream from the exhaust port of a motor vehicle engine.

(14) "Fuel evaporative emissions" means vaporized fuel emitted into the atmosphere from the fuel system of a motor vehicle.

(15) "Hot soak loss" means fuel evaporative emissions during the 1-hour hot soak period which begins immediately after the engine is turned off.

(16) "Diurnal breathing loss" means fuel evaporative emissions as a result of the daily range in temperature to which the fuel system is exposed.

(17) "Running loss" means fuel evaporative emissions resulting from an average trip in an urban area or the simulation of such a trip.

(18) "Tank fuel volume" means the volume of fuel in the fuel tank, prescribed to be 40 percent of nominal tank capacity rounded to the nearest whole U.S. gallon.

(19) "Zero (0) miles" means that point after initial engine starting (not to exceed 10 miles of vehicle operation, or one hour of engine operation) at which normal assembly line operations and adjustments are completed.

(20) "Calibrating gas" means a gas of known concentration which is used to establish the response curve of an analyzer.

(21) "Span gas" means a gas of known concentration which is used routinely to set the output level of an analyzer.

(22) "Oxides of nitrogen" means the sum of the nitric oxide and nitrogen dioxide contained in a gas sample as if the nitric oxide were in the form of nitrogen dioxide.

(23) "Useful life" means a period of use of 5 years or 50,000 miles, whichever first occurs.

(24) "Scheduled maintenance" means any adjustment, repair, removal, disassembly, cleaning, or replacement of vehicle components or systems which is performed on a periodic basis to prevent part failure or vehicle malfunction.

(25) "Unscheduled maintenance" means any adjustment, repair, removal, disassembly, cleaning, or replacement of vehicle components or systems which is performed to correct a part failure or vehicle malfunction.

§ 85.203 Abbreviations.

The abbreviations used in this subpart have the following meanings in both capital and lowercase:

Accel.—Acceleration.
ASTM—American Society for Testing and Materials.
C.—Centigrade.
C.f.h.—Cubic feet per hour.
CO_2—Carbon dioxide.
CO—Carbon monoxide.
Conc.—Concentration.
C.f.m.—Cubic feet per minute.
Cu. in.—Cubic inch(es).
Decel.—Deceleration.
EP—End point.
Evap.—Evaporated.
F.—Fahrenheit.
Gal.—U.S. gallon(s).
Gm.—Gram(s).
GVW—Gross Vehicle Weight.
HC—Hydrocarbon(s).
Hg—Mercury.
Hi.—High.
HP.—Horsepower.
IBP—Initial boiling point.
ID—Internal diameter.
Lb.—Pound(s).
Lb.-ft.—Pound-feet.
Min.—Minute(s).
Ml.—Milliliter(s).
M.p.h.—Miles per hour.
Mm.—Millimeter(s).
Mv.—Millivolt(s).
N_2—Nitrogen.
NO—Nitric oxide.
NO_2—Nitrogen dioxide.
NO_x—Oxides of nitrogen.
No.—Number.
Pb—Lead.
P.p.m.—Parts per million by volume.
P.s.i.—Pounds per square inch.
P.s.i.g.—Pounds per square inch gauge.
R—Rankine.
R.p.m.—Revolutions per minute.
RVP—Reid vapor pressure.
S.A.E.—Society of Automotive Engineers.
Sec.—Second(s).
Sp.—Speed.
SS—Stainless steel.
TEL—Tetraethyl lead.
TML—Tetramethyl lead.
V.—Volts.
Vs.—Versus.
WOT.—Wide open throttle.
Wt.—Weight.
'—Feet.
"—Inches.
°—Degrees.
%—Percent.

§ 85.204 General standards: increase in emissions; unsafe conditions.

(a)(1) Every new motor vehicle manufactured for sale, sold, offered for sale, introduced or delivered for introduction into commerce, or imported into the United States for sale or resale which is subject to any of the standards prescribed in this subpart shall be covered by a certificate of conformity issued pursuant to sections 85.275–2 through 85.275–4 and 85.275–29 through 85.275–34 of this subpart.

(b) (1) Any system installed on or incorporated in a new motor vehicle to enable such vehicle to conform to standards imposed by this subpart;

(i) shall not in its operation or function cause the emission into the ambient air of any noxious or toxic substance that would not be emitted in the operation of such vehicle without such system, except as specifically permitted by regulation; and

(ii) Shall not in its operation, function, or malfunction result in any unsafe condition endangering the motor vehicle, its occupants, or persons or property in close proximity to the vehicle.

(2) Every manufacturer of new motor vehicles subject to any of the standards imposed by this subpart shall, prior to taking any of the actions specified in section 203(a)(1) of the Act, test or cause to be tested motor vehicles in accordance with good engineering practice to ascertain that such test vehicles will meet the requirements of this section for the useful life of the vehicle.

§ 85.205 Hearings on certification.

(a) (1) After granting a request for a hearing under § 85.275–30, the Administrator will designate a Presiding Officer for the hearing.

(2) The General Counsel will represent the Environmental Protection Agency in any hearing under this section.

(3) If a time and place for the hearing have not been fixed by the Administrator under § 85.275–30, the hearing shall be held as soon as practicable at a time and place fixed by the Administrator or by the Presiding Officer.

(b) (1) Upon his appointment pursuant to paragraph (a) of this section, the Presiding Officer will establish a hearing file. The file shall consist of the notice issued by the Administrator under § 85.275–30, together with any accompanying material, the request for a hearing and the supporting data submitted therewith and all documents relating to the request for certification, including the application for certification and all documents submitted therewith, and correspondence and other data material to the hearing.

(2) The appeal file will be available for inspection by the applicant at the office of the Presiding Officer.

(c) An applicant may appear in person, or may be represented by counsel or by any other duly authorized representative.

(d) (1) The Presiding Officer upon the request of any party, or in his discretion, may arrange for a prehearing conference at a time and place specified by him to consider the following:

(i) Simplification of the issues;

(ii) Stipulations, admissions of fact, and the introduction of documents;

(iii) Limitation of the number of expert witnesses;

(iv) Possibility of agreement disposing of all or any of the issues in dispute;

(v) Such other matters as may aid in the disposition of the hearing, including such additional tests as may be agreed upon by the parties.

(2) The results of the conference shall be reduced to writing by the Presiding Officer and made part of the record.

(e) (1) Hearings shall be conducted by the Presiding Officer in an informal but orderly and expeditious manner. The parties may offer oral or written evidence, subject to the exclusion by the Presiding Officer of irrelevant, immaterial and repetitious evidence.

(2) Witnesses will not be required to testify under oath. However, the Presiding Officer shall call to the attention of witnesses that their statements may be subject to the provisions of title 18 U.S.C. 1001 which imposes penalties for knowingly making false statements or representations, or using false documents in any matter within the jurisdiction of any department or agency of the United States.

(3) Any witness may be examined or cross-examined by the Presiding Officer, the parties, or their representatives.

(4) Hearings shall be reported verbatim. Copies of transcripts of proceedings may be purchased by the applicant from the reporter.

(5) All written statements, charts, tabulations, and similar data offered in evidence at the hearing shall, upon a showing satisfactory to the Presiding Officer of their authenticity, relevancy, and materiality, be received in evidence and shall constitute a part of the record.

(6) Oral argument may be permitted in the discretion of the Presiding Officer and shall be reported as part of the record unless otherwise ordered by him.

(f) (1) The Presiding Officer shall make an initial decision which shall include written findings and conclusions and the reasons or basis therefor on all the material issues of fact, law, or discretion presented on the record. The findings, conclusions, and written decision shall be provided to the parties and made a part of the record. The initial decision shall become the decision of the Administrator without further proceedings unless there is an appeal to the Administrator or motion for review by the Administrator within 20 days of the date the initial decision was filed.

(2) On appeal from or review of the initial decision the Administrator shall have all the powers which he would have in making the initial decision including the discretion to require or allow briefs, oral argument, the taking of additional evidence or the remanding to the Presiding Officer for additional proceedings. The decision by the Administrator shall include written findings and conclusions and the reasons or basis therefor on all the material issues of fact, law, or discretion presented on the appeal or considered in the review.

§ 85.206 Maintenance of records; submittal of information; right of entry.

(a) The manufacturer of any new motor vehicle subject to any of the standards prescribed in this subpart shall establish and maintain the following adequately organized and indexed records:

(1) Identification and description of all vehicles for which testing is required under this subpart.

(2) A description of all emission control systems which are installed on or incorporated in each vehicle.

(3) A description of the procedures used to test such vehicles.

(4) Test data on each emission data vehicle which will show its emissions at 0 and 4,000 miles.

(5) Test data on each durability vehicle which will show the performance of the systems installed on or incorporated in the vehicle during extended mileage as well as a record of all pertinent maintenance performed on the vehicle.

(b) The manufacturer of any new motor vehicle subject to any of the standards prescribed in this subpart shall submit to the Administrator at the time of issuance by the manufacturer copies of all instructions or explanations regarding the use, repair, adjustment, maintenance, or testing of such vehicle relevant to the control of crankcase, exhaust, or evaporative emissions, issued by the manufacturer for use by other manufacturers, assembly plants, distributors, dealers, and ultimate purchasers: *Provided*, That any material not translated into the English language need not be submitted unless specifically requested by the Administrator.

(c) The manufacturer of any new motor vehicle subject to any of the standards prescribed in this subpart shall permit officers or employees duly designated by the Administrator, upon presenting appropriate credentials and a written notice to the manufacturer:

(1) To enter, at reasonable times, any premises used during the certification procedures for purposes of monitoring tests and mileage accumulation procedures, observing maintenance procedures, and verifying correlation or calibration of test equipment, or

(2) To inspect, at reasonable times, records, files, and papers compiled by such manufacturer in accordance with paragraph (a) of this section.

A separate notice shall be given for each such inspection, but a separate notice shall not be required for each entry made during the period covered by the inspection. Each such inspection shall be commenced and completed with reasonable promptness.

§ 85.275–1 Emission standards for 1975 model year light duty trucks.

(a) (1) Exhaust emissions from 1975 model year light duty trucks shall not exceed:

(i) *Hydrocarbons.* 2.0 gram per vehicle mile.

(ii) *Carbon monoxide.* 20 grams per vehicle mile.

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

(2) The standards set forth in paragraph (a) (1) of this section refer to the exhaust emitted over a driving schedule as set forth in § 85.275–9 through § 85.275–27 and measured and calculated in accordance with those procedures.

(b) (1) Fuel evaporative emissions shall not exceed:

(i) *Hydrocarbons*—2 grams per test.

(2) The standard set forth in paragraph (b) (1) of this section refers to a composite sample of the fuel evaporative emissions collected under the conditions set forth in § 85.275–9 through § 85.275–27 and measured in accordance with those procedures.

(c) No crankcase emissions shall be discharged into the ambient atmosphere from any new motor vehicle subject to this subpart.

§ 85.275–2 Application for certification.

(a) An application for a certificate of conformity to the regulations applicable to any new motor vehicle shall be made to the Administrator by the manufacturer and shall be kept current and accurate by amendment.

(b) The application shall be in writing, signed by an authorized representative of the manufacturer, and shall include the following:

(1) Identification and description of the vehicles covered by the application and a description of their emission control systems.

(2) Projected U.S. sales data sufficient to enable the Administrator to select a test fleet representative of the vehicles for which certification is requested.

(3) A description of the test equipment and fuel proposed to be used.

(4) A description of the proposed mileage accumulation procedure for durability testing.

(5) A statement of recommended maintenance and procedures necessary to assure that the vehicles covered by a certificate of conformity in operation conform to the regulations, and a description of the program for training of personnel for such maintenance, and the equipment required.

(6) At the option of the manufacturer, the proposed composition of the emission data and durability data test fleet.

§ 85.275–3 Approval of procedure and equipment; test fleet selections.

Based upon the information provided in the application for certification, and any other information the Administrator

may require, the Administrator will approve or disapprove in whole or in part the mileage accumulation procedure and equipment and fuel proposed by the manufacturer, and notify him in writing of such determination. Where any part of a proposal is disapproved, such notification will specify the reasons for disapproval. The Administrator will select a test fleet in accordance with § 85.275–5.

§ 85.275–4 Required data.

The manufacturer shall perform the tests required by the applicable test procedures, and submit to the Administrator the following information:

(a) Durability data on such vehicles tested in accordance with the applicable test procedures of this subpart, and in such numbers as therein specified, which will show the performance of the systems installed on or incorporated in the vehicle for extended mileage, as well as a record of all pertinent maintenance performed on the test vehicles.

(b) Emission data on such vehicles tested in accordance with the applicable emission test procedures of this subpart and in such numbers as therein specified, which will show their emissions after zero miles and 4,000 miles of operation.

(c) A description of tests performed to ascertain compliance with the general standards in § 85.275–1 and the data derived from such tests.

(d) A statement that the test vehicles with respect to which data are submitted have been tested in accordance with the applicable test procedures, that they meet the requirement of such tests, and that, on the basis of such tests, they conform to the requirements of the regulations in this subpart. If such statements cannot be made with respect to any vehicle tested, the vehicle shall be identified, and all pertinent test data relating thereto shall be supplied.

§ 85.275–5 Test vehicles.

(a) (1) The vehicles covered by the application for certification will be divided into groupings of vehicles whose engines are expected to have similar emission characteristics. Each group of engines with similar emission characteristics shall be defined as a separate engine family.

(2) To be classed in the same engine family, engines must be identical in all the following respects:

(i) The cylinder bore center to center dimensions.

(ii) The dimension from the centerline of the crankshaft to the centerline of the camshaft.

(iii) The dimension from the centerline of the crankshaft to the top of the cylinder block head face.

(iv) The cylinder block configuration (air-cooled or water-cooled; L–6, 90° V–8, etc.).

(v) The location of intake and exhaust valves and the valve sizes (within a ⅛-inch range on the valve head diameter).

(vi) The method of air aspiration.

(vii) The combustion cycle.

(3) Engines identical in all the respects listed in subparagraph (2) of this paragraph may be further divided into different engine families if the Administrator determines that they may be expected to have different emission characteristics. This determination will be based upon a consideration of the following features of each engine:

(i) The bore and stroke.

(ii) The surface to volume ratio of the nominally dimensioned cylinder at the top dead center position.

(iii) The intake manifold induction port size and configuration.

(iv) The exhaust manifold port size and configuration.

(v) The intake and exhaust valve sizes.

(vi) The fuel system.

(vii) The camshaft timing and ignition timing characteristics.

(4) Where engines are of a type which cannot be divided into engine families based upon the criteria listed in subparagraphs (2) and (3) of this paragraph, the Administrator will establish families for those engines based upon the features most related to their emission characteristics.

(b) Emission data vehicles:

(1) Vehicles will be chosen to be operated and tested for emission data based upon the engine family groupings. Within each engine family, the requirements of this paragraph must be met.

(2) Vehicles of each engine family will be divided into engine displacement-exhaust emission control system-evaporative emission control system combinations. A projected sales volume will be established for each combination for the 1974 model year. One vehicle of each combination will be selected in order of decreasing projected sales volume until 70 percent of the projected sales of a manufacturer's total production of vehicles of that engine family is represented, or until a maximum of four vehicles is selected. If any single combination represents over 70 percent, then two vehicles of that combination will be selected. The vehicle selected for each combination will be specified by the Administrator as to transmission type, fuel system and inertia weight class.

(3) The Administrator may select a maximum of four additional vehicles within each engine family based upon features indicating that they may have the highest emission levels of the vehicles in that engine family. In selecting these vehicles, the Administrator will consider such features as the emission control system combination, induction system characteristics, ignition system characteristics, fuel system, rated horsepower, rated torque, compression ratio, inertia weight class, transmission options and axle ratios.

(4) If the vehicles selected in accordance with subparagraphs (2) and (3) of this paragraph do not represent each engine-system combination, then one vehicle of each engine-system combination not represented will be selected by the Administrator. The vehicle selected shall be of the engine displacement with the largest projected sales volume of vehicles with the control system combination in the engine family and will be designated by the Administrator as to transmission type, fuel system, and inertia weight class.

(c) Durability data vehicles:

(1) A durability data vehicle will be selected by the Administrator to represent each engine-system combination. The vehicle selected shall be of the engine displacement with the largest projected sales volume of vehicles with that control-system combination in that engine family and will be designated by the Administrator as to transmission type, fuel system, and inertia weight class.

(2) A manufacturer may elect to operate and test additional vehicles to represent any engine-system combination. The additional vehicles must be of the same engine displacement, transmission type, fuel system, and inertia weight class as the vehicle selected for that engine-system combination in accordance with the provisions of subparagraph (1) of this paragraph. Notice of an intent to operate and test additional vehicles shall be given to the Administrator not later than 30 days following notification of the test fleet selection.

(d) For purposes of testing under § 85.275–7(g), the Administrator may require additional emission data vehicles and durability data vehicles identical in all material respects to vehicles selected in accordance with paragraphs (b) and (c) of this section: *Provided*, That the number of vehicles selected shall not increase the size of either the emission data fleet or the durability data fleet by more than 20 percent or one vehicle, whichever is greater.

(e) Any manufacturer whose projected sales of new motor vehicles subject to this subpart for the 1975 model year is less than 2,000 vehicles may request a reduction in the number of test vehicles determined in accordance with the foregoing provisions of this section. The Administrator may agree to such lesser number as he determines would meet the objectives of this procedure.

(f) In lieu of testing an emission data or durability data vehicle selected under paragraph (b) or (c) of this section, and submitting data therefor, a manufacturer may, with the prior written approval of the Administrator, submit data on a similar vehicle for which certification has previously been obtained.

(g) (1) Where it is expected that more than 33 percent of an engine family will be equipped with an optional item, the full estimated weight of that item shall be included, if required by the Administrator, in the curb weight computation for each vehicle available with that option in the engine family. Where it is expected that 33 percent or less of the vehicles in an engine family will be equipped with an item of optional equipment, no weight for that item will be added in computing curb weight. In the case of mutually exclusive options, only the weight of the heavier option will be added in computing curb weight. Optional equipment weighing less than 3 pounds per item need not be considered.

(2) Where it is expected that more than 33 percent of an engine family may be equipped with an item of optional equipment that can reasonably be ex-

pected to influence emissions, then such items of optional equipment shall actually be installed, unless specifically excluded by the Administrator, on all emission data and durability vehicles in the engine family on which the option is intended to be offered in production. Optional equipment that can reasonably be expected to influence emissions are the air conditioner, power steering, power brakes, and other items determined by the Administrator.

(3) Optional equipment that can reasonably be expected to influence emissions which is utilized on 33 percent or less of the vehicles in the engine family shall not be installed on any vehicle in that engine family unless specifically required under this section.

§ 85.275–6 Maintenance.

(a) (1) Scheduled maintenance on the engine, emission control system, and fuel system of durability vehicles shall be scheduled for performance during durability testing at the same mileage intervals that will be specified in the manufacturer's maintenance instructions furnished to the ultimate purchaser of the motor vehicle. Such maintenance shall be performed, except as provided in paragraph (a) (5) (iii) of this section, only under the following provisions: (i) Scheduled major engine tuneups to manufacturer's specifications may be performed no more frequently than every 12,500 miles of scheduled driving, provided that no tuneup may be performed after 45,000 miles of scheduled driving. A scheduled major engine tuneup shall be restricted to paragraph (a) (1) (i) (*a*) through (*k*) of this section and shall be conducted in a manner consistent with service instructions and specifications provided by the manufacturer for use by customer service personnel. The following items may be inspected, replaced, cleaned, adjusted, and/or serviced as required:

(*a*) Ignition system.

(*b*) Cold starting enrichment system (includes fast idle speed setting).

(*c*) Curb idle speed and air/fuel mixture.

(*d*) Drive belt tension on engine accessories.

(*e*) Valve lash.

(*f*) Inlet air and exhaust gas control valves.

(*g*) Engine bolt torque.

(*h*) Spark plugs.

(*i*) Fuel filter and air filter.

(*j*) Crankcase emission control system.

(*k*) Fuel evaporative emission control system.

(ii) Change of engine and transmission oil, and change or service of oil filter will be allowed at the same mileage intervals that will be specified in the manufacturer's maintenance instructions.

(iii) Readjustment of the engine idle speed (curb idle and fast idle) may be performed, in addition to during scheduled major engine tuneups, once during the first 5,000 miles of vehicle operation.

(2) Unscheduled maintenance on the engine, emission control system, and fuel system of durability vehicles may be performed, except as provided in paragraph (a) (5) (i) of this section, only under the following provisions:

(i) Any persistently misfiring spark plug may be replaced, in addition to replacement at scheduled major engine tuneup points.

(ii) Readjustment of the engine cold starting enrichment system may be performed if there is a problem of stalling or if there is visible black smoke.

(iii) Readjustment of the engine idle speed (curb idle and fast idle) may be performed, in addition to that performed as scheduled maintenance under paragraph (a) (1) of this section, if the idle speed exceeds the manufacturer's recommended idle speed by 300 R.p.m. or more, or if there is a problem of stalling.

(iv) The idle mixture may be reset, other than during scheduled major engine tuneups, only with the advance approval of the Administrator.

(3) An exhaust gas recirculation (EGR) system may be serviced during durability testing only under one of the following provisions:

(i) Manufacturers may schedule service to the EGR system at the scheduled major engine tuneups if an audible and/or visual signal approved by the Administrator alerts the vehicle operator to the need for EGR system maintenance at each of those mileage points. One additional servicing may also be performed as unscheduled maintenance if there is an overt indication of malfunction and if the malfunction or repair of the malfunction does not render the test vehicle unrepresentative of vehicles in use.

(ii) Manufacturers may service the EGR system as unscheduled maintenance a maximum of three times during the 50,000 miles if failure of the EGR system activates an audible and/or visual signal approved by the Administrator which alerts the vehicle operator to the need for EGR system maintenance. One additional servicing may also be performed as unscheduled maintenance if there is an overt indication of malfunction and if the malfunction or repair of the malfunction does not render the test vehicle unrepresentative of vehicles in use.

(iii) Manufacturers may service the EGR system a maximum of three times during the 50,000 miles either at a scheduled major engine tuneup point or as unscheduled maintenance, if an audible and/or visual signal approved by the Administrator alerts the vehicle operator to the need for EGR system maintenance. The signal may be activated either by EGR system failure (unscheduled maintenance) or need for scheduled periodic maintenance. If maintenance is performed, the signal for scheduled periodic maintenance shall be reset. One additional servicing may also be performed as unscheduled maintenance if there is an overt indication of malfunction and if the malfunction or repair of the malfunction does not render the test vehicle unrepresentative of vehicles in use.

(iv) Manufacturers may schedule service to the EGR system at the scheduled major engine tuneup(s) if failure to perform EGR system maintenance is not likely, as determined by the Administrator, to result in an improvement in vehicle performance. One additional servicing may also be performed as unscheduled maintenance if there is an overt indication of malfunction and if the malfunction or repair of the malfunction does not render the test vehicle unrepresentative of vehicles in use.

(4) The catalytic converter may be serviced once during 50,000 miles if an audible and/or visual signal approved by the Administrator alerts the vehicle operator to the need for maintenance. The signal may be activated either by component failure or need for maintenance at a scheduled point.

(5) Any other engine, emission control system, or fuel system adjustment, repair, removal, disassembly, cleaning, or replacement on durability vehicles shall be performed only with the advance approval of the Administrator.

(i) In the case of unscheduled maintenance, such approval will be given if the Administrator:

(*a*) Has made a preliminary determination that part failure or system malfunction, or the repair of such failure or malfunction, does not render the vehicle unrepresentative of vehicles in use, and does not require direct access to the combustion chamber, except for spark plug, fuel injection component, or removable prechamber removal or replacement; and

(*b*) Has made a determination that the need for maintenance or repairs is indicated by an overt indication of malfunction such as persistent misfire, vehicle stall, overheating, fluid leakage, loss of oil pressure, or charge indicator warning.

(ii) Emission measurements may not be used as a means of determining the need for unscheduled maintenance under paragraph (a) (5) (i) (*a*).

(iii) Requests for authorization of scheduled maintenance of emission control-related components not specifically authorized to be maintained by these regulations must be made prior to the beginning of durability testing. The Administrator will approve the performance of such maintenance if the manufacturer makes a satisfactory showing that the maintenance will be performed on vehicles in use.

(6) If the Administrator determines that part failure or system malfunction occurrence and/or repair rendered the vehicle unrepresentative of vehicles in use, the vehicle shall not be used as a durability vehicle.

(7) Where the Administrator agrees under § 85.275–7 to a mileage accumulation of less than 50,000 miles for durability testing, he may modify the requirements of this paragraph.

(b) Adjustment of engine idle speed on emission data vehicles may be performed once before the 4,000 mile test point. Any other engine, emission control system, or fuel system adjustment, repair, removal, disassembly, cleaning, or replacement on emission data vehicles shall be performed only with the advance approval of the Administrator.

(c) Repairs to vehicle components of the durability or emission data vehicle, other than the engine, emission control system, or fuel system, shall be performed only as a result of part failure, vehicle system malfunction, or with the advance approval of the Administrator.

(d) Complete emission tests (see §§ 85.275–10 through 85.275–27) are required, unless waived by the Administrator, before and after any vehicle maintenance which may reasonably be expected to affect emissions. These test data shall be air posted to the Administrator within 24 hours (or delivered within 3 working days), after the tests, along with a complete record of all pertinent maintenance, including a preliminary engineering report of any malfunction diagnosis and the corrective action taken. A complete engineering report shall be delivered or air posted to the Administrator within 10 working days after the tests. In addition, all test data and maintenance reports shall be compiled and provided to the Administrator in accordance with § 85.275–4.

(e) The Administrator shall be given the opportunity to verify the existence of an overt indication of part failure and/or vehicle malfunction (e.g., misfire, stall, black smoke), or an activation of an audible and/or visual signal, prior to the performance of any maintenance to which such overt indication or signal is relevant under the provisions of this section.

(f) Equipment, instruments, or tools may not be used to identify malfunctioning, maladjusted, or defective engine components unless the same or equivalent equipment, instruments, or tools will be available to dealerships and other service outlets and

(1) Are used in conjunction with scheduled maintenance on such components,

(2) Are used subsequent to the identification of a vehicle or engine malfunction, as provided in paragraph (a)(5)(i) of this section for durability vehicles or paragraph (b) of this section for emission data vehicles, or

(3) Unless specifically authorized by the Administrator.

§ 85.275–7 Mileage accumulation and emission standards.

The procedure for mileage accumulation will be the Durability Driving Schedule as specified in Appendix IV to this part. A modified procedure may also be used if approved in advance by the Administrator. Except with the advance approval of the Administrator, all vehicles will accumulate mileage at a measured curb weight which is within 100 pounds of the estimated curb weight. If the loaded vehicle weight is within 100 pounds of being included in the next higher inertia weight class as specified in § 85.275–15(d), the manufacturer may elect to conduct the respective emission tests at the inertia weight corresponding to the higher loaded vehicle weight.

(a) Emission data vehicles: Each emission data vehicle shall be driven 4,000 miles with all emission control systems installed and operating. Emission tests shall be conducted at zero miles and 4,000 miles.

(b) Durability data vehicles: Each durability vehicle shall be driven, with all emission control systems installed and operating, for 50,000 miles or such lesser distance as the Administrator may agree to as meeting the objectives of this procedure. Complete emission tests (see §§ 85.275–10 through 85.275–27) shall be made at the following mileage points: 0, 5,000, 10,000, 15,000, 20,000, 25,000, 30,000, 35,000, 40,000, 45,000, and 50,000.

(c) All tests required by this subpart to be conducted after every 5,000 miles of driving for durability vehicles and 4,000 miles for emission data vehicles must be conducted at any accumulated mileage within 250 miles of each of those test points.

(d) (1) The results of each emission test shall be supplied to the Administrator immediately after the test. The manufacturer shall furnish to the Administrator explanation for voiding any test. The Administrator will determine if voiding the test was appropriate based upon the explanation given by the manufacturer for the voided test. If a manufacturer conducts multiple tests at any test point at which the data are intended to be used in the calculation of the deterioration factor, the number of tests must be the same at each point and may not exceed three valid tests. Tests between test points may be conducted as required by the Administrator. Data from all tests (including voided tests) shall be air posted to the Administrator within 24 hours (or delivered within three working days). In addition, all test data shall be compiled and provided to the Administrator in accordance with § 85.275–4. Where the Administrator conducts a test on a durability vehicle at a prescribed test point, the results of that test will be used in the calculation of the deterioration factor.

(2) The results of all emission tests shall be recorded and reported to the Administrator using three significant figures. These numbers shall be rounded in accordance with the "Rounding Off Method" specified in ASTM E 29–67.

(e) Whenever the manufacturer proposes to operate and test a vehicle which may be used for emission or durability data, he shall provide the zero mile test data to the Administrator and make the vehicle available for such testing under § 85.275–29 as the Administrator may require before beginning to accumulate mileage on the vehicle. Failure to comply with this requirement will invalidate all test data submitted for this vehicle.

(f) Once a manufacturer begins to operate an emission data or durability data vehicle, as indicated by compliance with paragraph (e) of this section, he shall continue to run the vehicle to 4,000 miles or 50,000 miles, respectively, and the data from the vehicle will be used in the calculation under § 85.275–28. Discontinuation of a vehicle shall be allowed only with the written consent of the Administrator.

(g)(1) The Administrator may elect to operate and test any test vehicle during all or any part of the mileage accumulation and testing procedure. In such cases, the manufacturer shall provide the vehicle(s) to the Administrator with all information necessary to conduct this testing.

(2) The test procedures in §§ 85.275–9 through 85.275–27 will be followed by the Administrator. The Administrator will test the vehicles at each test point. Maintenance may be performed by the manufacturer under such conditions as the Administrator may prescribe.

(3) The data developed by the Administrator for the engine-system combination shall be combined with any applicable data supplied by the manufacturer on other vehicles of that combination to determine the applicable deterioration factors for the combination. In the case of a significant discrepancy between data developed by the Administrator and that submitted by the manufacturer, the Administrator's data shall be used in the determination of deterioration factors.

(h) Emission testing of any type with respect to any certification vehicle other than that specified in this subpart is not allowed except as such testing may be specifically authorized by the Administrator.

§ 85.275–8 Special test procedures.

The Administrator may, on the basis of a written application therefor by a manufacturer, prescribe test procedures, other than those set forth in this subpart, for any motor vehicle which he determines is not susceptible to satisfactory testing by the procedures set forth herein.

§ 85.275–9 Test procedures.

The procedures described in this and subsequent sections will be the test program to determine the conformity of vehicles with the standards set forth in § 85.275–1.

(a) The test consists of prescribed sequences of fueling, parking, and operating conditions. The exhaust gases generated during vehicle operation are diluted with air and sampled continuously for subsequent analysis of specific components by prescribed analytical techniques. The fuel evaporative emissions are collected for subsequent weighing during both vehicle parking and operating events. The test applies to vehicles equipped with catalytic or direct-flame afterburners, induction system modifications, or other systems or to uncontrolled vehicles and engines.

(b) The exhaust emission test is designed to determine hydrocarbon, carbon monoxide, and oxides of nitrogen mass emissions while simulating an average trip in an urban area of 7.5 miles. The test consists of engine startups and vehicle operation on a chassis dynamometer through a specified driving schedule, as described in Appendix I to this part. A proportional part of the diluted exhaust emissions is collected continuously, for subsequent analysis, using a constant volume (variable dilution) sampler.

(c) The fuel evaporative emission test is designed to determine fuel hydrocarbon evaporative emissions to the at-

mosphere as a consequence of urban driving, and diurnal temperature fluctuations during parking. It is associated with a series of events representative of a motor vehicle's operation, which result in fuel vapor losses directly from the fuel tank and carburetor. Activated carbon traps are employed in collecting the vaporized fuel. The test procedure is specifically aimed at collecting and weighing:

(1) Diurnal breathing losses from the fuel tank and other parts of the fuel system when the fuel tank is subjected to a temperature increase representative of the diurnal range;

(2) Running losses from the fuel tank and carburetor resulting from a simulated trip on a chassis dynamometer; and

(3) Hot soak losses from the fuel tank and carburetor which result when the vehicle is parked and the hot engine is turned off.

(d) Except in cases of component malfunction or failure, all emission control systems installed on or incorporated in a new motor vehicle shall be functioning during all procedures in this subpart. Maintenance to correct component malfunction or failure shall be authorized in accordance with § 85.275–6.

§ 85.275–10 Gasoline specifications.

(a) Fuel having the following specifications or substantially equivalent specifications approved by the Administrator, shall be used in exhaust and evaporative emission testing. The lead content and octane rating of the fuel shall be in the range recommended by the vehicle or engine manufacturer.

Item	ASTM designation	Specifications
Distillation range	D 86	
IBP, ° F		75–95
10 percent point, ° F		120–135
50 percent point, ° F		200–230
90 percent point, ° F		300–325
EP, ° F (max.)		415
Sulfur, wt. percent, max	D 1266	0.10
Phosphorous, theory		0.0
RVP,[1] lb	D 323	8.7–9.2
Hydrocarbon composition	D 1319	
Olefins, percent, max		10
Aromatics, percent, max		35
Saturates		Remainder

[1] For testing which is unrelated to fuel evaporative emission control, the specified range is 8.0–9.2.

(b) Fuels representative of commercial fuels which will generally be available through retail outlets shall be used in mileage accumulation. For unleaded fuel, the minimum lead content shall be 0.02 gram per U.S. gallon. The octane rating of the fuel used shall be in the range recommended by the manufacturer. The Reid vapor pressure of the fuel used shall be characteristic of the motor fuel during the season during which the mileage accumulation takes place.

(c) The specification range of the fuels to be used under paragraph (b) of this section shall be reported in accordance with § 85.275–2(b)(3).

§ 85.275–11 Vehicle and engine preparation (fuel evaporative emissions).

(a) (1) Apply approximate leak-proof fittings to all fuel system external vents to permit collection of effluent vapors from these vents during the course of the prescribed tests. Since the prescribed test requires the temporary plugging of the inlet pipe to the air cleaner, it will be necessary to install a probe for collecting the normal effluents from this source. Where antisurge/vent filler caps are employed on the fuel tank, plug off the normal vent if it does not conveniently lend itself to the collection of vapors which emanate from it, and introduce a separate vent, with appropriate fitting, on the cap. Where the fuel tank vent line terminus is inaccessible, sever the line at a convenient point near the fuel tank and install the collection system in a closed circuit assembly with the severed ends. All fittings shall terminate in 5/16-inch ID tube sections for ready connection to the collection systems and shall be designed for minimum dead space.

(2) The design and installation of the necessary fittings shall not disturb the normal function of the fuel system components or the normal pressure relationships in the system.

(b) (1) Inspect the fuel system carefully to insure the absence of any leaks to the atmosphere of either liquid or vapor which might affect the accuracy of the test or the performance of the control system. Corrective action, if required, shall be performed in accordance with § 85.275–6 and be reported with the test results under § 85.275–4.

(2) Care should be exercised, in the application of any pressure tests, neither to purge nor load the evaporative emission control system.

(c) Prepare fuel tank for recording the temperature of the prescribed test fuel at its approximate midvolume.

(d) Provide additional fittings and adapters, as required, to accommodate a fuel drain at the lowest point possible in the tank as installed on the vehicle.

§ 85.275–12 Vehicle preconditioning (fuel evaporative emissions).

Vehicles to be tested for compliance with the fuel evaporative emissions standard of this subpart shall be preconditioned as follows:

(a) The test vehicle shall be operated under the conditions prescribed for mileage accumulation, § 85.275–7, for 1 hour immediately prior to the operations prescribed below.

(b) The fuel tank shall be drained and specified test fuel (§ 85.275–10(a)) added. The evaporative emission control system or device shall not be abnormally purged or loaded as a result of draining or fueling the tank.

(c) The test vehicle shall be placed on the dynamometer and operated over a simulated trip, according to the applicable requirements and procedures of § 85.275–14 through § 85.275–19 except that the engine need not be cold when started. The test vehicle may be used to set dynamometer horsepower, if necessary. During this operation the ambient temperature shall be between 68° F. and 86° F.

(d) The engine and cooling fan shall be stopped upon completion of the dynamometer operation and the vehicle permitted to soak either on or off the dynamometer stand at an ambient temperature between 76° F. and 86° F. for a period of not less than 1 hour prior to the soak period prescribed in § 85.275–13(a)(1).

§ 85.275–13 Evaporative emission collection procedure.

The standard test procedure consists of three parts described below which shall be performed in sequence and without any interruption in the test conditions prescribed.

(a) *Diurnal breathing loss test.* (1) The test vehicle shall be allowed to "soak" in an area where the ambient temperature is maintained between 60° F. and 86° F. for a period of not less than 10 hours. (The vehicle preparation requirements of § 85.275–11 may be performed during this period.) It shall then be transferred to a soak area where the ambient temperature is maintained between 76° F. and 86° F. Upon admittance to the 76° F.–86° F. soak area, the prescribed fuel tank thermocouple shall be connected to the recorder and the fuel and ambient temperatures recorded at a chart speed of approximately 12 inches per hour (or equivalent record).

(2) The fuel tank of the prepared test vehicle, preconditioned according to § 85.275–12, shall be drained and recharged with the specified test fuel, § 85.275–10(a), to the prescribed "tank fuel volume," defined in § 85.202. The temperature of the fuel following the charge to the tank shall be 60° F.±2° F. Care should be exercised against abnormal loading of the evaporative emission control system or device as a result of fueling the tank.

(3) Immediately following the fuel charge to the tank, the exhaust pipe(s) and inlet pipe to the air cleaner shall be plugged and the prescribed vapor collection systems installed on all fuel system external vents. Multiple vents may be connected to a single collection trap provided that, where there is more than one external vent on a fuel system distinguishing between carburetor and tank vapors, separate collection systems shall be employed to trap the vapors from the separate sources. Every precaution shall be taken to minimize the lengths of the collection tubing employed and to avoid sharp bends across the entire system.

(4) Artificial means shall be employed to heat the fuel in the tank to 84° F.±2 F. The prescribed temperature of the fuel shall be achieved over a period of 60 minutes ±10 minutes at a constant rate of change of temperature with respect to time. After a minimum of 1 hour, following admittance to the 76° F.–86° F. soak area, the vehicle shall be moved onto the dynamometer stand for the subsequent part of the test. The fuel tank thermocouple may be temporarily disconnected

to permit moving the test vehicle. Plugs shall be removed from the exhaust pipe(s) and inlet pipe to the air cleaner.

(b) *Running loss test.* (1) The vehicle shall be placed on the dynamometer and the fuel tank thermocouple reconnected. The fuel temperature and the ambient air temperature shall be recorded at a chart speed of approximately 12 inches per hour (or equivalent record).

(2) Where an external vent is located such that any "running loss" emissions would be inducted into the engine, the vapor loss measurement system shall be temporarily disconnected from that vent and clamped. Vapor losses from this vent need not be measured during this part of the test.

(3) The vehicle shall be operated on the dynamometer according to the requirements and procedures of §§ 85.275–14 through 85.275–24. The engine and fan shall be turned off upon completion of the dynamometer run and the exhaust and air cleaner inlet pipes shall be replugged.

(4) Vapor losses need not be measured during the 10-minute soak or 505-second "hot" start test. Any vapor loss collection system used during the cold start shall be temporarily disconnected and clamped. At the end of the hot start test, the vapor collection systems shall be reconnected for the following phase.

(c) *Hot soak test.* Upon completion of the dynamometer run, the test vehicle shall be permitted to soak with hood down for a period of 1 hour at an ambient temperature between 76° F. and 86° F. This operation completes the test. The traps are disconnected and weighed according to § 85.275–21.

§ 85.275–14 Dynamometer driving schedule.

(a) The dynamometer driving schedule to be followed consists of a nonrepetitive series of idle, acceleration, cruise, and deceleration modes of various time sequences and rates. The driving schedule is defined by a smooth transition through the speed vs. time relationships listed in Appendix I. The time sequence begins upon starting the vehicle according to the startup procedure described in § 85.275–19.

(b) The speed tolerance at any given time on the dynamometer driving schedule prescribed in Appendix I or as printed on a driver's aid chart approved by the Administrator is defined by upper and lower limits. The upper limit is 2 m.p.h. higher than the highest point on the trace within 1 second of the given time. The lower limit is 2 m.p.h. lower than the lowest point on the trace within 1 second of the given time. Speed variations greater than the tolerances (such as occur when shifting manual transmission vehicles) are acceptable provided they occur for less than 2 seconds on any one occasion. Speeds lower than those prescribed are acceptable provided the vehicle is operated at maximum available power during such occurrences. Further, speed deviations from those prescribed due to stalling are acceptable provided the provisions of § 85.275–19(f) are adhered to.

§ 85.275–15 Dynamometer procedure.

(a) The dynamometer run consists of two tests, a "cold" start test after a minimum 12-hour soak according to the provisions of §§ 85.275–12 and 85.275–13 and a "hot" start test with a 10-minute soak between the two tests. Engine startup, operation over the driving schedule, and engine shutdown make a complete cold start test. Engine startup and operation over the first 505 seconds of the driving schedule complete the hot start test. The exhaust emissions are diluted with air to a constant volume and a portion is sampled continuously during each test. The composite samples collected in bags are analyzed for hydrocarbons, carbon monoxide, carbon dioxide, and oxides of nitrogen. A parallel sample of the dilution air is similarly analyzed for hydrocarbon, carbon monoxide, and oxides of nitrogen.

(b) During dynamometer operation, a fixed speed cooling fan shall be positioned so as to direct cooling air to the vehicle in an appropriate manner with the engine compartment cover open. The fan capacity shall normally not exceed 5,300 c.f.m. If, however, the manufacturer can show that during field operation the vehicle receives additional cooling, the fan capacity may be increased or additional fans used if approved in advance by the Administrator. In the case of vehicles with front engine compartments, the fan(s) shall be squarely positioned between 8 and 12 inches in front of the cooling air inlets (grill). In the case of vehicles with rear engine compartments (or if special designs make the above impractical), the cooling fan(s) shall be placed in a position to provide sufficient air to maintain engine cooling.

(c) The vehicle shall be nearly level when tested in order to prevent abnormal fuel distribution.

(d) Flywheels, electrical or other means of simulating inertia as shown in the following table shall be used. If the equivalent inertia specified is not available on the dynamometer being used, the next higher equivalent inertia (not to exceed 250 lbs.) available shall be used.

Loaded vehicle weight, pounds	Equivalent inertia weight, pounds	Road load power @ 50 m.p.h., horsepower
Up to 1,125	1,000	5.9
1,126 to 1,375	1,000	6.5
1,376 to 1,625	1,500	7.1
1,626 to 1,875	1,750	7.7
1,876 to 2,125	2,000	8.4
2,126 to 2,375	2,250	8.3
2,376 to 2,625	2,500	9.8
2,626 to 2,875	2,750	9.4
2,876 to 3,250	3,000	10.9
3,251 to 3,750	3,500	11.3
3,751 to 4,250	4,000	12.2
4,251 to 4,750	4,500	12.9
4,751 to 5,250	5,000	13.7
5,251 to 5,750	5,500	13.4
5,751 to above	5,500	14.9

(e) Power absorption unit adjustment.

(1) The power absorption unit shall be adjusted to reproduce road load power at 50 m.p.h. true speed. The indicated road load power setting shall take into account the dynamometer friction. The relationship between road load (absorbed) power and indicated road load power for a particular dynamometer shall be determined by the procedure outlined in Appendix II or other suitable means.

(2) The road load power listed in the table above shall be used or the vehicle manufacturer may determine the road load power by the following procedure and request its use:

(i) Measuring the absolute manifold pressure of a representative vehicle, of the same equivalent inertia weight class, when operated on a level road under balanced wind conditions at a true speed of 50 m.p.h., and

(ii) Noting the dynamometer indicated road load horsepower setting required to reproduce that manifold pressure when the same vehicle is operated on the dynamometer at a true speed of 50 m.p.h. The tests on the road and on the dynamometer shall be performed with the same vehicle ambient absolute pressure (usually barometric), i.e. within ±5 mm. Hg.

(iii) The road load power shall be determined according to the procedure outlined in Appendix II and adjusted according to the following if applicable.

(3) Where it is expected that more than 33 percent of the vehicles in an engine family will be equipped with air conditioning, the road load power listed above or as determined in paragraph (e)(2) of this section shall be increased by 10 percent for testing all test vehicles representing such engine family if those vehicles are intended to be offered with air conditioning in production.

(f) The vehicle speed (m.p.h.) as measured from the dynamometer rolls shall be used for all conditions. A speed vs. time recording, as evidence of dynamometer test validity, shall be supplied on request of the Administrator.

(g) Practice runs over the prescribed driving schedule may be performed at test points, provided an emission sample is not taken, for the purpose of finding the minimum throttle action to maintain the proper speed-time relationship, or to permit sampling system adjustments to comply with § 85.275–20(b)(2).

NOTE: When using two-roll dynamometers a truer speed-time trace may be obtained by minimizing the rocking of the vehicle in the rolls. The rocking of the vehicle changes the tire rolling radius on each roll. The rocking may be minimized by restraining the vehicle horizontally (or nearly so) by using a cable and winch.

(h) The drive wheel tires may be inflated up to 45 p.s.i.g. in order to prevent tire damage. The drive wheel tire pressure shall be reported with the test results.

(i) If the dynamometer has not been operated during the 2-hour period immediately preceding the test it shall be warmed up for 15 minutes by operating it at 30 m.p.h. using a nontest vehicle.

(j) Changes to dynamometer horsepower settings, if required, shall be made within 1 hour of the exhaust emission measurement test phase. The test vehicle shall not be used to make this adjustment.

§ 85.275–16 Three-speed manual transmissions.

(a) All test conditions except as noted shall be run in highest gear.

(b) Cars equipped with free wheeling or overdrive units shall be tested with this unit (free wheeling or overdrive) locked out of operation.

(c) Idle shall be run with transmission in gear and with clutch disengaged (except first idle; see § 85.275–19).

(d) The vehicle shall be driven with minimum throttle movement to maintain the desired speed.

(e) Acceleration modes shall be driven smoothly with the shift speeds as recommended by the manufacturer. If the manufacturer does not recommend shift speeds, the vehicle shall be shifted from first to second gear at 15 m.p.h. and from second to third gear at 25 m.p.h. The operator shall release the accelerator pedal during the shift, and accomplish the shift with minimum closed throttle time. If the vehicle cannot accelerate at the specified rates, the vehicle shall be accelerated at WOT until the vehicle speed reaches the speed at which it should be at that time during the test.

(f) The deceleration modes shall be run with clutch engaged and without shifting gears from the previous mode, using brakes or throttle as necessary to maintain the desired speed. For those modes which decelerate to zero, the clutch shall be depressed when the speed drops below 15 m.p.h., when engine roughness is evident, or when engine stalling is imminent.

(g) Downshifting is allowed at the beginning of or during a power mode if recommended by the manufacturer or if the engine obviously is lugging.

§ 85.275–17 Four-speed and five-speed manual transmissions.

(a) Use the same procedure as for three-speed manual transmissions for shifting from first to second gear and from second to third gear. If the manufacturer does not recommend shift speeds, the vehicle shall be shifted from third to fourth gear at 40 m.p.h. Fifth gear may be used at the manufacturer's option.

(b) If transmission ratio in first gear exceeds 5:1, follow the procedure for three- or four-speed manual transmission vehicles as if the first gear did not exist.

§ 85.275–18 Automatic transmissions.

(a) All test conditions shall be run with the transmission in "Drive" (highest gear). Automatic stick-shift transmissions may be shifted as manual transmissions at the option of the manufacturer.

(b) Idle modes shall be run with the transmission in "Drive" and the wheels braked (except first idle; see § 85.275–19).

(c) The vehicle shall be driven with minimum throttle movement to maintain the desired speed.

(d) Acceleration modes shall be driven smoothly allowing the transmission to shift automatically through the normal sequence of gears. If the vehicle cannot accelerate at the specified rates, the vehicle shall be accelerated at WOT until the vehicle speed reaches the speed at which it should be at that time during the driving schedule.

(e) The deceleration modes shall be run in gear using brakes or throttle as necessary to maintain the desired speed.

§ 85.275–19 Engine starting and restarting.

(a) The engine shall be started according to the manufacturer's recommended starting procedures. The initial 20-second-idle period shall begin when the engine starts.

(b) Choke operation:

(b)(1) Vehicles equipped with automatic chokes shall be operated according to the instructions which will be included in the manufacturer's operating instructions or owner's manual including choke setting and "kick-down" from cold fast idle. The transmission shall be placed in gear 15 seconds after the engine is started. If necessary, braking may be employed to keep the drive wheels from turning.

(2) Vehicles equipped with manual chokes shall be operated according to the manufacturer's operating instructions or owners manual.

(c) The operator may use the choke, throttle, etc. where necessary to keep the engine running.

(d) If the manufacturer's operating or owner's manual does not specify a warm engine starting procedure, the engine (automatic and manual choke engines) shall be started by depressing the acceleration pedal about half way and cranking the engine until it starts.

(e) If the vehicle does not start after 10 seconds of cranking, cranking shall cease and the reason for failure to start determined. The revolution counter on the constant volume sampler (see § 85.275–24, Dynamometer test runs) shall be turned off and the sample solenoid valves placed in the "dump" position during this diagnostic period. In addition, either the positive displacement pump should be turned off or the exhaust tube disconnected from the tailpipe during the diagnostic period. If failure to start is an operational error, the vehicle shall be rescheduled for testing from a cold start. If failure to start is caused by vehicle malfunction, corrective action of less than 30 minutes duration may be taken and the test continued. The sampling system shall be reactivated at the same time cranking is started. When the engine starts, the driving schedule timing sequence shall begin. If failure to start is caused by vehicle malfunction and the vehicle cannot be started, the test shall be voided, the vehicle removed from the dynamometer, corrective action taken, and the vehicle rescheduled for test. The reason for the malfunction (if determined) and the corrective action taken shall be reported.

(e) If the engine "false starts", the operator shall repeat the recommended starting procedure (such as resetting the choke, etc.).

(f) Stalling:

(1) If the engine stalls during an idle period, the engine shall be restarted immediately and the test continued. If the engine cannot be started soon enough to allow the vehicle to follow the next acceleration as prescribed, the driving schedule indicator shall be stopped. When the vehicle restarts the driving schedule indicator shall be reactivated.

(2) If the engine stalls during some operating mode other than idle, the driving schedule indicator shall be stopped, the vehicle restarted, accelerated to the speed required at that point in the driving schedule and the test continued.

(3) If the vehicle will not restart within 1 minute, the test shall be voided, the vehicle removed from the dynamometer, corrective action taken, and the vehicle rescheduled for test. The reason for the malfunction (if determined) and the corrective action taken shall be reported.

§ 85.275–20 Sampling and analytical system (exhaust emissions).

(a) *Schematic drawings.* The following figures (Figs. C75–1 and C75–2) are schematic drawings of the exhaust gas sampling and analytical systems which will be used for testing under the regulations in this part. Additional components such as instruments, valves, solenoids, pumps, and switches may be used to provide additional information and coordinate the functions of the component systems.

(b) Component description (exhaust gas sampling system). The following components will be used in the exhaust gas sampling system for testing under the regulations in this subpart. See figure C75–1. Other types of constant volume samplers may be used if shown to yield equivalent results and if approved in advance by the Administrator.

(1) A dilution air filter assembly consisting of a particulate (paper) filter to remove solid matter from the dilution air and thus increase the life of the charcoal filter; a charcoal filter to reduce and stabilize the background hydrocarbon level; and a second particulate filter to remove charcoal particles from the air stream. The filters shall be of sufficient capacity and the duct which carries the dilution air to the point where the exhaust gas is added shall be of sufficient size so that the pressure at the mixing point is less than 1 inch of water pressure below ambient when the constant volume sampler is operating at its maximum flow rate.

(2) A leak-tight connector and tube to the vehicle tailpipe. The tubing shall be sized and connected in such a manner that the static pressure variations in the vehicle tailpipe(s) remain within ±5 inches of water of the static pressure variations measured during a dynamometer driving cycle with no connection to the tailpipe(s). Sampling systems capable of tolerances to ±1 inch of water will be used by the Administrator upon written request by the manufacturer.

(3) A heating system to preheat the heat exchanger to within ±10° F. of its operating temperature before the test begins.

(4) A heat exchanger capable of limiting the gas mixture temperature variation during the entire test to ±10° F. as measured at a point immediately ahead of the positive displacement pump.

(5) A positive displacement pump to pump the dilute exhaust mixture. The pump capacity (300 to 360 c.f.m. is sufficient for testing most vehicles) shall be large enough to virtually eliminate water condensation in the system. See Appendix III for one flow calibration technique. Other suitable calibration techniques may be used if approved in advance by the Administrator.

(6) Temperature sensor (T1) with an accuracy of ±2° F. to allow continuous recording of the temperature of the dilute exhaust mixture entering the positive displacement pump. (See § 85.275–22(1).)

(7) Gauge (G1) with an accuracy of ±3 mm. Hg to measure the pressure depression of the dilute exhaust mixture entering the positive displacement pump, relative to atmospheric pressure.

(8) Gauge (G2) with an accuracy of ±3 mm. Hg to measure the pressure increase across the positive displacement pump.

(9) Sample probes (S1 and S2) pointed upstream to collect samples from the dilution airstream and the dilute exhaust mixture.

(10) Filters (F1 and F2) to remove particulate matter from dilution air and dilute exhaust samples.

(11) Pumps (P1 and P2) to pump the dilution air and dilute exhaust into their respective sample collection bags.

(12) Flow control valves (N1 and N2) to regulate flows to sample collection bags, at constant flow rates. The minimum sample flow rate shall be 10 c.f.h.

(13) Flowmeters (FL1 and FL2) to insure, by visual observation, that constant flow rates are maintained throughout the test.

(14) Three-way solenoid valves (V1, V2, V3, and V4) to direct sample streams to either their respective bags or overboard.

(15) Quick-connect, leak-tight fittings (C1, C2, C3, and C4) with automatic shutoff on bag side to attach sample bags to sample system.

(16) Sample collection bags for dilution air and exhaust samples of sufficient capacity so as not to impede sample flow.

(17) Revolution counters to count the revolutions of the positive displacement pump while each test phase is in progress and samples are being collected.

(c) *Component description (exhaust gas analytical system).* The following components will be used in the exhaust gas analytical system for testing under the regulations in this part. The analytical system provides for the determination of hydrocarbon concentrations by flame ionization detector (FID) analysis, the determination of carbon monoxide and carbon dioxide concentrations by nondispersive infrared (NDIR) analysis and the determination of oxides of nitrogen concentrations by chemiluminescence (CL) analysis in dilute exhaust samples. The chemiluminescence method of analysis requires that the nitrogen dioxide present in the sample be converted to nitric oxide before analysis. See Appendix V. Other types of analyzers may be used if shown to yield equivalent results and if approved in advance by the Administrator. See Figure C75–2.

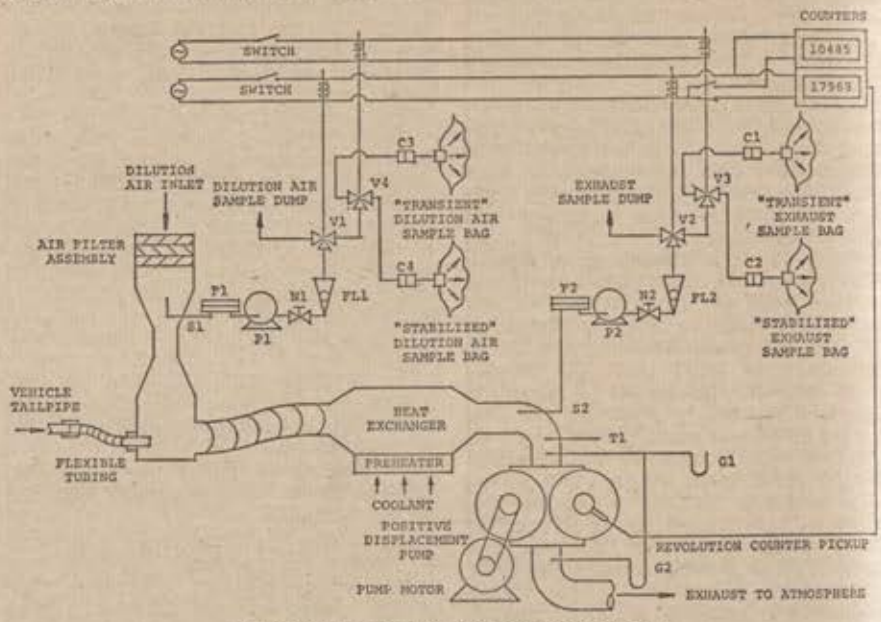


Figure C75–1—Exhaust Gas Sampling System

(1) Quick-connect leak-tight fitting (C5) to attach sample bags to analytical system.

(2) Filter (F3) to remove any residual particulate matter from the collected sample.

(3) Pump (P3) to transfer samples from the sample bags to the analyzers.

(4) Selector valves (V5, V6, V7, V8, and V14) for directing samples, span gases or zeroing gases to the analyzers.

(5) Flow control valves (N3, N4, N5, N6, N7, N8, N9, N10, N11, N12, and N13) to regulate the gas flow rates.

(6) Flowmeters (FL3, FL4, and FL5) to indicate gas flow rates.

(7) Manifold (M1) to collect the expelled gases from the analyzers.

(8) Pump (P4) to transfer expelled gases from the collection manifold to a vent external to the test room (optional).

(9) Analyzers to determine hydrocarbon, carbon monoxide, carbon dioxide and oxides of nitrogen concentrations.

(10) An oxide of nitrogen converter to convert any NO_2 present in the samples to NO before analysis.

(11) Selector valves (V9 and V10) to allow the sample, span, calibrating or zeroing gases to bypass the converter.

(12) Water trap (T1) to partially remove water and a valve (V11) to allow the trap to be drained.

(13) Sample conditioning columns to remove remainder of water (WR1 and WR2 containing indicating $CaSO_4$, or indicating silica gel) and carbon dioxide (CDR1 and CDR2 containing ascarite) from the CO analysis stream.

(14) Selector valves (V12 and V13) to permit switching from exhausted absorbing columns to fresh columns.

(15) Water bubbler (W1) to allow saturation of the CO_2 span gas to check efficiency of absorbing columns.

(16) Recorders (R1, R2, R3, and R4) or digital printers to provide permanent records of calibration, spanning and sample measurements; or in those facilities where computerized data acquisition systems are incorporated, the computer facility printout may be used.

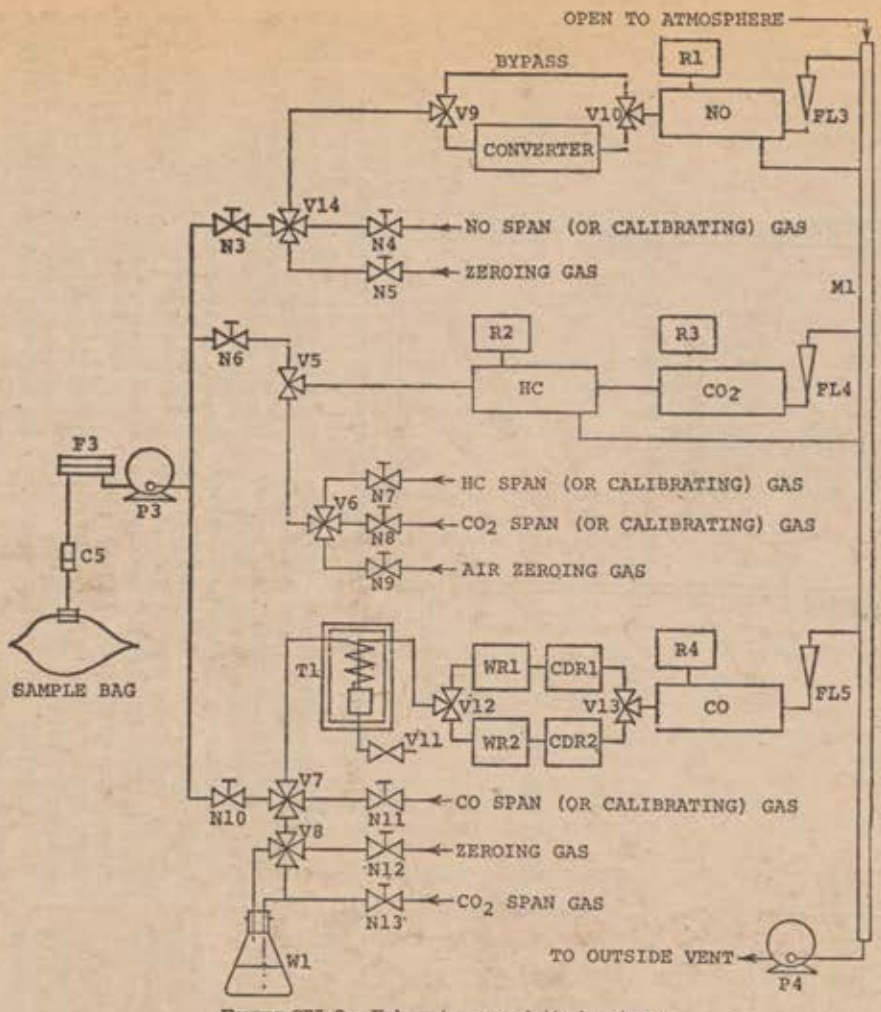


FIGURE C75-2.—Exhaust gas analytical system

§ 85.275-21 Sampling and analytical system (fuel evaporative emissions)

(a) *Schematic drawing.* (1) The following figures (Figures C75-3, C75-4 and C75-5) are flow diagrams of typical evaporative loss collection applications.

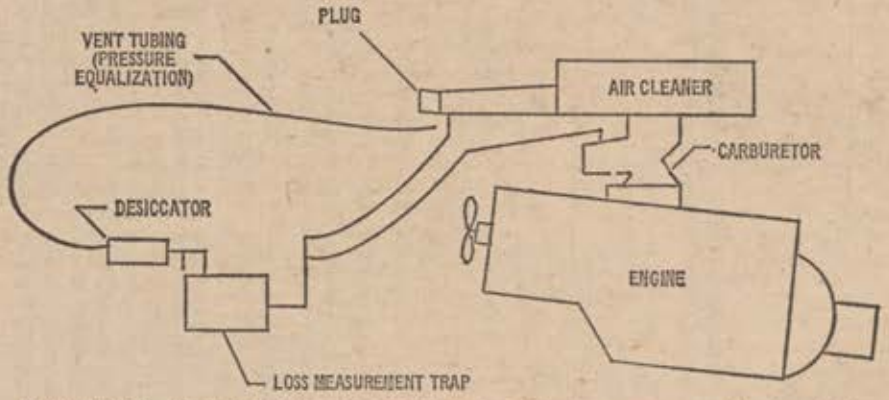


FIGURE C75-3.—Typical carburetor evaporative loss collection arrangement (schematic).

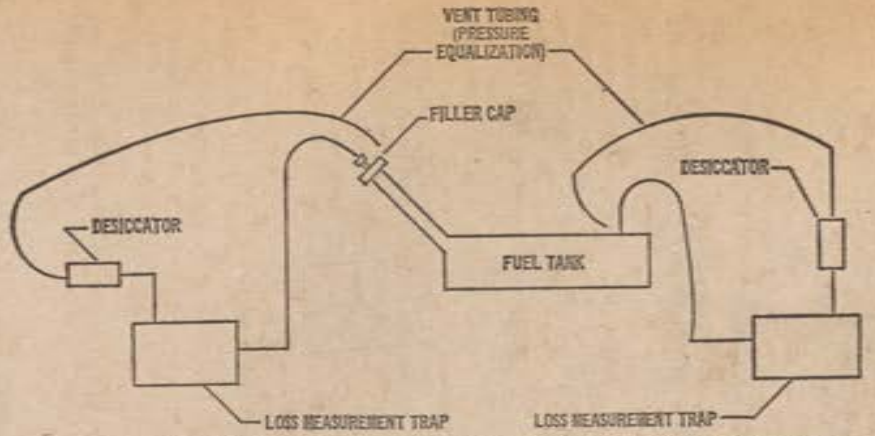


FIGURE C75-4.—Typical fuel tank evaporative loss collection arrangement (schematic).

FIGURE C75-5.—Typical fuel evaporative loss collection arrangement for vehicle equipped with evaporative emission control system (schematic).

(2) Figure C75-3 represents an arrangement for collecting losses which emanate from the carburetor. Figure C75-4 depicts the means for separately collecting the vapors which emanate from the fuel tank vent line and filler cap. Figure C75-5 shows an arrangement for collecting the losses from a closed fuel system, vented to the atmosphere solely through the air cleaner, as might be the case with certain fuel evaporative emission control devices.

(3) Schematic drawings of arrangements to be employed shall be submitted in accordance with § 85.275-2(b)(3).

(b) *Collection equipment.* The following equipment shall be used for this collection of fuel evaporative emissions. (Item quantities are determined by individual test needs.)

(1) *Activated carbon trap.* See Figure C75-6 for specifications of one design; other configurations may be used: *Provided*, That they give demonstrably equivalent results.

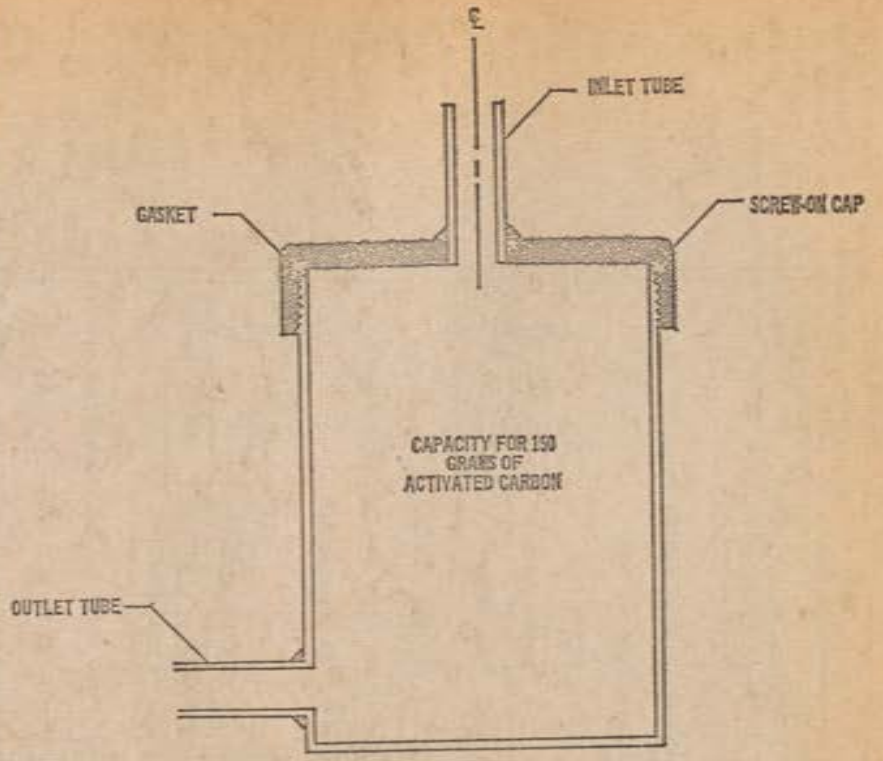


FIGURE C75-6.—Typical activated carbon trap (schematic).

(i) Canister—300±25 ml., cylindrical container having a length to diameter ratio of 1.4±0.1. An inlet tube, 5/16 inch ID and 1 inch long is sealed into the top of the canister, at its geometric center. A similar outlet tube is sealed into the wall ¼ inch from the bottom of the canister. The canister is designed to withstand an air pressure of 2 p.s.i., when sealed, without evidence of leaking when immersed in water for 30 seconds.

(ii) Activated carbon—meeting the following specifications:

Surface area, min. (N_2 BET method)[1]	1,000 square meters per gram.
Adsorption capacity min. (carbon tetrachloride)	60 percent, by weight.
Volatile material including adsorbed water vapor.	None.

Screen analysis size:	*Percent*
Less than 1.4 mm	0
1.7-2.4 mm	90-100
More than 3.0 mm	0

[1] Brunauer, Emmett & Teller: Journal of the American Chemical Society, Vol. 60, p. 309, 1938.

The activated carbon trap is prepared for the test by attaching clamped sections of vinyl tubing to the inlet and outlet tubes of the canister. The canister is then filled with 150±10 gm. hot activated carbon which had previously been oven-dried for 3 hours at 300° F. Loss of carbon through the inlet and outlet tubes is prevented through the use of wire screens of 0.7 mm. mesh or wads of loosely packed glass wool. The canister is closed immediately after filling and the carbon is allowed to cool while the trap is vented through a drying tube via the unclamped outlet arm.

(iii) The trap is sealed and weighed after cooling and the weight, to the nearest 0.1 gram, is inscribed on the canister body. Within 12 hours of the scheduled test, the weight of the trap is checked and if it has changed by more than 0.5 gm., it is redried to constant weight. This redrying operation is performed by passing dry nitrogen, heated to 275° F., through the trap, via the inlet tube, at a rate of 1 liter per minute until checks made at 30-minute intervals do not vary by more than 0.1 percent of the gross weight. The trap and its contents are allowed to cool to room temperature, while vented through a drying tube via the outlet arm, before use.

(2) *Auxiliary collection equipment.* (i) Drying tube—transparent, tubular body ¾ inch ID, 6 inches long, with serrated tips and removable caps.

(ii) Desiccant—indicating variety, 8 mesh. The drying tube is attached to the outlet tube of the collection traps to prevent ambient moisture from entering the trap. It is prepared by filling the empty drying tube with fresh desiccant using loose wad of glass wool to hold the desiccant in place. The desiccant is renewed when three-quarters spent, as indicated by color change.

(iii) Collection tubing—stainless steel or aluminum, 5/16 inch ID, for connecting the collection traps to the fuel system vents.

(iv) Polyvinyl chloride (vinyl) tubing—flexible tubing, 5/16 inch ID, for sealing butt-to-butt joints.

(v) Laboratory tubing—air tight flexible tubing 5/16 inch ID, attached to the outlet end of the drying tubes to equalize collection system pressure.

(vi) Clamps—hosecock, openside, for pinching off flexible tubing.

(c) *Weighing equipment.* The balance and weights used shall be capable of determining the net weight of the activated carbon trap within an accuracy of ±75 mg.

(d) *Temperature measuring equipment.* (1) Temperature recorder—multichannel, variable speed, potentiometric, or substantially equivalent, recorder with a temperature range of 50° F. to 100° F. and capable of either simultaneous or sequential recording of the ambient air and fuel temperatures within an accuracy of ±1° F.

(2) Fuel tank thermocouples—iron-constantan (type J) construction.

(3) Other types of temperature sensing systems may be provided by the manufacturer if they record the information specified in subparagraph (1) of this paragraph with the required accuracy and if they are self-contained. Type J thermocouples are required for compatibility with recording instruments used in Federal certification facilities.

(e) *Assembly and use of the activated carbon vapor collection system.* (1) The prepared activated carbon trap, dried to constant weight, cooled to the ambient temperature and sealed with clamped sections of vinyl tubing is carefully weighed to the nearest 20 milligrams and the weight recorded as the "tare weight."

(2) A drying tube is attached to the outlet tube and the clamp released, but not removed. A length of flexible tubing, for pressure equalization, is connected to the other end of the drying tube.

(3) The inlet tube of the adsorption trap and external vent(s) of the fuel system will be connected by minimal lengths of stainless steel or aluminum tubing and short sections of vinyl tubing. Butt-to-butt joints shall be made wherever possible and precautions taken against sharp bends in the connection lines, including any manifold systems employed to connect multiple vents to a single trap.

(4) The clamp on the inlet tube of the trap shall be released but not removed. Care shall be exercised to prevent heating the vapor collection trap by radiant or conductive heat from the engine.

(5) Upon completion of the collection sequence, the vinyl tubing sections on each arm of the collection trap shall be clamped tight and the collection system dismantled.

(6) The sealed vapor collection trap shall be weighed carefully to the nearest 20 milligrams. This constitutes the "gross weight," which is appropriately recorded. The difference between the "gross weight" and "tare weight" represents the "net weight" for purposes of calculating the fuel vapor losses.

§ 85.275–22 Information to be recorded.

The following information shall be recorded with respect to each test:

(a) Test number.

(b) System or device tested (brief description).

(c) Date and time of day for each part of the test schedule.

(d) Instrument operator.

(e) Driver or operator.

(f) Vehicle: Make—Vehicle identification number—Model year—Transmission type—Odometer reading—Engine displacement—Engine family—Idle r.p.m.—Fuel system—(fuel injection, nominal fuel tank capacity, fuel tank location, number of carburetors, number of carburetor barrels)—Inertia loading—Estimated curb weight recorded at 0 miles—Actual road load horsepower at 50 m.p.h. and drive wheel tire pressure.

(g) Dynamometer serial number and indicated road load power absorption at 50 m.p.h.

(h) All pertinent instrument information such as tuning—gain—serial number—detector number—range. As an alternative, a reference to a vehicle test cell number may be used, with the advance approval of the Administrator, provided test cell calibration records show the pertinent instrument information.

(i) Recorder charts: Identify zero, span, exhaust gas, and dilution air sample traces.

(j) Test cell barometric pressure, ambient temperature, and humidity.

(k) Fuel temperatures, as prescribed.

(l) Pressure of the mixture of exhaust and dilution air entering the positive displacement pump, the pressure increase across the pump, and the temperature set point of the temperature control system. The sample temperature at the inlet to the pump may be measured, if desired, to verify that the temperature variations are within 5° F. of the set point.

(m) The number of revolutions of the positive displacement pump accumulated while the test is in progress and exhaust flow samples are being collected.

(n) The humidity of the dilution air.

§ 85.275–23 Analytical system calibration and sample handling.

(a) Calibrate the analytical assembly at least once every 30 days. Use the same flow rate as when analyzing samples.

(1) Adjust analyzers to optimize performance.

(2) Zero the hydrocarbon analyzer with zero grade air and the carbon monoxide, carbon dioxide, and oxides of nitrogen analyzers with zero grade nitrogen. The allowable zero gas impurity concentrations should not exceed 1 p.p.m. equivalent carbon response, 1 p.p.m. carbon monoxide, 300 p.p.m. (0.03 mole percent) carbon dioxide, and 0.1 p.p.m. nitric oxide.

(3) Set the CO and CO_2 analyzer gains to give the desired range. Select the desired attenuation scale of the HC analyzer, set the capillary flow rate by adjusting the back pressure regulator, and adjust the electronic gain control, if provided, to give the desired range. Select the desired scale of the NO_x analyzer and adjust the phototube high voltage supply or amplifier gain to give the desired range.

(4) Calibrate the HC analyzer with propane (air diluent) gases having nominal concentrations equal to 50 and 100 percent of full scale. Calibrate the CO analyzer with carbon monoxide (nitrogen diluent) gases and the CO_2 analyzer with carbon dioxide (nitrogen diluent) gases having nominal concentrations equal to 10, 25, 40, 50, 60, 70, 85, and 100 percent of full scale. Calibrate the NO_x analyzer with nitric oxide (nitrogen diluent) gases having nominal concentrations equal to 50 and 100 percent of full scale. The actual concentrations should be known to within ±2 percent of the true values.

(5) Compare values obtained on the CO and CO_2 analyzers with previous cali-

bration curves. Any significant change reflects some problem in the system. Locate and correct problem, and recalibrate. Use best judgment in selecting curves for data reduction.

(6) NO_x converter efficiency determination: The apparatus described and illustrated in Figure C 75–7 is to be used to determine the conversion efficiency of devices that convert NO_x to NO.

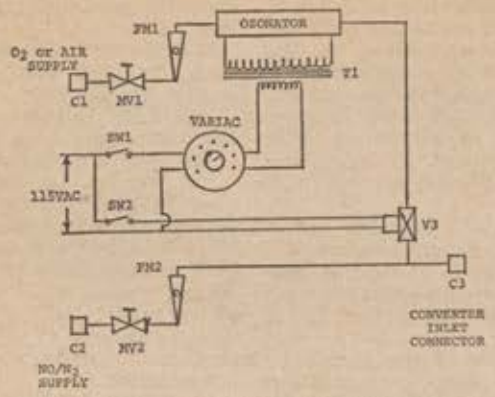


FIGURE A 75–7—NO_x Converter Efficiency Detector

The following procedure is to be used for determining the values to be used in Equation (A).

(i) Attach the NO/N_2 supply (150–250 ppm) at C2, the O_2 supply at C1 and the analyzer inlet connection to the efficiency detector at C3. If lower concentrations of NO are used, air may be used in place of O_2 to facilitate better control of the NO_2 generated during step (iv).

(ii) With the efficiency detector variac off, place the NO_x converter in bypass mode and close valve V3. Open valve MV2 until sufficient flow and stable readings are obtained at the analyzer. Zero and span the analyzer output to indicate the value of the NO concentration being used. Record this concentration.

(iii) Open valve V3 (on/off flow control solenoid valve for O_2) and adjust valve MV1 (O_2 supply metering valve) to blend enough O_2 to lower the NO concentration (ii) about 10 percent. Record this concentration.

(iv) Turn on the ozonator and increase its supply voltage until the NO concentration of (iii) is reduced to about 20 percent of (ii). NO_2 is now being formed from the $NO+O_2$ reaction. There must always be at least 10 percent unreacted NO at this point. Record this concentration.

(v) When a stable reading has been obtained from (iv), place the NO_x converter in the convert mode. The analyzer will now indicate the total NO_x concentration. Record this concentration.

(vi) Turn off the ozonator and allow the analyzer reading to stabilize. The mixture $NO+O_2$ is still passing through the converter. This reading is the total NO_x concentration of the dilute NO span gas used at step (iii). Record this concentration.

(vii) Close valve V3. The NO concentration should be equal to or greater than the reading of (ii) indicating whether the NO contains any NO_2.

Calculate the efficiency of the NO_x converter by substituting the concentrations obtained during the test into Equation (A).

$$\% \text{ Eff.} = \frac{(vi)-(iv)}{(v)-(iv)} \times 100\%$$

The efficiency of the converter should be greater than 90 percent. Adjusting the converter temperature may be needed to maximize the efficiency. Efficiency checks should be made on each analyzer range using an NO span gas concentration appropriate to the instrument range.

(7) Check the efficiency of the sample conditioning system by the following procedure:

(i) Zero and span the CO instrument on its most sensitive scale.

(ii) Recheck zero.

(iii) Bubble CO_2 span gas through water and then through the sample conditioning system into the CO instrument. If the CO instrument shows no response to the wet CO_2 the columns are in good condition.

(iv) If the CO instrument responds to wet CO_2, replace columns as necessary to bring response back to zero.

(v) The conditioning system efficiency should be checked daily.

(b) HC, CO, CO_2, and NO_x measurements: Allow a minimum of 20 minutes warmup for the HC analyzer and 2 hours for the CO, CO_2, and NO_x analyzers. (Power is normally left on infrared and chemiluminescence analyzers; but when not in use, the chopper motors of the infrared analyzers are turned off and the phototube high voltage supply of the chemiluminescence analyzer is placed in the standby position.) The following sequence of operations should be performed in conjunction with each series of measurements:

(1) Zero the analyzers. Obtain a stable zero on each amplifier meter and recorder. Recheck after tests.

(2) Introduce span gases and set the CO and CO_2 analyzer gains, the HC analyzer sample capillary flow rate and the NO_x analyzer high voltage supply or amplifier gain to match the calibration curves. In order to avoid corrections, span and calibrate at the same flow rates used to analyze the test samples. Span gases should have concentrations equal to approximately 80 percent of full scale. If gain has shifted significantly on the CO or CO_2 analyzers, check tuning. If necessary, check calibration. Recheck after test. Show actual concentrations on chart.

(3) Check zeroes; repeat the procedure in subparagraphs (1) and (2) of this paragraph if required.

(4) Check flow rates and pressures.

(5) Measure HC, CO, CO_2, and NO_x concentrations of samples. Care should be exercised to prevent moisture from condensing in the sample collection bag.

(6) Check zero and span points.

(c) For the purposes of this section, the term "zero grade air" includes artificial "air" consisting of a blend of nitrogen and oxygen with oxygen concentrations between 18 and 21 mole percent.

§ 85.275–24 Dynamometer test runs.

(a) The vehicle shall be allowed to stand with the engine turned off for a period of not less than 12 hours before the cold start exhaust emission test, at an ambient temperature as specified in §§ 85.275–12 and 85.275–13. The vehicle shall be stored prior to the emission tests in such a manner that precipitation (e.g. rain or dew) does not occur on the vehicle. The complete dynamometer test consists of a cold start drive of 7.5 miles and simulates a hot start drive of 7.5 miles. The vehicle is allowed to stand on the dynamometer during the 10-minute time period between the cold and hot start tests. The cold start test is divided into two periods. The first period, representing the cold start "transient" phase, terminates at the end of the deceleration which is scheduled to occur at 505 seconds of the driving schedule. The second period, representing the "stabilized" phase, consists of the remainder of the driving schedule including engine shutdown. The hot start test similarly consists of two periods. The first period, representing the hot start "transient" phase, terminates at the same point in the driving schedule as the first phase of the cold start test. The second period of the hot start test, "stabilized" phase, is assumed to be identical to the second period of the cold start test. Therefore, the hot start test terminates after the first period (505 seconds) is run. During the tests the ambient temperature shall be between 68° F. and 86° F.

(b) The following steps shall be taken for each test:

(1) Place drive wheels of vehicle on dynamometer without starting engine.

(2) Open the vehicle engine compartment cover and start the cooling fan.

(3) With the sample solenoid valves in the "dump" position connect evacuated sample collection bags to the two dilute exhaust sample connectors and to the two dilution air sample line connectors.

(4) Start the positive displacement pump (if not already on), the sample pumps, and the temperature recorder. (The heat exchanger of the constant volume sampler should be preheated to its

operating temperature before the test begins.)

(5) Adjust the sample flow rates to the desired flow rate (minimum of 10 c.f.h.) and set the revolution counters to zero.

(6) Attach the flexible exhaust tube to the vehicle tailpipe(s).

(7) Simultaneously start the revolution counter for the positive displacement pump, position the sample solenoid valves to direct the sample flow into the "transient" exhaust sample bag and the "transient" dilution air sample bag, and start cranking the engine.

(8) Fifteen seconds after the engine starts, place the transmission in gear.

(9) Twenty seconds after the engine starts, begin the initial vehicle acceleration of the driving schedule.

(10) Operate the vehicle according to the dynamometer driving schedule (§85.275–14).

(11) At the end of the deceleration which is scheduled to occur at 505 seconds, simultaneously switch the sample flows from the "transient" bags to the "stabilized" bags, switch off revolution counter No. 1 and start counter No. 2. As soon as possible and in no case longer than 20 minutes after the end of this portion of the test disconnect the "transient" exhaust and dilution air sample bags, transfer them to the analytical system and process the samples according to § 85.275–23.

(12) Turn the engine off 2 seconds after the end of the last deceleration (at 1,369 seconds).

(13) Five seconds after the engine stops running, simultaneously turn off revolution counter No. 2 and position the sample solenoid valves to the "dump" position. As soon as possible and in no case longer than 20 minutes after the end of this portion of the test disconnect the "stabilized" exhaust and dilution air sample bags, transfer them to the analytical system and process the samples according to § 85.275–23.

(14) Immediately after the end of the sample period turn off the cooling fan and close the engine compartment cover.

(15) Immediately after the end of the sample period, disconnect the exhaust tube from the tailpipe(s), turn off the cooling fan and close the engine compartment cover.

(16) Turn off the positive displacement pump.

(17) Repeat the steps in subparagraphs (2) through (10) of this paragraph for the hot start test except only one evacuated sample bag is required for sampling exhaust gas and one for dilution air. The step in subparagraph (7) of this paragraph shall begin between 9 and 11 minutes after the end of the sample period for the cold start test.

(18) At the end of the deceleration which is scheduled to occur at 505 seconds, simultaneously turn off the No. 1 revolution counter and position the sample solenoid valve to the "dump" position. (Engine shutdown is not part of the hot start test sample period.)

(19) As soon as possible and in no case longer than 20 minutes after the end of this portion of the test disconnect the hot start "transient" exhaust and dilution air sample bags, transfer them to the analytical system and process the samples according to § 85.275–23.

(20) Disconnect the exhaust tube from the vehicle tailpipe(s) and remove vehicle from dynamometer.

(21) The positive displacement pump may be turned off, if desired.

§ 85.275–25 Chart reading.

(a) Determine the HC, CO, CO_2 and NO_x concentrations of the dilution air and dilute exhaust sample bags from the instrument deflections or recordings making use of appropriate calibration charts.

(b) Determine the average dilute exhaust mixture temperatures from the temperature recorder trace if a recorder is used.

§ 85.275–26 Calculations (exhaust emissions).

The final reported test results shall be computed by use of the following formulae:

(a) For light duty trucks:

$$Y_{wm} = (0.43\,Y_{ct} + 0.57\,Y_{ht} + Y_s)/7.5$$

where:

Y_{wm} = Weighted mass emissions of each pollutant, i.e. HC, CO, or NO_x, in grams per vehicle mile.

Y_{ct} = Mass emissions as calculated from the "transient" phase of the cold start test, in grams per test phase.

Y_{ht} = Mass emissions as calculated from the "transient" phase of the hot start test, in grams per test phase.

Y_s = Mass emissions as calculated from the "stabilized" phase of the cold start test, in grams per test phase.

(b) The mass of each pollutant for each phase of both the cold start test and the hot start test is determined from the following:

(1) Hydrocarbon Mass:

$$HC_{mass} = V_{mix} \times \text{Density}_{HC} \times \frac{HC_{conc}}{1{,}000{,}000}$$

(2) Oxides of nitrogen Mass:

$$NO_{x_{mass}} = V_{mix} \times \text{Density}_{NO_x} \times \frac{NO_{x_{conc}}}{1{,}000{,}000} \times K_H$$

(3) Carbon monoxide Mass:

$$CO_{mass} = V_{mix} \times \text{Density}_{CO} \times \frac{CO_{conc}}{1{,}000{,}000}$$

(c) Meaning of symbols:

HC_{mass} = Hydrocarbon emissions, in grams per test phase.

Density_{HC} = Density of hydrocarbons in the exhaust gas, assuming an average carbon to hydrogen ratio of 1:1.85, in grams per cubic foot at 68° F. and 760 mm. Hg pressure (16.33 gm./cu. ft).

HC_{conc} = Hydrocarbon concentration of the dilute exhaust sample corrected for background, in p.p.m. carbon equivalent, i.e. equivalent propane × 3.

$$HC_{conc} = HC_e - HC_d(1 - 1/DF)$$

where:

HC_e = Hydrocarbon concentrations of the dilute exhaust sample as measured, in p.p.m. carbon equivalent.

HC_d = Hydrocarbon concentration of the dilution air as measured in p.p.m. carbon equivalent.

$NO_{x_{mass}}$ = Oxides of nitrogen emissions, in grams per test phase.

Density_{NO_x} = Density of oxides of nitrogen in the exhaust gas, assuming they are in the form of nitrogen dioxide, in grams per cubic foot at 68° F. and 760 mm. Hg pressure (54.16 gm./cu. ft.).

$NO_{x_{conc}}$ = Oxides of nitrogen concentration of the dilute exhaust sample corrected for background, in p.p.m.

$$NO_{x_{conc}} = NO_{x_e} - NO_{x_d}(1 - 1/DF)$$

where:

NO_{x_e} = Oxides of nitrogen concentration of the dilute exhaust sample as measured, in p.p.m.

NO_{x_d} = Oxides of nitrogen concentration of the dilution air as measured, in p.p.m.

CO_{mass} = Carbon monoxide emissions, in grams per test phase.

Density_{CO} = Density of carbon monoxide in grams per cubic foot at 68° F. and 760 mm. Hg pressure (32.97 gm./cu. ft.).

CO_{conc} = Carbon monoxide concentration of the dilute exhaust sample corrected for background, water vapor and CO_2 extraction, in p.p.m.

$$CO_{conc} = CO_e - CO_d(1 - 1/DF)$$

where:

CO_e = Carbon monoxide concentration of the dilute exhaust sample volume corrected for water vapor and carbon dioxide extraction, in p.p.m. The calculation assumes the carbon to hydrogen ratio of the fuel is 1:1.85.

$$CO_e = (1 - 0.01925CO_{2e} - 0.000323R)\,CO_{em}$$

where:

CO_{em} = Carbon monoxide concentration of the dilute exhaust sample as measured in p.p.m.

CO_{2e} = Carbon dioxide concentration of the dilute exhaust sample, in mole percent.

R = Relative humidity of the dilution air, in percent.

CO_d = Carbon monoxide concentration of the dilution air corrected for water vapor extraction, in p.p.m.

$$CO_d = (1 - 0.000323R)\,CO_{dm}$$

where:

CO_{dm} = Carbon monoxide concentration of the dilution air sample as measured, in p.p.m.

$$DF = \frac{13.4}{CO_{2e} + (HC_e + CO_e) \times 10^{-4}}$$

V_{mix} = Total dilute exhaust volume in cubic feet per test phase corrected to standard conditions (528°R and 760 mm. Hg).

$$V_{mix} = V_p \times N \frac{(P_B - P_1)\,(528°R)}{(760\text{ mm. Hg})\,(T_p)}$$

where:

V_p = Volume of gas pumped by the positive displacement pump, in cubic feet per revolution. This volume is dependent on the pressure differential across the positive displacement pump.

N = Number of revolutions of the positive displacement pump during the test phase while samples are being collected.

P_B = Barometric pressure in mm. Hg.

P_1 = Pressure depression below atmosphere measured at the inlet to the positive displacement pump.

T_p = Average temperature of dilute exhaust entering positive displacement pump during test while samples are being collected, in degrees Rankine.

K_H=Humidity correction factor.

$$K_H=\frac{1}{1-0.0047\,(H-75)}$$

where:

H=Absolute humidity in grains of water per pound of dry air.

$$H=\frac{(43.478)\,R_a\times P_d}{P_b-(P_d\times R_a/100)}$$

R_a=Relative humidity of the ambient air, in percent.

P_d=Saturated vapor pressure, in mm. Hg at the ambient dry bulb temperature.

(d) Example calculation of mass emission values:

(1) For the "transient" phase of the cold start test assume V_s=0.29344 cu. ft. per revolution; N=10,485; R=48.0%; R_a=48.2%; P_b=762 mm. Hg; P_d=22.225 mm. Hg; P_t=70 mm. Hg; T_p=570°R; HC_c=105.8 p.p.m. carbon equivalent; NO_{x_c}=11.2 p.p.m.; CO_{cm}=306.6 p.p.m.; CO_{tc}=1.43%; HC_d=12.1 p.p.m.; NO^x_d=0.8 p.p.m.; CO_{dm}=15.3 p.p.m. Then:

$$V_{mix}=\frac{(0.29344)\,(10{,}485)\,(762-70)\,(528)}{(760)\,(570)}=2595.0 \text{ cu. ft. per test phase.}$$

$$H=\frac{(43.478)\,(48.2)\,(22.225)}{762-(22.225\times 48.2/100)}$$

$$K_H=\frac{1}{1-0.0047(62-75)}=0.9424.$$

$$CO_c=(1-0.01925(1.43)-0.000323(48))306.0=293.4 \text{ p.p.m.}$$

$$CO_d=(1-0.000323(48))15.3=15.1 \text{ p.p.m.}$$

$$DF=\frac{13.4}{1.43+(105.8+293.4)\times 10^{-4}}=9.116.$$

$$HC_{conc}=105.8-12.1(1-1/9.116)=95.03.$$

$$HC_{mass}=(2595)\,(16.33)\,(95.03/1{,}000{,}000)=4.027 \text{ grams per test phase.}$$

$$NO_{x_{conc}}=11.2-0.8(1-1/9.116)=10.49.$$

$$NO_{x_{mass}}=(2595)\,(54.16)\,(10.49/1{,}000{,}000)\,(0.9424)=1.389 \text{ grams per test phase.}$$

$$CO_{conc}=293.4-15.1(1-1/9.116)=280.$$

$$CO_{mass}=(2595)\,(32.97)\,(280/1{,}000{,}000)=23.96 \text{ grams per test phase.}$$

(2) For the "stabilized" portion of the cold start test assume that similar calculations resulted in HC_{mass}=0.62 grams per test phase; NO^x_{mass}=1.38 grams per test phase; and CO_{mass}=5.98 grams per test phase.

(3) For the "transient" portion of the hot start test assume that similar calculations resulted in HC_{mass}=0.51 grams per test phase; NO^x_{mass}=1.38 grams per test phase; and CO_{mass}=5.01 grams per test phase.

(4) For a 1975 light duty truck:

$$HC_{wm}=((0.43)\,(4.027)+(0.57)\,(0.51)+0.62)/7.5=0.352 \text{ gram per vehicle mile.}$$

$$NO_{x_{wm}}=((0.43)\,(1.389)+(0.57)\,(1.38)+1.27)/7.5=0.354 \text{ gram per vehicle mile.}$$

$$CO_{wm}=((0.43)\,(23.96)+(0.57)\,(5.01)+5.98)/7.5=2.55 \text{ grams per vehicle mile.}$$

§ 85.275–27 Calculations (fuel evaporative emissions).

The net weights of the individual collection traps employed in § 85.275–13 shall be added together to determine compliance with the fuel evaporative emission standard.

§ 85.275–28 Compliance with emission standards.

(a) The exhaust and fuel evaporative emission standards in § 85.275–1 apply to the emissions of vehicles for their useful life.

(b) Since emission control efficiency decreases with mileage accumulated on the vehicle, the emission level of a vehicle which has accumulated 50,000 miles will be used as the basis for determining compliance with the standards.

(c) The procedure for determining compliance of a new light duty truck with exhaust and fuel evaporative emission standards is as follows:

(1) Separate emission deterioration factors shall be determined from the emission results of the durability vehicle for each engine-system combination. A separate factor shall be established for exhaust HC, exhaust CO, exhaust NO_x, and fuel evaporative HC.

(i) The applicable results to be used in determining the deterioration factors for each combination shall be:

(a) All valid emission data from the tests required under § 85.275–7(b), except the zero mile tests. This shall include the official test results, as determined in § 85.275–29, for all tests conducted on all durability vehicles of the combination selected under § 85.275–5 (c) (including all vehicles elected to be operated by the manufacturer under § 85.275–5(c)(3)).

(b) All emission data from the tests conducted before and after the scheduled maintenance provided in §§ 85.275–6(a)(1)(i), (1)(iii), (3), (4), and (5)(iii).

(c) All emission data from tests required by maintenance approved under § 85.275–6(a)(1)(ix), in those cases where the Administrator conditioned his approval for the performance of such maintenance on the inclusion of such data in the deterioration factor calculation.

(ii) All applicable results shall be plotted as a function of the mileage on the system, rounded to the nearest mile, and the best fit straight lines, fitted by the method of least squares, shall be drawn through all these data points. The interpolated 4,000- and 50,000-mile points on this line must be within the standards provided in § 85.275–1 or the data will not be acceptable for use in calculation of a deterioration factor, unless no applicable data point exceeded the standard.

(iii) An exhaust emission deterioration factor shall be calculated for each combination as follows:

$$\text{factor}=\frac{\text{exhaust emissions interpolated to 50,000 miles}}{\text{exhaust emissions interpolated to 4,000 miles}}$$

These interpolated values shall be carried out to a minimum of four places to the right of the decimal point before dividing one by the other to determine the deterioration factor. The results shall be rounded to three places to the right of the decimal point in accordance with ASTM E 29–67.

(iv) An evaporative emission deterioration factor shall be calculated for each combination by subtracting the evaporative emissions interpolated to 4,000 miles from the evaporative emissions interpolated to 50,000 miles. These interpolated values shall be carried out, in accordance with ASTM E 29–67, to a minimum of three decimal places to the right of the decimal point before subtracting one from the other to determine the deterioration factor.

(2)(i) The exhaust emission test results for each emission data vehicle shall be multiplied by the appropriate deterioration factor: *Provided*, That if a deterioration factor as computed in paragraph (c)(1)(iii) is less than one, that deterioration factor shall be one for the purposes of this paragraph.

(ii) The evaporative emission test results for each combination shall be adjusted by addition of the appropriate deterioration factor: *Provided*, That if a deterioration factor as computed in paragraph (3)(1)(iv) is less than zero, that deterioration factor shall be zero for the purposes of this paragraph.

(3) The emissions to compare with the standard shall be the adjusted emissions of paragraph (c)(2)(i) and (ii) for each emission data vehicle. Before any emission value is compared with the standard, it shall be rounded, in accordance with ASTM E 29–67, to two significant figures. The rounded emission values may not exceed the standard.

(4) Every test vehicle of an engine family must comply with all applicable standards, as determined in paragraph (c)(3), before any vehicle in that family may be certified.

§ 85.275–29 Testing by the Administrator.

(a) The Administrator may require that any one or more of the test vehicles be submitted to him, at such place or places as he may designate, for the purpose of conducting emissions tests. The Administrator may specify that he will conduct such testing at the manufacturer's facility, in which case instrumentation and equipment specified by the Administrator shall be made available by the manufacturer for test operations. Any testing conducted at a manufacturer's facility pursuant to this paragraph shall be scheduled by the manufacturer as promptly as possible.

(b)(1) Whenever the Administrator conducts a test on a test vehicle, the results of that test, unless subsequently invalidated by the Administrator, shall comprise the official data for the vehicle at that prescribed test point and the manufacturer's data for that prescribed test point shall not be used in determining compliance with emission standards.

(2) Whenever the Administrator does not conduct a test on a test vehicle at a test point, the manufacturer's test data will be accepted as the official data for that test point: *Provided*, That if the Administrator makes a determination based on testing under paragraph (a) of this section, that there is a lack of correlation between the manufacturer's test equipment and the test equipment used by the Administrator, no manufacturer's test data will be accepted for purposes of certification until the reasons for the lack of correlation are determined and the validity of the data is established by the manufacturer.

(3) (i) The emission data vehicle presented to the Administrator for testing shall be calibrated within the production tolerances applicable to the manufacturer's specifications to be shown on the vehicle label (see § 85.275–35(a)(4)(iv)) as specified in the application for certification. If the Administrator determines that a vehicle is not within such tolerances, the vehicle shall be adjusted at the facility designated by the Administrator prior to the test and an engineering report shall be submitted to the Administrator describing the corrective action taken. Based on the engineering report, the Administrator will determine if the vehicle shall be used as an emission data vehicle.

(ii) If the Administrator determines that the test data developed under paragraph (b)(3)(i) would cause the emission data vehicle to fail due to excessive 4,000 mile emissions or by application of the appropriate deterioration factor, then the following procedure shall be observed:

(*a*) The manufacturer may request a retest. Before the retest, the vehicle may be readjusted to manufacturer's specifications, if these adjustments were made incorrectly prior to the first test, and other maintenance or repairs may be performed in accordance with § 85.275–6. All work on the vehicle shall be done at such location and under such conditions as the Administrator may prescribe.

(*b*) The vehicle will be retested by the Administrator and the results of this test shall comprise the official data for the emission data vehicle.

(4) If sufficient durability data are not available at the time of any emission test conducted under paragraph (a) of this section, to enable the Administrator to determine whether an emission data vehicle would fail, the manufacturer may request a retest in accordance with the provisions of paragraphs (c)(3)(i) (*a*) and (*b*) of this paragraph. If the manufacturer does not promptly make such request, he shall be deemed to have waived the right to a retest. A request for retest must be made before the manufacturer removes the vehicle from the test premises.

§ 85.275–30 Certification.

(a) (1) If, after a review of the test reports and data submitted by the manufacturer and data derived from any additional testing conducted pursuant to § 85.275–29, the Administrator determines that a test vehicle(s) conforms to the regulations of this subpart, he will issue a certificate of conformity with respect to such vehicle(s).

(2) Such certificate will be issued for such period not more than 1 model year as the Administrator may determine and upon such terms as he may deem necessary to assure that any new motor vehicle covered by the certificate will meet the requirements of the Act and this subpart.

(b) (1) The Administrator will determine whether a vehicle covered by the application complies with applicable standards by observing the following relationships:

(i) A test vehicle selected under § 85.275–5(b)(2) or (4), shall represent all vehicles in the same engine family of the same engine displacement-exhaust emission control system-evaporative emission control system combination.

(ii) A test vehicle selected under § 85.275–5(b)(3) shall represent all vehicles the same in the same engine family of the same engine displacement-exhaust emission control system-transmission type-fuel system combination.

(iii) A test vehicle selected under § 85.275–5(c)(1), shall represent all vehicles of the same engine-system combination.

(2) The Administrator will proceed as in paragraph (a) of this section with respect to the vehicles belonging to an engine family all of which comply with applicable standards.

(3) If, after a review of the test reports and data submitted by the manufacturer and data derived from any additional testing conducted pursuant to § 85.275–29, the Administrator determines that one or more test vehicles of the certification test fleet do not meet applicable standards, he will notify the manufacturer in writing, setting forth the basis for his determination. Within 30 days following receipt of the notification, the manufacturer may request a hearing on the Administrator's determination. The request shall be in writing, signed by an authorized representative of the manufacturer and shall include a statement specifying the manufacturer's objections to the Administrator's determination, and data in support of such objections. If, after a review of the request and supporting data, the Administrator finds that the request raises a substantial factual issue, he shall provide the manufacturer a hearing in accordance with § 85.205 with respect to such issue.

(4) The manufacturer may, at his option, proceed with any of the following alternatives with respect to any engine family represented by a test vehicle(s) determined not in compliance with applicable standards:

(i) Request a hearing under § 85.205, or

(ii) Delete from the application for certification the vehicles represented by the failing test vehicle. (Vehicles so deleted may be included in a later request for certification under § 85.275–32.) The Administrator will then select in place of each failing vehicle an alternate vehicle chosen in accordance with selection criteria employed in selecting the vehicle that failed, or

(iii) Modify the test vehicle and demonstrate by testing that it meets applicable standards. Another vehicle which is in all material respects the same as the first vehicle, as modified, shall then be operated and tested in accordance with applicable test procedures.

(5) If the manufacturer does not request a hearing or present the required data under subparagraph (4) of this paragraph, the Administrator will deny certification.

§ 85.275–31 Separate certification.

Where possible a manufacturer should include in a single application for certification all vehicles for which certification is required. A manufacturer may, however, choose to apply separately for certification of part of his product line. The selection of test vehicles and the computation of test results will be determined separately for each application.

§ 85.275–32 Addition of a vehicle after certification.

(a) If a manufacturer proposes to add to his product line a vehicle of the same engine-system combination as vehicles previously certified but which was not described in the application for certification when the test vehicle(s) representing other vehicles of that combination was certified, he shall notify the Administrator. Such notification shall be in advance of the addition unless the manufacturer elects to follow the procedure described in § 85.275–34. This notification shall include a full description of the vehicle to be added.

(b) The Administrator may require the manufacturer to perform such tests on the test vehicle(s) representing the vehicle to be added which would have been required if the vehicle had been included in the original application for certification.

(c) If, after a review of the test reports and data submitted by the manufacturer, and data derived from any testing conducted under § 85.275–29, the Administrator determines that the test vehicle(s) meets all applicable standards, the appropriate certificate will be amended accordingly. If the Administrator determines that the test vehicle(s) does not meet applicable standards, he will proceed under § 85.275–30(b).

§ 85.275–33 Changes to a vehicle covered by certification.

(a) The manufacturer shall notify the Administrator of any change in production vehicles in respect to any of the parameters listed in § 85.275–5(a)(3) or § 85.275–5(b)(3), giving a full description of the change. Such notification shall be in advance of the change unless the manufacturer elects to follow the procedure described in § 85.275–34.

(b) Based upon the description of the change, and data derived from such testing as the Administrator many require or conduct, the Administrator will determine whether the vehicle, as modified, would still be covered by the certificate of conformity then in effect.

(c) If the Administrator determines that the outstanding certificate would cover the modified vehicles, he will notify the manufacturer in writing. Except as provided in § 85.275–34 the change may not be put into effect prior to the manufacturer's receiving this notification. If the Administrator determines that the modified vehicles would not be covered by the certificate then in effect, then the modified vehicles shall be treated as additions to the product line subject to § 85.275–32.

§ 85.275–34 Alternative procedure for notification of additions and changes.

(a) A manufacturer may, in lieu of notifying the Administrator in advance of an addition of a vehicle under § 85.275–32 or a change in a vehicle under § 85.275–33, notify him concurrently with the making of the change if the manufacturer believes the addition or change will not require any testing under the appropriate section. Upon notification to the Administrator, the manufacturer may proceed to put the addition or change into effect.

(b) The manufacturer may continue to produce vehicles as described in the notification to the Administrator for a maximum of 30 days, unless the Administrator grants an extension in writing. This period may be shortened by a notification in accordance with paragraph (c) of this section.

(c) If the Administrator determines, based upon a description of the addition or change, that no test data will be required, he will notify the manufacturer in writing of the acceptability of the addition or change. If the Administrator determines that test data will be required, he will notify the manufacturer to rescind the change within 5 days of receipt of the notification. The Administrator will then proceed as in § 85.275–32 (b) and (c), or § 85.275–33 (b) and (c) as appropriate.

(d) Election to produce vehicles under this section will be deemed to be a consent to recall all vehicles which the Administrator determined under § 85.275–32(c) do not meet applicable standards, and to cause such nonconformity to be remedied at no expense to the owner.

§ 85.275–35 Labeling.

(a) (1) The manufacturer of any light duty truck subject to the standards prescribed in § 85.275–1 shall, at the time of manufacture, affix a permanent, legible label, of the type and in the manner described below, containing the information hereinafter provided, to all production models of such vehicles available for sale to the public and covered by a certificate of conformity under § 85.275–30(a).

(2) A plastic or metal label shall be welded, riveted, or otherwise permanently attached in a readily visible position in the engine compartment.

(3) The label shall be affixed by the vehicle manufacturer, who has been issued the certificate of conformity for such vehicle, in such a manner that it cannot be removed without destroying or defacing the label, and shall not be affixed to any equipment which is easily detached from such vehicle.

(4) The label shall contain the following information lettered in the English language in block letters and numerals, which shall be of a color that contrasts with the background of the label:

(i) The label heading: Vehicle Emission Control Information;

(ii) Full corporate name and trademark of manufacturer;

(iii) Engine displacement (in cubic inches) and engine family identification;

(iv) Engine tuneup specifications and adjustments, as recommended by the manufacturer, including idle speed, ignition timing, and the idle air-fuel mixture setting procedure and value (e.g. idle CO, idle air-fuel ratio, idle speed drop). These specifications should indicate the proper transmission position during tuneup and what accessories (e.g., air-conditioner), if any, should be in operation;

(v) The statement: "This Vehicle Conforms to U.S.E.P.A. Regulations Applicable to 1975 Model Year New Motor Vehicles."

(b) The provisions of this section shall not prevent a manufacturer from also reciting on the label that such vehicle or engine conforms to any applicable State emission standards for new motor vehicles or any other information that such manufacturer deems necessary for, or useful to, the proper operation and satisfactory maintenance of the vehicle.

§ 85.275–36 Submission of vehicle identification numbers.

(a) The manufacturer of any light duty truck covered by a certificate of conformity under § 85.275–30(a) shall, not later than 60 days after its manufacture, submit to the Administrator the vehicle identification number of such vehicle: *Provided*, That this requirement shall not apply with respect to any vehicle manufactured within any State, as defined in section 302(d) of the Act.

(b) The requirements of this section may be waived with respect to any manufacturer who provides information satisfactory to the Administrator which will enable the Administrator to identify those vehicles which are covered by a certificate of conformity.

§ 85.275–37 Production vehicles.

(a) Any manufacturer obtaining certification under this subpart shall supply to the Administrator, upon his request, a reasonable number of production vehicles selected by the Administrator which are representative of the engines, emission control systems, fuel systems, and transmissions offered and typical of production models available for sale under the certificate. These vehicles shall be supplied for testing at such time and place and for such reasonable periods as the Administrator may require.

(b) Any manufacturer obtaining certification under this subpart shall notify the Administrator, on a quarterly basis, of the number of vehicles of each engine family-engine displacement-exhaust emission control system-fuel system-transmission type-inertia weight class combination produced for sale in the United States during the preceding quarter. A manufacturer may elect to provide this information every 60 days instead or quarterly, to combine it with the notification required under § 85.275–36.

(c) All light duty trucks covered by a certificate of conformity under § 85.275–30(a) shall be adjusted by the manufacturer to the ignition timing specification detailed in § 85.275–35(a)(4)(iv).

§ 85.275–38 Maintenance instructions.

(a) The manufacturer shall furnish or cause to be furnished to the ultimate purchaser of each new motor vehicle subject to the standards prescribed in § 85.275–1, written instructions for the maintenance and use of the vehicle by the ultimate purchaser as may be reasonable and necessary to assure the proper functioning of emission control systems.

(1) Such instructions shall be provided for those vehicle and engine components listed in Appendix VI to this part (and for any other components) to the extent that maintenance of these components is necessary to assure the proper functioning of emission control systems.

(2) Such instructions shall be in clear, and to the extent practicable, nontechnical language.

(b) The maintenance instructions required by this section shall contain a general description of the documentation which the manufacturer will require from the ultimate purchaser or any subsequent purchaser as evidence of compliance with the instructions.

(3) Such instructions shall specify the performance of all scheduled maintenance performed by the manufacturer under § 85.275–6(a) and shall explain the conditions under which EGR system and catalytic converter maintenance is to be performed (e.g., what type of warning device is being employed and whether the device is activated by component maintenance).

§ 85.275–39 Submission of maintenance instructions.

(a) The manufacturer shall provide to the Administrator, no later than the time of the submission required by § 85.275–4, a copy of the maintenance instructions which the manufacturer proposes to supply to the ultimate purchaser in accordance with § 85.275–38(a). The Administrator will review such instructions to determine whether they are reasonable and necessary to assure the proper functioning of the vehicle's emission control systems. The Administrator will notify the manufacturer of his determination whether such instructions are reasonable and necessary to assure the proper functioning of the emission control systems.

(b) Any revision to the maintenance instructions which will affect emissions shall be supplied to the Administrator at least 30 days before being supplied to the ultimate purchaser unless the Administrator consents to a lesser period of time.

§ 85.276–1 Emission standards for 1976 model year light duty trucks.

The standards and test procedures set forth in § 85.275 remain applicable for the 1976 model year.

[FR Doc.73–15821 Filed 8–6–73;8:45 am]