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PART I

HIGHLIGHTS OF THIS ISSUE

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

WATERGATE SPECIAL PROSECUTION FORCE—Justice Department establishes office 30738

PHASE IV PRICES—CLC regulation regarding increases in volatile pricing of raw materials 30733

TOXIC MATERIALS—HEW requests data regarding exposure to certain chemical and airborne dust contaminants; comments by 2–6–74 30765

COST ACCOUNTING—Cost Accounting Standards Board establishes standards regarding negotiated national defense contracts; effective date reserved 30730

NEW ANIMAL DRUGS—FDA proposal regarding dosage requirements for feed blocks; comments by 1–7–74 30746

ANTIDUMPING—Treasury announces 6-month withholding of appraisement on picker sticks from Mexico; comments by 12–7–73 30751

MEETINGS—

Commerce: Computer Systems Technical Advisory Committee, 11–15–73 30754

HEW: National Advisory Council on Services and Facilities for the Developmentally Disabled, 11–16 and 11–17–73 30766

U.S. National Committee on Vital and Health Statistics, 12–4 and 12–5–73 30765

Chemical/Biological Information-Handling Review Committee, 11–27–73 30766

Radiological Health Research and Training Grants Review Committee, 11–13–73 30764

(Continued inside)

PART II:

AIR QUALITY STANDARDS—EPA approves and disapproves in part transportation control plans from Colorado, Springfield, Mass., Minnesota, and Oregon (4 documents) 30818, 30825, 30827, 30832

PART III:

SMALL BUSINESS INVESTMENT COMPANIES—SBA revises regulations effective 11–7–73 30835

PART IV:

HEALTH SERVICES—CLC proposal regarding institutional and noninstitutional providers of medical care; comments by 12–1–73 30849

November 7, 1973—Pages 30717–30858

Pulmonary-Allergy and Clinical Immunology Advisory Committee, 11–20–73 30764
Interior: Arizona Strip District Advisory Board, 12–6–73 30752
Independence National Historical Park Advisory Commission, 11–15–73 30753
Emergency Petroleum Supply Committee and the Supply and Distribution Subcommittee, 11–8–73 30753
FCC: Cable Television Technical Advisory Committee, 11–19–73 30773
STATE: Advisory Committee on Voluntary Foreign Aid, 11–15–73 30751
National Foundation on the Arts and the Humanities: Theatre Advisory Panel, 11–17 and 11–18–73 30788
Music Consultants, 11–8, 11–9 and 11–10–73 30788
National Manpower Advisory Committee Subcommittee on Professional, Scientific and Technical Manpower, 11–16–73 30789
NASA: Historical Advisory Committee, 11–16 and 11–17–73 30788
Veterans Administration: Medical Research Service Merit Review Board (14 meetings) 12–4 through 12–18–73 30797
AEC: U.S. Nuclear Data Committee, 11–28 and 11–29–73 30768
CLC: Labor-Management Advisory Committee 11–13–73 30772

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Contents

AGENCY FOR INTERNATIONAL DEVELOPMENT

Notices

Advisory Committee on Voluntary Foreign Aid; meeting 30751
Mission Director and Deputy Mission Director in Indonesia; delegation of authority 30751

AGRICULTURAL MARKETING SERVICE

Rules and Regulations

Expenses and rate of assessment for 1973–74 crop year:
California Date Administrative Committee 30734
Raisin Administrative Committee 30734
Meat and Poultry Inspection Program; laboratory rate increase 30734

Notices

Grain standards; Washington inspection points; correction 30754

AGRICULTURE DEPARTMENT

See also Agricultural Marketing Service; Animal and Plant Health Inspection Service.

Notices

Blackfeet Indian lands in Montana; feed grain donations 30754

AIR FORCE DEPARTMENT

Rules and Regulations

Air Force Board for Correction of Military Records; delegation of authority 30739

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

Rules and Regulations

Areas released from quarantined:
Exotic Newcastle disease 30735
Scabies in cattle 30735
Meat and Poultry Inspection Program; laboratory rate increase 30736

ARMY DEPARTMENT

See Engineers Corps.

ATOMIC ENERGY COMMISSION

Notices

Consumers Power Company; further prehearing conference 30767
Detroit Edison Company; receipt of application for construction permits 30768
Regulatory guides; issuance and availability 30767
U.S. Nuclear Data Committee; meeting 30768
Virginia Electric and Power Company; hearing 30767

CIVIL AERONAUTICS BOARD

Notices

American Airlines, Inc., et al; fuel allocation program 30769
Eastern Airlines, Inc.; prehearing conference 30772

COAST GUARD

Rules and Regulations

Baltimore Harbor, Maryland; anchorage grounds 30740
Certain records and duplicate documents, certificates, or licenses; fees and charges 30740

COMMERCE DEPARTMENT

See also Domestic and International Business Administration; Maritime Administration; National Technical Information Service; Social and Economic Statistics Administration.

Notices

Audits Office; organization and functions 30757
Maritime Administration; organization and creation of position 30757
Social and Economic Statistics Administration; Organization and functions 30760

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

Notices

Products of the severely handicapped; addition to procurement list of 1973 30772

COST ACCOUNTING STANDARD BOARD

Rules and Regulations

Cost accounting period; standards regarding negotiated national defense contracts 30730
Negotiated defense prime contracts and subcontracts 30725

COST OF LIVING COUNCIL

Rules and Regulations

Phase II volatile pricing authorizations; expiration 30733

Proposed Rules

Health care; Phase IV regulations 30849

Notices

Institutional providers of health services; criteria for determining new properties, services or markets 30798
Labor-Management Advisory Committee; determination to close meeting 30772

DEFENSE DEPARTMENT

See Air Force Department; Engineers Corps.

DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION

Notices

Computer Systems Technical Advisory Committee; meeting 30754

EDUCATION OFFICE

Proposed Rules

Exemplary projects in vocational education; criteria, selection, and receipt of applications 30747

ENERGY POLICY OFFICE

Rules and Regulations

Mandatory allocation program for middle distillate fuels; removal of limitation imposed by term "customs territory of the United States (2 documents) 30739, 30740

ENGINEERS CORPS

Rules and Regulations

St. Lawrence River, New York; navigation; revocation 30740

ENVIRONMENTAL PROTECTION AGENCY

Rules and Regulations

Transportation Control Plans; approval and promulgation:
Colorado 30818
Massachusetts 30827
Minnesota 30832
Oregon 30825

Notices

Interstate motor carrier noise emission standards; availability of public background document; extension of time for comments 30773
Nebraska; state program approval for control of discharges to navigable waters 30773

FEDERAL AVIATION ADMINISTRATION

Rules and Regulations

Control zone and transition area; alteration 30736
Transition area:
Alteration (3 documents) 30737, 30738
Designation (4 documents) 30736, 30737

FEDERAL COMMUNICATIONS COMMISSION

Rules and Regulations

Special Industrial Radio Service; allocation of frequencies 30741

Proposed Rules

Dual-language TV/FM programming in Puerto Rico; extension of comment period 30748
FM Broadcast stations:
Beaufort, South Carolina 30748
Lexington, Missouri 30748

Notices

Cable Television Technical Advisory Committee; meeting 30773
Southern Radio and Television Corp.; renewal of license 30774
Standard broadcast applications; availability for processing 30774
WLCY–TV, Inc.; application for construction permit 30775

(Continued on next page)

FEDERAL CONTRACT COMPLIANCE OFFICE

Rules and Regulations

Prime contractor and subcontractor; access to records and site of employment ... 30741

FEDERAL DISASTER ASSISTANCE ADMINISTRATION

Notices

Major disaster and related determinations:
Missouri ... 30766
Nebraska ... 30766

FEDERAL POWER COMMISSION

Proposed Rules

Imputed rate of return on jurisdictional rate base; termination of rulemaking proceeding; correction ... 30749

Notices

Alaska Power Survey; Technical Advisory Committee on Economic Analysis and Load Projection; meeting ... 30776

Hearings, etc.:

Algonquin Gas Transmission Co ... 30776
Boston Edison Co ... 30776
Consolidated Gas Supply Corp ... 30776
Dan River Inc ... 30781
Duke Power Co ... 30776
Florida Gas Transmission Co. and United Gas Pipe Line Co ... 30776
Georgia Power Co ... 30777
Great Lakes Gas Transmission Co ... 30777
Gulf Oil Corp ... 30777
Gulf States Utilities Co ... 30781
D. L. Hannifin, et al ... 30781
Hughes and Hughes ... 30778
Idaho Power Co ... 30782
Interstate Power Co ... 30778
Kentucky Utilities Co ... 30782
Illinois Power Co ... 30778
Louisiana-Nevada Transit Co ... 30782
Marathon Oil Co ... 30778
McCulloch Oil Corp of Texas ... 30783
Michigan Wisconsin Pipe Line Co. et al ... 30779
Mobil Oil Corp ... 30779
Natural Gas Pipeline Co. of America ... 30779
Northern Natural Gas Co ... 30780
Ohio Power Co ... 30783
Otter Tail Power Co. et al ... 30783
Pacific Gas Transmission Co ... 30784
Pennsylvania Electric Co ... 30784
Phillips Petroleum Co ... 30784
Public Service Co. of Indiana ... 30780
Public Service Co. of Oklahoma ... 30784
Rodman Corp ... 30784
Roseau Electric Cooperative, Inc ... 30785
Southern Natural Gas Co ... 30785
Stone Oil Corp ... 30780
Texas Gas Transmission Corp ... 30786

FISH AND WILDLIFE SERVICE

Rules and Regulations

Bosque Del Apache National Wildlife Refuge, New Mexico; hunting (2 documents) ... 30743
Sport fishing:
Bosque Del Apache National Wildlife Refuge, New Mexico ... 30743
Necedah National Wildlife Refuge, Wisconsin ... 30743

FOOD AND DRUG ADMINISTRATION

Proposed Rules

Animal feed blocks; new animal drug requirements ... 30746

Notices

Certain combination antacid-anti-cholinergic drugs; correction ... 30764
LaWall and Harrison Research Laboratories, Inc.; withdrawal of petition for food additives ... 30764
Meetings:
Pulmonary-Allergy and Clinical Immunology Advisory Committee ... 30764
Radiological Health Research and Training Grants Review Committee ... 30764

GENERAL SERVICES ADMINISTRATION

Notices

Federal property management regulations; delegations of authority (2 documents) ... 30787, 30788

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See Education Office; Food and Drug Administration; Health Resources Administration; National Institute for Occupational Safety and Health; National Institutes of Health; Social and Rehabilitation Service; Social Security Administration.

HEALTH RESOURCES ADMINISTRATION

Notices

U.S. National Committee on Vital and Health Statistics; meeting ... 30765

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

See Federal Disaster Assistance Administration.

IMMIGRATION AND NATURALIZATION SERVICE

Rules and Regulations

Prescribed forms; notice to applicant for admission detained for hearing before Special Inquiry Officer; correction ... 30735

INTERIM COMPLIANCE PANEL (COAL MINE HEALTH AND SAFETY)

Notices

Valley Camp Coal Co.; application for renewal permit; opportunity for public hearing ... 30788

INTERIOR DEPARTMENT

See also Fish and Wildlife Service; Land Management Bureau; National Park Service; Oil and Gas Office.

Notices

Environmental impact statements; availability:
Master plan for Mount Rainier National Park, Wash ... 30753
Pond-Poso Improvement District, Calif ... 30753
Proposed master plan for Hawaii Volcanoes National Park, Hawaii ... 30753
Proposed natural resources management plan for Hawaii Volcanoes National Park ... 30754
Proposed wilderness areas; Hawaii Volcanoes National Park ... 30754
Wilderness proposal for Mount Rainier National Park ... 30754

INTERSTATE COMMERCE COMMISSION

Rules and Regulations

Car service:
Central Iowa Railroad and Development Co ... 30742
Lumber and plywood; restrictions on reconsigning ... 30742

Proposed Rules

Lease and interchange of vehicles; extension of comment period ... 30750

Notices

Assignment of hearings (2 documents) ... 30798
Exemption under the mandatory car service rule:
Atlanta and West Point Rail Road Co., et al ... 30798
Erie Lackawanna Railway Co ... 30806
Missouri-Kansas Railroad Co., and St. Louis-San Francisco Railway Co ... 30806
Norfolk and Western Railway Co., and Penn Central Transportation Co ... 30806
Seaboard Coastline Railroad Co ... 30799
Expiration of third revised exemption No. 22, ex parte 241 ... 30806
Fourth section application for relief ... 30799
Motor carrier alternate route deviations ... 30799
Motor carrier applications and certain other proceedings ... 30800
Southern Railway Co.; abandonment of trackage rights ... 30805

JUSTICE DEPARTMENT

See Immigration and Naturalization Service.

Rules and Regulations

Office of Watergate Special Prosecution Force; establishment ... 30738

LABOR DEPARTMENT

See also Occupational Safety and Health Administration.

Notices
Investigation regarding adjustment assistance:
Don Gustin Shoe Co. Inc. 30797
Nina Footwear Co. Inc. 30797

LAND MANAGEMENT BUREAU
Notices
Arizona Strip District Advisory Board; meeting 30752
Oregon; withdrawal and reservation of land 30752
Wisconsin; filing of plat of survey (2 documents) 30752

MARITIME ADMINISTRATION
Notices
Bulk liquid chemical carriers; intention to issue environmental impact statement 30755

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION
Notices
NASA Historical Advisory Committee; meeting 30788

NATIONAL ENDOWMENT FOR THE ARTS
Notices
Architecture and Environmental Program; special instructions and procedures for submitting city options grant applications 30789

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES
Notices
Meetings:
Music Consultants 30788
Theatre Advisory Panel 30788

NATIONAL INSTITUTE FOR OCCUPATIONAL SAFETY AND HEALTH
Notices
Certain airborne dust contaminants and chemical agents; request for information 30765

NATIONAL INSTITUTES OF HEALTH
Notices
Chemical/Biological Information-Handling Review Committee; meeting 30766

NATIONAL MANPOWER ADVISORY COMMITTEE
Notices
Subcommittee on Professional, Scientific and Technical Manpower; meeting 30789

NATIONAL PARK SERVICE
Notices
Independence National Historical Park Advisory Commission; meeting 30753

NATIONAL TECHNICAL INFORMATION SERVICE
Notices
Government-owned inventions; availability for licensing 30755

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION
Proposed Rules
Environmental impact statements; proposed procedure 30744

OIL AND GAS OFFICE
Notices
Emergency Petroleum Supply Committee and Supply and Distribution Subcommittee; meeting 30753

SECURITIES AND EXCHANGE COMMISSION
Notices
Hearings, etc.:
American Bancshares Fund, Inc 30790
BBI, Inc. 30794
Columbia Gas System, Inc., et al 30790
Equity Funding Corporation of America 30794
Indiana & Michigan Electric Co. 30790
Jersey Central Power & Light Co 30795
Metropolitan Edison Co. 30791
Middle South Utilities, Inc. 30795
Penn General Agencies, Inc. 30794
Pennsylvania Life Co. 30794
Royal Properties Inc. 30796
Science Investments, Inc. 30796
State Mutual Life Assurance Company of America (2 documents) 30792, 30793
Triex International Corp. 30794
U.S. Financial Inc. 30794
Wealth Inc. 30796

SELECTIVE SERVICE SYSTEM
Proposed Rules
Effect of mailing communication; revocation 30749
Methods of transmitting orders and other official papers; proposed amendment 30749
Selection of nonvolunteer for alternate service; proposed amendments 30749

SMALL BUSINESS ADMINISTRATION
Rules and Regulations
Small Business Investment Companies; revision 30835
Notices
First Investment Corporation of Idaho: Application for license as a small business investment company 30796

SOCIAL AND ECONOMIC STATISTICS ADMINISTRATION
Notices
Survey of retail sales, purchases, and inventories; consideration to continue survey 30763

SOCIAL AND REHABILITATION SERVICE
Notices
National Advisory Council on Services and Facilities for the Developmentally Disabled; meeting 30766

SOCIAL SECURITY ADMINISTRATION
Proposed Rules
Income for aged, blind and disabled; eligibility and payment factors; correction 30748

STATE DEPARTMENT
See Agency for International Development.

TARIFF COMMISSION
Notices
Convertible game tables and components thereof; rescheduling of date set for resumption of hearing 30797

TRANSPORTATION DEPARTMENT
See Coast Guard; Federal Aviation Administration.

TREASURY DEPARTMENT
Notices
Picker sticks from Mexico; antidumping 30751

VETERANS ADMINISTRATION
Notices
Medical Research Service Merit Review Boards; meetings 30797

List of CFR Parts Affected

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

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

4 CFR

331 30725
351 30728
400 (2 documents) 30730
401 30730
402 30730
403 30730
404 30730
406 30730

6 CFR

Rulings 30733

PROPOSED RULES:

150 30850

7 CFR

54 30734
70 30734
987 30734
989 30734

8 CFR

299 30735

9 CFR

73 30735
82 30735
350 30736
355 30736

13 CFR

107 30736

14 CFR

71 (8 documents) 30736–30738

18 CFR

PROPOSED RULES:

260 30749

20 CFR

PROPOSED RULES:

416 30748

21 CFR

PROPOSED RULES:

135 30746

28 CFR

0 30738

29 CFR

PROPOSED RULES:

1999 30744

32 CFR

865 30739

PROPOSED RULES:

1604 30749
1641 30749
1660 30749

32A CFR

EPO Reg. 1 30739
EPO Reg. 7 30740

33 CFR

1 30740
110 30740
207 30740

40 CFR

52 (4 documents) 30818, 30825, 30827, 30832

41 CFR

60–1 30741

45 CFR

PROPOSED RULES:

103 30747

47 CFR

2 30742
89 30742
91 30742

PROPOSED RULES:

73 (3 documents) 30748

49 CFR

1033 (2 documents) 30742

PROPOSED RULES:

1057 30750

50 CFR

32 (2 documents) 30743
33 (2 documents) 30743

REMINDERS

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

Rules Going Into Effect Today

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

Next Week's Deadlines for Comments on Proposed Rules

page no. and date

NOVEMBER 7, 1973

CAB—Oral and informal contracts and agreements..... 28929; 10–18–73

CAB—Filing of agreements..... 28928; 10–18–73

NOVEMBER 12

AEC—Carbon-14 in vitro clinical or laboratory testing; general license for use..... 26813; 9–26–73

CONSUMER PRODUCT SAFETY COMMISSION—Exemption of isosorbide dinitrate-containing sublingual tablets and chewable preparations from child protection packaging requirements..... 25195; 9–12–73

EPA—Effluent limitations guidelines and standards of performance and pretreatment for inorganic chemicals manufacturing point source category..... 28174; 10–11–73

EPA—Feedlots category; effluent limitations..... 28974; 10–18–73

FCC—FM stations in Lexington, Mo.; table of assignments. 27303; 10–2–73

F&D—Restriction on level of copper in animal feed; list of substances that are generally recognizable as safe. 25694; 9–14–73

FHLBB—Proposed penalties for violations of rate control rules. 28081; 10–11–73

FHLBB—Applications procedures for branch offices (2 documents). 29090–29091; 10–19–73

HEW—Programs for the education of the handicapped.. 28230; 10–11–73

NOVEMBER 13

FPC—Reliability of electric and gas service..... 29821; 10–29–73

NOVEMBER 14, 1973

EPA—Water pollution control; reimbursement grants; priority for payment of funds appropriated by Public Law 92–399..... 28572; 10–15–73

FAA—Alteration of transition area at Crookston, Minn..... 28703; 10–16–73

FAA—Alteration of VOR Federal Airway between Grand Canyon, Utah, and Bryce Canyon, Ariz.... 28572; 10–15–73

FAA—Alteration of Jet Routes between Brownsville and Corpus Christi, Tex. 28572; 10–15–73

NOVEMBER 15, 1973

FMC—Rules governing the filing of increases in contract rates on less than statutory notice in the event of tariff currency depreciation..... 29343; 10–24–73

IRS—Income tax; allocation and apportionment of deductions.... 28682; 10–16–73

—First published at..... 15840; 6–18–73

JUSTICE DEPARTMENT—Schedule II controlled substances; physical security controls for practitioners. 29479; 10–25–73

MARITIME ADMINISTRATION—Maritime carriers; uniform system of accounts requirements..... 28682; 10–16–73

MINING ENFORCEMENT AND SAFETY ADMINISTRATION—Distinctly colored hard hats or caps for inexperienced miners..... 27621; 10–5–73

MINING ENFORCEMENT AND SAFETY ADMINISTRATION—Rollover protective structures and falling object protective structures for mobile equipment..... 27841; 10–9–73

SEC—Accounting Series Release No. 16—Effect of Treasury stock transactions on accounting for business combinations..... 28819; 10–17–73

SEC—Financial statements; disclosure of significant accounting policies. 28948; 10–18–73

SEC—Transactions by an issuer deemed not to involve any public offering..... 28951; 10–18–73

VA—Vocational rehabilitation; definition and categorization of the periods of basic eligibility..... 28844; 10–17–73

NOVEMBER 16

APHIS—Dressed poultry; deletion from inspection regulations those provisions allowing production, labeling, movement between establishments, or importation..... 24374; 9–7–73

FCC—Aviation Services; aeronautical mobile (R) VHF band..... 29077; 10–19–73

FCC—FM Broadcast stations in certain cities in Missouri and in Marion, Ohio..... 28574; 10–15–73

FCC—FM Broadcast stations in Princeton, Ill..... 28840; 10–17–73

FDA—Bacitracin and combinations; change of moisture determination. 26006; 9–17–73

FDA—Control of electronic product radiation; product identification and initial reports..... 26007; 9–17–73

FHLBB—Transactions with affiliates by service corporation subsidiaries of subsidiary insured institutions. 10–16–73

Next Week's Hearing

NOVEMBER 12

TARIFF COMMISSION—Alleged unfair methods of competition and unfair acts in the importation and sale of certain writing instruments; to be held in Washington, D.C. 28874; 10–17–73

NOVEMBER 13

Customs Service—Customs bond regulations..... 25995; 9–17–73

NOVEMBER 14

TARIFF COMMISSION—Acrylonitrile-butadiene-styrene type of plastic resin; investigation, to be held in Washington, D.C.. 28984; 10–18–73

Weekly List of Public Laws

This is a listing of public bills enacted by Congress and approved by the President, together with the law number, the date of approval, and the U.S. Statutes citation. Subsequent lists will appear every Wednesday in the FEDERAL REGISTER, and copies of the laws may be obtained from the U.S. Government Printing Office.

H.R. 6691..... Pub. Law 93–145
Legislative Branch Appropriation Act, 1974
(Nov. 1, 1973; 87 Stat. 527)

H.R. 8250..... Pub. Law 93–140
District of Columbia government, programs and activities; authorization
(October 26, 1973; 87 Stat. 504)

H.R. 8825..... Pub. Law 93–137
Department of Housing and Urban Development; Space, Science, Veterans, and Certain Other Independent Agencies Appropriation Act, 1974
(Oct. 26, 1973; 87 Stat. 491)

H.R. 9590..... Pub. Law 93–143
Treasury, Postal Service, and General Government Appropriation Act, 1974
(Oct. 30, 1973; 87 Stat. 510)

H.J. Res. 748..... Pub. Law 93–142
International financial institutions, appropriations
(Oct. 26, 1973; 87 Stat. 510)

S. 907..... Pub. Law 93–144
To authorize the appropriation of $150,000 to assist in financing the arctic winter games to be held in the State of Alaska
(Nov. 1, 1973; 87 Stat. 527)

S. 2282..... Pub. Law 93–141
New Hope Dam and Lake, North Carolina, name change
(Oct. 26, 1973; 87 Stat. 510)

S. 2486..... Pub. Law 93–139
Trotters Shoals Dam and Lake, Georgia and South Carolina, name change
(Oct. 26, 1973; 87 Stat. 503)

S.J. Res. 164..... Pub. Law 93–138
Former Vice President Spiro T. Agnew, franking privileges, extension
(Oct. 26, 1973; 87 Stat. 503)

The President vetoed S. 1317, United States Information Agency Appropriations Authorization Act of 1973 and H.J. Res. 542, War Powers Resolution. Messages dated Oct. 23, 24, 1973, respectively; Weekly Compilation of Presidential Documents, Vol. 9, No. 39.

Rules and Regulations

Title 4—Accounts

CHAPTER III—COST ACCOUNTING STANDARDS BOARD

NEGOTIATED DEFENSE PRIME CONTRACTS AND SUBCONTRACTS

Miscellaneous Amendments

The purpose of this publication by the Cost Accounting Standards Board is to amend Parts 331, 351, 400, 401, 402, 403, and 404 of its rules and regulations. The amendments, which are minor clarifications to the regulations, were published in the FEDERAL REGISTER of September 5, 1973 (38 FR 23971). The amendments: (a) Re-number Parts 331 and 351 to facilitate insertion of future modifications to those parts; (b) clarify one section of the contract clause at § 331.5; and (c) modify certain definitions in Parts 400, 401, 402, 403, and 404 for the purposes of uniformity among the various Parts. Only one comment in response to the September publication has been received by the Board. This expressed agreement with the proposed changes.

In view of the foregoing, the following amendments to the Board's regulations are being made effective November 7, 1973:

PART 331—CONTRACT COVERAGE

331.10 Purpose and scope.
331.20 Definitions.
331.30 Applicability, exemption, and waiver.
331.40 Solicitation notice.
331.50 Contract clause.
331.60 Post-award disclosure.
331.70 Interpretation.
331.80 Effective date.

AUTHORITY: Sec. 103, 84 Stat. 796 (50 U.S.C. App. 2168).

§ 331.10 Purpose and scope.

The regulations contained in this part are promulgated to implement the standards and the rules and regulations established by the Cost Accounting Standards Board pursuant to 50 U.S.C. App. 2168 (Pub. L. 91-379, August 15, 1970). The requirements set forth herein shall be binding upon all relevant Federal agencies and upon defense contractors and subcontractors.

§ 331.20 Definitions.

(a) A "relevant Federal agency" is any Federal agency making a national defense procurement and any agency whose responsibilities include review, approval, or other action affecting such a procurement.

(b) A "defense contractor" is any contractor entering into a contract with the United States for the production of material or the performance of services for the national defense.

(c) A "defense subcontractor" is any person other than the United States who contracts, at any tier, to perform any part of a defense contractor's contract.

(d) "National defense" is any program for military and atomic energy production or construction, military assistance to any foreign nations, stockpiling, space, and directly related activity.

(e) The definition of "established catalog or market prices of commercial items sold in substantial quantities to the general public" set out in the Armed Services Procurement regulation (32 CFR 3.807-1(b)), in effect at the date of the contract, shall be used.

(f) A "negotiated subcontract" is any subcontract except a firm fixed-price subcontract made by a contractor or subcontractor after receiving offers from at least two firms not associated with each other or such contractor or subcontractor, providing (1) the solicitation to all competing firms is identical, (2) price is the only consideration in selecting the subcontractor from among the competing firms solicited, and (3) the lowest offer received in compliance with the solicitation from among those solicited is accepted.

(g) A "Disclosure Statement" is the Disclosure Statement required by Cost Accounting Standards Board regulation (Part 351 of this chapter).

§ 331.30 Applicability, exemption, and waiver.

(a) The head of each relevant Federal agency shall cause or require the clause set forth in § 331.50 captioned COST ACCOUNTING STANDARDS to be inserted in all negotiated defense contracts in excess of $100,000, other than contracts entered into by the agency where the price 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. Additionally, all solicitations, likely to result in a contract in which the clause set forth in § 331.50 must be inserted, shall include the notice set forth in § 331.40 captioned DISCLOSURE STATEMENT—COST ACCOUNTING PRACTICES AND CERTIFICATION.

(b) The requirements of paragraph (a) of this section shall not be applicable to:

(1) Any contract made pursuant to a special method of procurement known as "Small Business Restricted Advertising";

(2) Any contract made with a small business pursuant to partial small business set-aside procedures; or

(3) Any contract entered into under authority of section 8(a) of the Small Business Act (15 U.S.C. 637(a)).

(4) Any contract made with a labor surplus area concern pursuant to procedures providing for a partial set-aside for such concern as set out in ASPR 1-804, 32 CFR 1.804; and FPR 1-1.804, 41 CFR 1-1.804.

(5) Any contract awarded to the Canadian Commercial Corp. in accordance with the terms of the agreement of July 27, 1956, as amended, between the Department of Defence Production (Canada) and the U.S. Departments of the Army, the Navy, the Air Force, and the Defense Supply Agency.

(6) Any contract awarded to Western Electric Co. for materials, supplies, or services which are standard items of the Bell System. This paragraph 6 expires on June 30, 1973.

(c)(1) Upon request of the Secretary of Defense, the Deputy Secretary of Defense, or the Assistant Secretary of Defense (Installation and Logistics), or outside the Department of Defense, of officials in equivalent positions, the Cost Accounting Standards Board may waive all or any part of the requirements of paragraph (a) of this section with respect to a contract or subcontract to be performed within the United States, or a contract or subcontract to be performed outside the United States by a domestic concern. A domestic concern is an incorporated concern incorporated in the United States or an unincorporated concern having its principal place of business in the United States. (In the context of this subparagraph, "concern" refers to a prospective or actual contractor. Thus, a contract with a foreign subsidiary or foreign branch or business office of a U.S. corporation would not be a contract with a domestic concern. Conversely, a contract executed by a foreign salesman or agent on behalf of a domestic concern would nevertheless be a contract with a domestic concern since the basic contractual and legal responsibility resides with the domestic concern.) Any request for a waiver shall describe the proposed contract or subcontract for which waiver is sought and shall contain (i) an unequivocal statement that the proposed contractor or subcontractor refuses to accept a contract containing all or a specified part of the Cost Accounting Standards clause and the specific reason for that refusal, (ii) a statement whether the proposed contractor or subcontractor has accepted any prime contract or subcontract with any Federal department or agency containing the Cost Accounting Standards clause, (iii) the amount of the proposed award and the sum of all

awards by the department or agency requesting the waiver to the proposed contractor or subcontractor in each of the preceding 3 years, (iv) a statement that no other source of the supplies or services being procured is available to satisfy the needs of the agency on a timely basis, (v) a statement of any alternative methods of fulfilling the project or program needs and the agency's reasons for rejecting such alternatives, (vi) a statement of the steps being taken by the procuring agency to establish other sources of supply for future procurements of the products or services for which a waiver is being requested, and (vii) any other information that may aid the Board in evaluating the requested waiver.

(2) Upon request of the Secretary of Defense, the Deputy Secretary of Defense, or the Assistant Secretary of Defense (Installation and Logistics), or outside the Department of Defense, of officials in equivalent positions, the Cost Accounting Standards Board may waive all or any part of the requirements of paragraph (a) of this section with respect to a proposed contract or subcontract to be performed outside the United States by a foreign government or a foreign concern. A foreign concern is a concern that is not a domestic concern, as defined in paragraph (c)(1) of this section. Any request for a waiver shall describe the proposed contract or subcontract for which waiver is sought and shall contain (i) the amount of the proposed award and the sum of all awards by the department or agency requesting the waiver to the proposed contractor or subcontractor in each of the preceding 3 years, (ii) a statement that no other source of the supplies or services being procured is available to satisfy the needs of the agency on a timely basis, (iii) a statement of any alternative methods of fulfilling the project or program needs and the agency's reasons for rejecting such alternatives, (iv) a statement of the steps being taken by the procuring agency to establish other sources of supply for future procurements of the products or services for which a waiver is being requested, and (v) any other information that may aid the Board in evaluating the requested waiver.

(3) In the event the agency head determines that it is impractical to secure a required Disclosure Statement in accordance with the contract clause and § 331.60, he may authorize award of such contract or subcontract. He shall within 30 days thereafter submit a report to the Cost Accounting Standards Board, setting forth all material facts.

(4) The authority in this § 331.30(c) shall not be delegated.

§ 331.40 Solicitation notice.

DISCLOSURE STATEMENT—COST ACCOUNTING PRACTICES AND CERTIFICATION

Any contract in excess of $100,000 resulting from this solicitation, except contracts where the price negotiated is based on: (1) Established catalog or market prices of commercial items sold in substantial quantities to the general public, or (2) prices set by law or regulation, will be subject to the requirements of the Cost Accounting Standards Board. Any offeror submitting a proposal, which, if accepted, will result in a contract subject to the requirements of the Cost Accounting Standards Board must, as a condition of contracting, submit a Disclosure Statement as required by regulations of the Board. The Disclosure Statement must be submitted as a part of the offeror's proposal under this solicitation unless, in compliance with agency procedures, the offeror has already submitted a Disclosure Statement disclosing the practices used in connection with the pricing of this proposal, or unless post-award submission has been authorized by the Contracting Officer in accordance with regulations of the Cost Accounting Standards Board (see 4 CFR 331.60). If an applicable Disclosure Statement has already been submitted, the offeror may satisfy the requirement for submission by providing the following information: [1]

CERTIFICATION (APPLICABLE ONLY TO PROPOSALS RESULTING IN CONTRACTS SUBJECT TO COST ACCOUNTING STANDARD BOARD REQUIREMENTS)

By submission of this offer, the offeror certifies that his practices used in estimating costs in pricing this proposal are consistent with the cost accounting practices disclosed in the applicable Disclosure Statement.

§ 331.50 Contract clause.

The following clause shall be inserted in all contracts subject to Cost Accounting Standards Board requirements:

COST ACCOUNTING STANDARDS

(a) Unless the Cost Accounting Standards Board has prescribed rules or regulations exempting the contractor or this contract from standards, rules, and regulations promulgated pursuant to 50 U.S.C. App. 2168 (Pub. L. 91-379, August 15, 1970), the contractor, in connection with this contract shall:

(1) By submission of a Disclosure Statement, disclose in writing his cost accounting practices as required by regulations of the Cost Accounting Standards Board. The required disclosures must be made prior to contract award unless the Contracting Officer provides a written notice to the contractor authorizing post-award submission in accordance with regulations of the Cost Accounting Standards Board. The practices disclosed for this contract shall be the same as the practices currently disclosed and applied on all other contracts and subcontracts being performed by the contractor and which contain this Cost Accounting Standards clause. If the contractor has notified the Contracting Office that the Disclosure Statement contains trade secrets and commercial or financial information which is privileged and confidential, the Disclosure Statement will be protected and will not be released outside of the Government.

(2) Follow consistently the cost accounting practices disclosed pursuant to (1) above in accumulating and reporting contract performance cost data concerning this contract. If any change in disclosed practices is made for purposes of any contract or subcontract subject to Cost Accounting Standards Board requirements, the change must be applied prospectively to this contract, and the Disclosure Statement must be amended accordingly. If the contract price or cost allowance of this contract is affected by such changes, adjustment shall be made in accordance with subparagraph (a)(4) or (a)(5) below, as appropriate.

(3) Comply with all Cost Accounting Standards in effect on the date of award of this contract or if the contractor has submitted cost or pricing data, on the date of final agreement on price as shown on the contractor's signed certificate of current cost or pricing data. The contractor shall also comply with any Cost Accounting Standard which hereafter becomes applicable to a contract or subcontract of the contractor. Such compliance shall be required prospectively from the date of applicability to such contract or subcontract.

(4)(A) Agree to an equitable adjustment as provided in the changes clause of this contract if the contract cost is affected by a change which, pursuant to (3) above, the contractor is required to make to his established cost accounting practices whether such practices are covered by a Disclosure Statement or not.

(B) Negotiate with the contracting officer to determine the terms and conditions under which a change to either a disclosed cost accounting practice or an established cost accounting practice, other than a change under (4)(A) above, may be made. A change to a practice may be proposed by either the Government or the contractor, provided, however, that no agreement may be made under this provision that will increase costs paid by the United States.

(5) Agree to an adjustment of the contract price or cost allowance, as appropriate, if he or a subcontractor fails to comply with an applicable Cost Accounting Standard or to follow any practice disclosed pursuant to subparagraphs (a)(1) and (a)(2) above and such failure results in any increased costs paid by the United States. Such adjustment shall provide for recovery of the increased costs to the United States together with interest thereon computed at the rate determined by the Secretary of the Treasury pursuant to Public Law 92-41, 85 Stat. 97, or 7 percent per annum, whichever is less, from the time the payment by the United States was made to the time the adjustment is effected.

(b) If the parties fail to agree whether the contractor or a subcontractor has complied with an applicable Cost Accounting Standard, rule, or regulation of the Cost Accounting Standards Board and as to any cost adjustment demanded by the United States, such failure to agree shall be a dispute concerning a question of fact within the meaning of the disputes clause of this contract.

(c) The contractor shall permit any authorized representatives of the head of the agency, of the Cost Accounting Standards Board, or of the Comptroller General of the United States to examine and make copies of any documents, papers, or records relating to compliance with the requirements of this clause.

(d) The contractor shall include in all negotiated subcontracts which he enters into the substance of this clause except paragraph (b), and shall require such inclusion in all other subcontracts or any tier, except that this requirement shall apply only to negotiated subcontracts in excess of $100,000 where the price negotiated is not based on:

(i) Established catalog or market prices of commercial items sold in substantial quantities to the general public, or

(ii) Prices set by law or regulation.

However, if this is a contract with an agency which permits subcontractors to appeal final decisions of the contracting officer directly to the head of the agency or his duly authorized representative, then the contractor shall include the substance of paragraph (b) as well.

NOTE: In any case where a subcontractor determines that the Disclosure Statement information is privileged and confidential and declines to provide it to his contractor or

[1] (The agency issuing the solicitation should specify the data which it will accept if any in lieu of resubmission of a Disclosure Statement already submitted.)

higher tier subcontractor, the contractor may authorize direct submission of that subcontractor's Disclosure Statement to the same Government offices to which the contractor was required to make submission of his Disclosure Statement. Such authorization shall in no way relieve the contractor of liability as provided in paragraph (a)(5) of this clause. In view of the foregoing and since the contract may be subject to adjustment under this clause by reason of any failure to comply with rules, regulations, and Standards of the Cost Accounting Standards Board in connection with covered subcontracts, it is expected that the contractor may wish to include a clause in each such subcontract requiring the subcontractor to appropriately indemnify the contractor. However, the inclusion of such a clause and the terms thereof are matters for negotiation and agreement between the contractor and the subcontractor, provided that they do not conflict with the duties of the contractor under its contract with the Government. It is also expected that any subcontractor subject to such indemnification will generally require substantially similar indemnification to be submitted by his subcontractors.

(e) The terms defined in § 331.20 of Part 331 of Title 4, Code of Federal Regulations (4 CFR 331.20) shall have the same meanings herein. As there defined, "negotiated subcontract" means "any subcontract except a firm fixed-price subcontract made by a contractor or subcontractor after receiving offers from at least two firms not associated with each other or such contractor or subcontractor, providing (1) the solicitation to all competing firms is identical, (2) price is the only consideration in selecting the subcontractor from among the competing firms solicited, and (3) the lowest offer received in compliance with the solicitation from among those solicited is accepted."

§ 331.60 Post-award disclosure.

(a) As specified in the solicitation notice and contract clause set forth in § 331.50, Disclosure Statements must be submitted by offerors required to make disclosure prior to contract award unless the contracting officer authorizes in writing post-award submission. As specified in the contract clause set forth in § 331.50, Disclosure Statements must be submitted by prospective subcontractors required to make disclosure prior to subcontract award unless the contracting officer at the request of the contractor authorizes in writing post-award submission.

(b) Post-award submission may be authorized only when the contracting officer has made a written determination that such authorization is essential (1) to the national defense, (2) because of the public exigency, or (3) to avoid undue hardship. Each determination shall set forth facts which clearly support the determination to authorize post-award submission, and a copy of the determination shall be included in the contract file. Authorization issued pursuant to this paragraph shall specify the time, not to exceed 90 days after contract or subcontract award, by which disclosure must be made.

§ 331.70 Interpretation.

(a) Increased costs paid by the United States as referred to in paragraph (a)(5) of the Cost Accounting Standards clause in § 331.50 shall be deemed to have resulted whenever the cost paid by the Government results from application of practices other than the contractor's disclosed practices or from failure to comply with applicable Cost Accounting Standards, and such cost is higher than it would have been had the disclosed practices been followed or applicable Cost Accounting Standards been complied with.

(b) In negotiated firm fixed-price type contracts, however, "increased costs" cannot be interpreted in terms of a higher level of costs reimbursed during contract performance, since in such contracts the price to be paid would normally be the price agreed to. That price will have been based on the requirement that the contractor use his disclosed practices and comply with applicable Cost Accounting Standards. Subsequently, if the contractor fails during contract performance to follow his disclosed practices or to comply with applicable Cost Accounting Standards, any increased cost to the United States by reason of that failure must be measured by the difference between the cost estimates used in negotiations and the cost estimates that would have been used had the contractor proposed on the basis of the practices actually used during contract performance. (In cases where an offset of decreased costs allocated to firm fixed-price contracts against increased costs allocated to cost reimbursement type contracts may be involved, the provisions of paragraph (f) of this section shall apply.)

(c) The statutory requirement underlying this interpretation is that the United States not pay increased costs, including a profit enlarged beyond that in the contemplation of the parties to the contract when the contract costs, price, or profit is negotiated, by reason of a contractor's failure to use applicable Cost Accounting Standards or to follow his disclosed practices. In making price adjustments under paragraph (a)(5) of the Cost Accounting Standards clause in § 331.50, in fixed-price or cost-reimbursement incentive contracts, or contracts providing for prospective or retroactive price redetermination, the Federal agency shall apply this requirement appropriately in the circumstances.

(d) The contractor and the contracting officer may enter into an agreement as contemplated by paragraph (a)(4)(B) of the Cost Accounting Standards clause in § 331.50, covering a change in practice proposed by the Government or the contractor for all of the contractor's contracts for which the contracting officer is responsible, provided that the agreement does not permit any increase in the cost paid by the Government. Such agreement may be made final and binding, notwithstanding the fact that experience may subsequently establish that the actual impact of the change differed from that agreed to.

(e) To facilitate agreements with a contractor who has a large number of contracts affected by a proposed change in his disclosed cost accounting practices or affected by application of Cost Accounting Standards, contracting agencies are urged to establish procedures under which the contractor may seek, and in proper cases obtain, agreement with a single official concerning the impact of the proposed change or application of standards upon all such contracts of that agency.

(f) In one circumstance an adjustment to the contract price or of cost allowances pursuant to paragraph (a)(4)(B) of the Cost Accounting Standards clause in § 331.50 may not be required when an amendment to disclosed or established practices is estimated to result in increased costs being paid under a particular contract by the United States. This circumstance may arise when a contractor is performing two or more contracts, subject to Cost Accounting Standards Board rules, regulations, and standards, with an agency or agencies of the United States, and when he proposes to change a practice disclosed or established for all such contracts. The amendment may increase the cost paid under one or more of the contracts, while decreasing the cost paid under one or more of the contracts. In such case, the Government will not pursuant to paragraph (a)(4)(B) require price adjustment for any increased costs paid by the United States so long as the costs decreased under one or more contracts are at least equal to the increased cost under the other affected contracts, provided that the contractor and all affected contracting officers agree on the method by which the price adjustments are to be made for all affected contracts. In this situation, the contracting agencies would, of course, require an adjustment of the contract price or cost allowances, as appropriate, to the extent that the increases under certain contracts were not offset by the decreases under the remaining contracts.

(g) Where, through inadvertence, the contractor has failed to use applicable Cost Accounting Standards or to follow his disclosed practices and has not notified his contracting officer or officers of that failure, if the result of that failure is to increase costs paid under one or more contracts, while decreasing costs paid under one or more contracts, the contracting officer or officers of the agency or agencies concerned are urged, in the interest of administrative convenience, to negotiate the adjustment of the contract prices or cost allowances, as appropriate, of the affected contracts by requiring repayment of only the difference between the estimated price increases and the estimated price decreases, together with any applicable interest.

§ 331.80 Effective date.

The Disclosure Statement requirement at § 331.40 shall be included in all applicable solicitations issued on or after July 1, 1972, and all resulting contracts shall contain the contract clause at § 331.50. In any event, any other contract which is within the jurisdiction of the Cost Accounting Standards Board and which is awarded on or after October 1,

1972, shall contain that contract clause. Relevant Federal agencies shall notify the Cost Accounting Standards Board not later than June 1, 1972, of the action taken to implement this regulation.

Subchapter E—Disclosure Statement

PART 351—BASIC REQUIREMENTS

Sec.

351.10 [Reserved]
351.20 Purpose.
351.30 Definitions.
351.40 Filing requirements.
351.50 Contract awards.
351.60 Forms.
351.70 Submission.
351.80 Incorporation of Disclosure Statement.
351.90 Adequacy of Disclosure Statement.
351.100 Effect of filing Disclosure Statement.
351.110 Early filing.
351.120 Amendment of Disclosure Statement.
351.130 Instructions and information.
351.140 Disclosure Statement.

APPENDIX

AUTHORITY: Sec. 103, 84 Stat. 796 (50 U.S.C. App. 2168).

§ 351.10 [Reserved]

§ 351.20 Purpose.

This regulation is promulgated pursuant to section 719 of the Defense Production Act of 1950, as amended by 84 Stat. 796 (Pub. L. 91-379), to provide the means by which affected persons can satisfy the requirements established by that law for disclosure of their cost accounting practices and to promulgate the Disclosure Statement form. The regulation also sets forth the administrative procedures to be followed by the Cost Accounting Standards Board and relevant Federal agencies in connection with such disclosures.

§ 351.30 Definitions.

A "profit center" is the smallest organizationally independent segment of a company which has been charged by management with profit and loss responsibilities.

§ 351.40 Filing requirement.

(a) The requirements of this part are applicable to all defense contractors who enter into negotiated national defense contracts with the United States in excess of $100,000 other than contracts where the price negotiated is based on (1) established catalog or market prices of commercial items sold in substantial quantities to the general public, or (2) prices set by law or regulation. A separate Disclosure Statement must be submitted covering the practices of each of the contractor's profit centers, divisions, or similar organizational units whose costs included in the total price of any contract exceed $100,000, except where such costs are based on (i) established catalog or market prices of commercial items sold in substantial quantities to the general public or (ii) prices set by law or regulation. If the cost accounting practices under contracts are identical for more than one organizational unit, then only one Statement need be submitted for those units, but each such organizational unit must be identified. A Disclosure Statement will also be required for each Corporate or Group Office whose costs are allocated to one or more corporate segments performing contracts covered by Pub. L. 91-379.

(b) The requirements also apply to each subcontractor of whatever tier under a prime contract subject to these provisions provided the subcontract would, if it were a prime contract with the United States, be covered by the above statement of applicability for negotiated national defense contracts.

(c) The practices disclosed pursuant to these requirements shall be followed on all contracts and subcontracts subject to Pub. L. 91-379 being performed by the contractor or subcontractor.

(d) The Cost Accounting Standards Board will not make Disclosure Statements public in any case when the contractor files its statement specifically conditioned on the Government's agreement to treat the Disclosure Statement as confidential information.

(e) Every contractor and subcontractor covered by this subchapter must submit a Disclosure Statement as a condition of contracting. In order to minimize the administrative burdens upon contracting agencies, the initial requirement for filing is a phased requirement. Each company which together with its subsidiaries received net awards of negotiated national defense prime contracts during Federal fiscal years 1971 (July 1, 1970 through June 30, 1971) totaling more than $30 million must submit completed Disclosure Statements prior to receipt of any contract containing the clause set forth in § 331.50 of this chapter. From time to time, the Board will announce the dates of applicability to other contractors and subcontractors. Because a failure to submit an adequate, timely Disclosure Statement may result in the denial of a contract or subcontract award, relevant Federal agencies should act promptly to assure that affected companies submit Disclosure Statements as prescribed herein at the earliest possible time.

§ 351.50 Contract awards.

(a) After October 1, 1972, no relevant Federal agency shall award any national defense contract subject to this regulation to any contractor who during Federal fiscal year 1971 received net awards of negotiated contracts totaling $30 million or more unless such contractor has submitted a completed Disclosure Statement as required herein. As set forth in the contract clause at § 331.50 of this chapter, the contracting officer may, in certain circumstances, authorized post-award submission, notwithstanding the requirement of this section.

(b) No subcontract shall be awarded to any subcontractor required to file a Disclosure Statement pursuant to the filing requirement of § 351.40 unless the subcontractor has satisfied that requirement by submitting such Statement to the Government in the manner prescribed by agency regulations and agreed to with the prime contractor under whom the subcontract is to be awarded.

§ 351.60 Forms.

Disclosure Statements shall contain complete and accurate responses to the items set forth in § 351.140. For the convenience of persons required to submit Disclosure Statements, the Cost Accounting Standards Board has devised a form, Form No. CASB-DS-1, which should be used. Copies of the form may be requested by relevant Federal agencies for distribution to affected contractors and subcontractors from the Administrative Officer of the Cost Accounting Standards Board, 441 G Street NW., Washington, DC 20548. If for any reason, copies of the form cannot be obtained, the required information shall be supplied in a form substantially in accord with the arrangement set forth in § 351.140.

§ 351.70 Submission.

Each national defense contractor shall submit a copy of each Disclosure Statement, and any amendments thereto in accordance with the method prescribed by each Federal agency for which the contractor is performing or proposes to perform contracts subject to the rules, regulations, and standards of the Cost Accounting Standards Board. Concurrently, a copy shall also be submitted to the Cost Accounting Standards Board, 441 G Street NW., Washington, DC 20548.

§ 351.80 Incorporation of Disclosure Statement.

Every solicitation subject to the standards, rules, and regulations of the Cost Accounting Standards Board shall contain a provision allowing the contractor to identify and incorporate by reference, a Disclosure Statement already on file which will be applicable to that solicitation. Such identification and incorporation shall satisfy the requirement for disclosure as a condition of contracting. Agencies may, nonetheless, require submission of additional copies of such Disclosure Statement to the extent deemed necessary.

§ 351.90 Adequacy of Disclosure Statement.

Federal agencies shall prescribe regulations by which each will determine that a Disclosure Statement has adequately disclosed the practices required to be disclosed by Cost Accounting Standards Board's standards, rules, and regulations. Agencies are urged to coordinate development of such regulations. The Disclosure Statement submitted to the Cost Accounting Standards Board in accordwith § 351.70, is for evaluation and development of Board programs only. Consequently, such submission to the Board does not satisfy the requirement for disclosure as a condition of contracting, nor does any action by the Board with respect to such statement constitute a finding of any kind regarding the adequacy of the statements as submitted.

§ 351.100 Effect of filing Disclosure Statement.

Unless the Federal agency involved provides otherwise either by regulation or by specific notice to the contractor involved, a Disclosure Statement submitted to the agency or incorporated by reference shall be presumed adequate to meet the requirement that disclosure be made as a condition of contracting. The fact that the condition of contracting has been met shall serve only to establish what the contractor's cost accounting practices are or are proposed to be. In the absence of specific regulation or agreement, a disclosed practice shall not, by virtue of such disclosure, be deemed to have been approved by the agency involved as a proper, approved or agreed practice for pricing proposals or accumulating and reporting contract performance cost data.

§ 351.110 Early filing.

In order to permit orderly processing of Disclosure Statements, all prospective contractors and subcontractors are urged to submit Disclosure Statements as soon as possible. Notwithstanding such early filings, contractors will be bound to adhere to disclosed practices only with respect to contracts under which the contractor would otherwise be required to adhere to his disclosed practices pursuant to § 351.40.

§ 351.120 Amendment of Disclosure Statement.

(a) Disclosure Statement amendments may be submitted at any time. Contractors are reminded, however, that any amendments to Disclosure Statements must be made applicable prospectively to all contracts and subcontracts subject to Cost Accounting Standards. For this, reason, all relevant Federal agencies are strongly urged to establish interagency procedures for promptly coordinating agency activities stemming from changes in disclosed practices.

(b) Disclosure Statements must be amended for practices that must be changed to comply with Cost Accounting Standards which become applicable subsequent to the initial filing of the Disclosure Statements. Equitable adjustment of contract price or cost allowance will be made as set out in paragraph (a)(4)(A) of § 331.50 of this chapter.

(c) Disclosure Statements must also be amended for changes in practices voluntarily agreed to by the parties. In this event, the contractor and the contracting officer(s) may enter into an agreement as contemplated by paragraph (a)(4)(B) of § 331.50 of this chapter. Such agreement may specify the impact that a Government or contractor proposed change in practice shall be deemed to have on costs paid under one or more existing contract(s) for which the contracting officer(s) is responsible. Such agreement may be made final and binding, notwithstanding the fact that experience may subsequently establish that actual impact of the change differed from that agreed to.

(d) Amendments shall be submitted to the same offices, including the Cost Accounting Standards Board, to which submission would have to be made were an original Disclosure Statement being filed. Revised data for Items 1.4.0 through 1.7.0, 8.1.0 and 8.2.0 must be submitted annually at the beginning of the contractor's fiscal year. If fewer than five of the other items in the Disclosure Statement on file are changed, a letter notice precisely identifying the Disclosure Statement, the specific items being amended, and the nature of the changes will suffice. If five or more items are changed, the entire Disclosure Statement shall be resubmitted. Resubmitted Disclosure Statements must be accompanied by a notation specifying the items which have been changed and the nature of the change.

§ 351.130 Instructions and information.

The following instructions and information shall be used by persons completing Disclosure Statements.

INSTRUCTIONS AND INFORMATION

(a) This Disclosure Statement has been designed to meet the requirements of Pub. L. 91-379, and persons completing it are to describe their contract cost accounting practices. For timing of requirement to file a Disclosure Statement, see § 351.40. A statement must be submitted by all defense contractors who enter into negotiated national defense contracts with the United States in excess of $100,000 other than contracts where the price negotiated is based on (1) established catalog or market prices of commercial items sold in substantial quantities to the general public, or (2) prices set by law or regulation. A separate Disclosure Statement must be submitted covering the practices of each of the contractor's profit centers, divisons, or similar organizational units, whose costs included in the total price of any contract exceed $100,000, except where such costs are based on (1) established catalog or market prices of commercial items sold in substantial quantities to the general public, or (2) prices set by law or regulation. If the cost accounting practices under contracts are identical for more than one organizational unit, then only one statement need be submitted for those units, but each such organizational unit must be identified. A Disclosure Statement will also be required for each corporate or group office when costs are allocated to one or more corporate segments performing contracts covered by Pub. L. 91-379, but only Part VIII of the statement need be completed.

(b) The statement must be signed by an authorized signatory of the reporting unit.

(c) The disclosure of a cost accounting practice by a contractor does not determine the allowability of particular items of cost. Irrespective of the practices disclosed by a contractor, the question of whether or not, or the extent to which, a specific element of cost is allowed under a contract remains for consideration in each specific instance. Contractors are cautioned that the determination of the allowability of cost items will remain a responsibility of the contracting officers pursuant to the provisions of the applicable procurement regulations.

(d) Unless the Federal agency involved provides otherwise, either by regulation or by specific notice to the contractor involved, a Disclosure Statement submitted to the agency or incorporated by reference should be presumed adequate to meet the requirement that disclosure be made as a condition of contracting. In the absence of specific regulations or agreement, a disclosure practice should not, by virtue of such disclosure, be deemed to have been approved by the agency involved as a proper, approved, or agreed practice for pricing proposals or accumulating and reporting contract performance cost data.

(e) The individual Disclosure Statement may be used in audits of contracts or in negotiation of prices leading to contracts. The authority of the audit agencies and the contracting officers is in no way abrogated by the material presented by the contractor in his Disclosure Statement. Contractors are cautioned that their disclosures in response to the items herein must be complete and accurate; the practices disclosed may have a significant impact on ways in which contractors will be required to comply with Cost Accounting Standards.

(f) This Disclosure Statement should be answered by checking the appropriate box or inserting the applicable Code letter which most nearly describes the reporting unit's cost accounting practices. Part I of the statement asks for general information concerning the reporting unit. Part VIII covers Corporate and Group (Intermediate) offices whose costs are allocated to one or more segments performing contracts covered by Pub. L. 91-379. Part VIII should be completed by each such office, and care should be taken to insure proper identification of such offices on the cover of the Disclosure Statement. In short, while a Corporation or group office may have more than one reporting unit submitting Disclosure Statements, only one statement need be submitted to cover the Corporate or Group Office operations.

(g) A number of questions in this statement may need narrative answers requiring more space than is provided. In such instances, the reporting unit should use the continuation sheets provided or a facsimile thereof. The number of the question involved should be indicated and the same coding required to answer the questions in the statement should be used in presenting the answer in the continuation sheet. The reporting unit should indicate on the last continuation sheet used, the number of such sheets that were used.

(h) Contractors to whom Pub. L. 91-379 is applicable are required to follow consistently their disclosed practices in pricing contract proposals and in accumulating and reporting contract performance cost data. If deviation from disclosed practices results in increased costs being paid by the Government, contractors will be required to repay to the Government the amount of the increased costs together with interest charges.

(i) Pub. L. 91-379 contains an access to records clause, section 719(j) of the Law states:

"For the purpose of determining whether a defense contractor or subcontractor has complied with duly promulgated cost accounting standards and has followed consistently his disclosed cost accounting practices, any authorized representative of the head of the agency concerned, of the Board, or of the Comptroller General of the United States shall have the right to examine and make copies of any documents, papers, or records of such contractor or subcontractor relating to compliance with such cost accounting standards and principles."

§ 351.140 Disclosure Statement.

The data which are required to be disclosed are set forth in detail in the Disclosure Statement form CASB-DS-1 which will be devised by the Cost Accounting Standards Board and will be arranged substantially as set forth below.

Changes for consistency of style in definitions in Parts 400, 401, 402, 403, and

404. In the indicated sections the definition of "actual costs," "indirect cost pools," "tangible capital assets," and "home office" are changed to read as follows:

PART 400—DEFINITIONS

Section 400.1 is amended to read as follows:

§ 400.1 Definitions.

(a) * * *

Actual cost.—An amount determined on the basis of cost incurred as distinguished from forecasted cost. Includes standard cost properly adjusted for applicable variance.

* * * * *

Indirect cost pool.—A grouping of incurred costs identified with two or more objectives but not identified specifically with any final cost objective.

* * * * *

Tangible capital asset.—An asset that has physical substance, more than minimal value, and is expected to be held by an enterprise for continued use or possession beyond the current accounting period for the services it yields.

PART 401—COST ACCOUNTING STANDARD—CONSISTENCY IN ESTIMATING, ACCUMULATING, AND REPORTING COSTS

Section 401.30 is amended to read as follows:

§ 401.30 Definitions.

(a) * * *

(2) Actual cost.—An amount determined on the basis of cost incurred as distinguished from forecasted cost. Includes standard cost properly adjusted for applicable variance.

* * * * *

(4) Indirect cost pool. A grouping of incurred costs identified with two or more objectives but not identified specifically with any final cost objetcive.

* * * * *

PART 402—COST ACCOUNTING STANDARD—CONSISTENCY IN ALLOCATING COSTS INCURRED FOR THE SAME PURPOSE

Section 402.30 is amended to read as follows:

§ 402.30 Definitions.

(a) * * *

(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 to processes, products, jobs, capitalized projects, etc.

* * * * *

(6) *Indirect cost pool.* A grouping of incurred costs identified with two or more cost objectives but not identified specifically with any final cost objective.

* * * * *

PART 403—ALLOCATION OF HOME OFFICE EXPENSES TO SEGMENTS

Section 403.30 is amended to read as follows:

§ 403.30 Definitions.

(a) * * *

(2) *Home office.* An office responsible for directing or managing two or more, but not necessarily all, segments of an organization. It typically establishes policy for, and provides guidance to the segments in their operations. It usually performs management, supervisory, or administrative functions, and may also perform service functions in support of the operations of the various segments. An organization which has intermediate levels, such as groups, may have several els, such as groups, may have several home offices which report to a common home office. An intermediate organization may be both a segment and a home office.

(5) *Tangible capital asset.* An asset that has physical substance, more than minimal value, and is expected to be held by an enterprise for continued use or possession beyond the current accounting period for the services it yields.

* * * * *

§ 403.50 [Amended]

In line six of § 403.50(c)(2), change "§ 331.5" to "§ 331.50".

§ 403.70 [Amended]

In § 403.70, in lines three and eight change "§ 351.4" to "§ 351.40"; and in line thirteen change "§ 351.5" to "§ 351.50".

PART 404—CAPITALIZATION OF TANGIBLE ASSETS

Section 404.30 is amended to read as follows:

§ 404.30 Definitions.

(a) * * *

(2) *Tangible capital asset.* An asset that has physical substance, more than minimal value, and is expected to be held by an enterprise for continued use or possession beyond the current accounting period for the services it yields.

* * * * *

ARTHUR SCHOENHAUT,
Executive Secretary.

[FR Doc.73-23597 Filed 11-6-73;3:45 am]

Title 4—Accounts

CHAPTER III—COST ACCOUNTING STANDARDS BOARD

PART 400—DEFINITIONS

PART 406—COST ACCOUNTING STANDARD—COST ACCOUNTING PERIOD

Miscellaneous Amendments

The Standard on Cost Accounting Period published today is one of a series being promulgated by the Cost Accounting Standards Board pursuant to section 719 of the Defense Production Act of 1950, as amended (Pub. L. 91-379, 50 U.S.C. app. 2168), which provides for the development of Cost Accounting Standards to be used in connection with negotiated national defense contracts.

Work preliminary to the development of this Standard was initiated as the result of recognition that the selection of time periods to be used for contract cost accumulation and allocation has been the source of continuing problems between contractors and the Government. The problems include: (1) The lack of a firm requirement specifying the cost accounting period to be used, (2) the absence of specificity as to when a cost accounting period other than a contractor's fiscal year should be used, and (3) the lack of consistency in selecting the cost accounting period in which specific types of expenses and adjustments are recognized.

Early research on this Standard included an extensive review of available literature on the subject and a review of decisions of contract appeals boards and courts. A preliminary draft of the Standard on Cost Accounting Period was widely distributed for informal comment by interested parties.

The Standard now being promulgated is derived from the proposal which was published in the FEDERAL REGISTER for August 7, 1973, with an invitation for interested parties to submit data, views, and arguments to the Board. The Board supplemented that FEDERAL REGISTER publication by sending copies of the FEDERAL REGISTER directly to organizations and individuals who were expected to be interested. Responses were received from 50 sources, including individual companies, Government agencies, professional associations, and industry associations. All of the comments have been carefully considered by the Board.

Most of those who replied to the Board's solicitation indicated satisfaction with the proposal as published. Several contractors indicated that their practices already complied with the Standard. Several commentators voiced objection to parts of the Standard.

The Board takes this opportunity to express its appreciation for the helpful suggestions and constructive criticisms which have been furnished, both informally in response to the circulation of a Staff draft of a Standard and formally in response to the initial FEDERAL REGISTER publication.

The comments below summarize the major issues raised in connection with the August 7 proposal and explain the decisions which have been made.

(1) *Monthly allocations.* A few commentators felt that the Standard should permit monthly allocations of indirect costs on the basis of the data accumulated for each month. This alternative was considered by the Board; however, the idea of monthly cost accounting periods is not appropriate for contract cost accounting. A number of fairly stringent requirements for accruals, deferrals, and other adjustments would have to be in-

corporated in the provisions of any Standard if there were to be assurance that monthly accruals, deferrals, and other adjustments were appropriate. The administrative costs would outweigh any benefits. To allow monthly closings for some contract situations and to require full-year allocations for others would not be in the interest of comparability and uniformity. The Board, therefore, has not adopted the suggestion.

(2) *Identity of cost accounting periods for indirect cost pools and allocation bases.* A few commentators stated that it may not be necessary to require in every instance the identical allocation base period as the cost accumulation period. They stated that they presently use various clerical expedients to accomplish this, such as measuring the base for a period other than, but representative of the activity of, the period used for accumulating costs in an indirect cost pool. As a matter of principle, the Board does not agree that mismatched periods are proper. The Board, however, recognizes the value of appropriate expedients where cost allocations are not expected to be materially affected. It acknowledges that there may be occasions when it is necessary to use combinations of actual and estimated data to comply with this Standard.

The Board has given recognition to issues of materiality in its Statement of Operating Policies, Procedures, and Objectives in the FEDERAL REGISTER of March 6, 1973, and believes that materiality should be considered in the administration of its Standards. In order to alleviate practical problems which might be experienced in implementing this concept of materiality, the Board has changed § 406.40(c) and has added § 406.50(e).

(3) *Use of a cost accounting period for estimating.* Several commentators stated that § 406.50(c) was ambiguous. Some pointed out that this provision might be interpreted as always requiring the use of a full fiscal year, not withstanding the permissible use of a short period under the conditions provided in § 406.50(a). There was no provision in § 406.50(a) which precluded its application, when appropriate, in the circumstances described in § 406.50(c). Nevertheless, the Board has modified § 406.50 (c) to assure that there is no misinterpretation of its intent.

One commentator recommended that detailed guidelines be established for estimating cost data when estimates were necessary under the provisions of § 406.50(c). The Board believes that this is a matter of contract administration and negotiation. If the parties do not agree on proposed overhead rates for early settlement or closing of contracts, they are not required by this Standard to agree to an expedited settlement.

Two commentators recommended that variances resulting from a difference between the estimated overhead rates used for expediting the closing of contracts and the rates finally negotiated or determined for a cost accounting period should be accounted for by making appropriate eliminations from affected indirect cost pools and allocation bases. As a matter of principle, the Board believes that actual costs should be allocated in accordance with the contractor's disclosed or established practices to all cost objectives of the cost accounting period, including closed or settled contracts. In a settlement the price is fixed, but costs are not. By agreeing to a settlement price, the parties take the risk that actual costs allocated to that contract might be higher or lower than expected. However, the Board finds no need to specify how variances are to be accounted for in this Standard. Normally, the expected variances will be estimated to be minor in amount, or the parties will not agree on the settlement price. Also, the manner of accounting for the actual variance should be agreed upon by the contractor and the Administrative Contracting Officer. If the amount is negligible, it may be agreed that it should be absorbed by other cost objectives of the period. In any event, the Board believes that this is a matter of contract administration and negotiation.

(4) *Terminations.* A few commentators recommended that guidance be provided in § 406.50(c) for the treatment of unabsorbed overhead and continuing overhead charges allocable to contract terminations. The Board has noted the possible need for Cost Accounting Standards on termination costs and delay claims, situations in which the problems of unabsorbed overhead and continuing overhead charges frequently arise, and has initiated research projects on those subjects. At this time, the Board sees no need to disturb the expectations of the parties to a contract with respect to the absorption of overhead assigned to cost accounting periods (normally, fiscal years) by cost objectives of those same periods, whether or not those cost objectives exist throughout a cost accounting period.

(5) *Applicability of the standard to both direct and indirect costs.* One commentator recommended that the Standard be applied only to indirect costs. The Standard does apply to both direct costs and indirect costs as those terms are defined in 4 CFR Part 400. However, this Standard also includes provisions with specific applicability only to indirect cost pools. The Standard does not require that direct costs be allocated in the same manner as indirect costs. For example, it does not require that direct costs be annualized or averaged for purposes of cost allocation. Direct costs, however, are often used in establishing allocation bases for a period; therefore, they must be assigned and accounted for as costs of the particular cost accounting periods to which they are applicable. Consistency in making adjustments to both direct and indirect costs for purposes of determining the total costs allocable to the cost objectives of a cost accounting period is an important objective of this Standard.

(6) *Permitting the use of periods less than a year.* A few interested parties recommended that the Standard permit the use of a period shorter than a fiscal year when, for example, a significant contract was begun or concluded during a fiscal year. No one advanced any criteria for determining when to use a short period or how to apply it, even after specific requests for such suggestions. The only rationale advanced for using less than an annual period in such circumstances was the assertion that a short period might be employed to arrive at "more equitable allocations," or to avoid inequitable burdens on other cost objectives. In view of the vagueness of the criterion of "equity," the possible effect of changing the risks assumed by the respective parties at the time of contracting, the possible impact on matters of cost allowability and contract administration and negotiation responsibilities, and the continuance of disputes and disagreements over the equity of a short period in particular circumstances, the Board has concluded that the Standard should not authorize the use of a short period except for allocating the costs of an indirect function which exists for only a part of a cost accounting period and for establishing a transitional period when a change of fiscal year occurs. As published, this Standard precludes either party to the contract from insisting upon a short period in order to maximize or minimize cost recoupment. It precludes, for example, the calculation of overhead rates after-the-fact for alternative application on the basis of either the fiscal year or the period of performance, and the consequent polarization of the positions of the parties as to which period is appropriate or "equitable" when there is a substantial difference between these rates. The Board believes that this Standard will significantly enhance fairness and objectivity in this regard.

(7) *Equitable adjustments.* One professional accounting organization requested that a specific provision be added whereby an equitable adjustment would be made where the contract cost was affected by a change in the contractor's fiscal year and the change in the fiscal year was adopted for financial accounting and income tax purposes as well as for contract cost accounting. The principal argument advanced for this position is that "there seems to be no valid reason why a contractor should necessarily suffer and the Government should necessarily benefit in such a circumstance." In the illustration in § 406.60(c), the Board noted that, under this Standard, a change in the fiscal year data is a change in accounting practices, and that an adjustment of the contract price might therefore be required in accordance with the adjustment provisions of the contract clause set out at 4 CFR 331.50. Those provisions do contemplate that no change in disclosed or established cost accounting practices, other than changes under paragraph (a)(4)(A) of the clause, may result in an agreement whereby costs paid by the United States are increased. The Board recognizes that a contractor may

change his fiscal year ending date for substantial business reasons, and has illustrated this possibility in the Standard. A change in fiscal year may not have any cost impact. Where it does, the Board believes that it would be improper for the Government to agree to pay increased costs caused by a voluntary change in accounting practices, no matter how valid and unrelated to cost recovery the motives of the contractor for making the change in his fiscal year ending date may have been. A new paragraph (f) in § 406.50 makes it clear that a change in the contractor's cost accounting period is a change in accounting practices for which an adjustment in contract prices may be required in accordance with paragraph (a)(4)(B) of the contract clause set out at 4 CFR 331.50.

(8) *Choice of transitional period.* A public accounting firm suggested that it might help to avoid disagreements if the Standard made it clear as to the permissible choices in selecting the transitional period other than a year whenever a change of fiscal year occurred. This suggestion has been adopted in the new paragraph (f) of § 406.50.

(9) *Applicability to Renegotiation Board.* One commentator noted that the Renegotiation Board, a "relevant Federal agency" under Pub. L. 91-379, defines the term "fiscal year" to mean the taxable year of the contractor or subcontractor under Chapter I of the Internal Revenue Code, and that it has been the Renegotiation Board's practice to renegotiate a contractor on the same basis as the contractor reports for Federal income tax purposes. Hence, it was recommended that, especially because of §§ 406.40(a)(2) and 406.50(d) of the Standard, the Renegotiation Board be exempted from the application of the Standard.

The Board's research confirms the possibility that a few contractors may use cost accounting periods which are different from their tax years. In most cases, however, there will be no conflict. Where there are differences, any use of a cost accounting period or fiscal year which is not identical with the period used for Federal income tax reports will involve reconciliations by the taxpayer. Contractors who presently use "model years" for their cost accounting periods now file reports with the Renegotiation Board on a taxable year basis. The Board finds no need to disturb this practice, and has provided a new § 406.40(a)(4) to acknowledge it as an exception. The Board believes that the Standard is, however, otherwise applicable, and that there is no need for an exemption.

(10) *Comparing benefits and costs.* The Board concludes that this Standard as published herein has, for most contractors and for the Government, almost no cost impact. The only contrary expressions received in response to our requests have been answered by the changes described above. One major Defense agency expressed concern that the Standard might result in higher cost allocations to its contracts insofar as it did not permit the use of short periods. While this may be true, the Standard might also yield lower cost allocations to Government contracts as a result of the requirement to use a full fiscal year. No estimate of the amount of any shifts in cost allocations was provided. Because of the different circumstances of each application of the requirement, both increases and decreases in cost allocations can be expected.

The Board concludes that significant benefits, far outweighing any costs of implementation, will be realized from the promulgation of this Standard. Such benefits include reduction of disagreements and disputes; increased consistency, fairness, and objectivity; and improvement of estimates for proposals.

(11) *Effective date.* It is anticipated that the effective date in § 406.80(a) may be July 1, 1974.

There is also being published in this document an amendment to Part 400, Definitions, to incorporate in that part the term "fiscal year" defined in § 406.30 of the Standard.

Section 400.1(a) is amended by inserting the following definition alphabetically:

§ 400.1 Definitions.

* * * * *

Fiscal Year. The accounting period for which annual financial statements are regularly prepared, generally a period of 12 months, 52 weeks, or 53 weeks.

* * * * *

Sec.
406.10 General applicability.
406.20 Purpose.
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, Defense Production Act of 1950, as amended (Pub. L. 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 as cost accounting periods for contract cost estimating, accumulating, and reporting. This Standard will reduce the effects of variations in the flow of costs within each cost accounting period. It will also enhance objectivity, consistency, and verifiability, 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 pool.* A grouping 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 as his cost accounting period, except that:

(1) Costs of an indirect function which exists for only a part of a cost accounting period may be allocated to cost objectives of that same part of the period as provided in § 406.50(a).

(2) An annual period other than the fiscal year may, as provided in § 406.50(d), be used as the cost accounting period if its use is an established practice of the contractor.

(3) A transitional cost accounting period other than a year shall be used whenever a change of fiscal year occurs.

(4) Where a contractor's cost accounting period is different from the reporting period required by Renegotiation Board regulations, the latter may be used for such reporting.

(b) A contractor shall follow consistent practices in his selection of the cost accounting period or periods in which any types of expense and any types of adjustment to expense (including prior-period adjustments) are accumulated and allocated.

(c) The same cost accounting period shall be used for accumulating costs in an indirect cost pool as for establishing its allocation base, except that the contracting parties may agree to use a different period for establishing an allocation base as provided in § 406.50(e).

§ 406.50 Techniques for application.

(a) The cost of an indirect function which exists for only a part of a cost accounting period may be allocated on the basis of data for that part of the cost accounting period if the cost is (1) material in amount, (2) accumulated in a separate indirect cost pool, and (3) allocated on the basis of an appropriate direct measure of the activity or output of the function during that part of the period.

(b) The practices required by § 406.40 (b) of this Standard shall include appropriate practices for deferrals, accruals, and other adjustments to be used in identifying the cost accounting periods among which any types of expense and any types of adjustment to expense are distributed. If an expense, such as taxes, insurance or employee leave, is identified with a fixed, recurring, annual period which is different from the contractor's cost accounting period, the Standard permits continued use of that different period. Such expenses shall be distributed to cost accounting periods in accordance with the contractor's established practices for accruals, deferrals and other adjustments.

(c) Indirect cost allocation rates, based on estimates, which are used for the purpose of expediting the closing of contracts which are terminated or completed prior to the end of a cost accounting period need not be those finally determined or negotiated for that cost accounting period. They shall, however, be developed to represent a full cost accounting period, except as provided in paragraph (a) of this section.

(d) A contractor may, upon mutual agreement with the Government, use as his cost acounting period a fixed annual period other than his fiscal year, if the use of such a period is an established practice of the contractor and is consistently used for managing and controlling the business, and appropriate accruals, deferrals or other adjustments are made with respect to such annual periods.

(e) The contracting parties may agree to use an annual period which does not coincide precisely with the cost of accounting period for developing the data used in establishing an allocation base: *Provided*, (1) The practice is necessary to obtain significant administrative convenience, (2) the practice is consistently followed by the contractor, (3) the annual period used is representitive of the activity of the cost accounting period for which the indirect costs to be allocated are accumulated, and (4) the practice can reasonably be estimated to provide a distribution to cost objectives of the cost accounting period not materially different from that which otherwise would be obtained.

(f) When a transitional cost accounting period is required under the provisions of § 406.40(a)(3), the contractor may select any one of the following: (1) The period, less than a year in length, extending from the end of his previous cost accounting period to the beginning of his next regular cost accounting period; (2) a period in excess of a year, but not longer than fifteen months, obtained by combining the period described in subparagraph (1) of this paragraph with the previous cost accounting period; or (3) a period in excess of a year, but not longer than fifteen months, obtained by combining the period described in subparagraph (1) of this paragraph with the next regular cost accounting period. A change in the contractor's cost accounting period is a change in accounting practices for which an adjustment in the contract price may be required in accordance with paragraph (a)(4)(B) of the contract clause set out at § 331.50 of this chapter.

§ 406.60 Illustrations.

(a) A contractor allocates general management expenses on the basis of total cost input. In a proposal for a covered negotiated fixed-price contract, he estimates the allocable expenses based solely on the estimated amount of the general management expense 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 cost accounting period.

(b) A contractor whose cost accounting period 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. The total operating expenses of the computer service center for the eight-month part of the cost accounting period may be allocated to the benefiting cost objectives of that same eight-month period.

(c) A contractor changes his fiscal year from a calendar year to the 12-month period ending May 31. For financial reporting purposes, he has a five-month transitional "fiscal year." The same five-month period must be used as the transitional cost accounting period; it may not be combined as provided in § 406.50(f), because the transitional period would be longer than fifteen months. The new fiscal year must be adopted thereafter as his regular cost accounting period. The change in his cost accounting period is a change in accounting practices; adjustments of the contract prices may thereafter be required in accordance with paragraph (a)(4)(B) of the contract clause set out at § 331.50 of this chapter.

(d) Financial reports to stockholders are made on a calendar year basis for the entire contractor corporation. However, the contracting segment does all internal financial planning, budgeting, and internal reporting on the basis of a "model year." The contracting parties agree to use a "model year" and they agree to overhead rates on the "model year" basis. They also agree on a technique for prorating fiscal year assignments of corporate home office expenses between model years. This practice is permitted by the Standard.

(e) Most financial accounts and contract cost records are 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 for determining the amounts of vacation expense is permitted under § 406.50(b).

§ 406.70 Exemptions.

None.

§ 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 start of his next fiscal year beginning after receipt of a contract to which this Standard is applicable.

ARTHUR SCHOENHAUT,
Executive Secretary.

[FR Doc.73-23748 Filed 11-6-73;8:45 am]

Title 6—Economic Stabilization

CHAPTER I—COST OF LIVING COUNCIL

[Phase IV Price Ruling 1973-75]

VOLATILE PRICING

Expiration of Phase II Authorizations

Facts. During Phase II, the Price Commission granted volatile pricing authority to Firm G, a tier I firm now subject to the rules governing manufacturing firms in the general industrial sector. The authorization pursuant to 6 CFR 300.51(f) permitted the firm to set prices in a manner immediately responsive to frequent and customary market price fluctuations of raw materials or partially processed materials without having to prenotify those changes to the Price Commission.

Phase IV rules, 6 CFR 150.156, permit Firm G to continue to use the Phase II volatile pricing authorization until October 12, 1973. Effective October 12, 1973, the firm must have received Cost of Living Council approval to continue to use the volatility rules.

Firm G's annual sales and revenues are over $100 million and for Phase IV it is a Price Category I firm. It has allowed its Phase II volatile pricing authorization to expire without seeking new authority from the Cost of Living Council.

Issue. What effect does the expiration of volatile pricing authority have on Firm G's prices?

Ruling. Firm G may maintain prices at October 11, 1973, levels without pre-

notification. Price increases implemented in Phase IV in accordance with the volatile pricing authorization prior to October 12, 1973, are cost justified and conform to Phase IV requirements. If those prices are above adjusted freeze prices or base prices, whichever are higher, the firm is subject to the provisions of 6 CFR 150.75. Under the provisions of that section, a firm may continue to charge a price in excess of the adjusted freeze price or base price, whichever is higher, only so long as cost justification exists to support that price. Price reductions may be necessary to assure that, for any fiscal quarter, the weighted average of all price increases and price decreases in a product line or service line does not exceed the percentage of cost justification for that line.

Subsequent to October 11, 1973, Firm G must prenotify or obtain new volatile pricing authority before increasing prices above October 11, 1973, levels. If Firm G makes price reductions pursuant to 6 CFR 150.75, it must prenotify or obtain new volatile pricing authority before increasing prices above those reduced levels if those reduced levels are at or above base prices or adjusted freeze prices, whichever are higher.

WILLIAM N. WALKER,
General Counsel,
Cost of Living Council.

[FR Doc.73-23800 Filed 11-5-73;12:49 pm]

Title 7—Agriculture

CHAPTER I—AGRICULTURAL MARKETING SERVICE (STANDARDS, INSPECTIONS, MARKETING PRACTICES), DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—REGULATIONS AND STANDARDS UNDER THE AGRICULTURAL MARKETING ACT OF 1946

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

PART 70—GRADING AND INSPECTION OF POULTRY AND EDIBLE PRODUCTS THEREOF; AND UNITED STATES CLASSES, STANDARDS, AND GRADES WITH RESPECT THERETO

Meat and Poultry Inspection Program; Laboratory Rate Increase

Pursuant to the statutory authorities cited below, the fees relating to laboratory analysis or laboratory examination rendered to operators of establishments engaged in slaughtering or preparing domestic rabbits, or squabs or game birds by the Animal and Plant Health Inspection Service, Meat and Poultry Inspection Program, are hereby amended to reflect increases in operating costs since the last increase 20 months ago and to reflect increase in Federal employees' salaries authorized by the Federal Pay Comparability Act of 1970, Executive Order 11691, dated December 15, 1972, and Executive Order 11739, dated October 3, 1973. This increase will more adequately cover the laboratory service provided.

Therefore, the rate for laboratory analysis or laboratory examination, as provided for in these Parts, is changed from $12.84 per hour to $16.88 per hour in §§ 54.101(e) and 70.133(b).

(7 U.S.C. 1622(h), 1624.)

It has been determined that in order to cover these increased costs of the services, the hourly fees charged in connection with the performance of the services must be increased as soon as practicable as provided herein. The need for the increase and the amount thereof are dependent upon facts within the knowledge of the Animal and Plant Health Inspection Service. Therefore, under 5 U.S.C. 553, it is found that notice and other public procedure with respect to these amendments are impracticable and unnecessary and good cause is found for making these amendments effective less than 30 days after publication in the FEDERAL REGISTER.

These amendments shall become effective December 1, 1973.

Done at Washington, D.C., on November 2, 1973.

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

[FR Doc.73-23757 Filed 11-6-73;8:45 am]

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

PART 987—DOMESTIC DATES PRODUCED OR PACKED IN RIVERSIDE COUNTY, CALIFORNIA

Expenses of California Date Administrative Committee, and Rate of Assessment, for 1973–74 Crop Year

Notice was published in the October 23, 1973, issue of the FEDERAL REGISTER (38 FR 29230) regarding proposed expenses of the California Date Administrative Committee for the 1973–74 crop year totaling $26,306, and a rate of assessment for that crop year of 8 cents per hundredweight on all assessable dates. This action authorizes the Committee to incur such expenses and fixes such assessment rate. It is pursuant to §§ 987.71 and 987.72 of the marketing agreement, as amended, and Order No. 987, as amended (7 CFR Part 987). The amended marketing agreement and order regulate the handling of domestic dates produced or packed in Riverside County, California, and are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The notice afforded interested persons an opportunity to submit written data, views, or arguments on the proposal. None were received.

After consideration of all relevant matter presented, including that in the notice, the information and recommendations submitted by the California Date Administrative Committee, and other available information, it is found that the expenses of the California Date Administrative Committee, and the rate of assessment, for the 1973–74 crop year (which began on October 1, 1973, and ends on September 30, 1974), shall be contained in a new § 987.318 in Subpart—Budget of Expenses and Rate of Assessment (7 CFR 987.301, 987.317).

It is further found that good causes exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) The relevant provisions of said marketing agreement and this part require that the rate of assessment fixed for a particular crop year shall be applicable to all dates certified during that crop year as meeting the requirements for marketable dates, including the eligible portion of certain field-run dates; and (2) the current crop year began October 1, 1973, and the rate of assessment herein fixed will automatically apply to all such dates beginning with that date.

Section 987.318 reads as follows:

§ 987.318 Expenses of the California Date Administrative Committee and rate of assessment for the 1973–74 crop year.

(a) *Expenses.* Expenses in the amount of $26,306 are reasonable and likely to be incurred by the California Date Administrative Committee during the 1973–74 crop year beginning October 1, 1973, for its maintenance and functioning, and for such other purposes as the Secretary may, pursuant to the applicable provisions of this part, determine to be appropriate.

(b) *Rate of assessment.* The rate of assessment for that crop year which each handler is required, pursuant to § 987.72, to pay to the California Date Administrative Committee as his pro rata share of the expenses is fixed at 8 cents per hundredweight on all assessable dates. Assessable dates are dates which the handler has certified during the crop year as meeting the requirements for marketable dates, including the eligible portion of any field-run dates certified and set aside or disposed of pursuant to § 987.45(f).

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

Dated: November 2, 1973.

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

[FR Doc.73-23754 Filed 11-6-73;8:45 am]

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

Expenses of Raisin Administrative Committee, and Rate of Assessment, for 1973–74 Crop Year

Notice was published in the October 18, 1973, issue of the FEDERAL REGISTER (38 FR 28946) regarding proposed expenses of the Raisin Administrative Committee, and rate of assessment, for the 1973–74 crop year, pursuant to §§ 989.79 and 989.80 of the marketing agreement, as amended, and Order No. 989, as amended

(7 CFR Part 989), regulating the handling of raisins produced from grapes grown in California. The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The total expenses proposed in the notice were $204,300; the assessment rate proposed was $1.00 per ton of assessable raisins. The assessable tonnage was estimated by the Committee at 204,300 tons.

The notice afforded interested persons opportunity to submit written data, views, or arguments on the proposal. None were received.

After consideration of all relevant matter presented, including that in the notice, the information and recommendations submitted by the Raisin Administrative Committee, and other available information, it is found that the expenses of the Raisin Administrative Committee and the rate of assessment for the crop year beginning September 1, 1973, shall be contained in a new § 989.324 in Subpart—Budget of Expenses and Rate of Assessment (7 CFR 989.323).

It is further found that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that:

(1) The relevant provisions of the amended marketing agreement and order require that the rate of assessment fixed for a particular crop year which handlers are required to pay shall be applicable to all free tonnage raisins of the crop year; and

(2) The current crop year began on September 1, 1973, and the rate of assessment fixed herein will automatically apply to all such raisins beginning with that date.

Section 989.324 reads as follows:

§ 989.324 Expenses of the Raisin Administrative Committee and rate of assessment for the 1973–74 crop year.

(a) *Expenses.* Expenses (other than those specified in § 989.82) in the amount of $204,300 are reasonable and likely to be incurred by the Raisin Administrative Committee during the crop year beginning September 1, 1973, for the maintenance and functioning of the Committee and the Raisin Advisory Board and for such purposes as the Secretary may, in accordance with § 989.79, determine to be appropriate.

(b) *Rate of assessment.* The rate of assessment for that crop year which each handler is required, under § 989.80, to pay to the Raisin Administrative Committee as his pro rata share of the expenses is fixed at $1.00 per ton applicable to each of the following:

(1) Free tonnage raisins acquired by the handler during the crop year, exclusive of such quantity thereof as represents the assessable portions of other handlers' raisins under paragraph (b)(2) of this section; and

(2) Standard raisins (which he does not acquire) recovered by the handler by the reconditioning of off-grade raisins but only to the extent of the aggregate quantity of the free tonnage portions of these standard raisins that are acquired by other handlers during the crop year.

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

Dated: November 2, 1973.

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

[FR Doc.73-23753 Filed 11-6-73;8:45 am]

Title 8—Aliens and Nationality

CHAPTER I—IMMIGRATION AND NATURALIZATION SERVICE, DEPARTMENT OF JUSTICE

PART 299—IMMIGRATION FORMS

Prescribed Forms

Correction

In FR Doc.73-23010 appearing at page 29877 in the issue of Tuesday, October 30, 1973, make the following change:

In § 299.1, the 4th entry should read:

Form No., Title and description
* * * * *
I-122 (6-1-73) Notice to Applicant for Admission Detained for Hearing before Special Inquiry Officer.
* * * * *

Title 9—Animals and Animal Products

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

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

PART 73—SCABIES IN CATTLE

Release of Areas Quarantined

These amendments release Curry and Roosevelt Counties in New Mexico and Parmer and Potter Counties in Texas from the areas quarantined because of cattle scabies. Therefore, the restrictions pertaining to the interstate movement of cattle from quarantined areas contained in 9 CFR Part 73, as amended, will not apply to the excluded areas, but the restrictions pertaining to the interstate movement of cattle from nonquarantined areas contained in said Part 73 will apply to the excluded areas. No areas in New Mexico remain under quarantine.

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

1. In § 73.1a, paragraph (a) is amended to read:

§ 73.1a Notice of quarantine.

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

(1) Castro County.

(2) Deaf Smith County.

§ 73.1a [Amended]

2. In § 73.1a, paragraph (c) is deleted.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132 (21 U.S.C. 111–113, 115, 117, 120, 121, 123–126, 134b, 134f); 37 FR 28464, 28477; 38 FR 19141.)

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

The amendments relieve restrictions no longer deemed necessary to prevent the spread of cattle scabies and should be made effective promptly in order to be of maximum benefit to affected persons. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

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

Done at Washington, D.C., this 2d day of November, 1973.

DONALD MILLER,
Acting Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service.

[FR Doc.73-23686 Filed 11-6-73;8:45 am]

PART 82—EXOTIC NEWCASTLE DISEASE; AND PSITTACOSIS OR ORNITHOSIS IN POULTRY

Areas Released From Quarantine

These amendments exclude a portion of Riverside County in California and a portion of Pulaski County in Kentucky from the areas quarantined because of exotic Newcastle disease under the regulations in 9 CFR Part 82, as amended. Therefore, the restrictions pertaining to the interstate movement of poultry, mynah and psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles from quarantined areas, as contained in 9 CFR Part 82, as amended, will not apply to the excluded areas. No area in California remains under quarantine.

Pursuant to provisions of the Act of March 3, 1905, as amended, the Act of February 2, 1903, as amended, the Act of

May 29, 1884, as amended, and the Act of July 2, 1962 (21 U.S.C. 111, 112, 113, 115, 117, 120, 123, 124, 125, 126, 134b, 134f), Part 82, Title 9, Code of Federal Regulations, is hereby amended in the following respects.

1. In § 82.3, paragraph (a) (1) relating to the State of California is deleted.

2. In § 82.3, in paragraph (a) (2) relating to the State of Kentucky, subdivision (i) relating to Pulaski County is deleted.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132; (21 U.S.C. 111–113, 115, 117, 120, 123–126, 134b, 134f), 37 FR 28464, 28477; 38 FR 19141.)

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

The amendments relieve certain restrictions no longer deemed necessary to prevent the spread of exotic Newcastle disease, and must be made effective immediately to be of maximum benefit to affected persons. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department. Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable and unnecessary, and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 2d day of November 1973.

DONALD MILLER,
Acting Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service.

[FR Doc.73-23755 Filed 11-6-73;8:45 am]

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

SUBCHAPTER B—VOLUNTARY INSPECTION AND CERTIFICATION SERVICE

PART 350—SPECIAL SERVICES RELATING TO MEAT AND OTHER PRODUCTS

PART 355—CERTIFIED PRODUCTS FOR DOGS, CATS, AND OTHER CARNIVORA; INSPECTION, CERTIFICATION, AND IDENTIFICATION AS TO CLASS, QUALITY, QUANTITY, AND CONDITION

Laboratory Rate Increase

Pursuant to the statutory authorities cited below, the fees relating to laboratory service performed in connection with inspection, identification, or certification service rendered to operators of meat establishments, importers, or exporters by the Animal and Plant Health Inspection Service, Meat and Poultry Inspection Program, are hereby amended to reflect increases in operating costs since the last increase 20 months ago and to reflect increase in Federal employees' salaries authorized by the Federal Pay Comparability Act of 1970, Executive Order 11691, dated December 15, 1972, and Executive Order 11739, dated October 3, 1973. Such increases will more adequately cover the cost of the laboratory service provided.

Therefore, the rate for laboratory service, as provided for in these Parts, is changed from $12.84 per hour to $16.88 per hour in §§ 350.7(c) and 355.12.

(7 U.S.C. 1622(h), 1624.)

It has been determined that in order to cover these increased costs of the services, the hourly fees charged in connection with the performance of the services must be increased as soon as practicable as provided herein. The need for the increase and the amount thereof are dependent upon facts within the knowledge of the Animal and Plant Health Inspection Service. Therefore, under 5 U.S.C. 553, it is found that notice and other public procedure with respect to these amendments are impracticable and unnecessary and good cause is found for making these amendments effective less than 30 days after publication in the FEDERAL REGISTER.

These amendments shall become effective December 1, 1973.

Done at Washington, D.C., on November 2, 1973.

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

[FR Doc.73-23756 Filed 11-6-73;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airspace Docket No. 73-SW-49]

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

Transition Area; Designation, Correction

On October 3, 1973, FEDERAL REGISTER Document No. 73-21026 was published in the FEDERAL REGISTER (38 FR 27383). This docket amended Part 71 of the Federal Aviation Regulations and contained the designation of the Foraker, Okla. 700-foot transition area. The geographical coordinates describing the location of the Codding Cattle Airport were in error. The correct location of the airport is latitude 36°46'00" N., longitude 96°-33'00" W. Action is taken herein to amend the geographical coordinates.

Since this amendment will impose no undue burden on any person, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, FR Doc. 73-21026 is amended to change the coordinates of the Codding Cattle Airport to latitude 36°46'00" N., longitude 96°33'00" W.

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

Issued in Fort Worth, Tex., on October 30, 1973.

ALBERT H. THURBURN,
Acting Director, Southwest Region.

[FR Doc.73-23601 Filed 11-6-73;8:45 am]

[Airspace Docket No. 73-SO-69]

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

Control Zone and Transition Area; Alteration

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Melbourne, Fla., control zone and transition area.

The Melbourne control zone is described in § 71.171 (38 FR 351) and the Melbourne transition area is described in § 71.181 (38 FR 435). In the descriptions, reference is made to "Cape Kennedy Regional Airport." Since the name of this airport has been changed to "Melbourne Regional Airport," it is necessary to amend the descriptions to reflect this change. Since this amendment is editorial in nature, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective immediately, as hereinafter set forth.

In § 71.171 (38 FR 351), the Melbourne, Fla., control zone and in § 71.181 (38 FR 435), the Melbourne, Fla., transition area are amended as follows:

"* * * Cape Kennedy Regional Airport * * *" is deleted and "* * * Melbourne Regional Airport * * *" is substituted therefor.

This amendment is made under the authority of sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and of sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in East Point, Ga., on October 26, 1973.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.73-23602 Filed 11-6-73;8:45 am]

[Airspace Docket No. 73-CE-10]

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

Transition Area; Designation

On Page 22901 of the FEDERAL REGISTER dated August 27, 1973, the Federal Aviation Administration published a notice of proposed rulemaking which would amend § 71.181 of the Federal Aviation Regulations so as to designate a transition area at Chillicothe, Missouri.

Interested persons were given 30 days to submit written comments, suggestions

or objections regarding the proposed amendment.

No objections have been received and the proposed amendment is hereby adopted without change and is set forth below.

This amendment shall be effective 0901 g.m.t., January 3, 1974.

This amendment is made under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Kansas City, Missouri, on October 16, 1973.

A. L. COULTER,
Director, Central Region.

In § 71.181 (38 FR 435), the following transition area is added:

CHILLICOTHE, MISSOURI

That airspace extending upwards from 700' above the surface within a 5-mile radius of the Chillicothe Municipal Airport (latitude 39°46'45" N., longitude 93°30'00" W.); and within 3 miles either side of the 337° bearing from the MHW facility extending from the 5-mile radius to 8.5 miles northwest, and that airspace extending upwards from 1,200' above the surface 5 miles southwest and 9.5 miles northeast of the 337° bearing from the Chillicothe MHW facility extending from 6.5 miles southeast to 18.5 miles northwest of the Chillicothe MHW facility, excluding that portion which overlies the Trenton, Missouri, transition area.

[FR Doc.73-23603 Filed 11-6-73;8:45 am]

[Airspace Docket No. 73-CE-20]

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

Transition Area; Designation

On Page 20347 of the FEDERAL REGISTER dated July 31, 1973, the Federal Aviation Administration published a notice of proposed rulemaking which would amend § 71.181 of the Federal Aviation Regulations so as to designate a transition area at Corning, Iowa.

Interested persons were given 30 days to submit written comments, suggestions or objections regarding the proposed amendment.

No objections have been received and the proposed amendment is hereby adopted without change and is set forth below.

This amendment shall be effective 0901 g.m.t., January 3, 1974.

This amendment is made under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Kansas City, Missouri, on October 16, 1973.

A. L. COULTER,
Director, Central Region.

In § 71.181 (38 FR 435), the following transition area is added:

CORNING, IOWA

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Corning Municipal Airport (latitude 41°00'00" N., longitude 94°46'00" W.); and within 3 miles each side of the 359° bearing from the Corning Municipal Airport, extending from the 5-mile radius to 8 miles north of the airport; and that airspace extending upward from 1,200 feet above the surface within 4.5 miles east and 9.5 miles west of the 359° bearing extending from 6.5 miles south to 18.5 miles north of the airport.

[FR Doc.73-23605 Filed 11-6-73;8:45 am]

[Airspace Docket No. 73-CE-26]

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

Transition Area; Designation

On Page 22900 of the FEDERAL REGISTER dated August 27, 1973, the Federal Aviation Administration published a notice of proposed rule making which would amend § 71.181 of the Federal Aviation Regulations so as to designate a transition area at Pocahontas, Iowa.

Interested persons were given 30 days to submit written comments, suggestions or objections regarding the proposed amendment.

No objections have been received and the proposed amendment is hereby adopted without change and is set forth below.

This amendment shall be effective 0901 G.m.t., January 3, 1974.

This amendment is made under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Kansas City, Missouri, on October 16, 1973.

A. L. COULTER,
Director, Central Region.

In § 71.181 (38 F.R. 435), the following transition area is added:

POCAHONTAS, IOWA

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Pocahontas Municipal Airport (latitude 42°44'45" N., longitude 94°38'45" W.); within 3 miles each side of the 280° bearing from the Pocahontas Muncipal Airport, extending from the 5-mile radius to 8 miles west of the airport; within 2 miles each side of the 1[illegible]° bearing from the Pocahontas Municipal Airport; extending from the 5-mile radius to 6 miles southeast of the airport; and that airspace extending upward from 1,200 feet above the surface within a 41-mile arc of the Fort Dodge VORTAC (latitude 42°36'40" N., longitude 94°17'41" W.); starting at the 268° radial of the Fort Dodge VORTAC and extending clockwise to the 315° radial of the Fort Dodge VORTAC, excluding that portion which overlies the Fort Dodge, Iowa, Spencer, Iowa and Storm Lake, Iowa transition areas.

[FR Doc.73-23607 Filed 11-6-73;8:45 am]

[Airspace Docket No. 73-CE-16]

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

Transition Area; Alteration

On page 20347 of the FEDERAL REGISTER dated July 31, 1973, the Federal Aviation Administration published a notice of proposed rule making which would amend § 71.181 of the Federal Aviation Regulations so as to alter the transition area at Sioux City, Iowa.

Interested persons were given 30 days to submit written comments, suggestions or objections regarding the proposed amendment.

No objections have been received and the proposed amendment is hereby adopted without change and is set forth below.

This amendment shall be effective 0901 G.m.t., January 3, 1974.

This amendment is made under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Kansas City, Missouri, on October 16, 1973.

A. L. COULTER,
Director, Central Region.

In § 71.181 (38 FR 435), the following transition area is added:

SIOUX CITY, IOWA

That airspace extending upward from 700 feet above the surface within a 19-mile radius of Sioux City Municipal Airport (latitude 42°24'03" N., longitude 96°22'55" W.); within 5 miles southwest and 9½ miles northeast of the Sioux City VORTAC 140° radial, extending from the 19-mile radius area to 24½ miles southeast of the VORTAC; within 4½ miles southwest and 9½ miles northeast of the Sioux City ILS localizer northwest and southeast courses, extending from the 19-mile radius area to 24½ miles southeast of the OM; within 4½ miles northeast and 11½ miles southwest of the Sioux City VORTAC 320° radial, extending from the VORTAC to 35 miles northwest of the VORTAC; that airspace extending upward from 1,200 feet above the surface within a 28½ mile radius of Sioux City VORTAC; excluding that portion which overlies the Le Mars, Iowa transition area.

[FR Doc.73-23604 Filed 11-6-73;8:45 am]

[Airspace Docket No. 73-CE-19]

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

Transition Area; Alteration

On Pages 22634 and 22635 of the FEDERAL REGISTER dated August 23, 1973, the Federal Aviation Administration published a notice of proposed rule making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Spencer, Iowa.

Interested persons were given 30 days to submit written comments, suggestions

or objections regarding the proposed amendment.

No objections have been received and the proposed amendment is hereby adopted without change and is set forth below.

This amendment shall be effective 0901 G.m.t., January 3, 1974.

This amendment is made under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655 (c)).

Issued at Kansas City, Missouri, on October 16, 1973.

A. I. COULTER,
Director, Central Region.

In § 71.181 (38 FR 435), the following transition area is amended to read:

SPENCER, IOWA

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Spencer, Iowa Municipal Airport (latitude 43°09'45" N., longitude 95°11'30" W.); and within three miles each side of the Spencer VOR 320° radial, extending from the 5-mile radius zone to 8 miles northwest of the VOR; within 3.5 miles each side of the Spencer VOR 129° radial, extending from the 5-mile radius zone to 15 miles southeast of the VOR; and that airspace extending upward from 1,200 feet above the surface within 4.5 miles northeast and 9.5 miles southwest of the Spencer VOR 320° radial, extending from 6.5 miles southeast of the VOR to 18.5 miles northwest of the VOR; and within 5 miles northeast and 9.5 miles southwest of the Spencer VOR 129° radial, extending from 6.5 miles northwest of the VOR to 22.5 miles southeast of the VOR.

[FR Doc.73-23600 Filed 11-6-73;8:45 am]

[Airspace Docket No. 73-CE-22]

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

Transition Area; Alteration

On Page 23338 of the FEDERAL REGISTER dated August 29, 1973, the Federal Aviation Administration published a notice of proposed rule making which would amend § 71.181 of the Federal Aviation Regulations so as to alter the transition area at St. Louis, Missouri.

Interested persons were given 30 days to submit written comments, suggestions or objections regarding the proposed amendment.

No objections have been received and the proposed amendment is hereby adopted without change and is set forth below.

This amendment shall be effective 0901 G.m.t., January 3, 1974.

This amendment is made under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Kansas City, Missouri, on October 16, 1973.

JOHN R. WALLS,
Acting Director, Central Region.

In § 71.181 (38 FR 435), the following transition area is amended to read:

ST. LOUIS, MISSOURI

That airspace extending upward from 700 feet above the surface within a 10-mile radius of Lambert St. Louis International Airport (latitude 38°44'50" N., longitude 90°21'55" W.); within 5 miles southeast and 8 miles northwest of the Lambert St. Louis International Airport runway 24 ILS localizer northeast course, extending from the 10-mile radius area to 12 miles northeast of the runway 24 OM; within 5 miles southwest and 9 miles northeast of the Lambert St. Louis International Airport runway 12R ILS localizer northwest course; extending from the runway 12R OM to 12 miles northwest of the OM; within a 7-mile radius of St. Charles Smartt Airport, St. Charles, Missouri (latitude 38°56'00" N., longitude 90°-26'00" W.); within an 8-mile radius of Civic Memorial Airport, Alton, Illinois (latitude 38°53'30" N., longitude 90°03'00" W.); and that airspace extending upward from 1,200 feet above the surface within a 33-mile radius of St. Louis International Airport; within 6 miles southwest and 9 miles northeast of the St. Louis VORTAC 328° radial, extending from the 33-mile radius area to 36 miles northwest of the VORTAC; within 5 miles northwest and 8 miles southeast of the Maryland Heights VORTAC 243° radial, extending from the 33-mile radius area to 19 miles southwest of the VORTAC; within the area bounded on the west and northwest by the east and southeast edge of V-14S, on the northeast by the 33-mile radius area, on the southeast by the northwest edge of V-238° and on the south by the north boundary of V-88; within a 40-mile radius of Scott AFB (latitude 38°32'30" N., longitude 89°51'05" W.); excluding the portion overlying the State of Illinois; that airspace extending upward from 2,500 feet MSL within the area bounded on the northeast by the southwest edge of V-335, on the east by the Missouri-Illinois boundary, on the south by the north edge of V-190 and on the west by the east edge of V-9; and that airspace extending upward from 4,500 feet MSL within the area bounded on the north by the south edge of V-88, on the northeast by the southwest edge of V-9W, on the south by the north edge of V-72, on the west by a line 5 miles west of and parallel to the St. Louis VORTAC 200° radial, and on the northwest by the southeast edge of V-238; within the area bounded on the north by the south edge of V-12, on the southeast by the northwest edge of V-14N, on the southwest by the northeast edge of V-175, and on the northwest by a line 5 miles southeast of and parallel to the Jefferson City, Missouri VOR 041° radial, and within the area bounded on the northeast by the southwest edge of V-52 and the Missouri-Illinois boundary, on the south by the north edge of V-4N, and on the northwest by the southeast edge of V-63.

[FR Doc.73-23606 Filed 11-6-73;8:45 am]

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

[Order 551-73]

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

Establishing the Office of Watergate Special Prosecution Force

By virtue of the authority vested in me by 28 U.S.C. 509, 510 and 5 U.S.C. 301, there is hereby established in the Department of Justice, the Office of Watergate Special Prosecution Force, to be headed by a Director. Accordingly, Part O of Chapter I of Title 28, Code of Federal Regulations, is amended as follows:

1. Section 0.1(a) which lists the organization units of the Department, is amended by adding "Office of Watergate Special Prosecution Force" immediately after "Office of Criminal Justice."

2. A new Subpart G-1 is added immediately after Subpart G, to read as follows:

Subpart G-1—Office of Watergate Special Prosecution Force

Sec.
0.37 General functions.
0.38 Special functions.

AUTHORITY: 28 U.S.C. 509, 510, and 5 U.S.C. 301.

Subpart G-1—Office of Watergate Special Prosecution Force

§ 0.37 General functions.

The Office of Watergate Special Prosecution Force shall be under the direction of a Director who shall be the Special Prosecutor appointed by the Attorney General. The duties and responsibilities of the Special Prosecutor are set forth in the attached appendix below which is incorporated and made a part hereof.

§ 0.38 Specific functions.

The Special Prosecutor is assigned and delegated the following specific functions with respect to matters specified in this subpart:

(a) Pursuant to 28 U.S.C. 515(a), to conduct any kind of legal proceeding, civil or criminal, including grand jury proceedings, which United States attorneys are authorized by law to conduct, and to designate attorneys to conduct such legal proceedings.

(b) To approve or disapprove the production or disclosure of information or files relating to matters within his cognizance in response to a subpoena, order, or other demand of a court or other authority. (See Part 16(B) of this chapter.)

(c) To apply for and to exercise the authority vested in the Attorney General under 18 U.S.C. 6005 relating to immunity of witnesses in Congressional proceedings.

The listing of these specific functions is for the purpose of illustrating the authority entrusted to the Special Prosecutor and is not intended to limit in any manner his authority to carry out his functions and responsibilities.

Dated: November 2, 1973.

ROBERT H. BORK,
Acting Attorney General.

APPENDIX—DUTIES AND RESPONSIBILITIES OF THE SPECIAL PROSECUTOR

The Special Prosecutor. There is appointed by the Attorney General, within the Department of Justice, a Special Prosecutor to whom the Attorney General shall delegate the authorities and provide the staff and other resources described below.

The Special Prosecutor shall have full authority for investigating and prosecuting offenses against the United States arising out of the unauthorized entry into Democratic National Committee Headquarters at the

Watergate, all offenses arising out of the 1972 Presidential Election for which the Special Prosecutor deems it necessary and appropriate to assume responsibility, allegations involving the President, members of the White House staff, or Presidential appointees, and any other matters which he consents to have assigned to him by the Attorney General.

In particular, the Special Prosecutor shall have full authority with respect to the above matters for:

Conducting proceedings before grand juries and any other investigations he deems necessary;

Reviewing all documentary evidence available from any source, as to which he shall have full access;

Determining whether or not to contest the assertion of "Executive Privilege" or any other testimonial privilege;

Determining whether or not application should be made to any Federal court for a grant of immunity to any witness, consistently with applicable statutory requirements, or for warrants, subpoenas, or other court orders;

Deciding whether or not to prosecute any individual, firm, corporation or group of individuals;

Initiating and conducting prosecutions, framing indictments, filing informations, and handling all aspects of any cases within his jurisdiction (whether initiated before or after his assumption of duties), including any appeals;

Coordinating and directing the activities of all Department of Justice personnel, including United States Attorneys;

Dealing with and appearing before Congressional committees having jurisdiction over any aspect of the above matters and determining what documents, information, and assistance shall be provided to such committees.

In exercising this authority, the Special Prosecutor will have the greatest degree of independence that is consistent with the Attorney General's statutory accountability for all matters falling within the jurisdiction of the Department of Justice. The Attorney General will not countermand or interfere with the Special Prosecutor's decisions or actions. The Special Prosecutor will determine whether and to what extent he will inform or consult with the Attorney General about the conduct of his duties and responsibilities. In accordance with assurances given by the President to the Attorney General that the President will not exercise his Constitutional powers to effect the discharge of the Special Prosecutor or to limit the independence that he is hereby given, the Special Prosecutor will not be removed from his duties except for extraordinary improprieties on his part and without the President's first consulting the Majority and the Minority Leaders and Chairmen and ranking Minority Members of the Judiciary Committees of the Senate and House of Representatives and ascertaining that their consensus is in accord with his proposed action.

STAFF AND RESOURCE SUPPORT

1. *Selection of Staff.* The Special Prosecutor shall have full authority to organize, select, and hire his own staff of attorneys, investigators, and supporting personnel, on a full or part-time basis, in such numbers and with such qualifications as he may reasonably require. He may request the Assistant Attorneys General and other officers of the Department of Justice to assign such personnel and to provide such other assistance as he may reasonably require. All personnel in the Department of Justice, including United States Attorneys, shall cooperate to the fullest extent possible with the Special Prosecutor.

2. *Budget.* The Special Prosecutor will be provided with such funds and facilities to carry out his responsibilities as he may reasonably require. He shall have the right to submit budget requests for funds, positions, and other assistance, and such requests shall receive the highest priority.

3. *Designation and responsibility.* The personnel acting as the staff and assistants of the Special Prosecutor shall be known as the Watergate Special Prosecution Force and shall be responsible only to the Special Prosecutor.

Continued responsibilities of Assistant Attorney General, Criminal Division. Except for the specific investigative and prosecutorial duties assigned to the Special Prosecutor, the Assistant Attorney General in charge of the Criminal Division will continue to exercise all of the duties currently assigned to him.

Applicable departmental policies. Except as otherwise herein specified or as mutually agreed between the Special Prosecutor and the Attorney General, the Watergate Special Prosecution Force will be subject to the administrative regulations and policies of the Department of Justice.

Public reports. The Special Prosecutor may from time to time make public such statements or reports as he deems appropriate and shall upon completion of his assignment submit a final report to the appropriate persons or entities of the Congress.

Duration of assignment. The Special Prosecutor will carry out these responsibilities, with the full support of the Department of Justice, until such time as, in his judgment, he has completed them or until a date mutually agreed upon between the Attorney General and himself.

[FR Doc.73-23693 Filed 11-6-73;8:45 am]

Title 32—National Defense

CHAPTER VII—DEPARTMENT OF THE AIR FORCE

SUBCHAPTER G—BOARDS

PART 865—PERSONNEL REVIEW BOARDS

SUBPART A—AIR FORCE BOARD OF CORRECTION OF MILITARY RECORDS

This amendment is added to show the delegation of authority to the Air Force Board for the Correction of Military Records to correct certain military records.

Subpart A, Part 865, Subchapter G of Chapter VII of Title 32 of the Code of Federal Regulations is amended by adding a new paragraph (a) (5) to § 865.12, to read as follows:

§ 865.12 Action by the Board.

(a) * * *

(5) *Delegation of authority to correct certain military records.*

(i) The Air Force Board for the Correction of Military Records is authorized to take final action on behalf of the Secretary of the Air Force, under 10 U.S.C. 1552, in approving the correction of military records, provided such action: (*a*) Has been recommended by the Air Staff; (*b*) is agreed to by the Board; and (*c*) falls into one of the following categories:

(*1*) Restoration of leave unduly charged to applicants.

(*2*) Promotion of applicants retroactively, who would have been promoted during regular promotion cycles but were inadvertently or improperly excluded from consideration during such cycles; and adjustment of their pay accounts accordingly.

(*3*) Promotion of applicants to grades held immediately prior to reenlistment who were inadvertently or improperly reenlisted in a lower grade.

(*4*) Awards of basic allowance for subsistence to applicants entitled thereto.

(*5*) Authorizing participation under the Retired Serviceman's Family Protection Plans and the Survivors Benefits Plan where failure to elect to participate was through no fault of the applicants.

(ii) The Executive Secretary of the Board, after assuring compliance with the above conditions, will announce the final action on applications processed under this subdivision.

* * * * *

(10 U.S.C. 1552)

By order of the Secretary of the Air Force.

STANLEY L. ROBERTS,
Colonel, USAF, Chief, Legislative Division, Office of the Judge Advocate General.

[FR Doc.73-23675 Filed 11-6-73; 8:45 am]

Title 32A—National Defense, Appendix

CHAPTER XIII—ENERGY POLICY OFFICE

EPO REG. 1—MANDATORY ALLOCATION PROGRAM FOR MIDDLE DISTILLATE FUELS

Removal of Limitation Imposed by Term "Customs Territory of the United States"

EPO Reg. 1 for the Mandatory Allocation Program for Middle Distillate Fuels was published in the FEDERAL REGISTER of October 16, 1973 (38 FR 28660) which became effective November 1, 1973. The purpose of this amendment is to amend the definition of the term "State office" and the reference in the section entitled "Coverage of Program" in those regulations to remove the limitation imposed by the term "customs territory of the United States." Under the meaning assigned that phrase by general headnote 2 to the Tariff Schedules of the United States (19 U.S.C. 1202), the Virgin Islands are excluded from coverage under the Program.

Because of the emergency nature of this regulation due to the possibility of present and prospective shortages of middle distillates, it has been determined that this amendment shall become effective on November 7, 1973.

EPO Regulation 1 (38 FR 28660) is amended as follows:

1. In Section 2 *Definitions* the term "State office" is amended by deleting the phrase "within the Customs Territory" which follows the word "territories" so as to make the definition read as follows:

"State office" means, with respect to each of the 50 States, the District of Columbia,

the commonwealths, possessions, and territories of the United States, the office designated by its governor or chief executive to handle requests for assistance from the state reserve.

2. In paragraph (a) of Section 3 *Coverage of program* after the word "possessions" the phrase "within the Customs Territory" is deleted so as to make the paragraph read as follows:

"(a) The program established under this regulation will cover middle distillates produced in or imported into all states, the District of Columbia, territories, commonwealths, and possessions of the United States."

STEPHEN A. WAKEFIELD,[1]
Assistant Secretary of the Interior.

NOVEMBER 2, 1973.

[FR Doc.73-23842 Filed 11-5-73;4:13 pm]

EPO REG. 7—PROCEDURAL RULES

Removal of Limitation Imposed by Term "Customs Territory of the United States"

EPO Reg. 7—Procedural Rules for the administration of the Mandatory Allocation Program for Middle Distillate Fuels [EPO Reg. 1; 38 FR 28660] and the Mandatory Allocation Program for Propane [EPO Reg. 3; 38 FR 27397] were published in the FEDERAL REGISTER of October 24, 1973 [37 FR 29330]. The purpose of this amendment is to amend the definition of the term "State office" in those regulations to remove the limitation imposed by the phrase "customs territory of the United States". Under the meaning assigned to that phrase by general headnote 2 to the Tariff Schedules of the United States, as amended (19 U.S.C. 1202) the Virgin Islands are excluded from coverage under the Procedural Regulations.

Because of the emergency nature of this regulation due to the possibility of present and prospective shortages of fuels, it has been determined that this amendment shall become effective on November 7, 1973.

EPO Regulation 7 is amended as follows:

In Section 2—*Definitions* of Subpart A the term "State Office" is amended by deleting the phrase "within the Customs Territory" which follows the word "territories" so as to make the definition read as follows:

"State office" means, with respect to each of the 50 States, the District of Columbia, the commonwealths, possessions, and territories of the United States, the office designated by its governor or chief executive to handle requests for assistance from the state reserve.

STEPHEN A. WAKEFIELD,
Assistant Secretary of the Interior.

NOVEMBER 2, 1973.

[FR Doc.73-23843 Filed 11-5-73;4:13 pm]

[1] For delegation of authority from the Director of the Energy Policy Office to the Secretary of the Interior, see FR Doc. 73-22785, 38 FR 29379, October 24, 1973.

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER A—GENERAL

[CCG 73-181R]

PART 1—GENERAL PROVISIONS

Fees and Charges for Certain Records and for Duplicate Documents, Certificates, or Licenses

The purpose of this amendment to the user fee regulations is to specify the service a person found guilty by an administrative law judge will receive from the Coast Guard without charge.

Section 1.25-30(b) of Title 33, Code of Federal Regulations, lists the persons or circumstances to which the user fees of 33 CFR 1.25-40 are not applicable. Included in the list, in paragraph (b)(6), is the statement, "An individual directly concerned in a Coast Guard hearing or other formal proceedings, not to exceed one copy." This ambiguous wording has confused the public and in at least one occasion, has resulted in court action.

The amendment in this document clarifies the wording in paragraph (b)(6) by stating that only one copy of a hearing transcript will be furnished free of charge to a person found guilty by an administrative law judge, if that person files a notice of appeal and requests a copy of the transcript at the time of filing the appeal in accordance with the requirements contained in 46 CFR 137.30-1.

Since the amendment in this document relates to a general statement of policy, it is exempt from notice of proposed rule making and may be made effective in less than 30 days.

In consideration of the foregoing, Subpart 1.25 of Title 33, Code of Federal Regulations, is amended as follows:

1. By revising § 1.25-30(b)(6) to read as follows:

§ 1.25-30 Exceptions.

* * * * *

(b) * * *

(6) A person found guilty by an administrative law judge receives one copy of the transcript of the hearing if he, in accordance with the requirements contained in 46 CFR 137.30-1: (i) Files a notice of appeal; and (ii) Requests a copy of the transcript.

* * * * *

(14 U.S.C. 633, 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b).)

Effective date: This amendment shall become effective on Nov. 9, 1973.

Dated: November 1, 1973.

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

[FR Doc.73-23611 Filed 11-6-73;8:45 am]

[CGD 73-125 R]

PART 110—ANCHORAGE REGULATIONS

Anchorage Grounds, Baltimore Harbor, Maryland

This amendment to the anchorage regulations for Baltimore Harbor, Maryland, reduces the size of Anchorage No. 6 in the Patapsco River. Reducing the size of this anchorage will allow unobstructed access from the Fort McHenry Channel to a four-berth container and general cargo terminal being constructed at the Dundalk Marine Terminal.

This amendment is based on a notice of proposed rule making published in the Tuesday, June 19, 1973, issue of the FEDERAL REGISTER (38 FR 15969) and the Public Notice 5-211 issued by the Commander, Fifth Coast Guard District.

Interested persons were given 30 days in which to submit comments regarding the proposal. No comments were received as a result of the notice of proposed rule making or the public notice.

In consideration of the foregoing, Part 110 of Chapter I of Title 33 of the Code of Federal Regulations is amended by revising § 110.158(a)(6) to read as follows:

§ 110.158 Baltimore Harbor, Md.

(a) * * *

(6) *Anchorage No. 6, general anchorage.* In the Patapsco River approximately 2,000 yards west of Sollers Point beginning at latitude 39°13'47.8" N., longitude 76°32'25" W.; thence northeasterly to latitude 39°14'02" N., longitude 76°32'02.9" W.; thence southeasterly to latitude 39°13'34" N., longitude 76°31'33.5" W.; thence southwesterly to latitude 39°13'20" N., longitude 76°31'56" W.; thence northwesterly to the point of beginning. No vessel with a draft of more than 20 feet may use this general anchorage. No vessel may remain in this anchorage for more than 72 hours without a written permit from the Captain of the Port.

* * * * *

(Sec. 7, 38 Stat. 1053, as amended, sec. 6(g)(1)(A), 80 Stat. 937; (33 U.S.C. 471), (49 U.S.C. 1655(g)(1)(A)); 49 CFR 1.46(c)(1), 33 CFR 1.05-1(c)(1).)

Effective date: This amendment shall become effective on December 10, 1973.

Dated: October 31, 1973.

R. I. PRICE,
Captain, U.S. Coast Guard, Acting Chief, Office of Marine Environment and Systems.

[FR Doc.73-23610 Filed 11-6-73;8:45 am]

CHAPTER II—CORPS OF ENGINEERS, DEPARTMENT OF THE ARMY

PART 207—NAVIGATION REGULATIONS

St. Lawrence River, New York

Pursuant to the provisions of section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; (33 U.S.C. 1)) § 207.611 governing the use, administration and navigation of the St. Lawrence River from Tibbetts Point to Raquette River, excluding the section between Eisenhower Lock and Snell Lock, New York is hereby revoked effective upon publication in the FEDERAL REGISTER. The St. Lawrence Seaway Development Corporation has promulgated similar regulations pursuant to the authority of its enabling Act (33 U.S.C. 981 et seq.) and authority vested in the Secretary of

Transportation under the Ports and Waterways Safety Act of 1972 (Pub. L. 92-340, 86 Stat. 424) with respect to the St. Lawrence Seaway, which authority was subsequently delegated to the Administrator of the St. Lawrence Seaway Development Corporation in the FEDERAL REGISTER on October 17, 1972 (37 FR 21943).

Since the revocation constitutes only an agency procedural matter, notice of proposed rule making and public procedures thereto are considered unnecessary. Accordingly, § 207.611 of Title 33 of the Code of Federal Regulations is hereby revoked and reserved as follows:

§ 207.611 St. Lawrence River from Tibbets Point to Raquette River, excluding the section between Eisenhower Lock and Snell Lock, N.Y.; use, administration and navigation in U.S. waters. [Reserved]

[Regs., October 17, 1973, 1522-01 (Subj: Speed Limits for St. Lawrence River and Seaway) DAEN-CWO-N]

(Sec. 7, 40 Stat. 266; (33 U.S.C. 1))

FOR THE ADJUTANT GENERAL:

R. B. BELNAP,
Special Advisor to TAG.

[FR Doc.73-23672 Filed 11-6-73;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 60—OFFICE OF FEDERAL CONTRACT COMPLIANCE EQUAL EMPLOYMENT OPPORTUNITY, DEPARTMENT OF LABOR

PART 60-1—OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS

Access to Records and Site of Employment

On January 31, 1973, notice of proposed rule making was published in the FEDERAL REGISTER (38 FR 2985) with regard to revising § 60-1.43 of Chapter 60 of Title 41 of the Code of Federal Regulations, in order to assure that contractors are fully cognizant of their obligations under existing OFCC policy and practice to allow access to their premises for the purpose of on-site compliance reviews. Interested persons were given 30 days in which to submit written comments, views or objections regarding the proposal.

After consideration of all comments received, § 60-1.43 of Chapter 60 of Title 41 of the Code of Federal Regulations is hereby revised to read as set forth below. As a result of comments received, cross-references have been made to 41 CFR Part 60-60, Contractor Evaluation Procedures For Nonconstruction Contractors, and 41 CFR Part 60-40, Examination and Copying of OFCC Documents, to indicate the reliance and applicability of these provisions.

§ 60-1.43 Access to records and site of employment.

Each prime contractor and subcontractor shall permit access during normal business hours to its premises for the purpose of conducting on-site compliance reviews and inspecting and copying such books, records, accounts, and other material as may be relevant to the matter under investigation and pertinent to compliance pursuant thereto by the agency, or the Director. Information obtained in this manner shall be used only in connection with the administration of the Order, the administration of the Civil Rights Act of 1964 (as amended) and in furtherance of the purposes of the Order and that Act. (See 41 CFR Part 60-60, Contractor Evaluation Procedures For Nonconstruction Contractors; 41 CFR Part 60-40, Examination and Copying of OFCC Documents.)

(Sec. 201, E.O. 11246, 30 FR 12319, and E.O. 11375, 32 FR 14303)

Effective date. This revision becomes effective on November 7, 1973.

Signed at Washington, D.C. this 31st day of October 1973.

PETER J. BRENNAN,
Secretary of Labor.

B. E. DELURY,
Assistant Secretary for Employment Standards.

PHILIP J. DAVIS,
Director, Office of Federal Contract Compliance.

[FR Doc.73-23691 Filed 11-6-73;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 19753; FCC 73-1100]

SPECIAL INDUSTRIAL RADIO SERVICES

Allocation of Frequencies

In the matter of amendment of Parts 2, 89, and 91 of the Commission's rules and regulations to allocate to the Special Industrial Radio Service the frequencies 151.490 and 157.725 MHz.

1. On June 5, 1973, the Commission released a notice of proposed rulemaking in the above-entitled matter, which was published in the FEDERAL REGISTER of June 22, 1973 (41 FCC 2d 219). Comments were filed by Special Industrial Radio Service Association, Inc. [38 FR 15468] (SIRSA) and Forestry-Conservation Communications Association (FCCA). Reply comments were filed by the International Taxicab Association (ITA).

2. The notice of proposed rulemaking sought comments on our proposal to allocate the bandedge frequency 151.490 MHz exclusively to the Special Industrial Radio Service. In that action, we denied FCCA's proposal to allocate this frequency for shared used by Special Industrial and Forestry Conservation licensees because FCCA had not supported its request. We also denied alternative proposals by SIRSA and ITA to allocate the frequency 157.725 MHz, respectively, to the Special Industrial and to the Taxicab Radio Services.

3. The comments advance substantially the same positions the parties had taken in the earlier phases of this proceeding. Thus, SIRSA urged us to allocate to Special Industrial the frequency 157.725 MHz as well as the frequency 151.490 MHz, and ITA renewed its request that the frequency 157.725 MHz together with another bandedge frequency, 152.465, be allocated to the Taxicab Radio Service. However, neither SIRSA nor ITA have offered either information or arguments in support of their proposal not previously considered and, therefore, their requests with respect to the frequency 157.725 MHz are denied.

4. On the other hand, FCCA has submitted additional information which we believe supports its request for shared use of the frequency 151.490 MHz by Forestry-Conservation licensees. The data submitted by FCCA indicates that forestry and conservation agencies in the Pacific Coast States of California, Oregon, and Washington, and to a lesser extent in other parts of the country, have a need for and can make good use of an additional channel in this frequency range. Further, FCCA and SIRSA have the mechanism for and are willing to perform the necessary interservice coordination required for use of the bandedge frequency with minimum interference problems. Accordingly, we will modify our original proposal and make the frequency 151.490 MHz available both in the Special Industrial and in the Forestry-Conservation Radio Services.

5. In view of the foregoing it appears that the public interest would be served by adopting the Rule amendments set forth in the Appendix. Accordingly, *it is ordered*, That pursuant to authority contained in section 303 (c), (e) and (f) of the Communications Act of 1934, as amended, Parts 2, 89, and 91 of the Commission's rules and regulations are amended effective December 7, 1973. *It is further ordered*, That this proceeding is hereby terminated.

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

Adopted: October 25, 1973.

Released: October 30, 1973.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] VINCENT J. MULLINS,
Secretary.

[1] Commissioner Robert E. Lee absent.

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

I. Part 2 of the Commission's rules is amended as follows:

§ 2.106 Table of frequency allocations.

Worldwide		Region 2		United States		Federal Communications Commission				
Band (MHz)	Service	Band (MHz)	Service	Band (MHz)	Allocation	Band (MHz)	Service	Class of station	Frequency (MHz)	Nature of services
1	2	3	4	5	6	7	8	9	10	11
• • •	• • •	• • •	• • •	• • •	• • •	• • •	• • •	• • •	• • •	• • •
						150.98–151.4825	Land. Mobile.	Base. Land. Mobile.		Public safety (NG51).
						151.4825–151.4975	Land. Mobile.	Base. Land. Mobile.		Industrial and public safety (NG51).
						151.4975–152	Land. Mobile.	Base. Land. Mobile.		Industrial.
• • •	• • •	• • •	• • •	• • •	• • •	• • •	• • •	• • •	• • •	• • •

PART 89—PUBLIC SAFETY RADIO SERVICES

II. Section 89.459 of the Commission's rules is amended by the addition of the frequency 151.490 MHz to the frequency table, and a new limitation (17) is added to paragraph (e) to read as follows:

§ 89.459 Frequencies available to the Forestry Conservation Radio Service.

• • • • •

(d) • • •

Frequency or band (MHz)	Class of station(s)	Limitations
•	•	•
151.475	do	16
151.490	Base or mobile	16, 17
159.225	do	2
•	•	•

• • • • •

(e) • • •

(17) This frequency is shared with the Special Industrial Radio Service and interservice coordination is required.

• • • • •

PART 91—INDUSTRIAL RADIO SERVICES

III. Section 91.504 of the Commission's rules is amended by the addition of the frequency 151.490 MHz to the frequency table, and two new limitations (37, 38) are added to paragraph (b) to read as follows:

§ 91.504 Frequencies available.

(a) • • •

Frequency or band (MHz)	Class of stations	General reference	Limitations
•	•	•	•
75.98	do	do	3
151.490	Base or mobile.	Permanent use.	11, 37, 38
151.505	do	Itinerant	12
•	•	•	•

(b) • • •

(37) This frequency is not available to stations in Puerto Rico or the Virgin Islands.

(38) This frequency is shared with the Forestry Conservation Radio Service and interservice coordination is required.

[FR Doc.73-23559 Filed 11-6-73;8:45 am]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S.O. 1133, Amdt. 1]

PART 1033—CAR SERVICE

Central Iowa Railway and Development Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 30th day of October 1973.

Upon further consideration of Service Order No. 1133 (38 FR 12606), and good cause appearing therefor:

It is ordered, That § 1033.1133 *Service Order No. 1133* (Central Iowa Railway and Development Company authorized to operate over tracks abandoned by Chicago, Rock Island and Pacific Railroad Company and to operate over tracks of Chicago, Rock Island and Pacific Railroad Company). Service Order No. 1133 be, and it is hereby, amended by substituting the following paragraph (f) for paragraph (f) thereof:

(f) *Expiration date.* The provisions of this order shall expire at 11.59 p.m., April 30, 1974, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., October 31, 1973.

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

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

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-23738 Filed 11-6-73;8:45 am]

PART 1033—CAR SERVICE

[S.O. 1134; Amdt. 2]

Lumber and Plywood, Restrictions on Reconsigning

At a session of the Interstate Commerce Commission, Division 3, held in Washington, D.C., on the 29th day of October 1973.

Upon further consideration of Service Order No. 1134 (38 FR 12606 and 19831), and good cause appearing therefor:

It is ordered, That: § 1033.1134 *Service Order No. 1134 (LUMBER AND PLYWOOD—RESTRICTIONS ON RECONSIGNING)* Service Order No. 1134 be, and it is herfeby suspended until further order of the Commission.

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

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

the Director, Office of the Federal Register.

By the Commission, Division 3.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-23737 Filed 11-6-73;8:45 am]

Title 50—Wildlife and Fisheries

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

PART 32—HUNTING

Bosque Del Apache National Wildlife Refuge, N. Mex.

The following special regulation is issued and is effective on November 7, 1973.

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

NEW MEXICO

BOSQUE DEL APACHE NATIONAL WILDLIFE REFUGE

Public hunting of quail and rabbit on the Bosque del Apache National Wildlife Refuge, New Mexico, is permitted from November 10, 1973, through January 27, 1974, inclusive, but only on the area designated by signs as open to hunting. This open area, comprising 44,200 acres, includes all refuge lands east of the Bureau of Reclamation Channelization Project and all refuge lands west of the A.T. & S.F. Railroad right-of-way. These areas are delineated on maps available at refuge headquarters, San Antonio, New Mexico, and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, New Mexico 87103. Hunting shall be in accordance with all applicable State regulations governing the hunting of quail and rabbit subject to the following special conditions:

(1) Hunting with rifles and handguns is prohibited.

(2) Access is from Hiway 85, Bureau of Reclamation east channel road and through the refuge main entrance at headquarters. Vehicles are permitted only on established roads.

(3) No more than two (2) dogs may be used by a hunter.

(4) Hunters shall leave the refuge by one-half hour after sunset.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 27, 1974.

RICHARD W. RIGBY,
Refuge Manager, Bosque del Apache National Wildlife Refuge, San Antonio, New Mexico.

OCTOBER 1, 1973.

[FR Doc.73-23704 Filed 11-6-73;8:45 am]

PART 32—HUNTING

Bosque Del Apache National Wildlife Refuge, N. Mex.

The following special regulation is issued and is effective on November 7, 1973.

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

NEW MEXICO

BOSQUE DEL APACHE NATIONAL WILDLIFE REFUGE

Public hunting of deer on the Bosque del Apache National Wildlife Refuge, New Mexico, is permitted only on the area designated by signs as open to hunting. This open area, comprising 20,200 acres, is delineated on maps available at refuge headquarters, San Antonio, New Mexico, and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, New Mexico 87103. Hunting shall be in accordance with all applicable State regulations covering the hunting of deer subject to the following special conditions:

(1) Vehicles are restricted to established roads only.

(2) Horses may not be used for the hunting of deer on the refuge.

(3) Hunters shall leave the refuge by one-half hour after sunset.

(4) The open season for hunting deer on the refuge is from November 17 through November 25, 1973, inclusive.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through November 25, 1973.

RICHARD W. RIGBY,
Refuge Manager, Bosque del Apache National Wildlife Refuge, San Antonio, New Mexico.

SEPTEMBER 28, 1973.

[FR Doc.73-23705 Filed 11-6-73;8:45 am]

PART 33—SPORT FISHING

Bosque del Apache National Wildlife Refuge, N. Mex.

The following special regulations are issued and are effective on November 7, 1973.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

NEW MEXICO

BOSQUE DEL APACHE NATIONAL WILDLIFE REFUGE

Sport Fishing on the Bosque del Apache National Wildlife Refuge, New Mexico is permitted in areas open to public use. These open areas, comprising 1,800 acres, are delineated on maps available at refuge headquarters, San Antonio, N. Mex., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, N. Mex. 87103. Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions:

(1) The open season for sport fishing is as follows:

All year round in Unit 18c and d.

April 1 to Sept. 30 in all other waters located in the public use area and designated as open.

(2) Fishing Hours: ½ hour before sunrise until ½ hour after sunset.

(3) Frogging is not permitted on the refuge.

(4) The use of boats or floating devices is not permitted.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through March 31, 1975.

RICHARD W. RIGBY,
Refuge Manager, Bosque del Apache National Wildlife Refuge, San Antonio, New Mexico.

OCTOBER 31, 1973.

[FR Doc.73-23706 Filed 11-6-73;8:45 am]

PART 33—SPORT FISHING

Necedah National Wildlife Refuge, Wisc.

The following special regulation is issued and is effective November 7, 1973.

§ 33.5 Special regulations; sport fishing, for individual wildlife refuge areas.

WISCONSIN

NECEDAH NATIONAL WILDLIFE REFUGE

Sport fishing, in accordance with all applicable State regulations is permitted on the Necedah National Wildlife Refuge, Necedah, Wisconsin, but only on those areas designated as open to fishing during the following dates:

(1) January 1, 1974 through March 15, 1974, the entire 39,549 acre refuge.

(2) June 1, 1974 through September 30, 1974, only on the Sprague-Mather Pool, an area of approximately 2,000 acres.

(3) December 15, 1974 through December 31, 1974, the entire refuge, except Rynearson #1 Pool, approximately 39,000 acres.

The use of boats without motors is permitted.

The open fishing areas are delineated on a map available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1974.

Dated: October 29, 1973.

GERALD H. UPDIKE,
Refuge Manager,
Necedah National Wildlife Refuge.

[FR Doc.73-23673 Filed 11-6-73;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 LABOR

Occupational Safety and Health Administration

[29 CFR Part 1999]

ENVIRONMENTAL IMPACT STATEMENTS

Proposed Procedure

On January 26, 1973, a proposed procedure for the preparation and issuance of environmental impact statements was published in the FEDERAL REGISTER (38 FR 2465). Interested persons were given 30 days in which to submit written objections, data, views and arguments concerning the proposal. Two written comments were received, urging in effect greater clarification.

Prior to the promulgation of the final procedure, it was learned that the Council on Environmental Quality would be revising its Guidelines to Federal agencies for the preparation of environmental impact statements. Consequently, promulgation of the procedure was delayed pending adoption of the new Guidelines. On August 1, 1973, the Council published in final form its revised Guidelines (38 FR 20550).

After a careful study both of the new Guidelines and the written comments on the original proposal, a new procedure is proposed, which, among other things, identifies those agency actions likely to require impact statements and clarifies the required contents of impact statements.

The new proposal includes provisions lengthening the minimum period of review of draft statements from 30 to 45 days, and providing impact statement material free of charge, to the fullest extent possible.

Pursuant to section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332), and section 2(f) of Executive Order 11514 of March 5, 1970 (3 CFR 1966–1970, Comp., p. 902), it is proposed to amend Chapter XVII of Title 29 of the Code of Federal Regulations by adding a new Part 1999 reading as set out below.

All interested persons are invited to submit by December 7, 1973, written comments, suggestions, or objections with respect to the proposed procedure. Submissions should be directed to the Office of Solicitor, attention Mr. Benjamin W. Mintz, U.S. Department of Labor, Room 5420, 14th and Constitution Avenue NW., Washington, D.C. 20210.

The proposed new Part 1999 reads as follows:

Sec.

1999.1 Purpose and scope.
1999.2 Identification of actions requiring environmental impact statements.
1999.3 Initial determination of need for an impact statement.
1999.4 Preparation and circulation of draft environmental impact statements.
1999.5 Preparation and circulation of final environmental impact statements.
1999.6 Emergency circumstances.
1999.7 Effect of final impact statements upon agency decision-making.
1999.8 Subsequent revisions of procedure.

Appendix I—Summary to Accompany Draft and Final Impact Statements.

(Sec. 102, Pub. L. 91–190, 83 Stat. 852 (42 U.S.C. 4332); EO 11514, 35 FR 4247, 3 CFR 1966–1970, Comp., p. 902.)

§ 1999.1 Purpose and scope.

(a) Section 102 of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4332) directs that, to the fullest extent possible, the policies, regulations, and public laws of the United States shall be interpreted and administered in accordance with the policies set forth in the Act for the preservation of the environment. More particularly, section 102(2)(B) of NEPA requires all Federal agencies to develop methods and procedures, in consultation with the Council on Environmental Quality (Council) which will insure that presently unquantified environmental amenities and values will be given appropriate consideration in agency decisionmaking.

(b) Section 3(h) of Executive Order 11514 of March 5, 1970 (3 CFR 1966–1970, Comp., p. 902), directs the Council to issue guidelines to Federal agencies for the preparation of environmental impact statements. On August 1, 1973, the Council published in final form its revised Guidelines (38 FR 20550).

(c) The purpose of this part is to prescribe the policies and procedures to be followed when environmental impact statements are to be prepared in connection with the administration of the Williams-Steiger Occupational Safety and Health Act of 1970 (29 U.S.C. 651–678).

§ 1999.2 Identification of actions requiring environmental impact statements.

(a) Section 102(2)(C) of NEPA requires all Federal agencies including the Occupational Safety and Health Administration (OSHA) to include a detailed environmental impact statement "in every recommendation or report on proposals for legislation and other major Federal action significantly affecting the quality of the human environment." In addition, OSHA is required, pursuant to § 1500.6(c) of the Council's August 1, 1973 Guidelines of this title to identify those actions it is authorized to take that are likely to require environmental impact statements and those actions that are not likely to require impact statements.

(b) The major activities involved in implementing the Williams-Steiger Occupational Safety and Health Act of 1970 are the promulgation of occupational safety and health standards and the granting of particular variances from the standards, approval of State plans for the development and enforcement of standards, inspection of workplaces for compliance with applicable standards, and enforcement proceedings where violations of standards are believed to exist.

(C) Ordinarily, the granting of variances, approval of State plans, inspection and enforcement activities, and requests for appropriations are not expected to be major Federal actions significantly affecting the quality of the human environment. On the other hand, the promulgation of standards regulating the quality of the environment in workplaces is ordinarily expected to be a major action requiring the preparation of an environmental impact statement. Examples of such standards are those regulating exposure to pesticides, radiation, excessive noise, and harmful airborne material.

§ 1999.3 Initial determination of need for an environmental impact statement.

(a) Whenever the Occupational Safety and Health Administration is considering a major Federal action, the Director of the Office of Standards shall determine whether an environmental impact statement is required. The Director shall be the official responsible for the preparation and circulation of OSHA's impact statements (draft and final) required by this part. He shall also receive comments on the statements, prepare the comments of OSHA on impact statements of other agencies, and perform all other duties required by NEPA, Executive Order 11514, and the August 1, 1973, Guidelines, relating to the administration of the Williams-Steiger Occupational Safety and Health Act of 1970.

(b) The Director shall be responsive to requests by the Council for the preparation of an impact statement, unless he determines that one is not required. In that case, he shall prepare a statement indicating the reasons for such a decision that will be available for public inspection under Part 1913 of this chapter.

(c) If there is potential that a proposed action may significantly affect the

human environment or that the environmental impact of the action is likely to be highly controversial, an impact statement shall be prepared. A statement shall also be prepared if it is reasonable to anticipate a cumulatively significant impact on the environment from a number of actions which, individually, have a limited environmental effect.

(d) Where the Director determines that an impact statement is required, a short statement indicating the reasons for such a decision and soliciting comments that may be helpful in preparing the impact statement shall be published in the FEDERAL REGISTER as soon as practicable after the determination is made. The statement shall note that: (1) A copy of the draft impact statement, once it is prepared, will be available to any member of the public who requests an opportunity to comment on it; (2) any entity submitting comments on the draft impact statement to the Director must at the same time forward five (5) copies of the comments to the Council; and (3) a 45-day period will be allowed for the submission of comments on the draft impact statement.

(e) If the Director determines that an impact statement is not required for a propsed action which: (1) Is identified by § 1999.2(c) as normally requiring a statement; (2) is similar to actions which have previously required statements; or (3) was previously announced as the subject of a statement, he shall set forth in writing the decision and the reasons for it, which shall be available for public inspection under Part 1913 of this chapter.

(f) The Director shall maintain a list of proposed actions for which impact statements are under preparation, and a list of determinations not to prepare such statements. The lists shall be revised at regular intervals, no less frequently than quarterly each year. The Director shall transmit each such revision to the Council, which will periodically publish such lists in the Federal Register. The lists shall be made available for public inspection under Part 1913 of this chapter.

§ 1999.4 Preparation and circulation of draft environmental impact statements.

(a) After an initial determination of the need for an impact statement, the Director shall prepare and circulate a draft impact statement as early as possible, but no less than 90 days before final agency action is taken. Where OSHA is involved with at least one other Federal agency in a major action that may significantly affect the human environment, the Director shall consider the possibility of joint preparation of an impact statement or, where appropriate, designation of a single "lead agency" to prepare the statement.

(b) A draft statement must satisfy, at the time the draft is prepared, the requirements established for final statements by section 102(2)(C) of NEPA. The draft impact statement shall include a detailed statement on:

(1) The proposed action, its purposes, and the environment that will be affected;

(2) The probable environmental impact of the proposed action and the sources of data used to identify, quantify, and evaluate it;

(3) The relationship of the proposed action to land use plans, policies, and controls for the affected area;

(4) The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity;

(5) Any probable adverse environmental effects, including secondary or indirect consequences, which cannot be avoided should the proposal be implemented;

(6) Any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented;

(7) Alternatives to the proposed action including, where relevant, those not within the existing authority of OSHA that would minimize or avoid its adverse impact; and

(8) The interests and considerations of Federal policy that are thought to offset the adverse environmental effects of the proposed action should the action be adopted.

(c) Highly technical analyses and data shall be avoided in the body of the draft impact statement. Such materials shall be attached as appendices or footnoted with adequate bibliographic references.

(d) Ten copies of the draft impact statement shall be forwarded to the Council, which will publish in the FEDERAL REGISTER a notice of its filing.

(e) The draft statement shall also be circulated for comment, as soon as possible, to all Federal, Federal-State, State, and local agencies which have jurisdiction by law or special expertise with respect to the environmental impact involved. Wherever a proposed action relates to air or water quality, noise abatement and control, pesticide regulation, solid waste disposal, generally applicable environmental radiation criteria and standards, or other provision of the authority of the Administrator of the Environmental Protection Agency is involved, the Director shall submit such proposed action and the relative draft impact statement to the Administrator for review and comment in writing. Those agencies and their relevant areas of expertise include those identified in Appendices II and III of the Council's August 1, 1973, Guidelines (38 FR 20550).

(f) Copies of all draft impact statements shall be available to any organization or individual, without charge to the extent practicable, or at a fee which is not more than the actual cost of reproduction. A copy of the draft statement shall in all cases be sent free of charge to an applicant whose proposed action is the subject of the statement.

(g) All agencies and private parties shall be allowed a minimum of 45 days for review and submission of comments regarding a draft statement. The length of the review period shall be calculated from the date of publication in the FEDERAL REGISTER of the Council's listing notifying the public of the issuance of the impact statement. Where the Director determines that a request for an extension of time is meritorious, he may extend the 45 day period as much as fifteen (15) additional days. Where no such extension of time has been requested, and no comments have been received within the 45 day period, it may be presumed after 45 days that the agency or party consulted has no comment to make.

(h) In cases where a hearing is to be held on an action which is the subject of an environmental impact statement, the draft statement shall be a proper issue of the hearing.

(i) The Director shall complete a summary sheet on each draft and final impact statement that shall accompany the statement. Appendix I to this part contains a blank form for a summary sheet.

§ 1999.5 Preparation and circulation of final environmental impact statements.

(a) After a draft impact statement has been circulated and at least 45 days have elapsed for review of it, the Director may prepare a final impact statement.

(b) The final impact statement shall contain an analysis of all significant review comments received. All substantive comments received on the draft statement (or summaries thereof where the response has been exceptionally voluminous) shall be attached to the final statement, whether or not each such comment is thought to merit individual discussion in the text of the statement.

(c) Ten copies of the final impact statement, together with the substance of all comments received on the draft statement, shall be forwarded to the Council which will publish a notice thereof in the FEDERAL REGISTER.

(d) Copies of final impact statements, with comments attached, shall be sent, where practicable, to all Federal, Federal-State, State, and local agencies and private organizations that made substantial comments on the draft statement and to individuals who requested a copy of the final statement, as well as any applicant whose proposal is the subject of the statement. Copies shall also be sent to all agencies that share jurisdiction and/or expertise with OSHA in the area that involves the proposed action. (See § 1999.4(e) and Appendices II and III of the Council's Guidelines (38 FR 20550).)

(e) In all cases, copies of final statements shall be sent to the Environmental Protection Agency to assist it in carrying out its responsibilities under section 309 of the Clean Air Act.

(f) Once the final statement has been prepared, the Director shall make it, the comments received regarding the draft impact statement, and any underlying documents, available to the public pursuant to the Freedom of Information Act (5 U.S.C. 552), without regard to the exclusion of intra or interagency memoranda when such memoranda transmit comments of Federal agencies on the en-

vironmental impact of the proposed action, and in accordance with Part 1913 of this chapter. Where appropriate, the Director shall utilize methods, in addition to the Council's noticing of the statement in the FEDERAL REGISTER, to publicize the existence of the environmental impact statement.

(g) In no case shall final agency action be taken sooner than 30 days after the publication in the FEDERAL REGISTER of the Council's listing notifying the public of issuance of the final impact statement, except as otherwise provided in § 1999.6.

(h) The Director may at any time supplement or amend a draft or final impact statement, particularly when substantial changes are made in the proposed action, or significant new information becomes available concerning its environmental impact. In such cases, the director shall consult with the Council with respect to the possible need for or desirability of recirculation of the statement for an appropriate length of time.

§ 1999.6 Emergency circumstances.

When emergency circumstances, overriding considerations of expense to the Federal government, or impaired program effectiveness make it necessary to take an action with significant environmental impact without observing the time limitations set out in this part, the Director shall consult as soon as possible with the Council regarding alternative procedures to be followed.

§ 1999.7 Effect of final impact statements upon agency decisionmaking.

In deciding whether to take an action which is the subject of a final impact statement, the Assistant Secretary of Labor for Occupational Safety and Health will consider the final impact statement and the comments thereon, along with other considerations dictated by the Williams-Steiger Occupational Safety and Health Act of 1970.

§ 1999.8 Subsequent revisions of this part.

Any revision of this part will be proposed and adopted only after prior consultation with the Council and, in the case of substantial revision, opportunity for public comment. All revisions will be published in the FEDERAL REGISTER.

Signed at Washington, D.C., this 1st day of November 1973.

JOHN H. STENDER,
Assistant Secretary of Labor.

APPENDIX I—SUMMARY TO ACCOMPANY DRAFT AND FINAL IMPACT STATEMENTS

Check one: ( ) Draft. ( ) Final Environmental Impact Statement.

Department of Labor, Occupational Safety and Health Administration, Office of Standards, Applications Research Branch, Room 504, Railway Labor Building, 400 First Street, Washington, D.C. 20210.

(1) Name of action. (Check one): ( ) Administrative action. ( ) Legislative action.

(2) Brief description of action and its purpose, what States are affected, and what other, if any, Federal actions are in the geographical area.

(3) Summary of environmental impacts and adverse environmental effects.

(4) Summary of major alternatives considered.

(5) (For draft statements.) List all Federal, State, Federal-State, and local agencies and other parties from which comments have been requested. (For final statements.) List all Federal, State, Federal-State, and local agencies and other parties from which written comments have been received.

(6) Date draft statement (and final environmental impact statement, if one has been issued) was made available to the Council and the public and the final date for submission of comments.

[FR Doc.73-23721 Filed 11-6-73;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 135]

NEW ANIMAL DRUGS

Status of Animal Drugs in Feed Blocks

In recent years, some companies have begun to market animal drugs incorporated in what are commonly referred to as "feed blocks." Feed blocks are agglomerated feed which may include salt, minerals and other ingredients compressed into a solid cohesive mass of varying geometric configuration and size. They are conventionally placed in feeding or grazing areas and consumed by animals free choice as a supplemental source of nutrients to their diet. The Commissioner of Food and Drugs has concluded that a regulation should be proposed to clarify the status of animal drugs in feed blocks in order to avoid confusion and needless litigation on this subject.

Feed blocks are a relatively new means for administration of animal drugs. Existing approvals for use of most animal drugs in animal feed are based upon data and representations relating to the use of drugs in the usual form of animal feed (e.g., mash, crumbles, and pellets). Most approvals are phrased in terms of grams per ton of feed or the dosage per animal per day, neither of which contemplated the use of free choice feed blocks. The stability of drugs in feed blocks is uncertain. Because feed blocks are intended for free choice feeding, it must be determined whether all animals in a herd or flock consume sufficient quantities of the medication for it to be effective.

Therefore, it is apparent that animal drugs are not generally recognized as safe and effective for use in feed blocks, and that existing approvals were not intended to and do not include the use of these drugs in feed blocks except as specifically provided for in certain approval regulations (e.g., 21 CFR 135c.7(e)(4) and 135c.23(d)(2)). Accordingly, it is proposed that an animal drug used in a feed block be classified as a new animal drug for that use and thus is permitted only after specific approval on an individual basis pursuant to section 512(b) of the act.

The Commissioner proposes that approvals of specific animal drugs in specific types of feed blocks be granted on the basis of submission of new animal drug applications. In order for a drug lawfully to be utilized in a feed block, approval will be required to be obtained for that specific drug in that specific type of feed block. General approvals of categories of drugs in a specific type of feed block, or of a specific drug in feed blocks generally, would not be granted unless sufficient data were submitted to show comparability of the feed blocks; stability of the drugs in all types of feed blocks; and consumption by all animals in a herd or flock of sufficient quantities of the drug for each type of feed block covered.

The Commissioner recognizes that orderly transition under this new regulation will be essential in order to cover the feed blocks now on the market for which adequate data may be available. Accordingly, it is proposed that 90 days be provided following the effective date of the final order promulgating this regulation for filing of an NADA for any drug contained in a feed block already on the market, which is not the subject of an approval of a new animal drug application (NADA). Marketing may continue on an interim basis for any such drug for which an NADA is received until such NADA is either approved or it has been determined that the application is not approvable under the provisions of § 135.12. Any other such products marketed subsequent to the effective date of the final order without an approved NADA would be liable to regulatory action.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 512, 701(a), 52 Stat. 1055, 82 Stat. 343-351; (21 U.S.C. 360b, 371(a))) and under authority delegated to the Commissioner (21 CFR 2.120), it is proposed that Part 135 be amended by adding to Subpart B the following new section:

§ 135.114 Animal feed blocks; new animal drug requirements.

(a) Feed blocks are aglomerated feed which may include salt, minerals and other ingredients compressed into a solid cohesive mass of varying geometric configuration and size. They are usually placed in feeding or grazing areas and consumed by animals free choice as a supplemental source of nutrients to their diet.

(b) Information available to the Commissioner of Food and Drugs raises questions regarding the safety and effectiveness of drugs when administered in animal feed blocks.

(c) Feed blocks are a relatively new means for administration of animal drugs. Existing approvals for use of most animal drugs in animal feed were published prior to the use of feed blocks or were based upon data and representations relating to use of drugs in the usual form of feed (e.g., mash, crumbles, and pellets). Such approvals do not include the use of these drugs in feed blocks unless specifically provided for in the regulations. Accordingly, the use of an animal drug in a feed block is permissible only after specific approval on an individual basis pursuant to section 512(b) of the act.

(d) In order to provide an adequate period of time for manufacturers to obtain approved new animal drug applications for the use of specific drugs in specific types of feed blocks already marketed, the following transitional provisions shall apply.

(1) Within 90 days after the effective date of this regulation, any person interested in the continued use of a specific animal drug in a specific type of feed block marketed prior to the effective date of this regulation shall submit a new animal drug application requesting approval of such use pursuant to section 512(b) of the act.

(2) Any existing use of a specific animal drug in a specific type of feed block, marketed prior to the effective date of this regulation, for which a new animal drug application is submitted pursuant to paragraph (d)(1) of this section may continue on an interim basis until such time as the submitted new animal drug application is approved or it has been determined that the application is not approvable under the provisions of § 135.12.

(3) Any use of a specific animal drug in a specific type of feed block, not marketed prior to the effective date of this regulation and not covered by an approved new animal drug application shall be subject to regulatory action for violation of section 512 of the act.

Interested persons may, on or before January 7, 1974, file with the Hearing Clerk, Food and Drug Administration, Rm. 6-88, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: November 1, 1973.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.73-23670 Filed 11-6-73;8:45 am]

Office of Education

[45 CFR Part 103]

EXEMPLARY PROJECTS IN VOCATIONAL EDUCATION

Notice of Closing Date for Receipt of Applications and Criteria for Selection of Applicants

Pursuant to the authority contained in section 142(c) of Part D of the Vocational Education Act of 1963, as amended, 20 U.S.C. 1302(c), notice is hereby given that the Commissioner of Education, with the approval of the Secretary of Health, Education, and Welfare, proposes to amend Part 103 of Title 45 of the Code of Federal Regulations by adding an Appendix A to read as set forth below. The proposed Appendix A would contain additional criteria for selection of applications under the program of support for Exemplary Projects in Vocational Education.

1. *Program purpose.* Section 142(c) of Part D of the Vocational Education Act of 1963, as amended, 20 U.S.C. 1302(c), provides for Federally-administered grants for Exemplary Projects in Vocational Education. The purposes of these exemplary projects are to: (a) Create bridges between school and earning a living for young people who are still in school, who have left school either by graduation or by dropping out, or who are in post-secondary programs of vocational preparation; (b) promote cooperation between public education and manpower agencies; and (c) broaden occupational aspirations and opportunities for youths, with special emphasis given to youths who have academic, socioeconomic, or other handicaps. Provisions are made for the participation of students enrolled in private nonprofit schools. The projects are conducted under grants or contracts awarded by the U.S. Commissioner of Education, in accordance with the provisions of Part D of the Act and with the applicable Federal Regulations (45 CFR Part 103). Eligible applicants may include local educational agencies, State Boards for Vocational Education, and public and private agencies, institutions or organizations. These exemplary projects represents bridge-building efforts between research and development work on the one hand and actual operations in school settings on the other hand. Exemplary projects do not involve original research and developmental activities but are based upon prior research and development. They constitute a transition of research findings and developmental efforts to program operations.

2. *Regulations and criteria.* Regulations relating to the administration of the exemplary projects program under Part D of the Vocational Education Act of 1963 are contained in 45 CFR Part 103. (See particularly 45 CFR 103.21-27.) Specific criteria for the review of applications submitted to the Commissioner of Education under the program are contained in 45 CFR 103.25. Certain changes in the regulations in Part 103 have recently been proposed in a notice of proposed rulemaking published in 38 FR 10386, April 26, 1973, relating to general fiscal and administrative provisions for all OE programs. These general regulations contain general criteria for the review of applications under Office of Education project type programs (45 CFR 100a.26). When they become finally effective, these regulations will also be applicable to the program under Part D.

In addition to the criteria for review of applications already published in the FEDERAL REGISTER, as described above, it is proposed that the priorities set forth in the proposed Appendix A to the regulation in 45 CFR Part 103 will be applicable in connection with the review of applications for new projects to be awarded in fiscal year 1974 under Part D.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed priorities to the Division of Vocational Education Research, U.S. Office of Education, 7th and D Streets SW., Room 5051-ROB, Washington, D.C. 20202. Comments received in response to this notice will be available for public inspection at the above office on Mondays through Fridays between 8:30 a.m. and 4:30 p.m. All relevant material received on or before November 27, 1973, will be considered.

3. *Submission of applications.* Notice is hereby given that the U.S. Commissioner of Education has established December 10, 1973, as the final closing date for receipt of fiscal year 1974 applications from the States of Florida, Minnesota, North Carolina, Puerto Rico, the Virgin Islands, and the Trust Territory of the Pacific Islands for grants for Exemplary Projects in Vocational Education.

Applications must be prepared and submitted in accordance with instructions and forms which may be obtained from the appropriate Regional Office of the U.S. Office of Education. Applicants from Florida and North Carolina should request instructions and forms from U.S. Office of Education, Regional Office, Room 550, 50 Seventh Street NE., Atlanta, Georgia 30323. Applicants from Minnesota should address their requests to U.S. Office of Education, Regional Office, 300 Wacker Drive, Chicago, Illinois 60606. Applicants from Puerto Rico and the Virgin Islands should address their requests to U.S. Office of Education, Regional Office, Federal Building, 26 Federal Plaza, New York, New York 10007. Applicants from the Trust Territory of the Pacific Islands should address their requests to U.S. Office of Education, Regional Office, 50 Fulton Street, San Francisco, California 94102.

Completed applications are to be submitted to the appropriate Regional Office, with a copy furnished simultaneously to the applicable State Board for Vocational Education. The State Board will review each application and may, within a period of sixty days, disapprove any application. All applications not disapproved by the State Boards will be eligible for review by the U.S. Office of Education.

Direct grants or contracts are awarded in each State up to the limit of funding available for the U.S. Commissioner of Education to use in that State as allotted under section 142(c) of Part D of the Act. The approximate allocations anticipated for initiating new grants during fiscal year 1974 are: $180,500 for Florida, $155,700 for Minnesota, $230,000 for North Carolina, $277,000 for Puerto Rico, $4,000 for the Virgin Islands, and $7,600 for the Trust Territory of the Pacific Islands. In all other States and Territories, the fiscal year 1974 funds are being used to meet the continuation costs of ongoing three-year projects.

(Catalog of Federal Domestic Assistance Program Number 13.502; Exemplary Projects in Vocational Education.)

Dated: October 10, 1973.

JOHN OTTINA,
U.S. Commissioner of Education.

Approved: November 1, 1973.

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

APPENDIX A—EXEMPLARY PROJECTS IN VOCATIONAL EDUCATION ADDITIONAL CRITERIA

In the making of awards from funds available for the program (in addition to consideration of the criteria in 45 CFR 103.25 and 100a.26(b)) priority will be given to projects which include a strong guidance and counseling emphasis and which involve in one operational setting a coordinated set of activities designed to carry out all of the following purposes.

a. To increase the self awareness of each student, to develop in each student favorable attitudes about the personal, social, and economic significance of work, and to assist each student in developing and practicing appropriate career decisionmaking skills.

b. To increase the career awareness of students at the elementary school level in terms of the broad range of options open to them in the world of work.

c. To provide, at the junior high or middle school level, career orientation and meaningful exploratory experiences for students.

d. To provide, at grade levels 10 through 14, job preparation in a wide variety of occupational areas, with special emphasis on innovative approaches to the provision of work experience and/or cooperative education opportunities for all students.

e. To insure the placement of all exiting students in either: (1) A job, (2) a post-secondary occupational program, or (3) a baccalaureate program.

(20 U.S.C. 1301, 1303(a).)

Each project may be designed for a duration of up to three years, with the understanding that only the first 12 months of activity will be supported with fiscal year 1974 funds. Support for the proposed second and third years of each project will be dependent upon availability of appropriations and satisfactory progress in the implementation of the earlier stages of the project. Since comprehensive exemplary projects will require substantial financial resources, consideration should be given in the project design to the possible coordination with relevant programs supported from other sources.

(20 U.S.C. 1301.)

[FR Doc.73-23724 Filed 11-6-73;8:45 am]

Social Security Administration

[20 CFR Part 416]

SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Eligibility and Payment Factors

Correction

In FR Doc. 22329 appearing at page 29087 in the issue for Friday, October 19, 1973, in § 416.520(b), line 9 should be transposed to follow the word "spouse" in line 10; and in line 12, the word "has" should read "had".

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 19828]

FM BROADCAST STATIONS IN LEXINGTON, MO.

Proposed Table of Assignments; Order Extending Time for Filing Comments and Reply Comments

In the matter of amendment of § 73.202(b), *table of assignments*, FM Broadcast Stations. (Lexington, Missouri), Docket No. 19828, RM-1910.

1. On September 19, 1973, the Commission adopted a notice of proposed rulemaking in the above-entitled proceeding. Publication was given in the FEDERAL REGISTER on October 2, 1973, 38 FR 27303. Comment and reply comment dates are presently November 2, and November 13, 1973, respectively.

2. On October 19, 1973, S & M Investments, Inc. (S & M), licensee of Station KBIL, Liberty, Missouri, requested that the time for filing comments and reply comments be extended to November 23 and December 3, 1973, respectively. S & M states that this is an appropriate proceeding for it to make a counterproposal, which would result in an FM channel being assigned to Liberty, Missouri. S & M further states that the specified date for filing comments is insufficient time for completion and review of the engineering and other petition material and for development of its own engineering material.

3. It appears that the requested extension is warranted since the Commission wishes to benefit from the views of all interested parties. However, we note that substantial time was initially provided for comments in this proceeding and we therefore contemplate no further extensions: *Accordingly, it is ordered*, That the dates for filing comments and reply comments are extended to and including November 23, and December 3, 1973, respectively.

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

Adopted: October 31, 1973.

Released: November 1, 1973.

[SEAL] WALLACE E. JOHNSON, *Chief, Broadcast Bureau.*

[FR Doc.73-23713 Filed 11-6-73;8:45 am]

[47 CFR Part 73]

FM BROADCAST STATIONS IN BEAUFORT, S.C.

Proposed Table of Assignments; Order Extending Time for Filing Comments and Reply Comments

In the matter of amendment of § 73.202(b), *Table of assignments*, FM Broadcast Stations. (Beaufort, South Carolina), Docket No. 19833, RM-2088.

1. On September 26, 1973, the Commission adopted a notice of proposed rulemaking in the above-entitled proceeding. Publication was given in the FEDERAL REGISTER on October 9, 1973, 38 FR 27844. Comment and reply comment dates are presently November 9 and November 19, 1973, respectively.

2. On October 30, 1973, counsel for Sea Island Broadcasting Corporation (proponent in this proceeding) requested that the time for filing comments be extended to December 10, 1973. Counsel states that Sea Island Broadcasting Corporation is presently involved in other pressing matters which involve its President and 100 percent stockholder and Counsel and is therefore not able to adequately obtain the necessary data to update its initial petition by the November 9, 1973 deadline.

3. We are of the view that the public interest would be served by extending the time in this proceeding: *Accordingly, it is ordered*, That the dates for filing comments and reply comments are extended to and including December 10, and December 21, 1973, respectively.

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

Adopted: October 31, 1973.

Released: November 1, 1973.

[SEAL] WALLACE E. JOHNSON, *Chief, Broadcast Bureau.*

[FR Doc.73-23712 Filed 11-6-73;8:45 am]

[Docket No. 19825]

[47 CFR Part 73]

DUAL-LANGUAGE TV/FM PROGRAMMING IN PUERTO RICO

Order Extending Time for Filing Comments and Reply Comments

1. On September 11, 1973, the Commission adopted a notice of proposed rulemaking and Notice of Inquiry in the above-entitled proceeding. Publication was given in the FEDERAL REGISTER on September 21, 1973, 38 FR 26464. Comment and reply comment dates are presently October 26 and November 5, 1973, respectively.

2. On October 24, 1973, the Special Counsel to the Governor of the Commonwealth of Puerto Rico (Special Counsel), requested that the time for filing comments be extended for six weeks. The Special Counsel states that the Government of Puerto Rico has a substantial interest in this proceeding due to Puerto Rico's unique position as an officially bilingual area. He further states that in order to frame its comments additional time beyond October 26 will be necessary to complete the necessary considerations and policy formulation.

3. It appears that the requested time is warranted. *Accordingly, it is ordered*, That the dates for filing comments and reply comments are extended to and including December 7 and December 17, 1973, respectively.

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

Adopted: October 29, 1973.

Released: October 30, 1973.

[SEAL] WALLACE E. JOHNSON, *Chief, Broadcast Bureau.*

[FR Doc.73-23714 Filed 11-6-73;8:45 am]

FEDERAL POWER COMMISSION

[18 CFR Part 260]

[Docket No. R-455]

STATEMENTS AND REPORTS

Imputed Rate of Return on Jurisdictional Rate Base; Termination of Rulemaking Proceeding; Correction

NOVEMBER 1, 1973.

Order amending prior order. Revisions to FPC Annual Report Form No. 2 to obtain allocation of costs between jurisdictional and non-jurisdictional pipeline operations to determine the imputed rate of return on jurisdictional rate base, Docket No. R-455.

On July 12, 1973, the Commission issued an order terminating proposed rulemaking proceeding in the above captioned docket which contains a typographical error published at 38 FR 19238, July 19, 1973. On mimeo page 1, line 14 of that order the year "1973" appears while the correct year is "1972". We will order this correction.

The Commission orders.

(A) The year "1973" which appears on mimeo page 1, line 14 of our order issued July 12, 1973, in this proceeding is hereby changed to read "1972".

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

By the Commission.

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

[FR Doc.73-23645 Filed 11-6-73;8:45 am]

SELECTIVE SERVICE SYSTEM

[32 CFR Part 1604]

REGISTRANTS

Methods for Transmitting Orders and Other Official Papers

Pursuant to the Military Selective Service Regulations constituting a por- App., sections 451 et seq.), and § 1604.1 of Selective Service Regulations (32 CFR 1604.1), the Director of Selective Service hereby gives public notice that consideration is being given to the following proposed amendment to the Selective Service Regulations constituting a portion of Chapter XVI of Title 32 of the Code of Federal Regulations. These Regulations implement the Military Selective Service Act, as amended (50 U.S. Code App., sections 451 et seq.).

The proposed new section prescribes the methods for transmitting orders and other official papers to registrants.

All persons who desire to submit views to the Director on the proposals should prepare them in writing and mail them to the Director, Selective Service System, Attn: LLD, 1724 F Street Northwest, Washington, D.C. 20435. Comments received within thirty days following the publication of this notice in the FEDERAL REGISTER will be considered.

The proposed amendment follows:

Section 1604.60 *Transmission of orders and other official papers to registrants,* is added to read as follows:

§ 1604.60 Transmission of orders and other official papers to registrants.

Personnel of the Selective Service System will transmit orders or other official papers addressed to a registrant by handing them to him personally or mailing them to him to the address last reported by him in writing to his local board.

BYRON V. PEPITONE, *Director.*

OCTOBER 30, 1973.

[FR Doc.73-23727 Filed 11-6-73;8:45 am]

[32 CFR Part 1641]

REGISTRANTS

Effect of Mailing Communication

Pursuant to the Military Selective Service Act, as amended (50 U.S. Code App., sections 451 et seq.), and Executive Order Number 11623 dated October 12, 1971, the Director of Selective Service hereby gives public notice that consideration is being given to the following proposed amendment to the Selective Service Regulations constituting a portion of Chapter XVI of Title 32 of the Code of Federal Regulations. These Regulations implement the Military Selective Service Act, as amended (50 U.S. Code App., sections 451 et seq.).

The proposed amendment would revoke § 1641.2 which is no longer considered appropriate for a Selective Service Regulation.

All persons who desire to submit views to the Director on the proposals should prepare them in writing and forward them to the Director, Selective Service System, Attn: LLD, 1724 F Street Northwest, Washington, D.C. 20435. Comments received on or before December 7, 1973, will be considered.

The proposed amendment follows:

§ 1641.2 [Revoked]

Section 1641.2 *Effect of mailing a communication to a registrant,* is revoked.

BYRON V. PEPITONE, *Director.*

OCTOBER 30, 1973.

[FR Doc.73-23726 Filed 11-6-73;8:45 am]

[32 CFR Part 1660]

ALTERNATE SERVICE

Selection of Nonvolunteer and Assignment

Pursuant to Sections 6(j) and 13(b) of the Military Selective Service Act, as amended (50 App. U.S. Code, sections 451 et seq.), the Director of Selective Service hereby gives public notice that consideration is being given to the following proposed amendments to the Selective Service Regulations constituting a portion of Chapter XVI of Title 32 of the Code of Federal Regulations. These Regulations implement section 6(j) of the Military Selective Service Act, as amended (50 App. U.S. Code, 456(j)).

The proposed amendments would authorize a registrant in Class 1-W to propose other alternate service, change the period within which a registrant in Class 1-O may propose a job for alternate service, and change the minimum time after the issuance of an Order to Report for Alternate Service for a registrant to report for alternate service from 70 days to 30 days. The 30 day period is the same period afforded a registrant to report for induction.

All persons who desire to submit views to the Director on the proposals should prepare them in writing and mail them to the Director, Selective Service System, Attn: LLD, 1724 F Street Northwest, Washington, D.C. 20435. Comments received on or before December 7, 1973, will be considered.

The proposed amendments follow:

Section 1660.4 *Selection of nonvolunteer for alternate service,* is amended to read as follows:

§ 1660.4 Selection of nonvolunteer for alternate service.

(a) Any member or compensated employee of the local board, or any compensated employee of the Selective Service System whose official duties include the performance of administrative duties at a local board, will issue to a registrant classified in Class 1-O an Order to Report for Alternate Service (SSS Form 153) at the same time that he would be issued an Order to Report for Induction (SSS Form 252) were he classified in Class 1-A or 1-A-O. Such Order to Report for Alternate Service (SSS Form 153) shall specify the place and a date on which the registrant is to report for alternate service in accord with the instructions of the State Director. The date specified shall be not earlier than 30 days after such order is mailed.

(b) A registrant in Class 1-O who would be eligible for Class 1-AM were he not in 1-O will be ordered to alternate service in lieu of induction at the time that he would be ordered for induction if he were in Class 1-AM.

(c) The Director may direct the cancellation of an order to report for alternate service for any registrant prior to his failing or refusing to report for alternate service.

Section 1660.7(b) is amended to read as follows:

§ 1660.7 Assigning alternate service.

* * * * *

(b) A registrant classified in Class 1-O may submit Employer's Statement of Availability of a Job as Alternate Service (SSS Form 156) or a letter from an employer to the State Director at any time prior to the elevnth day following the issuance to him of an Order to Report for Alternate Service (SSS Form 153). A reg-

istrant classified in Class 1–W may submit Employer's Statement of Availability of a Job as Alternate Service (SSS Form 156) or a letter from an employer to the State Director at any time. The State Director will determine whether the proposed job is acceptable. When a job is approved, the registrant's local board will issue Order to Report for Alternate Service (SSS Form 153) in accord with § 1660.4 or an appropriate Amendment to Order to Report for Alternate Service (SSS Form 153A) in accord with instructions of the State Director.

* * * * *

BYRON V. PEPITONE,
Director.

OCTOBER 29, 1973.

[FR Doc.73-23725 Filed 11-6-73;8:45 am]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1057]

LEASE AND INTERCHANGE OF VEHICLES

Motor Contract Carrier Notice to All Parties

OCTOBER 31, 1973.

At the request of Ronald J. Mastej, petitioners representative, the time for filing representations in this proceeding has been extended from November 5, 1973, to November 19, 1973.

By the Commission.

[SEAL] RONALD L. OSWALD,
Secretary.

[FR Doc.73-23732 Filed 11-6-73;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

Agency for International Development

MISSION DIRECTOR AND DEPUTY MISSION DIRECTOR, USAID/INDONESIA

Delegation of Authority

Pursuant to the authority delegated to me by Delegation of Authority No. 5, dated December 29, 1961, as amended, and Delegation of Authority No. 94, dated February 1, 1972, I hereby redelegate to each of the individuals listed above, and to any person acting in the official capacity of Mission Director or Deputy Mission Director, USAID/Indonesia, for the country of Indonesia authority to perform the following functions, subject to instructions otherwise by me or my designee and retaining for myself concurrent authority to exercise any of the functions herein redelegated:

1. Authority to negotiate loan agreements authorized under the Foreign Assistance Act of 1961 and any successor legislation in accordance with the terms of the authorization of such loan agreements.

2. Authority to execute and deliver loan agreements and amendments thereto with respect to loans authorized under the Foreign Assistance Act of 1961 and any successor legislation in accordance with the terms of the authorization of such loan agreements.

3. Authority to implement loan agreements with respect to loans authorized under the Foreign Assistance Act of 1961 and any successor legislation and by the Board of Directors of the Corporate Development Loan Fund (except for procurement activities under loan agreements for commodity import programs and the commodity and commodity-related service import activities under other loan agreements which are covered by A.I.D. Delegation of Authority No. 100) to the following extent:

(a) Authority to prepare, negotiate, sign, and deliver letters of implementation;

(b) Authority to review and approve documents and other evidence submitted by borrowers in satisfaction of conditions precedent to financing under such loan agreements;

(c) Authority to negotiate, execute, and implement all agreements and other documents ancillary to such loan agreements; and

(d) Authority to review and approve the terms of contracts, amendments, and modifications thereto and invitations for bids with respect to such contracts financed by funds made available under such loan agreements.

The authorities enumerated above may be redelegated by the individuals listed above, as appropriate, but not successively redelegated, except that the authority described above in paragraph (2) may not be redelegated.

The authorities enumerated above in paragraph (2) are also hereby redelegated under the same terms and conditions set forth herein to the U.S. Ambassador to Indonesia.

This Redelegation of Authority is effective immediately.

Dated: October 24, 1973.

D. G. MACDONALD,
Assistant Administrator,
Bureau for Asia.

[FR Doc.73-23679 Filed 11-6-73;8:45 am]

ADVISORY COMMITTEE ON VOLUNTARY FOREIGN AID

Notice of Meeting

Pursuant to Executive Order 11686 and the provisions of section 10(a), Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given of the meeting, November 15, 1973, of the Advisory Committee on Voluntary Foreign Aid to be held in the Greystone Conference Center, 690 W. 247th Street, Riverdale (Bronx), New York.

The meeting will be the second panel discussion for the purpose of obtaining responses to the Draft Report of the Advisory Committee on "The Role of Voluntary Agencies in International Assistance—A Look to the Future," and for the consideration of other matters related to the foreign assistance activities of voluntary agencies.

The first session will be from 9:30 a.m. to 12:00 p.m.; the second session will be from 1:00 p.m. to 4:00 p.m.

These sessions will be open to the public. Any interested person may attend, appear before, or file statements with the Committee in accordance with procedures established by the Committee, and to the extent time available for the meeting permits. Written statements may be filed before or after the meeting.

Dr. Jarold A. Kieffer will be the A.I.D. representative at the meeting. Information concerning the meeting may be obtained from Mr. Robert S. McClusky, Telephone: AC 202-632-0802.

Dated October 29, 1973.

JAROLD A. KIEFFER,
Assistant Administrator for Population and Humanitarian Assistance.

[FR Doc.73-23751 Filed 11-6-73;8:45 am]

DEPARTMENT OF THE TREASURY

Office of the Secretary

PICKER STICKS FROM MEXICO

Antidumping; Withholding of Appraisement Notice

NOVEMBER 5, 1973.

Information was received on March 28, 1973, that picker sticks from Mexico were being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act"). This information was the subject of an "Antidumping Proceeding Notice" which was published in the FEDERAL REGISTER of May 2, 1973, on page 10825. The "Antidumping Proceeding Notice" indicated that there was evidence on record concerning injury to or likelihood of injury to or prevention of establishment of an industry in the United States.

Pursuant to section 201(b) of the Act (19 U.S.C. 160(b)), notice is hereby given that there are reasonable grounds to believe or suspect that the exporter's sales price (section 204 of the Act (19 U.S.C. 163)), of picker sticks from Mexico is less, or is likely to be less than the foreign market value (section 205 of the Act (19 U.S.C. 164)).

Statement of Reasons:

Information currently before the U.S. Customs Service tends to indicate that the probable basis of comparison for fair value purposes will be between exporter's sales price and the adjusted home market price of such or similar merchandise.

Exporter's sales price will probably be calculated on the basis of the sale price by the related United States importer to purchasers in the United States, with deductions for foreign freight and brokerage, United States freight and brokerage, United States import duties, selling expenses incurred in the United States, selling commission in the United States, and quantity discounts, and an addition for Mexico City sales taxes which have been rebated, or which have not been collected, by reason of the exportation of the merchandise to the United States.

Home market price will probably be calculated on the basis of an f.o.b. plant price. Adjustments will probably be made for differences in the merchandise, commission, and packing.

Using the above criteria, there are reasonable grounds to believe or suspect that exporter's sales price will be lower than the adjusted home market price.

Customs officers are being directed to withhold appraisement of picker sticks from Mexico in accordance with § 153.48, Customs Regulations (19 CFR 153.48).

In accordance with §§ 153.32(b) and 153.37, Customs Regulations (19 CFR 153.32(b), 153.37), interested persons may present written views or arguments, or request in writing that the Secretary of the Treasury afford an opportunity to present oral views.

Any requests that the Secretary of the Treasury afford an opportunity to present oral views should be addressed to the Commissioner of Customs, 2100 K Street NW., Washington, D.C. 20229, in time to be received by his office not later than 10 calendar days from the date of publication of this notice in the FEDERAL REGISTER. Such requests must be accompanied by a statement outlining the issues wished to be discussed.

Any written views or arguments should likewise be addressed to the Commissioner of Customs in time to be received by his office by December 7, 1973.

This notice, which is published pursuant to § 153.34(b), Customs Regulations (19 CFR 153.34(b)), shall become effective on November 7, 1973. It shall cease to be effective at the expiration of 6 months from the date of this publication, unless previously revoked.

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

[FR Doc.73-23872 Filed 11-6-73;9:59 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

ARIZONA STRIP DISTRICT ADVISORY BOARD

Notice of Meeting

OCTOBER 31, 1973.

Meeting of the Advisory Board for the Arizona Strip District will be held at 9 a.m. on December 6, 1973, at the Arizona Strip District Office, 196 East Tabernacle, St. George, Utah. The agenda will include considering and recommending action on the following: (1) Reorganization of the Board, (2) grazing applications for the 1974 Season, (3) management Framework Plans, (4) allotment Management Plans, and (5) status of current programs.

The meeting will be open to the public insofar as seating is available. Time will be available for brief statements from members of the public but those wishing to make an oral statement must inform the chairman in writing prior to the meeting. Interested persons may file a written statement with the board for its consideration. They should be sent to the Chairman, District Advisory Board, c/o District Manager, Bureau of Land Management, P.O. Box 250, St. George, Utah 84770.

GARTH M. COLTON,
District Manager.

NOVEMBER 1, 1973.

[FR Doc.73-23682 Filed 11-6-73;8:45 am]

[OR 10139]

OREGON

Notice of Proposed Withdrawal and Reservation of Land

OCTOBER 30, 1973.

The Department of Agriculture, on behalf of the Forest Service, has filed application, OR 10139, for withdrawal of the land described below, from all forms of appropriation under the mining laws (30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws, subject to valid existing rights.

The applicant desires the land for the Bagby Research Natural Area.

All persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing no later than December 6, 1973, to the undersigned officer of the Bureau of Land Management, Department of the Interior, P.O. Box 2965 (729 NE. Oregon Street), Portland, Oregon 97208.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide the maximum concurrent utilization of the land for purposes other than the applicant's, to eliminate land needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the land and its resources.

He will also prepare a report for consideration by the Secretary of the Interior, who will determine whether or not the land will be withdrawn as requested by the applicant agency.

The determination by the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The land involved in the application is:

MT. HOOD NATIONAL FOREST

WILLAMETTE MERIDIAN

T. 7 S., R. 5 E.,
Sec. 22, SE¼SW¼, NE¼NE¼SE¼, S½N½SE¼, S½SE¼;
Sec. 23, S½NE¼SW¼, NW¼SW¼, S½SW¼, SW¼SE¼;
Sec. 26, NE¼NE¼, W½NE¼, NW¼SE¼NE¼, N½NW¼, SE¼NW¼, N½NE¼SW¼, NW¼NW¼SE¼;
Sec. 27, NE¼NE¼, W½NE¼, NE¼NW¼, N½SE¼NW¼.

The area described contains approximately 545 acres, in Clackamas County, Oregon.

IRVING W. ANDERSON,
Chief, Branch of Lands and Mineral Operations.

[FR Doc.73-23681 Filed 11-6-73;8:45 am]

[Survey Group 81; ES 9002]

WISCONSIN

Notice of Filing of Plat of Survey

(1) The plat of survey of the island described below, accepted on April 2, 1971, will be officially filed in this office effective at 10 a.m. on December 17, 1973:

FOURTH PRINCIPAL MERIDIAN

T. 30 N., R. 7 W.,
Sec. 3, lot 8.

Containing 2.47 acres.

(2) This island was designated as Willow Island in the Chippewa River on the plat of survey approved on February 25, 1850.

(3) The character of the island attests to its existence on May 29, 1848, when Wisconsin was admitted into the Union, and on all subsequent dates.

(4) On the date when Wisconsin was admitted into the Union, the island was well over 50 percent upland in character within the interpretation of the Swampland Act of September 28, 1850. However, in 1910, the Northern States Power Company of Wisconsin constructed a dam on the Chippewa River downstream from Willow Island. The dam has raised the water level to the point where all of the island that remains above the high water mark of the reservoir is a sandbar measuring approximately 46.2 feet by 14.5 feet.

(5) This survey was undertaken at the request of the Federal Power Commission in order to determine the original dimensions of Willow Island.

(6) Except for valid existing rights, this island will not be subject to application, petition, selection, or to any other type of appropriation under any public land law, including the mineral leasing laws, until a further order is issued.

(7) All inquiries relating to this island should be addressed to the Director, Eastern States Office, Bureau of Land Management, 7981 Eastern Avenue, Silver Spring, Maryland 20910.

LOWELL J. UDY,
Director, Eastern States Office.

NOVEMBER 1, 1973.

[FR Doc.73-23683 Filed 11-6-73;8:45 am]

[Survey Group 91; ES 11209]

WISCONSIN

Notice of Filing of Plat of Survey

(1) The plat of survey of the following described lands, accepted on September 11, 1972, will be officially filed in this office effective at 10 a.m. on December 17, 1973:

FOURTH PRINCIPAL MERIDIAN

T. 39 N., R. 15 E.,
Sec. 20, lots 7 to 16, inclusive.
Sec. 29, lots 11 to 19, inclusive.

Containing a total of 434.67 acres.

(2) This plat represents a dependent resurvey of a portion of the subdivision lines and a reestablishment of record meander lines in sections 20 and 29 to include lands omitted from the original survey of the township.

(3) The lands are traversed by sections of roads and the lands in section 20 contain a lookout tower and a cabin.

(4) Soils are gravelly clay loams in the upland areas and muskeg in the swamp area. Vegetation consists of mixed hardwoods and conifers.

(5) This survey was undertaken at the request of the U.S. Forest Service.

(6) Lots 12, 13, 15, and 16, in section 20 and lots 12, 15, 17, and 19, in section 29 are over 50 percent swamp and overflowed under the interpretation of the Swampland Act of September 28, 1850.

(7) All of the lands described above are within the boundaries of the Nicolet National Forest which was withdrawn by Proclamation 2219 on December 31, 1936. Therefore, subject to valid existing rights, these lands are withdrawn and reserved for the Nicolet National Forest in accordance with said proclamation.

(8) All inquiries relating to these lands should be addressed to the Director, Eastern States Office, Bureau of Land Management, 7981 Eastern Avenue, Silver Spring, Maryland 20910.

LOWELL J. UDY,
Director,
Eastern States Office.

NOVEMBER 1, 1973.

[FR Doc.73-23684 Filed 11-6-73;8:45 am]

National Park Service

INDEPENDENCE NATIONAL HISTORICAL PARK ADVISORY COMMISSION

Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Independence National Historical Park Advisory Commission will be held at 10:00 a.m. on November 15, 1973, at 313 Walnut Street, Philadelphia, Pennsylvania.

The Commission was established by Pub. L. 80-795 to render advice on such matters relating to the park as may from time to time be referred to them for consideration.

The members of the Commission are as follows:

Mr. Arthur C. Kaufmann (Chairman), Philadelphia, Pa.
Mr. John P. Bracken, Philadelphia, Pa.
Hon. Michael J. Bradley, Philadelphia, Pa.
Hon. James A. Byrne, Philadelphia, Pa.
Mr. William L. Day, Philadelphia, Pa.
Hon. Edwin O. Lewis, Philadelphia, Pa.
Mr. Filindo B. Masino, Philadelphia, Pa.
Mr. Frank C. P. McGlinn, Philadelphia, Pa.
Mr. John B. O'Hara, Philadelphia, Pa.
Mr. Howard D. Rosengarten, Villanova, Pa.
Mr. Charles R. Tyson, Philadelphia, Pa.

Matters to be considered at this meeting include the following:

1. Relocation of the Liberty Bell.
2. Area P Legislative Report.
3. Independence Hall Association meeting.
4. Progress Report by the Superintendent.

The meeting will be open to the public. Any person may file with the Commission a written statement concerning the matters to be discussed. Persons desiring further information concerning this meeting, or who wish to submit written statements, may contact Hobart G. Cawood, Superintendent, Independence National Historical Park, Philadelphia, Pennsylvania, at 215-597-7120.

Minutes of the meeting shall be available for inspection two weeks after the meeting at the office of the Independence National Historical Park, 313 Walnut Street, Philadelphia, Pennsylvania.

Dated: October 23, 1973.

ROBERT M. LANDAU,
Liaison Officer, Advisory Commissions, National Park Service.

[FR Doc.73-23747 Filed 11-6-73;8:45 am]

Office of Oil and Gas

EMERGENCY PETROLEUM SUPPLY COMMITTEE AND THE SUPPLY AND DISTRIBUTION SUBCOMMITTEE

Notice of Meetings

Pursuant to Pub. L. 92-463, notice is hereby given of the following meetings:

The Emergency Petroleum Supply Committee will meet at 10:30 a.m. on November 8, 1973, in Room 5160 at the Department of the Interior in Washington, D.C. The agenda will include discussions of organization and plans for developing and analyzing data. The Supply and Distribution Subcommittee of the EPSC will meet at 2:00 p.m. on November 8, 1973, in Room 5160 at the Department of the Interior, in Washington, D.C. The agenda will include discussions of administrative arrangements, establishment of a task force and procedural ground rules.

The purpose of the Emegency Petroleum Supply Committee is to assist the U.S. Government in coping with problems resulting from disruptions of foreign petroleum supply.

These meetings will not be open to the public because the discussions will deal with matters listed in section 552(b) of title 5, United States Code. Specifically, these matters are related to matters that are specifically required by Executive Order to be kept secret in the interest of national defense or foreign policy. The short notice is due to emergency developments.

Dated: November 5, 1973.

DUKE R. LIGON,
Director.

[FR Doc.73-23870 Filed 11-6-73;9:41 am]

Office of the Secretary

[INT FES 73-63]

PROPOSED IRRIGATION DISTRIBUTION SYSTEM FOR POND-POSO IMPROVEMENT DISTRICT, KERN COUNTY, CALIF.

Notice of Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental statement on an irrigation conveyance and distribution system to be constructed by the Pond-Poso Improvement District under Pub. L. 984 funding. The purpose of the system will be to alleviate the serious ground-water overdraft, aid in halting land subsidence, and improve ground-water quality.

Copies are available at the following locations:

Office of Assistant to the Commissioner—Ecology, Room 7620, Bureau of Reclamation, Department of the Interior, Washington, D.C. 20240. Telephone (202) 343-4991.

Division of Engineering Support, Technical Services Branch, E&R Center, Denver Federal Center, Denver, Colorado 80225. Telephone (303) 234-3007.

Office of the Regional Director, Bureau of Reclamation, 2800 Cottage Way, Sacramento, California 95825. Telephone (916) 484-4571.

Single copies of the draft statement may be obtained on request to the Commissioner of Reclamation or the Regional Director. In addition, copies may be purchased from the National Technical Information Service, Department of Commerce, Springfield, Virginia 22151. Please refer to the statement number above.

Dated: November 1, 1973.

JOHN M. SEIDL,
Deputy Assistant Secretary of the Interior.

[FR Doc.73-23707 Filed 11-6-73;8:45 am]

[INT DES 73-64]

MASTER PLAN FOR MOUNT RAINIER NATIONAL PARK, WASHINGTON

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental statement for a master plan for Mount Rainier National Park, Washington.

The statement considers the management and use of Mount Rainier National Park.

Written comments on the environmental statement are invited and will be accepted until January 7, 1974. Comments should be addressed to the Regional Director, Pacific Northwest Region, or the Superintendent, Mount Rainier National Park, at the addresses given below.

Copies are available from or for inspection at the following locations:

Pacific Northwest Region, National Park Service, Fourth and Pike Building, Seattle, Wash. 98101.

Superintendent, Mount Rainier National Park, Longmire, Wash. 98397.

Dated: October 26, 1973.

JOHN M. SEIDL,
Deputy Assistant Secretary of the Interior.

[FR Doc.73-23809 Filed 11-6-73;8:45 am]

[INT DES 73-66]

PROPOSED MASTER PLAN FOR HAWAII VOLCANOES NATIONAL PARK, HAWAII

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act, the

Department of the Interior has prepared a draft environmental statement for the proposed Master Plan for Hawaii Volcanoes National Park, Hawaii.

The draft environmental statement analyzes proposals to conserve and protect the resources of Hawaii Volcanoes National Park and provide for expanded public use. This includes acquisition of new lands, development, and control of exotic plant and animal species to protect native populations.

Written comments on the environmental statement are invited and will be accepted until January 7, 1974. Comments should be addressed to the Superintendent, Hawaii Volcanoes National Park, Hawaii.

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

Western Regional Office, National Park Service, 450 Golden Gate Avenue, P.O. Box 36063, San Francisco, Calif. 94102.
Superintendent, Hawaii Volcanoes National Park, Hawaii 96718.
Hawaii State Director, Pacific International Building, 677 Ala Moana Boulevard, Suite 512, Honolulu, Hawaii 96813.

Dated: October 26, 1973.

JOHN M. SEIDL,
Deputy Assistant Secretary of the Interior.

[FR Doc.73-23811 Filed 11-6-73;8:45 am]

[INT DES 73-67]

PROPOSED NATURAL RESOURCES MANAGEMENT PLAN, HAWAII VOLCANOES NATIONAL PARK, HAWAII

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act, the Department of the Interior has prepared a draft environmental statement for the proposed natural resources management plan for Hawaii Volcanoes National Park, Hawaii.

The statement discusses the proposed plan of biologic research, propagating rare and endangered plant species, reintroducing rare plants into former range, protecting rare endemic biota from depredation by feral goats and pigs, and reestablishing and nurturing remnants of endemic Hawaiian ecosystems.

Written comments on the environmental statement are invited and will be accepted until January 7, 1974. Comments should be addressed to the Superintendent, Hawaii Volcanoes National Park, Hawaii.

Copies are available from or for inspection at the following locations:

Western Regional Office, National Park Service, 450 Golden Gate Avenue, P.O. Box 36063, San Francisco, Calif. 94102.
Superintendent, Hawaii Volcanoes National Park, Hawaii 96718.
Hawaii State Director, Pacific International Building, 677 Ala Moana Boulevard, Suite 512, Honolulu, Hawaii 96813.

Dated: October 26, 1973.

JOHN M. SEIDL,
Deputy Assistant Secretary of the Interior.

[FR Doc.73-23812 Filed 11-6-73;8:45 am]

[INT DES 73-68]

PROPOSED WILDERNESS AREAS, HAWAII VOLCANOES NATIONAL PARK, HAWAII

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act, the Department of the Interior has prepared a draft environmental statement for the proposed wilderness areas in Hawaii Volcanoes National Park, Hawaii.

The statement considers establishment of 123,100 acres within Hawaii Volcanoes National Park as wilderness. Also considered are 7,850 acres of potential wilderness additions to be added by the Secretary of the Interior at such time he determines they qualify.

Written comments on the environmental statement are invited and will be accepted until January 7, 1973. Comments should be addressed to the Superintendent, Hawaii Volcanoes National Park, Hawaii.

Copies are available from or for inspection at the following locations:

Western Regional Office, National Park Service, 450 Golden Gate Avenue, P.O. Box 36063, San Francisco, Calif. 94102.
Superintendent, Hawaii Volcanoes National Park, Hawaii 96718.
Hawaii State Director, Pacific International Bldg., 677 Ala Moana Boulevard, Suite 512, Honolulu, Hawaii 96813.

Dated: October 26, 1973.

JOHN M. SEIDL,
Deputy Assistant Secretary of the Interior.

[FR Doc.73-23813 Filed 11-6-73;8:45 am]

[INT DES 73-65]

WILDERNESS PROPOSAL—MOUNT RAINIER NATIONAL PARK, WASHINGTON

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental statement for the proposed wilderness designation for Mount Rainier National Park, Washington.

The statement considers the designation of 202,200 acres in Mount Rainier National Park as wilderness.

Written comments on the environmental statement are invited and will be accepted until January 7, 1974. Comments should be addressed to the Regional Director, Pacific Northwest Region, or the Superintendent, Mount Rainier National Park, at the addresses given below.

Copies are available from or for inspection at the following locations:

Pacific Northwest Region, National Park Service, Fourth and Pike Bldg., Seattle, Wash. 98101.
Superintendent, Mount Rainier National Park, Longmire, Wash. 98397.

Dated: October 26, 1973.

JOHN M. SEIDL,
Deputy Assistant Secretary of the Interior.

[FR Doc.73-23810 Filed 11-6-73;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

GRAIN STANDARDS

Washington Inspection Point

Correction

In FR Doc. 73-22734 appearing on page 29503 in the issue for Thursday, October 25, 1973, the letter "a" within the parentheses in line 10 should be the letter "b".

Office of the Secretary

BLACKFEET INDIAN LANDS IN MONTANA

Feed Grain Donations

Pursuant to the authority set forth in section 407 of the Agricultural Act of 1949, as amended (7 U.S.C. 1427), and Executive Order 11336, I have determined that:

(1) The chronic economic distress of the needy members of the Blackfeet Indian Lands in Montana has been materially increased and become acute because of severe and prolonged drought creating a serious shortage of livestock feeds. These lands are reservation or other lands designated for Indian use and are utilized by members of the Indian tribe for grazing purposes.

(2) The use of feed grain or products thereof made available by the Commodity Credit Corporation for livestock feed for such needy members of the tribe will not displace or interfere with normal marketing of agricultural commodities.

Based on the above determinations, I hereby declare the reservations and grazing lands of this tribe to be acute distress areas and authorize the donation of feed grain owned by the Commodity Credit Corporation to livestockmen who are determined by the Bureau of Indian Affairs, Department of the Interior, to be needy members of the tribe utilizing such lands. These donations by the Commodity Credit Corporation may commence upon signature of this notice and shall be made available through the duration of the existing emergency or to such other time as may be stated in a notice issued by the Department of Agriculture.

Signed at Washington, D.C., on November 1, 1973.

EARL L. BUTZ,
Secretary.

[FR Doc.73-23685 Filed 11-6-73;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

COMPUTER SYSTEMS TECHNICAL ADVISORY COMMITTEE

Notice of Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the Safeguards Subgroup of the Computer Systems Technical Advisory Committee will be held Thursday, November 15, 1973, at 9:30 a.m. Room 1062, 1717 H Street NW., Washington, D.C.

Members advise the Office of Export Administration, Bureau East-West Trade, with respect to questions involving technical matters, worldwide availability and actual utilization of production and technology, and licensing procedures which may affect the level of export controls applicable to computer systems, including technical data related thereto, and including those whose export is subject to multilateral (COCOM) controls.

Agenda items are as follows:

1. Opening remarks and review of future work of the subgroup by Jeremiah F. Kratz, Acting Chairman.
2. Presentation of papers or comments by the public.
3. Discussion of prior work of the Safeguards Subgroup.
4. Executive Session:
   a. Continuation of discussion of work of subgroup.
   b. Work assigments.
5. Adjournment.

The public will be permitted to attend the discussion of agenda items 1-3, and a limited number of seats will be available to the public for these agenda items. To the extent time permits, members of the public may present oral statements to the subgroup. Interested persons are also invited to file written statements with the subgroup.

With respect to agenda item 4, "Executive Session," the Assistant Secretary of Commerce for Administration, on July 17, 1973, determined, pursuant to section 10(d) of Pub. L. 92-463, that this agenda item should be exempt from the provisions of sections 10(a)(1) and (a)(3), relating to open meetings and public participation therein, because the meeting will be concerned with matters listed in 5 USC 552(b)(1).

Further information may be obtained from Jeremiah F. Kratz, Acting Chairman of the subgroup, Atomic Energy Commission, Washington, D.C. 20545 (A/C 202-973-5351).

Minutes of those portions of the meeting which are open to the public will be available 30 days from the date of the meeting upon written request addressed to: Central Reference and Records Inspection Facility, U.S. Department of Commerce, Washington, D.C. 20230.

Dated: November 1, 1973.

STEVEN LAZARUS,
Deputy Assistant Secretary for East-West Trade, Department of Commerce.

[FR Doc.73-23595 Filed 11-6-73;8:45 am]

Maritime Administration

BULK LIQUID CHEMICAL CARRIERS

Notice of Intention To Issue an Environmental Impact Statement

Notice is hereby given that the Maritime Administration, on October 23, 1973, initiated the preparation of an Environmental Impact Statement pursuant to the requirements of section 102(2)(c) of the National Environmental Policy Act of 1969 on its Bulk Chemical Carrier Program under the Merchant Marine Act, 1936, as amended.

The Maritime Administration's proposed date for issuance of the draft environmental impact statement is December 21, 1973.

Following the issuance of the draft environmental impact statement a 60 day period will be made available for comments by interested persons.

Interested persons are invited to participate in the development of the draft environmental impact statement. This participation should be in the form of written comments, submitted to the Maritime Administration, Chief, Environmental Activities Group, 14th and Constitution Avenue NW., Washington, D.C. 20230. All written comments received before November 21, 1973, will be fully considered and evaluated for inclusion in the draft environmental impact statement.

Date: November 5, 1973.

By Order of the Maritime Subsidy Board Maritime Administration.

JAMES S. DAWSON, JR.,
Secretary.

[FR Doc.73-23857 Filed 11-6-73;8:45 am]

National Technical Information Service

GOVERNMENT-OWNED INVENTIONS

Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for licensing in accordance with the GSA Patent Licensing Regulations.

Copies of Patent applications, either paper copy (PC) or microfiche (MF), can be purchased from the National Technical Information Service (NTIS), Springfield, VA 22151, at the prices cited. Requests for copies of patent applications must include the PAT-APPL number and the title. Requests for licensing information should be directed to the address cited with each copy of the patent application.

Paper copies of patents cannot be purchased from NTIS but are available from the Commissioner of Patents, Washington, D.C. 20231, at $0.50 each. Requests for licensing information should be directed to the address cited below for each agency.

DOUGLAS J. CAMPION,
Patent Program Coordinator, National Technical Information Service.

U.S. DEPARTMENT OF THE INTERIOR; Branch of Patents; 18th and C Streets NW.; Washington, D.C. 20240.

Patent Application 393,385: Recovery of Sulfur; filed 31 August 1973; PC$3.00/MF$1.45.

U.S. ATOMIC ENERGY COMMISSION; Assistant General Counsel for Patents; Washington, D.C. 20545.

Patent Application 306,510: Ductile Superconducting Alloys; filed 14 November 1972; PC$3.00/MF$1.45.

Patent 3,732,422: Counter for Radiation Monitoring; filed 23 May 1972, Patented 8 May 1973; Not available NTIS.

Patent 3,736,126: Gold Recovery from Aqueous Solutions; filed 24 September 1971, Patented 29 May 1973; Not available to NTIS.

U.S. DEPARTMENT OF THE ARMY; Chief, Patents Division; Office of Judge Advocate General; Patent Division, Room 2C-455; Pentagon; Washington, D.C. 20310.

Patent 3,139,663: Concrete Casting Machine; filed 29 September 1961, Patented 7 July 1964; Not available to NTIS.

Patent 3,373,741: Plastic Splint; Filed 19 March 1965, Patented 19 March 1968; Not available NTIS.

Patent 3,550,440: Pressurized Tensile Test Apparatus; Filed 8 January 1969, Patented 29 December 1970; not available to NTIS.

Patent 3,550,909: Stake Extracting Apparatus; filed 24 June 1968, Patented 29 December 1970; Not available to NTIS.

Patent 3,562,551: Unit Distance Counter; filed 20 September 1967, Patented 9 February 1971; Not available to NTIS.

Patent 3,591,113: Mast Support; filed 13 January 1970, Patented 6 July 1971; Not available to NTIS.

Patent 3,609,613: Low Loss Transmission Line Transformer; filed 3 November 1970, Patented 28 September 1971; Not available to NTIS.

Patent 3,610,277: Pressure Actuated Flow Regulator; filed 20 October 1969, Patented 5 October 1971; not available NTIS.

Patent 3,610,741: Flame Spraying Aluminum Oxide to Make Reflective Coatings; filed 8 January 1969, Patented 5 October 1971; not available to NTIS.

Patent 3,611,377: Doppler Radar with Target Velocity Direction and Range Indicator Utilizing Variable Delay Lines; filed 21 January 1970, Patented 5 October 1971; not available NTIS.

Patent 3,616,523: Glass Laser Window Sealant Technique; filed 24 November 1970, Patented 2 November 1971; not available NTIS.

Patent 3,620,940: Method of Inducing Polarization of Active Magnesium Surfaces; filed 12 May 1970, Patented 16 November 1971; not available NTIS.

Patent 3,634,860: Doppler Radar with Target Velocity Direction and Range Indication, Utilizing a Variable Frequency Generator; filed 21 January 1970, Patented 11 January 1972; not available NTIS.

Patent 3,645,206: Ammunition Cartridge; filed 19 February 1970, Patented 29 February 1972; not available NTIS.

Patent 3,645,810: Solid Fuel Composition; filed 14 June 1955, Patented 29 February 1972; not available NTIS.

Patent 3,646,263: Semiautomatic Television Tracking System; filed 4 January 1971, Patented 29 February 1972; not available NTIS.

Patent 3,651,425: Multiple Unit Laser System; filed 22 December 1964, Patented 21 March 1972; not available NTIS.

Patent 3,656,983: Shell Mold Composition; filed 14 October 1970, Patented 18 April 1972; not available NTIS.

Patent 3,665,514: Low Profile Size Adjustable Protective Helmet; filed 22 September 1970, Patented 30 May 1972; not available NTIS.

Patent 3,665,857: Base Ejecting Ordnance Projectile; filed 23 November 1970, Patented 30 May 1972; not available NTIS.

Patent 3,667,040: Sensor for Detecting Radio Frequency Currents in Carbon Bridge Detonator; filed 28 September 1970, Patented 30 May 1972; not available NTIS.

Patent 3,671,968: Two Channel Direction Finder; filed 26 January 1970, Patented 20 June 1972; not available NTIS.

Patent 3,673,064: Method of Eliminating Copper Contamination; filed 29 October 1970, Patented 27 June 1972; not available NTIS.

Patent 3,675,327: Filled Cold-Curing Acrylic Resin as a Splinting Material; filed 13 January 1970, Patented 11 July 1972; not available NTIS.

Patent 3,676,901: Adjustable, Quickly Releasable Webbing Connector; filed 14 December 1970, Patented 18 July 1972; not available NTIS.

Patent 3,677,075: Method for the Detection and Classification of Defects in Internal Combustion Engines; filed 20 October 1970, Patented 18 July 1972; not available NTIS.

Patent 3,677,588: Fastener; filed 1 December 1970, Patented 18 July 1972; not available NTIS.

Patent 3,677,847: Photolithographic Etching Method for Nickel Oxide; filed 15 March 1971, Patented 18 July 1972; not available NTIS.

Patent 3,677,879: Thermally Conductive Bearing Material; filed 28 April 1970, Patented 18 July 1972; not available NTIS.

Patent 3,677,974: Multi-Purpose Conductive Adhesive; filed 18 September 1970, Patented 18 July 1972; not available NTIS.

Patent 3,678,194: Digital Data Transmission and Detection System; filed 26 January 1971, Patented 18 July 1972; not available NTIS.

Patent 3,678,276: Infrared Radiometric Detection of Seal Defects; filed 1 July 1971, Patented 18 July 1972; not available NTIS.

Patent 3,678,363: Solid State Pulser Using Parallel Storage Capacitors; filed 17 September 1970, Patented 18 July 1972; not available NTIS.

Patent 3,678,398: Presettable Frequency Divider; filed 23 March 1972, Patented 18 July 1972; not available NTIS.

Patent 3,680,138: Cross-Mode Reflector for the Front Element of An Array Antenna; filed 21 September 1970, Patented 25 July 1972; not available NTIS.

Patent 3,680,406: Flexible Cams; filed 7 June 1971, Patented 1 August 1972; not available NTIS.

Patent 3,680,924: Endless Track Pin Assembly; filed 6 March 1970, Patented 1 August 1972; not available NTIS.

Patent 3,681,010: Preparation of Ultrafine Mixed Metallic-Oxide Powders; filed 14 September 1970, Patented 1 August 1972; not available NTIS.

Patent 3,681,011: Cryo-Coprecipitation Method for Production of Ultrafine Mixed Metallic-Oxide Particles; filed 19 January 1971, Patented 1 August 1972; not available NTIS.

Patent 3,681,162: Antenna Fabrication Method; filed 27 December 1968, Patented 1 August 1972; not available NTIS.

Patent 3,681,715: Reciprocal Latching Ferrite Phase Shifter; filed 23 June 1970, Patented 1 August 1972; not available NTIS.

Patent 3,685,347: Squib Switch Simulator; filed 30 August 1971, Patented 22 August 1972, not available NTIS.

Patent 3,686,520: Fluid Electrical Generator; filed 6 May 1971, Patented 22 August 1972; not available NTIS.

Patent 3,686,591: Anisotropic Crystal Circuit; filed 24 July 1970, Patented 22 August 1972; not available NTIS.

Patent 3,686,592: Monolithic Coupled Crystal Resonator Filter Having Cross Impedance Adjusting Means; filed 8 October 1970, Patented 22 August 1972; not available NTIS.

Patent 3,687,000: Gas Operated Firearm Muzzle Attachment; filed 30 April 1970, Patented 29 August 1972; not available NTIS.

Patent 3,687,519: Semi-Micro Absolute Transmittance and Specular Reflectance Accessory for Spectrophotometers; filed 24 February 1971, Patented 29 August 1972; not available NTIS.

Patent 3,688,189: Real-Time Inital Atmospheric Gradient Measuring System; filed 28 May 1971, Patented 29 August 1972; not available NTIS.

Patent 3,688,218: Stimulated Radiation Cavity Reflector; filed 29 January 1971, Patented 29 August 1972; not available NTIS.

Patent 3,688,222: Matched Ultrasonic Delay Line with Solerable Transducer Electrodes; filed 18 March 1971, Patented 29 August 1972; not available NTIS.

Patent 3,688,225: Slot Line; filed May 21, 1969, Patented 29 August 1972; not available NTIS.

Patent 3,688,556: Wear Testing Apparatus; filed 25 June 1971, Patented 5 September 1972; not available NTIS.

Patent 3,689,770: Exposure Control Circuit for an Electrically Shuttered Image Tube; filed 28 July 1971, Patented 5 September 1972; not available NTIS.

Patent 3,689,948: Polyvinyl Alcohol Gel Support Pad; filed 9 June 1970, Patented 12 September 1972; not available NTIS.

Patent 3,690,170: Automatic Wind Direction Readout Device; filed 30 July 1971, Patented 12 September 1972; not available NTIS.

Patent 3,690,323: Device for Draining Ventricular Fluid in Cases of Hydrocephalus; filed 1 December 1970, Patented 12 September 1972; not available NTIS.

Patent 3,690,552: Fog Dispersal; filed 9 March 1971, Patented 12 September 1972; not available NTIS.

Patent 3,690,972: Green Flare Composition; filed 16 July 1971, Patented 12 September 1972; not available NTIS.

Patent 3,691,478: Laser Energy Monitor and Control; filed 9 November 1970, Patented 12 September 1972; not available NTIS.

Patent 3,691,497: Leadless Microminiature Inductance Element with a Closed Magnetic Circuit; filed 15 October 1970, Patented 12 September 1972; not available NTIS.

Patent 3,691,902: Monitoring System for Pneumatic Cylinder; filed 13 July 1971, Patented 19 September 1972; not available NTIS.

Patent 3,692,161: Self-Locking Clutch; filed 14 October 1970, Patented 19 September 1972; not available NTIS.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION; Assistant General Counsel for Patent Matters; NASA—CP–2; Washington, D.C. 20546.

Patent Application 367,268: High Lift Aircraft; filed 5 June 1973; PC$3.00/MF$1.45.

Patent Application 367,606: Self Energized Plasma Compressor; filed 6 June 1973; PC$3.00/MF$1.45.

Patent Application 372,142: Graded Bandgap al(X)ga (1–X)a S–Gas Solar Cell; filed 21 June 1973; PC$3.00/MF$1.45.

Patent 3,730,287: Vehicle for Use in Planetary Exploration; filed 17 May 1971, Patented 1 May 1973; not available NTIS.

Patent 3,732,409: Counting Digital Filters; filed 20 March 1972, Patented 8 May 1973; not available NTIS.

Patent 3,733,424: Electronic Strain Level Counter; filed 8 July 1971, Patented 15 May 1973; not available NTIS.

Patent 3,733,463: Temperature Control System with a Pulse Width Modulated Bridge; filed 24 December 1970, Patented 15 May 1973; not available NTIS.

Patent 3,736,607: Life Raft Stabilizer; filed 30 November 1971, Patented 5 June 1973; not available NTIS.

Patent 3,736,764: Temperature Controller for a Fluid Cooled Garment; filed 25 April 1972, Patented 5 June 1973; not available NTIS.

Patent 3,736,938: Ophthalmic Method and Apparatus; filed November 1971, Patented 5 June 1973; not available NTIS.

Patent 3,736,956: Floating Baffle to Improve Efficiency of Liquid Transfer from Tanks; filed 16 September 1971, Patented 5 June 1973; not available NTIS.

Patent 3,737,117: Docking Structure for Spacecraft; filed 6 July 1971, Patented 5 June 1973; not available NTIS.

Patent 3,737,121: Dual-Fuselage Aircraft Having Yawable Wing and Horizontal Stabilizer; filed 9 December 1971, Patented 5 June 1973; not available NTIS.

Patent 3,737,181: Disconnect Unit; filed 24 February 1971, Patented 5 June 1973; not available NTIS.

Patent 3,737,217: Visual Examination Apparatus; filed 6 July 1971, Patented 5 June 1973; not available NTIS.

Patent 3,737,231: High Pulse Rate High Resolution Optical Radar System; filed 13 November 1970, Patented 5 June 1973; not available NTIS.

Patent 3,737,237: Monitoring Deposition of Films; filed 18 November 1971, Patented 5 June 1973; not available NTIS.

Patent 3,737,639: Derivation of a Tangent Function Using an Integrated Circuit Four-Quadrant Multiplier; filed 17 May 1972, Patented 5 June 1973; not available NTIS.

Patent 3,737,676: Low Phase Noise Digital Frequency Divider; filed 18 November 1971, Patented 5 June 1973; not available NTIS.

Patent 3,737,757: Parasitic Suppressing Circuit; filed 15 May 1972, Patented 5 June 1973; not available NTIS.

Patent 3,737,776: Two Carrier Communication System with Single Transmitter; filed 9 June 1971, Patented 5 June 1973; not available NTIS.

Patent 3,737,815: High–Q Bandpass Resonators Utilizing Bandstop Resonator Pairs; filed 27 November 1970, Patented 5 June 1973; not available NTIS.

Patent 3,737,824: Twisted Multifilament Superconductor; filed 11 August 1972, Patented 5 June 1973; not available NTIS.

Patent 3,737,905: Method and Apparatus for Measuring Solar Activity and Atmospheric Radiation Effects; filed 31 March 1970, Patented 5 June 1973; not availalbe NTIS.

Patent 3,737,912: Collapsible High Gain Antenna; filed 16 September 1971, Patented 5 June 1973; not available NTIS.

Patent 3,740,671: Filter for Third Order Phase Locked Loops; filed 6 April 1972, Patented 19 June 1973; not available NTIS.

Patent 3,740,725: Automated Attendance Accounting System; filed 16 June 1971, Patented 19 June 1973; not available NTIS.

Patent 3,744,794: Restraint System for Ergometer; filed 25 June 1971, Patented 10 July 1973; not available NTIS.

Patent 3,744,972: Nondestructive Spot Test Method for Magnesium and Magnesium Alloys; filed 16 July 1971, Patented 10 July 1973; not available NTIS.

Patent 3,745,089: Protein Sterilization Method of Firefly Luciferase Using Reduced Pressure and Molecular Sieves; filed 5 March 1968, Patented 10 July 1973; not available NTIS.

Patent 3,745,090: Method of Detecting and Counting Bacteria in Body Fluids; filed 30 April 1971, Patented 10 July 1973; not available NTIS.

Patent 3,745,739: Apparatus and Method for Skin Packaging Articles; filed 24 March 1971, Patented 17 July 1973; not available NTIS.

U.S. ENVIRONMENTAL PROTECTION AGENCY; Room W 513, 401 M Street SW.; Washington, D.C. 20460.

Patent Application 324,041: Atmospheric Fluidized Vapor Generator; filed 16 January 1973; PC$3.00/MF$0.95.

[FR Doc.73–23536 Filed 11–6–73;8:45 am]

Office of the Secretary

[Dept. Organization Order 20-2, Amdt. 1]

OFFICE OF AUDITS

Organization and Functions

This order effective October 4, 1973, amends the material appearing at 37 FR 24051 of November 11, 1972.

Department Organization Order 20-2 of October 25, 1972, is hereby amended as follows:

In Section 5. *Organization*, the first sentence only of paragraph .05 is amended to read as shown below, in order to identify the addition of regional offices at two new locations (Atlanta and New York).

".05 The *Regional Offices* (located in Atlanta, Chicago, Dallas, New York, San Francisco, and Washington, D.C.) under the direct supervision of the Director, shall carry out, or arrange for, site audits of documentation in support of claims, costs, cost proposals, and cost and pricing data arising from selected contracts, grants, subsidies, loans, and other similar agreements, entered into or proposed by organizational units * * *."

Effective date. October 4, 1973.

HENRY B. TURNER,
Assistant Secretary for Administration.

[FR Doc.73-23656 Filed 11-6-73;8:45 am]

[Organization Order 25-2]

MARITIME ADMINISTRATION

Statement of Organization, Function, and Delegations of Authority

SECTION 1. *Purpose.*

.01 This order prescribes the organization and assignment of functions within the Maritime Administration. The delegations of authority to the Assistant Secretary for Maritime Affairs and the Maritime Subsidy Board are set forth in Department Organization Order 10-8.

.02 This revision establishes a new position of Assistant Administrator for Policy and Administration and assigns to him all the functions of the former Assistant Administrator for Administration and Finance and of the Office of Policy and Plans; it also establishes a new Office of Shipbuilding Costs and reassigns to it the business-type functions relating to foreign and domestic costs, construction-differential subsidy award recommendations, and pollution abatement activities previously assigned to the Office of Ship Construction.

SEC. 2. *Organization Structure.*

The organization structure and line of authority of the Maritime Administration shall be as depicted in the attached organization chart (Exhibit 1). A copy of the Organization Chart is attached to the original of this document on file in the Office of the Federal Register.

SEC. 3. *Office of the Assistant Secretary for Maritime Affairs.*

.01 The *Assistant Secretary for Maritime Affairs* (the "Assistant Secretary"), who is ex officio Maritime Administrator, is the head of the Maritime Administration and serves as Chairman of the Maritime Subsidy Board.

.02 The *Deputy Assistant Secretary for Maritime Affairs* shall assist the Assistant Secretary in carrying out his responsibilities and perform such duties as the Assistant Secretary shall prescribe, together with the duties which he performs as a member of the Maritime Subsidy Board. In addition, he shall be the Acting Assistant Secretary during the absence or disability of the Assistant Secretary and, unless the Secretary of Commerce designates another person, during a vacancy in the office of the Assistant Secretary. He shall also be responsible for supervision and coordination of contract compliance activities and activities under Title VI of the Civil Rights Act of 1964.

.03 The *Executive Staffs* shall consist of the Secretary of the Maritime Administration who also serves as Secretary of the Maritime Subsidy Board, the administrative law judges, and officials concerned with other special services for the Assistant Secretary and the Maritime Subsidy Board.

SEC. 4. *Maritime Subsidy Board.*

The Maritime Subsidy Board shall be responsible for and perform the following functions:

a. The functions with respect to making, amending, and terminating subsidy contracts, which shall be deemed to include, in the case of construction-differential subsidy, the contract for the construction, reconstruction or reconditioning of a vessel and the contract for the sale of the vessel to the subsidy applicant or the contract to pay a construction-differential subsidy and the cost of the national defense features, and, in the case of operating-differential subsidy, the contract with the subsidy applicant for the payment of the subsidy;

b. The functions with respect to: (1) Conducting hearings and making determinations antecedent to making, amending, and terminating subsidy contracts, under the provisions of Titles V, VI, and VIII, and sections 301 (except investigations, hearings and determinations, including changes in determinations, with respect to minimum manning scales, minimum wage scales and minimum working conditions), 708, 805(a), and 805(f) of the Merchant Marine Act, 1936, as amended (the "Act"); (2) making readjustments in determinations as to operating cost differentials under section 606 of the Act; and (3) the approval of the sale, assignment, or transfer of any operating subsidy contract under section 608 of the Act;

c. The functions with respect to investigating and determining: (1) The relative cost of construction of comparable vessels in the United States and foreign countries; (2) the relative cost of operating vessels under the registry of the United States and under foreign registry; and (3) the extent and character of aids and subsidies granted by foreign governments to their merchant marines, under the provisions of paragraphs (c), (d), and (e) of section 211 of the Act;

d. So much of the functions specified in section 12 of the Shipping Act, 1916, as amended, as the same relate to the functions of the Board under paragraphs a. through c. of this paragraph; and

e. So much of the functions with respect to adopting rules and regulations, subpoenaing witnesses, administering oaths, taking evidence, and requiring the production of books, papers, and documents, under sections 204 and 214 of the Act, as relate to the functions of the Board.

SEC. 5. *Office of the General Counsel.*

The Office of the General Counsel shall, subject to the overall authority of the Department's General Counsel as provided in Department Organization Order 10-6, serve as the law office of the Administration; review and give legal clearance to applications for subsidy and other Government aids to shipping, sales, mortgages, charters, and transfers of ships; prepare and approve as to form and legality, contracts, agreements, performance bonds, deeds, leases, general orders, and related documents; render legal opinions as to the interpretation of such documents and the statutes; coordinate preparation and issuance of general orders and regulations for guidance of the public and outside organizations; prepare drafts of proposed legislation, executive orders, and legislative reports to Congressional committees and the Office of Management and Budget; negotiate and settle, or recommend settlement of, admiralty claims, just compensation claims, tort claims, and claims referred to the office for litigation; assist the Department of Justice in the trial, appeal and settlement of litigation; represent the Administration in public proceedings involving all shipping matters before administrative agencies of the Government, and in State and Federal courts; and handle court litigation in actions involving enforcement or defense of the jurisdiction, general orders, and regulations of the Administration.

SEC. 6. *Office of Public Affairs.*

The Office of Public Affairs shall develop and coordinate a public information and publications program as needed to further the objectives of the Administration's programs; issue or clear for issuance all information for the general public on shipping and on decisions and activities of the Administration; and prepare periodic and special reports, as assigned.

SEC. 7. *Office of Civil Rights.*

The Office of Civil Rights shall formulate and conduct programs to assure compliance by Federal contractors and subcontractors with Executive Orders 11246 and 11375 and related regulations, and applicants for and recipients of Federal financial assistance and their contractors and subcontractors with Title VI of the Civil Rights Act of 1964 and related regulations; plan and direct special programs to assure equal opportunity in employment in the ship and boat building and repair industries, water transportation industry, and related industries as assigned; provide assistance in communicating to minority communities the career opportunities available in the Merchant Marine; assist in the recruitment of qualified minority cadet candidates for the U.S. Merchant Marine Academy and assure equal opportunity for the Academy cadets; and, in cooperation with other agencies, formulate and implement national policies and programs for the development of minority business enterprises through contractors and subcontractors of the Maritime Administration.

SEC. 8. *Office of International Activities.*

The Office of International Activities shall plan, conduct, and coordinate Maritime Administration's participation in intergovernmental and international organizations concerned with shipping matters; keep abreast of developments in the United States and foreign countries with a foreign relations impact that may affect the U.S. Merchant Marine; take and/or coordinate action to establish and present Maritime Administration's position in these matters. Within this Office are personnel responsible for representing the Maritime Administration in international activities, as assigned, for development of maritime foreign cost data, and other technical maritime activities in foreign countries.

SEC. 9. *Assistant Administrator for Policy and Administration.*

The Assistant Administrator for Policy and Administration shall be the principal assistant and adviser to the Assistant Secretary on administrative services, budget and accounting, financial analysis, management information systems, management and organization, personnel, policy and planning, and program analysis activities. He shall direct the activities of the following organizational units:

.01 The *Office of Administrative Services* shall plan and establish national policies and programs for the conduct of facilities and supply management and office services activities, including material control and disposal of real and personal property, other than ships; administer the security program; settle loss or damage claims arising from shipments on Government bills of lading; secure allocations of the production capacity of private plants for the manufacture of components and materials required in the event of mobilization; administer programs for the management of mail, files, records equipment, vital records, and records disposition; and, for headquarters of the Maritime Administration, provide or obtain travel and office services, including space, communications, correspondence control, and administrative property management services.

.02 The *Office of Budget and Program Analysis* shall conduct studies to evaluate the effectiveness of operating programs in accomplishing established objectives; develop and maintain the Agency program category structure and a system of multi-year program analysis and evaluation; direct and coordinate the development and operation of a system of management by objectives, including identification of program objectives and measurement of accomplishments against these objectives; formulate, recommend, and interpret budgetary policies and procedures; develop and present budget requests and justifications; allocate and maintain budgetary control of funds available; analyze fiscal and program plans and reprogramming proposals for conformance with established policies; maintain a continuous review of the status of funds and program performance in relation to fiscal plans; perform accounting, payrolling, and related functions, including preparation of financial statements and reports, auditing and certification of vouchers for payment, and collection of amounts due the Administration; and develop and maintain a financial information reporting system to assist officials in managing their programs and resources.

.03 The *Office of Financial Analysis* shall render financial advice and opinions with respect to the substantive programs and contractual activities of the Administration; prescribe a uniform system of accounts for subsidized operators, agents, charterers, and other contractors; administer a program of external audits of contractors' accounts (except those of research and development contractors) to determine compliance with applicable laws, regulations and contract provisions concerning costs and profits; analyze financial statements and other data submitted by contractors to determine financial qualifications and limitations; make special financial surveys and analyses of contractors or of their operations, when necessary; and develop a data base and a financial analysis system to determine the financial condition of the American merchant marine, segments thereof, or individual contractors under the substantive programs of the Administration.

.04 The *Office of Management Information Systems* shall plan and develop data processing and management information systems; develop systems and programs for the application of computer techniques; operate the electronic data processing facility, including auxiliary equipment; and plan, coordinate, and operate the Administration's management data and information center.

.05 The *Office of Management and Organization* shall conduct manpower surveys to determine staffing requirements for all components of the Administration; conduct surveys and studies to improve management practices, organization structures, delegations of authorities, procedures, and work methods; coordinate management improvement activities; maintain a system for the issuance of the manual of orders and other directives; administer programs for the management of reports, forms, correspondence, and committee activities; and prepare special progress and administrative reports to the Office of the Secretary and others, as required.

.06 The *Office of Personnel* shall plan and administer personnel programs and activities relating to recruitment, placement, promotion, separation, employee performance evaluation, training and career development, employee recognition and incentives, employee relations and services, employee-management relations, classification, pay management, and various employee benefit programs. This office shall also plan and administer the equal opportunity program for employment in the Maritime Administration.

.07 The *Office of Policy and Plans* shall develop and recommend long-range marine affairs policies and plans, including new program initiatives and modifications of policies and plans for the revitalization of the United States Merchant Marine; conduct economic studies and operations analysis activities in support of the policy and planning functions; identify major issues and problems affecting shipping, and conduct or direct and coordinate studies and analyses to provide solutions thereto; generate methodologies for the conduct of economic and operational analyses, and provide analytic services to other offices of the Administration; direct and coordinate the development and maintenance of plans for carrying out the Maritime Administration's responsibilities and functions in the event of mobilization for war or other national emergency; provide representation and participate in the formulation of international and national plans for emergency and mobilization activities; and coordinate disaster assistance plans and programs of the Administration.

SEC. 10. *Assistant Administrator for Commercial Development.*

The Assistant Administrator for Commercial Development shall be the principal assistant and adviser to the Assistant Secretary on research and development, market development, port development, and intermodal transportation systems activities. Within his office are personnel responsible for overall program development and control in the above areas, and for planning, directing and coordinating the activities of the National Maritime Research Centers, located at Kings Point, N.Y., and Galveston, Texas. He shall direct the activities of the following organizational units:

.01 The *Office of Maritime Technology* shall develop, coordinate, and manage programs to establish a scientific and technological base for achieving a more productive and competitive United States Merchant Marine; initiate, solicit, develop and recommend specific projects, such as research in hydrodynamics, structures, and oceanographic subjects which have a bearing on improvements in the merchant marine, and institutional and university research in marine science and technology appropriate to maritime affairs; and negotiate and administer technical aspects of contracts in above areas.

.02 The *Office of Advanced Ship Development* shall develop, organize, coordinate, and manage programs for the application of scientific and technological developments to improve ship systems, shipbuilding, ship machinery, equipment, and other components, with the objective of the increasing the efficiency, productivity, and effectiveness of the United States Merchant Marine; initiate, solicit, develop, and recommend specific projects; and negotiate and administer technical aspects of contracts in these areas.

.03 The *Office of Advanced Ship Operations* shall develop, organize, coordinate, and manage programs for the application of scientific, technological, and other developments to upgrade the operational efficiency and competitive position of the United States Merchant Marine; initiate, solicit, develop, and recommend specific projects in these areas, including navigation and communications, port and terminal operations, cargo handling, marine personnel requirements, automation, ship handling, and other operational aspects of the ship; and negotiate and administer technical aspects of contracts in above areas.

.04 The *Office of Market Development* shall formulate national policies and programs, and conduct programs for the promotion and development of increased trade for U.S.-flag ships in the foreign commerce of the United States; develop and maintain cooperative efforts with Government agencies, and with shippers, forwarders, bankers, insurance, and other groups interested in cargo and trade expansion for U.S.-flag ships; and regulate, review and report on the administration of cargo preference activities under Pub. L. 664, 83rd Congress, Pub. Res. 17, 73rd Congress, and other statutes, in accordance with section 901 of the Merchant Marine Act, 1936, as amended.

.05 The *Office of Ports and Intermodal Systems* shall formulate national policies and programs, and conduct programs for the development and promotion of intermodal transportation systems; conduct studies and formulate plans for the promotion, development, and utilization of ports and port facilities; provide technical advice to other Government agencies, private industry, and State and municipal governments in the above fields; coordinate and provide leadership to the Department's overall effort to reduce, simplify, and otherwise facilitate the use of documents required for trade, travel, and transport purposes; and conduct emergency planning for the utilization and control of ports and port facilities under national mobilization conditions.

SEC. 11. *Assistant Administrator for Operations.*

The Assistant Administrator for Operations shall be the principal assistant and adviser to the Assistant Secretary on ship construction, ship operations, and domestic shipping activities. Within his office are personnel responsible for the conduct of trial, acceptance, and guarantee surveys of ships. He shall direct the activities of the following organizational units:

.01 The *Office of Ship Construction* shall conduct studies in naval architecture, marine engineering, electrical engineering, and engineering economics; develop preliminary designs establishing the basic characteristics of proposed ships; review and approve ship designs submitted by applicants for Government aid; recommend and, upon request, conduct research and development projects in ship design and construction; develop or approve contract plans and specifications for the construction, reconstruction, conversion, reconversion, reconditioning and betterment of ships; review, obtain approval and certification of national defense features by the Department of the Navy; administer ship construction contracts; inspect ships during course of construction to determine progress and assure conformance with approved plans and specifications; provide naval architectural and engineering services in connection with construction of special purpose ships for other Government agencies; maintain current records of facilities, capacities, work load and employment in commercial shipyards in the United States; and develop requirements for mobilization ship construction programs.

.02 The *Office of Shipbuilding Costs* shall collect, analyze, and maintain data on the relative costs of shipbuilding in the United States and foreign countries; calculate and recommend the amount of construction-differential subsidy; prepare cost estimates, invitations to bid, and recommendations to the Maritime Subsidy Board for the award of ship construction-type contracts; authorize progress payments; prepare cost estimates of changes in contract plans and specifications, adjudicate change orders, and recommend approval of cost settlements and contract addenda; secure, analyze and maintain data on domestic and world market values of ships; direct and coordinate a pollution abatement program to protect and enhance the quality of the marine environment by control and abatement of ship-generated pollution; and coordinate implementation of the provisions of the National Environmental Policy Act of 1969 within the Marjtime Administration.

.03 The *Office of Domestic Shipping* shall formulate and implement national policies and programs for the development and promotion of domestic waterborne commerce, including the Great Lakes, inland waterways, and noncontiguous, coastwise and intercoastal trade; conduct studies, formulate plans, and make recommendations to improve the competitive position and increase the utilization of the domestic waterborne transportation; give national program direction for maintenance and preservation of the national defense reserve fleet, and for the operation, maintenance and repair of Maritime Administration-owned or acquired merchant ships, conduct of ship condition surveys, and related activities; administer the ship sales program; provide safety engineering services; approve or recommend approval of transfers of ships to foreign ownership, registry or flag; review and approve maintenance and repair costs for subsidy participation; and develop plans for the acquisition, allocation, and operation of merchant ships in time of national emergency and administer these activities as required.

SEC. 12. *Assistant Administrator for Maritime Aids.*

The Assistant Administrator for Maritime Aids shall be the principal assistant and adviser to the Assistant Secretary on subsidy administration, Title XI ship financing guarantees, and other Government aids programs, maritime manpower, and marine insurance activities. He shall direct the activities of the following organizational units:

.01 The *Office of Subsidy Administration* shall process applications for construction-differential subsidy, operating-differential subsidy, Federal ship financing guarantees, trade-in allowances, capital construction fund agreements, and other forms of Government aid to shipping; conduct negotiations with applicants, obtain comments of other offices and within delegated authority, approve or recommend approval or disapproval, and take other actions in relation to the award and the administration of aid contracts; administer Construction Reserve Funds; approve actions relating to the administration of Capital Reserve Funds; maintain control records of statutory and contractual reserve funds; collect, analyze and evaluate costs of operating ships under United States and foreign registry; calculate and recommend operating-differential subsidy rates; analyze and recommend trade route structure and service requirements of the oceanborne commerce of the United States, and extent of foreign flag competition on essential trade routes; calculate and recommend guideline rates, terms, and conditions for transportation of Government-financed cargoes; and collect, maintain, analyze, and disseminate statistical data on cargo and commodity movements in the oceanborne commerce of the United States, composition of world's merchant fleets, and utilization of U.S.-flag ships.

.02 The *Office of Maritime Manpower* shall analyze and advise the Administration regarding labor management re-

lations and problems as they apply to seamen, longshoremen and shipyard workers, including labor trends, potential areas of dispute, and the effects of technological changes and proposed legislation on labor; develop plans in cooperation with the Department of Labor to provide reserve maritime manpower for mobilization and other emergencies; obtain, analyze, and publish data for use of industry, labor, Government, and the public concerning maritime employment, wages, hours, manning, working conditions, and manpower requirements; process nominations for appointment of cadets to the U.S. Merchant Marine Academy; administer a grant-in-aid program for the State maritime academies; determine need for and coordinate training programs for licensed and unlicensed personnel in maritime industries; coordinate technical maritime training assistance to foreign countries under international cooperative programs; and issue merchant marine decorations and awards.

.03 The *Office of Marine Insurance* shall develop, coordinate, control, and administer the marine insurance and the marine war risk insurance activities and programs of the Maritime Administration; maintain contact with the commercial insurance markets, analyze events and trends, and take action to meet changing conditions and foster cooperation between the Federal Government and American marine insurance underwriters in helping to strengthen the domestic marine insurance market; gather, analyze, and disseminate information on marine insurance useful to ship operators and the marine insurance industry; and settle or recommend settlement of claims of a marine insurance and marine war risk insurance nature.

SEC. 13. *Field Organization.*

.01a. There shall be three field organizations called Regions, each headed by a Region Director, as specified below:

Region	*Headquarters location*
Eastern	New York, N.Y.
Central	New Orleans, La.
Western	San Francisco, Calif.

b. The Regions shall have geographic areas of responsibility as shown in Exhibit 2. A copy of the Organization Map is attached to the original of this document on file in the Office of the Federal Register.

c. The *Region Directors* shall be responsible for all field operations and programs of the Maritime Administration within their respective Regions, except ship construction and the United States Merchant Marine Academy, subject to national policies, determinations, procedures and directives of the appropriate office chief in Washington, D.C. The programs and activities under their jurisdiction shall include the custody and preservation of ships in the national defense reserve fleet; operation, repair and maintenance of ships; marine inspections; training for marine personnel in radar, loran, etc.; accounting and external auditing; financial analysis of the shipping industry or segments thereof; contract compliance activities, and activities to assure equal opportunity in employment in water transportation industries, as assigned; market development; development of ports and intermodal transportation systems; procurement and disposal of property and supplies; facilities management; and administrative support activities.

.02 The *United States Merchant Marine Academy*, Kings Point, New York, shall develop and maintain programs for the training of United States citizens to become officers in the United States Merchant Marine.

Effective date: October 23, 1973.

ROBERT J. BLACKWELL,
Assistant Secretary for Maritime Affairs.

Approved:

HENRY B. TURNER,
Assistant Secretary for Administration.

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[Organization Order 35-4B]

SOCIAL AND ECONOMIC STATISTICS ADMINISTRATION

Statement of Organization, Function, and Authority

This order effective October 10, 1973, supersedes the material appearing at Social and Economic Statistics Administration, 37 FR 3462 of February 16, 1972; 37 FR 15182 of July 28, 1972; 37 FR 22761 of October 21, 1972; and 38 FR 9451 of April 16, 1973.

SECTION 1. *Purpose.*

.01 This order prescribes the organization and assignment of functions within the Social and Economic Statistics Administration (SESA). Department Organization Order 35-4A prescribes the functions of SESA and the scope of authority of the Administrator, SESA.

.02 This revision reflects functional realignments involving all principal organizational elements of SESA.

SEC. 2. *Organization structure.*

The principal organization structure and line of authority shall be as depicted in the attached organization chart (Exhibit 1). A copy of the Organization Chart is attached to the original of this document on file in the Office of the Federal Register.

SEC. 3. *Office of The Administrator.*

.01 The Administrator determines objectives for SESA, establishes policies and programs for achieving those objectives, and exercises overall direction of SESA's activities. The Administrator shall designate another official to carry out these duties in his absence.

.02 The Equal Employment Opportunity Officer designated under the provisions of section 3 of Department Organization Order 10-5, "Assistant Secretary for Administration," shall provide guidance and assistance to SESA officials in Equal Employment Opportunity matters, shall perform the duties and activities prescribed by subparagraph 2.01e.3. of Department Administrative Order 202-713, "Equal Employment Opportunity," and shall participate in the planning and direction of the EEO program.

SEC. 4. *Associate Administrator for Administration.*

The Associate Administrator for Administration shall provide administrative management services, including program review, to components of SESA and advise the Administrator on administrative management. To carry out his responsibilities, the Associate Administrator shall have and direct the following units.

.01 The Administrative Services Division shall provide administrative services to include physical security, property, space and facilities management, procurement control, library, communications, records disposition, files, mail and forms management and related administrative operations.

.02 The Budget Division shall perform budget functions which shall include preparation of official budget estimates and justification, and allocation and control of all funds; and provide computer programming services for the processing of Administrative and Management data.

.03 The Finance Division shall perform financial analysis, maintenance of financial accounts, coordination of payroll and leave audits, and preparation of financial reports.

.04 The Management Information System Staff shall develop and implement an information system, provide ongoing information systems maintenance and upgrading, and support management in planning and controlling its programs and projects.

.05 The Management and Organization Division shall conduct studies and perform related activities concerned with improving organization structure and management systems and practices; provide technical support for work measurement programs; perform directives and reports management functions; carry out the staff responsibility for the SESA committee management function; and prepare special analytical reports on management matters.

.06 The Personnel Division shall provide personnel management services, which shall include position classification and pay administration, recruitment and employment, employee training, employee relations and services, labor relations, and related personnel operations. The Division shall also provide assurance of equal opportunity in all employment matters in SESA.

.07 The Program Review Staff shall assist in the overall planning, review and evaluation of SESA's programs. In particular, the Staff shall, in consultation with the Director of the Bureau of Census and the Director of the Bureau of Economic Analysis, develop overall program plans for SESA and coordinate the related work programs of each bureau as will best achieve SESA's program

goals; review and evaluate program accomplishments in relation to plans; and serve as the focal point for determining and assessing goals and long range plans for SESA as a whole.

.08 The Publications Services Division shall provide publication, printing and graphic art services, including publications design and distribution planning and control.

SEC. 5. *Bureau of Economic Analysis.*

.01 Office of the Director.

a. The Director of the Bureau of Economic Analysis shall develop policies and plans for and direct and manage the operations of the Bureau.

b. The Deputy Director shall assist the Director in all aspects of the management of the Bureau, and perform the duties of the Director during the latter's absence.

.02 Staff Elements.

a. The Chief Statistician shall monitor and improve the data sources and statistical estimating techniques used in the work of the Bureau, and coordinate the planning of requirements of data to be provided by the Bureau of the Census and advise the Director in these fields.

b. The Chief Economist shall analyze economic developments and problems, advise the Director with regard to them, and with regard to the economic research program of the Bureau. The Chief Economist shall also serve as the Editor of the "Survey of Current Business."

.03 The Associate Director for National Economic Accounts shall plan and coordinate the systems of national accounts maintained by the Bureau, including the national income and product, wealth, government, and input-output accounts, and advise the Director in this field. The Associate Director shall have and coordinate the following units:

a. The Government Division shall maintain, improve, and interpret the Federal, State, and local government accounts of the United States within the economic accounting framework; cooperate in the translation of the unified budget into economic accounting terms for publication in the Budget of the United States and the Economic Report of the President; prepare forecasts of Government receipts and expenditures for use in the Bureau's analyses of the economic outlook; and conduct research in the quantitative study of public finance.

b. The Interindustry Economics Division shall maintain, improve, and interpret (1) the input-output accounts of the United States which show the flows of goods and services from each industry to other industries and to final markets in the economy, and the gross national product originating in each industry for given years, and (2) the time series of the gross national product originating in each of the industries of the Nation; conduct research in input-output techniques, including regional input-output techniques; and prepare special studies of the economic repercussions of changes in consumer, investment, foreign, and Government markets on the output of the Nation's industries and the incomes originating in them.

c. The National Income and Wealth Division shall maintain, improve, and interpret the national income and product and wealth accounts of the United States, including national income, by type of income, industrial source and legal form, gross national product and its components, personal income and its components, personal income and its disposition, the size distribution of personal income, the sources and uses of savings, and national wealth by type of asset and ownership and do research in the techniques required to interpret the national income, product, and wealth accounts.

.04 The Associate Director for National Analysis and Projections shall plan and coordinate the national economic analysis and projection programs of the Bureau, including the development of econometric models of the United States economy and the preparation of econometric forecasts; monitor econometric techniques used in the Bureau; coordinate Bureau activities which relate to the overall effort of the Government to study the problems of economic growth; and advise the Director in these fields. The Associate Director shall have and coordinate the following units:

a. The Business Outlook Division shall maintain, improve, and interpret data on past, current, and prospective domestic business investments in new plant and equipment, conduct designated surveys required to collect this information; and maintain and improve econometric models designed to forecast shorta nd long-term changes in economic activity, and to assess the likely impact on economic activity of alternative fiscal, monetary, and other Government economic policies; and study problems relating to the Nation's economic growth.

b. The Current Business Analysis Division shall conduct a continuing study of current business activity; prepare and publish in the "Survey of Current Business" regular interpretations of the business situation; conduct research required for assembling (for publication in the "Survey" and its "Business Statistics Supplement") a detailed and comprehensive set of data produced by the Bureau and other agencies for use in evaluating the business situation; and be responsible for coordinating the press releases of the Bureau.

c. The Statistical Indicators Division shall develop and publish reports such as "Business Conditions Digest", "Defense Indicators", and "Long-Term Economic Growth"; conduct research relating to the system of economic indicators (leading, coincident, and lagging) and to the methods and applications of seasonal and other time series adjustments; conduct analysis relating to the behavior of economic indicators and provide services relating to the seasonal adjustment of time series.

.05 The Associate Director for Regional Economics shall plan and coordinate the regional economic measurement and analysis program of the Bureau and advise the Director in this field. The Associate Director shall have and coordinate the following units:

a. The Regional Economic Analysis Division shall maintain and improve regional economic projections; conduct research in regional economics, with special attention to the factors determining the levels and rates of growth of regional economic activity; develop analytical techniques for regional economic impact studies; and conduct special analyses of regional economics in cooperation with Government agencies and private groups.

b. The Regional Economic Measurement Division shall maintain and improve the regional economic accounts of the United States including personal income by type of income and industrial source for each of the States, metropolitan areas, and counties of the nation; conduct research in regional economic measurement techniques; and maintain a regional economic information system.

.06 The Associate Director for International Economics shall plan and coordinate the international economic program of the Bureau and advise the Director in this field. The Associate Director shall have and coordinate the following units:

a. The Balance of Payments Division shall maintain, improve, and interpret the balance of payments accounts of the United States and their current and capital components, including detail by foreign geographic area, from the standpoint of throwing light on the effects of the balance of payments on the U.S. economy, and on the role of the United States in the world economy; conduct designated surveys to obtain basic data necessary to construct the balance of payments accounts, including surveys of the foreign transactions of Government agencies; conduct research in the techniques required to interpret the balance of payments accounts; and prepare forecasts of the balance of payments of the United States in cooperation with other agencies.

b. The Foreign Demographic Analysis Division shall conduct specialized studies of the population, manpower, economics, and social systems of foreign countries, involving the compilation and evaluation of relevant data; prepare estimates and projections; and prepare special analytical and interpretive reports and monographs.

c. The International Investment Division shall maintain, improve, and interpret data on United States direct investments abroad, foreign direct investments in the United States, and income flows associated with such investments, including the transactions of foreign affiliates; conduct designated surveys required to obtain this information; conduct research in the techniques required to interpret international investment; and maintain and develop a data system on U.S. direct investments.

.07 The Computer Systems and Services Division shall maintain, coordinate, and improve the use of automatic data processing equipment by the Bureau, including the conduct of feasibility studies; prepare automatic data processing sys-

tems and programs; and provide data processing services for the Bureau.

SEC. 6. *Bureau of the Census.*

.01 Office of the Director.

a. The Director of the Bureau of the Census shall develop policies and plans for, and direct and manage the operations of the Bureau.

b. The Deputy Director shall assist the Director in all aspects of the management of the Bureau, and perform the duties of the Director during the latter's absence.

.02 Staff Elements.

a. The Congressional Liaison Office shall advise on all Congressional matters related to Census activities and serve as the primary point of coordination for maintaining liaison on such activities with the Congress in collaboration with the Departmental Office of Congressional Relations.

b. The Public Information Office shall, under the policy guidance of the Administrator of SESA and the Director of the Bureau and in liaison with the Departmental Office of Communications (as provided by DOO 15-3) develop public information programs and coordinate and review for clearance the release and distribution of information disseminated by Census.

c. The Data User Services Office shall devise, test, and apply techniques for improving access and extending uses of Census data; research new techniques for improving services to data users; and serve as the focal point for coordinating requests for data tapes, published and unpublished data, maps, and other Census products; prepare general-purpose statistical compendia such as the "Statistical Abstract of the United States" and its supplements; coordinate and prepare technical reports that cross subject-matter lines or concern the Census Bureau as a whole; and assist in the program of providing technical aid to State and local government officials.

.03 The Associate Director for Demographic Fields shall plan and direct the social and demographic statistical programs and advise the Director in these fields and shall have and direct the following units:

a. The Office of Demographic Analysis shall provide support in developing social indicators, conduct research on the need for additional indicators; develop data sources, conduct research into possible data gaps, develop recommendations to fill these needs and develop reports and publications.

b. The Demographic Census Division shall provide overall direction for program planning of demographic censuses; develop overall budget requirements and time schedules; maintain liaison with other divisions for data needs and associated information and materials; develop plans for publication and other data dissemination programs; develop census methodology, including processing procedures, instructions and controls, and computer programming; and organize and conduct pretest research programs.

c. The Demographic Surveys Division shall plan and develop specifications, survey design and methodology for, and provide technical direction for the development of statistical data collected in current and special surveys; plan and develop systems and prepare computer programs for the processing of applicable data on electronic data processing equipment; perform non-mechanical processing for specified current and special surveys; and conduct surveys and methodology studies for other agencies.

d. The Housing Division shall formulate and develop overall plans and programs for the collection, processing, and dissemination of statistical data from censuses and from special and current surveys relating to general housing characteristics; and conduct research for and prepare special analytical reports, monographs, and special studies.

e. The International Statistical Programs Center shall plan and conduct the Bureau's foreign consultation and training programs and represent the Bureau in international statistical activities; conduct research on international statistical programs of methodology and content and coordinate other research of similar nature in the Bureau; assemble, through foreign publications, exchange data for use by the Government and the public and provide statistical information to foreign governments and international organizations; and prepare analytical studies of information available for inclusion in an international demographic data system and provide consultative services on matters relating to information contained in the system.

f. The Population Division shall formulate and develop overall plans and programs for the collection, processing, and dissemination of statistical data from special and current surveys and censuses; prepare estimates and projections of the population; plan and develop systems and prepare computer programs for the processing of population data on electronic data processing equipment; and conduct special studies and publish analytical reports and monographs.

g. The Statistical Methods Division shall develop and coordinate the application of mathematical statistical techniques in the design and conduct of statistical programs in the demographic fields.

.04 The Associate Director for Economic Fields shall plan and direct the economic statistical programs and advise the Director in these fields and shall have and direct the following units:

a. The Agriculture Division shall formulate and develop overall plans and programs for the collection, processing, and dissemination of statistical data from surveys or censuses relating to agriculture, agricultural activities and products, equipment and facilities, irrigation and drainage enterprises, and cotton ginning; plan and develop systems and prepare computer programs for the processing of agricultural data on electronic data processing equipment; and conduct research and prepare analytical reports, monographs, and special studies.

b. The Business Division shall formulate and develop overall plans and programs for the collection, processing, and dissemination of statistical data from special and current surveys and censuses relating to business enterprises engaged primarily in the distribution of goods and services; plan and develop systems and prepare computer programs for the processing of business data on electronic data processing equipment; perform nonmechanical processing for current Division programs; and conduct research and prepare analytical reports, monographs, and special studies.

c. The Construction Statistics Division shall formulate and develop overall plans and programs for the collection, processing, and dissemination of statistical data from current surveys and studies relating to construction activity and from construction industry censuses and surveys relating to the characteristics and operations of firms in the construction industry; plan and develop systems and prepare computer programs for the processing of construction data on electronic data processing equipment; perform nonmechanical processing for current Division programs; and conduct research and prepare special analytical reports, monographs, and studies.

d. The Economic Censuses and Surveys Division shall formulate, develop, and provide direction for the implementation of the overall plans for the collection and processing of the Economic Censuses; provide direction for Census related activities of participating divisions and develop overall Census budget and time schedule; assist in the development of plans for publication and data dissemination of Economic Census data; plan, develop and provide technical direction over assigned surveys; develop classification manuals and systems; conduct research into the application and use of administrative records, including development of a current industrial directory; and plan and develop systems and prepare computer programs for the processing of economic data on electronic data processing equipment.

e. The Foreign Trade Division shall formulate and develop overall plans and programs for the collection, processing, and dissemination of statistical data relating to various aspects of the export and import trade of the United States and foreign trade shipping; plan and develop systems and prepare computer programs for the processing of foreign trade data on electronic data processing equipment; perform non-mechanical processing for current Division programs; conduct research on problems of international comparability of trade statistics; and prepare special reports, monographs, and studies.

f. The Governments Division shall formulate and develop overall plans and programs for the collection of statistical data from special and current surveys and censuses relating to State and local governments; plan and develop systems and prepare computer programs for the processing of Government data on electronic data processing equipment; con-

duct research on governmental operations and finances; and prepare special analytical reports, monographs, and special studies.

g. The Industry Division shall formulate and develop overall plans and programs for the collection, processing, and dissemination of statistical data from special and current surveys and censuses relating to manufacturing, mineral, and related industries; plan and develop systems and prepare computer programs for the processing of industry data on electronic data processing equipment; and conduct research and prepare special analytical reports, monographs, and special studies.

h. The Transportation Division shall formulate and develop overall plans and programs for the collection, processing, and dissemination of statistical data from surveys or censuses relating to the transportation industry and various segments thereof, and collaborate, as appropriate, with public and private agencies in the field of transportation on the development and presentation of these data; and plan and develop systems and prepare computer programs for processing transportation data on electronic processing equipment.

.05 The Associate Director for Statistical Standards and Methodology shall plan and direct programs relating the statistical adequacy of proposed collections and the application of appropriate statistical methodology and techniques and advise the Director in these fields. The Associate Director shall have and direct the following units:

a. The Research Center for Measurement Methods shall provide research facilities oriented toward long-range studies in methods of measurement with a view toward obtaining a deeper understanding of the basic problems of social and economic phenomena.

b. The Statistical Research Division shall develop and promote effective use of mathematical, statistical, and psychological methods and techniques in the work of the Bureau; conduct research in these areas; provide guidance to theoretical and applied statisticians and subject matter specialists in the Bureau and other organizations on all aspects of mathematical, statistical, and research problems; and shall perform Departmental review and clearance of proposals of any organization of the Department for requests for information from the public that requires the approval of the Office of Management and Budget under DAO 216-8.

.06 The Associate Director for Data Collection and Processing shall plan and direct programs of field data collection, geographical services and noncomputer processing operations, and advise the Director in these matters. He shall also manage a system for overall Census work scheduling; schedule and coordinate the assignment of manual processing resources in headquarters and decentralized processing locations. The Associate Director shall have and direct the following units:

a. The Data Preparation Division located in Jeffersonville, Indiana, shall carry out non-computer statistical processing operations for assigned current and special surveys or censuses; provide related administrative and logistics services for assigned programs; and exercise such authority in personnel and other management areas as is specifically delegated, and administer through the Pittsburg, Kansas, field office a personal census service to provide individuals or their authorized representatives information about themselves as reflected by Census records.

b. The Field Division shall plan, organize, coordinate, and carry out the Bureau's field data collection program; maintain and administer a flexible field organization through the Data Collection Centers and temporary district and other branch or area offices; and provide for the effective deployment of field personnel to assure the efficient conduct of data collection at the local level.

c. The Geography Division shall plan, coordinate and administer those geographic services needed to facilitate the Bureau's data collection program; develop computer programs, systems, methods and procedures for the cartographic and geographic operations; develop and implement a nationwide program to maintain and update geographic base files; conduct research into geographic concepts and methods, develop plans for the establishment of geographic statistical areas of the United States; and prepare density and other specialized maps and geographic reports for publication.

.07 The Associate Director for Electronic Data Processing shall plan and direct programs to electronic data processing operations and techniques, and advise the Director in these matters. The Associate Director shall have and direct the following units:

a. The Computer Services Division shall operate and manage the electronic digital computer and mechanical tabulating facilities of the Bureau; and plan and perform associated coordination, scheduling of computer processing, staging, and tape library services.

b. The Computer Systems Development Division shall design tests to measure relevant significant factors of programs during their developmental stages and evaluate the results therefrom; modify existing executive systems to improve efficiency; develop general purpose programs; research new programming languages and techniques; provide support for computer related training; and conduct research and development concerned with new equipment needs, conceptual methods, and systems designs for the various programs of the Bureau.

c. The Engineering Division shall plan and perform engineering services, including research, development, equipment requirements and maintenance activities, to provide and support electromechanical and electronic equipment required for data processing.

.08 The Data Collection Centers.

a. The principal field structure of the Bureau of the Census shall consist of twelve Data Collection Centers, each headed by a Field Director who shall report to the Chief of the Field Division in the Office of the Associate Director for Data Collection and Processing. The location and geographic area covered by each Data Collection Center shall be as shown in Exhibit 2. A copy of the Organization Map is attached to the original of this document on file in the Office of the Federal Register.

b. Each Data Collection Center shall carry out assigned field data collection programs, including recurring and special sample surveys of varying sizes and complexity, periodic censuses, and special censuses and surveys.

c. As may be required for a specific census or special survey, temporary district or other subordinate offices shall be established under the Data Collection Centers.

d. The Seattle Data Collection Center shall have an Area Office in San Francisco, and the Kansas City Data Collection Center shall have an Area Office in St. Paul, Minn., which shall carry out assigned field data collection programs.

Effective date. October 10, 1973.

EDWARD D. FAILOR,
Administrator, Social and Economic Statistics Administration.

SIDNEY L. JONES,
Assistant Secretary for Economic Affairs.

Approved:

HENRY B. TURNER,
Assistant Secretary for Administration.

[FR Doc. 73-23750 Filed 11-6-73;8:45 am]

Social and Economic Statistics Administration

SURVEY OF RETAIL SALES, PURCHASES, AND INVENTORIES

Notice of Consideration To Continue Survey

Notice is hereby given that the Bureau of the Census is considering a proposal to repeat in 1974 the Annual Retail Trade Survey which has been conducted each year under Title 13, United States Code, sections 181, 224, and 225 to collect data covering year-end inventories, purchases, and annual sales. This survey covering 1973 is the only continuing source available on a comparable classification and timely basis for use as the benchmark for developing monthly retail inventory estimates. It also assists in establishing a benchmark for the distribution of monthly sales by geographic area.

Information and recommendations received by the Bureau of the Census indicate that the data will have significant application to the needs of the public, the distribution trades, and governmental agencies, and are not publicly available from nongovernment or other governmental sources.

Such a survey, if conducted, shall begin not earlier than December 7, 1973.

Reports will be required only from a selected sample of retail establishments

in the United States. The sample will provide, with measurable reliability, statistics on the subjects specified above. Reports will be requested from a sample of stores based on their sales size. A group of the largest firms, in terms of number of retail stores, will be requested to report their sales and number of stores by county; but those firms which are participating monthly in the Bureau's geographic area survey will be asked to report at the national level only.

Copies of the proposed forms and a description of the collection methods are available upon request to the Director, Bureau of the Census, Washington, D.C. 20233.

Any suggestions or recommendations concerning the subject matter of the proposed survey, submitted in writing to the Director of the Bureau of the Census on or before December 7, 1973, will receive consideration.

EDWARD D. FAILOR,
Administrator, Social and Economic Statistics Administration.

[FR Doc.73-23695 Filed 11-6-73;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Dest 11255; Docket No. FDC-D-566; NDA 12-830]

CERTAIN COMBINATION ANTACID-ANTICHOLINERGIC DRUGS: ESTOMUL TABLETS AND ESTOMUL LIQUID; MARTAB NO. 2 AND NO. 3 TABLETS

Final Order on Objections and Requests for a Hearing Regarding Withdrawal of Approval of New Drug Application

Correction

In FR Doc. 21644 appearing at page 28094, in the issue of Thursday, October 11, 1973, on page 28098, second column, paragraph 8, the word "is" should read "in". On page 28099, second column, paragraph 3, thirty-third line, the word "adequate" should read "inadequate".

[FAP 2B2720]

LA WALL AND HARRISSON RESEARCH LABORATORIES, INC.

Notice of Withdrawal of Petition for Food Additives

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b), 72 Stat. 1786 (21 U.S.C. 348(b))), the following notice is issued:

A petition (FAP 2B2720) was filed by La Wall and Harrisson Research Laboratories, Inc., 1921 Walnut St., Philadelphia, Pa. 19103, notice of which was published in the FEDERAL REGISTER of December 8, 1971 (36 FR 23330), proposing that § 121.2575 *Paraffin, synthetic* (21 CFR 121.2575) be amended by revising the limitations which concern the congealing point to include synthetic paraffin with a congealing point of not less than 110° F nor more than 250° F.

Subsequently, the Commissioner of Food and Drugs requested the petitioner to submit certain additional information as provided for in § 121.51(j) of the procedural food additive regulations. The regulation also provides that if requested information is not submitted within 180 days of the filing date of a petition, the petition will be considered to be withdrawn without prejudice.

The requested information has not been received and, therefore, the subject petition is regarded as having been withdrawn without prejudice to a future filing.

Dated: October 30, 1973.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.73-23671 Filed 11-6-73;8:45 am]

ADVISORY COMMITTEES

Notice of Meetings

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App.)), the Food and Drug Administration announces the following public advisory committee meetings and other required information in accordance with provisions set forth in section 10(a)(1) and (2) of the act:

Committee name	Date, time, place	Type of meeting and contact person
1. Radiological Health Research and Training Grants Review Committee.	November 13, 9 a.m., Room 400, 12720 Twinbrook Pkwy., Rockville, MD.	Open 9 a.m. to 10 a.m., closed after 10 a.m. Norman C. Teller, Room 7-67, 5600 Fishers Lane, Rockville, MD. 20852, 301-443-4463.

Purpose. Provides scientific and technical review of all research and training-grant applications in the areas of individual and public health hazards which may be associated with exposure to radiation; makes recommendations concerning scientific merit of grant applications.

Agenda. Open session provides for public participation. Closed session will consist of research grant review.

Committee name	Date, time, place	Type of meeting and contact person
2. Pulmonary-Allergy and Clinical Immunology Advisory Committee.	November 20, 9 a.m., Conference Room C, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.	Open 9 a.m. to 12 noon, closed after 12 noon. David Lidd, M.D., Room 16B-20, 5600 Fishers Lane, Rockville, MD. 20852, 301-443-4731.

Purpose. Advises the Commissioner of Food and Drugs regarding safety and efficacy of drugs employed in the treatment of pulmonary disease and diseases with allergic and/or immunologic mechanisms.

Agenda. Open session: Discussion of guidelines for study of bronchodilators and guidelines for study of nasal preparations (decongestant and topical and class labeling). Closed session: Follow-up on confidential data submitted by manufacturer on Daroil.

Agenda items are subject to change as priorities dictate.

During the open sessions shown above, interested persons may present relevant information or views orally to any committee for its consideration. Information or views submitted to any committee in writing before or during a meeting shall also be considered by the committee.

A list of committee members and summary minutes of meetings may be obtained from the contact person for the committee both for meetings open to the public and those meetings closed to the public in accordance with section 10(d) of the Federal Advisory Committee Act.

Most Food and Drug Administration advisory committees are created to advise the Commissioner of Food and Drugs on pending regulatory matters. Recommendations made by the committees on these matters are intended to result in action under the Federal Food, Drug, and Cosmetic Act, and these committees thus necessarily participate with the Commissioner in exercising his law enforcement responsibilities.

The Freedom of Information Act recognized that the premature disclosure of regulatory plans, or indeed internal discussions of alternative regulatory approaches to a specific problem, could have adverse effects upon both public and private interests. Congress recognized that such plans, even when finalized, may not be made fully available in advance of the effective date without damage to such interests, and therefore provided that this type of discussion would remain confidential. Thus, law enforcement activities have long been recognized as a legitimate subject for confidential consideration.

These committees often must consider trade secrets and other confidential information submitted by particular manufacturers which the Food and Drug Administration by law may not disclose, and which Congress has included within the exemptions from the Freedom of Information Act. Such information includes safety and effectiveness information, product formulation, and manufacturing methods and procedures, all of which are of substantial competitive importance.

In addition, to operate most effectively, the evaluation of specific drug or device products requires that members of committees considering such regulatory matters be free to engage in full and frank discussion. Members of committees have frequently agreed to serve and to provide their most candid advice on the understanding that the discussion would be private in nature. Many experts would be unwilling to engage in candid public discussion advocating regulatory action against a specific product. If the committees were not to engage in the deliberative portions of their work on a confidential basis, the consequent loss of frank and full discussion among commit-

tee members would severely hamper the value of these committees.

The Food and Drug Administration is relying heavily on the use of outside experts to assist in regulatory decisions. The Agency's regulatory actions uniquely affect the health and safety of every citizen, and it is imperative that the best advice be made available to it on a continuing basis in order that it may most effectively carry out its mission.

A determination to close part of an advisory committee meeting does not mean that the public should not have ready access to these advisory committees considering regulatory issues. A determination to close the meeting is subject to the following conditions: First, any interested person may submit written data or information to any committee, for its consideration. This information will be accepted and will be considered by the committee. Second, a portion of every committee meeting will be open to the public, so that interested persons may present any relevant information or views orally to the committee. The period for open discussion will be designated in any announcement of a committee meeting. Third, only the deliberative portion of a committee meeting, and the portion dealing with trade secret and confidential information, will be closed to the public. The portion of any meeting during which nonconfidential information is made available to the committee will be open for public participation. Fourth, after the committee makes its recommendations and the Commissioner either accepts or rejects them, the public and the individuals affected by the regulatory decision involved will have an opportunity to express their views on the decision. If the decision results in promulgation of a regulation, for example, the proposed regulation will be published for public comment. Closing a committee meeting for deliberations on regulatory matters will therefore in no way preclude public access to the committee itself or full public comment with respect to the decisions made based upon the committee's recommendation.

The Commissioner has been delegated the authority under section 10(d) of the Federal Advisory Committee Act to issue a determination in writing, containing the reasons therefor, that any advisory committee meeting is concerned with matters listed in 5 U.S.C. 552(b), which contains the exemptions from the public disclosure requirements of the Freedom of Information Act. Pursuant to this authority, the Commissioner hereby determines, for the reasons set out above, that the portions of the advisory committee meetings designated in this notice as closed to the public involve discussion of existing documents falling within one of the exemptions set forth in 5 U.S.C. 552 (b), or matters that, if in writing, would fall within 5 U.S.C. 552(b), and that it is essential to close such portions of such meetings to protect the free exchange of internal views and to avoid undue interference with Agency and committee operations. This determination shall apply only to the designated portions of such meetings which relate to trade secrets and confidential information or to committee deliberations.

Dated: November 2, 1973.

A. M. SCHMIDT,
Commissioner of Food and Drugs.

[FR Doc.73-23797 Filed 11-6-73;8:45 am]

Health Resources Administration

NATIONAL COMMITTEE ON VITAL AND HEALTH STATISTICS

Notice of Meeting

The Administrator, Health Resources Administration, announces the meeting date and other required information for the following National Advisory body scheduled to assemble the month of December 1973:

Committee name	Date, time, place	Type of meeting and/or contact person
U.S. National Committee on Vital and Health Statistics.	December 4-5, 9:30 a.m., Room 200, Brookings Institution, Washington, D.C.	Open—Contact Dr. I. M. Moriyama, Room 9A-54, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. Code 301-443-1066.

Purpose. The Secretary and by delegation the Administrator, Health Resources Administration, are charged under sections 301, 42 U.S.C. 241; section 305, 42 U.S.C. 242c; section 308, 42 U.S.C. 242f; and section 315, 42 U.S.C. 247 of the Public Health Service Act, as amended, with the responsibility to develop new areas of public health statistics, propose technical problems for study, suggest revision of old procedures to meet new needs, and study broadly the problem of producing satisfactory national and international statistics in the field of health

Agenda. Discussion items include possible conference on diagnostic and procedural classifications, the minimum basic set of information which should be entered in the records of ambulatory medical care provided in various settings; statistics and statistical data systems needed as a basis for formulation of national population policy; analytical potentials of data from the National Center for Health Statistics.

Agenda items are subject to change as priorities dictate.

A roster of members and other relevant information regarding the open/closed sessions may be obtained from the contact person listed above.

Dated: October 31, 1973.

KENNETH M. ENDICOTT,
Administrator,
Health Resources Administration.

[FR Doc.73-23689 Filed 11-6-73;8:45 am]

National Institute for Occupational Safety and Health

CERTAIN AIRBORNE DUST CONTAMINANTS AND CHEMICAL AGENTS

Request for Information

Section 20(a)(3) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 669(a)(3)) provides that the Secretary of Health, Education, and Welfare, on the basis of information available to him, shall develop criteria dealing with toxic materials and harmful physical agents and substances which will describe exposure levels that are safe for various periods of employment. Section 22(c) of the Act authorizes the National Institute for Occupational Safety and Health to develop recommended occupational safety and health standards and to perform all functions of the Secretary of Health, Education, and Welfare, under sections 20 and 21 of the Act. The Institute is currently collecting information and data on a number of airborne dust contaminants and chemical agents including:

1. Aniline
2. Dioxane
3. Mineral Wool
4. Sodium Hydroxide
5. Xylene
6. Zinc Chloride
7. Zinc Oxide

The information and data collected for each agent will be analyzed and evaluated relative to the nine areas listed below.

(1) Establishment of safe occupational environmental levels for such agents, including levels for acute and chronic exposure to airborne concentrations of the chemical substances, as well as safe practices concerning direct contact with such substances.

(2) Establishment of biologic standards; i.e., the levels of such substances, metabolites, or other effects of exposure which may be present within man without his suffering ill effects, taking into consideration (a) the correlation of airborne concentrations of, and extent of exposure to such substances with effects on specific biologic systems of man, such as the circulatory, respiratory, urinary, and nervous system, and (b) the analytical methods for determining the amount of the substance which may be present within man.

(3) Engineering controls, including ventilation, environmental temperature, humidity, and housekeeping and sanitation procedures, with attention to the technological feasibility of such controls.

(4) Specifications for the conditions under which personal protective devices should be required.

(5) Methodology, including instrumentation, for air sampling and sample analysis of chemical agents.

(6) The need for medical examinations for workers exposed to such agents, the frequency of such examinations, and the specific diagnostic tests which should be used, and the rationale for their selection.

(7) Work practices or procedures which may be instituted for control of the workplace environment in normal operations, and those which may be instituted when environmental levels are temporarily exceeded, or where peak concentrations of chemical substances in man are reached.

(8) The types of records concerning occupational exposure to such agents that employers should be required to maintain.

(9) Warning devices and labels which should be required for the prevention of occupational diseases and hazards caused by exposure to such agents.

Any person having information or data which is not readily available in "open scientific literature" in any of the nine areas listed, or in other areas which the person considers relevant to the establishment of a safe and healthful occupational environment involving the substances set forth above, is invited to submit two (2) copies of such information, with accompanying documentation, to the Assistant Institute Director for Research and Standards Development, National Institute for Occupational Safety and Health, 5600 Fishers Lane, Rockville, Maryland 20852, on or before February 5, 1974.

All information received concerning any agent will be available for public inspection after the development of the respective recommended standard, research analysis report or criteria document.

Dated: October 23, 1973.

MARCUS M. KEY,
Director, National Institute for Occupational Safety and Health.

[FR Doc.73-23678 Filed 11-6-73;8:45 am]

National Institutes of Health

CHEMICAL/BIOLOGICAL INFORMATION-HANDLING REVIEW COMMITTEE

Notice of Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Chemical/Biological Information-Handling Review Committee, Division of Research Resources, November 27, 1973, 9:00 a.m., National Institutes of Health, Building 31, Room 4B59. This meeting will be open to the public from 9:00 a.m. to Noon for the status reports on the Chemical/Bological Information-Handling Program and on PROPHET Facilities Operations. The meeting will be closed to the public from 1:00 p.m. to adjournment to review contract proposals in accordance with provisions set forth in section 552(b) 4 of Title 5 U.S. Code for contracts and 10(d) of Pub. L. 92-463. Attendance by the public is limited to space available.

The Information Officer who will furnish summaries of the meeting and rosters of the Committee members is Mr. James Augustine, Division of Research Resources, Building 31, Room 5B39, Bethesda, Maryland 20014, 496-5545.

The Executive Secretary from whom substantive information may be obtained is Dr. William Raub, Building 31, Room 5B19, Bethesda, Maryland 20014, 496-5411.

(Catalog of Federal Domestic Assistance Program No. 13.835, National Institutes of Health.)

Dated: October 31, 1973.

JOHN F. SHERMAN,
Deputy Director, National Institutes of Health.

[FR Doc.73-23680 Filed 11-6-73;8:45 am]

Social and Rehabilitation Service

NATIONAL ADVISORY COUNCIL ON SERVICES AND FACILITIES FOR THE DEVELOPMENTALLY DISABLED

Notice of Meeting

The National Advisory Council on Services and Facilities for the Developmentally Disabled, created to advise the Secretary on regulations and evaluation of programs for Pub. L. 91-517, will hold a regular meeting on November 16 and 17, 1973, in the Plaza Room of the Holiday Inn Crystal City, Arlington, Virginia. On November 16 the meeting will begin at 8:30 a.m. and recess at 6:00 p.m. On November 17 the meeting will reconvene at 8:30 a.m. and adjourn at 5:00 p.m. The agenda will include funding patterns for fiscal year 1974 and fiscal year 1975, discussion of extension of Pub. L. 91-517, participatory discussion with Regional Office staff and State Planning and Advisory Council Chairman, cross modalities presentation, and updating reports on other SRS programs. The meeting will be open to the public. Additional information can be obtained by calling the Executive Secretary at 202-962-7355.

FRANCIS X. LYNCH,
Executive Secretary.

NOVEMBER 1, 1973.

[FR Doc.73-23614 Filed 11-6-73;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

[Docket No. NFD-134]

MISSOURI

Notice of Major Disaster and Related Determinations

Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11725 of June 27, 1973; and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-73-238; and by virtue of the Act of December 31, 1970, entitled "Disaster Relief Act of 1970" (84 Stat. 1744), as amended by Pub. L. 92-209 (85 Stat. 742); notice is hereby given that on November 1, 1973, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the State of Missouri resulting from severe storms and flooding, beginning about September 21, 1973, is of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 91-606. I therefore declare that such a major disaster exists in the State of Missouri. You are to determine the specific areas within the State eligible for Federal assistance under this declaration.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11725, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-73-238, to administer the Disaster Relief Act of 1970 (Pub. L. 91-606, as amended), I hereby appoint Mr. Francis X. Tobin, HUD Region 7, to act as the Federal Coordinating Officer to perform the duties specified by Section 201 of that Act for this disaster.

I do hereby determine the following areas in the State of Missouri to have been adversely affected by this declared major disaster.

The Counties of:

Adair	Howard
Andrew	Knox
Atchison	Lafayette
Buchanan	Lewis
Caldwell	Livingston
Callaway	Macon
Carroll	Mercer
Chariton	Moniteau
Clay	Montgomery
Clinton	Nodaway
Cole	Platte
Cooper	Putnam
Daviess	Ray
De Kalb	Saline
Franklin	Schuyler
Gentry	Scotland
Harrison	Shelby
Holt	Worth

This disaster has been designated as FDAA-407-DR.

(Catalog of Federal Domestic Assistance Program No. 50.002, Disaster Assistance.)

Dated: November 1, 1973.

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.73-23760 Filed 11-6-73;8:45 am]

[Docket No. NFD-135]

NEBRASKA

Amendment to Notice of Major Disaster

Notice of Major Disaster for the State of Nebraska, dated October 20, 1973, and published October 29, 1973 (38 FR 29835), is hereby amended to include the following county among those counties determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of October 20, 1973:

The County of:

Lancaster

(Catalog of Federal Domestic Assistance Program No. 50.002, Disaster Assistance.)

Dated: November 1, 1973.

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.73-23759 Filed 11-6-73;8:45 am]

ATOMIC ENERGY COMMISSION

[Docket No. 50-155]

CONSUMERS POWER CO., BIG ROCK POINT NUCLEAR PLANT

Notice of Further Prehearing Conference

Notice is hereby given that, pursuant to the Memorandum and Order dated October 26, 1973, the further prehearing conference provided for therein will be held on Tuesday, December 4, 1973, at 10:00 a.m. local time, in the Federal Building, Grand Jury Room, Room 640, 110 Michigan Avenue NW., Grand Rapids, Michigan.

The prehearing conference will deal with the matters set forth in the above-mentioned Memorandum and Order of October 26, 1973.

It is so ordered.

Issued at Washington, D.C., this 1st day of November 1973.

ATOMIC SAFETY AND LICENSING BOARD,
MAX D. PAGLIN,
Chairman.

[FR Doc.73-23608 Filed 11-6-73;8:45 am]

REGULATORY GUIDES

Notice of Issuance and Availability

The Atomic Energy Commission has issued three new guides in its Regulatory Guide series. The Regulatory Guide series has been developed to describe and make available to the public methods acceptable to the AEC Regulatory staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The new guides are in Division 3, "Fuels and Material Facilities Guides."

Regulatory Guide 3.13, "Guide for Acceptable Waste Storage Methods at UF_6 Production Plants," describes acceptable general design guidelines for safe storage of radioactive wastes at UF_6 production plants.

Regulatory Guide 3.14, "Seismic Design Classification for Plutonium Processing and Fuel Fabrication Plants," describes an acceptable method of identifying and classifying those plant features that should be designed to withstand the effects of earthquakes.

Regulatory Guide 3.15, "Standard Format and Content of License Applications for Storage Only of Unirradiated Reactor Fuel and Associated Radioactive Material," presents a format and a description of the content of an application for a license to authorize the receipt, possession, and storage of unirradiated fuel assemblies and associated radioactive material for eventual use in a nuclear reactor that are acceptable to the AEC Regulatory Staff.

Regulatory Guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Comments and suggestions in connection with improvements in the guides are encouraged and should be sent to the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Staff. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides should be made in writing to the Director of Regulatory Standards, U.S. Atomic Energy Commission, Washington, D.C. 20545. Telephone requests cannot be accommodated.

Other Division 3 Regulatory Guides currently being developed include the following:

General Fire Protection Guide for Plutonium Processing and Fuel Fabrication Plants.

Fuel Reprocessing Plant Process Off Gas Waste Treatment Systems.

Fuel Reprocessing Plant Confinement Barriers and Systems.

Fuel Reprocessing Plant Reporting of Operating Information.

General Design Guide for Ventilation Systems of Fuel Reprocessing Plants.

Earthquake Instrumentation for Fuel Reprocessing Plants.

(5 U.S.C. 552(a))

Dated at Bethesda, Maryland this 30th day of October 1973.

For the Atomic Energy Commission.

LESTER ROGERS,
Director of Regulatory Standards.

[FR Doc.73-23731 Filed 11-6-73;8:45 am]

[Docket Nos. 50-338 OL; 50-339 OL]

VIRGINIA ELECTRIC AND POWER CO.

Notice of Hearing

Pursuant to the Atomic Energy Act of 1954, as amended (the Act), National Environmental Policy Act of 1969 (NEPA), and the regulations in Title 10, Code of Federal Regulations, Part 50, "Licensing of Production and Utilization Facilities", and Part 2, "Rules of Practice", notice is hereby given that in accordance with the Appeal Board Decision of September 14, 1973 (ALAB-146), and Board Memorandum and Order dated November 1, 1973, a hearing will be held concerning an application for facility operating licenses by the Virginia Electric and Power Company (the Applicant) which would authorize the Applicant to possess, use, and operate North Anna Power Station, Units 1 and 2, pressurized water nuclear reactors (the facilities), located on the Applicant's site in Louisa County, Virginia. Each unit would operate at steady-state power levels not to exceed 2900 megawatts thermal. The hearing will be held at a time and place to be set by the Atomic Safety and Licensing Board (Board).

The Applicant is the holder of Construction Permits Nos. CPPR-77 and CPPR-78, issued by the Commission on February 19, 1971. The facilities are subject to the provisions in 10 CFR Part 50, Appendix D, with respect to environmental considerations related to issuance of the facility operating licenses.

The Board, designated by the Chairman of the Atomic Safety and Licensing Board Panel, will consist of John B. Farmakides, Esq., Chairman; Mr. R. B. Briggs, and Dr. Emil T. Chanlett.

A "Notice of Receipt of Application for Facility Operating Licenses; Notice of Consideration of Issuance of Facility Operating Licenses and Notice of Opportunity for Hearing" was published in the FEDERAL REGISTER on May 25, 1973 (38 FR 13772). The notice provided that, by December 7, 1973, any person whose interest may be affected by the proceeding could file a petition for leave to intervene in accordance with the requirements of 10 CFR Part 2, "Rules of Practice." A petition for leave to intervene was thereafter filed by Geraldine M. Arnold. Her petition to intervene has been approved and she will be admitted as a party to the proceeding.

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

For further details pertinent to the matters under consideration, see the application for the facility operating licenses dated April 30, 1973, as amended, and the Applicant's Environmental Report dated April 30, 1973, which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Office of the Board of Supervisors, Louisa County Courthouse, Louisa, Virginia 23093.

As they become available, the following documents may be inspected at the above locations: (1) The safety evaluation prepared by the Directorate of Licensing; (2) the Commission's draft detailed statement of environmental considerations pursuant to 10 CFR Part 50, Appendix D; (3) the Commission's final detailed statement on environmental considerations; (4) the report of the Advisory Committee on Reactor Safeguards on the application for facility operating licenses; (5) the proposed facility operating licenses; and (6) the technical specifications, which will be attached to the proposed facility operating licenses. Copies of items (1)-(5), when available, may be obtained by request to the Deputy Director for Reactor Projects, Directorate of Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545.

Any person who wishes to make an oral or written statement in this proceeding but who has not filed a petition for leave to intervene as noted above, may request permission to make a lim-

ited appearance pursuant to the provisions of 10 CFR 2.715 of the Commission's Rules of Practice. Limited appearances will be permitted at the time of the hearing in the discretion of the Board, within such limits and on such conditions as may be determined by it. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission, United States Atomic Energy Commission, Washington, D.C. 20545, not later than December 7, 1973. A person permitted to make a limited appearance does not become a party, but may state his position and raise questions which he would like to have answered to the extent that the questions are within the scope of the hearing as specified above. A member of the public does not have the right to participate unless he has been granted the right to intervene as a party or the right of limited appearance.

An answer to this notice, pursuant to the provisions of 10 CFR 2.705 of the Commission's "Rules of Practice", must be filed by the parties to this proceeding (other than the Regulatory Staff) not later than November 27, 1973.

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

Pending further order of the Hearing Board designated for this proceeding, parties are required to file, pursuant to the provisions of 10 CFR 2.708 of the Commission's "Rules of Practice", an original and twenty (20) conformed copies of each such paper with the Commission.

It is so ordered.

Dated at: Washington, D.C., this 1st day of November 1973.

ATOMIC SAFETY AND LICENSING BOARD,
JAMES R. YORE,
Chairman.

[FR Doc.73-23609 Filed 11-6-73;8:45 am]

[Dockets Nos. 50-452 and 50-453]

DETROIT EDISON CO.

Notice of Receipt of Application for Construction Permits and Facility Licenses and Availability of Applicant's Environmental Report: Time for Submission of Views on Antitrust Matter

The Detroit Edison Company (the applicant), pursuant to Section 103 of the Atomic Energy Act of 1954, as amended, has filed an application, which was docketed September 17, 1973, for authorization to construct and operate two generating units utilizing pressurized water nuclear reactors. The application was initially tendered on June 4, 1973. Following a preliminary review for completeness, the PSAR was found to be acceptable for docketing; however, the Environmental Report was rejected for lack of sufficient information. The applicant submitted additional information on August 20, 1973, and the application was found acceptable for docketing. Docket Nos. 50-452 and 50-453 have been assigned to this application and should be referenced in any correspondence relating to it.

The proposed nuclear facilities, designated by the applicant as the Greenwood Energy Center, Units 2 and 3, are located on the applicant's site in Greenwood Township, St. Clair County, Michigan. Each unit is designed for initial operation at approximately 3429 megawatts (thermal), and a net electrical output of 1160 megawatts.

A Notice of Hearing with opportunity for public participation is being published separately.

Any person who wishes to have his views on the antitrust aspects of the application presented to the Attorney General for consideration shall submit such views to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Office of Antitrust and Indemnity, Directorate of Licensing, on or before December 31, 1973. The request should be filed in connection with Docket Nos. 50-452-A and 50-453-A.

A copy of the application is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20545, and at the St. Clair County Library, 210 McMorran Boulevard, Port Huron, Michigan 48060.

The applicant has also filed, pursuant to the National Environmental Policy Act of 1969 and the regulations of the Commission in Appendix D to 10 CFR Part 50, an environmental report. This report, which discusses environmental considerations related to the proposed construction of the Greenwood Energy Center, Units 2 and 3, is available for public inspection at the aforementioned locations, and is also being made available at the Office of Planning Coordination, Executive Office of the Governor, Lewis Case Building, Lansing, Michigan 48913, and the South East Michigan Council of Governments, 810 Book Building, Detroit, Michigan 48226.

After the environmental report has been analyzed by the Commission's Director of Regulation or his designee, a draft environmental statement will be prepared by the Commission. Upon preparation of the draft environmental statement, the Commission will, among other things, cause to be published in the FEDERAL REGISTER a summary notice of availability of the draft statement, requesting comments from interested persons on the draft statement. The summary notice will also contain a statement to the effect that comments of Federal agencies and State and local officials thereon will be made available when received. Upon consideration of comments submitted with respect to the draft environmental statement, the Regulatory staff will prepare a final environmental statement, the availability of which will be published in the FEDERAL REGISTER.

Dated at Bethesda, Maryland, this 16th day of October 1973.

For the Atomic Energy Commission.

A. SCHWENCER,
Chief, Pressurized Water Reactors, Branch No. 4, Directorate of Licensing.

[FR Doc.73-23007 Filed 10-30-73;8:45 am]

U.S. NUCLEAR DATA COMMITTEE

Notice of Meeting

NOVEMBER 5, 1973.

A meeting of the Atomic Energy Commission's U.S. Nuclear Data Committee (USNDC) will be held at the Argonne National Laboratory in Conference Room E-132, Building 208, Argonne, Illinois, on November 28-29, 1973. The sessions will begin at 9:00 a.m. and end at approximately 5:30 p.m. each day. The meetings will be open to the public.

The preliminary agenda for the meeting is as follows:

WEDNESDAY, NOVEMBER 28, 1973

9:00 a.m.-11:00 a.m.—Administrative.
11:00 a.m.-12:30 p.m.—Organization and Objectives of USNDC and Subcommittees.
1:30 p.m.-3:00 p.m.—(continuation) Organization and Objectives of USNDC and Subcommittees.
3:00 p.m.-5:30 p.m.—ANL Technical Topics.

THURSDAY, NOVEMBER 29, 1973

9:00 a.m.-10:15 a.m.—Energy Initiatives and Nuclear Data.
10:15 a.m.-12:30 p.m.—USNDC Request Compilation.
2:00 p.m.-3:00 p.m.—Status Reports.
3:00 p.m.-4:00 p.m.—Compilation and Evaluation.
4:00 p.m.-4:30 p.m.—Meetings.
4:30 p.m.-5:30 p.m.—Recommendations.

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

The Chairman 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 agenda items listed above, the following requirements shall apply:

(a) Persons wishing to submit written statements on those agenda items may do so by mailing 25 copies thereof, postmarked, if possible, no later than November 19, 1973, to the Secretary, USNDC (Dr. C. D. Bowman), Radiation Division, National Bureau of Standards, Washington, D.C. 20234. Minutes of the meeting will be kept open for 30 days for the receipt of written statements for the record.

(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 Committee. To the extent that the time available for the meeting permits, the Committee will receive oral statements during a period of not more

than 30 minutes at an appropriate time, chosen by the Chairman, between the hours of 3:00 p.m. and 5:30 p.m. on November 28, and between 2:00 p.m. and 3:00 p.m. on November 29, 1973.

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

(d) Information as 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 to the office of the Secretary of the Committee (telephone: 301-921-2234).

(e) Questions may be asked only by members of the Committee and its consultants.

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

(g) Copies of minutes of public sessions will be made available for copying, in accordance with the Federal Advisory Committee Act, on or after February 28, 1974, at the Atomic Energy Commission's Public Document Room, 1717 H Street NW., Washington, D.C., upon payment of all charges required by law.

JOHN C. RYAN,
Advisory Committee Management Officer.

[FR Doc.73-23762 Filed 11-6-73;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 25990]

AMERICAN AIRLINES, INC. ET AL.

Order Provisionally Approving Agreements

On October 12, 1973, the Energy Policy Office adopted regulations, pursuant to the Economic Stabilization Act of 1970, as amended by P.L. 93-28, April 30, 1973, establishing a mandatory fuel allocation program that imposes controls on "middle distillate fuels," including airline turbine fuel.[1] On the same day, the Board issued Order 73-10-50, which authorized discussions to consider adjustment of schedules to the extent necessary to deal with the developing fuel emergency.

Pursuant to the Order, discussions were held in Washington, D.C. on October 16, 18, and 19, 1973. Four agreements were reached adjusting schedules in 20 markets, effective November 1, 1973.

For reasons we shall now discuss, we have decided to grant provisional approval to the four agreements, subject to exceptions and conditions set forth later in this order.

I. A fuel shortage is upon us. Immediate action is needed to deal with the problems this circumstance is about to cause for the nation's air transportation system. Because of the fuel shortage and because of the mandatory allocation system that goes into effect on November 1, the nation's airlines are going to be able to obtain, at best, only their 1972 fuel needs.[2] Since both present and projected traffic and airline capacity are considerably in excess of 1972 levels, the best present estimate is that the airlines are going to have to make do with 10 percent less fuel than amounts their planned level of service would have required.[3]

As we will touch on later, some fuel can be saved by reducing flight speeds,[4] changing taxiing procedures, changes in air traffic procedures,[5] and the like. Nonetheless it now appears that the fuel shortage will force carriers to substantially cut back service.

In the Board's view, a method is needed to insure that those cutbacks are made in a manner that will provide the public with the best air service possible given the limited levels of service necessitated by the fuel shortage. We believe that fuel-shortage-caused service reductions made by each of the carriers on a unilateral basis would in many cases not meet that challenge. We have long urged that carriers exercise unilateral capacity restraints. Indeed, we have taken steps making it important for their economic well being for them to do so.[6] Nonetheless, we have from time to time approved capacity reduction agreements where we believed the circumstances so warranted. Moreover, where fuel rationing, as opposed to economic factors, is the basis for service reductions, we are particularly concerned that such reductions might be made in ways that do not conform to the public interest.

Our concern stems from several considerations. First, it appears all too likely that airline economics, in a fuel shortage situation, dictate that carrier managements, if acting unilaterally, will choose to retain relatively high capacity levels in highly competitive markets, while cutting back capacity in thin or monopoly markets beyond what would be warranted by passenger-demand considerations. Secondly, schedule patterns that are entirely appropriate from the viewpoint of individual carrier managements can be plainly inefficient in terms of the needs of the public.[7] Third, if competitive carriers are forced at the same time to make unilateral cutbacks, they may choose to withdraw simultaneously from thin markets in favor of each other—thus leaving these markets totally without service. That needless, uneconomic disruption can be avoided if the carriers can adjust their operations with advance coordination. Fourth, because of the fuel shortage and the consequent limit on the total amount of service that can be performed, decisions affecting the level of service in any one market will necessarily affect service elsewhere in the country. Absent capacity agreements, decisions about how much of the limited amount of the air transportation service available should go to one city, and how much should be taken away from another, would be made by the various carrier managements, acting unilaterally. We believe that in the circumstances of a fuel shortage, the nation's passengers, shippers, communities and Postal Service ought to have an impartial arbitrator in a position to weigh their competing needs regarding relative levels of service. Capacity agreements will permit the Board to perform that role by its power to condition such agreements.

In sum, it is our present view, based on the information now available to us, that the agreements before us fulfill an important transportation need in that they provide a vehicle that will help the Board to insure that capacity reductions stemming from the fuel shortage are made in a rational manner, and that available capacity is operated under schedules that provide the public with the most convenient service practicable under the circumstances.

Because of the sudden press of world events aggravating the fuel crisis, the Board has not had a full opportunity to answer all of the questions posed by the agreements. Indeed, we have not yet heard from many parties with an interest in the matter, and those parties who have filed comments in respect to the agreements before us necessarily were rushed in their preparation.[8] Further, for several reasons, we believe that the time is not ripe for coming to any final conclusion about the best way to deal with the fuel shortage. It is not clear to what extent the various carriers will be willing to enter into agreements in order to deal with that shortage. And although the Board has worked closely in cooperation with government agencies charged with fuel matters, and is convinced that the carriers are faced with an imminent fuel shortage justifying service cutbacks at least as great as proposed, this agency cannot yet be certain of the full extent and duration of the shortage.

[1] EPO Reg 1, 38 Fed. Reg. 28660.

[2] For some carriers, and at some stations, it now appears that even 1972 levels will not be available. See affidavit of M. Lazarus, dated October 26, 1973, in this docket; transcript of meeting between representatives of air carriers and Board staff on October 25, 1973, at 12-18.

[3] See Statement of Governor Love made at an October 25 meeting between various government and airline officials (transcript at 5): "Overall it looks to us that there will be a necessity of some perhaps 10 percent reduction of fuel consumption by the airlines. And if the situation is prolonged, it could get more serious than that."

[4] See Order 73-5-123.

[5] The Department of Transportation advises that such changes are under consideration.

[6] See, *e.g.*, Order 73-9-108.

[7] For example, carriers tend to schedule departures at what they consider a peak departure time notwithstanding the actions of their competitors. With several carriers in the same market, this can and often does result in several aircraft flying the same route at almost exactly the same time.

[8] In view of the November 1 date of effectiveness for the fuel allocation program, the applicants requested that the Board waive its usual procedural requirements and enter an order of approval immediately. The carriers, to expedite consideration of the agreement, delivered copies of this application by hand to Washington counsel, for all trunkline, local service and supplemental carriers, as well as to Federal agencies.

Thus, if time permitted, it might be desirable to defer acting on the agreements before us until more and better information becomes available. However, as discussed above, the full impact of the fuel shortage will be felt when the government's mandatory fuel allocation system goes into effect on November 1. Whether or not the Board acts by that time, the carriers will be forced to curtail their service, either according to their agreements, or in some other way. For the Board to defer action now, in the hopes of perfecting an even better arrangement, would be to risk the disruptions which less rational, unilateral cutbacks could create. As the Supreme Court has recognized: "The best * * * [can become] an enemy of the good, and waiting for the perfect * * * plan * * * [can lead to] defeating or postponing less ambitious but more attainable * * * improvements." Schwabacher v. United States, 334 U.S. 182, 193 (1948).

In any event, because of the Board's continuing jurisdiction over agreements approved pursuant to section 412 of the Act, we will be in a position to order changes in the agreements, or require that they be terminated, as new information becomes available. In the meantime we shall be receptive to the comments of all interested parties.

II. We turn now to consideration of the terms of the four agreements before us. The agreements cover 20 markets as follows:

1. Agreement CAB 24010, between American, TWA, and United involving 6 markets as follows:

DAILY ROUND-TRIP NONSTOP FLIGHTS

Markets	TWA		AAL		UAL	
	Pre-Agreement [1]	Under Agreement	Pre-Agreement	Under Agreement	Pre-Agreement	Under Agreement
New York-Chicago	23	18	23	18	20½	16½
Philadelphia-Los Angeles	2	1	2	1	2	1
Detroit-Los Angeles			3	2	2	1
Hartford-Los Angeles			1		1	1
Boston-Los Angeles	2	1	2	1		
Cleveland-Los Angeles			2½	[2] 2½	2½	[2] 2½

[1] Flights scheduled as of October 28, 1973.
[2] Narrow-bodied flights substituted for wide-bodied aircraft.

2. Agreement CAB 24011, between American and TWA, involving 4 markets:

DAILY ROUND-TRIP NONSTOP FLIGHTS

Markets	AA		TWA	
	Pre-Agreement [1]	Under Agreement	Pre-Agreement [1]	Under Agreement
New York-Phoenix	2	[2] 2	1	[2] 1
Chicago-Phoenix	4½	[2] 4½	4½	[2] 4½
New York-Cincinnati	4½	3½	4	3
New York-Dayton	2	1½	4	3

[1] Flights scheduled as of October 28, 1973.
[2] Narrow-bodied flights substituted for wide-bodied aircraft.

3. Agreement CAB 24012, between American and United, involving 2 markets:

DAILY ROUND-TRIP NONSTOP FLIGHTS

Markets	AA		UA	
	Pre-Agreement [1]	Under Agreement	Pre-Agreement [1]	Under Agreement
Chicago-San Diego	3	[2] 3	3½	[2] 3½
Washington-San Diego	1	1	1	0

[1] Flights scheduled as of October 28, 1973.
[2] Narrow-bodied flights substituted for wide-bodied aircraft.

4. Agreement CAB 24013, between TWA and United, involving 8 markets:

DAILY ROUND-TRIP NONSTOP FLIGHTS

Markets	TWA		UA	
	Pre-Agreement [1]	Under Agreement	Pre-Agreement [1]	Under Agreement
Boston-San Francisco	2	1	2	1
Philadelphia-San Francisco	2	1	2	1
Washington/Baltimore-San Francisco	3	[2] 3	3	[2] 3
New York-Denver	4	3	4	3
New York-Las Vegas	2	1	2	1
Chicago-Las Vegas	5	4	5	4
Philadelphia-Chicago	7	6	6½	6
Washington/Baltimore-Denver	2	1	4	3

[1] Flights scheduled as of October 28, 1973.
[2] Narrow-bodied flights substituted for wide-bodide aircraft.

The agreements will terminate April 28, 1974, and provide for the substitution of aircraft and extra sections for operational reasons and unusual demand, and for suspension of the limitations if any carrier is affected by a labor dispute.

Various parties have filed comments with the Board with respect to the agreements. The comments are outlined in Appendix B.

In the main, the service proposed in the agreements appears to reasonably comport with the needs of the traveling public, on the one hand, and the dictates of the fuel shortage, on the other. We expect to hear from interested persons, however, on whether the Board should require adjustments either in the capacity the carriers intend to offer in the various markets, or in respect to the schedules the agreement carriers utilize.

The service proposed in one of the markets covered by the agreement—the Philadelphia-San Francisco market—gives us concern. It is our understanding that TWA and United (the only nonstop carriers in the market) intend to eliminate the only afternoon westbound nonstop flights in the market, while retaining both morning nonstops. Moreover, we also understand that both carriers intend to delete the only two morning eastbound nonstop flights in the market, while retaining both existing early afternoon flights. Absent justification for schedule patterns of that nature, we have concluded that Agreement CAB 24013 should be disapproved insofar as it applies to Philadelphia-San Francisco. However, because the practical effect of immediate disapproval might be the operation of capacity in the Philadelphia-San Francisco market out of line with demand in the circumstances of a fuel shortage, we find that it is in the public interest to disapprove the agreement in respect to Philadelphia-San Francisco market insofar as it applies to the period subsequent to November 7. This disapproval shall not become effective if on or before November 7 the agreement carriers advise the Board that commencing no later than November 8, at least one morning and afternoon or evening nonstop flight will be provided in the market, both eastbound and westbound.

We shall condition our approval in several other respects. First, we shall require the carriers to report (see Appendix C) schedule changes in the markets covered by the agreements before us.[28]

In addition, we shall require that each agreement carrier maintain records detailing the fuel used each month throughout its system on a city-pair and flight-by-flight basis.

Also, to help insure that the agreement carriers are taking all practicable steps to use their allotted fuel as efficiently as the fuel shortage warrants, we shall require that a monthly report be filed setting forth average seat miles operated per gallon of fuel used, by aircraft type, on a system basis.

We agree with DOT that additional data backup be filed, and shall adopt the specifics of the DOT request for such data.

Finally, we shall condition our approval, respecting slot allocations at vari-

[28] The Board will not tolerate transfer of fuel capacity to noncapacity markets.

ous congested airports,[9] to preclude reuse by the applicant carriers, or the reassignment by the Scheduling Committees of any scheduling slot vacated pursuant to a schedule deletion approved by this order.

Delta, Braniff, and DOT have asked for the imposition of various conditions. Delta seeks a Board statement of retained jurisdiction while Braniff seeks a bar on the utilization of conserved fuel in increased levels of service in nonagreement markets, referring to the October 28, 1973, schedules as a base. As a legal matter the Board has never felt that a specific retention of jurisdiction under section 412 adds to the powers already limited therein which enables the Board to disapprove any agreement previously approved. Nevertheless we shall in haec verba retain jurisdiction to stress the provisional nature of our approval. We shall deny Braniff's request since it would unduly interfere with the agreement carriers' ability to deal flexibly with the public's changing needs. We agree that additional service in nonagreement markets could in some circumstances be adverse to the interests of fuel conservation. However, we do not doubt the vigilance of competing nonagreement carriers to call to our attention actions which warrant the Board's reappraisal of its action approving these agreements.

As noted above, the Department of Transportation has suggested some meritorious reporting requirements. But we will not adopt the gross capacity condition it proposes. The problem we face now, because of the fuel shortage, is not excess capacity, but insufficient capacity to meet all the public demands. Thus if the various airlines, including the applicants, through the use of fuel saving measures and more efficient aircraft, can provide the public with more service than their limited fuel supplies would otherwise indicate, so much the better. And if the fuel shortage does not develop as expected, we will be in a position to take appropriate action.

We agree with the City of Chicago that fuel savings might accrue through use of the noncongested facilities at Midway, as contrasted with O'Hare, and again encourage the carriers to consider use of Midway as another self-help step.

Regarding labor protective conditions requested by the Allied Pilots Association and ALPA, we do not believe they are justified. Flight schedules are going to be cut, whether through unilateral or joint action. Thus it does not appear that the agreements will have any substantial impact on employee welfare.[10]

In view of the imminence of the implementation date, and the short period within which the carriers were compelled to adjust schedules, we will grant the request for waiver of the recent amendment to the Board's Procedural Regulation PR-138, which would otherwise require 21 days for answers to the application. However, the Board will receive any comments hereafter filed in this Docket as part of its ongoing evaluation of the impact of the agreements. We also find that enforcement of section 405(b) of the Act, requiring 10 days notice of schedule changes to the Postmaster General, would be an undue burden upon the carrier applicants by reason of the unusual circumstances affecting their operations, particularly the imposition on short notice of a mandatory fuel allocation program. Pursuant to section 416 of the Act, we will therefore grant American, TWA and United an exemption from section 405(b), and from any regulations made pursuant thereto, to permit implementation of the subject schedule changes without 10 days prior notice to the Postmaster General.

It does not appear that our action herein will significantly affect the quality of the human environment within the meaning of the National Environmental Policy Act. As noted above, because of the fuel shortage the various carriers would in any event have to reduce their service. We do not contemplate that total service levels will be affected by the agreements we are hereby approving, and it does not appear from the information available to us now that the changes in the nature of the service cutbacks resulting from the agreements (as opposed to reductions that have been made had the carriers acted unilaterally) will substantially affect the environment.[11]

For the reasons set forth above, we have provisionally concluded that the agreements now before us will fulfill a serious transportation need, will secure important public benefits, are in the public interest, and are not in violation of the Federal Aviation Act.

Accordingly, it is ordered, That:

1. Agreements CAB 24010, 24011, 24012, and 24013 be and they hereby are approved pursuant to section 412 of the Act, subject to the following conditions:

a. The Board shall retain jurisdiction to modify or revoke approval with respect to any city-pair market for which approval is herein granted;

b. Schedule deletions resulting pursuant to agreements herein approved which occur at any of the controlled high-density airports,[12] and which result in the vacating of slots allocated by the Airline Scheduling Committees of the respective airports pursuant to authority granted in Order 72-11-72, shall not be refilled by the air carrier applicants, nor be reallocated to other air carriers by the Airline Scheduling Committees;

c. Within 15 days after the end of each month each carrier shall file the following reports with the Board's Docket Section: (1) A report stating, on a system-wide basis, average seat miles operated per gallon of fuel used, by type of equipment; and (2) a report describing schedule changes as set forth in Appendix C;

d. Each carrier shall maintain records, subject to inspection by the Board or by such other persons as the Board may authorize detailing the fuel used each month by the carrier, throughout its system, on a city-pair and flight-by-flight basis (including charter operations);

e. Commencing no later than November 8, 1973, the Philadelphia-San Francisco market will receive at least one morning and afternoon or evening nonstop flight in each direction.

2. Within 28 days hereafter, each carrier shall file with the Board's Docket Section a report containing the following additional data for each market:

a. Seats operated in 1972/1973 (November through April).

b. Passengers carried in 1972/1973.

c. Forecast passengers in 1973/1974.

d. Projected seats in 1973/1974.

e. Equipment type detail for all markets.

f. Calculations in developing fuel savings in each market.

g. 1972 fuel use by month for the system of each carrier.

h. 1972 use by month in each agreement market.

3. Pursuant to section 416 of the Act, American, TWA and United be and they hereby are relieved from the provisions of section 405(b) of the Act, and from all regulations enacted in pursuance thereof, to the extent necessary to permit the implementation of the subject modifications without 10 days prior notice to the Postmaster General.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

APPENDIX A

ARIZONA

State Planning Director, Department of Economic Planning and Development, suite 1704, 3003 North Central Avenue, Phoenix, Ariz. 85012.

CALIFORNIA

Director, Office of Planning and Research, Office of the Governor, suite 22, 1400 10th Street, Sacramento, Calif. 95814.

Director of Programs and Policy, Governor's Office, State Capitol, Sacramento, Calif. 95814.

Executive Director, Council on Intergovernmental Relations, 1400 10th Street, Sacramento, Calif. 95814.

COLORADO

Director, Division of Planning, 524 Social Services Bldg., 1575 Sherman Street, Denver, Colo. 80203.

CONNECTICUT

Director, Office of State Planning, Department of Finance and Control, 340 Capitol Avenue, Hartford, Conn. 06115.

Assistant Director, Office of State Planning, Department of Finance and Control, 340 Capitol Avenue, Hartford, Conn. 06115.

Principal Planning Coordinator, Office of State Planning, Department of Finance and Control, 340 Capitol Avenue, Hartford, Conn. 06115.

[9] See Order 72-11-72.

[10] See also Order 73-7-147 at 14.

[11] We shall nonetheless serve a copy of this order on Federal agencies with environmental responsibilities and State environmental agencies listed in Appendix A.

[12] Airport scheduling agreements affecting John F. Kennedy International Airport, O'Hare International Airport, Washington National Airport, and LaGuardia Airport. Order 72-11-72.

DISTRICT OF COLUMBIA

Assistant Director of Planning and Evaluation, Office of Community Services, District Bldg., 14th and E Streets NW., Washington, D.C. 20004.
D.C. Department of Environmental Services, room 306, Library, 415 12th Street NW., Washington, D.C. 20004.

ILLINOIS

Director, Office of Planning and Analysis, Executive Office of the Governor, 216 East Monroe Street, third floor, Springfield, Ill. 62706.

MARYLAND

Secretary of State Planning, Department of State Planning, 301 West Preston Street, Baltimore, Md. 21201.

MASSACHUSETTS

Assistant Secretary of Administration for Planning and Intergovernmental Coordination, Executive Office of Administration and Finace, room 312, State House, Boston, Mass. 02133.

MICHIGAN

Director, Bureau of Programs and Budget, Division of State Planning, second floor, Lewis Cass Bldg., Lansing, Mich. 48913.

NEVADA

Planning Coordinator, State Capitol Bldg., Carson City, Nev. 89701.
Chief, Planning Division, Nevada State Planning Board, 401 South Carson Street, Carson City, Nev. 89701.

NEW JERSEY

Director, Division of State and Regional Planning, Department of Community Affairs, P.O. Box 2768, 329 West State Street, Trenton, N.J. 08625.
Department of Community Affairs, P.O. Box 2768, 329 West State Street, Trenton, N.J. 08625.

NEW YORK

Director, Office of Planning Services, State Capitol, room 249, Albany, N.Y. 12224.
Deputy Director, Counsel, 488 Broadway, Albany, N.Y. 12207.

OHIO

Deputy Director, Development Planning Division, Department of Economic and Community Development, 65 South Front Street, room 1011, Columbus, Ohio 43215.
Director, Department of Finance, 62 East Broad Street, Columbus, Ohio 43215.

PENNSYLVANIA

Director, Office of State Planning and Development, P.O. Box 1323, Harrisburg, Pa. 17120.

APPENDIX B

SUMMARY OF COMMENTS FILED

Comments have been filed by the Departments of Justice and Transportation, by Braniff and Delta, by the Air Line Pilots Association International and the Allied Pilots Association, and the City of Chicago, Department of Aviation.

The Department of Justice and the Allied Pilots Association argue that there are ample operational and schedule means which each carrier, acting unilaterally, can employ to achieve the desired levels in fuel consumption and, therefore, that the inherently anticompetitive conduct exemplified by the instant agreements is neither required nor justified. Further, the Allied Pilots Association and ALPA urge imposition of merger type labor protective conditions in the event that the agreements are approved.

Delta, while not in terms opposing approval of the agreements, urges retention of jurisdiction so that the Board would be able to reappraise its approval in the light of salutary changes in the fuel supply circumstances or in the event that freed up capacity is being used predatorily in non-agreement markets.

Braniff opposes approval; alternatively, it urges that any approval of such agreements should include a condition that, in the absence of prior Board approval, none of the applicants shall increase either scheduled frequency or capacity in any non-agreement competitive market beyond the schedule frequency and capacity provided in its schedules effective October 28, 1973.

The City of Chicago urges utilization of Midway to reduce delays and thus reduce fuel consumption.

The Department of Transportation urges that the Board defer approval of the agreements until the fuel situation worsens, on the basis that the 7-to-10 percent fuel reduction currently required can be achieved absent multilateral capacity reduction, in light of available alternatives such as future changes in air traffic procedures to be implemented by the Federal Aviation Administration, possible changes in the carriers' operating procedures, and possible unilateral reductions. DOT further states that sufficient information has not been provided to determine resulting impact on service to the public, or to scrutinize the estimates of fuel savings as presented. Should the Board approve the agreements, DOT urges that certain specified conditions be imposed to insure that fuel savings are actually effected and competing carriers are not adversely affected.

APPENDIX C

	TYPE OF EQUIPMENT				
	2-Engine	3-Engine narrow body	4-Engine narrow body	3-Engine wide body	4-Engine wide body
			Capacity Markets		
Miles scheduled weekly in preceding general schedule filed with CAB.					
Changes contained in this general schedule.					
Miles scheduled weekly in this general schedule.					
			Non-Capacity Markets		
Miles scheduled weekly in preceding general schedule filed with CAB.					
Changes contained in this general schedule.					
Miles scheduled weekly in this general schedule.					

[FR Doc.73-23570 Filed 11-6-73;8:45 am]

[Docket No. 25877]

EASTERN AIR LINES, INC.

Notice of Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on December 11, 1973, at 10:00 a.m., local time, in Room 911, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Administrative Law Judge Harry H. Schneider.

In order to facilitate the conduct of the conference parties are instructed to submit one copy to each party and four copies to the Judge of (1) proposed statements of issues; (2) proposed stipulations; (3) requests for information; (4) statement of positions of parties; and (5) proposed procedural dates. The Bureau of Operating Rights will circulate its material on or before November 19, 1973, and the other parties on or before December 3, 1973. The submissions of the other parties shall be limited to points on which they differ with the Bureau of Operating Rights, and shall follow the numbering and lettering used by the Bureau to facilitate cross-referencing.

Dated at Washington, D.C., November 1, 1973.

[SEAL] ROBERT L. PARK,
Associate Chief Administrative Law Judge.

[FR Doc.73-23758 Filed 11-6-73;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 Procurement List 1973, March 12, 1973 (38 FR 6742), was published in the FEDERAL REGISTER on September 4, 1973 (38 FR 23820).

Pursuant to the above notice the following service is added to Procurement List 1973.

SERVICE	
Industrial Class 7331	*Price*
Mailing (RF) U.S. Department of Agriculture, Washington, D.C. (excluding Foreign Agriculture Services, Management Services Division).	List of prices available from Department of Agriculture.

CHARLES W. FLETCHER,
Executive Director.

[FR Doc.73-23703 Filed 11-6-73;8:45 am]

COST OF LIVING COUNCIL

LABOR-MANAGEMENT ADVISORY COMMITTEE

Determination To Close Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L.

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 November 13, 1973, from 10:00 a.m. to 12:30 p.m., in the Secretary's Conference Room, Main Treasury Building, Washington, D.C.

The purpose of the meeting is to discuss policy matters relating to the future of the Stabilization Program and to industrial relations.

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 November 5, 1973.

HENRY H. PERRITT, Jr.,
Executive Secretary,
Cost of Living Council.

[FR Doc.73-23841 Filed 11-5-73;4:58 pm]

ENVIRONMENTAL PROTECTION AGENCY

CONTROL OF DISCHARGES TO NAVIGABLE WATERS BY STATE OF NEBRASKA

Notice of Public Hearing and Request for State Program Approval

NOVEMBER 5, 1973.

The State of Nebraska has submitted a request for approval of its State program for control of discharges of pollutants to navigable waters under section 402 of the Federal Water Pollution Control Act Amendments of 1972 (Pub. L. 92-500).

A public hearing to consider this request will be held on December 8, 1973, at the Nebraska Educational Television Building, Studio 1, 1800 N. 33rd Street, Lincoln, Nebraska, starting at 2:00 p.m. The hearing will be televised live from the studio and can be viewed on KDON, Channel 12.

The hearing panel will consist of the Environmental Protection Agency Administrator, or his representative, who will serve as the Presiding Officer, the Director of the Department of Environmental Control for the State of Nebraska, or his representative, and the Environmental Protection Agency Regional Administrator, Region VII, or his representative.

Section 402 of the Act provides that the State's program submission should show that the State has adequate authority under its laws to issue permits for discharge of pollutants upon conditions which comply with all pertinent requirements of the Act, to abate violations of the permit (including civil and criminal penalties), to insure that the Administrator of the U.S. Environmental Protection Agency, the public, any other affected State, and other affected agencies are given notice of each permit application and are given the opportunity for a public hearing before the permit is issued. The complete description of the State program elements necessary for State participation in this program, designated "National Pollutant Discharge Elimination System," was published in Volume 37 of the FEDERAL REGISTER, December 22, 1972 (40 CFR Part 124), beginning at page 28390.

The State of Nebraska proposes that the Nebraska Department of Environmental Control, 1424 "P" Street, Lincoln, Nebraska (area code 402-471-2186), operate this program for control of discharges into navigable waters of the State in compliance with the Act. Chief officials are J. James Exon, Governor of Nebraska, Betty Abbott, Chariman, Environmental Control Council of Nebraska, and J. L. Higgins, Director, Nebraska Department of Environmental Control.

This request and program description may be inspected by the public at the Nebraska Department of Environmental Control, or at the Regional Library, U.S. Environmental Protection Agency, Region VII, 1735 Baltimore, Kansas City, Missouri 64108 (area code 816-374-5828).

All interested persons wishing to comment upon the State's request or its program submission are invited to appear at the public hearing to present their views. Written comments may be presented at the hearing or submitted by December 15, 1973, either in person or by mail, to the Regional Office of the Environmental Protection Agency, Region VII, at the previously mentioned address.

Oral statements will be received and considered, but for accuracy of the record, all testimony should be submitted in writing. Statements should summarize extensive written material so that there will be time for all interested persons to be heard. Persons submitting written statements are encouraged to furnish additional copies for the use of the hearing panel and other interested persons.

All comments received by December 15, 1973, or presented at the public hearing, will be considered by the Environmental Protection Agency Regional Administrator in making his recommendations to the Administrator regarding Nebraska's request for State program approval.

ALAN G. KIRK II,
Acting Assistant Administrator
for Enforcement and General
Counsel.

NOVEMBER 2, 1973.

[FR Doc.73-23719 Filed 11-6-73;8:45 am]

INTERSTATE MOTOR CARRIER NOISE EMISSION STANDARDS

Availability of Public Background Document; Extension of Time for Comments

Pursuant to section 18 of the Noise Control Act of 1972, Pub. L. 92-574, 86 Stat. 1234 (42 U.S.C. 4917), the Environmental Protection Agency published proposed noise emission regulations for motor carriers engaged in interstate commerce in the FEDERAL REGISTER on July 27, 1973 (38 FR 20102). Although the preamble to the proposed regulations indicated that a background document was available at the time of proposal, EPA was unable to make it available to the public prior to the expiration of the public comment period on September 10, 1973.

The background document on interstate motor carrier noise emission standards is now available from the Office of Public Affairs, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

Since July 27, 1973 the Agency has also analyzed a substantive additional body of recent vehicle noise survey data. This new body of data was obtained in ten States, in which approximately 39 percent of all U.S. trucks and buses are registered. This new information has been attached as an appendix to the background document to the proposed interstate motor carrier regulation.

The Agency recognizes that members of the public may have been unable to adequately comment upon the proposed regulations because of the unavailability of the background document and the recent additional body of vehicle noise survey data. Consequently, the Agency finds that good cause exists for the extension of the period for comment on the proposed noise emission standards for interstate motor carriers for an additional 30 days from the date of this notice. During the extended period for comment, the Agency invites information, statistics, and comments from interested parties on the proposed noise emission standards.

All such information, statistics, and comments should be submitted in writing with 12 copies to:

Office of Noise Abatement and Control, Attention: Docket No. ONAC 7202004, Environmental Protection Agency, Washington, D.C. 20460.

Those contributors to the docket who choose to hand carry their submittals to assure receipt by the Agency on or before the specified docket closure date should deliver their comments to:

Office of Noise Abatement and Control, Room 1105, Crystal Mall Building No. 2, 1921 Jefferson Davis Highway, Arlington, Va. 20460.

The Environmental Protection Agency will consider all comments on the proposed noise emission standards for interstate motor carriers received at the Agency by 4:30 p.m. on or before December , 1973.

Dated November 5, 1973.

CHARLES L. ELKINS,
Acting Assistant Administrator
for Hazardous Materials Control.

[FR Doc.73-23869 Filed 11-6-73;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

PANEL 1 OF THE CABLE TELEVISION TECHNICAL ADVISORY COMMITTEE

Notice of Meeting

NOVEMBER 1, 1973.

Panel 1 of the Cable Television Technical Advisory Committee will hold an

open meeting on Monday, November 19, 1973, at 10 a.m. The meeting will be held at the FCC Building, 1919 M Street, NW., Washington, D.C., Room 847. The agenda has five items:

(1) Introduction of the new Executive Secretary, Mr. Armig Kandoian;
(2) Progress reports from working group heads;
(3) A review of panel objectives and how we may achieve them most effectively;
(4) New business;
(5) Time of next meeting.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.73-23715 Filed 11-6-73;8:45 am]

[Docket No. 19857, 19858; FCC 73-1133]

SOUTHERN RADIO AND TELEVISION CORP.

Order and Designating Applications for Consolidated Hearing on Stated Issues; Notice of Apparent Liability

In regard applications of Southern Radio and Television Corporation, Goldsboro, North Carolina, Docket No. 19857, File No. BR-2681, for renewal of license for Station WFMC; Southern Radio and Television Corporation, Goldsboro, North Carolina, Docket No. 19858, File No. BLH-5784, for a license for Station WOKN(FM).

1. The Commission has before it for consideration (a) the captioned applications and (b) its inquiries into the operations of Station WFMC, Goldsboro, North Carolina.

2. Information before the Commission raises serious questions as to whether the applicant possesses the qualifications to be or to remain a licensee of the Commission. In view of these questions, we are unable to find that a grant of the renewal application or the application for a license for an FM Station in Goldsboro would serve the public interest, convenience and necessity, and must, therefore, designate the applications for hearing.

3. *Accordingly, it is ordered,* That pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

(a) To determine whether, and, if so, the extent to which the applicant knowingly engaged in fraudulent billing practices or failed to exercise reasonable diligence to see that its agents and employees did not engage in fraudulent billing practices in the operation of Station WFMC, in violation of § 73.1205 of the Commission's rules.

(b) To determine whether the applicant violated §§ 73.111 and 73.112 of the Commission's rules by making false entries or corrections in its program logs or by inaccurately logging the duration of commercial announcements.

(c) To determine whether the applicant violated section 315(b) of the Communications Act of 1934, as amended, by failing to afford legally qualified candidates for public office the station's lowest unit charge for "the same class and amount of time for the same period" in the sale of time for political announcements preceding the general election of November 7, 1972.

(d) To determine whether, during the general election of November 7, 1972, the applicant violated section 315(c) of the Communications Act by failing to obtain from certain candidates or their representatives written certificates stating that payment of advertising charges for advertising on WFMC would not violate any limitation on campaign spending specified in paragraph (1), (2), or (3) of section 104(a) of the Campaign Communications Reform Act, whichever paragraph was applicable.

(e) To determine whether the applicant has violated the Commission's rules as alleged in the Official Notice of Violation issued June 21, 1973.

(f) To determine, in light of the evidence adduced under the preceding issues, whether the licensee has the requisite qualifications to be or to remain a licensee of the Commission and whether a grant of the applications would serve the public interest, convenience and necessity.

4. *It is further ordered,* That if it is determined that the hearing record does not warrant an order denying the captioned application for renewal of license of Station WFMC, it shall also be determined whether the applicant has repeatedly or willfully violated section 315 (b) and (c) of the Communications Act of 1934, as amended, or the following sections of the Commission's rules: §§ 73.39 (d)(2); 73.52(a); 73.56(a); 73.111; 73.112; 73.113(a)(6); 73.114(b); and 73.1205.[1] If so, it shall also be determined whether an Order of Forfeiture pursuant to Section 503(b) of the Communications Act of 1934, as a mended, in the amount of $10,000 or some lesser amount should be issued for violations which occurred within one year preceding the issuance of the Bill of Particulars in this matter.

5. *It is further ordered,* That this document constitutes a Notice of Apparent Liability for a forfeiture for violations of those sections of the Communications Act and of the Commission's rules set out in the preceding paragraph. The Commission has determined that, in every case designated for hearing involving revocation or denial of a license renewal application for alleged violations which also come within the purview of section 503(b) of the Act, it shall, as a matter of course, include this forfeiture notice so as to maintain the fullest possible flexibility of action. Since the procedure is thus a routine or standard one, we stress that inclusion of this notice is not to be taken as in any way indicating what the initial or final disposition of the case should be; that judgment is, of course, to be made on the facts of each case.

6. *It is further ordered,* That the Chief of the Broadcast Bureau shall serve upon the captioned applicant, within thirty (30) days of the release of this document, a Bill of Particulars with respect to issues (a) through (e), inclusive.

7. *It is further ordered,* That the Broadcast Bureau proceed with the initial presentation of the evidence with respect to issues (a) through (e), inclusive, and that the applicant then proceed with its evidence and have the burden of establishing that it possesses the requisite qualifications to be and to remain a licensee of the Commission and that a grant of its applications would serve the public interest, convenience and necessity.

8. *It is further ordered,* That to avail itself of the opportunity to be heard, the applicant, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall, within twenty (20) days of the mailing of this order, file with the Commisson, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

9. *It is further ordered,* That the applicant herein, pursuant to section 311 (a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, shall give notice of the hearing within the time and in the manner prescribed in such rule and shall advise the Commission thereof as required by § 1.594(g) of the rules.

10. *It is further ordered,* That the Secretary of the Commission shall send a copy of this Order by Certified Mail—Return Receipt Requested to Southern Radio and Television Corporation.

Adopted: October 31, 1973.

Released: October 31, 1973.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.73-23717 Filed 11-6-73;8:45 am]

[1] See Bill of Particulars for specific dates and details of each alleged violation.

STANDARD BROADCAST APPLICATIONS READY AND AVAILABLE FOR PROCESSING

Notice is hereby given, pursuant to § 1.571(c) of the Commission's rules, that on December 14, 1973, the standard broadcast applications listed in the attached appendix below will be considered as ready and available for processing. Pursuant to § 1.227(b)(1) and § 1.591(b) of the Commission's rules, an application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on December 13, 1973, which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and tendered for filing at the offices of the Commission in Washington, D.C., by the close of business on December 13, 1973. The attention of prospective applicants is directed to the fact that some contemplated proposals may not be eligible for consideration with an application appearing in the attached appendix below by reason of conflicts between the listed applications and applications appearing in previous notices published pursuant to § 1.571(c) of the Commission's rules.

The attention of any party in interest desiring to file pleadings concerning any pending standard broadcast application, pursuant to section 309(d)(1) of the Communications Act of 1934, as amended, is directed to § 1.580(i) of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

Adopted: October 31, 1973.

Released: November 1, 1973.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

APPENDIX

BP-19323 New, Agana, Guam
Guam Broadcasting Company, Inc.
Req: 540 kHz, 10 kW, U

BP-19449 KOGA, Ogallala, Nebraska
Ogallala Broadcasting Co., Inc.
Has: 930 kHz, 500 W, Day
Req: 930 kHz, 500 W, DA-N, U

BP-19459 New, Lebanon, Virginia
J. T. Parker, Jr.
Req: 1380 kHz, 500 W, Day

BP-19480 KRIO, McAllen, Texas
KRIO, Inc.
Has: 910 kHz, 1 kw, 5 kW-LS, DA-2, U
Req: 910 kHz, 5 kW, DA-2, U

BP-19486 WEGA, Vega Baja, Puerto Rico
Vega Baja Broadcasting Corp.
Has: 1350 kHz, 500 W, DA-Day
Req: 1350 kHz, 500 W, DA-2, U

BP-19488 New, Bedford, Pennsylvania
Bedford County Broadcast Enterprises
Req: 1600 kHz, 1 kW, Day

BP-19491 New, Buffalo, Kentucky
Lincoln Broadcasting Co., Inc.
Req: 1430 kHz, 500 W, Day

BP-19497 WPBR, Palm Beach, Florida
GR Group, Inc.
Has: 1340 kHz, 250 W, 500 W-LS, U
Req: 1340 kHz, 250 W, 1 kW-LS, U

BP-19507 New, Pagosa Springs, Colorado
KYOR, Inc.
Req: 1400 kHz, 250 W, 1 kW-LS, U

[FR Doc.73-23716 Filed 11-6-73;8:45 am]

[Docket No. 19627; FCC 73R-365]

WLCY-TV, INC.

Memorandum Opinion and Order Enlarging Issues

In regards to application of WLCY-TV, Inc. (WLCY-TV), Largo, Florida, Docket No. 19627, File No. BPCT-4484, for construction permit.

1. Before the Review Board is a petition for enlargement of issues, filed August 3, 1973, by Sarasota-Bradenton Florida Television Company (WXLT), requesting the addition of the following issue: [1]

To determine whether WLCY-TV has a reasonable expectancy of obtaining permission from the State of Florida to construct its proposed tower at the site specified in its application.

Also before the Board is a motion for leave to file supplement and supplement to opposition to petition to enlarge issues, filed October 9, 1973, by WLCY.[2]

2. WXLT argues that the addition of a site availability issue against WLCY is warranted in light of the actions taken by the Florida State Department of Transportation (Department). The factual basis for the request is not in dispute. On September 28, 1973, the Chief of the Bureau of Aviation in the Department's Division of Mass Transit Operations denied WLCY's request for a construction permit after concluding that a tower of the proposed height (1,549 feet) in the planned location would be a hazard to air navigation and would result in an inefficient utilization of airspace.[3] Under the Department's rules, an applicant whose permit request is denied is entitled to a hearing; accordingly, a hearing on WLCY's application has been scheduled for October 30, 1973. Though this hearing could result in a decision to grant a permit, WXLT contends that the initial denial of WLCY's request casts reasonable doubt on its ability to obtain the approval of local officials. While conceding that its petition is not timely, WXLT argues that the Department's regulations, which were promulgated on November 23, 1972, did not come to the attention of any of the attorneys involved in these proceedings until shortly before July 18, 1973, and that, in any event, the serious public interest questions raised by the allegations merit consideration by the Board.

3. In a supplement to its opposition, WLCY asserts that the FAA's favorable determination concerning its proposed tower is binding upon the Florida Department of Transportation. Nevertheless, WLCY states, it intends to exhaust its administrative remedies before the Department, and in the event that the Department's initial ruling is not overturned, it will seek a judicial determination declaring that, because of federal preemption, the Department lacks jurisdiction to declare a tower an air hazard when it has been previously approved by the FAA. In view of the unusual posture of this case, WLCY argues, it would be appropriate to dismiss the instant petition subject to refiling or to hold the petition in abeyance pending ultimate resolution of this matter by the Florida authorities.

4. Although WXLT's request is untimely, the Board is of the view that substantial doubt has been raised as to whether WLCY has a reasonable expectancy of obtaining permission from the appropriate local authorities to construct its proposed tower at the site specified in its application. The Commission and Review Board have long held that while an applicant must have reasonable assurance of obtaining local zoning or licensing authorization for its antenna proposal, there is an assumption that such approval will be forthcoming.[4] However, this assumption may be effectively rebutted by a reasonable showing that the necessary authorization cannot be obtained. In our view, the adverse determination of the Florida State Department of Transportation constitutes such a showing. Despite the fact that WLCY intends to exhaust its administrative and judicial remedies, the issuance of an initial adverse determination is sufficient to rebut the assumption that approval can reasonably be anticipated and raises a substantial question in this regard.[5] See "El Camino Broadcasting Co.," 14 FCC 2d 361, 13 RR 2d 1260 (1968) and "Salem Broadcasting Co.," 40 FCC 2d 458, 26 RR 2d 1565 (1973). Under these circumstances, petitioner has met the "Edgefield-Saluda" test [6] and a site availability issue will be added.[7]

5. *Accordingly, it is ordered,* That the motion for leave to file supplement, filed October 9, 1973, by WLCY-TV, Inc. is granted; and

6. *It is further ordered,* That the petition to enlarge issues, filed August 3, 1973, by Sarasota-Bradenton Florida Television Company is granted; and

7. *It is further ordered,* That the issues in this proceeding are enlarged to include the following issue:

To determine whether WLCY-TV, Inc. has a reasonable expectancy of obtaining permission from the State of Florida to construct its proposed tower at the site specified in its application.

8. *It is further ordered,* That the burden of proceeding with the introduction of the evidence and the burden of proof

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[1] Also before the Board are the following related pleadings: (a) Broadcast Bureau's comments, filed September 6, 1973; (b) opposition, filed September 10, 1973; and (c) reply, filed October 5, 1973, by WXLT.

[2] WLCY's motion for leave to file supplement will be granted; the supplement responds to circumstances which took place after the filing of the petition and original opposition, and which were raised for the first time in WXLT's reply.

[3] WXLT also notes that the Florida State Department of Transportation twice filed petitions with the Federal Aviation Administration in opposition to WLCY's request for a determination of no hazard to air navigation. The FAA issued a no-hazard determination on September 2, 1971, and affirmed its decision on December 3, 1971.

[4] El Camino Broadcasting Co., Inc., 12 FCC 2d 329, 12 RR 2d 1057 (1968).

[5] WLCY's contention that the determination of no hazard by the FAA renders state action a nullity is conjectural at this time, and, as a consequence, cannot be regarded as an indication of WLCY's likelihood of success upon appeal.

[6] 5 FCC 2d 148, 8 RR 2d 611 (1966).

[7] The Board is of the view that the position urged by WLCY in its supplemental pleading, i.e. that the Board dismiss the petition or hold it in abeyance until the matter is resolved, would be contrary to the orderly and efficient disposition of the Commission's business; thus, if the procedure suggested by WLCY were adopted, an applicant would have the power to delay resolution of cases almost indefinitely. The Board notes, however, that the Presiding Judge has ample authority to ensure that WLCY receives a reasonable opportunity to meet the issue being specified herein.

under the issue added herein shall be on WLCY-TV, Inc.

Adopted: October 25, 1973.

Released: October 26, 1973.

FEDERAL COMMUNICATIONS COMMISSION,*
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.73-23718 Filed 11-6-73;8:45 am]

FEDERAL POWER COMMISSION

ALASKA POWER SURVEY TECHNICAL ADVISORY COMMITTEE ON ECONOMIC ANALYSIS AND LOAD PROJECTION

Agenda of Meeting

Agenda for the meeting of the Technical Advisory Committee on Economic Analysis and Load Projection to be held in Room GO-3, Federal Building, Anchorage, Alaska, November 20, 1973, 9:00 a.m.

Presiding: Dr. Dale A. Swanson, Chairman.
1. Meeting Call to Order
2. Chairman's opening statement
3. Review and comments on draft committee report
a. Economic analysis
b. Estimates of future power requirements
c. Outlook for future power costs
d. Conclusions and recommendations
4. Procedures and schedule for completing report
a. Revisions and additional work item needed
b. Work assignments
c. Schedules
5. Coordination with other Technical Advisory Committees
6. Other business pertinent to committee assignments
7. Adjournment

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee—which statements, if in written form, may be filed before or after the meeting, or if oral, at the time and in the manner permitted by the committee.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-23639 Filed 11-6-73;8:45 am]

[Docket Nos. RP71-131; RP72-61]

ALGONQUIN GAS TRANSMISSION CO.

Notice of Revised Curtailment Plan Filing

OCTOBER 31, 1973.

Take notice that Algonquin Gas Transmission Company ("Algonquin Gas") on October 17, 1973, tendered for filing the following tariff sheets to its FPC Gas Tariff, Original Volume No. 1:

First Revised Sheet No. 26-A.
Substitute First Revised Sheet No. 27-A.
Substitute First Revised Sheet No. 27-B.
Substitute Original Sheet No. 27-C.
Original Sheet No. 27-D.
Original Sheet No. 27-E.
Original Sheet No. 27-F.

These sheets, Algonquin Gas states, are intended to replace First Revised Sheet No. 27-A, First Revised Sheet No. 27-B, and Original Sheet No. 27-C, which were filed with the Commission on July 2, 1973. These tariff sheets contain revisions to Section 11 of the General Terms Conditions of Algonquin Gas FPC Gas Tariff, Original Volume and No. 1, and spell out the curtailment provisions which will be applicable consistent with Order Nos. 467, 467-A, and 467-B of the Commission.

The subject tariff sheets are proposed to become effective November 16, 1973, the same date that the replaced tariff sheets were proposed to become effective, and Algonquin Gas requests such waivers as may be required for the acceptance of such tariff sheets effective November 16, 1973. Algonquin Gas states that copies of the filing were served upon its gas purchase customers and to all State regulatory agencies regulating such customers.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protests with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 or 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 November 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.73-23622 Filed 11-6-73;8:49 am]

[Docket No. E-8187]

BOSTON EDISON CO.

Notice of Extension of Time and Postponement of Prehearing Conference and Hearing

OCTOBER 31, 1973.

On October 23, 1973, Staff Counsel filed a motion for an extension of the procedural dates fixed by order issued August 24, 1973, in the above-designated matter. The motion states that Counsel for the Town of Norwood, Massachusetts, and Boston Edison Company agreed to the request.

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

Service of Prepared Testimony and Exhibits by Staff, December 4, 1973.
Service of Prepared Testimony and Exhibits by Norwood, December 18, 1973.
Service of Rebuttal Evidence by Edison, January 4, 1974.
Prehearing Conference, January 8, 1974 (10:00 a.m., e.s.t.).
Cross-Examination, January 15, 1974 (10:00 a.m., e.s.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-23630 Filed 11-6-73;8:45 am]

[Docket No. RP73-115, etc.]

CONSOLIDATED GAS SUPPLY CORP.

Notice of Postponement of Hearing

OCTOBER 31, 1973.

On October 26, 1973, Consolidated Gas Supply Corporation filed a motion for postponement of the hearing scheduled for November 6, 1973, to November 14, 1973, in the above-designated matter. The motion states that Staff Counsel and several interveners[1] would not object to the motion. The motion also states that the Public Service Commission of New York advised that additional time might be required and this motion is without prejudice to any further postponement.

Upon consideration, notice is hereby given that the prehearing conference in the above matter is postponed to November 14, 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.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-23626 Filed 11-6-73;8:45 am]

[Docket No. E-7994]

DUKE POWER CO.

Notice of Extension of Time

OCTOBER 31, 1973.

On October 16, 1973, the Intervenors (ElectriCities of North Carolina; the Cities of Abbeville, Due West, Easley, Gaffney, Greenwood, Greer, Laurens, Newberry, Prosperity, and Rock Hill, all of South Carolina; North Carolina Electric Membership Corporation, and Blue Ridge Electric Membership Corporation) filed a motion to exclude certain schedules and for an extension of time.

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

Service of Testimony and Exhibits by Intervenors, November 16, 1973.
Service of Rebuttal Evidence by Duke, November 30, 1973.
Cross-examination, December 13, 1973 (10:00 a.m., e.s.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-23627 Filed 11-6-73;8:45 am]

[Docket CP73-232]

FLORIDA GAS TRANSMISSION CO. AND UNITED GAS PIPE LINE CO.

Notice of Amendment to Application

NOVEMBER 1, 1973.

Take notice that on October 24, 1973, Florida Gas Transmission Company

* Board Member Pincock absent.

[1] New York Public Service Commission, New York State Electric & Gas Corporation, Rochester Gas & Electric Corporation, United Natural Gas Company, Caterpillar Tractor Company, The Hoover Company, North Penn Gas Company, Commonwealth of Pennsylvania, Pennsylvania Public Utility Commission, and Marbon Division Borg-Warner Corporation.

(Florida Gas) P.O. Box 44, Winter Park, Florida 32789, and United Gas Pipe Line Company (United), 1525 Fairfield Avenue, Shreveport, Louisiana 71101, filed in Docket No. CP73-232 an amendment to their application filed in said docket on March 12, 1973, pursuant to section 7(c) of the Natural Gas Act to request authorization to construct and operate two additional points of interconnection between their facilities for the exchange of natural gas, one in St. Helena Parish, Louisiana, and the other in Terrebonne Parish, Louisiana, all as more fully set forth in the amendment to the application which is on file with the Commission and open to public inspection.

Applicants state that they have amended their contract by letter agreement dated July 17, 1973, to provide for balancing deliveries to each other over periods of six months or less following exchanges. Applicants request authorization for Florida Gas to build an interconnection consisting of two 8-inch line taps and a measuring and regulating station at the point of intersection between United's 30-inch Burns-to-Kosciusko transmission pipeline and Florida Gas' 24- and 30-inch main pipeline near Montpelier in St. Helena Parish, Louisiana. Applicants state that each of them at its own expense will tap its own line and that the facilities constructed at that point will be operated by Florida Gas. Applicants state that this interconnection for the exchange and delivery of natural gas is subject to a letter agreement between the Applicants dated August 30, 1973. The estimated cost of Florida Gas' construction is estimated to be $52,100.00 to be financed out of current operations.

Applicants request authorization to continue the operation of an interconnection consisting of a line tap on United's 12-inch Lirette-Mobile Line, and approximately 1.13 miles of 4-inch pipeline and a metering and regulating station and appurtenances constructed by Florida Gas. These facilities are currently being used for the emergency sale and delivery of gas by Florida Gas Exploration Company (Operator) (Florida Exploration) to Florida Gas, pursuant to §§ 157.22 and 157.29 of the regulations under the Natural Gas Act (18 CFR 157.22 and 157.29). Applicants indicate that Florida Exploration is a certificate applicant in Docket No. CI74-209 for permanent authorization to sell natural gas to Florida Gas. Since the acreage which is the subject of that application is approximately 27 miles from the closest point on the existing system of Florida Gas, the Lirette-Mobile facilities which are adjacent to the subject acreage will be used to effectuate an exchange of gas between United and Florida Gas. According to the letter agreement dated August 13, 1973, Florida Gas will deliver up to 10,000 Mcf of gas per day into United's Lirette-Mobile system and an equivalent volume which will be redelivered by United at any mutually agreeable interconnections between their systems. The total cost for the construction of Florida Gas' facilities was $50,000, which was financed out of cash from its current operations.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before November 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 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 or petitions to intervene need not file again.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-23615 Filed 11-6-73;8:45 am]

[Project No. 485]

GEORGIA POWER CO.

Notice of Extension of Time

OCTOBER 31, 1973.

On October 11, 1973, Georgia Electric Membership Corporation and Snapping Shoals Electric Membership Corporation requested an extension of time within which to file a protest or petition to intervene as provided in the notice issued August 9, 1973, in the above-designated matter.

Upon consideration, notice is hereby given that the time is extended to November 10, 1973, within which protests or petitions to intervene may be filed in the above matter.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-23621 Filed 11-6-73;8:45 am]

[Dockets Nos. CP71-222 and CP71-223]

GREAT LAKES GAS TRANSMISSION CO.

Notice of Further Extension of Time and Postponement of Hearing

OCTOBER 31, 1973.

On October 18, 1973, Great Lakes Gas Transmission Company filed a request for a further extension of time as fixed by notice issued September 25, 1973, in the above-designated matter.

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

Service of Testimony of Great Lakes, November 26, 1973.

Hearing, December 10, 1973 (10:00 a.m., e.s.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-23631 Filed 11-6-73;8:45 am]

[Docket No. CI74-259]

GULF OIL CORP.

Notice of Application

OCTOBER 31, 1973.

Take notice that on October 23, 1973, Gulf Oil Corporation (Applicant), P.O. Box 1589, Tulsa, Oklahoma 74102, filed in Docket No. CI74-259 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 Cities Service Gas Company (Cities Service) from the Canadian, East (Douglas) Field, Hemphill County, Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it intends to commence the sale of natural gas 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 1,000 Mcf of gas per day, plus additional gas which may be available and which Cities Service may be able to receive, 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.

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 November 15, 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 Com-

mission 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.73-23616 Filed 11-6-73;8:45 am]

[Docket No. CI74-261]

HUGHES AND HUGHES

Notice of Application

NOVEMBER 1, 1973.

Take notice that on Octobtr 18, 1973, Hughes and Hughes (Applicant), P.O. Drawer 669, Beeville, Texas 78102, filed in Docket No. CI74-261 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 South Texas Natural Gas Gathering Company from the Romeo Field, Jim Hogg County, Texas, 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 1,550 Mcf per day of natural gas at 44.0 cents per Mcf at 14.65 psia 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 November 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.73-23618 Filed 11-6-73;8:45 am]

[Docket No. E-8153]

ILLINOIS POWER CO.

Notice of Postponement of Prehearing Conference

OCTOBER 31, 1973.

On October 26, 1973, Staff Counsel filed a motion for postponement of the prehearing conference, set by order issued September 17, 1973. The motion states that all of the parties concur in the motion.

Upon consideration, notice is hereby given that the prehearing conference is postponed to December 3, 1973, at 10:00 a.m. (e.s.t.), in a hearing room of the Federal Power Commission, 925 North Capitol Street, NE., Washington, D.C. 20426.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-23629 Filed 11-6-73;8:45 am]

[Docket No. E-8447]

INTERSTATE POWER CO.

Notice of Application

OCTOBER 31, 1973.

Take notice that on October 18, 1973, Interstate Power Company (Applicant), filed an application with this Commission seeking an order pursuant to Section 204 of the Federal Power Act authorizing the issuance and sale of unsecured promissory notes up to but not exceeding $12,000,000 principal amount.

Applicant is incorporated under the laws of the State of Delaware, with its principal business office in Dubuque, Iowa, and is engaged principally in the electric utility business in northern and northeastern Iowa, in southern Minnesota and a few small communities in Illinois.

According to the application, Applicant proposes to borrow from time to time during 1973 and 1974 from banks of its selection in its local service areas and/or from New York of its selection on Applicant's unsecured promissory notes, the aggregate principal amount of which outstanding at any one time shall not exceed $12,000,000. These notes will be dated the dates of their respective deliveries and will be expressed to mature one year from their respective dates or December 31, 1975, whichever date shall be earlier. The rate of interest shall be the prime commercial rate or the prime floating rate of interest of the lending bank for unsecured borrowings prevailing from time to time.

Applicant states that, depending upon market conditions, it presently contemplates issuing long-term securities, the nature and aggregate amount of which have not yet been finally determined, by June of 1974; that such financing may include first mortgage bonds, preferred stock and common stock; and that the net proceeds from the issuance of the notes in the aggregate principal amount of $12,000,000 evidencing bank loans, together with depreciation accruals, cash on hand, retained earnings, and sale of such long-term securities, will be used to carry out the Company's construction programs for the years 1973 and 1974 estimated at $40,249,000 and related purposes, or for the acquisition of property, or for the improvement of service, or for other corporate purposes.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 20, 1973, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-23623 Filed 11-6-73;8:45 am]

[Docket No. CI74-258]

MARATHON OIL CO.

Notice of Application

OCTOBER 31, 1973.

Take notice that on October 23, 1973, Marathon Oil Company (Applicant), 539 South Main Street, Findlay, Ohio 45840, filed in Docket No. CI74-258 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 Transwestern Pipeline Company (Transwestern) from the West Atoka (Morrow) Field, Eddy County, New Mexico, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant commenced a sixty-day emergency sale of natural gas to Transwestern from the subject field on August 24, 1973, and has requested an extension of this sixty-day sale for another sixty days by a filing of October 11, 1973, within the contemplation of § 157.29 of the Regulations under the Natural Gas Act (18 CFR 157.29). Applicant proposes herein to continue this sale for one year from the end of the additional sixty-day period at a price of 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). Applicant estimates monthly sales of natural gas at 107,000 Mcf.

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 November 15, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

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

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

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-23617 Filed 11-6-73;8:45 am]

[Docket No. CP73-147]

MICHIGAN WISCONSIN PIPE LINE CO. ET AL.

Notice of Petition To Amend

OCTOBER 31, 1973.

Take notice that on September 21, 1973, Michigan Wisconsin Pipe Line Company (Mich-Wisc), One Woodward Avenue, Detroit, Michigan 48226, Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77001, and Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP73-147 a joint petition to amend the Commission's order issued in said docket pursuant to section 7(c) of the Natural Gas Act on April 6, 1973 (49 FPC ____), by authorizing the extension of certain exchange and transportation services authorized therein for an additional year through October 31, 1974, all as more fully set forth in the joint petition which is on file with the Commission and open to public inspection.

By the Commission's order of April 6, 1973,[1] Petitioners were authorized, inter alia, to perform services pursuant to a November 14, 1972, transportation agreement in which Mich-Wisc agreed to deliver natural gas to Trunkline in St. Mary Parish, Louisiana, and in turn Trunkline and Panhandle agreed to transport and redeliver the gas for Mich-Wisc's account to Mich-Wisc's marketing area during the same period. This agreement provided for a minimum exchange volume of 6,000,000 Mcf to occur over the period ending October 31, 1973. Petitioners now, pursuant to an amendment dated September 18, 1973, propose to continue this arrangement for an additional year through October 31, 1974, and to increase the volumes of exchange gas by two million Mcf.

The amendment indicates that since Trunkline is in a curtailment situation and may have need for additional volumes of exchange gas, Petitioners decided to continue the subject arrangement for an additional year.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before November 21, 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.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-23632 Filed 11-6-73;8:45 am]

[Docket No. CI74-269]

MOBIL OIL CORP.

Notice of Application

NOVEMBER 1, 1973.

Take notice that on October 25, 1973, Mobil Oil Corporation (Applicant), Three Greenway Plaza East, Suite 800, Houston, Texas 77046, filed an application in Docket No. CI74-269 pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale of natural gas in interstate commerce to Transcontinental Gas Pipe Line Corporation (Transco) from the Karon Field, Live Oak County, Texas, 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 until January 1, 1976, up to 120,000 Mcf of gas per month on a best efforts basis at 50.0 cents per Mcf at 14.65 psia 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 November 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 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.73-23619 Filed 11-6-73;8:45 am]

[Docket No. RP73-110]

NATURAL GAS PIPELINE CO. OF AMERICA

Notice of Extension of Time and Postponement of Prehearing Conference and Hearing

OCTOBER 31, 1973.

On October 26, 1973, Staff Counsel filed a motion for an extension of the procedural dates fixed by order issued June 29, 1973, in the above-designated matter.

[1] By Commission order issued July 26, 1973 (50 FPC ____), in the subject docket, Petitioners were authorized to add a new delivery point to this arrangement.

The motion states that all parties concur in the motion.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Rebuttal Evidence	Dec. 12, 1973.
Hearing	Jan. 8, 1974. (10 a.m., e.s.t.)
Staff's Evidence	Jan. 22, 1974.
Prehearing Conference	Feb. 5, 1974.
Intervenor's Evidence	Feb. 19, 1974. (10 a.m., e.s.t.)

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-23625 Filed 11-6-73;8:45 am]

[Docket No. CP74-1]

NORTHERN NATURAL GAS CO.

Notice of Petition To Amend

OCTOBER 31, 1973.

Take notice that on October 17, 1973, Northern Natural Gas Company (Petitioner), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP74-1 a petition to amend the order of the Commission issued in said docket on October 9, 1973, pursuant to section 7(c) of the Natural Gas Act by requesting authorization to realign, by community, presently authorized volumes of Peaking Service-2 (PS-2) for North Central Public Service Company (NCPS), Peoples Natural Gas Division (Peoples), and Wisconsin Gas Company (WGC), and authorization to relocate permanently an existing 5,300 horsepower compressor unit from Petitioner's Eagle Grove, Iowa, compressor station to Petitioner's Owatonna, Minnesota, compressor station, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

By the order issued October 9, 1973, Petitioner was authorized, among other things, to realign firm services for certain of its customers, by community, and to relocate temporarily a 5,300 horsepower portable compressor unit from its Glenwood, Iowa, compressor station to Owatonna during the 1973-74 heating season.

Petitioner states that as a result of reevaluation of market requirements for the 1973-74 heating season, three of its utility customers, NCPS, Peoples, and WGC, have requested a reassignment, by community, of their authorized allocation of PS-2 volumes in order to insure maximum utilization of available supplies in meeting their market requirements. Petitioner states that such a realignment will not result in any increase or decrease in the presently authorized total firm services, including PS-2, for the respective utility companies.

Petitioner further requests authorization to relocate its existing 5,300 horsepower compressor unit from Petitioner's Eagle Grove station to Petitioner's Owatonna station. Petitioner states that it presently has idle compression at its Eagle Grove station and that this unit could be more efficiently utilized at the Owatonna location. Petitioner alleges that such a relocation is preferable to the temporary location of a compressor unit from its Glenwood station previously authorized in instant docket by allowing for compression during the entire winter season whereas the transferred compressor service would have to be terminated by February 15 to allow for transportation prior to the imposition of spring thaw load restrictions on the Minnesota highways. Applicant states that relocation of its Eagle Grove compressor to Owatonna will preclude the transfer of the Glenwood unit on a seasonal basis and provide for standby compression at Owatonna on a year-around basis.

Applicant states that it has commenced relocation of its Eagle Grove compressor unit to Owatonna pursuant to § 157.22 of the regulations under the Natural Gas Act (18 CFR 157.22) in order to insure timely installation of such facility for use in rendering PS-2 to its customers beginning November 27, 1973.

Petitioner states the estimated cost of relocation of the Eagle Grove unit is $502,200.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before November 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.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-23624 Filed 11-6-73;8:45 am]

[Docket No. E-7645]

PUBLIC SERVICE CO. OF INDIANA

Notice Deferring Procedural Dates

OCTOBER 31, 1973.

On October 24, 1973, Public Service Company of Indiana filed a petition to terminate investigation as moot and to stay all further proceedings fixed by order issued October 17, 1973, in the above-designated matter.

Upon consideration, notice is hereby given that the procedural dates are deferred pending further order of the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-23633 Filed 11-6-73;8:45 am]

[Docket No. CI74-245]

STONE OIL CORP.

Notice of Application

OCTOBER 31, 1973.

Take notice that on October 12, 1973, the Stone Oil Corporation (Applicant), 3100 Fountain Square Plaza, Cincinnati, Ohio 45202, filed in Docket No. CI74-245 an application pursuant to section 7(c) of the Natural Gas Act and § 2.75 of the Commission's General Policy and Interpretations (18 CFR 2.75) for certificates of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), from the South Lac Blanc Field, Vermilion Parish, Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes under the optional gas pricing procedure to sell to Tennessee gas produced from Applicant's interest in new wells to be drilled under a farmout agreement among Applicant, The Superior Oil Company, and Amerada Hess Corporation dated July 31, 1973, as modified September 4, 1973, in the South Lac Blanc Field. Applicant proposes to sell said gas at an initial rate of 45.0 cents per Mcf at 15.025 psia, subject to upward and downward adjustment, for a term of 20 years pursuant to a letter agreement with Tennessee dated September 17, 1973. Said letter agreement provides for a 1.0-cent per Mcf price escalation every year and for tax reimbursement to the Applicant for seven-eighths of any new or additional taxes.

Applicant requests authorization for this sale, asserting additional supplies will be made available to the interstate market where there currently exists a gas shortage and will assist Tennessee in augmenting its supplies of natural gas. Applicant alleges the prices and fixed escalations requested herein are significantly lower than the prices of base load imports of liquefied natural gas, synthetic gas from coal and petroleum, Alaskan gas, and pipeline overland imports.

Applicant states the proposed price is justified in relation to intrastate and interstate contract prices in the Southern Louisiana Area and is below the commodity value of natural gas as measured by the prices of alternative fuels. Applicant alleges further that its request for authorization at the initial rate of 45.0 cents per Mcf meets the test enunciated by the Commission in Belco Petroleum Company, Agent, et al., Docket No. CI73-293, et al., and that said rate is just and reasonable.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 19, 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 Commisson 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.73-23628 Filed 11-6-73;8:45 am]

[Docket No. CI73-940]

D. L. HANNIFIN, ET AL.

Notice Canceling Hearing

OCTOBER 30, 1973.

On September 13, 1973, an order was issued fixing a hearing in the above-designated matter. On October 16, 1973, a notice was issued postponing the hearing. On October 25, 1973, D. L. Hannifin, et al., filed a notice of withdrawal of their application.

Notice is hereby given that the hearing scheduled for November 1, 1973, is canceled.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-23651 Filed 11-6-73;8:45 am]

[Project Nos. 2625, 2626]

DAN RIVER INC.

Notice of Petition for Withdrawal of Applications for License

OCTOBER 31, 1973.

Public notice is hereby given that a petition was filed on November 19, 1970, under the Federal Power Act (16 U.S.C. 791a–825r) by Dan River Inc. (Correspondence to: Theodore Martin, Secretary, Dan River Mills, Danville, Virginia 24541), for approval of withdrawal of applications for minor license for Clifton Mills Project No. 2625 Plant No. 1 and Plant No. 2 located on the Pacolet River in Clifton, Spartanburg County, South Carolina, and for Clifton Mills Project No. 2626 Plant No. 3 located on the Pacolet River in Converse, Spartanburg County, South Carolina.

The jurisdiction through interstate commerce was based on Dan River's interconnection with Duke Power Company. Dan River disagreed and filed a request for rehearing on November 9, 1970, where it argued that since all power flows through the interconnection flowed to Dan River Inc., no project power was utilized in interstate commerce. On April 12, 1971, the question of jurisdiction became moot when Dan River advised the Commission that generation at the projects has been discontinued.

The Clifton Mills Project No. 2625 Plant No. 1 consists of the following: (1) A concrete dam about 16 feet high and 352 feet long in three sections: (a) An overflow section, (b) a Flood gate section with three tainter gates 16.5 feet high by 25 feet wide, and (c) an intake with three 12 x 12-foot headgates; (2) headwater at elevation 597 feet operated for daily pondage; (3) a penstock, 10 feet in diameter, leading to the powerhouse; (4) a powerhouse containing two 400 kw generating units; and (5) appurtenant facilities.

Project No. 2625 Plant No. 2 consists of: (1) A concrete dam about 18 feet high and 352 feet long equipped with flashboards about 4 feet high; (2) headwater at elevation 575 feet operated for daily pondage; (3) two integral-intake powerhouses: (a) One containing two 200 kw generating units and (b) one containing a 132 kw generating unit; and (4) appurtenant facilities.

Project No. 2626 consists of the following: (1) A rubble stone and masonry dam, with concrete slab on the upstream face, maximum height about 35 feet and approximately 360 feet long consisting of three sections: (a) An overflow section with 53-inch flashboards, (b) an intake with two 12 x 12-foot gates, and (c) an abutment; (2) headwater at elevation—625 feet operated for daily pondage; (3) a powerhouse containing two generating units, one rated at 600 kw and the other at 500 kw; and (4) appurtenant facilities.

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

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-23643 Filed 11-6-73;8:45 am]

[Docket No. E-8121]

GULF STATES UTILITIES CO.

Order Amending Prior Order

OCTOBER 31, 1973.

By order of June 14, 1973, in this docket, the Commission, inter alia, determined that the contract between Gulf States Utilities Company (Gulf States) and the Houston County Electric Cooperative, Incorporated (Houston), which is Gulf States' FPC Rate Schedule No. 79, is a fixed rate contract which does not allow for changes in rates to be effected upon a unilateral rate increase application.[1] The Commission therefore treated an application for rate increase filed in this docket by Gulf States, as such application would apply to Houston, as a request for an investigation under section 206 of the Federal Power Act of the rates currently charged under the contract, and instituted such an investigation. With respect to the rates to be charged for amounts of deliveries sold above the contract demand, the Commission accepted the rates contained in Gulf States rate increase application as "initial rates" to be effective as of June 15, 1973, and set those rates for an investigation under section 206 to determine if they are just and reasonable.

On September 17, 1973, Gulf States filed with the Commission a notice of cancellation of the Houston contract. Attached to the notice is a copy of a letter dated July 17, 1972, addressed to Houston, wherein notice is given to Houston that, effective August 1, 1973, the contract is canceled. This letter would appear to be in conformance with the requirements of an amendment to the contract dated July 1, 1963, which states that:

> This agreement shall bind the Company and the Customer until August 1, 1973, and thereafter for successive five-year periods unless terminated by written notice given by either party to the other one year prior to the expiration of the initial term or any extension thereof.

Gulf States requests that the Commission waive its 30 day notice requirement for the filing to permit cancellation of the contract to beeffective as of August 1, 1973. The cancellation was noticed on September 26, 1973, with protests and comments due on or before October 16, 1973. No protests or comments were received.

So as to take into account the effect of that cancellation on the proceeding in this docket, we shall amend our order of June 14, 1973, to permit Gulf States' rate application as it would apply to Houston to become effective, subject to refund, as of August 1, 1973, pursuant to Section 205 of the Federal Power Act. The rates charged during the period from June 15, 1973, to August 1, 1973, shall be those

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[1] *See Federal Power Commission* v. *Sierra Pacific Power Co.*, 350 U.S. 348 (1956).

as presently directed by our June 14 order.

The Commission finds.

Good cause has been shown to amend the Commission's June 14, 1973, order to permit Gulf States' proposed rates, as applicable to Houston, to become effective, subject to refund as of August 1, 1973.

The Commission orders.

(A) The Commission's order of June 14, 1973 is hereby amended to permit the rates proposed in this docket by Gulf States, as applicable to Houston, to become effective, subject to refund, as of August 1, 1973.

(B) Nothing contained in this order shall relieve Gulf States of any responsibility imposed by the Economic Stabilization Act of 1970 (Pub. L. 91-379, 84 Stat. 38), or by any Executive Order or rules and regulations promulgated pursuant to such Act.

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

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.73-23635 Filed 11-6-73;8:45 am]

[Docket No. E-8450]

IDAHO POWER CO.

Notice of Application

OCTOBER 31, 1973.

Take notice that on October 23, 1973, Idaho Power Company (Applicant), a corporation organized under the laws of the State of Maine and qualified to transact business in the States of Idaho, Oregon, Nevada, and Wyoming, with its principal business office at Boise, Idaho, filed an application with the Federal Power Commission, pursuant to section 204 of the Federal Power Act, seeking an order authorizing the issuance of not to exceed $100,000,000 in principal amount at any one time outstanding of unsecured promissory notes: (1) Pursuant to a Revolving Credit Agreement with certain banks ($75,000,000), (2) pursuant to a Line of Credit from other banks ($10,000,000), and (3) in the form of Commercial Paper ($15,000,000).

Notes in the sum of not to exceed $85,000,000 in an aggregate amount would be issued as bank loans, evidenced by unsecured notes, probably for a maturity of three months after date, and not to exceed one year after date thereof. Of the above total borrowing, up to $75,000,000 will be made under a Revolving Credit Agreement covering the period October 1, 1973 to December 31, 1974, with three major banks at a rate consisting of 110 percent of each bank's prime lending rate plus a commitment fee of ½ of 1 percent on the total loan commitment then in effect. The remaining borrowing of $10,000,000 will be made from a group of banks in Idaho at the prime rate, which interest rate at the present time is 10 percent. Applicant also requests that the authorization include the right to renew such of said short-term notes as expire prior to one year from the date of such authorization; and that the principal amount of such renewals, if made, either of notes issued under the authorization herein required, or of notes issued under the exemptions set forth in 204(e) of the Federal Power Act, shall not be considered as applying against, or a reduction, of the $82,611,300 authorization herein requested.

Unsecured promissory notes in an aggregate principal amount of not to exceed $15,000,000 at any one time outstanding would be issued and sold by applicant to one or more commercial paper dealers. Each note issued as commercial paper would be dated the date of issuance, have a maturity of not more than 270 days from the date thereof and be discounted at the rate prevailing at the time of issuance for commercial paper of comparable quality and maturity.

Proceeds from the borrowing will be used in the further financing of applicant's construction expenditures, which for the period from August 1, 1973, to December 31, 1974, are estimated at approximately $116,449,000. The balance of funds required for construction is expected to come from internally generated cash. Further permanent financing, in addition to $35,000,000 First Mortgage Bonds to be issued in January 1974, is expected to be undertaken early in 1974, but the amounts and types of securities and the exact timing of the issuance has not yet been determined.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 27, 1973, file with the Federal Power Commission, Washington, D.C. 20426, petition to intervene or protest in accordance with the requirement of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceedings. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petition to intervene in accordance with the Commission's rules. The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-23650 Filed 11-6-73;8:45 am]

[Docket No. E-8172]

KENTUCKY UTILITIES CO.

Notice of Extension of Time and Postponement of Prehearing Conference and Hearing

OCTOBER 30, 1973.

On October 19, 1973, Staff Counsel filed a motion for an extension of the procedural dates fixed by order issued June 29, 1973, in the above-designated matter. The motion states that all parties concur in the request.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Staff's Evidence, November 26, 1973.
Intervenor's Evidence, December 17, 1973.
Prehearing Conference, December 21, 1973, (10:00 a.m., e.s.t.).
Rebuttal Evidence, January 10, 1974.
Hearing, January 22, 1974 (10:00 a.m., e.s.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-23644 Filed 11-6-73;8:45 am]

[Docket No. RP74-26]

LOUISIANA-NEVADA TRANSIT CO.

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

OCTOBER 31, 1973.

Louisiana-Nevada Transit Company (Louisiana-Nevada), on September 28, 1973, tendered for filing proposed changes [1] in its FPC Gas Tariff, Original Volume No. 1 which would result in a rate increase of $168,419 annually to its only jurisdictional customer, the City of De Queen, Arkansas. The proposed increase from 24.26 cents per Mcf to 39.50 cents per Mcf, results in an increase of 62.82 percent based on jurisdictional volumes of 1,104,500 Mcf with costs and revenues for twelve (12) months ended July 31, 1973. Louisiana-Nevada also proposes to incorporate a PGA clause into its FPC Gas Tariff. The proposed effective date is November 1, 1973.

Public notice of this filing was issued on October 12, 1973, which required that protests or petitions to intervene be filed by October 29, 1973.

We note that Louisiana-Nevada requests a waiver of the requirement for an auditor's statement as required by § 154.63(e)(6) of our regulations. Louisiana-Nevada requests this waiver because of the expense involved and the small size of the Company. For good cause shown, waiver of this provision shall be granted.

Our review of Louisiana-Nevada's PGA Clause indicates that it is in conformity with § 154.38(d)(4) of the Commission's regulations under the Natural Gas Act. However, we note that the base cost of purchased gas and base tariff rate reflect the increased rates proposed by this filing. Therefore, we shall suspend the PGA Clause for one day until November 2, 1973, when it shall become effective, subject to refund, in order to permit adjustment of the base tariff rate to reflect the final just and reasonable rate allowed by the Commission in this proceeding.

Our review of Louisiana-Nevada's rate filing indicates that it raises certain issues which may require development in an evidentiary proceeding. The proposed increases in rates and charges have not been shown to be just and reasonable

[1] Original Sheet No. PGA-1, Fifth Revised Sheet No. 3A, and Original Sheet Nos. 12E, 12F, 12G, and 12H.

and may be unjust, unreasonable, unduly discriminatory or preferential or otherwise unlawful.

The Commission finds.

(1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the rates and charges contained in Louisiana-Nevada's Gas Tariff, Volume No. 1 as proposed to be amended by this filing and that the tendered revised tariff sheets be accepted for filing and suspended as hereinafter provided.

(2) Good cause exists to grant Louisiana-Nevada's request for waiver of the filing requirements of § 154.63(e)(6).

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

The Commission orders.

(A) Pursuant to authority of the Natural Gas Act, particularly section 4 and 5 thereof, the Commission's rules and regulations (18 CFR, Ch. 1), a prehearing conference shall be held pursuant to § 1.18 of the Commission's rules of practice and procedure on March 4, 1974, at 10:00 e.s.t., in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426. A hearing for purposes of cross-examination concerning the lawfulness and reasonableness of the rates and charges in company's FPC Gas Tariff, as proposed to be amended herein shall be held commencing on April 30, 1974.

(B) At the prehearing conference on March 4, 1974, Louisiana-Nevada'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.

(C) On or before February 25, 1974, the Commission Staff shall serve its prepared testimony and exhibits. Any intervenor evidence will be filed on or before March 11, 1974. Any rebuttal evidence by Louisiana-Nevada shall be served on or before March 25, 1974.

(D) Pending hearing and a final decision in this proceeding, Louisiana-Nevada's proposed revised tariff sheets, tendered on September 28, 1973, are hereby accepted for filing, suspended for one (1) day and the use thereof deferred until November 2, 1973, and until such further time as they are made effective in the manner provided in the Natural Gas Act.

(E) Louisiana-Nevada's request for waiver of the filing requirements of § 154.63(e)(6) of the Commission's regulations is hereby granted.

(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 the proceeding in accordance with the policies expressed in the Commission's rules of practice and procedure.

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

By the Commission.

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

[FR Doc.73-23647 Filed 11-6-73;8:45 am]

[Docket No. CI74-254]

McCULLOCH OIL CORP. OF TEXAS

Notice of Application

OCTOBER 30, 1973.

Take notice that on October 16, 1973, McCulloch Oil Corporation of Texas (Applicant) 10880 Wilshire Boulevard, Los Angeles, California 90024, filed in Docket No. CI74-254 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 (Northern), from the Hobart Ranch Field, Hemphill County, Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to sell up to 1,500 Mcf of natural gas per day to Northern from the subject acreage for one year at a rate of 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). Applicant estimates the heating content of the gas to be 1,150 Btu per cubic feet.

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 November 12, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

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

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

KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-23646 Filed 11-6-73;8:45 am]

[Docket No. E-7867]

OHIO POWER CO.

Notice Deferring Action on Procedural Dates

OCTOBER 31, 1973.

On October 11, 1973, Allied Chemical Corporation, Blaw Knox Company, Mobay Chemical Company and the Triangle Conduit & Cable Company (Allied, et al.) filed a motion for a further extension of the procedural dates fixed by notice issued September 11, 1973, in the above-designated matter. The motion states that neither Staff Counsel nor the West Virginia Public Service Commission objected to the motion.

On October 11, 1973, Allied, et al. filed an application for a subpoena for the production of documentary evidence.

Upon consideration, notice is hereby given that the request for the postponement of the procedural dates is deferred pending disposition of the application for subpoena. The prehearing conference will be held as scheduled on November 6, 1973.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-23634 Filed 11-6-73;8:45 am]

[Docket No. E-8456]

OTTER TAIL POWER CO. ET AL.

Notice of Request for Authority To Negotiate Privately

OCTOBER 31, 1973.

Take notice that, on October 23, 1973, Otter Tail Power Company of Fergus Falls, Minnesota, Northwestern Public Service Company of Huron, South Dakota, and Montana-Dakota Utilities Company of Bismarck, North Dakota (collectively called "Companies"), filed a request for authority to negotiate privately with Grant County, South Dakota, with respect to the issuance by the Companies to Grant County, South Dakota, of Pollution Control Obligations to be pledged by the County as security for the County's Pollution Control Revenue Bonds which the County proposes to issue for the purpose of financing certain water and air pollution control facilities at the Big Stone Plant in Grant County, South Dakota, being constructed jointly by the Companies. The Companies request authority to negotiate privately with respect to the issuance of the Pollution Control Obligations so that the Companies will not be precluded by §§ 34.2(f)(2) and 34.1a(a)(4) of the Commission's rules and regulations from

obtaining exemption from such rules and regulations requiring public invitation of proposals for the purchase of such securities.

Any person desiring to be heard or to make any protest with reference to such Request for Authority, on or before November 12, 1973, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.1). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The Request for Authority is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-23640 Filed 11-6-73;8:45 am]

[Dockets Nos. CP69-346, CP69-347]

PACIFIC GAS TRANSMISSION CO.

Notice of Petition To Amend

OCTOBER 23, 1973.

Take notice that on October 10, 1973, Pacific Gas Transmission Company (Petitioner), 77 Beale Street, San Francisco, California 94106, filed in Dockets Nos. CP69-346 and CP69-347 a petition to amend the Commission's order issued in said dockets on March 13, 1970 (43 FPC 418), pursuant to sections 7(c) and 3 of the Natural Gas Act by authorizing Petitioner to reallocate natural gas transported for El Paso Natural Gas Company (El Paso) among various specified delivery points on Petitioner's pipeline, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner is authorized among other things, to transport to El Paso's California market natural gas which El Paso imports from Canada. Petitioner seeks authorization to reallocate the maximum daily demands of El Paso's gas for the various delivery points on Petitioner's pipeline in Oregon. Petitioner states that it has been informed by El Paso that the reallocation of deliveries of gas among various points is necessary in order for El Paso to provide natural gas service on peak days to priority 1 and priority 2 customers during the 1973-74 heating season except for 369 Mcf of gas per day which will be utilized to serve priority 3 customers from the delivery point located near Madras, Oregon. Petitioner further states that El Paso advises that none of the gas involved will be used for boiler fuel under priorities 4 and 5. Petitioner indicates that this proposed revision will not increase the total maximum daily demand under its service agreement of August 21, 1961, with El Paso.

Petitioner indicates that the only changes in its facilities that are necessary to effectuate the instant proposal are increased regulating and/or relief capacity at the various delivery points. Petitioner estimates the cost of such changes to be $3,006, and states that these changes will be made pursuant to existing authorization granted in Docket No. CP62-59 on July 21, 1971 (46 FPC 207).

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before November 12, 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.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-23637 Filed 11-6-73;8:45 am]

[Docket No. E-8446]

PENNSYLVANIA ELECTRIC CO.

Notice of Proposed Changes in Rates and Charges

OCTOBER 31, 1973.

Take notice that Pennsylvania Electric Company (Penelec) on October 12, 1973, tendered for filing proposed changes in its wholesale tariff (FPC Electric Tariff, Original Volume No. 1). The proposed changes would increase revenues from jurisdictional sales and service by $483,853 based on a volume of sales for the 12 month period ending December 31, 1972. The proposed filing also provides for the elimination of blocks in the demand charge in the present rate and a new energy cost adjustment clause. The proposed rates would yield, according to the Company, an overall return of 7.93 percent and a return on equity of 11.6 percent based on the 1972 rate base and expenses without adjustment for cost increases beyond the test period. The proposed effective date is December 12, 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 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before November 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 for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-23636 Filed 11-6-73;8:45 am]

[Docket No. CI74-89]

PHILLIPS PETROLEUM CO.

Notice Deferring Procedural Dates

OCTOBER 31, 1973.

On October 18, 1973, an order was issued fixing a hearing in the above-designated matter. On October 23, 1973, Phillips Petroleum Corporation amended its application.

Notice is hereby given that the procedural dates in the above matter are deferred pending further order of the Commission.

KENNETH F. PLUMB,
Secretary.

FR Doc.73-23648 Filed 11-6-73;8:45 am]

[Docket No. E-8242]

PUBLIC SERVICE CO. OF OKLAHOMA

Notice of Extension of Time and Postponement of Prehearing Conference and Hearing

OCTOBER 31, 1973.

On October 26, 1973, Staff Counsel filed a motion for an extension of the procedural dates fixed by order issued July 30, 1973. The motion states that all parties concur in the motion.

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

Staff's Evidence, Jan. 11, 1974.
Intervenor's Evidence, Jan. 29, 1974.
Rebuttal Evidence, Feb. 25, 1974.
Prehearing Conference, March 5, 1974 (10:00 a.m., e.s.t.).
Hearing, March 6, 1974 (10:00 a.m., e.s.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-23649 Filed 11-6-73;8:45 am]

[Docket No. CI73-694]

RODMAN CORP.

Notice of Postponement of Date for Issuance of Initial Decision and Extension of Time for Filing Briefs on Exceptions and Replies Thereto

OCTOBER 29, 1973.

On September 12, 1973, the Commission issued an order in the above-designated matter setting procedural dates and requiring the Presiding Administrative Law Judge to issue an initial decision by November 16, 1973. On October 26, 1973, Commission Staff Counsel filed a motion to postpone the date for the issuance of the initial decision. Counsel states that all parties support the motion.

Notice is hereby given that the time is extended to and including November 26, 1973, within which the Presiding Administrative Law Judge shall render an initial decision in the above-designated matter. Briefs on exceptions shall be due

on or before December 7, 1973, and replies thereto shall be due on or before December 13, 1973.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-23638 Filed 11-6-73;8:45 am]

[Docket No. E-8361]

ROSEAU ELECTRIC COOPERATIVE, INC.

Notice of Application

OCTOBER 30, 1973.

Take notice that Roseau Electric Cooperative, Inc. (Applicant), incorporated under the laws of the State of Minnesota with its principal place of business at Roseau, Minnesota, filed an application with the Federal Power Commission in Docket No. E-8361 on August 6, 1973, as subsequently supplemented, for (1) an order, pursuant to Section 202(e) of the Federal Power Act, authorizing the transmission of electric energy from the United States to Canada, and (2) a permit, pursuant to Executive Order No. 10485, dated September 3, 1953, authorizing the construction, operation, maintenance and connection at the international border between the United States and Canada of certain facilities for the transmission of electric energy between the United States and Canada.

Applicant proposes to transmit electric energy from a point within the Northwest Angle area, Lake of the Woods County, Minnesota, to a point within the Northwest Angle Indian Reserve No. 33, Province of Ontario, Canada, by means of a proposed 25 Kv submarine cable which will extend under the waters of the Northwest Angle Inlet of the Lake of the Woods. The exported energy will be sold and delivered by Applicant to the above-mentioned Indian Reserve for use in its houses, school, store, and headquarters. Accordingly, Applicant seeks an order for exportation of energy in an amount not to exceed 90,000 Kwh annually at a rate of transmission not to exceed 37.5 Kw and a permit for the construction and operation at the United States-Canadian border of the 25 Kv submarine cable which will be operated at 7.2 Kv.

The electric energy proposed to be exported will be a portion of the energy supplied to Applicant by Minnkota Power Cooperative, Inc.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 16, 1973, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-23642 Filed 11-6-73;8:45 am]

[Docket Nos. RP72-74 and RP74-6]

SOUTHERN NATURAL GAS CO.

Order Accepting for Filing Tendered Tariff Sheets, Suspending Tariff Sheets, Granting Interventions, Denying Motion To Reject, Consolidating Dockets, Providing for Hearing and Establishing Procedures

OCTOBER 31, 1973.

On August 2, 1973, Southern Natural Gas Compnay (Southern) tendered for filing revised tariff sheets [1] reflecting its proposed curtailment plan in accordance with the priorities set forth by the Commission in its Order No. 467-B issued in Docket No. R-469. On October 1, 1973, Southern tendered for filing additional revised tariff sheets [2] containing the end-use data for implementing its proposed Order No. 467-B curtailment plan. Southern requests November 1, 1973 as the effective date for its filings.

In support of its filings, Southern asserts that its proposed curtailment plan fully comports with the Commission's Order No. 467-B. However, Southern's proposed plan goes beyond Order No. 467-B in that in includes, inter alia, the elimination of demand charge adjustment provisions, a provision that deliveries will be made on a single delivery point basis during the summer period, and a provision that the requirements reflected in the Index of Requirements for priority-of-service in categories (1) through (5) shall never exceed a purchaser's applicable contract demand. Additionally, the end-use data submitted by Southern may not conform to the requirements of Order No. 467-B or may be otherwise incorrect. Accordingly, the revised tariff sheets tendered by Southern on August 2, 1973, and October 1, 1973, have not been shown to be lawful and may be unjust, unreasonable, unduly discriminatory or preferential or otherwise unlawful under the Natural Gas Act.

Petitions to Intervene were received from the following parties:

The Water, Light and Sinking Fund Commission of the City of Dalton, Ga.	Aug. 23, 1973.
Chattanooga Gas Company	Aug. 29, 1973.
Columbia Nitrogen Corporation and Nipro, Inc.	Do.
South Carolina Electric & Gas Company.	Aug. 30, 1973.
Alabama Gas Corporation	Aug. 31, 1973.
Alabama Municipal Distributors Group.	Do.
Atlanta Gas Light Company	Do.
Brick Institute of America	Do.
Carolina Pipeline Company	Do.
Florida Gas Transmission	Do.
Georgia Industrial Group	Do.
Georgia Power Company	Do.
Mississippi Valley Gas Company.	Do.
Board of Supervisors, Noxubee County, City of Macon, and Delta-Macon Brick and Tile Company, Inc.	Sept. 6, 1973.

Notice of Intervention was filed by the Tennessee Public Service Commission on August 27, 1973.

The Petition to Intervene of Board of Supervisors, Noxubee County, City of Macon, and Delta-Macon Brick and Tile Company, Inc. was untimely filed but permitting their intervention would cause no delay to the proceedings or inconvenience to any of the other parties.

Alabama Gas Corporation, Atlanta Gas Light Company, Board of Supervisors, Noxubee County, City of Macon, and Delta-Macon Brick and Tile Company, Inc., Brick Institute of America, Carolina Pipeline Company, and Georgia Industrial Group filed Protests.

Alabama Gas Corporation, Atlanta Gas Light Company, and Mississippi Valley Gas Company requested rejection of the tendered tariff filings. Although not strictly congruent, these motions generally objected to the proposed curtailment plan because it: (1) Was not predicated on a claim by Southern of a current emergency in extremis nor did Southern adopt the plan as its own but rather described it as one in compliance with Commission directives; (2) Is violative of existing service agreements; (3) Eliminates the Demand Charge Adjustment; (4) Eliminates grouping during the summer period; and (5) Is a pretext to deny gas to firm customers so that it may be sold as AO and interruptible sales. The Commission has determined that the national gas shortage is sufficiently severe as to demand that all pipelines must have on file contingent curtailment plans. Southern's action is in compliance with this decision. All the remaining objections of these parties are essentially requests to modify the plan submitted by Southern. This is the function of a formal hearing and is no justification for rejection of these filings.

Brick Institute of America and Georgia Industrial Group (Movants) moved to consolidate Southern's filings in this proceeding with the Docket No. RP72-74 proceeding. In support of their motion, Movants correctly assert that the two proceedings involve common questions of fact and law. The Docket No. RP72-74 proceeding has had a lengthy hearing and its record contains many facts and exhibits bearing on the issues involved in Southern's instant filings. Consequently, the utilization of that record in the instant proceeding (to the extent that it is relevant) would result in expediting this hearing and determination of the proper curtailment plan to be adopted by Southern. To that end, we will require all parties to designate those issues which they intend to support from

[1] The revised tariff sheets are designated as Seventh Revised Sheet No. 40, Third Revised Sheet No. 40A, Second Revised Sheet Nos. 40B, 40C, 40D and 40E and First Revised Sheet No. 40F of its FPC Gas Tariff, Sixth Revised Volume No. 1.

[2] The tariff sheets are designated as Original Sheet Nos. 61 through 82 of its FPC Gas Tariff, Sixth Revised Volume No. 1.

the record of Docket No. RP72–74. Thereafter, the parties will be required to submit their testimony and exhibits in support of the other issues involved in these filings as well as any implementation that they deem necessary to complete the prior record on issues which were only partially covered therein, although parties are cautioned to avoid needless duplication of evidence previously on record.

The Commission finds.

(1) Good cause exists to accept for filing the tendered tariff sheets, that those sheets be suspended, and that a public hearing be initiated in accordance with the procedures set forth below, all as hereinafter ordered.

(2) The participation of those parties who have petitioned to intervene may be in the public interest.

(3) Although the petition to intervene of Board of Supervisors, Noxubee County, City of Macon and Delta-Macon Brick and Tile Company, Inc. was not timely filed, good cause exists to allow those parties to intervene since permitting the intervention will not be the basis of delay in these proceedings.

(4) Good cause exists for granting the motion to consolidate the proceedings in Docket Nos. RP72–74 and RP74–76 for purposes of hearing and decision and for the further reopening of the record in Docket No. RP72–74 for the purposes of incorporating therein the pleadings, testimony and exhibits that are properly filed and received in the Docket No. RP74–76 proceeding.

(5) Good cause exists to deny the motion to reject the instant filings.

The Commission orders.

(A) The tariff sheets tendered by Southern on August 2, 1973 and October 1, 1973, designated in footnotes 1 and 2 above, are hereby accepted for filing.

(B) The proceedings in Docket Nos. RP72–74 and RP74–76 are hereby consolidated for purposes of hearing and decision.

(C) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 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 December 4, 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 proposed changes in the General Terms and Conditions of Southern's FPC Gas Tariff, Sixth Revised Volume, No. 1.

(D) Pending such hearing and decision, the revised tariff sheets tendered by Southern on August 2 and October 1, 1973, are hereby suspended and the use thereof deferred until November 2, 1973, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(E) The above named petitioners are hereby permitted to become intervenors in these proceedings subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such intervenors shall be limited to matters affecting asserted rights and interests as 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 these proceedings.

(F) The motion to reject these filings is denied.

(G) On or before November 6, 1973, each party shall file and serve on all other parties a statement identifying those issues that will not be fully presented by that party because the record in Docket No. RP72–74 contains evidence which will be relied upon to present its position on those issues. On or before November 20, 1973, Southern shall file, to the extent not covered by the Docket No. RP72–74 record, its testimony and exhibits comprising its case-in-chief in support of its position on all issues involved in this proceeding including, but not limited to, the provision to eliminate the demand charge adjustment, the provision to eliminate grouping of delivery points for deliveries during the summer period, the provision that the requirements reflected in the Index of Requirements for priority-of-service in categories (1) through (5) shall never exceed a purchaser's applicable contract demand,, and the propriety of its filed end-use data and Index of Requirements. Also, on or before November 20, 1973, all parties sponsoring variances or opposition to the curtailment plan filed by Southern in Docket No. RP74–6 shall file and serve upon all other parties their testimony and exhibits in support of their position.

(H) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5d) 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 § 2.59 of the Commision's rules of practice and procedure.

By the Commission.

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

[FR Doc.73-23652 Filed 11-6-73;8:45 am]

[Docket No. RP74-25]

TEXAS GAS TRANSMISSION CORP.

Order Rejecting Proposed PGA Rate Adjustment Without Prejudice, Suspending Remainder of Filing for Five Months, Providing for Hearing Procedures, Permitting Interventions and Denying Motions To Sever Limited Issue

OCTOBER 31, 1973.

On October 1, 1973, Texas Gas Transmission Corporation (Texas Gas) tendered for filing a general increase in its rates which are subject to the jurisdiction of the Federal Power Commission. The proposed tariff sheets would increase the charges for service under all of the rate schedules in Texas Gas' FPC Gas Tariff, Third Revised Volume No. 1,[1] and would increase the charges for transportation service to Texaco Inc., and Gulf Oil Corporation under Rate Schedules Nos. X–32 and X–29, respectively, which are contained in Texas Gas' FPC Gas Tariff, Original Volume No. 2.[2] The proposed increase in jurisdictional revenue would amount to $30,976,052 per year, based upon the adjusted volumes for the twelve months ended June 30, 1973.

Texas Gas states that the increase in rates result from known and measurable increases in costs which are now effective or will become effective within nine months of June 30, 1973, the last month of actual experience reflected in supporting statements. Texas Gas asserts that the proposed increase is mainly attributable to: (1) An increase in depreciation rate, (2) increased costs associated with a plan for curtailment and husbanding of gas, (3) an increase in rate of return, (4) acquisition of coal properties related to future gas supplies, and (5) increases in operating expenses. Texas Gas requests an effective date of November 1, 1973, for the proposed rate increases.

Notice of the tendered filing was issued on October 9, 1973, with protests, notices of intervention, and petitions to intervene due on or before October 19, 1973. One notice of intervention and seventeen petitions to intervene were received.[3]

Concurrently with its general rate increase, Texas Gas tendered a purchased gas rate adjustment to recover estimated balances of unrecovered purchased gas costs accumulated in Account No. 191 as of October 31, 1973. Texas Gas proposes to recover this amount by means of a 0.64¢ Mcf surcharge included in its rates under the terms of its PGA clause for the period February 1, 1974 to August 1, 1974. As noted in Footnote 1 above, this proposed rate adjustment reflects the estimated unit rate adjustment necessary to recover the estimated balance in the deferred account, No. 191. Our review of this proposed surcharge rate adjustment indicates that it is inconsistent with Texas Gas' PGA clause and § 154.38 (d)(4) because the adjustment is based on estimated balances in Account 191 rather than actual balances. Accord-

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[1] Eighth Revised Sheet No. 7 and First Revised Sheet No. 102. Texas Gas states that the column entitled "Rate After Current Adjustment" on Eighth Revised Sheet No. 7 sets forth the proposed rates as derived in Exhibit 11 (Statement K), and that the volume entitled "Cumulative Rate Adjustment" reflects the estimated unit rate adjustment necessary to recover the estimated balance in the Unrecovered Purchased Gas Costs account. Texas Gas further states that it proposes to file a Revised Sheet No. 7 at the appropriate time to reflect the Cumulative Rate Adjustment proposed to become effective on February 1, 1974.

[2] Sixth Revised Sheet No. 333 and Sixth Revised Sheet No. 363.

[3] See Appendix A.

ingly, we shall reject the 0.64¢/Mcf purchased gas adjustment surcharge without prejudice to Texas Gas' right to file timely purchased gas rate adjustments which properly comply with its PGA clause and § 154.38(d)(4) of the regulations under the Natural Gas Act.

Two of the parties who filed petitions to intervene, General Motors Corporation (GM) and Brick Institute of America (Brick), also made motions to sever from this proceeding that part of Texas Gas' filing which reflects the projected rate impact of Texas Gas' proposed curtailment plan and consolidate it with the pending curtailment proceeding in Docket No. RP72-64. Our review of this proposal indicates that the aspect of this filing dealing with curtailment reflects only the rate effect of the proposed curtailment plan; not the curtailment plan itself. Therefore, no good purpose would be served by severing this issue from this docket and consolidating it with the proceedings in Docket No. RP72-64. Accordingly, we shall deny the motions of GM and Brick.

Our review of Texas Gas' filing indicates that there are certain issues raised which may require development in an evidentiary hearing. The proposed increases in rates and charges have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential or otherwise unlawful.

The Commission finds.

(1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that:

(a) The proposed 0.64¢/Mcf PGA rate adjustment be rejected.

(b) The Commission enter upon a hearing concerning the lawfulness of the rates and charges contained in Texas Gas' FPC Gas Tariff, as proposed to be amended herein and as modified by Paragraph (1a) above.

(2) Participation of the petitioners for intervention listed in Appendix A below in this proceeding may be in the public interest.

The Commission orders.

(A) Texas Gas' proposed PGA rate adjustment of 0.64¢/Mcf is rejected without prejudice to Texas Gas' right to file PGA rate adjustments which properly comply with Texas Gas' PGA clause and § 154.38 (d)(4) of the Commission's regulations under the Natural Gas Act.

(B) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 5 thereof, and the Commission's rules and regulations (18 CFR Ch. I), a prehearing conference shall be held pursuant to § 1.18 of the Commission's rules of practice and procedure on February 19, 1974, 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. A hearing for purposes of cross-examination concerning the lawfulness and reasonableness of the rates and charges in Texas Gas' FPC Gas Tariff, as proposed to be amended herein, and as modified in Paragraph A above, shall be held commencing on March 26, 1974.

(C) On or before February 5, 1974, the Commission Staff shall serve its prepared testimony and exhibits. Any intervenor evidence shall be filed on or before February 26, 1974. Any rebuttal evidence by Texas Gas shall be served on or before March 12, 1974.

(D) At the prehearing conference on February 19, 1974, Texas Gas' prepared testimony (Statement P) together with its entire rate filing shall be admitted to the record as its case-in-chief subject to appropriate motions, if any, by parties to the proceeding.

(E) 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.

(F) Pending hearing and a decision thereon, Texas Gas' filing, as modified by Ordering Paragraph A above, is suspended for five months, and the use thereof deferred until April 1, 1974, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(G) The petitioners listed in Appendix A below 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.

(H) The motions filed by GM and Brick to sever the curtailment-related aspects of this filing from this docket and consolidate such issues with the proceedings in Docket No. RP72-64 are denied.

(I) Pursuant to § 2.59(c) of the Commission's rules of practice and procedure, Texas Gas shall promptly serve a copy of its filing upon the above-named petitioners, unless such service has already been effected pursuant to Part 154 of the Regulations under the Natural Gas Act.

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

By the Commission.

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

APPENDIX A

PARTIES FILING PROTESTS, NOTICE OF INTERVENTION AND PETITIONS TO INTERVENE

Notice of intervention:
Public Service Commission of the State of New York.

Protest and Petition to Intervene:
City of Hamilton, Ohio.

Petitions to Intervene:
Arkansas-Louisiana Gas Company.
Arkansas-Missouri Power Company.
Columbia Gas of Ohio, Inc.
Columbia Gas Transmission Corporation.
Memphis Light, Gas and Water Division, City of Memphis, Tennessee.
Michigan Wisconsin Pipe Line Company.
Midwest Natural Gas Corporation.
Mississippi Valley Gas Company.
Southern Indiana Gas and Electric Company.
Texas Eastern Transmission Corporation.
United Cities Gas Company.
Western Kentucky Gas Company.

Joint Petitions to Intervene:
Indiana Gas Company, Inc., and Ohio River Pipeline Corporation.
Ohio Valley Gas Corporation, Ohio Valley Gas, Inc., and Dome Gas Company, Inc.

Protest, Motion For Consolidation, and Petition to Intervene:
Brick Institute of America.
General Motors Corporation.

[FR Doc.73-23641 Filed 11-6-73;8:45 am]

GENERAL SERVICES ADMINISTRATION

[Federal Property Management Regs.; Temporary Reg. F-197]

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 an electric, gas, and steam rate proceeding.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the California Public Utilities Commission in a proceeding (Application Nos. 54279, 54280, and 54281) involving electric, gas, and steam rates of the Pacific Gas and Electric Company.

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.*

OCTOBER 30, 1973.

[FR Doc.73-23676 Filed 11-6-73;8:45 am]

[Federal Property Management Regs.; Temporary Regulation F-198]

SECRETARY OF DEFENSE

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in a natural gas rulemaking proceeding.

2. *Effective date.* This regulation is effective July 5, 1973.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the interests of the executive agencies of the Federal Government before the Public Service Commission of Utah in a proceeding (Docket No. 6535) involving natural gas supplied by the Mountain Fuel Supply Company.

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.

Dated: October 31, 1973.

[FR Doc.73-23677 Filed 11-6-73;8:45 am]

INTERIM COMPLIANCE PANEL (COAL MINE HEALTH AND SAFETY)

VALLEY CAMP COAL CO.

Notice of Opportunity for Public Hearing

Application for Renewal Permit for Noncompliance with the Interim Mandatory Dust Standard (2.0 mg/m³) has been received as follows:

ICP Docket No. 20630, The Valley Camp Coal Company, Valley Camp No. 1 Mine, Mine ID No. 46 01483 0, Triadelphia, West Virginia.

Section ID No. 013 (East Mains).
Section ID No. 066 (South Mains).
Section ID No. 067 (1-North off 4-Left).
Section ID No. 068 (1-Left off 9-North).
Section ID No. 069 (1-Left off 2-South).
Section ID No. 070 (2-Left off 9-North).
Section ID No. 071 (2-North off West Mains).
Section ID No. 072 (1-Right off 2-South).
Section ID No. 073 (1-South off 4-Left).
Section ID No. 074 (2-South off 4-Left).
Section ID No. 075 (2-Left off 2-South).

In accordance with the provisions of section 202(b)(4) (30 U.S.C. 842(b)(4)) of the Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742 et seq., Pub. L. 91-173), notice is hereby given that requests for public hearing as to an application for renewal may be filed on or before November 23, 1973. Requests for public hearing must be filed in accordance with 30 CFR Part 505 (35 FR 11296, July 15, 1970), as amended, copies of which may be obtained from the Panel on request.

A copy of the application is available for inspection and requests for public hearing may be filed in the office of the Correspondence Control Officer, Interim Compliance Panel, Room 800, 1730 K Street NW., Washington, D.C. 20006.

GEORGE A. HORNBECK,
Chairman, Interim Compliance Panel.

NOVEMBER 2, 1973.

[FR Doc.73-23709 Filed 11-6-73;8:45 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (73-83)]

HISTORICAL ADVISORY COMMITTEE

Notice of Meeting

The NASA Historical Advisory Committee will meet on November 16 and 17, 1973, at the Headquarters of the National Aeronautics and Space Administration, Washington, D.C. 20546. The meeting will be held in Room 7001C of Federal Office Building 6, 400 Maryland Avenue SW., Washington, D.C. 20546. Members of the public will be admitted to the open portion of the meeting beginning at 9:00 a.m. November 16, 1973, on the agenda below on a first come first served basis up to the seating capacity of the room, which is about 20 persons.

The NASA Historical Advisory Committee serves in an advisory capacity only. In this capacity it is concerned with all activities which the agency undertakes in the preservation, compilation, writing and publication of the historical record of Aeronautics and Space Activities. The current Chairman is Professor Louis Morton. There are 6 members. For further information, please contact Mr. James P. Nolan: area code 202, 755-3960.

The following sets forth the approved agenda topics for the meeting:

NOVEMBER 16, 1973, 9:00 A.M. TO 4:30 P.M.

Review of Status and Plans of the NASA Historical Program and Committee Recommendations;

Report on the History of NASA, Volume 1: Review of the NASA Approach to Contracting and University Relationships and Committee Recommendations;

Committee Activities and Plans.

NOVEMBER 17, 1973 (CLOSED TO THE PUBLIC)

Executive session. The committee will consider and make recommendations on candidates for undertaking several NASA historical activities. These discussions will involve expression of the committee members' views on the personal and professional qualifications of various individuals who are not members of the committee and public discussion would constitute unwarranted invasion of their personal privacy.

HOMER E. NEWELL,
Associate Administrator, National Aeronautics and Space Administration.

OCTOBER 31, 1973.

[FR Doc.73-23694 Filed 11-6-73;8:45 am]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

THEATRE ADVISORY PANEL

Notice of Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the Theatre Advisory Panel to the National Council on the Arts will be held on November 17 and 18, 1973, at 9:30 a.m., Sheraton-Palace Hotel, Market at New Montgomery, San Francisco, California 94119.

A portion of this meeting will be open to the public on November 17 from 9:30 a.m. to 1:00 p.m. on a space available basis. Accommodations are limited. The remaining sessions of this meeting on November 17 and 18 are for the purpose of panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of January 10, 1973, these sessions, which involve matters exempt from the requirements of public disclosure under the provisions of the Freedom of Information Act (5 U.S.C. 552(b)(4), (5), and (6), will not be open to the public.

Further information with reference to this meeting can be obtained from Mrs. Eleanor A. Snyder, Advisory Committee Management Officer, National Endowment for the Arts, 806 15th Street NW., Washington, D.C., 20506 or call Area Code 202-382-3308.

JOYCE E. FREELAND,
Acting Director of Administration, National Foundation on the Arts and the Humanities.

[FR Doc.73-23668 Filed 11-6-73;8:45 am]

MUSIC CONSULTANTS

Notice of Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a closed meeting of the Music Consultants to the National Council on the Arts will be held on November 8, 9, 10, 1973, at 10:00 a.m., 1425 K Street, NW., Washington, D.C.

This meeting is for the purpose of reviewing, discussing, evaluating, and recommending applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of January 10, 1973, these sessions, which involve matters exempt from the requirements of public disclosure under the provisions of the Freedom of Information Act (5 U.S.C. 552(b)(4),

(5), and (6)), will not be open to the public.

Further information with reference to this meeting can be obtained from Mrs. Eleanor A. Snyder, Advisory Committee Management Officer, National Endowment for the Arts, 806 15th Street, NW., Washington, D.C. 20506, or call Area Code (202) 382-3308.

JOYCE E. FREELAND,
Acting Director of Administration, National Foundation on the Arts and the Humanities.

[FR Doc.73-23669 Filed 11-6-73;8:45 am]

NATIONAL ENDOWMENT FOR THE ARTS

ARCHITECTURE AND ENVIRONMENTAL ARTS PROGRAM

Special Instructions and Procedures for Submitting City Options Grant Applications

The following are guidelines for grants made under the Architecture and Environmental Arts Program of the National Endowment for the Arts, an independent agency of the Federal government which makes grants to organizations and individuals concerned with the arts throughout the United States.

Notice is hereby given that the deadline for applications under the Architecture and Environmental Arts Program for City Options is January 15, 1974. Interested persons should contact the Architecture and Environmental Arts Program, National Endowment for the Arts, Washington, D.C. 20506, 202-382-6557, for further information and application forms. Only the Architecture and Environmental Arts office may distribute application forms.

Signed at Washington, D.C., on November 1, 1973.

FANNIE TAYLOR,
Director, Program Information.

APPLICATION INFORMATION

Submission procedures. Completed applications must be postmarked no later than January 15, 1974, and must be accompanied by three or more letters of endorsement both to the project's desirability and to the investigator's general qualifications to undertake such studies. These applications must be submitted in triplicate with original signatures to the Grants Office, National Endowment for the Arts, Washington, D.C. 20506. Any supplemental material provided by the applicant should also accompany applications.

Eligibility. The Organization Grant Application form may be submitted by state and local governmental entities, universities, or groups that possess nonprofit, tax-exempt status under section 170(c) of the Internal Revenue Code. Professional offices are not eligible for grants under this program. They may, however, participate as part of a team under the employment or contract of a tax-exempt group which is named as "applicant organization." Departments or schools within a university should submit a grant request with the university acting as the "applicant organization."

Grants to nonprofit, tax-exempt groups, universities and governmental units will not exceed $50,000 and most grants will be for less. Applicants must provide a minimum of one-half of the total project cost.

The Individual Grant Application form may be submitted by individuals with exceptional talent. Grants to individuals will, in most cases, not exceed $10,000. There is no matching requirement for individual applications.

There is a limit of one proposal per "applicant" or "applicant organization."

Available funds will not permit the use of grants for acquisition of real property, capital construction, renovation of existing structures or the design fees for undertaking such projects.

All projects must be performed within the 50 states, Washington, D.C., Puerto Rico, Guam, American Samoa, and the Virgin Islands.

Evaluation criteria. Applications will be evaluated by the following general standards:

Originality of proposal.

Applicant's capabilities for undertaking the project.

Response to public need.

Proposal's prospects for implementation.

Selection procedures. Applications will receive preliminary screening by regional panels. Further review will then be provided by a national panel composed of national representatives of the design and planning professions and one representative from each of the regional panels. Their findings will be presented to the National Council on the Arts for final recommendation.

A word on the Bicentennial. The National Council on the Arts, recognizing that the goals and objectives of many projects to be funded under the City Options program are in keeping with the spirit of our country's bicentennial, has designated City Options as a bicentennial program.

A word on accessibility to the arts for the handicapped. The National Council on the Arts believes that no citizen should be deprived of the beauty and the insights into the human experience that only the arts can impart. The Council has noted that the Congress of the United States passed in 1968 (Pub. L. 90-480) legislation that would require all public buildings constructed, leased, or financed in whole or in part by the Federal Government to be accessible to handicapped persons. The Council has endorsed strongly the intent of this legislation and urges private interests and governments at the state and local levels to take the intent of this legislation into account when building or renovating cultural facilities.

SPECIAL INSTRUCTIONS FOR COMPLETING CITY OPTIONS GRANT APPLICATION

Organization application. Grant Period may not commence before August 31, 1974, and should not extend beyond August 31, 1975.

Budget Breakdown of Total Estimated Cost is to be provided by all applicant organizations regardless of amount requested. All questions of a fiscal nature should be directed to the Grants Office, National Endowment for the Arts, Washington, D.C. 20506, 202-382-6057.

Selected supplemental material describing the project may be submitted along with the application. However, a complete summary of the project description must be contained within the space provided on the application. It is most important that this summary present a clear and concise statement of the intent and purpose of the proposal. No material submitted will be returned.

Names and titles should be typed or printed beneath all signatures appearing on the applications.

Individual application. Grant period may not commence before August 31, 1974, and should not extend beyond August 31, 1975.

Selected supplemental material describing the project may be submitted along with the application. However, a complete summary of the project description must be contained within the space provided on the application. It is most important that this summary present a clear and concise statement of the intent and purpose of the proposal. No material will be returned.

All questions of a fiscal nature should be directed to the Grants Office, National Endowment for the Arts, Washington, D.C., 202-382-6057.

Although there may be more than one investigator involved in executing the proposed project, only one person can be the legal recipient of an individual grant, and this person's name should appear on the application form under name. This individual will be responsible for complying with all requests and regulations in conjunction with the grant application and for informing coinvestigators of the application's status.

Names and titles should be typed or printed beneath all signatures appearing on the applications.

[FR Doc.73-23696 Filed 11-6-73;8:45 am]

DEPARTMENT OF LABOR

Office of the Secretary

NATIONAL MANPOWER ADVISORY COMMITTEE'S SUBCOMMITTEE ON PROFESSIONAL, SCIENTIFIC AND TECHNICAL MANPOWER

Notice of Meeting

The National Manpower Advisory Committee's Subcommittee on Professional, Scientific, and Technical Manpower will meet at the Department of Labor on November 16, 1973. Appointed by the Secretary of Labor in July 1971 the Subcommittee on Professional, Scientific and Technical Manpower makes recommendations to the National Manpower Advisory Committee on the special problems arising from the supply and demand for skilled manpower. Members of the Subcommittee are chosen by the Secretary of Labor from representatives of labor, management, education and government. The chairman is Dr. Allan M. Cartter of the University of California at Los Angeles.

At its meeting on November 16 the Subcommittee on Professional, Scientific and Technical Manpower will hear reports on proposed legislation affecting engineering and scientific manpower, and the career outlook in engineering. It will also respond to an issue paper on doctorate manpower problems, forecasts and policy. The meeting will be held in Conference Room 107 in the Department of Labor starting at 9:30 a.m., and is expected to adjourn soon after 4:00 p.m. The meeting will be open to the public.

Signed at Washington, D.C., this 1st day of November 1973.

ROBERT R. BEHLOW,
Executive Secretary.

[FR Doc.73-23690 Filed 11-6-73;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

AMERICAN BANCSHARES FUND, INC.

Notice of Proposal To Terminate Registration

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 American Bancshares Fund, Inc. (Fund), c/o Mr. Sidney Sosin Arvey, Hodes & Mantynband, One North La Salle Street, Chicago, Illinois 60602, registered under the Act as a diversified, open-end management investment company, has ceased to be an investment company.

On December 18, 1969, the Fund registered under the Act by filing a Form N–8A Notification of Registration and a Form N–8B–1 Registration Statement. The Fund also filed on that date a Form S–6 Registration Statement under the Securities Act of 1933 (1933 Act).

The Fund has no assets, and no shares of the Fund were ever issued. On June 14, 1972, the Fund's registration statement under the 1933 Act was declared abandoned by order of the Commission. The Fund has been dissolved.

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 November 26, 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, if any, 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 (airmail if the person being served is located more than than 500 miles from the point of mailing) upon the Fund at the address stated above. Proof of such service (by affidavit, or in the case of an attorney at law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date, unless the Commission thereafter orders a hearing 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] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.73-23657 Filed 11-6-73;8:45 am]

COLUMBIA GAS SYSTEM, INC. ET AL.

Post-Effective Amendment Regarding Proposed Issuance and Sale of Common Stock and Installment Notes

Notice is hereby given that The Columbia Gas System, Inc. (Columbia), 20 Montchanin Road, Wilmington, Delaware 19807, a registered holding company, and its wholly owned subsidiary companies listed above, have filed with this Commission a post-effective amendment to its application-declaration pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6(b), 9, 10, and 12(f) of the Act, and Rule 43 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration as now amended for a complete statement of the proposed transactions.

By Order dated April 26, 1973 (Holding Company Act Release No. 17943), the Commission, among other things, authorized a number of intrasystem financings including the issuance and sale by Columbia LNG Corporation (Columbia LNG) of its common stock in an aggregate amount of up to $9,300,000 and unsecured installment notes in an aggregate amount up to $22,950,000. It is now proposed that, due to cost escalations necessitating added capital for its 1973 construction program (estimated at $46,768,000), Columbia LNG, prior to April 1, 1974, issue and sell to Columbia up to 174,000 shares of its common stock, $25 par value, for an aggregate amount of $4,350,000, and unsecured installment notes (Notes) up to an aggregate principal amount of $9,800,000. The Notes issued by Columbia LNG for financing the Green Springs, Ohio, reformed gas facility, in the aggregate amount of $2,140,000, will be due in ten equal annual installments on April 1st of each of the years 1975 to 1984, inclusive. The Notes issued for financing the Cove Point, Maryland, storage and regasification facility, in the aggregate amount of $7,660,000, will be due in twenty equal annual installments on October 1st of each of the years 1977 to 1996, inclusive.

Interest on all of the Notes will accrue from the date of issuance of the Notes and is to be paid semiannually on the unpaid principal balance. The interest rate will be the actual cost of money to Columbia with respect to its last sale of debentures prior to the issuance of the said Notes, decreased by an amount necessary in order that the interest rate be a multiple of $\frac{1}{10}$ of 1 percent. Columbia sold $50,000,000 principal amount of debentures on May 16, 1973 (Holding Company Act Release No. 17957) at a cost of money of 7.62 percent. The Notes, therefore, will initially bear interest at 7.6 percent, and any subsequent Notes will bear an interest rate related to the last such sale of debentures prior to the issuance of said Notes.

The expenses to be incurred in connection with the proposed transactions are estimated to be $2,500, including $2,000 for services at cost by Columbia Gas System Service Corporation, a wholly owned subsidiary of Columbia Gas.

It is stated that no State commission or Federal commission, other than this Commission, has jurisdiction over the transactions proposed in the post-effective amendment.

Notice is further given that any interested person may, not later than November 25, 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 post-effective amendment to the application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as now amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.73-23658 Filed 11-6-73;8:45 am]

INDIANA & MICHIGAN ELECTRIC CO.

Proposed Issuance and Sale of Bonds and Stock

Notice is hereby given that Indiana & Michigan Electric Company (I. & M.), 2101 Spy Run Avenue, Fort Wayne, Indiana 46801, an electric utility subsidiary company of American Electric Power Company, Inc. (AEP), a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act) designating section 6(b) of

the Act and Rule 50 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transactions.

I. & M. proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, $40,000,000 principal amount of First Mortgage Bonds, to mature in not less than 5 and not more than 30 years. The interest rate (which will be not less than 100 percent, unless I. & M. shall authorize a lower percentage not less than 99 percent, and shall not exceed 102.75 percent) will be determined by competitive bidding. The Bonds will be issued under a Mortgage and Deed of Trust dated as of June 1, 1939, between I. & M. and Irving Trust Company, as Trustee, as heretofore supplemented and as to be further supplemented by a supplemental indenture to be executed in connection with this issuance. The terms of the Bonds preclude I. & M. from redeeming any such Bonds prior to December 1, 1978 if such redemption is for the purpose of refunding such Bonds with proceeds of funds borrowed at a lower effective interest cost.

I. & M. also proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, 300,000 shares of a new series of its Cumulative Preferred Stock, par value $100 per share. The dividend rate (which will be a multiple of .04 of 1 percent) and the price to be paid to the Company (which shall not be less than $100 per share or more than $102.75 per share) will be determined by competitive bidding. Prior to December 1, 1978, none of the shares of the Cumulative Preferred Stock may be redeemed if such redemption is for the the purpose of refunding such share, directly or indirectly, through the incurring of debt or the issuance of stock ranking equally with or prior to the Cumulative Preferred Stock at an interest or dividend cost less than the dividend cost to I. & M. of the Cumulative Preferred Stock.

Neither the Bonds nor the Cumulative Preferred Stock will be issued and sold unless I. & M. shall have received prior to such sale and subsequent to September 30, 1973, cash capital contributions from AEP which aggregate $50,000,000. The making of such cash capital contributions have been previously authorized on June 29, 1973 (Holding Company Act Release No. 18013).

The proceeds realized from the sale of the Bonds and Cumulative Preferred Stock will be applied within 90 days after such sale to the payment of a like principal amount of unsecured short-term indebtedness of I. & M. consisting of notes and demand notes payable to banks and commercial paper. At October 5, 1973, $105,796,000 principal amount of such unsecured short-term debt was outstanding and, it is anticipated that at the time of the sale of the Bonds and Cumulative Preferred Stock, not less than $70,000,000 principal amount of such unsecured short-term debt will be outstanding. The proceeds from the cash capital contribution or contributions received by I. & M. from American Electric Power Company, Inc. will be applied to the payment of unsecured short-term indebtedness of I. & M., to reimburse its treasury for money actually expended for the construction program and for other corporate purposes. The presently estimated cost of I. & M.'s construction program for 1973 is $76,600,000 and for 1974 is $83,100,000.

Expenses of I. & M. in connection with the proposed transactions will be filed by amendment. The proposed transactions are subject to the jurisdiction of the Public Service Commission of Indiana and the Michigan Public Service Comission, and no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than November 29, 1973, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponement thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.73-23659 Filed 11-6-73;8:45 am]

METROPOLITAN EDISON CO.

Proposed Issue and Sale of First Mortgage Bonds and Debentures

Notice is hereby given that Metropolitan Edison Company (Met-Ed), 2800 Pottsville Pike, Muhlenberg Township, Berks County, Pennsylvania 19605, an electric utility subsidiary company of General Public Utilities Corporation (GPU), a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating section 6(b) of the Act and Rule 50 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transactions.

Met-Ed proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 promulgated under the Act, $20,000,000 principal amount of First Mortgage Bonds — percent Series due 2003. The interest rate of the bonds (which will be a multiple of 1/8 of 1 percent) and the price (exclusive of accrued dividends) to be paid to Met-Ed (which will not be less than 100 percent nor more than 102.75 percent of the principal amount thereof) will be determined by the competitive bidding. The bonds will be issued under an Indenture dated as of November 1, 1944, between Met-Ed and Guaranty Trust Company of New York (now Morgan Guaranty Trust Company of New York), Trustee, as heretofore supplemented and amended and as to be further supplemented and amended by a Supplemental Indenture to be dated December 1, 1973. The bonds may not be redeemed prior to December 1, 1978, with funds borrowed at a lower interest cost.

Met-Ed also proposes to issue and sell, subject to the competitive bidding requirements of Rule 50, $20,000,000 principal amount of debentures to be dated December 1, 1973, and to mature December 1, 1998. The interest rate to be borne by the debentures (which shall be a multiple of 1/8 of 1 percent) and the price, plus accrued interest from December 1, 1973 to date of delivery, to be paid to Met-Ed (which shall be not less than 100 percent and not more than 102 3/4 percent of the principal amount of the debentures) will be determined by competitive bidding. The debentures will be issued under an Indenture dated as of June 1, 1965, between Met-Ed and The Marine Midland Trust Company of New York (now Marine Midland Bank—New York), Trustee, as supplemented and as to be further supplemented by a Third Supplemental Indenture to be dated as of December 1, 1973, which includes a prohibition until December 1, 1978, against refunding the issue with or in anticipation of proceeds from borrowings at a lower effective interest cost.

The proceeds from the sale of the bonds and debentures will be used to pay Met-Ed's short-term bank loans, approximately $40,000,000 of which are expected to be outstanding on the date of issuance, or to reimburse Met-Ed's treasury for expenditures therefrom for construction purposes. Any premium realized from the sale of the debentures will be used for financing the business of Met-Ed, including the payment of the expenses of this financing. The 1973 construction program is estimated to cost $140,000,000.

It is stated that the fees and expenses incident to the proposed bonds and debentures are estimated at $90,000 and

$85,000 respectively, including respective counsel fees of $27,000 and $21,000, and respective accounting fees of $3,800. The fees and disbursements of counsel for the underwriters, to be paid by the successful bidders, will be supplied by amendment.

It is further stated that the issue and sale of the bonds and debentures are subject to the jurisdiction of the Pennsylvania Public Utility Commission and that no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than November 20, 1973, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.73-23660 Filed 11-6-73;8:45 am]

STATE MUTUAL LIFE ASSURANCE CO. OF AMERICA AND STATE MUTUAL SECURITIES, INC.

Filing of Application for Order

Notice is hereby given that the State Mutual Life Assurance Company of America (the Insurance Company) and State Mutual Securities, Inc. (the Investment Company), 440 Lincoln Street, Worcester, Massachusetts 01605, registered under the Investment Company Act of 1940 (Act) as a diversified, closed-end management investment company (hereinafter collectively referred to as Applicants), have filed an application pursuant to section 17(d) of the Act and rule 17d-1 thereunder for an order of the Commission permitting Applicants to jointly participate in the purchase at par of $2,500,000 principal amount of a new issue of 8¾ percent Senior Notes due 1989 (the Notes) of Rand McNally & Company (Rand McNally) or, in the event the Insurance Company purchases the Notes before the issuance of such order, for an order pursuant to section 17(b) of the Act exempting from the provisions of section 17(a) of the Act the sale by the Insurance Company of one-half of the Notes to the Investment Company. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Pursuant to an order of the Commission issued on February 12, 1973 (Investment Company Act Release No. 7665) and corrected on February 27, 1973 (Investment Company Act Release No. 7698) (collectively "the Order"), the Insurance Company, which acts as investment adviser to the Investment Company, is permitted to invest concurrently for its general account in each issue of securities purchased by the Investment Company at direct placement and to exercise warrants, conversion privileges, and other rights at the same time. The Order is subject to several conditions. One condition generally requires that purchases at direct placement of securities, which would be consistent with the investment policies of the Investment Company, be shared equally by the Insurance Company and the Investment Company. Another condition limits the Order to situations in which neither the Insurance Company nor the Investment Company have any prior interest in the issuer, in any affiliated person of the issuer, or in any securities issued by such issuer or affiliated person, other than interests in all respects identical.

Applicants expect the total issue of the Notes to be $6,000,000. The Insurance Company understands that Rand McNally is willing to sell a portion of the Notes to the Investment Company and, as adviser for the Investment Company, the Insurance Company believes that the Notes would be an attractive investment for the Investment Company. Applicants would like to invest concurrently in the Notes, but such investment would not be consistent with the terms of the Order because the Insurance Company already holds $2,900,000 principal amount of 6¼ percent Notes due 1982 of Rand McNally payable at the rate of $300,000 three times yearly from 1974 to 1981, inclusive. Since the Investment Company owns no securities of Rand McNally, Applicants cannot comply with the conditions that they have no prior interests in an issuer other than interests in all respects identical. Therefore, Applicants have applied for an order pursuant to section 17(d) of the Act and rule 17d-1 thereunder permitting the acquisition by each of the Applicants of $1,250,000 principal amount of the Notes, subject to the conditions imposed on such joint transactions in the Order.

In the event the requested order is not issued before the issuance of the Notes, the Insurance Company proposes to acquire the entire $2,500,000 principal amount itself, subject to the obligation to transfer one-half of such amount to the Investment Company at cost plus accrued interest should an order of the Commission permitting such transaction issue within three months of such acquisition. Therefore, Applicants seek an exemption pursuant to section 17(b) of the Act permitting the sale by the Insurance Company to the Investment Company of one-half of the Notes in the event the requested order pursuant to section 17(d) of the Act and rule 17d-1 thereunder is not granted before the acquisition of the Notes by the Insurance Company. If no order of exemption is received, the $2,500,000 principal amount of the Notes will be retained for investment by the Insurance Company.

Rule 17d-1 adopted by the Commission under section 17(d) of the Act provides that "no affiliated person of * * * any registered investment company * * * acting as principal, shall participate in, or effect any transaction in connection with, any joint enterprise or other joint arrangement or profit sharing plan in which such registered company * * * is a participant, and which is entered into, adopted or modified subsequent to the effective date of this rule, unless on application regarding such joint enterprise, arrangement or profit sharing plan has been filed with the Commission and has been granted by an order entered * * * prior to such adoption or modification." It also provide that in passing upon such application the Commission will consider whether the participation of such registered or controlled company in such joint enterprise, joint arrangement, or profit sharing plan on the basis proposed is consistent with the provisions, policies, and purposes of the Act and the extent to which such participation is on a basis different from, or less advantageous than, that of other participants.

Section 17(a) of the Act, as here pertinent, prohibits the Insurance Company as an affiliated person of the Investment Company from selling to the Investment Company any securities unless the Commission, upon application pursuant to section 17(b), grants an exemption from the provisions of section 17(a) upon finding that the terms of the proposed transaction, including the consideration to be paid, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of the Investment Company and with the general purposes of the Act.

The Insurance Company represents that its prior holdings of Rand McNally securities had no effect on the decision that the Notes would be an attractive investment for the Applicants. Applicants state that each will acquire the same amount of the Notes at the same price, and the terms of the transfer of the $1,250,000 principal amount of the Notes from the Insurance Company to the Investment Company would be reasonable

and fair and free of overreaching since the consideration paid by the Investment Company would equal the price paid by the Insurance Company for the Notes plus accrued interest. Applicants submit that the proposed transaction is consistent with the policy of the Investment Company as recited in its registration statements and that the proposed transaction is consistent with the general purposes of the Act.

Notice is further given that any interested person may, not later than November 26, 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 (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the address stated above. Proof of such service (by affidavit, or in the case of an attorney at law, by certificate) shall be filed contemporaneously with the request. As provided by rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing 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] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.73-23661 Filed 11-6-73;8:45 am]

STATE MUTUAL LIFE ASSURANCE CO. OF AMERICA AND STATE MUTUAL SECURITIES, INC.

Filing of Application for Order

Notice is hereby given that the State Mutual Life Assurance Company (the "Insurance Company") and State Mutual Securities, Inc. (the "Investment Company"), 440 Lincoln Street, Worcester, Massachusetts 01605, registered under the Investment Company Act of 1940 ("Act") as a diversified, closed-end management investment company (hereinafter collectively referred to as "Applicants"), have filed an application pursuant to section 17(d) of the Act and rule 17d–1 thereunder for an order of the Commission permitting Applicants to jointly participate in the purchase at par of $5,000,000 principal amount of a new issue of 8¾ percent Senior Notes due 1989 (the "Notes") of The William Carter Company ("Carter") or, in the event the Insurance Company purchases the Notes before the issuance of such order, for an order pursuant to section 17(b) of the Act exempting from the provisions of section 17(a) of the Act the sale by the Insurance Company of one-half of the Notes to the Investment Company. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Pursuant to an order of the Commission issued on February 12, 1973 (Investment Company Act Release No. 7665) and corrected on February 27, 1973 (Investment Company Act Release No. 7698) (collectively the Order), the Insurance Company, which acts as investment adviser to the Investment Company, is permitted to invest concurrently for its general account in each issue of securities purchased by the Investment Company at direct placement, and to exercise warrants, conversion privileges, and other rights at the same time. The Order is subject to several conditions. One condition generally requires that purchases at direct placement of securities, which would be consistent with the investment policies of the Investment Company, be shared equally by the Insurance Company and the Investment Company. Another condition limits the Order to situations in which neither the Insurance Company nor the Investment Company have any prior interest in the issuer, in any affiliated person of the issuer, or in securities issued by such issuer or affiliated person, other than interests in all respects identical.

Applicants expect the total issue of the Notes to be $8,000,000. The Insurance Company understands that Carter is willing to sell a portion of the Notes to the Investment Company and, as adviser for the Investment Company, the Insurance Company believes that the Notes would be an attractive investment for the Investment Company. Applicants would like to invest concurrently in the Notes but such investment would not be consistent with the terms of the Order because the Insurance Company already holds $750,000 principal amount of 5¾ percent Notes due 1975 of Carter, repayable at the rate of $250,000 per annum. Since the Investment Company owns no securities of Carter, Applicants cannot comply with the condition that they have no prior interests in an issuer other than interests in all respects identical. Applicants have therefore applied for an order pursuant to section 17(d) of the Act and rule 17d–1 thereunder permitting the acquisition by each of the Applicants of $2,500,000 principal amount of the Notes, subject to the conditions imposed on such joint transactions in the Order.

In the event the requested order is not issued before the issuance of the Notes, the Insurance Company proposes to acquire the entire $5,000,000 principal amount itself, subject to an obligation to transfer one-half of such amount to the Investment Company at cost plus accrued interest should an order issue within three months of such acquisition. Applicants seek an exemption pursuant to section 17(b) of the Act permitting the sale by the Insurance Company to the Investment Company of one-half of the Notes in the event the requested order pursuant to section 17(d) of the Act and rule 17d–1 thereunder is not granted before the acquisition of the Notes by the Insurance Company. If no order of exemption is received, the $5,000,000 principal amount of the Notes will be retained for investment by the Insurance Company.

Rule 17d–1 adopted by the Commission under section 17(d) of the Act provides that "no affiliated person of * * * any registered investment company * * * acting as principal, shall participate in, or effect any transaction in connection with, any joint enterprise or other joint arrangement or profit sharing plan in which any such registered company * * * is a participant, and which is entered into, adopted or modified subsequent to the effective date of this rule, unless an application regarding such joint enterprise, arrangement or profit sharing plan has been filed with the Commission and has been granted by an order entered * * * prior to such adoption or modification." It also provides that in passing upon such application the Commission will consider whether the participation of such registered or controlled company in such joint enterprise, joint arrangement or profit sharing plan on the basis proposed is consistent with the provisions, policies and purposes of the Act and the extent to which such participation is on a basis different from, or less advantageous than, that of other participants.

Section 17(a) of the Act, as here pertinent, prohibits the Insurance Company, an affiliated person of the Investment Company, from selling to the Investment Company any securities unless the Commission, upon application pursuant to section 17(b), grants an exemption from the provisions of section 17(a) upon finding that the terms of the proposed transaction, including the consideration to be paid, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of the Investment Company and with the general purposes of the Act.

The Insurance Company represents that its prior holdings of Carter securities had no effect on the decision that the Notes would be an attractive investment for the Applicants. Applicants further represent that each will acquire the same amount of the Notes at the same price, and the terms of the transfer of the $2,500,000 principal amount of the Notes from the Insurance Company to the Investment Company would be reasonable and fair and free of overreaching since the consideration paid by the Investment Company would equal the price paid by the Insurance Company for the Notes plus accrued interest. Applicants submit

that the proposed transaction is consistent with the policy of the Investment Company as recited in its registration statements and that the proposed transaction is consistent with the general purposes of the Act.

Notice is further given that any interested person may, not later than November 26, 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 (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the address stated above. Proof of such service (by affidavit, or in the case of an attorney at law, by certificate) shall be filed contemporaneously with the request. As provided by rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing 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] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.73-23662 Filed 11-6-73;8:45 am]

[File No. 500-1]

PENNSYLVANIA LIFE CO.

Notice Amending Notice of Suspension of Trading

OCTOBER 24, 1973.

The Commission having determined to amend its notice of October 19, 1973, summarily suspending trading in the securities of Pennsylvania Life Company for the period October 20, 1973, through October 29, 1973;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in the common stock, warrants and units and all other securities of Pennsylvania Life Company being traded otherwise than on a national securities exchange is suspended, for the period from October 20, 1973, through 9:45 a.m. (e.d.t.) on October 25, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.73-23663 Filed 11-6-73;8:45 am]

[File No. 500-1]

BBI, INC.

Notice of Suspension of Trading

OCTOBER 30, 1973.

The common stock of BBI, Inc., being traded on the American Stock Exchange and the Philadelphia-Baltimore-Washington Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of BBI, Inc., being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange is suspended, for the period from October 31, 1973, through November 9, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.73-23664 Filed 11-6-73;8:45 am]

[File No. 500-1]

U.S. FINANCIAL INC.

Notice of Suspension of Trading

OCTOBER 30, 1973.

The common stock of U.S. Financial Incorporated, being traded on the New York Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of U.S. Financial Incorporated, being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange is suspended, for the period from October 31, 1973, through November 9, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.73-23665 Filed 11-6-73;8:45 am]

[File No. 500-1]

PENN GENERAL AGENCIES, INC.

Notice Amending Notice of Suspension of Trading

OCTOBER 24, 1973.

The Commission having determined to amend its notice of October 19, 1973, summarily suspending trading in the securities of Penn General Agencies, Inc., for the period October 20, 1973, through October 29, 1973;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in the common stock, warrants and units and all other securities of Penn General Agencies Incorporated, being traded otherwise than on a national securities exchange is suspended, for the period from October 20, 1973, through 9:45 a.m. (e.d.t.) on October 25, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.73-23666 Filed 11-6-73;8:45 am]

[File No. 500-1]

TRIEX INTERNATIONAL CORP.

Notice of Suspension of Trading

OCTOBER 30, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Triex International Corporation, being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from October 31, 1973, through November 9, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.73-23667 Filed 11-6-73;8:45 am]

[File No. 500-1]

EQUITY FUNDING CORP. OF AMERICA

Notice of Suspension of Trading

OCTOBER 23, 1973.

The common stock of Equity Funding Corporation of America being traded on the New York Stock Exchange, the Midwest Stock Exchange, the Pacific-Coast Stock Exchange, the Philadelphia-Baltimore-Washington Stock Exchange, the Boston Stock Exchange; warrants to purchase the common stock being traded on the American Stock Exchange and the Philadelphia - Baltimore - Washington Stock Exchange; 9½ percent debentures due 1990 being traded on the New York Stock Exchange; and 5½ percent convertible subordinated debentures due 1991 being traded on the New York Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Equity Funding Corporation of America being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities

on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to sections 19(a)(4) and 15(c)(5) of the Securites Exchange Act of 1934, trading in such securities on the above mentioned exchanges and otherwise than on a national securities exchange is suspended, for the period from October 24, 1973 through November 2, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.73-23698 Filed 11-6-73;8:45 am]

[70-5414]

JERSEY CENTRAL POWER & LIGHT CO.

Notice of Proposed Issue and Sale of First Mortgage Bonds at Competitive Bidding

Notice is hereby given that Jersey Central Power & Light Company ("Jersey Central"), Madison Avenue at Punch Bowl Road, Morristown, New Jersey 07960, an electric utility subsidiary company of General Public Utilities Corporation, a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating section 6(b) of the Act and Rule 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transaction.

Jersey Central proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, $30,000,000 principal amount of First Mortgage Bonds, ____ percent Series due 2003. The interest rate (which will be a multiple of ⅛ of 1 percent) and the price (which will be not less than 100 percent nor more than 102.75 percent of the principal amount thereof plus accrued interest from December 1 ,1973 to the date of delivery) will be determined by competitive bidding. The bonds will be issued under Indenture, dated as of March 1, 1946, of Jersey Central to First National City Bank (formerly City Bank Farmers Trust Company), Trustee, as heretofore supplemented and amended by a Twenty-fourth Supplemental Indenture to be dated as of December 1, 1973, and which includes, with certain exceptions, a prohibition until December 1, 1978 against refunding the issue with proceeds of funds borrowed at a lower effective interest cost.

The entire proceeds, excluding premium and accrued interest, realized from the sale of the new bonds (£$30,000,000) will be applied to the retirement at maturity of $9,000,000 principal amount of New Jersey Power & Light Company First Mortgage Bonds, 3 percent Series due March 1, 1974 and the anticipated payment of a portion of Jersey Central's $46,000,000 principal amount of short-term bank loans expected to be outstanding at the date of the sale of the December 2003 Series Bonds or for construction purposes or to reimburse Jersey Central's treasury for funds previously expended therefrom for such purposes. The estimated cost of Jersey Central's 1973 construction program is approximately $195,000,000.

The fees and expenses to be paid by Jersey Central in connection with the issue and sale of bonds are estimated to total $110,000, including legal fees of $27,000. The fees and expenses of counsel for the underwriters, to be paid by the successful bidders, will be supplied by amendment. It is stated that the Board of Public Utility Commissioners of New Jersey has jurisdiction over the proposed issue and sale of bonds by Jersey Central and that no other State Commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than November 28, 1973, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended; may be granted as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.73-23701 Filed 11-6-73;8:45 am]

[70-5366]

MIDDLE SOUTH UTILITIES, INC.

Notice of Post-Effective Amendment Regarding Issue and Sale of Additional Short-Term Promissory Notes to Banks for Borrowings Under a Revolving Credit Agreement

Notice is hereby given that Middle South Utilities, Inc. ("Middle South"), 280 Park Avenue, New York, New York 10017, a registered holding company, has filed with the Commission a post-effective amendment to its previously amended declaration in this proceeding pursuant to sections 6(a) and 7 of the Public Utility Holding Company Act of 1935 ("Act") regarding the following proposed transactions. All interested persons are referred to the declaration, as amended, which is summarized below, for a complete statement of the proposed transactions.

By order dated August 24, 1973 (Holding Company Act Release No. 18065), the Commission, among other things, authorized Middle South to initially issue and sell its unsecured promissory notes in an aggregate amount not to exceed $30,000,000 outstanding at any one time, under a $135,000,000 revolving credit agreement with a group of 7 commercial banks headed by Manufacturers Hanover Trust Company of New York ("Banks"). Middle South now proposes that the maximum aggregate amount of short-term notes to be issued and sold to the Banks be increased from $30,000,000 to $88,700,000. In all other respects the transactions heretofore authorized and described in the above-mentioned Commission order remain unchanged.

Middle South states the proceeds of the borrowing will be utilized as follows:

(i) $25,000,000 to purchase from Arkansas Power & Light Company ("AP&L"), an electric utility subsidiary of Middle South, 2,000,000 shares of AP&L's common stock at a price of $12.50 per share. Such purchase is the subject of a pending joint application-declaration filed with the Commission by AP&L and Middle South (File No. 70-5404).

(ii) $30,000,000 to purchase from Louisiana Power & Light Company ("LP&L"), an electric utility subsidiary of Middle South, 4,725,000 shares of LP&L's common stock, without nominal or par value, for an aggregate purchase price of $30,000,000 in cash. Such purchase is the subject of a pending joint application-declaration filed with the Commission by LP&L and Middle South (File No. 70-5403).

(iii) $3,700,000 to reimburse Middle South for funds expended to purchase from Arkansas-Missouri Power Company ("Ark-Mo"), an electric utility subsidiary of Middle South, 1,040,000 additional shares of common stock of Ark-Mo for an aggregate of $2,600,000 in cash, and $1,100,100 unsecured short-term promissory notes of Ark-Mo to be acquired by Middle South (Holding Company Act Release No. 18008, June 21, 1973).

The filing states that no State or Federal commission, other than this Commission, has jurisdiction over the proposed transactions. No special fees and expenses are anticipated in connection with the additional borrowings referred to herein.

Notice is further given that any interested person may, not later than November 20, 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 amended 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 amended by said post-effective amendment or as it may be further amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.73-23700 Filed 11-6-73;8:45 am]

[File No. 500-1]

ROYAL PROPERTIES INC.

Notice of Suspension of Trading

OCTOBER 29, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Royal Properties Incorporated being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from October 30, 1973, through November 8, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.73-23697 Filed 11-6-73;8:45 am]

[811-1049]

SCIENCE INVESTMENTS, INC.

Notice of Proposal To Terminate Registration

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 Science Investments, Inc. (Science), 340 Main Street, Worcester, Massachusetts 01608, registered under the Act as a closed-end, nondiversified management investment company, has ceased to be an investment company as defined in the Act.

Science was organized as a Massachusetts corporation on April 20, 1961, and filed a Notice of Registration on Form N-8A on April 24, 1961, and a Registration Statement on Form N-8B-1 on July 24, 1961.

The Commission's records indicate that Science was placed in receivership under the supervision of the United States District Court for the District of Massachusetts (Court) in 1963. Pursuant thereto, Science was liquidated, and its assets were distributed to its stockholders. The Court approved the final distribution to the stockholders on June 28, 1965.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, on its own motion or upon application, 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, the registration of such company shall cease to be in effect.

Notice is further given, that any interested person may, not later than November 26, 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 (airmail if the person being served is located more than 500 miles from the point of mailing) upon applicant at the address stated above. Proof of such service (by affidavit or, in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing 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] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.73-23702 Filed 11-6-73;8:45 am]

[811-935]

WEALTH INC.

Notice of Proposal To Terminate Registration

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 Wealth, Inc. (Fund), % Fred J. Bacon, 410 Utah Savings & Trust Bldg., Salt Lake City, Utah 84115, registered under the Act as a closed-end investment company, has ceased to be an investment company as defined in the Act.

Fund was organized under the laws of the State of Utah on June 17, 1958, and it filed its Notification of Registration on Form N-8A under the Act with the Commission on April 1, 1960.

Information contained in the Commission's files shows that Fund's legal existence terminated upon its merger as of October 25, 1963, with Lynrus Corporation, a company engaged in manufacturing metal products.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, on its own motion or upon application, finds that a registered investment company has ceased to be an investment company, it shall declare by order, and, upon effectiveness of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than November 29, 1973, 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. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Fund at the address set forth 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 under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing 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] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.73-23699 Filed 11-6-73;8:45 am]

SMALL BUSINESS ADMINISTRATION

[License No. 10/10-0161]

FIRST INVESTMENT CORPORATION OF IDAHO

Notice of Application for a License as a Small Business Investment Company

Notice is hereby given concerning the filing of an application with the Small Business Administration (SBA) pursuant to § 107.102 of the regulations gov-

erning small business investment companies (SBIC's), (13 CFR 107.102 (1973)) under the name of First Investment Corporation of Idaho, 1200 First Street South, Nampa, Idaho 83651, for a license to operate in the state of Idaho as an SBIC under the provisions of the Small Business Investment Act of 1958 (Act), as amended (15 U.S.C. 661 et seq.).

The proposed officers, directors and principal stockholders are:

Jim Kalbus, 375 Holland Drive, Nampa, Idaho 83651.	President, Director.
Lloyd Nelsen, 710 5th Street, Parma, Idaho 83660.	Vice President, General Manager, Director.
Fred C. Humphreys, 1919 S. Phillippi, Boise, Idaho 83705.	Vice President, Director.
V. Dale Blickenstaff, 1112 Highland View, Boise, Idaho 83702.	Vice President, Treasurer, Director.
John Ward, 1301 S. Owyhee, Boise, Idaho 83705.	Director.
Insurance Investment Corporation, 1200 First Street South, Nampa, Idaho 83651.	47 percent.
The Idaho First National Bank, 205 N. 10th Street, Boise, Idaho 83706.	48 percent.

The company will begin operations with an initial capitalization of $300,000. No concentration in any particular industry is planned. The applicant intends to make investments in small business concerns, with growth potential, located primarily within the state of Idaho.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the new company under their management, including adequate profitability and financial soundness, in accordance with the Act and regulations.

Notice is further given that any interested person may, on or before November 23, 1973, submit to SBA, in writing, relevant comments on the proposed company. Any communication should be addressed to: Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Boise, Idaho.

Dated October 31, 1973.

JAMES THOMAS PHELAN,
Deputy Associate Administrator for Investment.

[FR Doc.73-23674 Filed 11-6-73;8:45 am]

TARIFF COMMISSION

[337-34]

CONVERTIBLE GAME TABLES AND COMPONENTS THEREOF

Rescheduling of Date Set for Resumption of Hearing

Notice is hereby given that the resumption of the hearing in Investigation No. 337-34, scheduled to be held in the Tariff Commission's Hearing Room, Tariff Commission Building, 8th and E Streets NW., Washington, D.C., beginning at 10:00 a.m., e.s.t., on November 16, 1973, has been rescheduled for 10:00 a.m., e.s.t. on February 5, 1974.

Issued: November 1, 1973.

By order of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.73-23599 Filed 11-6-73;8:45 am]

VETERANS ADMINISTRATION

MEDICAL RESEARCH SERVICE MERIT REVIEW BOARDS

Notice of Meetings

The Veterans Administration gives notice pursuant to Pub. L. 92-463 of meetings of the following Merit Review Boards.

Merit Review Board	Date	Time	Location
Gastroenterology	Dec. 4, 1973	8:30 a.m.-5:00 p.m.	Room 817—VACO,[1]
Oncology	Dec. 4, 1973	8:30 a.m.-5:00 p.m.	Room 139—VACO.
Hematology	Dec. 5, 1973	8:30 a.m.-5:00 p.m.	Room 817—VACO.
Endocrinology	Dec. 7, 1973	8:30 a.m.-5:00 p.m.	Room 442—LAF,[2]
Infectious Diseases	Dec. 10, 1973	8:30 a.m.-5:00 p.m.	Room 817—VACO.
Neurobiology	Dec. 11, 1973	8:30 a.m.-5:00 p.m.	Room 817—VACO.
Respiration	Dec. 11, 1973	8:30 a.m.-5:00 p.m.	Room 115—LAF.
Immunology	Dec. 12, 1973	8:30 a.m.-5:00 p.m.	Room 817—VACO.
Cardiovascular studies	Dec. 13, 1973	8:30 a.m.-5:00 p.m.	Room 115—LAF.
Surgery	Dec. 13, 1973	8:00 a.m.-5:30 p.m.	Room 119—VACO.
Behavioral Sciences	Dec. 14, 1973	8:30 a.m.-5:00 p.m.	Room 115—LAF.
Alcoholism and Drug Dependence	Dec. 17, 1973	8:30 a.m.-5:00 p.m.	Room 817—VACO.
Basic Sciences	Dec. 18, 1973	8:30 a.m.-5:00 p.m.	Room 817—VACO.
Nephrology	Dec. 18, 1973	8:30 a.m.-5:00 p.m.	Room 119—VACO.

[1] VACO: Veterans Administration Central Office, 810 Vermont Avenue, NW., Washington, D.C.
[2] LAF: Lafayette Building, 811 Vermont Avenue NW., Washington, D.C.

These meetings will be for the purpose of evaluating the scientific merit of research conducted in each specialty by Veterans Administration investigators working in Veterans Administration hospitals and clinics.

The meetings will be open to the public up to the seating capacity of the rooms for one-half hour at the start of each meeting to discuss the general status of the program. The meetings will be closed thereafter for discussion and evaluation of individual programs. Because of the limited seating capacity of the rooms, those who plan to attend should contact Gerald Libman, Assistant Chief, Program Development and Review Division, Veterans Administration, Central Office, Washington, D.C. (202-389-5065) at least two days prior to each meeting. Minutes of the meetings and rosters of the members of the Boards may be obtained from this source.

Dated: November 1, 1973.

By direction of the Administrator.

[SEAL] RUFUS H. WILSON,
Associate Deputy Administrator.

[FR Doc.73-23692 Filed 11-6-73;8:45 am]

DEPARTMENT OF LABOR

Office of the Secretary

DON GUSTIN SHOE CO., INC., PATERSON, N.J.

Investigation Regarding Certification of Eligibility of Workers To Apply for Adjustment Assistance

The Department of Labor has received a Tariff Commission report containing an affirmative finding under section 301(c)(2) of the Trade Expansion Act of 1962 with respect to its investigation of a petition for determination of eligibility to apply for adjustment assistance filed on behalf of the former workers of the Don Gustin Shoe Co., Inc., Paterson, N.J. (TEA-W-208). In view of the report and the responsibilities delegated to the Secretary of Labor under section 8 of Executive Order 11075 (28 FR 473), the Director, Office of Foreign Economic Policy, Bureau of International Labor Affairs, has instituted an investigation, as provided in 29 CFR 90.5 and this notice. The investigation relates to the determination of whether any of the group of workers covered by the Tariff Commission report should be certified as eligible to apply for adjustment assistance, provided for under Title III, Chapter 3, of the Trade Expansion Act of 1962, including the determination of related subsidiary subjects and matters, such as the date unemployment or underemployment began or threatened to begin and the subdivision of the firm involved to be specified in any certification to be made, as more specifically provided in Subpart B of 29 CFR Part 90.

Interested persons should submit written data, views or arguments relating to the subjects of investigation to the Director, Office of Foreign Economic Policy, U.S. Department of Labor, Washington, D.C. on or before November 12, 1973.

Signed at Washington, D.C., this 30th day of October 1973.

GLORIA G. VERNON,
Director, Office of Foreign Economic Policy.

[FR Doc.73-23722 Filed 11-6-73;8:45 am]

NINA FOOTWEAR CO., INC., LONG ISLAND CITY, N.Y.

Investigation Regarding Certification of Eligibility of Workers To Apply for Adjustment Assistance

The Department of Labor has received a Tariff Commission report containing an affirmative finding under section 301 (c)(2) of the Trade Expansion Act of

1962 with respect to its investigation of a petition for determination of eligibility to apply for adjustment assistance filed on behalf of the former workers of the Nina Footwear Co., Inc., Long Island City, New York (TEA-W-210).

In view of the report and the responsibilities delegated to the Secretary of Labor under Section 8 of Executive Order 11075 (28 FR 473), the Director, Office of Foreign Economic Policy, Bureau of International Labor Affairs, has instituted an investigation, as provided in 29 CFR 90.5 and this notice. The investigation relates to the determination of whether any of the group of workers covered by the Tariff Commission report should be certified as eligible to apply for adjustment assistance, provided for under Title III, Chapter 3, of the Trade Expansion Act of 1962, including the determination of related subsidiary subjects and matters, such as the date unemployment or underemployment began or threatened to begin and subdivision of the firm involved to be specified in any certification to be made, as more specifically provided in Subpart B of 29 CFR Part 90.

Interested persons should submit written data, views or arguments relating to the subjects of investigation to the Director, Office of Foreign Economic Policy, U.S. Department of Labor, Washington, D.C. on or before November 14, 1973.

Signed at Washington, D.C., this 31st day of October 1973.

GLORIA G. VERNON,
Director, Office of Foreign Economic Policy.

[FR Doc.73-23723 Filed 11-6-73;8:45 am]

COST OF LIVING COUNCIL

[Notice No. 73-2]

INSTITUTIONAL PROVIDERS OF HEALTH SERVICES

Criteria for Determining New Properties, New Services or New Markets

The Cost of Living Council, under its current regulations compiled under Title 6 of the Code of Federal Regulations at § 300.409 (6 CFR 300.409), provides for the establishment of a base price when an institutional or noninstitutional provider of health services offers a new property or a new service; or an existing service or property to a new market. Notice is hereby given that from the date of publication of this Notice, the Cost of Living Council will use the interim criteria set forth below in order to determine whether institutional providers of health care services meet the requirements for new properties, new services or new markets as set forth in 6 CFR 300.409. These criteria are also included in proposed regulations published or to be published for prospective application to providers of health care services beginning on January 1, 1974. For purposes of making determinations under this Notice, the Council shall consider the term "facility" as equivalent to "improved real property".

New Property. The Council shall determine that a property or facility is new if—

(1) The institutional provider of health care services commences operation for the first time, or was not operating at any time during the one-year period immediately preceding the commencement of operation; or

(2) The property or facility used by the institutional provider of health care services undergoes either complete physical replacement; or a major renovation, remodeling or expansion that costs a dollar amount equal to at least 70 percent of the book value of its capital assets or $100,000, whichever is greater. The mere acquisition of a facility or of the person (as defined in 6 CFR 300.5) that controls the facility by another person after December 17, 1972, does not constitute a new facility.

New Services or Property. The Council shall determine that a service or property is new if the service or property is a service or property which the institutional provider of health care services did not sell or lease in the same or substantially similar form at any time during the one-year period immediately preceding the first date on which it is offered for sale or lease. A change in appearance, arrangement, or combination, or a change in the method or technology of providing a service, does not create a new service or property.

New Market. The Council shall determine that a market is new if the institutional provider of health care services makes a change in location from the site where health care services were previously provided of greater than 50 miles or, with the prior approval of the Council, a change in location of 50 miles or less.

Issued in Washington, D.C., on November 6, 1973.

JOHN T. DUNLOP,
Director, Cost of Living Council.

[FR Doc.73-23875 Filed 11-6-73;10:20 am]

INTERSTATE COMMERCE COMMISSION

[Notice 378]

ASSIGNMENT OF HEARINGS

NOVEMBER 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 taken appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

CORRECTION

No. 35895, Inexco Oil Company v. Belle Fourche Pipeling Co., et al., now being assigned Pre-Hearing conference, January 12, 1974 at the Offices of the Interstate Commerce Commission, Washington, D.C., instead of now being assigned hearing.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-23742 Filed 11-6-73;8:45 am]

[Notice 377]

ASSIGNMENT OF HEARINGS

NOVEMBER 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 101186 Sub 13, Arledge Transfer, Inc., now assigned November 27, 1973, at Des Moines, Iowa, postponed to January 15, 1974 (3 days), at Des Moines, Iowa, in a hearing room to be later designated.

W-1266, Marine Exploration Company, Inc., now assigned November 5, 1973, at Miami, Fla., is canceled and the application is dismissed.

MC 263 Sub 204, Garrett Freightlines, Inc., now assigned November 26, 1973, at Salt Lake City, Utah, is postponed indefinitely.

No. 35794, Northville Docke Pipe Line Corp., and Consolidated Petroleum Terminal, Inc., Petition for Declaratory Order of Investigation, No. 35852, Northville Dock Pipe Line Corp., Northville Industries Corp., Consolidated Petroleum Terminal, Inc., and Total Resources, Inc., Investigation of Operation now assigned November 5, 1973, at New York, N.Y., is postponed indefinitely.

No. 35541, E-Z Por Corporation v. Jones Motor Company, et al., now assigned November 12, 1973, at Chicago, Ill., is postponed indefinitely.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-23743 Filed 11-6-73;8:45 am]

[Under Rev. S.O. 1002; Car Distribution Direction No. 93, Amdt. No. 5]

ATLANTA & WEST POINT RAIL ROAD CO. ET AL.

Car Distribution

In the matter regarding Atlanta & West Point Rail Road Company, Carolina, Clinchfield & Ohio Railway, Georgia Rail Road & Banking Company, Louisville & Nashville Railroad Company, Seaboard Coast Line Railroad Company, The Western Railway of Alabama.

Upon further consideration of Car Distribution Direction No. 93 and good cause appearing therefor:

It is ordered, That:

Car Distribution Direction No. 93 be, and it is hereby, amended by substi-

tuting the following paragraph (f) for paragraph (f) thereof:

(f) *Expiration date.* This direction shall expire at 11:59 p.m., November 30, 1973, unless otherwise modified, changed, or suspended.

It is further ordered, That this amendment shall become effective at 11:59 p.m., October 31, 1973, and that this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., October 29, 1973.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[FR Doc.73-23741 Filed 11-6-73;8:45 am]

[Exemption No. 57; Rule 19; Ex Parte No. 241]

SEABOARD COAST LINE RAILROAD CO.

Exemption Under the Mandatory Car Service Rules

It appearing that there is an emergency movement of military impedimenta from Fort Stewart, Georgia, to Camp Lejeune, North Carolina; that the originating carrier has insufficient system cars of suitable dimensions immediately available for loading with this traffic; that sufficient cars of other ownerships having suitable dimensions are available on the lines of the originating carrier and on its connections; and that compliance with Car Service Rules 1 and 2 would prevent the timely assembly and use of such cars.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, the Car Service Division of the Association of American Railroads is authorized to direct the movement to the Seaboard Coast Line Railroad Company, the railroads designated by the Car Service Division are authorized to move to, and the Seaboard Coast Line Railroad Company is authorized to accept, assemble, and load not to exceed twenty-eight (28) empty cars with military impedimenta from Fort Stewart, Georgia, to Camp Lejeune, North Carolina, regardless of the provisions of Car Service Rules 1(b), 2(c), 2(d), or 2(e).

Effective October 31, 1973.

Expires November 10, 1973.

Issued at Washington, D.C., October 31, 1973.

INTERSTATE COMMERCE COMMISSION,
[SEAL] LEWIS R. TEEPLE,
Agent.

[FR Doc.73-23740 Filed 11-6-73;8:45 am]

FOURTH SECTION APPLICATIONS FOR RELIEF

NOVEMBER 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 accordance with rule 40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

FSA No. 42765—*Fertilizers and Fertilizer Materials from Specified Points in Canada.* Filed by Southwestern Freight Bureau, Agent (No. B-442), for interested rail carriers. Rates on fertilizers, dry and fertilizer materials, dry, in carloads, as described in the application, from Beamer, Alta., Brandon, Man., Calgary and Fort Saskatchewan, Alta., Canada, to points in Arkansas, Louisiana, Missouri, Oklahoma, and Texas.

Grounds for relief—Market competition, short-line distance formula and grouping.

Tariff—Canadian National Railways tariff W. 911-E, ICC No. W. 766. Rates are published to become effective on December 7, 1973.

FSA No. 42766—*Joint Water-Rail Container Rates—American President Lines, Ltd.* Filed by American President Lines, Ltd. (No. 7), for itself and interested rail carriers. Rates on general commodities, between ports in the Orient, and rail stations on the U.S. Atlantic and Gulf Seaboard.

Grounds for relief—Water competition.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-23739 Filed 11-6-73;8:45 am]

[Notice 35]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

NOVEMBER 2, 1973.

The following letter-notices of proposals (except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application), to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules—Motor Carriers of Property, 1969 (49 CFR 1042.4(c)(11)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.4(c)(12)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules—Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC-2228 (Deviation No. 3), MERCHANTS FAST MOTOR LINES, INC., P.O. Drawer 591, Abilene, Texas 79604, filed October 17, 1973. Applicant's representative: Jerry Prestridge, P.O. Box 1148, Austin, Texas 78767. Carrier proposes to operate as a *common carrier,* by motor vehicle, of *general commodities,* with certain exceptions, over a deviation route as follows: From Dallas, Tex., over Interstate Highway 45 to junction Ranch Road 80, thence over Ranch Road 80 to Teague, Tex., thence over Texas Highway 179 to junction Interstate Highway 45, thence over Interstate Highway 45 to Houston, Tex., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Dallas, Tex., over U.S. Highway 175 to Jacksonville, Tex., thence over U.S. Highway 69 to Lufkin, Tex. ,thence over U.S. Highway 59 to Houston, Tex., and return over the same route.

No. MC-48958 (Deviation No. 46), ILLINOIS-CALIFORNIA EXPRESS, INC., P.O. Box 9050, Amarillo, Texas 79105, filed October 19, 1973. Carrier proposes to operate as a *common carrier,* by motor vehicle, of *general commodities,* with certain exceptions, over a deviation route as follows: From Amarillo, Tex., over Texas FM Road 1061 to junction U.S. Highway 385, thence over U.S. Highway 385 to junction U.S. Highway 87, thence over U.S. Highway 87 to Raton, N. Mex., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over pertinent service routes as follows: (1) From Amarillo, Tex., over U.S. Highway 66 to San Jon, N. Mex., (2) from Springer, N. Mex., over New Mexico Highway 58 to junction New Mexico Highway 39, thence over New Mexico Highway 39 to junction New Mexico Highway 18 (at or near Grady, N. Mex.), thence over New Mexico Highway 18 to Clovis, N. Mex., and (3) from Los Angeles, Calif., over U.S. Highway 66 via San Bernandino, Calif., to Albuquerque, N. Mex., thence over U.S. Highway 85 to Denver, Colo., and return over the same routes.

No MC-48958 (Deviation No. 47), ILLINOIS - CALIFORNIA EXPRESS,

INC., P.O. Box 9050, Amarillo, Texas 79105, filed October 19, 1973. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Omaha, Nebr., over U.S. Highway 75 to Topeka, Kans., thence over Interstate Highway 35 to Wichita, Kans., thence over U.S. Highway 54 to Tucumcari, N. Mex., thence over Interstate Highway 40 to Albuquerque, N. Mex., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over pertinent service routes as follows: (1) From Lincoln, Nebr., over U.S. Highway 6 to Harvey, Ill., (2) from Peoria, Ill., over Illinois Highway 116 to junction U.S. Highway 34, thence over U.S. Highway 34 via Lincoln, Nebr., to junction U.S. Highway 281, thence over U.S. Highway 281 to Grand Island, Nebr., thence over U.S. Highway 30 via Brule, Nebr., to Cheyenne, Wyo., thence over U.S. Highway 85 to Denver, Colo., (3) from Peoria, Ill., over U.S. Highway 150 to Galesburg, Ill., thence over U.S. Highway 34 to Lincoln Nebr., thence to Brule, Nebr., as specified above, thence over U.S. Highway 30 to junction U.S. Highway 138, thence over U.S. Highway 138 to Sterling, Colo., thence over U.S Highway 6 via Brush, Colo. to Denver, Colo., and (4) from Los Angeles, Calif., over U.S. Highway 66 via San Bernardino, Calif., to Albuquerque, N. Mex., thence over U.S. Highway 85 to Denver, Colo., and return over the same routes.

No. MC-48958 (Deviation No. 48), ILLINOIS-CALIFORNIA EXPRESS, INC., P.O. Box 9050, Amarillo, Texas 79105, filed October 25, 1973. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Sterling, Colo., over Colorado Highway 14 to junction U.S. Highway 85 at Ault, Colo., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Sterling, Colo., over U.S. Highway 6 to junction U.S. Highway 34 at Brush, Colo., thence over U.S. Highway 34 to Greeley, Colo., thence over U.S. Highway 85 to Cheyenne, Wyo., and return over the same route.

No. MC-59856 (Deviation No. 2), SALT CREEK FREIGHTWAYS, 3333 West Yellowstone, Casper, Wyoming 82601, filed August 10, 1973. Carrier's representative: John R. Davidson, Suite 805, Midland Bank Building, Billings, Montana 59101. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Billings, Mont., over Interstate Highway 94 to junction unnumbered highway approximately 30 miles west of Miles City, Mont., at or near Rosebud, Mont., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over pertinent service routes as follows: (1) From Broadus, Mont., over U.S. Highway 212 (formerly portion Montana Highway 8) to Crow Agency, Mont., thence over U.S. Highway 87 via Hardin, Mont., to Billings, Mont., and (2) from Miles City, Mont., over Interstate Highway 94 to junction unnumbered highway approximately 30 miles west of Miles City, at or near Rosebud, Mont., thence over unnumbered highway to Lee, Mont., thence over unnumbered highway via Ashland, Otter, Gopher, Scriper, and Decker, Mont., to the Montana-Wyoming State line, thence over unnumbered highway to junction U.S. Highway 87, thence over U.S. Highway 87 to Sheridan, Wyo., and return over the same routes.

No. MC-59856 (Deviation No. 3), SALT CREEK FREIGHTWAYS, 3333 West Yellowstone, Casper, Wyoming 82601, filed August 20, 1973. Carrier's representative: John R. Davidson, Suite 805, Midland Bank Building, Billings, Montana 59101. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Billings, Mont., over Interstate Highway 94 to junction Montana Highway 315, thence over Montana Highway 315 to junction U.S. Highway 212 at Lame Deer, Mont., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Broadus, Mont., over U.S. Highway 212 (formerly portion Montana Highway 8) to Crow Agency, Mont., thence over U.S. Highway 87 via Hardin, Mont., to Billings, Mont., and return over the same route.

No. MC-1824 (Deviation No. 17) (Correction), PRESTON TRUCKING COMPANY, INC., 151 Easton Boulevard, Preston, Maryland 21655, filed September 14, 1973. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From junction Interstate Highway 90 and U.S. Highway 19 over Interstate Highway 90 to Cleveland, Ohio, and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over pertinent service routes as follow: (1) From Pittsburgh, Pa., over U.S. Highway 19 to junction Interstate Highway 90, thence over Interstate Highway 90 to junction New York Highway 130, (2) From Ford City, Pa., over Pennsylvania Highway 66 to Kittanning, Pa., thence over U.S. Highway 422 to junction unnumbered highway (formerly U.S. Highway 422) near Prospect, Pa., thence over unnumbered highway to junction U.S. Highway 422, thence over U.S. Highway 422 to Cleveland, Ohio, and (3) From Pittsburgh, Pa., over Pennsylvania Highway 28 to Brookville, Pa., thence over U.S. Highway 322 to junction U.S. Highway 219, thence over U.S. Highway 219 to junction Pennsylvania Highway 830, thence over Pennsylvania Highway 830 to Falls Creek, Pa., and return over the same routes. Republication of this notice is necessary (1) to describe more accurately the points of deviation from and return to the carrier's regular service route, and (2) to show all underlying service routes, one of which was omitted in the prior publication.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-23744 Filed 11-6-73;8:45 am]

[Notice 87]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

NOVEMBER 2, 1973.

The following publications (except as otherwise specifically noted, each applicant (on applications filed after March 27, 1972) states that there will be no significant effect on the quality of the human environment resulting from approval of its application), are governed by the new Special Rule 1100.247 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of December 3, 1963, which became effective January 1, 1964.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable by the Commission.

MOTOR CARRIERS OF PROPERTY

No. MC 103498 (Sub-No. 30) (REPUBLICATION), filed December 6, 1972, published in the FEDERAL REGISTER issue of January 11, 1973, and republished this issue. Applicant: W. D. SMITH TRUCK LINE, INC., P.O. Drawer C, DeQueen, Ark. 71832. Applicant's representative: Donald T. Jack, Jr., 1550 Tower Building, Little Rock, Ark. 72201. An Order of the Commission, Review Board Number 1, dated October 10, 1973, and served October 23, 1973, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, (1) of *composition board* from the plantsite and warehouse of Gold Bond Building Products, Division of National Gypsum Company, at or near Arkadelphia, Ark., to points in Alabama, Colorado, Florida, Georgia, Illinois, Iowa, Kansas, Kentucky, Louisiana, Minnesota, Mississippi, Missouri, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Tennessee, Texas, and Wisconsin, and (2) of *such commodities* as are used in the manufacture of composition board, from the named States to the above-specified plantsite; that applicant

is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described above, issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of this publication of the authority actually granted, during which period any proper party in interest may file an appropriate petition for intervention or other relief in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 135379 (Sub-No. 2) (REPUBLICATION), filed March 12, 1971, published in the FEDERAL REGISTER issue of April 8, 1971, republished March 21, 1973, and in the third publication this issue. Applicant: EASTERN TRANSPORT, INC., 320 Stiles St., Linden, N.J. 07036. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. An Order of the Commission, Review Board Number 1, dated October 17, 1973, and served October 26, 1973, finds that modification of petitioner's permit No. MC–135379 (Sub-No. 2), to substitute in lieu of the restriction contained therein on Sheet No. 2 the following: "The operations authorized herein are limited to a transportation service to be performed under a continuing contract, or contracts, with Food Fair Stores, Inc., Ideal Shoe Co., and J. M. Fields, Inc.," will be consistent with the public interest and the national transportation policy; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described above, issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of this publication of the authority actually granted, during which period any proper party in interest may file an appropriate petition for intervention or other relief in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

No. W–1263 (Sub-No. 2) (REPUBLICATION), filed February 22, 1973, published in the FEDERAL REGISTER issue of March 8, 1973, and republished this issue. Applicant: NEW ENGLAND STEAMBOAT LINES, INC., 263 Main Street, Old Saybrook, Conn. 06475. Applicant's representative: James A. Natalie, Jr., Middletown Savings Bank Building, Middletown, Conn. 06475. An Order of the Commission, Operating Rights Board, dated October 17, 1973, and served October 26, 1973, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier* by water, by self-propelled vessels, of *passengers* in round-trip scheduled excursion service, between Chester, Deep River, East Haddam, Middletown, Haddam, Essex, and Old Saybrook, Conn., on the one hand, and, on the other, Greenport, N.Y.; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described above, issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of this publication of the authority actually granted, during which period any proper party in interest may file an appropriate petition for intervention or other relief in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 117493 (Sub-No. 1) (NOTICE OF FILING OF PETITION TO MODIFY CERTIFICATE), filed September 28, 1973. Petitioner: DIAL MOTOR LINES, INC., 901 Woodbine Ave., Cornwell Heights, Pa. 19020. Petitioner's representative: L. C. Major, Jr., Suite 301, Tavern Square, 421 King Street, Alexandria, Va. 22314. Petitioner presently holds a motor *common carrier* certificate in No. MC 117493 (Sub-No. 1), issued August 17, 1970, authorizing transportation, over irregular routes, of *General commodities* (except those of unusual value, classes A and B explosives, automobiles, dairy products, livestock, fish, poultry, petroleum products, baggage, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), Between Trenton, N.J., and Philadelphia, Pa., serving the intermediate point of Camden, N.J.: From Trenton over U.S. Highway 206 to junction U.S. Highway 130, thence over U.S. Highway 130 to Camden, N.J., thence across the Delaware River to Philadelphia, and return over the same route. RESTRICTION: The service authorized above is subject to the restriction that no traffic which originates at or is destined to Philadelphia, Pa., shall be transported to or from Trenton, N.J.

Restriction: So long as the above-named carrier (Dial Motor Lines, Inc.), is under the control of Harvey Weiner, the service authorized herein is subject to the following conditions: (1) Carrier may not interchange or interline traffic with Reisch Trucking and Transportation Co., Inc.; (2) carrier may not employ personnel of Reisch Trucking and Transportation Co., Inc., or any other respondents in the proceeding in MC–F–9603, or use employees in common with other respondents; (3) carrier may not use equipment owned, leased, controlled or otherwise used in the operations of Reisch Trucking and Transportation Co., Inc., or other carrier respondents in the proceeding in MC–F–9603; (4) carrier may not use, jointly or in common, facilities such as terminals or call-stations with Reisch Trucking and Transportation Co., Inc., or other carrier respondents in the proceeding in MC–F–9603; (5) carrier may not participate, directly or indirectly, with Reisch Trucking and Transportation Co., Inc., or other respondents in the proceeding in MC–F–9603, in any activity which would be construed as evidencing affiliation or management in a common interest with Reisch Trucking and Transportation Co., Inc., or other carrier respondents in the aforementioned proceeding; and (6) carrier may not accept, for its own benefit, financial assistance from Reisch Trucking and Transportation Co., Inc., or persons in control of Reisch Trucking and Transportation Co., Inc. By the instant petition, petitioner seeks to modify its certificate by removing the restrictions described in (1) and (3) above. Any interested person or persons desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition within 30 days from the date of publication in the Federal Register.

No. MC 125910 (Notice of filing of petition to modify a commodity description), filed August 31, 1973. Petitioner: CUSTOM TRANSPORT, INC., P.O. Box 310, Lincolnton, N.C. 28092. Petitioner's representative: Fred L. Kistler (same address as petitioner). Petitioner presently holds a motor *common carrier* certificate in No. MC 125910 issued February 23, 1965, authorizing transportation, over irregular routes, of *textile waste materials and used bagging, and textile waste materials and cotton* which are within the exemption of section 203(b)(6) of the Interstate Commerce Acts, when transported in the same vehicle with the commodities specified herein, between points in North Carolina, Virginia, Tennessee, South Carolina, Georgia, Alabama, Arkansas, and Mississippi. By the instant petition, petitioner seeks to add the commodity "synthetic textile raw materials," to those described above. Any interested person or persons desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition within 30 days from the date of publication in the Federal Register.

No. MC 129764 (Notice of Filing of Petition To Add an Additional Origin and Destination Point), filed October 18, 1973. Petitioner: H. A. HASTINGS CO., INC., P.O. Box 361, Memory Garden Lane, Hebron, Md. 21830. Petitioner's representative: Chester A. Zyblut, 1522 K Street NW., Washington, D.C. 20005. Petitioner presently holds a motor *contract carrier* permit in No. MC 129764, pursuant to a finance proceeding No. MC–FC–74661, approved by the Commission, effective October 23, 1973, authorizing transportation, over irregular

routes, of *wood chips*, (1) between points in Wicomico County, Md., on the one hand, and, on the other, Spring Grove (York County), Pa., under a continuing contract with the Gladfelter Pulp Wood Company, Spring Grove, Pa.; and (2) from Wicomico County, Md., to Sunbury and Philadelphia, Pa., under a continuing contract with the Celotex Corporation. By the instant petition, petitioner seeks to add Worcester County, Md. as an additional point of origin in (1) and (2) above, and add Perth Amboy, N.J. as an additional destination point in (1) and (2) above. Any interested person or persons desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 133928 (Sub-No. 3) (NOTICE OF FILING OF PETITION TO ADD AN ADDITIONAL CONTRACTING SHIPPER), filed September 7, 1973. Petitioner: OSTERKAMP TRUCKING, INC., 764 North Cypress Street, Orange, Calif. 92666. Petitioner's representative: Jerry S. Berger, 9454 Wilshire Blvd.-Penthouse, Beverly Hills, Calif. 90212. Petitioner presently holds a motor *contract carrier* permit No. MC 133928 (Sub-No. 3), pursuant to a finance proceeding in No. MC-FC-74314, approved by the Commission, effective June 25, 1973, authorizing transportation, over irregular routes, of *agricultural field equipment and harvesting equipment, parts of agricultural field equipment and harvesting equipment, and materials and supplies* used in the harvesting and distribution of agricultural commodities, between points in California on the one hand, and, on the other, points in Arizona, under a continuing contract or contracts with Bud Antle, Inc., of Salinas, Calif.; Hoerner Waldorf Corporation, of St. Paul, Minn.; Menasha Corporation, of Neenah, Wis. and Interharvest, Inc., of Salinas, Calif. By the instant petition, petitioner seeks to add Crown Zellerbach Corporation as an additional contracting shipper to the authority described above. Any interested person or persons desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 134353 (Sub-No. 2) (Notice of Filing of Petition To Add an Additional Contracting Shipper), filed October 19, 1973. Petitioner: PFEIFER TRANSFER CO., a Corporation, 206 N. Warpole Street, Upper Sandusky, Ohio 43351. Petitioner's representative: Paul F. Beery, 88 East Broad Street, Columbus, Ohio 43215. Petitioner presently holds a motor *contract carrier* permit in No. MC 134353 (Sub-No. 2), issued July 14, 1972, authorizing transportation, over irregular routes, of *fabricated structural steel and iron*, (1) from the plantsite of Carter Steel and Fabricating Co. at Bellefontaine, Ohio, to points in Ohio, Indiana, Illinois, Kentucky, West Virginia, Virginia, Pennsylvania, Tennessee, Maryland, New York, Wisconsin, and Michigan; and (2) from points in Ohio, Indiana, Illinois, Kentucky, West Virginia, Virginia, Pennsylvania, Tennessee, Maryland, New York, Wisconsin, and points in that part of Michigan south of Michigan Highway 21, to the plantsite of Carter Steel & Fabricating Co. at Bellefontaine, Ohio, under a continuing contract or contracts with Carter Steel & Fabricating Co. of Bellefontaine, Ohio. By the instant petition, petitioner seeks to add Mid West Steel Co. of Springfield, Ohio as an additional contracting shipper to the authority described above. Any interested person or persons desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto. (49 CFR 1.240.)

MOTOR CARRIERS OF PROPERTY

APPLICATION(S) FOR CERTIFICATES OR PERMITS WHICH ARE TO BE PROCESSED CONCURRENTLY WITH APPLICATIONS UNDER SECTION 5 GOVERNED BY SPECIAL RULE 240 TO THE EXTENT APPLICABLE

No. MC 2253 (Sub-No. 60) (amendment), filed August 7, 1973, published in the FEDERAL REGISTER issue of October 11, 1973, and republished, as amended, this issue. Applicant: CAROLINA FREIGHT CARRIERS CORPORATION, P.O. Box 697, Cherryville, N.C. 28021. Applicant's representative: Carl L. Steiner, 39 La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods defined by the Commission, commodities in bulk, and those commodities which because of size or weight require special equipment), (1) between points in Illinois on, east and north of a line beginning at the Wisconsin-Illinois State line and extending along U.S. Highway 14 to intersection Illinois Highway 23, thence along Illinois Highway 23 to intersection U.S. Highway 52 thence along U.S. Highway 52 to Manhattan, Ill., thence along an unnumbered Highway to intersection Illinois Highway 1, thence along Illinois Highway 1 to intersection U.S. Highway 30, thence along U.S. Highway 30 to the Illinois-Indiana State line; (2) between points in the above-described area in (1), on the one hand, and, on the other, points on U.S. Highway 20 to Rockford, Ill.

NOTE.—Common control may be involved. Applicant states that the requested authority can be tacked at points in the Chicago, Illinois, Commercial Zone, to provide service between points in the territory sought herein on the one hand, and, on the other, points in Connecticut, Delaware, the District of Columbia, Florida, Georgia, Illinois, Indiana, Kentucky, Maryland, Massachusetts, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Virginia, and West Virginia. This is a matter directly related to the purchase proceeding in MC-F-11953, published in the FEDERAL REGISTER issue of August 22, 1973. The purpose of this reproduction is to delete item (2) from the route description and to correctly set forth the MC-F proceeding at MC-F-11953, in lieu of, MC-11950 as previously published. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 52110 (Sub-No. 138), filed July 3, 1973. Applicant: BRADY MOTORFRATE, INC., c/o Smith's Transfer Corporation, P.O. Box 1000, Staunton, Va. 24401. Applicant's representative: David G. Macdonald, 1000 16th Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Des Moines, Iowa, and junction Iowa Highway 90 and Interstate Highway 35, serving no intermediate points and serving the said highway junction for joinder only: From Des Moines over Iowa Highway 90 to junction Interstate Highway 35, and return over the same route; (2) between Des Moines, Iowa, and Blairsburg, Iowa, serving all intermediate points: From Des Moines over U.S. Highway 69 to Blairsburg, and return over the same route; and (3) between St. Paul, Minn., and junction Minnesota Highway 5 and U.S. Highway 65, serving the intermediate and off-route points in the Minneapolis-St. Paul, Minn., Commercial Zone, as defined by the Commission and the off-route points of Chemolite Siding, Minn.: From St. Paul over city streets and connecting highways to Minneapolis, Minn., thence over Minnesota Highway 36 to junction Minnesota Highway 100, thence over Minnesota Highway 100 to junction Minnesota Highway 5, thence over Minnesota Highway 5 to junction U.S. Highway 65, and return over the same route. RESTRICTION: No shipments in (2) above, may be transported over this route moving to or from the Minneapolis-St. Paul Commercial Zone.

NOTE.—Applicant presently holds authority coextensive with each of the routes requested. This is a matter directly related to the purchase proceeding in MC-F-11853, published in the FEDERAL REGISTER issue of May 2, 1973. The purpose of the application is to retain for use in existing routes 6, 17, and 37 the duplicative segments which might otherwise be cancelled upon consummation of the sale. If a hearing is deemed necessary, applicant does not specify a location.

No. MC 107993 (Sub-No. 29), filed August 3, 1973. Applicant: J. J. WILLIS TRUCKING COMPANY, a Corporation, 2608 Electronic Lane, Dallas, Tex. 75220. Applicant's representative: J. G. Dail, Jr.,

1111 E Street, NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: (1) *Property necessary or incidental to the establishment, maintenance, or dismantling of oil, gas, or water wells, pipe lines, refineries, and cracking or casing head plants;* (2) *material and equipment of the type used in the construction of roads, dams, and bridges;* and (3) *materials and equipment of the type used in construction of power and compressor plants;* between points on and within 50 miles laterally of the following named highways: (1) U.S. Highways 101 and 101 Bypass between the Oregon-California State line and the California-Mexico Boundary line; (2) U.S. Highways 99, 99–E, and 99–W between Oregon-California State line and the Mexican Border; (3) U.S. Highway 299 between Redding and Alturas, Calif.; (4) U.S. Highway 395 between the Oregon-California and the California-Nevada State lines, via Alturas and Johnstonville; (5) California Highway 36 between junction U.S. Highway 99–E near Red Bluff, Calif., and junction U.S. Highway 39E at Johnstonville; (6) California Highway 20 between Marysville, Calif., and junction U.S. Highway 40; (7) U.S. Highway 40 between San Francisco, Calif. and the California-Nevada State line; (8) U.S. Highway 50 between Sacramento, Calif., and the California-Nevada State line; (9) U.S. Highway 395 between the California-Nevada State line at Topaz Lake and junction U.S. Highway 66; (10) U.S. Highway 66 between Los Angeles and Needles, Calif.; (11) U.S. Highway 60 between Los Angeles, Calif., and the California-Arizona State line; (12) U.S. Highway 91 and 466 between Barstow and the Nevada-California State line; (13) U.S. Highway 80 between San Diego and the California-Arizona State line; and (14) California Highway 127 between Baker and the Nevada-California State line.

NOTE.—Common control may be involved. Applicant states that the requested authority can be tacked with its existing authority at points in Arizona within the California Commercial Zone and the points named above to permit a through service to and from points in Arizona, Utah, Wyoming, Colorado, New Mexico, Texas, Oklahoma, Kansas, Arkansas, and Louisiana. Applicant seeks by this application to convert a Certificate of Registration into a Certificate of Public Convenience and Necessity. This is a matter directly related to the section 5 purchase proceeding in MC–F–11913, published in the FEDERAL REGISTER issue of June 27, 1973. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex., or Los Angeles, Calif.

No. MC 111231 (Sub-No. 182), filed July 10, 1973. Applicant: JONES TRUCK LINES, INC., 610 East Emma, Springdale, Ark. 72764. Applicant's representative: Earl H. Scudder, Jr., P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except household goods as defined by the Commission, Classes A and B explosives, commodities in bulk, commodities which because of size or weight require the use of special equipment, and commodities of unusual value), between Denver, Colo., and Broadwater, Nebr., serving all intermediate points and serving Sidney, Nebr., as an off-route point: From Denver, Colo., over U.S. Highway 6 to junction Colorado Highway 113, thence over Colorado Highway 113 to junction Nebraska Highway 19, thence over Nebraska Highway 19 to junction U.S. Highway 385, thence over U.S. Highway 385 to junction Nebraska Highway 92, thence over Nebraska Highway 92 to Broadwater, and return over the same route.

NOTE.—Common control may be involved. This is a matter directly related to the section 5 purchase proceeding in MC–F–11852, published in the FEDERAL REGISTER issue of July 25, 1973. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC–F–11857. (Amendment) (MICROTRON INDUSTRIES, INC.—CONTROL—UFT TRANSPORT CO.), published in the May 9, 1973, issue of the FEDERAL REGISTER on page 12190. By petition filed October 12, 1973, applicants seek to amend the application to substitute Carolina East Furniture Transport, Inc., as applicant in place of Microtron Industries, Inc., and to read as follows: CAROLINA EAST FURNITURE TRANSPORT, INC.—CONTROL—UFT TRANSPORT CO.

Note.—Microtron Industries owns 100 percent of the outstanding stock of Carolina East and controls Swift Home-Wrap, a regulated forwarder of household goods.

No. MC–F–12023. Authority sought for purchase by NOVO PACKAGE DELIVERY, INC., 4900 Webster St., Bladensburg, MD, of a portion of the operating rights and property of HOURLY MESSENGERS, INC., doing business as H. M. PACKAGE DELIVERY SERVICE, 20th and Indiana Ave., Philadelphia, PA 19132, and for acquisition by NOVO CORPORATION, 733 Third Ave., New York, NY 10017, of control of such rights and property through the purchase. Applicants' attorney: V. Baker Smith, 2107 The Fidelity Bldg., Philadelphia, PA 19109. Operating rights sought to be transferred: *Such merchandise, equipment and supplies* as are sold, used or distributed by a manufacturer of cosmetics, as a *common carrier* over irregular routes, from the plantsite and storage facilities of Avon Products, Inc., at Newark, Del., to points in the District of Columbia, Maryland and Virginia; *processed and unprocessed film*, as a *contract carrier* over irregular routes, between Philadelphia, between Philadelphia, Pa., and points in Atlantic County, N.J., on the one hand, and, on the other, points in Atlantic, Cape May, Cumberland, Salem, Camden, and Gloucester Counties, N.J.; *processed film and unprocessed film*, between points in Berks, Bucks, Chester, Dauphin, Delaware, Lancaster, Lebanon, Lehigh, Montgomery, Northampton, and Philadelphia Counties, Pa., with restrictions. Vendee holds no authority from this Commission. However, it is affiliated with: (1) BOSS-LINCO LINES, INC., Suite 450, Genesee Bldg., 1 W. Genesee St., Buffalo, NY 14240, (2) FLEET CARRIER CORPORATION, 586 South Blvd., East Pontiac, MI 48053, and (3) UNITED MOTOR FREIGHT, INC., P.O. Box 147, Pontiac, MI 48056, which are authorized to operate as common carriers in (1) Delaware, Maryland, New Jersey, New York, Pennsylvania, Virginia, and the District of Columbia; (2) all of the States in the United States; and (3) Michigan. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–12024. Authority sought for purchase by VON DER AHE VAN LINES, INC., 600 Rudder Ave., Fenton, MO 63026, of the operating rights of ADOBE VAN AND STORAGE, INC., 1321 North 22nd Ave., Phoenix, AR 85009, and for acquisition by RUSSELL VON DER AHE, AND MAYBELLE E. VON DER AHE, both of 5555 Lindell Blvd., St. Louis, MO, of control of such rights through the purchase. Applicants' attorney: Robert J. Gallagher, 1776 Broadway, New York City, NY 10019. Operating rights sought to be transferred: *Household goods*, as defined by the Commission, as a *common carrier* over irregular routes between points in Arizona, between points in McKinley, San Juan, and Valencia Counties, N. Mex., on the one hand, and, on the other, Durango, Colo., and points in Colorado within 100 miles thereof, Lupton, Ariz., and points in Arizona within 200 miles thereof, and Monticello, Utah, and points in Utah within 100 miles thereof; *household goods*, between points in McKinley, San Juan, and Valencia Counties, N. Mex., other than between points both of which are served by rail lines or both of which are served by regular route motor common carriers. Vendee is authorized to operate as a *common carrier* in all of the States in the United States. Application has been filed for temporary authority under section 210a(b).

No. MC–F–12026. Authority sought for purchase by FORE WAY EXPRESS, INC., 204 South Bellis St., Wausau, WI 54401, of the operating rights of EVELYN MUELLER, doing business as EVELYN MUELLER TRUCKING, 1605 South Shiloh Rd., Sturgeon Bay, WI 54235, and for acquisition by STANLEY STEFFKE, 2360 Alta Louise, Brookfield, WI, of control of such rights through the purchase. Applicants' attorney: Francis W. McInerny, 1000 Sixteenth St. NW., Washington, DC 20036. Operating rights sought to be transferred: *General commodities*, with exceptions, as a *common carrier* over regular routes, between Gills Rock and Sturgeon Bay, Wis., serving various intermediate and off-route points, between Green Bay, and Sturgeon Bay, Wis., between junction Wisconsin Highways 57 and 42 and Algoma, Wis., serving all intermediate points; *frozen fruits and frozen berries*, over irregular routes, from Sturgeon Bay, Wis., to St. Louis, Mo., and Minneapolis, Minn., from Green Bay, Wis., and Chicago, Ill., to St.

Louis, Mo., from Sturgeon Bay and Green Bay, Wis., to Cedar Rapids, Des Moines, and Laurens, Iowa, from Green Bay, Wis., to Minneapolis, Minn.; *frozen cherries*, from Sturgeon Bay, Wis., to San Antonio and Houston, Tex., and Los Angeles, Calif. Vendee is authorized to operate as a *common carrier* in Wisconsin. Application has been filed for temporary authority under section 210a(b).

No. MC–F–12027. Authority sought for merger by JENKINS TRUCK LINE, INC. (Indiana), Suite 2465, One Indiana Square, Indianapolis, IN 46204, of the operating rights and property of JENKINS TRUCK LINE, INC. (Iowa), 3708 Elm St., Bettendorf, IA 52722, and for acquisition by ROBERT L. JENKINS, also of Bettendorf, IA 52722, of control of such rights and property through the transaction. Applicants' attorney: Donald W. Smith, also of Indianapolis, IN 46204. Operating rights sought to be merged: *General commodities*, with certain specified exceptions, and numerous other specified commodities, as a *common carrier*, over irregular routes, from, to, and between all points in the United States (except Alaska and Hawaii), as more specifically described in Docket No. MC–61592 and Sub-numbers thereunder. This notice does not purport to be a complete description of all of the operating rights of the carrier involved. The foregoing summary is believed to be sufficient for purposes of public notice regarding the nature and extent of this carrier's operating rights, without stating, in full, the entirety, thereof. JENKINS TRUCK LINE, INC. (Indiana), holds no authority from this Commission. However, it is affiliated with (1) MAGGIE HAYES, doing business as HAYES TRUCK LINE, P.O. Box 97, Luther, OK 73054, and (2) RATLIFF & RATLIFF, INC., Rt. 5, Lexington, NC 27292, which are authorized to operate as *common carriers* in (1) Oklahoma, and (2) all points in the United States except Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–12028. Authority sought for purchase by ROBCO TRANSPORTATION, INC. (a Minnesota corporation), Room 205, 3033 Excelsior Blvd., Minneapolis, MN 55416, of a portion of the operating rights of BROWN TRANSPORT CORP. (a Georgia corporation), 125 Milton Ave. SE., Atlanta, GA 30315, and for acquisition by C. H. ROBINSON CO., also of Minneapolis, MN 55416, of control of such rights through the purchase. Applicants' attorneys: Donald A. Morken, 1000 First National Bank Bldg., Minneapolis, MN 55402, and Harry C. Ames, Jr., 666 Eleventh St. NW., Washington, DC 20001. Operating rights sought to be transferred: *Meat*, as a *common carrier* over irregular routes, from the plant site and storage facilities of Wilson and Co., near Hereford, Tex., to points in Georgia, North Carolina and South Carolina; *meats, meat products, and meat by-products, and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the Report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk and hides), from the plantsite of Missouri Beef Packers, Inc., near Friona, Tex., to points in North Carolina, Georgia and South Carolina, with restrictions. Vendee is authorized to operate as a *common carrier* in North Dakota, South Dakota, Minnesota, Wisconsin, Michigan, Illinois, Nebraska, Iowa, Virginia, Colorado, Pennsylvania, Massachusetts, New York, Indiana, West Virginia, Maine, Maryland, Delaware, New Jersey, Connecticut, Rhode Island, Vermont, New Hampshire, Kansas, Oklahoma, Texas, Arkansas, Missouri, North Carolina, Tennessee, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–12029. Authority sought for purchase by STRICKLAND TRANSPORTATION CO., INC., P.O. Box 5689, Dallas, TX 75222, of a portion of the operating rights of ENGLAND TRANSPORTATION COMPANY, INC., P.O. Box 47054, Dallas, TX 75247, and for acquisition by HILL-ELLIOTT, INC., 2100 Mercantile Bank Bldg., Dallas TX 75201, of control of such rights through the purchase. Applicants' attorney: Leroy Hallman, 4555 First National Bank Bldg., Dallas, TX 75202. Operating rights sought to be transferred: *General commodities*, with exceptions, as a *common carrier* over regular routes, between New Orleans and Monroe, La., serving all intermediate points in Louisiana, with restriction; *general commodities*, with exceptions, over irregular routes, from New Orleans and Plaquemine, La., to Baton Rouge and Thibodaux, La., from New Orleans and Plaquemine, La., to Ponchatoula, Hammond, Kentwood, Amite, and Clinton, La., between New Orleans, and Plaquemine, La. Venrdel is authorized to operate as a *common carrier* in Arkansas, Connecticut, Illinois, Indiana, Louisiana, Massachusetts, Kentucky, Michigan, Mississippi, Missouri, New Jersey, New York, Ohio, Oklahoma, Pennsylvania, Tennessee, Texas, Rhode Island, Delaware, Maryland, and Wisconsin. Application has been filed for temporary authority under section 210a(b).

No. MC–F–12030. Authority sought for control by CONVOY COMPANY, 3900 N.W. Yeon Ave., P.O. Box 10185, Portland, OR 97210, of COLORADO MIDLAND TRANSPORT CO., 5901 Dexter St., Commerce City, CO 80022, and for acquisition by THOMAS P. YOUELL, 2155 N. Northlake Way, Seattle, WA 98103, of control of COLORADO MIDLAND TRANSPORT CO., through the acquisition by CONVOY COMPANY. Applicants' attorney: Marvin Handler, 100 Pine St., Suite 2550, San Francisco, CA 94111. Operating rights sought to be controlled: Under a certificate of registration, in Docket No. MC–121173 (Sub-No. 1), covering the transportation of property, as a common carirer, in interstate commerce, within the State of Colorado. Vendee is authorized to operate as a *common carrier* in Oregon, Washington, Idaho, Montana, California, Nevada, Utah, Wyoming, Colorado, North Dakota, Arizona, New Mexico, South Dakota, Nebraska, Texas, Oklahoma, Minnesota, Iowa, Wisconsin, Illinois, Ohio, Indiana, Michigan, Pennsylvania, New York, Alaska, and Kansas. Application has not been filed for temporary authority under section 210a(b).

NOTE.—MC–52858 (Sub-No. 110) is a directly related matter.

No. MC–F–12031. Authority sought for purchase by YEARY TRANSFER COMPANY, INC., 2171 Christian Rd., Lexington, KY 40505, of a portion of the operating rights of WEBB TRANSFER LINE, INC., JOHN C. RYAN, TRUSTEE, P.O. Box 231, Shelbyville, KY 40065, and for acquisition by EDWIN N. YEARY, also of Lexington, KY 40501, of control of such rights through the purchase. Applicants' attorney: George M. Catlett, Suite 703–706 McClure Bldg., Frankfort, KY 40601. Operating rights sought to be transferred: *Homogenized, reconstituted or reconstructed tobacco*, as a *common carrier* over irregular routes, from Spotswood, N.J., and Ancram, N.Y., to Richmond, Va., and Durham and Reidsville, N.C., with restriction between Bermuda Hundred, Va., on the one hand, and, on the other, Louisville and Lexington, Ky. Vendee is authorized to operate as a *common carrier* in Kentucky, Ohio, Alabama, Florida, Georgia, Illinois, Indiana, Maryland, Michigan, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, West Virginia, Wisconsin, Louisiana, and Massachusetts. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–12032. Authority sought for purchase by DORN'S TRANSPORTATION INC., Railroad Ave., Extension, Albany, NY 12205, of a portion of the operating rights of FINAN'S EXPRESS, INC., Town Farm Road, Barre, MA 01005, and for acquisition by WALTER A. DORN, also of Albany, NY 12205, of control of such rights through the purchase. Applicants' attorney: Irving Klein, 280 Broadway, New York, NY 10007. Operating rights sought to be transferred: *General commodities*, excepting among others, dangerous explosives, household goods and commodities in bulk, as a *common carrier* over irregular routes, between Barre, Mass., on the one hand, and on the other, points and places in Rhode Island. Vendee is authorized to operate as a *common carrier* in Connecticut, New York, Massachusetts, New Jersey, Pennsylvania, Rhode Island, Vermont, Maryland, Delaware, Virginia, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

No. MC–F–12033. Authority sought for merger by LEE WAY MOTOR FREIGHT, INC., a Delaware Corporation, 3000 W. Reno, Oklahoma City, OK 73108, of the operating rights and property of LEE

WAY MOTOR FREIGHT OF KENTUCKY, INC., 3000 W. Reno, Oklahoma City, OK 73108, and for acquisition by R. E. LEE, AND M. S. LEE, both of Oklahoma City, OK 73108, of control of such rights and property through the transaction. Applicants' attorneys: Richard H. Champlin, P.O. Box 82488, Oklahoma City, OK 73108, and Roland Rice, Suite 618, Perpetual Bldg., 1111 E St. NW., Washington, D.C. 20004. Operating rights sought to be merged: *General commodities*, with exceptions, as a *common carrier* over regular routes, serving various intermediate and off-route points, between Florence and Beaverlick, Ky., between junction Kentucky Highway 36 and U.S. Highway 42 (near Carrollton, Ky.) and junction U.S. Highways 421 and 42 (near Bedford, Ky.), serving all intermediate points, between Louisville, Ky., and Cincinnati, Ohio, serving no intermediate points, between Warsaw, Ky., and Owenton, Ky., serving all intermediate points, and the off-route point of Glencoe, Ky., between junction U.S. Highway 227 and Kentucky Highway 35 (near Bromley, Ky.), and Carrollton, Ky., serving all intermediate points, between Owenton, and Williamstown, Ky., serving all intermediate points, and the off-route point of Long Ridge, Ky., between Cincinnati, Ohio, and Louisville and Williamstown, Ky., serving all intermediate points, and the off-route points of Burlington, Crescent Springs, Hebron, Campbellsburg, Newport, Grant, Ludlow, and Latonia, Ky., between Erlanger, Ky., and the Boone-Kenton Airport (in Boone County, approximately 5 miles west of Erlanger), serving all intermediate points; *general commodities*, except commodities in bulk, in tank vehicles, but including livestock, over irregular routes, between points in that part of Ohio on and west of U.S. Highway 62 and on and south of U.S. Highway 40, on the one hand, and, on the other, points in Boone, Campbell, and Kenton Counties, Ky.; *cream, butter, eggs, lumber, roofing, and soap*, from Cincinnati, Ohio, to points in that part of Kentucky on and north of U.S. Highway 60. LEE WAY MOTOR FREIGHT, INC., a Delaware Corporation is authorized to operate as a *common carrier* in Alabama, Arkansas, Arizona, California, Colorado, Georgia, Kansas, Kentucky, Missouri, New Mexico, Illinois, Indiana, Ohio, Pennsylvania, Oklahoma, Tennessee, Texas, and West Virginia. Application has not been filed for temporary authority under section 210a(b).

NOTE.—Pursuant to order dated May 21, and served May 28, 1971, in Docket No. MC-F-10997 transferee acquired control of transferor.

No. MC-F-12034. Authority sought for purchase by UMTHUN TRUCKING CO., 910 S. Jackson, Eagle Grove, IA 50533, of the operating rights of DEARMIN TRANSFER, INC., Highway 61, Wapello, IA 52633, and for acquisition by VIRGIL UMTHUN, 521 S.E. 10th St., Eagle Grove, IA 50533, and JOSEPH UMTHUN, 900 S. Jackson, Eagle Grove, IA 50533, of control of such rights through the purchase. Applicants attorney: Earl H. Scudder, Jr., P.O. Box 82028, Lincoln, NE 68501. Operating rights sought to be transferred: *Livestock*, as a *common carrier*, over regular routes, between Wapello, Iowa, and points in the Chicago, Ill., commercial zone, as defined by the Commission, Galesburg, and Peoria, Ill.; *general commodities*, with exceptions, between Newport, Iowa, and Galesburg, and Peoria, Ill., serving various intermediate and off-route points; *feed*, over irregular routes, from points in the Chicago, Ill., commercial zone, as defined by the Commission, to Grandview, Ia., and points within one mile of Grandview, from Forest Park, Ill., to Pilot Grove, Houghton, Burlington, Oakville, and Yarmouth, Iowa, and points within ten miles of Yarmouth; *coal*, from Galesburg and Peoria, Ill., and points within 20 miles of Galesburg and Peoria, Ill., and points within 20 miles of Galesburg and Peoria, respectively, to Yarmouth, Iowa, and points in Iowa within 25 miles of Yarmouth; *tankage*, from points in the Chicago, Ill., commercial zone as defined by the Commission, to Grandview, Iowa, and points within one mile of Grandview; *blacksmith supplies*, from Monmouth, Ill., to Yarmouth, Iowa; *roofing materials*, from Forest Park, Ill., to Yarmouth, Iowa, *fencing materials*, from Peoria, Ill., to Wapello, Iowa; *clay products*, from Sheffield and Carbon Cliff, Ill., to Wapello, Iowa; *agricultural implements and parts*, from Sandwich, Ill., to Yarmouth, Iowa, and points within 25 miles of Yarmouth, from East Moline, Moline, and Rock Island, Ill., to Wapello and Morning Sun, Iowa; *agricultural machinery*, from Sandwich, Ill., to Yarmouth, Iowa, and points within 25 miles of Yarmouth; *eggs and poultry*, from Morning Sun, Iowa, to points in the Chicago, Ill., commercial zone as defined by the Commission; *general commodities*, with exceptions, from points in the Chicago, Ill., and the St. Louis, Mo.-East St. Louis, Ill., commercial zones as defined by the Commission, to West Point, Iowa, and points in Iowa within 35 miles of West Point; *livestock*, between West Point, Iowa, and points in Iowa within 35 miles of West Point, on the one hand, and, on the other, points in the St. Louis, Mo.-East St. Louis, Ill., commercial zone as defined by the Commission, and points in Iowa and Illinois, from points in Iowa within 25 miles of Yarmouth, Iowa, other than those within 35 miles of West Point, Iowa, to points in the Chicago, Ill., commercial zone, as defined by the Commission, Peoria, Galesburg, Keithsburg, and East St. Louis, Ill., from points in the Chicago, Ill., commercial zone as defined by the Commission, and Peoria, Ill., to points in the Iowa territory; *carboys*, between Wapello, Iowa, and points in the Chicago, Ill., commercial zone, as defined by the Commission; *twine*, from Peoria, Ill., to Oakville, Iowa; *tile*, from Sterling and Sheffield, Ill., to Oakville, Iowa; *agricultural implements* and parts thereof, from Chicago, East Moline, and Sandwich, Ill., to Oakville and Mediapolis, Iowa; *feed*, from Chicago and Forest Park, Ill., to Newton, Winterset, Pella, Knoxville, Sandyville, Norwalk, Oakville, and Mediapolis, Iowa; *coal* from mines in La Salle and Knox Counties, Ill., to Oakville, Iowa, and points and places within ten miles thereof; *eggs*, from Morning Sun, Iowa, to Chicago, Ill.; *egg cases* and *egg case material*, from Chicago, Ill., to Morning Sun, Iowa; *livestock*, between Oakville, Iowa, and points within 35 miles thereof, on the one hand, and, on the other, Chicago, Peoria, Galesburg, and Keithsburg, Ill.; *household goods*, as defined by the Commission, between Oakville, Iowa, and points in Iowa within 35 miles of Oakville, on the one hand, and, on the other, points and places in Illinois; *used empty petroleum products containers*, from West Point, Iowa, and points in Iowa within 35 miles of West Point, except Keokuk, Montrose, Fort Madison, and Burlington, to St. Louis, Mo.; *fertilizer*, other than liquid, from Crystal City, Mo., to West Point, Iowa, and points in Iowa within 35 miles of West Point; *fertilizer* and *feed* (except in liquid bulk, in tank vehicles), from Chicago, Ill., to certain specified points in Iowa; *fertilizer*, in bags, from Chicago Heights, Ill., to certain specified points in Iowa; *iron and steel articles*, except commodities which because of size or weight require the use of special equipment and/or handling, from the plantsite of the Bethlehem Steel Corporation at Burns Harbor, Porter County, Ind., to points in Des Moines, Henry, Jefferson, Lee, Louisa, and Van Buren Counties, Iowa, with restriction. Vendee is authorized to operate as a *contract carrier* in Iowa, Nebraska, North Dakota, South Dakota, Minnesota, Illinois, Indiana, Kentucky, Michigan, Ohio, Kansas, Missouri, Montana, Colorado, Wisconsin, and Wyoming, and as a *common carrier* in Iowa, Missouri, Nebraska, Minnesota, Wisconsin, Colorado, Kansas, Wyoming, South Dakota, Illinois, Indiana, Montana, North Dakota, Arkansas, Kentucky, Michigan, Mississippi, Ohio, Tennessee, and Pennsylvania. Application has been filed for temporary authority under section 210a(b).

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-23745 Filed 11-6-73;8:45 am]

[AB 26]

SOUTHERN RAILWAY CO.

Abandonment of Trackage Rights Between Selma, N.C., and Pinners Point, Va.

The Interstate Commerce Commission hereby gives notice that by order dated November 1, 1973, it has been determined that the (1) the proposed abandonment of operation by the Southern Railway Company (Southern) in the above-entitled proceeding over the lines of railroad of the Seaboard Coast Line Railway Company between Selma, N.C., and Pinners Point, Va., via Tarboro, N.C., a distance of approximately 154.72 miles, and over certain interchange tracks at Pinners Point, and (2) the proposed abandonment of Southern's own line of

railroad, together with yard and related tracks at Pinners Point in the city of Portsmouth, Va., if approved by the Commission, would not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4331, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that the authority for the proposed abandonment would be exercised upon the proposed merger of Norfolk Southern Railway Company into Carolina Northwestern Railway Company as a wholly owned subsidiary of Southern. The proposed abandonment and merger, if permitted, would not materially deprive Southern Railway Company's existing customers of available rail service either at the Selma and Pinners Point terminals or in the Norfolk-Portsmouth, Va., area, generally. The use of Pinners Point as an important industrial and ocean trans-shipment terminal area will not be affected by the proposed action. The determination was based upon the staff preparation and consideration of an environmental threshold assessment survey, which is available for public inspection upon request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202-343-6989.

Interested parties may comment on this matter by the submission of representations to the Interstate Commerce Commission, Washington, D.C. 20423, on or before November 22, 1973.

[AB 26]

PRESENT: Kenneth H. Tuggle, Commissioner, to whom the matter which is the subject of this order has been assigned for action thereon.

Upon consideration of the record in the above-entitled proceeding, and of a staff-prepared environmental threshold assessment survey which is available for public inspection upon request; and

It appearing that no environmental impact statement need be issued in this proceeding, because this proceeding does not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmetal Policy Act of 1969, 42 U.S.C. 4331 et seq.; and good cause appearing therefor:

It is ordered, That applicant be, and it is hereby, directed to publish the appended notice in a newspaper of general circulation in the cities of Portsmouth, Chesapeake, and Suffolk, Va., and Windsor, Gatesville, Ahoskie, Roanoke Rapids, Tarboro, Wilson, Rocky Mount, and Smithfield, N.C., within 15 days of the date of service of this order, and certify to this Commission that this has been accomplished.

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy thereof in the Office of the Secretary of the Commission at Washington, D.C., and by forwarding a copy to the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER.

Dated at Washington, D.C. this 1st day of November 1973.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-23746 Filed 11-6-73;8:45 am]

[Ex Parte No. 241; Rule 19, Exemption No. 56]

EXEMPTION UNDER MANDATORY CAR SERVICE RULES

Erie Lackawanna Railway Co., and Penn Central Transportation Co.

It appearing, That the Erie Lackawanna Railway Company (EL), Thomas F. Patton and Ralph S. Tyler, Jr., Trustees, and the Penn Central Transportation Company, George P. Baker, Richard C. Bond, and Jervis Langdon, Jr., Trustees (PC), have each agreed to the unrestricted use by the other of its plain gondola cars less than 61 ft. in length; and that such mutual use of gondola cars will increase car utilization by reductions in switching and movements of empty gondola cars.

It is ordered, That, pursuant to the authority vested in me by Car Service Rule 19, plain gondola cars described in the Official Railway Equipment Register, I.C.C. R.E.R. No. 388, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "GB", which are less than 61 ft. 0 in. long, and which bear the reporting marks listed herein, may be used by the EL and the PC without regard to the requirements of Car Service Rules 1 and 2.

REPORTING MARKS

EL	PC

EL	B&A	NH	PCB	TOC;
ERIE	BWC	NYC	P&E	
DL&W	CASO	PCA	PRR	

Effective: October 31, 1973.

Expires: November 30, 1973.

Issued at Washington, D.C., October 31, 1973.

INTERSTATE COMMERCE COMMISSION,
[SEAL] LEWIS R. TEEPLE,
Agent.

[FR Doc.73-23736 Filed 11-6-73;8:45 am]

[Ex Parte No. 241; Rule 19, 3rd Rev. Exemption 22; Amdt. 4]

EXEMPTION UNDER PROVISION OF MANDATORY CAR SERVICE RULES

Expiration Date

Upon further consideration of Third Revised Exemption No. 22 issued January 12, 1973.

It is ordered, That, under authority vested in me by Car Service Rule 19, Third Revised Exemption No. 22 to the Mandatory Car Service Rules ordered in Ex Parte No. 241 be, and it is hereby, amended to expire December 15, 1973.

This amendment shall become effective October 31, 1973.

Issued at Washington, D.C., October 30, 1973.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[FR Doc.73-23734 Filed 11-6-73;8:45 am]

[EX PARTE No. 241; Rule 19, Exemption 54]

EXEMPTION UNDER MANDATORY CAR SERVICE RULES

Missouri-Kansas-Texas Railroad Co. and St. Louis-San Francisco Railroad Co.

It appearing, that there is an emergency movement of military supplies from Parsons, Kansas, to Concord, California, and to Leland, North Carolina; that the originating carriers have insufficient system cars of suitable dimensions immediately available for loading with this traffic; that sufficient cars of other ownerships having suitable dimensions are available on the lines of the originating carrier and on its connections; and that compliance with Car Service Rules 1 and 2 would prevent the timely assembly and use of such cars.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, the Car Service Division of the Association of American Railroads is authorized to direct the movement to the Missouri-Kansas-Texas Railroad Company or to the St. Louis-San Francisco Railway Company; the railroads designated by the Car Service Division are authorized to move to, and the Missouri-Kansas-Texas Railroad Company and the St. Louis-San Francisco Railway Company are authorized to accept, assemble, and load not to exceed two hundred forty three (243) empty cars with military supplies from Parsons, Kansas, to Concord, California, and to Leland, North Carolina, regardless of the provisions of Car Service Rules 1(b), 2(c), 2(d), or 2(e).

Effective October 30, 1973.

Expires November 15, 1973.

Issued as Washington, D.C., October 30, 1973.

INTERSTATE COMMERCE COMMISSION,
[SEAL] LEWIS R. TEEPLE,
Agent.

[FR Doc.73-23735 Filed 11-6-73;8:45 am]

[EX PARTE NO. 241; Rule 19, Exemption 55]

EXEMPTION UNDER MANDATORY CAR SERVICE RULES

Norfolk and Western Railway Co. and Penn Central Transportation Co.

It appearing, That the Norfolk and Western Railway Company (N. & W.) and the Penn Central Transportation Company, George P. Baker, Richard C. Bond, and Jervis Langdon, Jr., Trustees

(PC) have each agreed to the unrestricted use by the other of its plain gondola cars less than 61 ft. in length; and that such mutual use of gondola cars will increase car utilization by reductions in switching and movements of empty gondola cars.

It is ordered, That, pursuant to the authority vested in me by Car Service Rule 19, plain gondola cars described in the Official Railway Equipment Register, I.C.C. R.E.R. No. 387, issued by W. J. Trezise, or successive issues thereof, as having mechanical designations "GA," "GB," "GD," "GE," "GH," "GRA," "GS," and "GW," which are less than 61 ft. 0 in. long, and which bear the reporting marks listed herein, may be used by the N&W and the PC without regard to the requirements of Car Service Rules 1 and 2.

N&W	PC
Reporting Marks	
N&W	PC
NKP	B&A, PCA.
P&WV	BWC, PCB.
VGN	CASO, P&E.
WAB	NH, PRR.
	NYC, TOC.

Effective: October 31, 1973.

Expires: November 30, 1973.

Issued at Washington, D.C., October 31, 1973.

INTERSTATE COMMERCE COMMISSION,
[SEAL] LEWIS R. TEEPLE,
Agent.

[FR Doc.73-23733 Filed 11-6-73;8:45 am]

CUMULATIVE LISTS OF PARTS AFFECTED—NOVEMBER

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 November.

1 CFR Page
CFR checklist 30097

3 CFR
PROCLAMATIONS:
4253 30425
EXECUTIVE ORDERS:
11745 30429

4 CFR
56 30431
331 30725
351 30728
400 30730
401 30730
402 30730
403 30730
404 30730
406 30730

5 CFR
213 ..... 30251, 30531

6 CFR
102 30531
150 ..... 30097, 30266, 30267, 30272
Rulings 30099, 30444, 30733

7 CFR
27 30099
47 30444
54 30734
70 30734
215 30100
354 30274
722 30273
907 30100
910 30273
912 30273
913 30274
927 30101
945 30532
965 30447
966 30448
980 30449
982 30101
987 30734
989 30734
1136 30533
1421 30275
1843 30102
PROPOSED RULES:
912 30276
967 30563
1701 ..... 30112, 30451, 30452

8 CFR
299 30735

9 CFR
73 30735
78 30251
82 ..... 30102, 30735
350 30736
355 30736

10 CFR
2 30252
50 ..... 30253, 30538
70 ..... 30533, 30538, 30542
73 ..... 30533, 30538
170 30254

10 CFR—Continued Page
PROPOSED RULES:
2 30203
11 30208
30 30203
40 30203
50 ..... 30203, 30564
51 30203
70 30203
115 30564

12 CFR
531 30102
545 30546

13 CFR
107 30736
121 30255
118 30546

14 CFR
39 30255
71 ..... 30103, 30736–30738
97 30103
103 30104
241 30256
PROPOSED RULES:
Ch. I 30277
71 30276
95 30109
241 30565
373 30281
378 30281

15 CFR
PROPOSED RULES:
908 30563

16 CFR
429 30104
1500 30105
1505 30105

17 CFR
PROPOSED RULES:
270 30111
275 30111

18 CFR
2 30432
101 30434
104 30434
201 30435
204 30435
PROPOSED RULES:
154 30567
201 30567
260 ..... 30567, 30749

19 CFR
10 30549
18 30549
125 30549
171 30549
172 30550

20 CFR
PROPOSED RULES:
416 30748

21 CFR Page
121 ..... 30256, 30257
135c 30258, 30550
146b 30258
1308 30550
PROPOSED RULES:
3 30454
21 ..... 30276, 30454
128 30276
133 30276
135 30746

22 CFR
1 30258

23 CFR
PROPOSED RULES:
771 30192
790 30192
795 30192

24 CFR
201 30439
1270 30258
1914 ..... 30440, 30441, 30552
1915 30441
1932 30443
1933 30443

25 CFR
221 30105

26 CFR
1 30553

28 CFR
0 30738

29 CFR
1952 30436
PROPOSED RULES:
1450 30283
1910 30452
1999 30744

30 CFR
505 30259

31 CFR
209 30438

32 CFR
865 30739
PROPOSED RULES:
1455 30285
1499 30285
1604 30749
1641 30749
1660 30749

32A CFR
EPO Reg. 1 30739
EPO Reg. 7 ..... 30259, 30740

33 CFR
1 30740
110 30740
207 30740

38 CFR
3 30105
21 30438

40 CFR

	Page
85	30439
52	30626, 30633, 30818, 30825, 30827, 30832
416	30282
167	30557

PROPOSED RULES:

52	30626, 30633
180	30565

41 CFR

60–1	30741

45 CFR

60	30658
100	30661
100a	30662
100b	30679
100c	30691
102	30658
103	30658
107	30658
111	30658
112	30659
113	30659
114	30659
115	30659
116	30659
117	30659
118	30659
119	30659
121	30659
123	30659
124	30659
125	30659
129	30659

45 CFR—Continued

	Page
130	30659
131	30659
132	30660
141	30660
142	30660
144	30660
145	30660
147	30660
150	30660
151	30660
155	30660
160	30660
166	30660
167	30660
170	30660
171	30660
173	30660
175	30660
177	30661
178	30661
180	30661
181	30661
185	30661
186	30661
187	30661
188	30661
233	30259
248	30259

PROPOSED RULES:

103	30747

46 CFR

PROPOSED RULES:

282	30276
511	30111
538	30454

47 CFR

	Page
2	30742
0	30559
15	30265
73	30265
89	30742
91	30742

PROPOSED RULES:

76	30565
73	30283, 30748
91	30282
97	30566

49 CFR

567	30107
568	30107
571	30233
1006	30275
1033	30439, 30559, 30742
1059	30275
1300	30275
1304	30275
1307	30275
1308	30275
1309	30275

PROPOSED RULES:

173	30564
178	30564
571	30280
1207	30568
1057	30750

50 CFR

32	30743
33	30743
275	30560

PROPOSED RULES:

33	30109

FEDERAL REGISTER PAGES AND DATE—NOVEMBER

Pages	*Date*
30091–30243	Nov. 1
30245–30420	2
30421–30524	5
30525–30716	6
30717–30858	7

federal register

WEDNESDAY, NOVEMBER 7, 1973
WASHINGTON, D.C.

Volume 38 ■ Number 214

PART II

ENVIRONMENTAL PROTECTION AGENCY

■

AIR PROGRAMS; APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Colorado; Oregon; Minnesota; Springfield, Massachusetts; Transportation Control Plans

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Colorado Transportation Control Plan

The Governor of the State of Colorado originally submitted the "State of Colorado Air Pollution Control Transportation and Land Use Plan" on June 4, 1973. Hearings were held by the State on this plan on January 19, 1973. On January 31, 1973, the U.S. Court of Appeals for the District of Columbia Circuit ordered EPA to approve or disapprove state plans no later than June 15, 1973. Further, a period of public comment was required after receiving the plan before EPA could approve Colorado's plan. Accordingly, EPA had to publish notice of disapproval of the plan in the June 22, 1973, FEDERAL REGISTER. This disapproval was based only upon the lack of timely submittal.

A review of the Colorado plan revealed several deficiencies and EPA requested supplemental information. This supplemental information was submitted by the Governor on July 16, 1973.

The Colorado plan and supplemental information are for the most part approvable as specified below, and the State of Colorado should be commended on its efforts. However, the unique nature of a city that is more than 5,000 feet above sea level compounded the problems of developing appropriate control strategies.

EPA's review of the plan showed that additional measures were necessary to achieve the national ambient air quality standards for carbon monoxide and photochemical oxidants. These measures were proposed in the August 2, 1973, FEDERAL REGISTER (38 FR 20752).

The EPA held a public hearing on September 10 and 11, 1973, in Denver on the proposed regulations. Written comments have also been received on the Colorado plan and supplemental information.

POLLUTION IN THE METROPOLITAN DENVER REGION

The Metropolitan Denver Region lies within the South Platte River drainage basin. Pollution problems associated with motor-vehicle-generated carbon monoxide and photochemical oxidants (hydrocarbons) occur during periods of stable atmospheric conditions with light winds. The South Platte River flows from southwest to northeast through the center of Denver, with land elevation generally decreasing toward the northeast. The mountains rise to about 8,000 feet above sea level to the west and 6,000 to 7,000 feet to the southwest. This topographic pattern results in downslope or drainage winds from the south through the southwest during the night and into the morning hours. As daytime heating takes effect, upslope or toward-the-mountains wind flow occurs. Sometimes this wind flow covers a considerably wider range from north-northeast to south-southeast. This local wind regime is strongest when the general weather situation is quiet and under the influence of a week pressure gradient.

The second highest 1-hour average concentration of oxidants recorded in the Metropolitan Denver Air Quality Control Region (AQCR) for the base year 1971 was 0.18 ppm. Using the relationship between hydrocarbon emissions and ambient photochemical oxidant concentration, as defined in Appendix J, 40 CFR Part 51, a 60-percent reduction from 1971 hydrocarbon emissions is required to meet the national standard of 0.08 ppm.

The second highest 1-hour and 8-hour carbon monoxide concentrations were recorded in 1971 in the Metropolitan Denver AQCR. The concentrations were 51.0 ppm and 24.7 ppm, respectively. Control measures adequate to ensure meeting the 8-hour carbon monoxide standard will also ensure meeting the 1-hour carbon monoxide standard. Utilizing a proportional rollback technique, a 64 percent reduction from 1971 carbon monoxide emissions is required to meet the national 8-hour standard of 9 ppm.

The above concentrations were recorded at the CAMP station located in downtown Denver. While this was the only station in operation during 1971, EPA feels the location is representative of the maximum concentrations occurring in the AQCR. There are now 5 additional monitoring stations in operation in the Denver area. If these stations indicate higher levels than the CAMP station, revision of the transportation control plan will be required.

The best information available to the Administrator indicates that the anticipated decrease in motor vehicle emissions as a result of the Federal Motor Vehicle Control Program (FMVCP) will be insufficient to permit meeting the national ambient air quality standards in the Denver area by May 31, 1975. Stationary sources of hydrocarbons contribute significantly to the photochemical oxidant problem in the Metropolitan Denver AQCR, and control of these sources will contribute to the necessary emissions reductions for hydrocarbons. The balance of reduction necessary as well as reductions in carbon monoxide will come from controls on mobile source emissions.

SUMMARY OF STATE PLAN

Of the strategies listed below, the first three were proposed in the original Colorado transportation control plan submitted on June 4, 1973. The second three were proposed in the submittal of supplemental information on July 16, 1973. The strategies are:

(1) Semiannual inspection and maintenance program using the idle test mode to be fully implemented by December 1, 1975.

(2) Air bleed retrofit for pre-1968 vehicles to be fully implemented by July 1, 1976.

(3) High altitude modification and tuning specifications for 1968–1975 vehicles to be fully implemented by July 1, 1976. The following strategies are to be implemented by December 1, 1974:

(4) Designation of mandatory bus/carpool lanes.

(5) Limitation on the construction of future parking facilities.

(6) Removal of on-street parking in the Central Business District (CBD).

The State of Colorado has also included improvements in public transit and expanded bikeway development and use to reduce the number of vehicle miles traveled (VMT). On the other hand, the State has eliminated gasoline rationing as a control strategy in favor of the latter three listed strategies.

The Administrator has reviewed the control strategies submitted and finds them adequate with the exceptions noted below. Regulations are promulgated in this notice to alleviate these deficiencies. An evaluation report, which provides the rationale for approving portions of the State's implementation plan, is available for public inspection at the Office of Public Affairs, Environmental Protection Agency, Region VIII, 1860 Lincoln Street, Denver, Colorado 80203, and at the Office of Public Affairs, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

EPA finds the first three strategies above to be approvable.

The second three strategies are designed to reduce vehicle miles of travel in the Region. The State has submitted proposed regulations for these measures, together with a timetable for adoption. These proposals are similar to those that have been proposed by EPA in other areas. EPA is approving these strategies since transportation controls can be submitted in proposed form (40 CFR 51.22) and since EPA considers the measures as effective and enforceable components of the VMT reduction plans.

In its plan, the State of Colorado proposed regulations for the control of stationary hydrocarbon emissions. Only transportation and land use control plans (or strategies) may be submitted in proposed form (40 CFR 51.22). EPA, therefore, must disapprove this strategy. Stationary hydrocarbon regulations, which were proposed in the August 2, 1973, FEDERAL REGISTER, are being promulgated by the Administrator.

The State has since adopted stationary hydrocarbon emission control regulations, and plans to submit them as plan revisions. If, after reviewing the regulations and any public comments, the Administrator finds they are approvable in whole or in part, any duplicated stationary hydrocarbon emission control regulations promulgated herein will be withdrawn or modified.

The State plan does not demonstrate that the standards will be attained by May 31, 1977; and EPA's evaluation is that additional reductions are necessary. EPA accordingly is promulgating gasoline sales limitations, as a means of assuring attainment of the standards in 1977, as required by the statute.

EXTENSIONS

Section 110(e) of the Clean Air Act provides that an extension of up to 2 years in the time allotted a State for

achieving any given primary standard in any air quality control region may be granted under certain conditions. The Governor of Colorado requested such an extension and, in addition, the Administrator proposed an extension in the August 2, 1973, FEDERAL REGISTER. An extension may be granted if certain elements of the control strategies necessary to control certain sources will not be available by 1975; if there are no alternatives that will be available by 1975; if the plan provides for the application, as soon as is practicable, of all reasonably available measures for reducing emissions from these sources; and if all strategies in the plan for the control of other sources will be applied by May 31, 1975.

Several strategies included in the plan submitted by the State of Colorado and those promulgated by EPA, designed to achieve standards by May 31, 1975, cannot be implemented by that date. They are, with their dates of implementation:

(a) Semiannual inspection and maintenance program using the idle test mode to be fully implemented by December 1, 1975.

(b) Air bleed retrofit for pre-1968 vehicles to be fully implemented by July 1, 1976.

(c) High altitude modification and tuning specifications for 1968–1975 vehicles to be fully implemented by July 1, 1976.

(d) Reductions in VMT greater than those envisioned by the State plan, including a gasoline sales limitation to take effect May 31, 1977.

(e) Gasoline marketing vapor recovery to be implemented by May 31, 1977.

Also, the Administrator has determined that if EPA were to implement a semiannual inspection/maintenance program, the first cycle could not be completed before December 1, 1975, and that installation of the airbleed-to-intake-manifold device and high altitude efficiency modification could not be completed before August 1, 1976. Explanation for the timetables of availability for each of these measures can be found in the general preamble to this promulgation. There are no alternatives to these strategies which could be applied before 1977. No further measures to reduce VMT can be considered reasonably available as interim measures due to excessive social and economic impact as well as administrative impossibilities.

EPA's proposed gasoline sales limitation received many comments indicating that such a measure would be unreasonable from a social and economic standpoint. The cost of administering the limitation and the economic effect on commercial establishments were cited. The adverse effect of the gasoline shortage (which was more critical in Colorado than elsewhere) this summer on the tourist industry was cited by many. Although the shortage was apparent only in the Denver area, tourism in the entire State was drastically affected. Many comments indicated that sales limitation on gasoline in the Denver Region would have the same impact statewide. Even environmental groups in the Denver area stated that a gasoline sales limitation should be used only as a last resort, to be implemented only after all other measures have been applied and fall short of attaining the standard. It is, however, required as a necessary strategy for final attainment of the standard because, at that point under the statute, the "reasonableness" criterion is not a determining factor. Stationary hydrocarbon sources, except for gasoline marketing sources, will be in compliance by May 31, 1975.

As requested by the Governor of Colorado and as the EPA proposal suggested, an extension of time until May 31, 1977, is granted in which to achieve the ambient air quality standards.

EPA REGULATIONS

A gasoline sales limitation is promulgated to take effect in 1977 to assure that the standard will be attained. However, implementation of this strategy to account for a significant VMT reduction might not be necessary. The required VMT reduction may be achieved by the State through other means such as mass transit improvements or additional strategies submitted by the State, or such a large VMT reduction may prove to be unnecessary. The alternative strategies for 1977 would probably require more capital expenditure than gas limitation and would require even more lead time.

Limited use license plates and catalytic converter retrofits were suggested as alternatives to the gasoline limitation in the EPA proposal, but the Administrator has determined that these strategies are not available alternatives. In addition, they received little favorable comment at the public hearing. The State is currently testing vehicles equipped with catalytic converters, and may propose the inclusion of this strategy if it proves successful. If this strategy is formally submitted by the State and demonstration of attainment of the standards is included, the gasoline sales limitation regulation for 1977 or portions thereof, may be withdrawn.

EPA's gasoline sales limitation regulation requires the State to calculate the effect of its transportation control plan on air quality on the basis of data collected during fiscal year 1976. The extent of any gasoline sales limitation is contingent upon this determination. Further, the implementation plan reporting process requires the States to submit semiannually data indicating source compliance with the control requirements. Those reports will include data indicating progress being made toward achievement of the VMT reduction specified in the State plan.

The stationary source hydrocarbon regulations promulgated herein control hydrocarbon emissions from a variety of sources. The regulations limit emissions in the areas of transportation, manufacturing, and processing. Regulations are also provided for control of gasoline sales and marketing operations. Controls for paint and varnish manufacturing which were covered under a separate regulation in the proposal, are included in the regulation on organic solvent usage.

Several written comments were also received concerning the proposed regulation for degreasing operations. The comments questioned the necessity of banning particular solvents, and suggested that the alternative of controlling emissions from the solvents currently in use should be allowed. The proposed regulation was changed to allow control as an alternative to banning certain solvents.

SUMMARY OF THE TRANSPORTATION CONTROL PLAN

Table I summarizes the Colorado and EPA control strategy effects in tons per year of carbon monoxide and hydrocarbons in the demonstration areas listed in the Colorado plan. The demonstration areas are the CBD for carbon monoxide emissions and Denver and Adams Counties for emissions of hydrocarbons.

TABLE I.—*Compilation of control strategy effects on carbon monoxide and hydrocarbon emissions*

[Tons per year]

Control strategy	Emission reduction in addition to the Federal motor vehicle control program (FMVCP)							
	Carbon monoxide (core area)				Hydrocarbons (Denver and Adams Counties)			
	1971	1975	1976	1977	1971	1975	1976	1977
State strategies:								
1. Inspection/maintenance			4,314	4,022			1,179	1,086
2. Air bleed (pre-1968)			3,138	2,194			58	407
3. High altitude modification (1968-74)			6,275	512			1,326	1,086
4. VMT reductions		2,894	2,591	3,076		1,513	1,796	2,146
a. Bus/carpool lanes.								
b. Parking lot construction limitation.								
c. Limitation of on-street parking.								
d. Mass transit improvements.								
EPA proposal:								
5. Stationary hydrocarbon control						5,169	7,755	10,339
6. Gasoline limitation				3,282				2,289
Uncontrolled emissions (includes FMVCP)	52,106	46,483	42,513	37,105	43,307	38,219	35,993	33,445
Total reduction from strategies		2,894	16,318	17,694		6,682	12,645	17,353
Remaining emissions	54,106	43,589	26,195	19,411	43,307	31,537	23,348	16,092
Allowable emissions	19,802	19,802	19,802	19,802	17,378	17,378	17,378	17,378

TABLE II.—*Effect of Colorado and EPA strategies by 1977*

Strategies	Percent reductions from 1971 emissions	
	CO	HC
State strategies:		
1. Federal motor vehicle control program	31	23.0
2. Inspection/maintenance	7	2.5
3. Air bleed	4	1.0
4. High altitude modifications	10	2.5
5. VMT reductions	6	5.0
a. Bus/carpool lanes.		
b. Parking lot construction limitations.		
c. Limitation of on-street parking in the core area.		
d. Mass transit improvements.		
EPA regulations:		
6. Stationary hydrocarbon control		24.0
7. Gasoline limitation	6	5.0
Total reduction	64	63.0
Reduction required	64	60.0

As shown in Tables I and II, the EPA and State regulations ensure attainment of the national ambient air quality standards for carbon monoxide and photochemical oxidants (hydrocarbons) by May 31, 1977. If the reductions for the hardware devices, as determined by actual investigation, are found to be less than those claimed by the State of Colorado, a plan revision will be necessary to implement strategies to compensate for the loss.

The strategies and listed reductions in the above tables represent a dynamic plan. As the date base is revised and updated, the numbers shown in these tables may change to reflect more current information.

The table published in the August 2, 1973, FEDERAL REGISTER (38 FR 20754) has been modified as to the number of tons per year emission reduction applied to individual strategies. The total reductions necessary are unchanged, but an error was made in apportioning emissions between individual strategies. Table I in this promulgation reflects the correct apportionment of emission reductions for each strategy. Table II shows the effect of the State and EPA strategies as a percent reduction from 1971 emissions in 1977.

The emission reductions in Tables I and II were calculated from a report done under contract for EPA by TRW, Inc. The reductions are explained in the Evaluation Report. The TRW report is part of the technical support document for this notice which is available for public inspection at the Office of Public Affairs, Environmental Protection Agency, Region VIII, 1860 Lincoln Street, Denver, Colorado 80203, and at the Office of Public Affairs, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

The TRW report shows that a 31 percent reduction is required in VMT to meet the national ambient standards for CO and oxidants (hydrocarbons). The TRW report also shows that 20 percent of the VMT in 1977 are growth from 1971 levels.

The VMT reduction measures, strategy 5 in Table II, are estimated by EPA to provide a 15 percent VMT reduction from projected 1977 levels, or a 6-percent reduction of CO emissions and a 5-percent reduction of hydrocarbon emissions from 1971 levels for all sources. The rationale for deriving these reductions is provided in the Evaluation Report.

The parking lot construction regulation, measure 5.b., alone could have more than the effect of stopping new VMT growth because land now used for parking will be converted to other uses through urban renewal. The effect in the central business district of measure 5.b. will be much greater because this is where most of the conversion of parking lots to other uses will occur. Measure 5.c., elimination of on-street parking in the core area, will have little effect because there is very little of such parking now. Measure 5.a., bus/carpool lanes will increase the benefits of mass transit improvements by providing for decreased trip time for transit; and the measure will make auto travel more difficult.

If the effect of these VMT reduction measures is less than the estimated 15 percent reduction, the effect of measure 7 in Table II will have to be increased. It is now assumed that the gasoline limitation will provide a 16-percent reduction in vehicle miles traveled in 1977.

IMPACT OF THE PLAN

There will be some direct costs of the implementation of this plan. The costs of the Inspection/Maintenance program and the retrofit devices could be borne by individuals or it could be distributed across the AQCR population by requiring increased registration fees. These decisions are left to the State. Some adjustment in travel patterns will be required with the imposition of the VMT reducing measures. It is expected, however, that these effects will be temporary and that the mobility of the population will be increased rather than decreased due largely to the upgrading of mass transit service. There may be some costs associated with the temporary inconvenience during the travel pattern adjustment period. Some roads will undoubtedly be more congested since in some cases bus lanes will be taken from existing roadways. This congestion will lessen with the passage of time as the shift is made to mass transit. The same temporary inconvenience may be felt due to the rush hour parking ban.

All of these costs and inconveniences should not outweigh the benefits accrued from cleaner air in the Denver region. The high levels of pollutants now registered in Denver do exceed the standards set by EPA for protection of health. The primary benefit of the plan should be to eliminate any adverse effects from the high levels of pollution.

In addition to this primary benefit, the ultimate increased mobility of the population should improve and enhance the living standard and lifestyles of Denver residents, but from an economic and a social standpoint. In conjunction with the increased mobility due to increased transit usage, a significant decrease in the use of gasoline by the population should occur providing another positive benefit.

On September 7, 1973, the people of the Denver area approved a plan and funding for the Regional Transportation District (RTD). RTD will provide for expanded mass transportation, which is greatly needed. However, as presently conceived, the RTD will provide for far less than the projected 31-percent VMT reduction that must be provided by 1977. The RTD plan should be amended to provide for as much of the 31-percent VMT reduction as possible. If this is done, it is possible that the gasoline limitation in 1977 may not be required. Hence, the people of the Denver area will be able to enjoy both the clean air and mobility they require.

This notice of final rulemaking is issued under the authority of sections 110 (c) and 301(a) of the Clean Air Act (42 U.S.C. 1857c-5(c) and 1857g).

Dated October 25, 1973.

RUSSELL E. TRAIN,
Administrator.

Part 52 of Chapter I, Title 40, of the Code of Federal Regulations is amended as follows:

Subpart G—Colorado

1. Section 52.320 is amended by revising paragraph (c) to read as follows:

§ 52.320 Identification of plan.

* * * * *

(c) Supplemental information was submitted on:

(1) February 14, and March 20, 1972;

(2) May 1, 1972, by the Colorado Air Pollution Control Commission;

(3) May 1, 1972, by the Colorado Air Pollution Control Division, and

(4) June 4, 1973, and July 16, 1973.

2. Section 52.322 is amended by adding paragraph (b) as follows:

§ 52.322 Extension.

* * * * *

(b) The Administrator hereby extends until May 31, 1977, the attainment date for the national standards for carbon monoxide and photochemical oxidants in the Metropolitan Denver Intrastate Air Quality Control Region.

§ 52.325 [Amended]

3. In § 52.325, the attainment date table is revised by replacing the date "May 31, 1975,e" for attainment of the national standards for carbon monoxide and photochemical oxidants (hydrocarbons) in the Metropolitan Denver Intrastate Region with the date "May 31, 1977," and by deleting footnote "e."

4. Section 52.326 is amended by revising paragraph (a) as follows:

§ 52.326 Transportation and land use controls.

(a) To complete the requirements of § 51.11(b) of this part, the Governor of Colorado must submit to the Administrator:

(1) No later than July 1, 1974, the legislative authority necessary for carrying out control measures for which full authority does not yet exist, namely inspection/maintenance air bleed retrofit,

and high-altitude modification, specified on pages 7–13 and 7–14 of the plan submitted June 4, 1973, and in the supplemental submission of July 16, 1973.

(2) No later than January 31, 1974, the adopted regulations and administrative policies necessary for carrying out the control measures for which the State now has legal authority, namely the designation of bus/carpool lanes, the limitation of constructing parking facilities, and the restriction of on-street parking, specified in the supplemental submission of July 16, 1973.

(3) No later than September 1, 1974, the adopted regulations and administrative policies necessary for carrying out any control measure for which the State must submit legal authority in accordance with paragraph (a)(1) of this section.

§ 52.327 [Renumbered]

5. Section 52.327, added to Subpart G on June 22, 1973 (38 FR 16564) is renumbered as § 52.328, so as not to conflict with another § 52.327 entitled "Compliance Schedules," added on June 20, 1973. In addition, this § 52.328 is revised to read as follows:

§ 52.328 Control Strategy: Photochemical oxidants (hydrocarbons) and carbon monoxide.

(a) The requirements of § 51.14 of this chapter are not met because the plan does not provide for attainment and maintenance of the national standards for photochemical oxidants (hydrocarbons) and carbon monoxide in the Metropolitan Denver Intrastate Air Quality Control Region by May 31, 1977.

6. Subpart G is amended by adding §§ 52.329 through 52.339 to read as follows:

§ 52.329 Rules and regulations.

(a) The requirements of § 51.22 are not met since regulations for the control of stationary hydrocarbon regulations necessary for the attainment of the national standards for photochemical oxidants have not been submitted or adopted.

§ 52.330 Gasoline limitations.

(a) Definitions:

(1) "Distributor" means any person or entity that transports or stores or causes the transportation or storage of gasoline between any refinery and any retail outlet.

(2) "Retail outlet" means any establishment at which gasoline is sold or offered for sale to the public, or introduced into any vehicle.

(b) This section is applicable within the Metropolitan Denver Intrastate Air Quality Control Region (hereafter referred to as the Region) to all distributors of gasoline to any retail outlet in the Region, and to the owners and operators of all retail outlets in the Region.

(c) If the Administrator determines, on the basis of air quality monitoring in the Region, that the national ambient air quality standards for carbon monoxide and photochemical oxidants will not be attained in the Region by May 31, 1977, the Administrator shall implement a program, to be effective no later than May 31, 1977, limiting the total gallonage of gasoline delivered to retail outlets to that amount which, when combusted, will not result in such ambient air quality standards being exceeded.

(d) All distributors to which this section applies shall provide the Administrator with a detailed annual accounting of the amount of gasoline delivered to each retail outlet in the region for calendar year 1976, and for each calendar year during which the gasoline limitation program is in effect. The owner or operator of each retail outlet to which this section applies shall provide the Administrator with a detailed accounting of gasoline received from each distributor, the total amount of gasoline sold during the year, and the amount of gasoline on hand at the beginning and end of the year, for each year during which the gasoline limitation program is in effect. All accountings required by this section shall be provided no later than 90 days after the end of the applicable year. The Administrator may require any other reports that he may deem necessary for the implementation of this section.

§ 52.331 Control of dry cleaning solvent evaporation.

(a) "Drycleaning operation" means that process by which an organic solvent, as defined in § 52.333(k), is used in the commercial cleaning of garments and other fabric materials.

(b) This section is applicable in the Metropolitan Denver Intrastate Air Quality Control Region.

(c) No person shall operate a dry cleaning operation using other than perchloroethylene, 1,1,1-trichloroethane, or saturated halogenated hydrocarbons unless the uncontrolled organic emissions from such operation are reduced at least 85 percent, except that dry cleaning operations emitting less than 3 pounds per hour and less than 15 pounds per day of uncontrolled organic materials are exempt from the requirements of this section.

(d) If incineration is used as a control technique, 90 percent or more of the carbon in the organic compounds being incinerated must be oxidized to carbon dioxide. Compliance with this requirement shall be in accordance with the provisions of § 52.338.

(e) Any owner or operator of a source subject to this section shall achieve compliance with the requirements of paragraph (c) of this section by discontinuing the use of photochemically reactive solvents as defined by § 52.333(l) no later than January 31, 1974, or by controlling emission as required by paragraphs (c) and (d) of this section in accordance with the requirements of § 52.338.

§ 52.332 Degreasing operations.

(a) "Degreasing" means the operation of using an organic solvent as a surface cleaning agent.

(b) This section is applicable in the Metropolitan Denver Intrastate Air Quality Control Region.

(c) No person shall use for degreasing any organic solvent other than 1,1,1-trichloroethane, perchloroethylene, or saturated halogenated hydrocarbons after January 31, 1974, unless the uncontrolled organic emissions from such operation have been reduced at least 85 percent overall.

(d) Degreasing operations emitting less than 3 pounds per hour and less than 15 pounds per day of uncontrolled organic materials are exempt from the requirement of this section.

(e) If incineration is used as a control technique, 90 percent or more of the carbon in the organic compounds being incinerated must be oxidized to carbon dioxide. Compliance with this paragraph shall be in accordance with the provisions of § 52.338.

(f) Any owner or operator of a stationary source subject to this section shall achieve compliance with the requirements of paragraph (c) of this section by discontinuing the use of any organic solvent other than 1,1,1-trichloroethane, percloroethylene, or saturated halogenated hydrocarbons no later than January 31, 1974, or by controlling emissions as required by paragraphs (c) and (e) of this section in accordance with the requirements of § 52.338.

§ 52.333 Organic solvent usage.

(a) This section is applicable in the Metropolitan Denver Intrastate Air Quality Control Region. Compliance with the requirements of paragraphs (b) through (i) of this section shall be in accordance with the provisions of § 52.338.

(b) No person shall discharge more than 15 pounds of organic materials into the atmosphere in any one day nor more than 3 pounds in any one hour from any article, machine, equipment or other contrivance in which any organic solvent or any material containing organic solvent comes into contact with flame or is baked, heat-cured, or heat polymerized, in the presence of oxygen, unless all organic materials discharged from such article, machine, equipment, or other contrivance have been reduced by at least 85 percent overall.

(c) No person shall discharge more than 40 pounds of organic material into the atmosphere in any one day or more than 8 pounds in any one hour from any article, machine, equipment, or other contrivance used under conditions other than described in paragraph (b) of this section for employing, applying, evaporating, or drying any photochemically reactive solvent, as defined in paragraph (l) of this section, or material containing such solvent, unless all organic materials discharged from such article, machine, equipment, or other contrivance have been reduced by at least 85 percent overall.

(d) Any series of articles, machines, equipment, or other contrivances designed for processing a continuously moving sheet, web, strip, or wire which

is subjected to any combination of operations described in paragraphs (b) and (c) of this section involving any photochemically reactive solvent, as defined in paragraph (l) of this section, or material containing such solvent, shall be subject to compliance with paragraph (c) of this section. Where only non-photochemically reactive solvents or materials containing only non-photochemically reactive solvents are employed or applied, and where any portion or portions of said series of articles, machines, equipment, or other contrivances involves operations described in paragraph (b) of this section, said portions shall be collectively subject to compliance with paragraph (b) of this section.

(e) Emissions of organic materials to the atmosphere from the cleanup with photochemically reactive solvent, as defined in paragraph (l) of this section, of any article, machine, equipment, or other contrivance described in paragraphs (b), (c), or (d) of this section shall be included with the other emissions of organic materials from that article, machine, equipment, or other contrivance for determining compliance with this section.

(f) Emissions of organic materials into the atmosphere as a result of continuous drying of products during the first 12 hours after their removal from any article, machine, equipment, or other contrivance described in paragraphs (b), (c), or (d) of this section shall be included with other emissions of organic materials from that article, machine, equipment or other contrivance for determining compliance with this section.

(g) Emissions of organic materials into the atmosphere required to be controlled by paragraphs (b), (c), or (d) of this section shall be controlled by:

(1) Incineration: *Provided*, That 90 percent or more of the carbon in the organic material being incinerated is oxidized to carbon dioxide,

(2) Adsorption, or

(3) Processing in a manner determined by the Administrator to be not less effective than the methods described in paragraphs (g) (1) or (2) of this section.

(h) A person incinerating, adsorbing, or otherwise processing organic materials pursuant to this section shall provide, properly install and maintain in calibration, in good working order and in operation, devices as specified in the authority to construct or the permit to operate, or as specified by the Administrator, for indicating temperatures, pressures, rates of flow or other operating conditions necessary to determine the degree and effectiveness of air pollution control.

(i) Any person using organic solvents or any materials containing organic solvents shall supply the Administrator, upon request and in the manner and form prescribed by him written evidence of the chemical composition, physical properties and amount consumed for each organic solvent used.

(j) The provisions of this section shall not apply to:

(1) The manufacture, transport, or storage of organic solvents or materials containing organic solvents.

(2) The spraying or other employment of insecticides, pesticides, or herbicides.

(3) The employment, application, evaporation, or drying of saturated halogenated hydrocarbons, 1,1,1-trichloroethane, or perchloroethylene.

(4) The use of any material in any article, machine, equipment, or other contrivance described in paragraphs (b), (c), (d), or (e) of this section, if:

(i) The volatile content of such material consists only of water and organic solvents,

(ii) The organic solvents comprise not not more than 20 percent by volume of said volatile content,

(iii) The volatile content is not photochemically reactive as defined in paragraph (l) of this section, and

(iv) The organic solvent or any material containing organic solvent does not come into contact with flame.

(5) The use of any material in any article, machine, equipment, or other contrivance described in paragraphs (b), (c), (d), or (e) of this section, if:

(i) The organic solvent content of such material does not exceed 20 percent by volume of said material,

(ii) The volatile content is not photochemically reactive as defined in paragraph (l) of this section,

(iii) More than 50 percent by volume of such volatile material is evaporated before entering a chamber heated above ambient application temperature, and

(iv) The organic solvent or any material containing organic solvent does not come into contact with flame.

(6) The use of any material, in any article, machine, equipment, or other contrivance described in paragraphs (b), (c), (d), or (e) of this section, if:

(i) The organic solvent content of such material does not exceed 5 percent by volume of said material,

(ii) The volatile content is not photochemically reactive as defined in paragraph (l) of this section, and

(iii) The organic solvent or any material containing organic solvent does not come into contact with flame.

(k) For the purposes of this section, organic solvents include diluents and thinners and are defined as organic materials which are liquids at standard conditions and which are used as dissolvers, viscosity reducers, or cleaning agents.

(l) For the purposes of this section, a photochemically reactive solvent is any solvent with an aggregate of more than 20 percent of its total volume composed of the chemical compounds classified below or which exceeds any of the following individual percentage composition limitations, referred to the total volume of solvent:

(1) A combination of hydrocarbons, alcohols, aldehydes, esters, ethers, or ketones having an olefinic or cyclo-olefinic type of unsaturation: 5 percent;

(2) A combination of aromatic compounds with eight or more carbon atoms to the molecule except ethylbenzene: 8 percent;

(3) A combination of ethylbenzene or ketones having branched hydrocarbon structures, trichloroethylene or toluene: 20 percent.

(m) Whenever any organic solvent or any constituent of an organic solvent may be classified from its chemical structure into more than one of the above groups of organic compounds, it shall be considered as a member of the most reactive chemical group, that is, that group having the least allowable percent of the total volume of solvents.

(n) For the purpose of this section, organic materials are defined as chemical compounds of carbon excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides, metallic carbonates, and ammonium carbonate.

(o) This section shall be effective on the date of its adoption for any article, machine, equipment, or other contrivance not then completed and put into service. As for all other articles, machines, equipment, or other contrivances, compliance shall be required in accordance with § 52.338.

(p) A person shall not, after May 31, 1975, discharge into the atmosphere more than 3,000 pounds of organic materials in any one day nor more than 450 pounds in any one hour from any article, machine, equipment, or other contrivance in which any non-photochemically reactive solvent or any material containing such solvent is employed or applied, unless said discharge has been reduced by at least 85 percent. Emissions of organic materials into the atmosphere resulting from air or heated drying of products for the first 12 hours after their removal from any article, machine, equipment, or other contrivance described in this section shall be included in determining compliance with this section. Emissions resulting from baking, heat-curing, or heat-polymerizing shall be excluded from determination of compliance with this section. Those portions of any series of articles, machines, equipment, or other contrivances designed for processing a continuous web, strip, or wire which emit organic materials and using operations described in this section shall be collectively subject to compliance with this section.

§ 52.334 Storage of petroleum products.

(a) This section is applicable in the Metropolitan Denver Intrastate Air Quality Control Region. Compliance with the requirements of paragraph (b) of this section shall be in accordance with the provisions of § 52.338.

(b) No person shall place, store or hold in any stationary tank, reservoir, or other container of more than 40,000 gallons capacity any gasoline or any petroleum distillate having a vapor pressure of 1.5 pounds per square inch absolute (psia) or greater under actual storage conditions, unless such tank, reservoir or other container is a pressure tank maintaining working pressures sufficient at all

times to prevent hydrocarbon vapor or gas loss to the atmosphere, or is designed and equipped with one of the following vapor loss control devices, properly installed, in good working order, and in operation:

(1) A floating roof, consisting of a pontoon type or double deck type roof, resting on the surface of the liquid contents and equipped with a closure seal, or seals, to close the space between the roof edge and tank wall. The control equipment provided for in this paragraph shall not be used if the gasoline or petroleum distillate has a vapor pressure of 11.0 pounds per square inch absolute or greater under actual storage conditions. All tank gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place.

(2) A vapor recovery system, consisting of a vapor gathering system capable of collecting the hydrocarbon vapors and gases discharged and a vapor disposal system capable of processing such hydrocarbon vapors and gases so as to prevent their emission to the atmosphere, with all tank gauging and sampling devices gas-tight, except when gauging or sampling is taking place.

(3) Other equipment of equal efficiency, provided such equipment is approved by the Administrator.

§ 52.335 Organic liquid loading.

(a) "Loading facility" means any aggregation or combination of organic liquid loading equipment which is both possessed by one person and located so that all the organic liquid loading outlets for such aggregation or combination of loading equipment can be encompassed within any circle of 300 feet in diameter.

(b) This section is applicable in the Metropolitan Denver Intrastate Air Quality Control Region. Compliance with the requirements of paragraphs (b) through (d) of this section shall be in accordance with the provisions of § 52.338.

(c) No person shall load organic liquids having a vapor pressure of 1.5 psia or greater under actual loading conditions into any tank truck, trailer, or railroad tank car from any loading facility unless the loading facility is equipped with a vapor collection and disposal system, or its equivalent, approved by the Administrator.

(d) Loading shall be accomplished in such a manner that all displaced vapor and air will be vented only to the vapor collection system. Measures shall be taken to prevent liquid drainage from the loading device when it is not in use or to accomplish complete drainage before the loading device is disconnected.

(e) The vapor disposal portion of the vapor collection and disposal system shall consist of one of the following:

(1) An absorber system or condensation system which processes all vapors and recovers at least 90 percent by weight of the organic vapors and gases from the equipment being controlled.

(2) A vapor handling system which directs all vapors to a fuel gas system.

(3) Other equipment of equal efficiency provided such equipment is approved by the Administrator.

(f) This section shall apply only to the loading of organic liquids having a vapor pressure of 1.5 psia or greater under actual loading conditions at a facility from which at least 20,000 gallons of such organic liquids are loaded in any one day.

§ 52.336 Gasoline transfer vapor control.

(a) "Gasoline" means any petroleum distillate having a Reid vapor pressure of 4 pounds or greater.

(b) This section is applicable in the Metropolitan Denver Intrastate Air Quality Control Region.

(c) No person shall transfer gasoline from any delivery vessel into any stationary storage container with a capacity greater than 250 gallons unless such container is equipped with a submerged fill pipe and unless the displaced vapors from the storage container are processed by a system that prevents release to the atmosphere of no less than 90 percent by weight of organic compounds in said vapors displaced from the stationary container location.

(1) The vapor recovery portion of the system shall include one or more of the following:

(i) A vapor-tight return line from the storage container to the delivery vessel and a system that will ensure that the vapor return line is connected before gasoline can be transferred into the container.

(ii) Refrigeration-condensation system or equivalent designed to recover no less than 90 percent by weight of the organic compounds in the displaced vapor.

(2) If a "vapor-tight vapor return" system is used to meet the requirements of this section, the system shall be so constructed as to be readily added on to retrofit with an adsorption system, refrigeration-condensation system, or equivalent vapor removal system, and so constructed as to anticipate compliance with § 52.337.

(3) The vapor-laden delivery vessel shall be subject to the following conditions:

(i) The delivery vessel must be so designed and maintained as to be vapor-tight at all times.

(ii) The vapor-laden delivery vessel may be refilled only at facilities equipped with a vapor recovery system or the equivalent, which can recover at least 90 percent by weight of the organic compounds in the vapors displaced from the delivery vessel during refilling.

(iii) Gasoline storage compartments of 1,000 gallons or less in gasoline delivery vehicles presently in use on the promulgation date of this regulation will not be required to be retrofitted with a vapor return system until January 1, 1977.

(d) The provisions of this paragraph (c) shall not apply to the following:

(1) Stationary containers having a capacity less than 550 gallons used exclusively for the fueling of implements of husbandry.

(2) Any container having a capacity less than 2,000 gallons installed prior to promulgation of this paragraph.

(3) Transfer made to storage tanks equipped with floating roofs or their equivalent.

(e) Compliance schedule:

(1) *February 1, 1974.* Submit to the Administrator a final control plan, which describes at a minimum the steps which will be taken by the source to achieve compliance with the provisions of paragraph (c) of this section.

(2) *May 1, 1974.* Negotiate and sign all necessary contracts for emission control systems, or issue orders for the purchase of component parts to accomplish emission control.

(3) *February 1, 1975.* Initiate on-site construction or installation of emission control equipment.

(4) *February 1, 1976.* Complete on-site construction or installation of emission control equipment.

(5) *March 1, 1976.* Assure final compliance with the provisions of paragraph (c) of this section.

(6) Any owner or operator of sources subject to the compliance schedule in this paragraph shall certify to the Administrator, within 5 days after the deadline for each increment of progress, whether or not the required increment of progress has been met.

(f) Paragraph (e) of this section shall not apply:

(1) To a source which is presently in compliance with the provisions of paragraph (c) of this section and which has certified such compliance to the Administrator by December 15, 1973. The Administrator may request whatever supporting information he considers necessary for proper certification.

(2) To a source for which a compliance schedule is adopted by the State and approved by the Administrator.

(3) To a source whose owner or operator submits to the Administrator, by December 15, 1973, a proposed alternative schedule. No such schedule may provide for compliance after March 1, 1976. If promulgated by the Administrator, such schedule shall satisfy the requirements of this paragraph for the affected source.

(g) Nothing in this paragraph shall preclude the Administrator from promulgating a separate schedule for any source to which the application of the compliance schedule in paragraph (e) of this section fails to satisfy the requirements of § 51.15 (b) and (c) of this chapter.

(h) Any gasoline dispensing facility subject to this regulation which installs a storage tank after the effective date of this regulation shall comply with the requirements of paragraph (c) of this section by March 1, 1976. Any facility subject to this regulation which installs a storage tank after March 1, 1976, shall comply with the requirements of paragraph (c) at the time of installation.

§ 52.337 Control of evaporative losses from the filling of vehicular tanks.

(a) "Gasoline" means any petroleum distillate having a Reid vapor pressure of 4 pounds or greater.

(b) This section is applicable in the Metropolitan Denver Intrastate Air Quality Control Region.

(c) A person shall not transfer gasoline to an automotive fuel tank from gasoline dispensing system unless the transfer is made through a fill nozzle designed to:

(1) Prevent discharge of hydrocarbon vapors to the atmosphere from either the vehicle filler neck or dispensing nozzle;

(2) Direct vapor displaced from the automotive fuel tank to a system wherein at least 90 percent by weight of the organic compounds in displaced vapors are recovered; and

(3) Prevent automotive fuel tank overfills or spillage on fill nozzle disconnect.

(d) The system referred to in paragraph (c) of this section can consist of a vapor-tight vapor return line from the fill nozzle-filler neck interface to the dispensing tank, to an adsorption, absorption, incineration, refrigeration-condensation system or equivalent.

(e) Components of the systems required by § 52.336(c) can be used for compliance with paragraph (c) of this section.

(f) If it is demonstrated to the satisfaction of the Administrator that it is impractical to comply with the provisions of paragraph (c) of this section as a result of vehicle fill neck configuration, location, or other design features, the provisions of this paragraph shall not apply to such vehicles. However, in no case shall such configuration exempt any gasoline dispensing facility from installing a system required by paragraph (c).

(g) Compliance schedule:

(1) *February 1, 1974.* Submit to the Administrator a final control plan, which describes at a minimum the steps which will be taken by the source to achieve compliance with the provisions of paragraph (c) of this section.

(2) *June 1, 1974.* Negotiate and sign all necessary contracts for emission control systems, or issue orders for the purchase of component parts to accomplish emission control.

(3) *January 1, 1975.* Initiate on-site construction or installation of emission control equipment.

(4) *May 1, 1977.* Complete on-site construction or installation of emission control equipment or process modification.

(5) *May 31, 1977.* Assure final compliance with the provisions of paragraph (c) of this section.

(6) Any owner or operator of sources subject to the compliance schedule in this paragraph shall certify to the Administrator, within 5 days after the deadline for each increment of progress, whether or not the required increment of progress has been met.

(h) Paragraph (g) of this section shall not apply:

(1) To a source which is presently in compliance with the provisions of paragraph (c) of this section and which has certified such compliance to the Administrator by December 15, 1973. The Administrator may request whatever supporting information he considers necessary for proper certification.

(2) To a source for which a compliance schedule is adopted by the State and approved by the Administrator.

(3) To a source whose owner or operator submits to the Administrator, by December 15, 1973, a proposed alternative schedule. No such schedule may provide for compliance after May 31, 1977. If promulgated by the Administrator, such schedule shall satisfy the requirements of this paragraph for the affected source.

(i) Nothing in this paragraph shall preclude the Administrator from promulgating a separate schedule for any source to which the application of the compliance schedule in paragraph (g) of this section fails to satisfy the requirements of § 51.15 (b) and (c) of this chapter.

(j) Any gasoline dispensing facility subject to this regulation which installs a gasoline dispensing system after the effective date of this regulation shall comply with the requirements of paragraph (c) of this section by May 31, 1977. Any facility subject to this regulation which installs a gasoline dispensing system after May 31, 1977, shall comply with the requirements of paragraph (c) of this section at the time of installation.

§ 52.338 Federal compliance schedules.

(a) Except as provided in paragraph (c) of this section, the owner or operator of any stationary source subject to the requirements of §§ 52.331, 52.332, 52.333, 52.334, and 52.335 shall comply with the compliance schedule in paragraph (b) of this section.

(b) Compliance schedule:

(1) *December 17, 1973.* Submit to the Administrator a final control plan, which describes, at a minimum, the steps which will be taken by the source to achieve compliance with the sections cited in paragraph (a) of this section.

(2) *February 16, 1974.* Negotiate and sign all necessary contracts for emission control systems or process modifications, or issue orders for the purchase of component parts to accomplish emission control or process modification.

(3) *July 1, 1974.* Initiate on-site construction or installation of emission control equipment or process modification.

(4) *May 1, 1975.* Complete on-site construction or installation of emission control equipment or process modification.

(5) *May 31, 1975.* Assure final compliance with the sections cited in paragraph (a) of this section.

(6) Any owner or operator of stationary sources subject to the compliance schedule in this paragraph shall certify to the Administrator, within 5 days after the deadline for each increment of progress, whether or not the required increment of progress has been met.

(c) Paragraph (b) of this section shall not apply:

(1) To a source which is presently in compliance with the regulations cited in paragraph (a) of this section and which has certified such compliance to the Administrator by December 15, 1973. The Administrator may request whatever supporting information he considers necessary for proper certification.

(2) To a source for which a compliance schedule is adopted by the State and appoved by the Administrator.

(3) To a source whose owner or operator submits to the Administrator, by December 15, 1973, a proposed alternative schedule. No such schedule may provide for compliance after May 31, 1975. If promulgated by the Administrator such schedule shall satisfy the requirements of this paragraph for the affected source.

(d) Nothing in this paragraph shall preclude the Administrator from promulgating a separate schedule for any source to which the application of the compliance schedule in paragraph (b) of this section fails to satisfy the requirements of § 51.15 (b) and (c) of this chapter.

§ 52.339 Monitoring transportation controls.

(a) This section is applicable to the Metropolitan Denver Intrastate Region.

(b) The State of Colorado, or a designated agency approved by the Administrator, shall monitor the transportation control measures approved for the State's implementation plan as follows:

(1) The actual per vehicle emission reductions occurring as a result of:

(i) Inspection/maintenance;

(ii) Airbleed (pre-1968 light-duty vehicles); and

(iii) High altitude modification (1968-1974 light-duty vehicles).

(2) The observed changes in vehicle miles traveled (VMT) and average vehicle speeds as a result of:

(i) Bus/carpool lanes;

(ii) Parking lot construction limitation;

(iii) Limitation of on-street parking; and

(iv) Mass transit improvements.

(c) No later than January 15, 1974, the State shall submit to the Administrator a detailed program demonstrating compliance with paragraph (b) of this section and in accordance with § 51.19(d) of this chapter. The program description shall include the following:

(1) The agency or agencies responsible for conducting, overseeing, and maintaining the monitoring program.

(2) The administrative process to be used.

(3) A description of the methods to be used to collect the vehicle emission reductions, and changes in VMT and average vehicle speed, including a description of any modeling techniques to be employed.

(4) The funding requirements, including a signed statement from the Governor or the State Treasurer or their respective designees identifying the source and amount of funds for the program.

(d) No later than February 15, 1974, the Administrator will approve or disapprove the proposed monitoring program.

(e) All data collected as a result of the monitoring program shall be submitted to the Administrator on a semiannual basis beginning August 15, 1974. The data shall be submitted in a format similar to that presented in Appendix M to Part 51 of this chapter.

[FR Doc.73-23189 Filed 11-6-73;8:45 am]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Oregon Transportation Control Plan

On October 26, 1972, the State of Oregon submitted to EPA a transportation control strategy to attain the national standards for carbon monoxide and photochemical oxidants by May 31, 1975, in the Oregon portion of the Portland Interstate Air Quality Control Region. On December 20, 1972, the State was notified by EPA of certain deficiencies to be corrected in the submitted plan before it could be approved by EPA.

On April 13, 1973, the State of Oregon submitted to EPA the Portland Transportation Control Strategy for the Oregon portion of the Interstate Region. On June 4, 1973, the Environmental Quality Commission formally adopted the plan following a public hearing on May 29, 1973. Based on his review of this transportation control plan and the comment submitted in response to the announcement in 38 FR 16561, on June 22, 1973, the Administrator found the Oregon submission to be adequate, with certain exceptions, for attainment of the national ambient air quality standards for carbon monoxide and photochemical oxidants.

On August 2, 1973, the Administrator published proposed regulations to supplement the approved State-adopted measures. On September 5, 1973, EPA held a public hearing in Portland, Oregon, on the proposed Federal regulations.

On September 21, 1973, the Governor formally submitted a request for extension to May 31, 1976, of the attainment date for both carbon monoxide and photochemical oxidants; other supplemental information was submitted on August 20, 1973, by the Department of Environmental Quality following action by the State of Oregon Emergency Board. All supplemental material is available along with the plan at the Air Programs Branch, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101, and at the Office of Public Affairs, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

Air Pollution in Oregon Portion of Portland Interstate Region

The Oregon portion of the Portland Interstate Region encompasses the counties of Columbia, Washington, Multnomah, Yamhill, Polk, Marion, Benton, Linn, and Lane. The Region lies between the low Coast Mountain Range to the west and the Cascade Mountain Range to the east and contains three major urban areas. Portland, the largest city in the Region, is situated in a bowl at the confluence of the Willamette and Columbia Rivers. The topographical and climatological features of the Portland area contribute to the accumulation of air pollution.

Portland is the only area in the Region experiencing levels of carbon monoxide and photochemical oxidants exceeding national ambient air quality standard. The highest 8-hour carbon monoxide concentration recorded in Portland in 1970 was 30 parts per million (ppm)—the second highest 8-hour reading was 23 ppm—compared with an 8-hour national ambient air quality standard of 9 ppm (10 milligrams per cubic meter) not to be exceeded more than once per year. The rollback from the second highest 8-hour reading is 60 percent. The highest 1-hour concentration recorded in Portland in 1970 was 26 ppm compared with a national standard of 35 ppm (40 milligrams per cubic meter), not to be exceeded more than once per year. The 1-hour standard is not being exceeded.

The maximum 1-hour photochemical oxidant concentration recorded in Portland in 1970 was 0.14 ppm, compared with a 1-hour national ambient air quality standard of 0.08 ppm (160 micrograms per cubic meter), not to be exceeded more than once per year. The rollback required from the highest reading is 43 percent. The measures to achieve attainment of the 8-hour carbon monoxide standard will ensure attainment of the 1-hour standard for photochemical oxidants. (See Technical Support Document).

Summary of State Transportation Control Plan

The measures adopted by the State for implementation in the Oregon portion of the Portland Interstate Region and submitted to EPA on April 13, 1973, and supplemented on August 20 and September 21, 1973, include: (1) Public transportation improvements; (2) traffic flow improvements with contingency provisions, including alternation of the hours for loading and servicing to off-peak times; (3) reorganization and management of parking; (4) annual inspection to determine emissions from and maintenance required for gasoline-powered vehicles; and (5) an air bleed to intake manifold retrofit program.

In developing the transportation control strategy it submitted, the State used a proportional (linear rollback) model to establish the maximum emission densities allowable if the 8-hour national ambient air quality standard for carbon monoxide is to be attained and maintained in the Oregon portion of the Portland Interstate Region. The reductions in motor vehicle carbon monoxide emissions necessary to attain the ambient carbon monoxide standard by 1975 were determined by forecasting the emission densities for that year and subtracting the allowable emission densities for each measure.

For the purposes of the analysis, traffic speeds and volumes were determined for the metropolitan Portland area. Estimates of 1975 emissions were calculated for selected grid cells having high traffic densities and congested traffic flow. Based on these calculations, the State determined that the only grid cells where the 8-hour ambient carbon monoxide standard will be exceeded in 1975 are in the central business district of Portland.

The State calculations claim the emission reductions needed in the Portland central business district can be achieved by combining the measures of increased transit patronage, traffic signal optimization, removal of selected on-street parking, and inspection/maintenance of gasoline-powered vehicles.

The emission reductions claimed by the State to result from the inspection/maintenance measures are considered by the Administrator to be somewhat high. In addition, it is believed that the State-claimed reductions for the traffic flow improvement package, consisting of traffic signal optimization and removal of selected on-street parking, are optimistic compared to the best information EPA possesses at this time and will not result in the anticipated emission reductions. The State did not supply estimates of the reductions that are estimated to occur from implementation of their adopted retrofit program.

EPA has recalculated, using current emission factors, which take into account the interim-1975 motor vehicle emission standards and an 8-hour time base, the effect of each of the State-adopted measures comprising the Portland Transportation Control Strategy. These effects for one of the critical grid cells within the Portland central business district are summarized in Table 1. The emission density forecast for 1975, taking the effect of the Federal standards for new cars into account, is 38,685 grams per 8 hours for the selected grid cell. EPA estimates that the 8-hour carbon monoxide standard can be met in the Portland central business district by reducing the emission density to 20,488 grams per grid per 8 hours.

Table 1.—*EPA compilation of control measure effects of the State strategy for the sample analysis grid cell [1] by May 31, 1975 and 1976, Portland central business district*

[g/grid-8 hr]

1975 CARBON MONOXIDE REDUCTIONS	
Motor vehicle emissions, 1975 forecast	38,685
Parking management	−1,116
Increased transit patronage	−2,254
Traffic flow improvements	−5,650
Inspection/maintenance	−2,865
Total reduction	−11,885
Motor vehicle emissions remaining	26,800
1976 CARBON MONOXIDE REDUCTIONS	
Motor vehicle emissions, 1976 forecast	[2] 20,951
Air bleed retrofit pre-1968 light-duty vehicles	−1,676
Motor vehicle emissions remaining	19,275
Maximum emissions allowable to attain standard	20,488

[1] Forth, Washington, and Alder grid cell.
[2] Includes the effect of the FMVCP and 1975 strategies (Evaluation Report).

Note.—Table does not include FMVCP.

ANALYSIS OF STATE PLAN

The transit improvement plan developed includes elements such as timely acquisition of new buses, construction and operation of suburban park-and-ride stations with exclusive bus lanes and/or express buses, development of supplemental park-and-ride stations using existing parking lots, and creation of a transit mall in the Portland central business district. Service improvements and an aggressive marketing program will be used to attempt to induce new ridership.

The State proposes to implement traffic flow improvements in the Portland central business district through a computerized traffic signalization system and through removal of on-street parking on selected streets. If further steps are needed to improve traffic flow or to maintain the flow improvements achieved through the computerized traffic signalization system and removal of on-street parking, the State will implement other measures including prohibiting turns into pedestrian crosswalks and altering servicing and loading hours.

To implement the reorganization and management of parking, the State has determined the maximum allowable parking spaces for each land use and planning zone for new developments in downtown Portland. The Portland City Council, by ordinance, removed the minimum off-street parking requirements for new development in the downtown area. The State will continue to take an aggressive posture in the review and approval of new parking facility applications.

The State intends to limit the requirement for gasoline-powered motor vehicle inspection to vehicles registered in three of the Oregon counties in the Portland metropolitan area (Clackamas, Multnomah, and Washington). The emission inspection will be performed using loaded (dynamometer) emissions tests at inspection stations that are either State-owned or privately operated under State supervision.

If the emission reductions forecast by the State to result from the inspection and maintenance program are not achieved, the State will require a program of retrofitting pre-1968 vehicles. The issuance of specific criteria for approval of and designation of vehicle classes subject to air bleed to intake manifold retrofit requirements is timed to correspond with the results obtained from the EPA retrofit evaluation, but will be implemented by no later than May 1976.

The Portland transportation control plan, as supplemented, is approved in its entirety. However, EPA does not agree with the emission reductions claimed by the State and has recalculated anticipated emission reductions achievable from implementation and enforcement of the State-adopted plan. EPA has determined that the State-adopted measures, with corresponding emission reductions calculated by EPA, are reasonable and will assure attainment and maintenance of national standards by 1976. Therefore, it is not necessary for the Administrator to promulgate measures to supplement the State-adopted plan. A 10-percent reduction in VMT is expected as a result of the plan. The Department of Environmental Quality possesses adequate legal authority to implement the transit and/or traffic flow improvement program should the designated local agency fail to implement its program.

IMPLEMENTATION SCHEDULE

The timetables for implementation of the measures are reasonable. The transit and traffic flow improvement programs have been initiated and many facets will be complete by the end of this year. The parking management program is ongoing. The inspection/maintenance program has been funded and the Department of Environmental Quality still anticipates the inspection program to be initiated by May 31, 1974. The retrofit program will be initiated 1 year later. The timetable for implementing the inspection/maintenance and retrofit programs is consistent with national EPA policy.

PUBLIC COMMENTS

Substantial public comment was received on the EPA-proposed transportation control measures and several alternative measures were suggested at the EPA-sponsored public hearing in Portland, Oregon, on September 5, 1975.

Most of the groups and individuals present believed that the Oregon State Transportation Control Plan was adequate to attain national air quality standards. Comment was given on the anticipated adverse impacts from the EPA-proposed measures. The daylight delivery ban measures would cause disruption of industrial activity and would be an incentive for urban sprawl according to one testifier. Concern for accidents in the exclusive bus/carpool lanes was expressed. Alternative measures suggested included computer carpooling, freeway ramp monitoring with control of ingress, a more restrictive parking management program, a parking surcharge and exclusive bicycle lanes. The effectiveness of an inspection/maintenance program and the traffic flow improvements program, as calculated by the State and EPA, was questioned.

With submittal of the retrofit program, EPA agrees that the State-proposed measures will be adequate if completely implemented. However, the effectiveness of the various measures will be continually reevaluated to ensure attainment of standards as expeditiously as practicable. The Administrator requests the State of Oregon to submit on a semiannual basis information on traffic volumes and vehicle miles traveled within the Portland central business district. Within 30 days of approval of the State plan, the State is requested to report to the Administrator the existing number of on-street and off-street parking spaces within the Portland central business district. The semiannual report should indicate any changes in the number of spaces. If the parking management program does not achieve the emission reduction and changes in modal split expected, the Administrator will require that a more restrictive parking management program be implemented. The State is requested to address the effectiveness of the inspection/maintenance program in its semiannual report. The concerns raised by written comment have been addressed above. Although EPA is withdrawing its proposal, EPA still believes that some form of these measures may be useful to the State of Oregon as voluntary or supplemental measures. The EPA is encouraged that a voluntary program of staggering delivery hours, a computer car pooling program, freeway ramp monitoring, and some exclusive bus lanes are being considered for the Portland area.

BASIS FOR EMISSION REDUCTIONS

The basis for the projection of 1975 emissions and the emission reduction required was discussed above. Detailed calculations are included in section 7 of the Oregon State Transportation Control Plan.

The reduction attributed to increased transit partonage is based on the assumption of a 50 percent increase over the 1970 patronage to and from downtown Portland and the implementation of a downtown loop shuttle service by 1975. The transit improvement plan includes elements such as acquisition of new buses, construction and operation of suburban park-and-ride stations with exclusive bus lanes and/or express buses, development of supplemental park-and-ride stations using existing parking lots, and creation of a transit mall in the Portland central business district. In addition, service improvements and an aggressive marketing program will be used to attempt to induce new ridership.

Reductions due to traffic flow improvements assume an average speed increase of 3 miles per hour. Improvements to be made include a computerized signalization system and removal of on-street parking on selected streets.

If further steps are needed to improve traffic flow or to maintain the flow improvements achieved through the computerized traffic signalization system and removal of on-street parking, the State will implement other measures including prohibiting turns into pedestrian crosswalks and altering servicing and loading hours.

The parking management program was included in State calculations as a part of the emission reduction resulting from removal of on-street parking and reorganization of the entire parking supply of the Portland central business district. The intent of the program is to stabilize the parking supply in the Portland central business district.

The basis for emission reductions claimed for the loaded dynamometer inspection/maintenance and air bleed to intake manifold retrofit was discussed previously.

IMPACTS

In submitting its Transportation Control Plan, the State noted that the pro-

gram was developed cooperatively with the City of Portland, Tri-County Metropolitan Transit District and the Oregon State Department of Environmental Quality. Considering comments made at the EPA-sponsored public hearing, the State plan is supported by a wide range of citizen groups and governmental bodies. Increased transit patronage, traffic flow improvements, parking management, and other supplemental programs being considered by the State should improve the livability and urban quality of the Portland area with only modest costs and little disruption.

In the inspection/maintenance program and retrofit program, vehicle owners will have to assume directly some of the costs of the inspection, all of the costs of any maintenance required to meet the emission-inspection standards, and all of the costs of the purchase and installation of retrofit devices. If a failure rate of 50 percent is set for the inspection/maintenance program, the annual cost of each vehicle inspected and maintained is estimated to average $15. Owners of light-duty vehicles of model years earlier than 1968 will have to pay approximately $35 to $60 for purchase and installation of an air bleed to intake manifold retrofit device. The costs for inspection of vehicles for emissions, for performing the vehicle maintenance required to meet emission inspection standards, and for purchase and installation of retrofit devices will fall most heavily on low-income people because they will have to spend a larger percentage of their disposable incomes for inspection and any resultant maintenance.

Notification of the Department of Environmental Quality's request for extension of the attainment dates was published in the FEDERAL REGISTER of September 21, 1973 (38 FR 26462–63). The request was also submitted by the Governor on September 21, 1973. A period of public comment has therefore been provided, but the Agency will entertain additional comments for a period of 30 days. The extension is being granted subject to possible reconsideration.

The proposal to add new §§ 52.1979 and 52.1980 to 40 CFR Part 52, published on August 2, 1973 (38 FR 20768–9), is hereby withdrawn.

This notice of final rulemaking is issued under the authority of sections 110(c) and 301(a) of the Clean Air Act (42 U.S.C. 1857c–5(c) and 1857(g)).

Dated: October 25, 1973.

RUSSELL E. TRAIN,
Administrator.

Part 52 of Chapter I, Title 40, of the Code of Federal Regulations is amended as follows:

Subpart MM—Oregon

1. Section 52.1970 is amended by revising paragraph (c) to read as follows:

§ 52.1970 Identification of Plan.

* * * * *

(c) Supplemental information was submitted on May 3, 1972; October 26, 1972; April 13, 1972; and September 21, 1973, by the governor and on August 10, 1972; February 9, 1973; May 30, 1973; June 8, 22, and 25, 1973; July 17, 1973; and August 3 and 20, 1973, by the Department of Environmental Quality.

§ 52.1973 [Amended]

2. In § 52.1973, the attainment date table is revised by replacing the date "May 31, 1975" for attainment of the national standard for carbon monoxide in the Portland Interstate Air Quality Control Region with the date "May 31, 1976," and by deleting footnote "c".

3. Section 52.1974 is revised to read as follows:

§ 52.1974 Transportation and land use controls.

(a) To complete the requirements of § 51.11(b) of this chapter the Governor of Oregon must submit to the Administrator no later than April 1, 1974, the necessary adopted regulations needed to implement the inspection/maintenance and retrofit programs.

§ 52.1976 [Reserved]

4. Section 52.1976 is revoked and reserved.

§ 52.1977 [Reserved]

5. Section 52.1977 is revoked and reserved.

§ 52.1978 [Reserved]

6. Section 52.1978 is revoked and reserved.

7. A new section, § 52.1981, is added to read as follows:

§ 52.1981 Extension.

(a) The Administrator hereby extends for 12 months the attainment date for the national standards for carbon monoxide in the Portland Interstate Air Quality Control Region.

[FR Doc.73-23190 Filed 11-6-73;8:45 am]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Massachusetts, Springfield: Transportation Control Plan

On March 20, 1973 (38 FR 7327), the Administrator notified the Governor of Massachusetts that a transportation control plan must be submitted by April 15, 1973, for the Massachusetts portion of the Hartford-New Haven-Springfield Interstate Air Quality Control Region (hereafter referred to as the "Interstate Region"). No plan was submitted, and the Administrator proposed a plan for the Interstate Region on July 2, 1973 (38 FR 17689). A public hearing was held in Springfield at the Springfield Technical Community College on July 23, 1973.

AIR POLLUTION IN THE MASSACHUSETTS PORTION OF THE HARTFORD-NEW HAVEN-SPRINGFIELD INTERSTATE AIR QUALITY CONTROL REGION

The Massachusetts portion of the Hartford-New Haven-Springfield Air Quality Control Region conforms with the boundaries of the Massachusetts Pioneer Valley Air Pollution Control District.

The Region of densest motor vehicle travel is located along the Connecticut River. The western boundary of the Interstate Region is delineated by the Berkshire Mountains and the eastern border by hilly, rolling country. Although not an entrapped geographical region like Los Angeles, the area is characterized by a definite north-south channel along the river valley. The control strategies proposed herein for this Region are directed at reducing carbon monoxide emissions from motor vehicles in the Springfield downtown area.

The primary national ambient air quality standard for photochemical oxidants is 160 $\mu g/m^3$ (0.08 parts per million (ppm)), average for a 1-hour period not to be exceeded more than once per year. The highest recorded concentration of oxidants in the Interstate Region was 0.095 ppm, which was reached in Springfield in June 1972. The second highest recorded level was 0.060 ppm, reached in July 1972. Based on these levels and on the expected reduction in hydrocarbon emissions from motor vehicles resulting from the on-going Federal Motor Vehicle Pollution Control Program (FMVPCP), it has been determined that ambient concentrations of oxidants in the Interstate Region will not exceed the national standards by May 31, 1975, and that no strategies are required.

The primary national ambient air quality standards for carbon monoxide (CO) are 35 ppm average for 1 hour and 9 ppm average for 8 hours, each to be exceeded no more than once per year.

Carbon monoxide concentrations measured in downtown Springfield have not exceeded the 1-hour average, but the 8-hour average was exceeded 268 times from January through November 1972. The highest recorded concentration was 21.3 ppm which occurred in January 1972; and the second highest was 20.9 ppm, which occurred on the same day. Studies have indicated that the density of carbon monoxide emissions from motor vehicles falls off sharply outside the Springfield downtown area and that other sources of carbon monoxide are negligible. On this basis, it has been determined that the high ambient CO concentrations measured are localized within an area slightly less than 1 square mile (Zones 1 and 2 combined; see Table 1) in the Springfield downtown area, bounded approximately by the Connecticut River on the west, Lyman Street to the north, Maple Street to the east, and Washington Street and Summer Avenue to the south. This area includes a length of Interstate 91, the traffic on which makes a significant contribution to total emissions in the area.

There was one monitoring site for carbon monoxide in the Interstate Region. Based on the second highest reading of 20.9 ppm the linear rollback model indicates 57 percent and 39 percent reductions of carbon monoxide emissions are required in Zones 1 and 2, respectively, to attain the 8-hour carbon monoxide

ambient air quality standard. The baseline (1972) carbon monoxide emissions of 8,531 kg/day (Zone 1) and 12,922 kg/day (Zone 2) must be reduced to 3,674 kg/day and 7,900 kg/day, respectively, in order to attain the carbon monoxide ambient air quality standard. Although the emissions would increase due to growth, if there were no controls, the ongoing FMVPCP will reduce baseline Zone 1 emissions to 7,138 kg/day and Zone 2 emissions to 12,328 kg/day by 1975.

The ambient concentrations of carbon monoxide in the other areas of the Interstate Region either now meet the 8 hour, 9 ppm standard, or will do so by May 31, 1975, as a result of the anticipated decrease in motor vehicle carbon monoxide emissions resulting from the ongoing Federal Motor Vehicle Pollution Control Program.

In order to attain the standards, however, it will be necessary to reduce projected total emissions of carbon monoxide in the downtown Springfield area by an additional 3,464 kg/day (Zone 1) and 4,428 kg/day (Zone 2), (approximately 49 percent in Zone 1 and 36 percent in Zone 2). Table 1 summarizes the required reductions in quantitative terms.

TABLE 1—*Summary of emission projections for carbon monoxide*[1]

[Kilograms per day]

	Zone 1 (0.298 mi²)	Zone 2 (0.639 mi²)
Base year 1972	8,531	12,922
May 31, 1975, with existing regulations	7,138	12,328
Allowable to meet standards	3,674	7,900
Necessary reduction from May 31, 1975, projection	3,464	4,428
Percent	48.5	36

[1] Zones 1 and 2 are defined in the Technical Support Document and in the regulations.

EPA TRANSPORTATION CONTROL PLAN

Summary. Since the requirements for additional emission reductions are not unduly severe, the Administrator has had freedom to choose from a variety of control measures on the basis of their cost-effectiveness and their impact on other aspects of life in the Springfield area. The measures that follow have been chosen, insofar as possible, to be consistent with the expressed policies and preferences of the Governor of the Commonwealth and the City of Springfield as well as public comments received through the public hearing process.

Emission control alternatives. The emissions of carbon monoxide in the Springfield area of the Interstate Region come almost entirely from motor vehicle sources, so that the reductions required beyond those provided by the Federal Motor Vehicle Pollution Control Program will need to be effected by transportation controls that reduce total motor vehicle emissions.

Transportation control alternatives. There are two general types of transportation control available, those that effect emission reductions by reducing the average emissions from a vehicle-mile of travel (VMT), and those that effect reductions by reducing VMT, that is, by reducing the total amount of vehicle usage. It is the expressed policy of the Governor of Massachusetts to discourage continued heavy reliance on the automobile for urban core travel by encouraging increased transit usage and by other means. The Bureau of Air Quality Control has also expressed a desire to avoid the use of the most costly of the vehicle emission reduction controls.

Consequently, the Administrator has selected, insofar as possible, those VMT-reducing controls that can have their impact within the time frame of the May 31, 1975, target date, in order to lay a firm foundation for the Commonwealth's ongoing program to maintain the standards and in order to hold to a minimum the need for vehicle-emission controls for the general population of vehicles in the Interstate Region.

Proposed reductions in VMT. Since the carbon monoxide problem is concentrated in a relatively small area, the VMT-reducing controls that are directed at limiting traffic in this area are particularly appropriate.

The regulations impose stringent controls on commuter parking in downtown Springfield, including the banning of on-street parking between the hours of 7 a.m. and 10 a.m. on weekdays and the imposition of 25 cents/hour surcharge on off-street parking from 7 a.m. to 7 p.m. on weekdays with exemptions for handicapped persons, disabled veterans, and persons parking less than 3 hours. As a result of these measures, there will be a substantial reduction in the number of commuter trips made into the downtown area. There will also be an improvement in traffic flow and a reduction in collector and local circulation. The implementation of the on-street parking ban shall be phased in commencing June 30, 1974, with final compliance prior to March 1, 1975. The parking surcharge shall be effective prior to May 31, 1975.

In addition, the regulations require the installation of a metering system for the downtown ramps of Interstate 91 in conjunction with a traffic-responsive, digital-computer-controlled signal system. These measures will improve traffic flow and increase capacity but, because of the inherent programming capacity of the system, VMT will also be reduced. This program shall be implemented prior to May 31, 1975.

Finally, the regulations will provide for the closing of Main Street in Springfield to all traffic (except mass transit and loading vehicles), from the railroad overpass at the north to State Street at the south. They will also provide for the closing off of major streets within this section of Main Street to create large blocks. The final compliance of this requirement shall occur prior to May 31, 1975.

A computer carpool matching system shall be developed by the Commonwealth prior to March 1, 1975.

The Administrator recognizes that in addition to the restraints on vehicle usage, there must be adequate alternative transportation and/or fringe parking facilities if the controls are, in fact, to have a beneficial effect rather than become a burden. The Administrator is not promulgating regulations to specifically assure such alternatives and facilities because it appears that the best alternatives are not appropriately established by Federal regulation. However, the Administrator strongly urges the Commonwealth to adopt the following measures in order to alleviate the impact of the promulgated control strategies and to provide adequate other means of transportation so as not to decrease mobility in the Region.

1. Mass transit improvements are essential to ensure effective functioning of all VMT reducing strategies and land use controls. Consequently, a new fleet of air ride buses is necessary to replace the present outmoded fleet.

2. A downtown shuttle bus system should be provided from the proposed free fringe parking areas into the central business district from the railroad-bus terminal complex.

3. Connecting express bus service between the central business district and the following fringe parking areas should also be implemented as soon as possible: The Eastern States Fairground, the Forrest Park area, the Springfield Plaza Shopping Center and the Eastfield Mall. It is anticipated that the proposed restraints will prompt a variety of private decisions relative to work hours, carpooling, and similar matters that will operate to ameliorate the adverse impact of the restraints. Similarly, it is anticipated that the closing of Main Street will provide the opportunity for the implementation of a pedestrian shopping mall.

The transportation control strategies of the July 2 proposal have been modified to the extent possible in compliance with the public comments received. The $4 surcharge has been replaced with a 25 cents/hour surcharge applicable from 7 a.m. to 7 p.m. weekdays with exemptions for persons parking less than 3 hours and provisions that the surcharge shall not exceed $1.50. Any fringe parking facilities should be free of charge. The closing of Main Street has been modified to allow the use of public transit in addition to loading vehicles. The on-street parking ban from 6 a.m. to 6 p.m. has been modified to 7 a.m. to 10 a.m. weekdays. In addition, a computer carpool program, which was not a part of the July 2, 1973 proposal, is required in the final plan

Proposed controls on mobile source emissions. All light- and medium-duty, gasoline-powered vehicles registered within the Interstate Region will be required to be inspected semiannually using a loaded-mode emission test, a relatively inexpensive testing procedure. Vehicle owners will be required to obtain any maintenance necessary to ensure that all pollution control devices on the vericle work properly and that the vehicle operates at low pollution levels.

The July 2, 1973, proposals required only an annual idle-mode inspection and maintenance program. The loaded-mode test will provide greater reductions for the Interstate Region.

Findings. The Administrator is granting an extension of 14 months for the implementation of the idle-mode inspection and maintenance control strategy.

Accordingly, the Administrator has reviewed possible interim measures in lieu of the inspection and maintenance program. It does not appear that any further reductions can be attained through more stringent controls of vehicle miles of travel. The suggested controls on downtown Springfield are the most stringent reasonably available at this time. Alternatively, restricting travel of Route I–91 was considered, but there are sufficient questions on the negative impact of this action on persons residing near the diversion highway that this alternative was eliminated. Review of possible mobile source emission controls available indicated that the only possible measures not already scheduled for implementation that could be imposed in the 1975–1976 time frame is vacuum spark advance disconnect retrofit device. This control device is only applicable to pre-1968 vehicles and would have to be implemented throughout the entire air quality control region to be effective. Even if imposed, this control device would not be adequate to allow the attainment of the standards before May 31, 1977. The Administrator believes that to impose these less adequate controls on the entire region as an interim measure to achieve reductions of CO in a one-square-mile zone is economically unjustified.

Summary of effects of transportation controls. Table 2 is a summary of the effects of each element of the proposed strategy on the overall reduction necessary. The uncontrolled emissions within Zone 1 in 1975 are estimated at 7,132 kg/day, whereas the total allowable emissions if the 8-hour, 9 ppm standard is to be met are 3,660 kg/day. All calculations are based on the second highest recorded 8-hour average of 20.9 ppm, which occurred in Zone 1 in 1972. The proposed strategies will result in proportional reductions of emissions in Zone 2 of the downtown area, which will be adequate to meet the standards in Zone 2.

TABLE 2—*Compilation of effects of control strategy, May 31, 1976 (Zone 1)*

[Kilograms per day]

	Carbon monoxide emissions	
	1975	1977
Emissions from transportation sources	7,138	6,226
Expected reductions:		
(a) Parking restrictions, traffic flow improvements, closing of streets	−2,166	−1,808
(b) Inspection and maintenance		−729
Total reductions	−2,166	−2,537
Emissions remaining	4,972	3,689
Emissions allowable to meet standards	3,674	3,674

Basis for emission reductions. Additional technical information is contained in "Technical Support Document of the Transportation Control Strategy for the Massachusetts Portion of the Hartford-New Haven-Springfield Interstate Air Quality Control Region." This document is available from the Environmental Protection Agency, Region I Office, Room 2203, John F. Kennedy Federal Building, Boston, Massachusetts 02203.

Economic and social impact of transportation control plan. Congress recognized that achievement of the goals of the Clean Air Act would have a significant impact on many urban areas. A thorough and quantitative assessment of the impact of the plan on the economic and social fabric of the community has not been possible because of lack of time and the innate complexity of the issues. The following discussion is an effort to outline generally the type of impacts that would occur.

Because it is not possible to effect sufficient reductions to meet the standards by VMT controls alone, all the possible combinations of controls that were considered included an inspection and maintenance program. The combination proposed requires the least possible expenditure by the individual light-duty vehicle owner. The probable annual cost of the required inspection should be about $5, with an additional $15 to $25 cost required if maintenance is needed; the maintenance is of course desirable on its own merit, and thus is not viewed as a serious burden.

Any direct or indirect effects of the plan on the economy of the area are primarily dependent on the extent of the reduction in VMT required. Since the degree of restriction is relatively small, it is expected that the principal effects will be more a matter of social adjustments than of serious economic consequences. This is contingent upon the continued availability of adequate mass transit capacity; this capacity will be strained, particularly during peak periods, for the initial time before other ameliorating private readjustments occur. However, if a new fleet of air ride bus system is purchased to replace the present out-moded fleet, if a downtown shuttle bus system is provided from the proposed fringe parking areas into the central business district, and if connecting express bus service between the central business district and the fringe parking areas is provided, the impact will be substantially diminished.

The combined effects of these proposed regulations, together with the Massachusetts Implementation Plan, will eliminate the danger to human health and welfare that exists in the Springfield area of the Interstate Region as the result of air pollution. They may, however, have adverse economic and social impacts, and the Administrator will make every effort possible to mitigate the effects of this final promulgation. He will be in contact with the Department of Transportation and other Federal departments and agencies as necessary. The Administrator will request that the Federal departments and agencies give special attention to the need for funding to provide adequate mass transit to replace the automobile travel eliminated by the proposed controls.

In addition to attaining clean air in Springfield, there will be considerable reduction in traffic congestion and noise in the city. The mandatory inspection and maintenance program will require vehicles that are incorrectly tuned to be corrected therefore eradicating unnecessary fuel loss. Finally, mass transit facilities within the City of Springfield will be expedited by the additional funding provided by the surcharge revenues. This plan will improve significantly the public's health and will serve to provide the long-term environmental and transportation goals of the Interstate Region.

PUBLIC COMMENTS

The Administrator has developed the plan to be as responsive as possible to the needs of the Interstate Region; he therefore obtained the comments and suggestions of the public on the problems of achieving the ambient air quality standards in the Interstate Region through the public hearing process.

Comments pertaining to the other measures that may be taken by Federal, State, or local authorities to support or supplement the proposed air pollution control measures were also solicited and received at the hearings. Some comments have already been discussed. In addition, a number of other comments are worth stating.

The general consensus of the public was that the goal of attaining clean air is valid. However, there was some disagreement on several of the specific strategies proposed for attaining the standards.

The business interests testifying at the hearing generally expressed the belief that the proposal if implemented would cause serious economic dislocations in the City of Springfield. The remainder of the public commenting at the hearing generally supported the proposal.

The strategies that received the severest criticisms were: The $4 surcharge applicable to vehicles parked during the hours of 6 a.m. to 10 a.m. weekdays; and the closing off of a section of Main Street to form a vehicle free zone.

Finally, many comments called for positive inducements of voluntary actions for attaining emission reductions.

This rulemaking is issued under the authority of sections 110(c) and 301(a) of the Clean Air Act.

(42 U.S.C. 1857c-5(c) and 1857g)

Dated: October 25, 1973.

RUSSELL E. TRAIN,
Administrator.

Part 52 of Chapter I, Title 40, of the Code of Federal Regulations is amended as follows:

Subpart W—Massachusetts

1. Subpart W is amended by adding §§ 52.1148 through 52.1155 as follows:

§ 52.1148 Definitions for the purpose of §§ 52.1149 through 52.1155.

(a) "Register," as applied to a motor vehicle, means the licensing of such motor vehicle for general operation on public roads or highways by the appropriate agency of the Federal Government or by the State.

(b) "Interstate Region" means the Massachusetts portion of the Hartford-New Haven-Springfield Interstate Air Quality Control Region as defined in § 81.19 of this title.

(c) "Off-street parking facility" means any facility, building, structure, or lot, or portion thereof used primarily for temporary storage of motor vehicles.

(d) "Zone 1" means that portion of the City of Springfield, Massachusetts contained within the following boundaries: The Connecticut River on the west; the railroad track on the north (near Lyman Street); Chestnut and Maple Streets on the east; and Stockbridge and Bliss Streets on the south. Where a street or a roadway is a boundary, the entire right-of-way of the street is within Zone 1 as here defined.

(e) "Zone 2" means that portion of the City of Springfield, Massachusetts contained within the following boundaries: The Connecticut River on the west; Bliss and Stockbridge Streets on the north; Maple, Pine, Windsor, Knox, Mill, and Dickinson Streets on the east; Woodside Terrace, Forrest Park Avenue, Leete Street, and Longhill Street on the south. Where a street or roadway is a boundary, the entire right-of-way of the street is within Zone 2 as here defined.

§ 52.1149 Regulation limiting on-street parking.

(a) "On-street parking" means stopping a motor vehicle on any street, highway, or roadway (except for legal stops at or before intersections and as caution and safety require) whether or not a person remains in the vehicle and all such stops when the driver does not remain in the vehicle.

(b) Commencing on or before July 1, 1974, the Commonwealth of Massachusetts and the City of Springfield and any political subdivisions or administrative bodies of either having jurisdiction over any streets, highways, or roadways within Zone 1, shall adopt all necessary administrative and enforcement procedures to effect a prohibition of on-street parking within Zone 1 between the hours of 7 a.m. and 10 a.m. except on Saturdays, Sundays, and legal holidays. The regulations shall state that violation of the prohibition shall be punishable by a fine of not less than $50 and removal of the offending vehicle. The limitation on on-street parking shall be conducted in a phased-in manner to be completed by March 1, 1975. Each such governmental entity shall at a minimum eliminate 33⅓ percent of currently existing on-street parking during the hours specified by September 30, 1974; 66⅔ percent by December 31, 1974; and 100 percent by March 1, 1975.

(c) Exceptions to this regulation shall be granted for vehicles owned by residents of Zone 1 that are parked near the owner's residence, providing such on-street parking is in compliance with existing parking regulations of the City and Commonwealth. Exemptions of vehicles owned or operated by handicapped persons and disabled veterans (HP and V license plates) may also be granted.

(d) On or after June 30, 1974, no owner of a motor vehicle shall park, or permit the on-street parking of, said vehicle on a street or roadway within Zone 1 except in conformity with the provisions of this section and the measures implementing it.

(e) The Governor of the Commonwealth of Massachusetts, and the chief executive of any other governmental entity on which obligations are imposed by paragraph (b) of this section shall, on or before April 15, 1974, submit to the Administrator for his approval, a detailed statement of the legal and administrative steps chosen to effect the prohibition provided for in paragraphs (b) and (d) of this section, and a schedule of implementation consistent with the requirements of that paragraph. Such schedule shall include as a minimum the following:

(1) Designation of one or more agencies responsible for the administration and enforcement of the program.

(2) The procedures by which the designated agency will enforce the prohibition provided for in paragraphs (b) and (d) of this section.

(3) The procedures by which each car will be marked so that residential vehicles will be exempt from the 7 a.m. to 10 a.m. ban providing such a vehicle is parked within 0.5 mile of the location specified on the registration of the vehicle.

§ 52.1150 Regulation for parking surcharge.

(a) "Off-street parking means any area or space below, above or at ground level, open or enclosed, which is used for parking one light-duty vehicle at any given time except on any public highway, street, or roadway.

(b) A surcharge of 25¢ per hour shall be applied under conditions as provided in paragraph (c) of this section to any contract or other agreement whereby a motor vehicle is parked in any publicly or privately owned off-street parking facility in the Interstate Region for a fee. Such surcharge shall be collected by the City of Springfield. The net proceeds of the surcharge shall be utilized for mass transit improvements within the Interstate Region.

(c) The surcharge provided for in paragraph (b) of this section shall be applicable commencing May 31, 1975, to all off-street parking spaces in Zones 1 and 2. The surcharge shall be applicable as a minimum between the hours of 7 a.m. and 7 p.m. on days other than Saturdays, Sundays, or legal holidays and the maximum total daily surcharge shall not exceed $1.50. Exemptions from the minimum rates may be given for utilization of off-street parking facilities by handicapped persons and disabled veterans (HP and V license plants). The City of Springfield may at its discretion exempt persons parking at a facility for less than three continuous hours from the surcharge.

(d) If a vehicle is to be stored in an off-street parking space for more than 1 day without leaving said space, the surcharge provided for in paragraph (b) of this section shall apply only to the first day of storage of the vehicle.

(e) Each governmental entity and person owning, controlling, or operating an off-street parking facility within Zones 1 and 2 shall by December 1, 1973, report to the Administrator or his designee the number of motor vehicle parking spaces in each such facility under its ownership or control.

(f) Each such owner or operator of an off-street parking facility subject to the requirement of this section shall submit to the Administrator or his designee prior to December 31, 1973, a detailed compliance schedule showing the steps he will take to collect the surcharge required by paragraph (b) of this section.

(g) Each owner or operator of a parking facility subject to this paragraph shall submit an accounting of the number of parking spaces used during the hours the surcharge is in effect and the funds collected. This accounting shall be made on a quarterly basis to the Administrator or his designee.

§ 52.1151 Regulation for computer carpool matching.

(a) "Carpool matching" means assembling lists of commuters with similar daily travel patterns and providing a mechanism by which persons of such lists may be put in contact with each other for the purpose of forming carpools.

(b) This section is applicable in the Interstate Region.

(c) The Commonwealth of Massachusetts shall establish a computer-aided carpool matching system that is conveniently available to the general public and to all employees of employers having more than 50 employees within the Interstate Region who operate light-duty vehicles on streets and highways over which the Commonwealth has ownership or control. Prior to March 1, 1975, the Commonwealth shall submit legally adopted regulations to the EPA establishing such a system. No provisions of such regulations shall have an effective date later than 3 months from the date of adoption. The regulations shall include:

(1) A method of collecting information that will include the following as a minimum:

(i) Provisions for each affected employee to receive an application form with a cover letter describing the matching program.

(ii) Provision on each application for applicant identification of commuting time, origin, and destination, and the applicant's desire to ride only, drive only, or share driving.

(2) A computer method of matching information that will have provisions for locating each applicant's origin and destination within the Interstate Region; matching applicants with similar origins and destinations travel schedules; and enabling the persons so matched to make contact with each other at the request of any one of them.

(3) A method of providing continuing service such that the matched lists of all applicants are retained and made available for use by new applicants; application forms are currently available; and the master list is periodically updated to remove applicants who no longer meet the governing criteria and add new applicants who do.

(4) Designation of an agency or agencies responsible for operating, overseeing and maintaining the computer carpool matching system.

(d) The Governor of the Commonwealth of Masachusetts shall, on or before April 15, 1974, submit to the Administrator for his approval, a detailed statement of the legal and administrative steps chosen to effect the carpool matching system imposed by this system and a schedule of implementation consistent with the requirements of this section.

§ 52.1152 Regulation for traffic flow improvements.

(a) A traffic-responsive, digital-computer-controlled, traffic signal system shall be installed in the Springfield area encompassing Zones 1 and 2. In conjunction with this system a ramp metering system shall be installed to monitor traffic on an appropriate length of Interstate 91. Those two systems shall function together to improve traffic flow within the Springfield downtown area and also to limit VMT within the area, despite the potential traffic capacity increase provided by the system.

(b) The Governor shall, on or before April 15, 1974, submit to the Administrator for his approval, a detailed statement of the steps chosen to implement the actions in paragraph (a) of this section, and a schedule for such implementation that provides, as a minimum, the following:

(1) A date by which detailed plans will be given to EPA indicating the specific system design selected, including the method planned for use in ramp metering. Such date shall be no later than March 1, 1974.

(2) A date by which equipment necessary to implement this program will be ordered.

(3) A date by which the system will become operational. Such date shall be no later than May 31, 1975.

§ 52.1153 Regulation for street closing.

(a) A section of Main Street located in the downtown area of Springfield shall be permanently closed to all motor vehicular traffic, with the exception of such vehicles deemed by the Governor of the Commonwealth (and approved by the Administrator) as necessary and vital for the essential exchange of goods and services and of mass transit vehicles. The section of Main Street to be closed shall extend from the railroad overpass at the north to State Street at the south. Streets intersecting Main Street at strategic points within the regulated section shall also be closed off where possible and necessary to maximize blocksize. A minimum of 15 block lengths of intersecting streets shall be closed. The precise intersecting streets to be regulated will be determined by the State of Massachusetts and the City of Springfield, subject to approval by the Administrator.

(b) The Governor shall, on or before April 15, 1974, submit to the Administrator for his approval a detailed statement of the steps chosen to effect the actions in paragraph (a) of this section, and a schedule for their implementation that provides for their full effectiveness no later than May 31, 1975.

§ 52.1154 Regulation for semiannual inspection and maintenance.

(a) Definitions:

(1) "Inspection and maintenance program" means a program to reduce emissions from in-use vehicles through identifying vehicles that need emission control related maintenance and requiring that such maintenance be performed.

(2) "Light-duty vehicle" means a gasoline-powered motor vehicle rated at 6000 lb. GVW or less.

(3) "Medium-duty vehicle" means a gasoline-powered motor vehicle rated at more than 6,000 pound GVW and less than 10,000 pound GVW.

(4) All other terms used in this paragraph that are defined in Part 51, Appendix N of this chapter, are used herein with the meaning therein defined.

(b) This section is applicable in the Interstate Region.

(c) The Commonwealth of Massachusetts shall establish an inspection and maintenance program applicable to all gasoline-powered, light-duty and medium-duty vehicles registered in the Interstate Region that operate on streets or highways over which it has ownership or control. No later than April 1, 1974, the Commonwealth shall submit legally adopted regulations to EPA establishing such a program. Antique motor vehicles designated by the appropriate state registration procedures shall be exempt from the requirements of this section. The regulation shall include:

(1) Provisions for inspection of all such motor vehicles at periodic intervals at least twice each year by means of a loaded emission test.

(2) Provisions for inspection failure criteria consistent with the failure of 40 percent of the vehicles tested during the first inspection cycle.

(3) Provisions to require that failed vehicles receive, within 2 weeks, the maintenance necessary to achieve compliance with the inspection standards. This shall include sanctions against non-complying individual owners and repair facilities, retest of failed vehicles following maintenance, a certification program to insure that repair facilities performing the required maintenance have the necessary equipment, parts, and knowledgeable operators to perform the tasks satisfactorily, and such other measures as may be necessary or appropriate.

(4) A program of enforcement, such as a spot check of idle adjustment, to ensure that, following maintenance, vehicles are not subsequently readjusted or modified in such a way as would cause them no longer to comply with the inspection standards. This program shall include appropriate penalties for violation.

(5) Designation of an agency or agencies responsible for conducting, overseeing, and enforcing the inspection and maintenance program.

(d) Commencing August 1, 1976, the State shall not register or allow to operate on its highways any light-duty vehicle or medium-duty vehicle that does not comply with the applicable standards and procedures adopted pursuant to paragraph (c) of this section. This shall not apply to the initial registration of a new motor vehicle.

(e) Commencing August 1, 1976, no owner of a light-duty vehicle or medium-duty vehicle shall operate or allow the operation of any such vehicle that does not comply with the applicable standards and procedures adopted pursuant to paragraph (c) of this section. This shall not apply to the initial registration of a new motor vehicle.

(f) The Commonwealth of Massachusetts shall submit, no later than January 1, 1974, a detailed compliance schedule showing the steps it will take to establish and enforce a state-operated inspection and maintenance program pursuant to paragraph (c) of this section, including the text of any needed statutory proposals, and needed regulations that it will propose for adoption. The compliance schedule shall also include:

(1) The date by which the State will recommend the needed legislation to the State legislature;

(2) The date by which the necessary equipment will be ordered;

(3) A statement from the Governor and State Treasurer identifying the sources and amounts of funds for the program. If funds cannot legally be obligated under existing statutory authority, the text of needed legislation must be submitted.

§ 52.1155 Semiannual and quarterly reports.

(a) All definitions are as used in § 51.19 of this chapter.

(b) This regulation is applicable in the Interstate Region.

(c) The Commonwealth of Massachusetts or an agency designated by the Commonwealth and approved by the Administrator shall monitor the effective emission reductions occurring as a result of the inspection and maintenance program required under § 52.1154.

(d) The data submitted pursuant to paragraph (e) of this section shall be in accordance with § 51.19(d) of this chapter.

(e) No later than May 31, 1974, the State shall submit a detailed program to the Administrator demonstrating compliance with paragraph (c) of this section. The program description shall include the following:

(1) The administrative process to be used.

(2) The funding requirements, including a statement from the Governor or State Treasurer or their respective designees identifying the source and amount of funds for the program.

(3) A description of the methods to be used to collect the data.

(4) An agency or agencies responsible for conducting, overseeing, and maintaining the monitoring program.

(f) All data obtained by the monitoring program shall be included in the quarterly report submitted to the Administrator by the State, as required at § 51.7 of this chapter. The first quarterly report shall cover the period January 1–March 31, 1975.

(g) The Commonwealth of Massachusetts and the City of Springfield shall report to the Administrator semiannually beginning May 15, 1974, the average daily VMT levels and the reduction from current levels of VMT as specified in the Technical Support Document for the Interstate Region.

(h) The VMT levels shall be based on representative traffic counts taken in Zones 1 and 2 of Springfield. The VMT reductions shall be identified for each applicable control measure designed in the State's implementation plan. Such reductions shall be reported in a format similar to that provided in Appendix M to Part 51 of this chapter, June 8, 1973.

[FR Doc.73-23191 Filed 11-6-73;8:45 am]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Minnesota Transportation Control Plan

On March 20, 1973, by publication in the FEDERAL REGISTER (38 FR 7237) the Administrator notified the Governor of Minnesota that a transportation control plan should be submitted by April 15, 1973, for the Minneapolis-St. Paul Intrastate Air Quality Control Region (the "Region").

No such plan was submitted, and the Administrator therefore disapproved the Minnesota plan for the Region (38 FR 16559, June 22, 1973), and proposed one of his own (38 FR 17699, July 2, 1973). That Notice of Proposed Rulemaking read in part: "If a State plan is submitted and is determined to be approvable prior to Federal promulgation of a plan, contemplated by this notice, these proposed regulations will be withdrawn." A public hearing was held on the EPA proposal on Tuesday, July 24, 1973, and the record was held open for additional public comment until August 2, 1973.

On June 8, 1973, the Governor of Minnesota submitted a transportation control plan for the Region to the Administrator. Receipt of the plan was acknowledged in the FEDERAL REGISTER on July 18, 1973 (38 FR 19132). Following this formal acknowledgment, 21 days were provided for public comment on the Minnesota plan. As a result of both the EPA review of the State plan, and the comments received during the EPA public hearing on the proposed Federal plan, the Administrator is today approving the submitted Minnesota Transportation Plan, revoking the June 22 disapproval notice and withdrawing the Federally proposed plan.

AIR QUALITY AND STATE PLAN

As discussed below, the requirements of the Clean Air Act and of 40 CFR Part 51 are adequately addressed and satisfied in the State plan.

The plan sets forth five major strategies. These are programmed toward a May 31, 1975, achievement date (so identified in the plan). The emission reductions provided should be more than enough to meet the standards by that date, thus providing a safety margin. The strategies have been developed and analyzed using the most up-to-date vehicular emission factor technique.[1] Overall plan development was supervised by a task force comprised of all involved State and local entities. All information pertaining to emissions of carbon monoxide and estimated strategy impact remains available for public perusal.

It is estimated that to achieve the standards an emission reduction of 40 percent will be needed from 1971 levels. This reduction was calculated by applying linear rollback from the national standard level of 9 ppm to the second highest measured 8-hour carbon monoxide average of 15.0 ppm. This value was recorded in 1971 at the downtown Minneapolis site, considered to be the most polluted region based upon topography, vehicular densities, and associated emission densities. Emission densities of all areas within the Region except for the Minneapolis Central Business District (CBD) will be at or below safe emission levels by May 31, 1975, due to the impact of the Federal Motor Vehicle Control Program. In addition to the Federal program, the State has proposed the following strategies be applied in the Minneapolis CBD.

(1) Completion of the I–35W freeway north around the Minneapolis CBD area by May 31, 1975. This has been substantiated by the U.S. Department of Transportation Federal Highway Administration.

(2) Operation of the computerized traffic-management system within the Minneapolis CBD by May 31, 1975, and within the entire city by May 31, 1977.

(3) Construction of parking facilities located at the fringe of the Minneapolis CBD to intercept incoming CBD traffic.

(4) An interim shuttle bus system through mid-1977 to carry commuters from the fringe parking lots into the CBD followed by the eventual implementation by mid-1977 of the fixed elevated guideway people-mover system coupled with the expanded second story inter-building skyway-system. This system is supportive to the fringe parking lots and is presently operational.

(5) Expansion of an express bus system on the I–35 urban corridor through phased purchases of replacement buses from 1973 through 1977.

The above-described control strategy was closely scrutinized with respect to the 1975 achievement date. Analysis indicates that the first two strategies (I–35W completion and installation of the traffic management system) will achieve the required reduction to reach the standards by then. The third strategy (fringe parking) was also analyzed and credited with potential vehicle miles traveled (VMT) reductions, on the basis of the availability of a fixed number of CBD fringe parking structures by mid-1975. The remaining two strategies (people-mover and express bus systems) were considered as merely augmenting the first three strategies with respect to air quality impact because of their inherently long-range implementation schedules. These latter strategies are useful as safety margins and for maintaining the standard once it is achieved. EPA analysis of the control strategy was concentrated on the two major strategies. The expected emission reductions by the projected target date, May 13, 1975, are summarized below:

[1] Revised Gasoline-Powered Motor Vehicle Emission Factors: D. Kircher and D. Armstrong, 1/73 USEPA, North Carolina; also AP–42, 4/73.

TABLE OF CONTROL STRATEGY EFFECTS

Region: Minneapolis CBD.
State: Minnesota.
Pollutant: Carbon monoxide.
Measured Air Quality: 15.0 ppm (8-hr. avg.).
Required rollback: 40 percent (from baseline 1971 emissions).
Attainment: May 31, 1975.
1971 Emissions: 24,784 kg/12 hr. (13,360 tons/year).[1]
1975 Allowable Emissions: 14,900 kg/12 hr. (8,050 tons/year).

Strategy	Carbon monoxide emissions on May 31, 1975			
	Reduction kg/12 hr.	Balance kg/12 hr.	Reduction tons/year	Balance tons/year
1975 baseline emissions		17,488		9,440
CBD fringe parking	200		110	
Completion of I-35W	3,210		1,700	
Implementation of traffic management system (CBD)	2,560		1,380	
Resultant 1975 emissions		11,516		6,250
Total reduction achieved (from 1971 baseline emissions) (percent)	53.5			

[1] (2.4/86)×(tons/year)=kg/24 hr.; (0.75)×(kg/24 hr.)=kg/12 hr.
Therefore: (kg/12 hr.)/(2.4786)×(0.75)=tons/year or (0.54)×(kg/12 hr.)=tons/year.

In approving the strategy utilizing completion of I–35W to remove traffic from the Minneapolis CBD, careful examination was made of the plan's estimate that such completion will result in a 20 percent diminution in cordon crossings within the CBD area. Such a decrease in VMT would have a radical effect on carbon monoxide concentrations in the affected area. The State highway department has provided information regarding the initial impact of a recently opened span of I–35W. Based upon information supplied by the GCA Corporation under EPA contract No. 68–02–0041, sufficient grounds do exist to support the estimate of reduction in cordon crossings.

Because the final link of I–35W is so close to the designated CBD, a Gaussian line-source model was used to estimate the impact of the opening of the road on air quality in the CBD. Results of this in-house study demonstrated a negligible impact upon the air quality. Furthermore, it was found that even if the CBD were expanded to include all parts of I–35W (in effect negating the expected effect of this particular strategem), the necessary reduction to achieve safe emission levels could be made by May 31, 1975, by the other submitted strategies. The Administrator will review updated information regarding origin-destination studies to be conducted by the State within the Minneapolis CBD.

In approving the traffic management system as a strategy to reduce carbon monoxide concentration, the plan's estimate of a 25-percent increase in average vehicle speed resulting from implementation of the system was carefully reviewed because the validity of this estimate is crucial in determining the overall estimated impact on air quality of this strategy.

Although no conclusive supporting evidence exists, EPA has no reason to believe such an increase in vehicle speed will not occur based on the most recent technical information (EPA Contract No. 68–02–0041) available to the Administrator. One positive factor is that the system will eventually encompass the entire city of Minneapolis and therefore will have a favorable impact overall on the CBD. The EPA will review periodic studies conducted by the State on average vehicle speeds within the CBD.

As mentioned before, it is estimated that these two strategies alone will, when implemented, achieve the necessary reduction to meet the standards in May 1975. The fringe parking, shuttle bus, people mover, and express bus systems will provide necessary safety margins.

In evaluating the implementation of the proposed strategies, it is noted that the continuing surveillance of the control strategy which will be conducted by the State will provide the needed data and yardstick for assessing success of implementation. Origin-destination data and average speed data for the Minneapolis CBD are expected to be gathered in a format that will permit ready comparison with the data and assumptions contained in the approved implementation plan.

In addition, a memorandum of intent, outlined in section IV(F) of the plan, is proposed for signature of all parties having a designated role in the plan and is to be submitted by the end of 1973 as an administrative procedure. Its chief significance lies in the acknowledgment by individual parties of their roles and expected dates of achievement.

All legal authority necessary for successful strategy implementation has been adequately identified in section IV(D) of the plan. The primary agencies involved in strategy implementation have been identified in section IV(F) as:

(1) Minnesota Pollution Control Agency.
(2) Minnesota Highway Department.
(3) City of Minneapolis.
(4) Metropolitan Transit Commission.
(5) Metropolitan Council.
(6) City of St. Paul.

The associated responsibilities of each of the above duly authorized agencies are enumerated in section IV of the State plan. Although legal authority for each individual political unit assigned to a role in the overall plan is approvable, it has been noted that the State may be unable to perform those rules assigned to the City of Minneapolis and the Metropolitan Transit Commission and that no adequate back-up strategy has been provided in the plan.

The State has detailed the necessary resource requirements in Appendix G of the plan. Such resources are considered by the Administrator as minimally acceptable levels for State input to the plan.

Information used to reach the conclusions cited above may be found in the Evaluation Report, which is available for inspection at the Freedom of Information Center, EPA, Room 329, 401 M Street SW., Washington, D.C. 20460, and at the EPA Region V Office, One North Wacker Drive, Chicago, Illinois 60606.

The proposal to add a new § 52.1230 to 40 CFR Part 52, Subpart Y, Inspection and Maintenance of Motor Vehicles, § 52.1231 The Construction Restriction of New Off-Street Parking Facilities, and § 52.1232 The Banning of On-Street Parking within the CBD (38 FR 17701 (July 2, 1973)), is hereby withdrawn.

This notice of final rulemaking is issued under the authority of sections 110(c) and 301(a) of the Clean Air Act (42 U.S.C. 1857c–5(c) and 1857g).

Dated: October 25, 1973.

RUSSELL E. TRAIN,
Administrator.

Part 52 of Chapter 1, Title 40, of the Code of Federal Regulations is amended as follows:

Subpart Y—Minnesota

1. In section 52.1220, paragraph (c) is revised to read as follows:

§ 52.1220 Identification of plan.

* * * * *

(c) Supplemental information was submitted on:

(1) February 7, March 27, April 28, and May 2, 1972, by the Minnesota Pollution Control Agency,

(2) June 15, 1972, by the Assistant Attorney General,

(3) July 25, 1972,

(4) June 18, 1973, by the Minnesota Pollution Control Agency,

(5) July 30, 1973, by the Metropolitan Transit Commission, and

(6) August 1, 1973, by the Minnesota Department of Highways.

2. In § 52.1227 paragraphs (a)(2) and (a)(3) are revoked and paragraph (a)(1) is revised to read as follows:

§ 52.1227 Transportation and land use controls.

(a) To complete the requirements of §§ 51.11(b) and 51.14 of this chapter, the Governor of Minnesota must submit to the Administrator:

(1) No later than December 30, 1973, the signed memoranda of intent outlined in section IV(F) of the State transportation control plan.

(2) and (3) [Revoked.]

§ 52.1228 [Reserved]

3. Section 52.1228 is revoked and reserved as follows:

[FR Doc.73–23192 Filed 11–6–73;8:45 am]

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WEDNESDAY, NOVEMBER 7, 1973
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PART III

SMALL BUSINESS ADMINISTRATION

■

SMALL BUSINESS INVESTMENT COMPANIES

Miscellaneous Amendments

Title 13—Business Credit and Assistance

CHAPTER I—SMALL BUSINESS ADMINISTRATION

[Rev. 5]

PART 107—SMALL BUSINESS INVESTMENT COMPANIES

Miscellaneous Amendments

Pursuant to authority cited below, Part 107 of Chapter I, Title 13 of the Code of Federal Regulations is revised as set forth hereafter.

Information and effective date. On September 5, 1973, notice of proposed rulemaking was published in the FEDERAL REGISTER concerning the revision of Part 107 of the SBA regulations (38 FR 24028–24040). After consideration of the comments received, SBA has determined to adopt the following revision as in the best interests of the SBIC program. Textual and substantive changes have been made to modify and adjust regulatory controls; the most significant of the latter are discussed below.

The definition of "Investment Adviser/Manager" in § 107.3 has been modified to accommodate modern venture capital practice. These modifications would broaden the Licensee's ability to use qualified persons to assist in the operations of the SBIC.

§ 107.101(b) has been expanded to require the Licensee to have a publicly listed telephone number under the Licensee's name and § 107.101(e) permits shareholders who purchase stock of SBIC's with borrowed funds to have a net worth of less than twice the amount borrowed if prior written approval of SBA is obtained.

The definition in § 107.202(b) of the term "Venture Capital Financing" has been amended to provide that SBIC debentures or loans to small concerns need be subordinated only to borrowings from institutional lenders by the small concern, as was the case in Revision 4.

§ 107.203(d) (Capital Impairment) has been changed to provide that a Licensee is in default on its indebtedness to SBA when it fails to give SBA prompt written notice of its impairment, and if it fails to cure the impairment within time limits set by SBA in writing.

§ 107.205 has been restructured to make clear that only the investment policy and the declaration of the respective rights of the stockholders and SBA need be incorporated in the charter; the requirement of SBA approval for salary increases by debtor licensees has been limited to salaries over $10,000.

§ 107.301(a) has been modified to permit a reasonable prepayment penalty, but any other prepayment restrictions require SBA approval.

§ 107.302(a) makes clear that a Licensee may not become liable for the general obligations of an unincorporated portfolio concern intentionally or unintentionally.

§ 107.302(b)(2) (Equity Securities) has been modified to make clear that unincorporated portfolio concerns must also be organized for profit.

§ 107.303 now incorporates former § 107.502 to permit the acquisition of stock options in an affiliate of a portfolio concern, but has been otherwise shortened.

Section 107.501 now makes clear that an SBIC may guarantee a non-Associate creditor on stated conditions, but that guaranties to Associates are, in addition, subject to the conflict-of-interest regulation § 107.1004(b).

Section 107.504 (Other Permissible Financing) has been amended to raise its limit from twenty percent of private capital to twenty percent of total adjusted assets. A definition of "total adjusted assets" has been added.

Section 107.601 (Management Services) has been amended to eliminate the necessity of approval by the shareholders of the small concern with whom the Licensee is contracting for management services. Annual approval by the Board of Directors or principal owners of the small concern, and by SBA is required. The amount that an SBIC can invest in a management services subsidiary is limited to three percent of its private capital. The performance of services for the small concern is permitted within, of course, the limitation on control of the small concern. Paragraph (d) of proposed § 107.601 has been eliminated as redundant.

Section 107.804 (Identification as an SBIC) has been restored and will require SBIC's to identify themselves as Federal Licensees.

Section 107.809 (Investment Adviser/Manager) has been shortened, but the advisory contract has been subjected to annual approval by SBA and the shareholders of the SBIC.

Section 107.812 now makes clear that financing of an ownership change in a small concern is permissible, on stated conditions within the reasonable judgment of the Licensee.

Section 107.901 governing the assumption of control over the small concern has been amended to eliminate the annual reporting requirement contained in proposed paragraph (e), and a requirement to justify the assumption of control has been added to the divestiture plan that must be filed for SBA postapproval whenever an SBIC assumes temporary control over a portfolio concern.

Section 107.1001(a) has been rewritten to make clear that its financing prohibition extends only to small concerns primarily engaged in relending, but that venture capital financing of disadvantaged financial concerns is permitted, if the latter are not commercial banks, or savings institutions of specified categories.

Section 107.1003 prohibiting inactivity has been amended to extend the measuring period underlying its presumption from one year to eighteen months.

Section 107.1004(d) governing compensation of Licensee associates by portfolio concerns has been amended to make clear that it is not intended to supersede other Federal or State law which may subject such compensation to conflict-of-interest or other rules governing the fiduciary obligation of corporate insiders.

Section 107.1004(f), the so-called "watch dog provision", exempts the Licensee delegate to a portfolio concern from the conflict-of-interest regulation, but not from other SBIC regulations such as the control regulation (§ 107.901), and has been amended to authorize SBA to waive the prohibition against a personal interest of such delegate in the small concern in appropriate cases.

§ 107.1104 (Fidelity Insurance) has been modified to include, in addition to Brokers Blanket Bond, Standard Form 14, Finance Companies Blanket Bond, Standard Form 15.

Some of the foregoing changes and other (textual) changes have resulted from comments received. Among comments not reflected above are the following:

The return, in the presumption of control, to the limitation of fifty percent (from "more than fifty percent") reflects SBA's view that possession of the veto power through fifty percent ownership is a form of control, and should therefore be treated as such.

The suggestion has been made that a low par value of the preferred stock issued to SBA by section 301(d) Licensees would effect a tax saving for such Licensees. The statute, however, bases SBA's rights to dividends and redemption on the par value, which must therefore equal SBA's investment.

It has also been suggested that the requirement of SBA approval be lifted for asset disposals to Associates where such disposal takes the form of a spinoff, or where an appreciated asset is sold to the Licensee's parent below its market value, to effect a tax saving. The typical spinoff is a reduction of capital, which would require SBA approval as such, even if the asset disposal as such did not require SBA approval. The sale of an appreciated asset to a parent below market value would represent a conflict-of-interest transaction which section 312 of the Act requires SBA to regulate, even if the asset disposal as such did not require SBA approval.

Another comment proposed that an SBIC should be permitted to become liable for the general obligations of an unincorporated portfolio concern in the event of default, abandonment by or bankruptcy of the general partner. This comment overlooks the exception from this provision for guaranties pursuant to § 107.501, now contained in § 107.302(a), and the specific admonition in the House Report that SBA should so regulate unincorporated equity investments as to preclude general liability for the SBIC.

It was also suggested that banker's acceptances and commercial paper be included among permissible investments for idle funds pursuant to § 107.808. This suggestion is contrary to section 308(b) of the Act which limits idle funds investments to U.S. obligations.

In view of the necessity of promptly applying the revised provisions to the program authorized by the Small Busi-

ness Investment Company Act of 1958, as amended, Revision 5 shall become effective November 7, 1973.

Dated: November 2, 1973.

THOMAS S. KLEPPE,
Administrator.

PART 107—SMALL BUSINESS INVESTMENT COMPANIES

REGULATIONS

Sec.
107.1 Scope of Part 107.
107.2 Information, forms, and instructions.

DEFINITIONS

107.3 Definition of terms.

OPERATIONAL REQUIREMENTS

107.101 Operational requirements.

LICENSE

107.102 License application.
107.103 Public notice.
107.104 Transferability of license.
107.105 Surrender of license.

BORROWING BY LICENSEE

107.201 Funds to Licensee.
107.202 Leverage in excess of two hundred percent.
107.203 SBA purchase, sale, or guaranty of securities evidencing Leverage; events of default.
107.204 Collection or compromise of SBA claims.
107.205 Leverage for section 301(d) Licensees.

FINANCING OF SMALL CONCERNS

(EQUITY CAPITAL FINANCING; LONG-TERM LOANS; GUARANTIES AND COMMITMENTS)

Sec.
107.301 General.

EQUITY CAPITAL

107.302 Equity capital.
107.303 Stock options and conversion rights.
107.304 Refinancing; first refusal on new indebtedness.

LONG-TERM LOANS

107.401 Provisions applicable to long-term loans.

GUARANTIES AND COMMITMENTS

107.501 SBIC guaranty of loans.
107.502 [Reserved]
107.503 Commitments.
107.504 Other permissible Financing.

MANAGEMENT SERVICES

107.601 Management services.

CONTROL OF LICENSEE

107.701 Changes in ownership or control of Licensee.
107.702 Common control.
107.703 Pledge of Licensee's shares.

LAWFUL OPERATIONS

107.801 Amendments to Act and regulations.
107.802 Other laws.
107.803 Operations under Act.
107.804 Identification as an SBIC.
107.805 Consideration for issuance of Licensee securities.
107.806 Retention of investments.
107.807 Purchases of securities from another Licensee.
107.808 Idle funds.
107.809 Investment Adviser/Manager.
107.810 Assets in liquidation.
107.811 Additional investment by bank.
107.812 Financing changes of ownership.
107.813 Section 301(d) Licensee wholly or partly owned by Licensee companies.

RESTRICTED ACTIVITIES

107.901 Control of small concern.
107.902 Voluntary capital decrease.
107.903 Mergers, consolidations, and reorganizations.

PROHIBITIONS

107.1001 Prohibited uses of funds.
107.1002 [Reserved]
107.1003 Inactive Licensees.
107.1004 Conflicts of interest.
107.1005 Disposition of assets to Licensee's Associates or to competitors of portfolio concern.
107.1006 [Reserved]
107.1007 No Government sponsorship.
107.1008 Violations based on false filings and nonperformance of agreements with SBA.

EXAMINATIONS, ACCOUNTS, RECORDS AND REPORTS

107.1101 Examination fees.
107.1102 Records and reports.
107.1103 Internal control.
107.1104 Fidelity insurance.
107.1105 Reporting changes not subject to SBA approval.

COMPLIANCE

107.1201 [Reserved]
107.1202 [Reserved]
107.1203 Exemption from civil penalty.

EXEMPTIONS

107.1301 Exemptions.
107.1302 Savings clause.

AUTHORITY: Sec. 308(c), 72 Stat. 694, as amended (15 U.S.C. 687(c)); sec. 312, 78 Stat. 147 (15 U.S.C. 687d); sec. 315, 80 Stat. 1364 (15 U.S.C. 687g).

§ 107.1 Scope of Part 107.

The regulations in this Part implement the Small Business Investment Act of 1958, as amended. All Licensees, including, section 301(d) Licensees, must comply with all applicable regulations. SBA's Audit Guide for Small Business Investment Companies, and System of Account Classifications, set forth guidelines to be followed by all Licensees.[1]

§ 107.2 Information, Forms, and Instructions.

All references in this Part to SBA forms, and instructions for their preparations, are to the current issue of such forms. The forms have been filed with the Office of the Federal Register with the original document. Copies may be obtained from SBA.

DEFINITIONS

§ 107.3 Definition of Terms.[2]

Act. "Act" means the Small Business Investment Act of 1958, as amended.

Assistance. "Assistance" or "Assisted" means Financing of or Management Services rendered to a Small Concern by a Licensee pursuant to the Act and these regulations.

Associate of a Licensee. "Associate of a Licensee" means:

(a) An officer, director, manager, agent, or Investment Adviser of such Licensee, or any person regularly serving such Licensee in the capacity of attorney-at-law; or

(b) Any person owning or Controlling, directly or indirectly, ten or more percent of any class of stock of such Licensee; or

(c) Any officer, director, partner, manager, agent, employer, or employee of any person described in paragraphs (a) and (b) of this section; or

(d) Any person which directly or indirectly Controls or is Controlled by, or is under common Control with, a Licensee or any person described in paragraphs (a) and (b) of this section; or

(e) Any close relative of any person described in paragraphs (a) and (b) of this section; or

(f) Any small concern in which (1) any person described in paragraphs (a) through (e) of this section is an officer or director or (2) any such person (or group of two or more such persons acting in concert) owns or Controls, directly or indirectly, a ten or more percent equity interest (exclusive of any interest attributable solely to ownership of equity interest in the Licensee).

(g) For the purposes of this definition, any person in any of the relationships described in paragraphs (a) through (f) of this definition within six months before or after the date on which the Licensee provided Assistance, shall be deemed to have been in such relationship as of the date of the Licensee's Assistance.

(h) A section 301(d) Licensee and a participant Licensee owning stock thereof pursuant to § 107.813, as well as Associates of such section 301(d) Licensee and such participant Licensee, shall be deemed Associates of each other.

Close relative. "Close relative" means ancestor, lineal descendant, brother or sister and lineal descendants of either, spouse, father-in-law, mother-in-law, son-in-law, brother-in-law, daughter-in-law, or sister-in-law.

Control. "Control" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a Licensee or a Small Concern whether through the ownership of voting securities, by contract, or otherwise.

Debtor Licensee. "Debtor Licensee" means a Licensee which have Leverage from SBA.

Disadvantaged Concern. "Disadvantaged Concern" means a Small Concern owned by a person or persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Financing. "Financing" or "Financed" means outstanding financial assistance provided to a Small Concern by a Licen-

[1] SBA's Audit Guide, System of Account Classification, and Instructions for Preparation of the Financial Report, SBA Form 468, are separately printed, and distributed by SBA to all Licensees. Copies may be obtained from SBA.

[2] Defined terms are capitalized hereafter.

see, whether through loans, guaranties, equity investments or commitments.

Investment Adviser/Manager. "Investment Adviser/Manager" of a Licensee means any person who pursuant to written contract executed in accordance with the provisions of § 107.809, furnishes advice or assistance with respect to operations of a Licensee.

Leverage. "Leverage" means financial assistance provided to a Licensee by SBA, either through the purchase or guaranty of debentures, or through the purchase of preferred securities (see §§ 107.201 to 107.205).

1940 Act Company. "1940 Act Company" means a Licensee which is registered under the Investment Company Act of 1940.

Person. "Person" means a natural person or legal entity.

Portfolio. "Portfolio" means the securities representing a Licensee's total outstanding Financings of Small Concerns. It does not include idle funds or assets in liquidation.

Portfolio concern. "Portfolio Concern" means a Small Concern Assisted by a licensee.

Private capital. "Private Capital" means the combined private paid-in capital and paid-in surplus of a Licensee, and does not include preferred capital provided by SBA, or borrowed funds.

Real estate investment. "Real Estate Investment" means a Licensee's financing of a Small Concern which is classified as a real estate concern under Industry Numbers 6531, 6541 and 6552 of the SIC Manual. For restrictions governing Real Estate Investments, see §§ 107.101(c) and 107.1001(c).

SBA. "SBA" means the Small Business Administration, 1441 "L" Street NW., Washington, D.C. 20416.

Section 301(d) Licensee. "Section 301(d) Licensee" means a Licensee organized under a State business or nonprofit corporation statute, and licensed pursuant to section 301(d) of the Act, the investment policy of which is limited to making investments solely in Small Concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Short-term financing. "Short-term financing" means Financing for a term of less than five years in accordance with the regulations.

SIC Manual. "SIC Manual" means the latest issue of the Standard Industrial Classification Manual, prepared by the Office of Management and Budget, and available from the U.S. Government Printing Office.[2]

Small concern. "Small Concern" means a small business concern as defined in section 103(5) of the Act (including affiliates as defined in § 121.3-2 of this chapter), which for purposes of size eligibility, meets the applicable criteria set forth in § 121.3-11 of Part 121 of this chapter.

[2] As of the effective date of this Revision 5, the latest issue of the SIC Manual was 1972.

Operational Requirements

§ 107.101 Operational requirements.

All Licensees shall comply with the following requirements:

(a) *Management.* Each Licensee shall have and maintain qualified management (including management pursuant to § 107.809) in charge of its operations who will be available at its office to the public. A manager of a Licensee shall be deemed an officer.

(b) *Office.* The Licensee shall maintain a reasonably accessible office, which will display the license, and the name of the Licensee, have a listed telephone number, and be open to the public during regular business hours.

(c) *Diversified investment policy—real estate.* Unless specifically authorized in writing by SBA:

(1) *General rule.* No Licensee shall maintain more than one-third of its portfolio, as of the close of any full fiscal year, in permitted Real Estate Investments. For further provisions governing Real Estate Investments, see § 107.1001(c).

(2) *Licensees other than real estate specialist.* Where a Licensee does not operate as an approved real estate specialist subject to paragraph (c)(3) of this section, its investments in Small Concerns classified under Major Groups 15, 65 and/or 70 of the SIC Manual shall not exceed one-third of its Portfolio in any one such Major Group nor two-thirds for any combination of such Major Groups, as of the close of any full fiscal year: *Provided, however,* That subject to paragraph (c)(1) of this section, the foregoing shall not apply to a section 301(d) Licensee.

(3) *Real estate specialists.* Where a Licensee maintains more than one-third of its Portfolio in Real Estate Investments pursuant to an investment policy approved by SBA, the total of its investments in Small Concerns classified under Major Group 15 (Building Construction—General Contractors) and Major Group 70 (Hotels, Rooming Houses, Camps and Other Lodging Places) of the SIC Manual shall not exceed twenty percent of its Portfolio as of the close of any full fiscal year: *Provided, however,* That this limitation shall not apply to a section 301(d) Licensee.

(4) *Prepayments.* Prepayments of outstanding Financing or similar events occurring beyond the control of the Licensee, within the fiscal year, shall be disregarded in determining whether the Licensee meets the foregoing requirements as of the close of its fiscal year.

(d) *Minimum capital.*

(1) *General.* Every Licensee shall have:

(i) Private Capital of at least $150,000 (For consideration for issuance for Licensee securities see § 107.805(a));

(ii) Taking additional resources into account, adequate to assure a reasonable prospect that it will be operated soundly and profitably, and managed actively and prudently in accordance with the Act and regulations.

(2) *Nonprivate funds for section 301(d) Licensees.*

(i) A section 301(d) Licensee may include nonprivate funds (e.g. funds granted under Title VII of the Economic Opportunity Act of 1964, as amended) in its Private Capital for purposes of sections 302(a), 303(c), and 306 of the Act: *Provided, however,* That the minimum capital of $150,000 specified by section 302(a)(1) of the Act may not include nonprivate funds and that for Leverage purposes nonprivate funds will be included in Private Capital only to the extent that private funds totaling at least ten percent of the nonprivate funds are also included. The limitation of the foregoing proviso shall not apply to nonprivate funds received by or irrevocably committed to a section 301(d) Licensee before July 5, 1973.

(ii) For purposes of this paragraph (d)(2), "nonprivate funds" shall mean funds obtained, directly or indirectly, from another agency or department of the Federal Government or from any State, or subdivision thereof, except as limited by Pub. L. 92-512 (commonly known as the General Revenue Sharing Act) and regulations of the Treasury Department, 31 CFR, Part 51, 38 FR 9132 (1973). As used herein, "State" shall mean the several states, the territories and possessions of the United States, the Commonwealth of Puerto Rico, and the District of Columbia.

(e) *Borrowed funds.* Shareholders owning ten or more percent of any class of Licensee's stock may not use borrowed funds in purchasing said stock, unless the net worth of such shareholders is at least twice the amount borrowed, or unless such shareholder obtains SBA's prior written approval of a lesser ratio on the grounds that it is adequate in light of all the circumstances.

License

§ 107.102 License application.

The license application shall be submitted on SBA Form 415 together with a processing fee of $500, in accordance with accompanying instructions.

§ 107.103 Public notice.

SBA shall publish notice of the license application in the Federal Register. It shall include such appropriate information as the name and location of the proposed Licensee, its areas of operation, the names and addresses of its officers, directors, and owners of ten or more percent of its voting stock; and shall provide an opportunity for the submission of written comments. The proposed Licensee shall publish a similar notice in a newspaper of general circulation in the city or proposed areas of operation, and a certified copy shall be furnished to SBA within ten days.

§ 107.104 Transferability of license.

A license shall not be transferred in any manner without SBA's prior written approval.

§ 107.105 Surrender of license.

A License shall not be surrendered without SBA's prior written approval. Request for approval shall be accompanied by an offer of immediate payment of all moneys owing to SBA, or by a plan satisfactory to SBA for the orderly liquidation thereof. Upon receipt of Licensee's request, SBA may remove Licensee's name from published lists of Licensees, and conduct an examination or investigation of its affairs pursuant to section 310 of the Act.

BORROWING BY LICENSEE

§ 107.201 Funds to Licensee.

(a) *Application procedure.*

(1) *Licensees other than Section 301 (d) Licensees.* A Licensee (other than a section 301(d) Licensee) may apply for Leverage pursuant to section 303(b) of the Act on SBA Form 416 (for purchase) or SBA Form 1022 (for guaranty), in accordance with accompanying instructions.

(2) *Section 301(d) Licensees.* A section 301(d) Licensee may apply for Leverage pursuant to section 303(c) of the Act [1] on SBA Form 1022A (for purchase of preferred securities and debentures), on SBA Form 1022B (for exchange of debentures for preferred securities), or on SBA Form 1022 (for guaranty of debentures) in accordance with accompanying instructions. Before providing Leverage in excess of one hundred percent of Private Capital, SBA may require the section 301 (d) Licensee to demonstrate the need therefor to SBA's satisfaction.

(b) *SBA Guaranty.*

(1) SBA may in its discretion agree to guarantee a Licensee's debentures unconditionally, irrespective of the validity, regularity or enforceability of such debentures or any other circumstances which might constitute a legal or equitable discharge or defense of a guarantor and, pursuant to its guaranty, to make timely payments of principal and interest, irrespective of any default by the issuing Licensee or acceleration of the maturity thereof by SBA.

(2) Persons interested in providing funds to Licensees under such guaranty may notify SBA by letter, certifying whether such lender has a direct or indirect beneficial interest of ten or more percent of the actual or potential voting rights in any Licensee, or in any person directly or indirectly controlling, controlled by or under common control with, any Licensee. Such certification will not be required from lenders where the borrowing Licensees will be selected or approved by SBA or its agents. SBA will endeavor to match such offers with applications pursuant to paragraph (a) of this section but cannot assure that such offers will be accepted. SBA in its discretion may also arrange for public or private financings under its guaranty authority.

(3) No SBA guaranty shall be extended to a lender:

(i) having a direct or indirect beneficial interest of ten or more percent of the actual or potential voting rights in the Licensee to be guaranteed, or in any person directly or indirectly controlling, controlled by, or under common control with, such Licensee; or

(ii) having such interest involving another Licensee which has received or is about to receive pursuant to any understanding, agreement, cross-dealing, reciprocal or circular arrangement any direct or indirect financing (or a commitment for financing) from another lender with SBA's guaranty. SBA may void any guaranty obtained in violation of this paragraph (b)(3), but the foregoing shall not apply to lenders whose borrowers are selected or approved by SBA or its agents.

§ 107.202 Leverage in excess of two hundred percent.

(a) In order to qualify for Leverage exceeding two hundred percent of Private Capital, at least sixty-five percent of the Licensee's total funds available for investment must be invested (or committed) in Venture Capital Financing of Small Concerns: *Provided, however,* That section 301(d) Licensees shall have thirty percent so invested.

(b) "Venture Capital Financing" shall mean:

(1) Common and preferred stock and equity securities as defined in § 107.302 (b) with no repurchase requirement for five years, except as may be specifically aproved by SBA under § 107.901 for purposes of relinquishing Control over a Small Concern.

(2) Any right to purchase such stock or equity securities.

(3) Debentures or loans (whether or not convertible or having stock purchase rights) which are subordinated (together with security interests against the assets of the Small Concern) by their terms to all borrowings of the Small Concern from other institutional lenders, and have no part amortized during the first three years.

(c) The term "total funds available for investment" shall mean ninety percent of the sum of total current assets and total loans and investments as set forth (in accordance with the Instructions for Preparation of the Financial Report, SBA Form 468) on page 1 of the Statement of Financial Position, submitted by the Licensee, less unrealized appreciation. Venture capital investments shall be valued on the same basis as Licensee's assets comprising its "total funds available for investment." Any financing carried as "Assets Acquired in Liquidation of Loans and Investments" which originally qualified as Venture Capital shall retain the Venture Capital qualification.

(d) The ratio prescribed by paragraph (a) of this section shall be maintained as of the end of each fiscal year: *Provided, however,* That, subject to SBA approval, a Licensee may temporarily maintain a lesser ratio. Approval may be granted in appropriate cases, such as prepayment of Venture Capital investments, raising of additional Private Capital, and Leverage recently provided.

§ 107.203 SBA purchase, sale, or guaranty of securities evidencing leverage; events of default.

(a) SBA may, upon such conditions and for such consideration as it deems reasonable, sell, assign, transfer, or otherwise dispose of any preferred security, debenture, or other security held in connection with Leverage. In such event and upon notice thereof by SBA, Licensee will make all payments of principal and of dividends or interest as shall be directed by SBA. Licensee shall hold SBA harmless from all damage or loss which SBA may sustain by reason of such disposal, limited, however, to the extent of Licensee's liability under such security, plus court costs and reasonable attorney's fees incurred by SBA.

(b) A Licensee issuing debentures pursuant to section 303(b) of the Act after the effective date of this regulation,[2] shall be deemed to have agreed to the following terms and conditions, as in effect at the time of such issuance and as if fully set forth in such debentures:

(1) Upon written notice by SBA, the entire indebtedness of the Licensee issued to, held or guaranteed by SBA may be declared immediately due and payable to SBA upon the happening of any one or more of the following events:

(i) Default in the payment of the principal or interest under any debenture, note or obligation of the Licensee, issued to, held or guaranteed by SBA;

(ii) Nonperformance of violation by the Licensee, as determined by SBA, of any one or more of the terms and conditions of any loan or obligation of the Licensee, issued to, held or guaranteed by SBA, or of any agreement with or conditions imposed by SBA;

(iii) Failure of the Licensee, as determined by SBA, to comply with any one or more of the provisions of the Act or regulations promulgated thereunder, as they may be amended from time to time;

(iv) Failure of the Licensee to notify SBA within twenty days from the date of an event of default or nonperformance by the Licensee under any debenture, note or indebtedness of the Licensee issued to or held by anyone other than SBA.

(2) The entire indebtedness of the Licensee issued to, held or guaranteed by SBA shall immediately become due and payable to SBA without notice, presentation or demand, whenever:

(i) Licensee is insolvent; or

[1] Section 303(c) of the Act authorizes SBA to purchase nonvoting preferred securities, and to purchase or guarantee debentures issued by Section 301(d) Licensees, which may be subordinated in accordance with Section 303(b) of the Act.

[2] Section 107.203(b) became effective as Amendment 9 to Revision 4 on May 2, 1972 (37 FR 8866).

(ii) Not having sufficient property to pay all of its debts, Licensee makes a voluntary assignment thereof; or

(iii) Licensee commits an act of bankruptcy as defined in 11 U.S.C. section 21; or

(iv) A petition is filed in commencement of any bankruptcy or reorganization proceeding, receivership, dissolution or other similar creditors' rights proceeding, by or against the Licensee, whichever event shall first occur.

(3) Except with the prior written consent of SBA, Licensee will not:

(i) Repurchase or retire any of its capital stock; or

(ii) Make any distribution to its shareholders other than dividends out of retained earnings; or

(iii) Increase the salaries or other compensation of any officer, director, or employee beyond the amounts approved by SBA. This provision does not apply to employees receiving annual compensation of $10,000 or less. In applying this provision, compensation to an officer, director or employee of a wholly owned corporation shall be deemed paid by Licensee.

(4) Except with the prior written consent of SBA, Licensee will not employ or tender any offer of employment to, or retain for professional services, for a period of two years after the date of the latest debenture issued by Licensee pursuant to section 303(b) of the Act, any person who on or within one year prior to said date:

(i) Shall have served as an officer, attorney, agent, or employee of SBA; and

(ii) As such, shall have occupied a position or engaged in activities which SBA shall have determined involved discretion with respect to the granting of Assistance under the Act.

(5) Any failure on the part of SBA at any time to require the performance by Licensee of any one or more of the terms or provisions of any debt instrument of Licensee issued to, held, or guaranteed by SBA shall in no way affect SBA's right thereafter to enforce the same, nor shall the waiver by SBA of any term or provision of any debt instrument of Licensee issued to, held, or guaranteed by SBA be taken or held to be a waiver of any succeeding breach of any such term or provision.

(6) If the Licensee fails to maintain either the capital requirement or the investment ratio requirement under section 303(b)(2) of the Act, and the regulations promulgated thereunder from time to time, then the aggregate amount of the outstanding indebtedness evidenced by any debt instruments issued to, held, or guaranteed by SBA which exceeds the maximum amount permitted under section 303(b)(1) shall (subject to the provisions of § 107.202(d)), and upon written notice by SBA, be immediately due and payable to SBA. In the event of such acceleration of payment, SBA in its sole discretion shall determine which debenture instrument or instruments, or parts thereof, shall be subject thereto.

(7) The debentures hereafter issued by a Licensee pursuant to section 303(b) of the Act, and SBA's claims relating thereto, shall be subordinate to all other debts of the Licensee, but shall have priority over all classes of stock of the Licensee upon any dissolution, winding-up, liquidation or reorganization of the Licensee, unless such debentures provide otherwise.

(c) Paragraph (b) of this section shall be applicable to section 301(d) Licensees obtaining Leverage pursuant to section 303(c) of the Act: *Provided, however,* That the capital and investment ratio requirements referred to in paragraph (b)(6) shall be those prescribed by section 303(c) of the Act and § 107.202(a) thereunder.

(d) In addition to the events of default set forth in paragraph (b)(6), capital impairment occurring after November 7, 1973, shall also constitute an event of default if Licensee fails to give SBA prompt written notice as soon as it knows or should reasonably have known thereof, and if thereafter Licensee fails to cure the impairment within time limits set by SBA in writing. In such event, SBA may, in its discretion, by written notice declare the entire indebtedness of the Licensee, issued to, held or guaranteed by SBA, immediately due and payable. Capital impairment shall be presumed when the retained earnings deficit of a section 301(d) Licensee exceeds one hundred percent, or that of any other Licensee exceeds fifty percent of Private Capital. Treasury stock shall not be considered as part of such Private Capital. The presumption of impairment may be rebutted by evidence satisfactory to SBA.

§ 107.204 Collection or compromise of SBA claims.

SBA may, upon such conditions and for such consideration as it deems reasonable, collect or compromise all claims relating to preferred securities or obligations held or guaranteed by SBA, and all legal or equitable rights accruing to it.

§ 107.205 Leverage for section 301(d) Licensees.

(a) *Charter requirements.* SBA may, subject to the conditions prescribed in this paragraph, provide Leverage to a section 301(d) Licensee pursuant to application filed under § 107.201(a)(2). The following matters shall be appropriately provided for in the charter:

(1) *Investment policy.* Statement of investment policy in conformity with section 301(d) of the Act.

(2) *SBA's rights*—(i) *Payment of dividends to SBA.* Subject to the sound discretion of the board of directors, SBA shall be paid from retained earnings an annual three percent dividend on the par value of its preferred securities. Such dividends shall be payable before any amount shall be set aside for or paid to any other class of stock, and shall be preferred and cumulative so that, in the event that SBA has received less than three percent in any fiscal year, such dividends shall be payable on a preferred basis from subsequent retained earnings without interest thereon. Before a declaration of dividends or any other kind of distribution (other than to SBA), SBA in its discretion may also require the preferred payment of the difference between dividends paid on its preferred securities, and cumulative dividends payable at a rate equal to the interest rate determined at the time of SBA's purchase of such preferred securities pursuant to section 303(b) of the Act for debentures with a term of fifteen years, without interest on such difference, such rate to be inscribed on the certificates offered to SBA.

(ii) *Redemption rights.* A section 301(d) Licensee shall be entitled at its option to redeem in whole or in part preferred securities purchased by SBA on any dividend date (after giving at least thirty days written notice), by paying SBA the par value of such securities, but not less than $50,000 par value in any one transaction, and giving SBA an undertaking to pay the additional amounts pursuant to paragraph (a)(2)(i) of this section.

(iii) *Redemption, liquidation, or distribution of assets.* Before any redemption of stock not purchased by SBA, or liquidation in whole or in part, or any distribution of assets to other stockholders, SBA shall be paid any amounts due pursuant to paragraphs (a)(2)(i) and (iv) of this section, and the par value of its preferred stock: *Provided, however,* That such par value need not be paid SBA before the distribution of ordinary dividends from retained earnings.

(iv) *Interest subsidy before dividends.* Debentures of a section 301(d) Licensee shall be entitled to a reduced interest rate according to section 317 of the Act. Such debentures shall specify the interest rates prescribed by sections 317 and 303(b) of the Act, together with the dates between which each applies. The interest rate as reduced by section 317 of the Act applies only to debentures purchased by SBA and not to debentures guaranteed under section 303(c) of the Act. A Licensee which has received the benefit of the rate computed pursuant to section 317 shall not pay dividends or make any distribution to stockholders other than SBA, unless it has first paid SBA the difference between the two rates for the relevant period, without interest on such difference. With respect to payment of interest, SBA shall have the same priority as applies to debentures purchased or guaranteed under section 303(b) of the Act.

(3) *Prior SBA approval required to amend charter.* The charter shall not be amended without SBA's prior written approval.

(b) *SBA approval required to increase salaries.* Without prior written SBA approval, a Debtor section 301(d) Licensee may not increase the salaries or other compensation of any officer, director, or employee beyond amounts previously approved by SBA. This provision does not apply to employees receiving an annual compensation of $10,000 or less.

(c) *Exchange of outstanding debentures for preferred stock.* A section 301(d) Licensee meeting the requirements of paragraph (a) of this section may, in SBA's discretion, retire debentures

outstanding pursuant to section 303(b) of the Act simultaneously with the issuance to SBA of preferred securities, in order to remain within the Leverage limits of section 303(c)(2)(iii) of the Act, but not otherwise.

(d) *Preferred securities other than stock.* A section 301(d) Licensee may issue to SBA preferred securities other than stock only if applicable law precludes the issuance of preferred stock.

(e) *State law.* SBA does not intend that provisions of this section not mandated by the Act shall supersede existing State law. Whenever a party claims that a conflict exists, it shall submit an opinion of independent counsel, citing authorities, for SBA's resolution of the issues involved.

FINANCING OF SMALL CONCERNS (EQUITY CAPITAL FINANCING; LONG-TERM LOANS; GUARANTIES AND COMMITMENTS)

§ 107.301 General.

(a) *Minimum period of Financing.* Except as otherwise provided for in these regulations, Financings of Disadvantaged Concerns may be made for a minimum period of thirty months, the aggregate of such Financings for less than five years not to exceed fifty percent of the Licensee's Portfolio at the end of any fiscal year, determined without regard to prepayments (or similar events beyond the Licensee's control) which occur during that fiscal year,[6] but all other Financings shall be for a minimum period of five years. Voluntary prepayment shall be permitted at any time, but a reasonable prepayment penalty may be agreed upon. Any other restriction on prepayment shall require SBA's prior written approval.

(b) *Maximum amortization.* Amortization during the first five years (or during the first thirty months of an authorized Financing for at least thirty months) shall not be required at a rate exceeding an accumulated average based on the straightline method of amortization.[7]

(c) *Maximum annual cost of money.* Subject to lower rates prescribed by local law, the maximum annual cost for Financing shall not exceed fifteen percent of the average amount outstanding. Cost shall include all interest, discount and all fees, commissions and similar charges imposed, directly or indirectly, by the Licensee on the Small Concern; only charges for Management Services pursuant to §§ 107.601 and 107.602 and charges pursuant to § 107.1004(d) shall not be included.

(d) *Overline limitation.* Without written SBA approval, the aggregate amount of funds disbursed or securities acquired (exclusive of write-down), and of commitments and guaranties issued for a Small Concern (including affiliated concerns as defined in § 121.3-2(a) of this chapter) shall not exceed twenty percent of Licensee's Private Capital: *Provided, however,* That for section 301(d) Licensees the limitation shall be thirty percent.

(e) *Size status and nondiscrimination.* No assistance shall be provided unless:

(1) The Licensee and the Small Concern have executed SBA Form 480, Size Status Declaration, including Licensee's determination that applicable size standards have been met, or SBA has determined at the request of the Licensee or such concern that the latter is a Small Concern; and

(2) the Small Concern has certified on SBA Form 652-D that it will not illegally discriminate in its operations, employment practices or facilities, as set forth in Part 113 of this chapter. Such forms shall be kept available for SBA's examination: *Provided, however,* That the foregoing shall not apply when the Licensee acquires the securities from an underwriter in a public offering pursuant to § 107.504(b)(3), in which event the Licensee shall keep the prospectus showing the small size status of the issuer, if available, as part of its records for SBA's examination.

EQUITY CAPITAL

§ 107.302 Equity Capital.

(a) "Equity Capital" means funds supplied as consideration for equity securities of a Small Concern: *Provided, however,* That a Licensee shall not become a general partner in any unincorporated concern, or otherwise become jointly or severally liable for the general obligations of an unincorporated Portfolio Concern, inadvertently or otherwise, except for guaranties pursuant to § 107.501.

(b) "Equity Securities" means:

(1) Stock of any class, or any rights to purchase such stock in a Small Concern or its affiliate(s), as defined in § 121.3-2;

(2) Limited partnership interests, shares in a syndicate, business trust, joint stock company or association, mutual corporation, cooperative or other joint ventures for profit;

(3) Debt instruments which provide either or both of the following:

(i) A right to convert all or any portion of the debt into securities listed in paragraphs (b) (1) and (2) hereof, or

(ii) A right to acquire the securities listed in paragraphs (b) (1) and (2) hereof.

§ 107.303 Stock options and conversion rights.

The total cost of all shares of stock which may be acquired by a Licensee and a creditor guaranteed by it, through the exercise of options or conversion rights, may exceed the amount of Financing supplied to the Small Concern. A Licensee may acquire options either in a portfolio concern or in an affiliate of such concern, as defined in § 121.3-2(a). Such options or conversion rights shall expire not later than ten years from the date of such Financing, guaranty or commitment.

§ 107.304 Refinancing; first refusal on new indebtedness.

Whenever a Licensee provides Equity Capital to a Small Concern, it may require it to:

(a) Refinance any or all of its outstanding indebtedness so that the Licensee is the only holder of any evidence of indebtedness of such concern, and:

(b) Agree not to incur any new indebtedness without Licensee's approval and affording it an opportunity to finance such new indebtedness: *Provided, however,* That the Licensee shall allow appropriate exceptions for open account or other short-term credit.

LONG-TERM LOANS

§ 107.401 Provisions applicable to long-term loans.

See section 305 of the Act and § 107.301 of these regulations.

GUARANTIES AND COMMITMENTS

§ 107.501 SBIC guaranty of loans.

Subject to § 107.301(a) (Minimum Period of Financing), a Licensee may guarantee to any non-Associate creditor up to ninety percent of the monetary obligation of a Small Concern: *Provided, however,* That:

(a) No such guaranty shall be issued where Licensee would become subject to State regulation as an insurance, guaranty or surety business;

(b) No such guaranty may be issued except at the request of the Small Concern or where necessary to protect Licensee's existing investment;

(c) Any direct Financing plus the amount of the guaranties does not exceed the overline limits under § 107.301(d);

(d) The total financing cost to the Small Concern may not exceed the limits set by § 107.301(c);

(e) The total guaranties issued and outstanding for all Small Concerns shall not exceed one hundred percent of Private Capital; and

(f) Licensee shall maintain a funded reserve of ten percent against all such guaranties.

A Licensee may guarantee an Associate creditor on the same conditions pursuant to § 107.1004(b)(1) or (4).

For options in connection with guaranties, see § 107.303.

§ 107.502 [Reserved]

§ 107.503 Commitments.

(a) *General.* A Licensee is authorized to enter into a commitment to furnish Financing to a Small Concern. A reasonable commitment fee may be charged.

(b) *Repayment period as to funds advanced pursuant to Licensee's commitment.*

(1) Where a Licensee enters into a commitment to finance a Small Concern, disbursement to be made at the latter's request, it shall be lawful (notwithstanding the Maturity provisions of § 107.301(a)) to provide for repayment as follows:

(i) Funds advanced during the first two years of the commitment period shall become payable not less than five years after date of the commitment; and

(ii) Funds subsequently advanced shall become payable not less than three years from the respective disbursement dates.

[6] For other short-term financing and amortization, see § 107.504(b)(1) and (2).

[7] *IBID.*

(2) Amortization of each disbursement shall not be required at an annual average rate in excess of the principal amount thereof divided by the number of years of the respective repayment period.

(c) *Options.* For options in connection with commitments, see § 107.303.

§ 107.504 Other permissible financing.

(a) *Authorization.* A Licensee may furnish Financing pursuant to paragraph (b) of this section, within the overline limits of § 107.301(d), but the aggregate of all such Financing to any one or all Small Concerns shall not at any time exceed twenty percent of the Licensee's total adjusted assets. "Total Adjusted Assets" means Total Assets reduced by all outstanding indebtedness to SBA and current liabilities.

(b) *Investments permitted.* Notwithstanding §§ 107.301 (a) and (b) and 107.302, a Licensee may make the following investments in Small Concerns:

(1) *Short-term Financing.* Financing with a term of less than five years when it constitutes a reasonably necessary part of the overall sound Financing of a Small Concern pursuant to the Act, the protection of investments, or financing ownership change pursuant to § 107.812. This paragraph (b)(1) supplements the authority to make short-term investments in Disadvantaged Concerns under § 107.301(a).

(2) *Amortization rate of forty percent per annum.* Financing with a minimum term of five years amortized at a rate not exceeding forty percent per annum of the declining principal balance outstanding, except for the final year of the term.

(3) *Securities purchased from nonissuer.* Securities of a Small Concern purchased from a seller other than the issuer, when such acquisition constitutes a reasonably necessary part of the overall sound financing of such concern pursuant to the Act or when securities are acquired to finance a change of ownership pursuant to § 107.812 or securities from or through an underwriter thereof within ninety days after a public offering is first lawfully made: *Provided, however,* That at least half the amount of such offering must be on behalf of the issuer. See also § 107.301(e) regarding size status and nondiscrimination certification.

§ 107.601 Management services.

(a) *General.* Management services may be advisory or may, subject to § 107.901, include performance of any technical service relating to financial, management, administrative or operating activity of the Small Concern. An agreement to perform such services shall be approved annually by the Board of Directors or principals of the Small Concern and shall be subject to SBA's prior annual written approval. A Licensee shall maintain a record for examination by SBA of the time spent and charges made for such services, which shall not exceed comparable charges by established professional non-Licensee consultants.

(b) *Services through contractors.* Management services may be performed through an Associate (subject to § 107.1004(d)) or an independent consultant under contract with the Licensee, whether or not such consultant has similar contracts with other Licensees. Such contracts must receive SBA's prior annual written approval.

(c) *Management Services subsidiary.* A Licensee may organize a corporation solely to provide management services. All of its stock shall be owned and held by such Licensee, and the Licensee shall be responsible for compliance by its subsidiary with the Act and regulations. The remuneration paid to officers, directors and employees of the subsidiary of a Debtor Licensee, and any changes therein, shall be subject to SBA written approval. Reports submitted to SBA by the Licensee shall reflect consolidated figures for both corporations. The subsidiary shall maintain adequate records and make any separate reports required by SBA and it shall submit to SBA examination. Failure to do so shall be deemed non-compliance by the Licensee. Licensee's investments in and receivables from such subsidiary corporation shall not exceed 3 percent of the Licensee's Private Capital.

CONTROL OF LICENSEE

§ 107.701 Changes in ownership or control of Licensee.

(a) *General.* Transfer of Control over a Licensee by any means whatsoever shall be subject to prior written approval of SBA.

(b) *Prior approval requirements.* Prior written approval of SBA shall be required in case of:

(1) A proposed transfer of ten or more percent of any class of Licensee's stock; or

(2) A proposed transfer which would result in the beneficial ownership by any Person, or group of Persons acting in concert, of ten or more percent of any class of its stock; or

(3) Any proposed transfer which results in a change in Control over a Licensee.

(c) *Acts prohibited.* Without prior written approval of SBA, no such transaction shall be consummated and no officer, director, employee or other Person acting on the Licensee's behalf shall:

(1) Register on its books any transfer of shares to the proposed new owner (or owners); or

(2) Permit the proposed new owner (or owners) to exercise voting rights with respect to said shares or participate in any manner in the conduct of Licensee's affairs.

(d) *Terms used:*

(1) "Transfer," "stock transfer," or "transfer of shares" refers to the aggregate amount of shares which any Person or group of Persons acting in concert transfers or undertakes to transfer during any six month period.

(2) "Exercise of voting rights" with respect to shares of Licensee's capital stock shall include directly or indirectly procuring or voting any proxy, consent or authorization as to such voting rights at any shareholders' meeting.

(3) "Participation in the conduct of Licensee's affairs" shall include access to, custody of, or control over Licensee's corporate books, records, funds, or other assets; participation directly or indirectly in any disposition thereof; or serving as an officer, director, employee or agent of such Licensee.

(e) *Transferors' Liability.* SBA may in its discretion as a condition of a Licensee's Leverage, require the controlling shareholder(s) to assume in writing personal liability for such Licensee's Leverage, effective only in the event of their direct or indirect participation in any violation of the requirements of this section applicable to transfers of Control, and terminable if SBA subsequently approves the transfer of Control and so notifies the transferor(s) in writing.

(f) *Application for approval.* Written application for prior SBA approval shall be promptly made by the Licensee and by other parties in interest, accompanied by a processing fee of $100 for each officer, director, owner of ten or more percent of Licensee's stock, or other party involved in a proposed change of Control:

Provided, however, That the processing fee shall not exceed $400 for any one transaction.

(g) *Public Notice.* SBA shall publish notice in the FEDERAL REGISTER concerning the application for approval of a proposed transfer of Control, including such appropriate information as the name and location of the Licensee and of the proposed transferees who will own ten or more percent of any class of its stock. The notice shall provide an opportunity to submit written comments. A similar notice shall also be published in a newspaper of general circulation in the city or locality where the Licensee is or will be located (or conduct operations), and a certified copy shall be furnished to SBA within ten days.

(h) *Standards governing SBA approval.*

(1) SBA may, as a condition of approving a proposed transfer of Control, require an increase in Licensee's Private Capital.

(2) SBA may condition its approval on the assumption in writing by the new owners of contractual liability pursuant to paragraph (e) of this section, and such other requirements as SBA deems necessary.

(3) SBA approval shall be contingent upon full disclosure of the real parties in interest, the source of funds used, and other data requested by SBA.

(i) *Reporting transactions involving possible transfer of Control.*

The Licensee shall, upon obtaining knowledge thereof, promptly report to SBA the facts pertaining to any transaction or event which affords reasonable grounds for belief that a transfer of Control over such Licensee is likely to occur. If there is any doubt as to whether a particular transaction or event will result in

a change of Control, such doubt shall be resolved in favor of reporting the facts to SBA.

§ 107.702 Common control.

Without prior written SBA approval, a Licensee shall not have an officer, director, manager, or stockholder owning or controlling directly or indirectly ten or more percent of its stock who at the same time is:

(a) An officer, director, manager or such stockholder of another Licensee; or

(b) An officer or director of any Person which directly or indirectly controls, or is controlled by, or is under common Control with, another Licensee: *Provided, however,* That officerships or directorships in, and management, ownership or Control of stock of, a section 301(d) Licensee shall be excepted from the foregoing provisions.

§ 107.703 Pledge of Licensee's shares.

Whenever ten or more percent of a Licensee's stock is pledged by any Person (or group of Persons acting in concert) as collateral for indebtedness, and such pledge does not involve any transfer for which prior approval is required under § 107.701, written notice of the terms of such transaction shall be furnished to SBA by the pledgor within thirty calendar days from the date of the pledge.

LAWFUL OPERATIONS

§ 107.801 Amendments to act and regulations.

A Licensee shall be subject to all existing and future provisions of the Act and these regulations.

§ 107.802 Other laws.

Each Licensee shall comply with all applicable State or Federal law.

§ 107.803 Operations under act.

A Licensee shall engage only in the activities contemplated by the Act and in no other activities.

§ 107.804 Identification as an SBIC.

Any written communications made by or at the behest of a Licensee, shall identify that Licensee as "a Federal Licensee under the Small Business Investment Act of 1958."

§ 107.805 Consideration for issuance of Licensee securities.

(a) *General.* A Licensee may issue its securities, including stock options to management and employees, for:

(1) Cash;

(2) Direct obligations of, or obligations guaranteed as to principal and interest by, the United States;

(3) Securities of which it is the issuer, in connection with a reclassification approved by SBA;

(4) Services previously rendered or to be rendered to the Licensee not to exceed the fair value thereof;

(5) Physical assets to be currently employed in Licensee's operation at the fair market value thereof;

(6) As a dividend; and

(7) In connection with a merger, consolidation, or reorganization approved by SBA: *Provided, however,* That any stock issued as a part of Licensee's minimum capital pursuant to § 107.101(d) must be paid for in cash or securities permitted by the last sentence of Section 308(b) of the Act; *And provided, further,* That a section 301(d) Licensee which has received Portfolio securities from a participant Licensee pursuant to § 107.813(d), may issue stock for such securities at their cost or fair market value, whichever is lower.

(b) *Stock options.*

(1) *Authorized for 1940 Act companies; terms and conditions.** A Licensee which is registered as an investment company under the Investment Company Act of 1940 may issue stock options, provided each such option is a "qualified stock option" as defined in section 422 of the Internal Revenue Code and is granted pursuant to a plan which provides that:

(i) The option by its terms shall provide that it is exercisable by the individual to whom it is granted only if, at all times during the period beginning with the date of the granting of the option and ending 3 months before the date of such exercise, such individual was an employee or officer of either the Licensee which granted such option or a wholly owned subsidiary thereof, or a successor Licensee or a wholly owned subsidiary thereof;

(ii) The aggregate number of shares of any class of stock which may be issued under options pursuant to the terms of the plan shall not exceed seven and one-half percent of the total number of outstanding shares of such class (less shares reacquired and held in the treasury) at the time the plan is adopted;

(iii) The individuals who are officers or employees of the Licensee, or of a wholly owned subsidiary thereof at the time the plan is adopted may not receive options to acquire more than an aggregate of sixty-six and two-thirds percent of the total number of shares of each class of stock which may be issued under options pursuant to the terms of the plan; and

(iv) No individual may receive an option or options to purchase more than thirty-five percent of the aggregate number of shares of each class which may be issued under options pursuant to the terms of the plan.

(2) *Stock options not deemed compensation.* Stock options issued by any Licensee including a 1940 Act company, which comply with the requirements of paragraph (b)(1) of this section shall be deemed not to constitute "compensation" for purposes of any requirement of prior written consent of SBA with respect to increases of salaries or other compensation beyond the amounts approved by SBA.

(3) Licensees other than 1940 Act Companies are authorized to issue stock options which do not meet the requirements of paragraph (b)(1) of this section.

*See Investment Company Act Release No. 7284, 37 FR 15209 (1972).

§ 107.806 Retention of investments.

A Licensee may retain its investment in a concern which qualified as small at the time of initial Financing, but which subsequently became large. Securities received in connection with a Portfolio Concern's merger, consolidation, or affiliation with a large business may be retained until Licensee has recovered its original investment plus a reasonable return thereon, and thereafter, so long as continued ownership does not interfere with the Financing of Small Concerns. Additional Financing may be provided only to the extent necessary to honor a commitment made while the concern was small or to protect Licensee's original investment.

§ 107.807 Purchases of securities from another Licensee.

A Licensee may exchange with or purchase for cash from another Licensee Portfolio securities (or any interest therein):

(a) Without recourse against the seller (except for liability resulting from false representations as to matters of fact); and

(b) In the case of evidences of indebtedness, with recourse against the seller not to exceed ninety percent of the debt outstanding at the time of default by the obligor: *Provided, however,* That:

(1) Licensee shall not have at any time more than one-third of its total assets invested in such securities; and

(2) The amount for which the selling Licensee may be contingently liable shall be included in its twenty percent overline limit under § 107.301(d).

§ 107.808 Idle funds.

Funds of a Licensee not invested in Small Concerns or in accordance with the last sentence of section 308(b) of the Act shall be deposited without delay, or may be invested in Time Certificates of Deposit maturing within one year or less, issued by any bank which is a member of the Federal Deposit Insurance Corporation: *Provided, however,* That a Licensee may maintain a petty cash fund up to $500.

§ 107.809 Investment Adviser/Manager.

(a) *General.* A Licensee may employ an Investment Adviser/Manager as defined in § 107.3, subject to the supervision of the Licensee's Board of Directors, and shall furnish SBA with a copy of the contract for prior written approval. Services performed may include management and operating activities. The contract shall specify the services to be rendered to the Licensee and to Portfolio Concerns, the basis for computation of compensation, and be approved annually by the Shareholders of the Licensee, and by SBA.

(b) Two or more Licensees may, with prior SBA approval, employ the same Investment Adviser or Manager.

§ 107.810 Assets in liquidation.

A Licensee shall dispose of assets acquired in total or partial liquidation of a Portfolio asset, within a reasonable pe-

riod of time. It may incur reasonably necessary expenditures for maintenance and preservation: *Provided, however,* That except as specifically approved in writing by SBA, such expenditures plus Licensee's total investment attributable to such asset shall not exceed its overline limit under § 107.301(d). Application for SBA approval shall specify all expenses estimated to be necessary pending disposal of the property.

§ 107.811 Additional investment by bank.

A federally regulated bank which on January 9, 1968, held fifty percent or more of any class of equity securities of a Licensee, having actual or potential voting rights, may make further investments in such Licensee only if they would not increase its percentage holdings of such securities. Capital increases shall be subject to SBA postapproval under § 107.1105.

§ 107.812 Financing changes of ownership.

A Licensee may finance a change of ownership in a Small Concern when in the reasonable judgment of the Licensee it will promote the sound development or preserve the existence of a Small Concern; or will assist in the creation of a Small Concern as a result of a corporate divestiture; or will facilitate ownership in a Disadvantaged Concern. For restrictions governing purchases from nonissuer, see § 107.504.

§ 107.813 Section 301(d) Licensee wholly or partly owned by Licensee companies.

A section 301(d) Licensee may be licensed to operate as the subsidiary of one or more Licensee companies (participant Licensee), with or without non-Licensee participation, subject to the following conditions:

(a) *Application.* In reviewing a license application, SBA will consider the effect on the participant Licensees of their capital contribution to the proposed section 301(d) Licensee.

(b) *Participant Licensees.* Each participant Licensee shall own at least twenty percent of the voting securities of the proposed section 301(d) Licensee, and such ownership shall constitute a presumption of active participation. Licensees proposing to own less than twenty percent of such voting securities may demonstrate to SBA's satisfaction that they will be active participants.

(c) *Capital contribution.* The capital contribution of a participant Licensee which is no part of the statutory minimum capital of $150,000 of the section 301(d) Licensee, may (notwithstanding § 107.805(a)) be represented by securities of Small Concerns eligible for investment by a section 301(d) Licensee, at cost or fair market value, whichever is lower. Assumption by the proposed section 301(d) Licensee of any part of such participant Licensee's indebtedness held or guaranteed by SBA will not be permitted. A capital contribution shall, for purposes of the participant Licensee's Leverage, be treated as a reduction of its capital, and shall not result in excess Leverage for such participant Licensee.

RESTRICTED ACTIVITIES

§ 107.901 Control of Small Concern.

(a) *General.* The Act does not contemplate that Licensees shall operate business enterprises or function as holding companies exercising control over such enterprises. Accordingly, neither a Licensee, nor a Licensee and its Associates, nor two or more Licensees may, except as hereinafter set forth, assume Control over a Small Concern pursuant to management agreements, voting trusts, majority representation on the board of directors, or otherwise.

(b) *Presumption of Control.* Control over a Small Concern will be presumed to exist whenever a Licensee or a Licensee and its Associates, or two or more Licensees, own or Control, directly or indirectly, voting securities equivalent to:

(1) Fifty percent or more of the outstanding voting securities, if held by less than fifty shareholders; or

(2) More than twenty-five percent or a block of twenty or more percent which is as large as or larger than the largest other outstanding block of such securities, if held by fifty or more shareholders.

Potential ownership of voting securities through options or conversion privileges shall not be considered in determining whether a presumption of control exists. This presumption may be rebutted by evidence satisfactory to SBA.

(c) *Temporary Control permitted.* A Licensee may acquire temporary Control only where reasonably necessary for the protection of its investment.

(d) *Plan to relinquish Control.* A Licensee may assume Control pursuant to paragraph (c) of this section only if it has entered into a written plan, enforceable by the Small Concern or its shareholders, providing for relinquishment of Control within a reasonable period not exceeding seven years. Such plan shall recite the facts and circumstances necessitating Control for the protection of the Licensee's investment, shall expressly state that it is subject to SBA approval, that the parties consider the plan fair, and shall be filed with SBA within thirty day after Control is acquired, subject to SBA's post-approval as to form and substance, including fairness and the necessity for Control as a condition for the continuance of the license and shall be deemed approved unless Licensee is otherwise notified within ninety days after its receipt by SBA. Where an approved plan later becomes inadequate, a revised plan shall be submitted for SBA's approval. SBA approval shall be contingent upon disclosure of all relevant facts and be subject to such conditions as SBA may prescribe.

(e) *Enforcement actions.* A divestiture plan shall not interfere with Licensee's enforcement of its legal rights against a Portfolio Concern. If the Licensee retains or acquires Control through enforcement action, it shall immediately notify SBA and submit within thirty days a divestiture plan pursuant to paragraph (d) of this section for SBA approval. Subject to § 107.1005, such plan may be negotiated with parties other than the Small Concern or its shareholders.

(f) *Additional Financing.* A Licensee which has assumed Control of a Small Concern may later provide additional Financing, without an exemption under § 107.1004(b)(1), but shall within thirty days resubmit its divestiture plan with appropriate amendments for SBA's approval.

§ 107.902 Voluntary capital decrease.

Without prior written SBA approval, a Licensee shall neither voluntarily reduce its Private Capital, nor purchase and hold more than two percent of any class of its stock.

§ 107.903 Mergers, consolidations, and reorganizations.

Without prior written SBA approval, a Licensee may not merge, consolidate or reorganize.

PROHIBITIONS

§ 107.1001 Prohibited uses of funds.

No funds may be provided to a Small Concern:

(a) *Relending, reinvesting, etc.* For relending or reinvesting, if its primary business activity involves, directly or indirectly, providing funds to others, the purchase of debt obligations, factoring, or long-term leasing of equipment with no provision for maintenance or repair: *Provided, however,* That Venture Capital Financing (as defined in § 107.202(b)) of any Disadvantaged Concern organized less than five years shall be permitted, but financing of all commercial banks, savings banks, agricultural credit companies, and savings and loan associations not insured by the Federal Savings and Loan Insurance Corporation shall remain prohibited. Without SBA's prior written approval, all Financings pursuant to this proviso shall not exceed the Licensee's Private Capital as of the close of any full fiscal year.*

(b) *Financing Licensees.* Directly or indirectly, for purchasing stock in or otherwise providing capital for a Licensee, or to repay an indebtedness to accomplish such purpose.

(c) *Real estate.* (1) If the Small Concern is classified under Major Group 65 (Real Estate) of the SIC Manual except for:

(i) Subdividers and developers (other than cemetery subdividers and developers);

(ii) Title abstract companies; and

(iii) Agents, brokers and managers, or

(2) If the Financing will be used to acquire, or discharge an obligation relating to the prior acquisition of, realty to be held without prompt and substantial improvement, for leasing by a Small

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* 1940 Act Companies are reminded that sections 12(d) (2) and (3) of that Act impose additional restrictions on certain investments otherwise permitted by this § 107.1001 (a).

Concern which is neither an eligible real estate concern (Industry Numbers 6531, 6541 and 6552 of the SIC Manual) nor an operative builder (Industry Number 1531), or for sale to others: *Provided, however,* That prompt improvement shall not be required where an adverse change of circumstances beyond the Small Concern's control makes leasing necessary, pending improvement or sale at the earliest feasible date. Realty acquired for sale which is promptly and substantially improved, may be leased pending sale at the earliest feasible date, where such adverse change make immediate sale impracticable. Evidence of such adverse change shall be kept for SBA's examination. Improvement shall, for the purposes of this paragraph, be deemed prompt and substantial if:

(i) An amount equal to fifty or more percent of the Financing is used for improvements; and

(ii) Such improvements are undertaken within one year from date of acquisition or date of Financing, whichever is later.

(d) *Public interest.* For purposes contrary to the public interest, including but not limited to gambling activities, or inconsistent with free competitive enterprise.

(e) *Foreign investment.* For use outside the United States: *Provided, however,* That a Licensee may provide funds to a domestic Small Concern:

(1) To acquire abroad materials and industrial property rights for a domestic operation; or

(2) For foreign branch operations or for transfer to a controlled foreign subsidiary, so long as the major portion of the assets and activities of such concern will remain within the United States.

(f) *Passive businesses.* If that concern is not engaged in a regular and continuous business operation.

(g) *Associated supplier.* If fifty or more percent of the funds (or funds of the Small Concern released by such Financing) are used to purchase goods or services from a supplier which is an Associate of the Licensee: *Provided, however,* That in the case of a section 301(d) Licensee, such limit shall be seventy-five percent.[10]

(h) *Agriculture.* For use primarily in agricultural activities. Agricultural activities include, but are not limited to, the production of food and fiber. However, where the Small Concern is engaged in an agricultural activity, but financial assistance has been refused in writing by an Agency of the Federal Government or an agricultural credit service supervised by the Farm Credit Administration, such concern shall be eligible for Licensee Assistance (and the Licensee shall retain in its files evidence of such refusal) unless it:

(1) Produces (or in the last growing season produced) one or more crops currently eligible for a U.S. Department of Agriculture support payment or production loan;

(2) Produces livestock otherwise than by operating a commercial feed yard for cattle or hogs which derives its income from housing and feeding animals owned by others or purchased from others solely for fattening and resale;

(3) Produces baby chicks for resale and purchases less than fifty percent of its eggs from others;

(4) Operates a poultry feed yard where any part of its income, except income from egg production, is derived from sources other than the housing and feeding of poultry owned by others; or

(5) Produces fish, and neither the production process nor the fish is novel, innovative or experimental.

§ 107.1002 [Reserved]

§ 107.1003 Inactive Licensees.

(a) The Act contemplates that a Licensee shall conduct active operations to meet the needs of Small Concerns. Accordingly, inactivity constitutes a violation of these regulations.

(b) A Licensee which on the close of any full fiscal year has more than twenty-five percent of its assets in idle funds (§ 107.808) shall be presumed inactive if it has not, during the past eighteen months, provided Financing aggregating at least twenty-five percent of the average amount of its said idle funds during the fiscal year within such eighteen-month period. It shall promptly file written reasons for its inactivity.

§ 107.1004 Conflicts of interest.

(a) *General.* Self-dealing to the prejudice of the Small Concern, or of a Licensee or its shareholders, or of SBA, is prohibited.

(b) *Prohibitions.* Except where a written exemption may be granted by SBA in special instances in furtherance of the purposes of the Act:

(1) A Licensee shall not, directly or indirectly, provide Financing to any of its Associates.

(2) A Licensee shall not, directly or indirectly, provide Financing to an Associate of another Licensee if an Associate of the first Licensee receives, has received, or is about to receive (including receipt pursuant to any understanding, agreement, or cross-dealing, reciprocal or circular arrangement) any direct or indirect Financing or a commitment for Financing from such other Licensee or a third Licensee.

(3) No Licensee or any of its Associates shall directly or indirectly borrow money from:

(i) A concern Financed by such Licensee, or

(ii) An officer, director, or owner of ten or more percent equity interest in such concern; or

(iii) A close relative of such officer, director, or equity owner.

(4) No Licensee shall directly or indirectly provide Financing to discharge or to free other funds for use in discharging an obligation to an Associate of the Licensee: *Provided, however,* That the foregoing shall not apply to transactions by Associates in the normal course of business involving lines of credit or short-term financing.

(5) No Licensee shall directly or indirectly Finance, except as permitted by § 107.1001(g), the purchase of property from an Associate of the Licensee.

(c) *Joint Financing with Associate.* A Licensee may provide Financing to a non-Associate also Financed by an Associate of such Licensee contemporaneously or within one year before or after the Licensee's financing, but only on terms not less favorable to the Licensee than to the Associate. Licensee shall retain written evidence of the entire transaction. Where the Associate's financing is of a different kind, the burden shall be on the Licensee to show that the terms of its Financing were at least as favorable as those of its Associate's financing: *Provided, however,* That the foregoing shall not apply to transactions by Associates in the normal course of business involving lines of credit or short-term financing.

(d) *Compensation to Associates.* Without the prior written approval of SBA and subject to any limitations or restrictions of Federal or State law governing conflicts of interest and fiduciary obligations, no Associate of a Licensee shall receive from a Small Concern, directly or indirectly, any compensation in connection with Assistance rendered by such Licensee or anything of value for procuring, attempting to procure, or influencing Licensee's action with respect thereto, except only reasonable sums for bona fide closing expenses and services performed by an Associate designated by the Licensee with the consent of such concern. "Closing Services" shall include, for example, title examination, appraisal, credit report, survey, but shall not include postclosing services. Compensation for closing services must be approved as reasonable and collected by the Licensee on the Associate's behalf; written evidence of the transaction shall be retained for SBA's examination.

(e) *Public notice.* Before SBA grants an exemption under this section, the Licensee shall publish in a newspaper of general circulation in the locality most directly affected by the transaction, a notice prescribed by SBA, and furnish a certified copy to SBA within ten days; SBA shall publish a similar notice in the Federal Register.

(f) *Protection of investment.* Nothing contained in this section shall preclude a Licensee from designating an Associate to serve as an officer, director or in any other capacity in the management of a Portfolio Concern to protect its investment: *Provided, however,* That such Associate has no other direct or indirect financial interest in the Portfolio Concern and has not served as an officer or director or in any other capacity in the management of such concern for more than thirty days prior to such Financing. This proviso may be waived by SBA's prior written approval.

(g) *1940 Act Companies.* A 1940 Act Company which has been granted an exemption by the Securities and Exchange

[10] See § 107.1004(b)(5).

Commission with regard to a transaction described in this section shall be exempt therefrom: *Provided, however,* That the Licensee shall promptly notify SBA and publish notice thereof pursuant to paragraph (e) of this section.

§ 107.1005 Disposition of Assets to Licensee's Associates or to Competitors of Portfolio Concern.

(a) Except with a written exemption from SBA in special instances, a Licensee shall not dispose of assets (including assets in liquidation) to any Associate. As a prerequisite to such exemption, the Licensee must demonstrate that the proposed terms of disposal are no less favorable to it than are obtainable elsewhere.

(b) Except with written approval of the Portfolio Concern which is not controlled by the Licensee, or of SBA, a Licensee shall not dispose of Portfolio securities to a competitor of such concern. The particulars of any such disposal shall be promptly reported to SBA.

§ 107.1006 [Reserved]

§ 107.1007 No Government sponsorship.

No Licensee shall represent or imply in any manner that any stock issued or obligation incurred by it has been approved by the United States, or any agency or officer thereof, and a statement to such effect shall be included in any solicitations to investors.

§ 107.1008 Violations based on false filings and nonperformance of agreements with SBA.

The following shall constitute a violation of these regulations:

(a) Nonperformance of any of the requirements of any debenture, preferred security, note issued to or guaranteed by SBA, or any written agreement with SBA.

(b) Any false statement knowingly made, or misrepresentation or failure to state a material fact necessary in order to make a statement not misleading in the light of the circumstances under which the statement was made, in any document submitted to SBA.

EXAMINATIONS, ACCOUNTS, RECORDS AND REPORTS

§ 107.1101 Examinations fees.

(a) *General.* Examination fees will be assessed for annual examinations made in accordance with the Act, except for the first examination of section 301(d) Licensees. As a general rule, SBA will not assess examination fees for special examinations to obtain specific information.

(b) *Rates.* The fee structure provides rates based on the Licensee's assets as of the date of the latest certified financial statement submitted to SBA before the examination. The rate table is as follows:

Total assets of licensee	Base rate		Percent of assets
$500,000 or less	$400	+	0.
$500,001 to $1,000,000	400	+	0.06 over $500,000.
$1,000,001 to $3,000,000	700	+	0.015 over $1,000,000
$3,000,001 to $5,000,000	1,000	+	0.008 over $3,000,000.
Over $5,000,001	1,160	+	0.003 over $5,000,000.

For example, a Licensee with total assets of $2,000,000 would pay an examination fee of $850 ($700+0.015% of $1,000,000).

(c) *Additional fee.* SBA may assess an additional fee of $100 per day if the examination is delayed or prolonged, in the judgment of SBA, by a Licensee's failure to act with reasonable business prudence in the conduct of its affairs. For example, if its records are not kept current, the resulting delay could be deemed cause for such assessment.

§ 107.1102 Records and reports.

(a) *Records.* Current financial records including books of account are to be maintained in all material respects in accordance with SBA's System of Account Classifications. All financial records, and minutes of meetings of stockholders, directors, executive committees, or other officials, and all documents and supporting material relating to Licensee's transactions shall be kept at its principal office: *Provided, however,* That Portfolio items held by a custodian pursuant to written agreement shall be excepted from this requirement. All financial reports furnished to SBA shall make complete disclosure of all matters relevant to the Act and regulations.

(b) *Preservation of records.* Each Licensee shall preserve, for the periods hereinafter specified and in a manner that permits the immediate location of any record, such documents which are the basis for financial statements required by paragraph (e) of this section, and of the accompanying independent public accountant's certificate. Each Licensee shall:

(1) Preserve permanently:

(i) All general and subsidiary ledgers (or other records) reflecting assets and valuation, liability, capital stock and surplus, income, and expense accounts;

(ii) All general and special journals (or other records forming the basis for entries in such ledgers); and

(iii) The corporate charter, bylaws, license application, and all minute books, capital stock certificates or stubs, stock ledgers, and stock transfer registers, such documents to be kept readily accessible for the first two years.

(2) Preserve for a period of at least six years following final disposition of the related loan or investment, all applications for Financing; size status declarations; lending, participation, and escrow agreements; Financing instruments; capital stock certificates and warrants of Small Concerns not surrendered or exercised; and all other documents and supporting material relating to such loan or investment, including correspondence, such documents to be kept readily accessible for the first two years.

(3) Preserve for a period of at least six years all vouchers, checkbooks, bank statements, canceled checks, cash reconciliations, ledger trial balances, memoranda, correspondence, and other documents forming the initial accounting data for entry in, or underlying records in support of, the records enumerated in paragraph (b)(1) of this section.

(4) Notwithstanding the provisions of paragraphs (b)(1) through (3) of this section, a microfilm reproduction of any records may be substituted for the original and preserved for the required time in the required manner: *Provided, however,* That Licensee shall:

(i) Cause a duplicate microfilm to be made on a current basis and stored separately from the original microfilm for the time required;

(ii) At all times have available facilities for easily readable projection and the production of easily readable facsimile enlargements.

(c) *Reports to stockholders.* At the time any report (including any prospectus, letter, or other publication concerning the financial operations of the Licensee or any of its Portfolio Concerns) is furnished to investors, the Licensee shall file three copies with the Investment Division, SBA.

(d) *Documents filed with SEC.* Whenever a Licensee files any report, application or document with the Securities and Exchange Commission, it shall concurrently provide SBA with a copy thereof.

(e) *Financial reports to SBA.* (1) Each Licensee shall submit to SBA, at the end of each fiscal year, a report containing financial statements for the fiscal year; and, when requested by SBA, interim financial reports, such reports to present fairly the financial position and the results of the Licensee's operations as of the close of the reporting period. The reports are to be prepared in accordance with SBA's Instructions therefor and shall be filed on SBA Form 468 in triplicate with the Investment Division, SBA, on or before the last day of the month immediately following the end of the reporting period (in the case of an unaudited report), and on or before the last day of the third month following the end of the reporting period (in the case of an audited report). The 1940 Act companies should refer to the rules of the Securities and Exchange Commission for the reports to be filed with SEC.

(2) The report as of the end of each fiscal year shall be accompanied by the opinion of an SBA-approved independent certified public accountant or licensed public accountant, certified or licensed by the appropriate regulatory authority of a State or political subdivision thereof. Such opinion shall be based on an audit of the Licensee's accounts in accordance with generally accepted auditing standards. Guidelines to be followed are set forth in SBA's Audit Guide for Small Business Investment Companies. Copies may be obtained from SBA. Effective December 31, 1975, only certified public accountants and licensed public accountants who have received their licenses on or before December 31, 1971, will be considered qualified to render such opinions.

(f) *Litigation reports.* When a Licensee becomes a party to litigation or other proceedings, including any action by the Licensee, or by a security holder thereof in an individual personal or derivative capacity, against an officer, di-

rector, Investment Adviser or other Associate of such Licensee for alleged breach of official duty, it shall within ten days file a report with SBA describing the proceedings, identity of and Licensee's relationship to other parties involved and, upon request, submit copies of the pleadings and other documents specified by SBA. Where such proceedings have been terminated by settlement or final judgment, the Licensee shall promptly advise SBA of the terms thereof. This paragraph shall not apply to collection actions or proceedings in enforcement of Licensee's ordinary creditors' rights.

(g) *Other reports.* Each Licensee shall file with the Investment Division, SBA, such other reports as SBA shall require by written directive.

§ 107.1103 Internal control.

(a) *General.* Each Licensee shall adopt a plan designed to safeguard its assets and monitor the reliability of its financial data, personnel, Portfolio, funds, and equipment.

(b) *Dual control.* Licensees shall maintain dual control over disbursement of funds and withdrawal of securities. Disbursements shall be made only by means of checks requiring the signatures of two or more officers, covered by the Licensee's fidelity bond, except that checks in amounts of $1,000 or less may be signed by one bonded officer. Two or more bonded officers, or one bonded officer and one bonded employee, shall be required to open safe deposit boxes or withdraw securities from safekeeping. Licensees shall furnish to each depository bank, custodian, and entity providing safe deposit boxes, a certified copy of its resolution implementing the foregoing control procedures.

§ 107.1104 Fidelity insurance.

Each Licensee shall maintain a Brokers Blanket Bond, Standard Form No. 14, or Finance Companies Blanket Bond Standard Form 15, or such other form of coverage as SBA may approve, in a minimum amount of $25,000, executed by a surety holding a certificate of authority from the Secretary of the Treasury pursuant to 6 U.S.C. §§ 6–13. For additional details, see SBA's Audit Guide for Small Business Investment Companies.

§ 107.1105 Reporting changes not subject to SBA approval.

(a) *Changes to be reported.* Any change of Licensee's name, address, telephone number, officers or directors, charter, operating area, investment policy, or increase in capitalization not otherwise required to be reported (see, for example, § 107.701) shall be reported to SBA not later than thirty days after these events. All changes shall be subject to SBA post-approval as a condition for the continuance of the license.

(b) *SBA approval.* Reports and requests filed pursuant hereto shall be deemed approved unless Licensee is notified to the contrary by SBA within ninety days after receipt thereof. Approval shall be contingent upon full disclosure of all relevant facts, subject to any conditions SBA may prescribe.

COMPLIANCE

§ 107.1201 [Reserved]

§ 107.1202 [Reserved]

§ 107.1203 Exemption from civil penalty.

Where it is impracticable to submit any required report within the prescribed time, the Licensee may, before such time has expired, promptly file an application which:

(a) Identifies such report;

(b) Certifies to an extraordinary occurrence not within the Licensee's control which makes timely submission of such report impracticable; and

(c) Is accompanied by written evidence.

SBA may thereupon exempt the Licensee, from the civil penalty provision of section 315(a) of the Act, in such manner and upon such conditions as SBA determines.

EXEMPTIONS

§ 107.1301 Exemptions.

A Licensee may file an application in writing with SBA to have a proposed action, which is subject to any procedural or substantive requirement, restriction, or prohibition specified under this Part, exempted from provisions thereof. SBA may approve such application and grant an exemption, conditionally or unconditionally, to the extent that such exemption from the requirement, restriction, or prohibition would not be contrary to the purposes of the Act. Such application must be accompanied by supporting evidence which demonstrates to SBA's satisfaction that:

(a) The proposed action is fair and equitable; and

(b) The exemption requested is reasonably calculated to advance the best interests of the SBIC program in a manner consonant with the policy objectives of the Act and regulations.

§ 107.1302 Savings clause.

The legality of transactions consummated pursuant to provisions of these regulations in effect at that time shall be governed thereby, notwithstanding subsequent changes. Nothing herein shall bar SBA enforcement action with respect to any transaction consummated in violation of provisions applicable at the time, but no longer in effect.

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PART IV

COST OF LIVING COUNCIL

■

HEALTH CARE

■

Proposed Rules

COST OF LIVING COUNCIL

[6 CFR Part 150]

HEALTH CARE

Notice of Proposed Rulemaking

Pursuant to Executive Order No. 11730, the Cost of Living Council is considering the adoption of the regulations set forth in this notice effective January 1, 1974.

On July 19, 1973 the Council removed institutional and noninstitutional providers of health services from the Council's freeze regulations, and continued the Phase II and Phase III mandatory controls applicable to these providers. It was indicated at that time that the continuation of these controls was intended to be an interim measure, and that new regulations governing providers of health services would be developed and issued as a separate subpart of the Phase IV regulations after extensive consultation with the Health Industry Advisory Committee of the Cost of Living Council and other interested health care providers and consumers.

On August 9, 1973, the Council amended Part 150 of the Cost of Living Council regulations to add Subpart O—Providers of Health Services. Subpart O continued the Phase II and Phase III rules applicable to institutional and noninstitutional providers of health services, and merely removed the price rules from Part 130 to Part 150 without substantive change.

Since July 1973, numerous meetings and discussions have been held by the Health Industry Advisory Committee, subgroups of the Committee met frequently with members of the Cost of Living Council staff for the purpose of formulating proposals for discussion by the full committee, and comments and recommendations were solicited from other health care providers and consumers. The proposed rules have been developed through this consultative process.

Many critics asserted that Phase II rules were unfair and inequitable in that they tended to place all economic sectors under the same set of rules, thereby ignoring legitimate differences among them. Thus health care providers were lumped indistinguishably into two groups: The institutional and the noninstitutional providers. Phase IV is premised on the recognition of those differences and takes a sectoral approach to economic stabilization. This approach is apparent in the proposed treatment of the various institutions and professionals in the health care industry. This publication of the first sections of the rules includes separate sections for medical practitioners; acute care hospitals; long term care institutions; and Health Maintenance Organizations (HMO's) and HMO providers of health care. Very shortly, the Council will be issuing for comment proposed forms to be used by the various health care providers for purposes of monitoring and compliance.

Rules regarding coverage and exemption of other categories of health care providers not presently covered under these rules will be published separately for comment in the near future. It is contemplated that those providing products and services to providers of health care, such as dental laboratories, will not be covered by the rules governing providers of health services under Subpart O but will be included under Subpart E of this Part relating to Manufacturing and Service Activities. It is also expected that not all classes of health care providers presently covered under the Phase II and Phase III rules will be included under the final Phase IV rules governing health care providers.

In issuing this notice of proposed rulemaking, the Council is inviting public comment on the price control rules contemplated for Phase IV which are contained herein. Interested persons are invited to participate in the rulemaking by submitting written data, views, or arguments with respect to the proposed regulations set forth in this notice, to the Executive Secretariat, Cost of Living Council, 2000 M Street NW., Washington, D.C. 20508. Comments should be identified with the designation "Proposed Phase IV Health Care Docket" and should be organized so that those dealing with a particular type of health care provider are separate from those dealing with other types (i.e., on separate pages). At least 10 copies should be submitted. All communications received before December 1, 1973, will be considered by the Council before taking final action on the proposed regulations. The proposed regulations contained in this notice may be changed in the light of comments received. All comments received in response to this notice will be available for examination and copying by interested persons at the Cost of Living Council, 2000 M Street NW., Washington, D.C., during the hours of 9:00 a.m. to 5:00 p.m., Monday through Friday. Submissions will be available both before and after the closing date for comments.

§ 150.501–§ 150.504 General

Section 150.501 specifies the scope of Subpart O and the applicability of its provisions. It provides that these rules apply to medical practitioners effective January 1, 1974; to acute care hospitals, long term care institutions, and Health Maintenance Organizations (HMO's) beginning with their first fiscal year commencing on or after January 1, 1974; and to HMO providers of health care beginning with the effective date of these rules for such providers. This section also specifies certain special cases when a health care provider is subject to the rules applicable to another type of health care provider.

Section 150.502 provides that for health care providers covered under Subpart O whose current fiscal years will end during calendar year 1974, the rules currently set forth in 6 CFR 300.18 and 300.19 will remain applicable until the completion of the current fiscal year.

Section 150.503 contains the definitions specifically applicable to providers of health care services.

Section 150.504 provides that all prospective rulings issued under the Economic Stabilization Act prior to January 1, 1974, to providers of health care services covered under Subpart O remain in effect.

Sections 150.508 through 150.513 *Medical Practitioners.* These rules retain the basic framework of Phase II and Phase III price controls on medical practitioners, but contain the following major changes:

The allowable annual aggregate weighted price increase is raised from 2.5 percent to 4 percent (§ 150.508(a)(1)).

Price increases for individual services over $10.00 are limited to 10 percent annually, and under $10.00 to a $1.00 annual price increase (§ 150.508(a)(2)).

Price increases for independent practitioners providing health care services under fixed dollar amount contracts are limited to 6.2 percent annually (derived from the general wage guidelines of 5.5 percent for wages and .7 percent for fringe benefits) (§ 150.508(b)).

Aggregate weighted price increases are determined using weights based on the previous calendar year's billings rather than projected volume of services, and a formula for precise calculation is provided (§ 150.508(d)).

Cost justification is no longer required for price increases.

A limit has been placed on the length of time the profit margin test (called revenue margin in these rules) is in effect. When a price has been increased during the first fiscal quarter over the price lawfully in effect on the last day of the preceding fiscal year, the revenue margin test applies only during that fiscal year. If the price is increased after the first fiscal quarter, then the test applies during both that and the succeeding fiscal year (§ 150.509).

A section has been included to specify the rules for pricing when a group practice has been formed (§ 150.511).

A requirement for posting a sign stating the availability and location of a price schedule is set forth (§ 150.512).

Specific factors have been set forth which the Cost of Living Council will consider in reviewing requests for exception to these rules (§ 150.513).

Sections 150.516 through 150.525 *Acute Care Hospitals.* The basic price control limitation on hospitals of aggregate annual revenues in Phase II and Phase III has been replaced in Phase IV by a limitation for inpatient care on charge and expense increases per admission. In order to encourage the substitution of less expensive ambulatory care for inpatient care where possible, and to recognize the nature of changes in service intensity in the outpatient areas, separate limitations are provided for outpatient care. The previous system focused on the average daily rate reimbursed to the hospital by cost reimbursers and to the extent they could be measured, on the revenues from changes in the prices of individual services. From the point of view of the patient and third party payors who claimed to have little influence on the number or nature of the items which accumulated on each bill, the restraints on costs were asserted to

be unclear and of limited effectiveness. By contrast, the incentive to control costs and to reduce the length of stay for the patient is built into the Phase IV system, which focuses on the average charge and average cost of a complete stay in a hospital. As a result, there is no requirement for cost justification of price increases under these rules, and the profit and revenue margin tests under Phase II and Phase III have also been eliminated. This should allow hospitals greater flexibility in responding to local cost pressures and also provide an incentive to improved efficiency. It is expected that hospitals and third party payors will assume a major responsibility to ensure that the intent of these rules are followed and that unnecessary admissions will not take place.

The main features of the rules relating to acute care hospitals are as follows:

The basic limitation on a hospital's increases in inpatient charges and expenses per admission in any fiscal year is 7.5 percent (§ 150.516). When there are significant changes in volume, adjustments are provided for to reflect the fixed/variable cost relationships of hospitals (§ 150.517). The factor of 43 percent used to calculate the required volume adjustment is derived by multiplying the basic limitation of 107.5 by 40 percent, which is an assumed variable cost factor in hospital operating expenses. That is, the costs of admitting each additional patient should be no more than 40 percent. The basic 7.5 percent allowable increase limitation applied to this factor increases it to 43 percent. Special provisions regarding the volume adjustment are included for small hospitals (§ 150.517(d)), hospitals with a significant increase in bed complement (§ 150.517(e)), and new facilities (§ 150.517(f)).

The basic limitation on a hospital's increases in prices or reimbursable costs for outpatient services is 6 percent (§ 150.518). Hospitals have an option of controlling prices for outpatient services on the basis of either a unit price system or an aggregate weighted price system; if the aggregate weighted price system is chosen, the price increase for any individual service is limited to 10 percent annually.

When the special pricing rules for new facilities and new markets are used, hospitals are required to submit justification for such pricing to the Cost of Living Council at the end of the fiscal year (§ 150.520).

The requirement of posting a sign stating the availability and location of a price schedule has been reinstituted (§ 150.521).

Specific factors have been set forth which the Cost of Living Council will consider in reviewing requests for exception to these rules, and an increased role for state planning agencies in the exception process for capital expenditures has been provided (§ 150.523).

Each state and the District of Columbia are requested to designate an agency to advise the Council on such matters as exception requests (§ 150.524).

Provision is made for a state which has a health care price control program with rules which have substantially the same effect on health care charges and costs as the controls set forth in these rules, to receive a certificate of compliance from the Cost of Living Council to administer its control program in lieu of the Council's (§ 150.525). These provisions are similar to the provisions formerly in effect for public utilities under Part 300 of Title 6 of the Code of Federal Regulations.

Sections 150.528 through 150.534 Long Term Care Institutions. These rules differentiate between hospitals and long term care institutions in order that the unique features of each may be recognized. The basic control on long term care institutions is average realized revenues per day by class of purchaser (Medicare, Medicaid, and all other) and level of care. Since each class of purchaser is limited separately, no one class can be required to pay a disproportionate share of an institution's total costs. In addition, the control by class of purchaser simplifies compliance by the provider, and allows Medicaid, Medicare, and the charge paying consumer to participate more effectively in the monitoring of the control program. The proposed system is designed to accommodate the upward movement of Medicaid reimbursement rates on a state by state basis by providing for a state-wide exception process for increases in these rates above the allowable limit.

The main features of the rules relating to long term care institutions are as follows:

The basic limitation on an institution's average realized revenues per diem in any fiscal year is 6.5 percent (§ 150.528). Rules for the application of this limitation are specified in § 150.529.

Provision is made to enable a State agency which desires to raise its general level of Medicaid reimbursement by more than 6.5 percent for any level of care, to obtain an exception to these limitations for each long term care institution within the State. The information which must be demonstrated and certified to the Council under this state-wide exception process is specified in § 150.530.

The special pricing rules for long term care institutions include pricing for a new level of care and include new criteria for making new facility and new market determinations (§ 150.531). The justification required of long term care institutions for such pricing is similar to that required for acute care hospitals.

The price schedule posting requirements for long term care institutions apply only to services provided to private pay patients (§ 150.532).

The provisions relating to exceptions, advisory state actions, and state control programs are the same for long term care institutions as for acute care hospitals (§ 150.534).

Sections 150.536 through 150.545 Health Maintenance Organizations and Health Maintenance Organization Providers of Health Care. These sections set forth the rules applicable to rate increases by Health Maintenance Organizations (HMO's) and prices charged by HMO providers of health care. Under the regulations in effect during Phase II, an HMO was governed by two different sets of regulations, 6 CFR 300.18 and 6 CFR 300.20. For purposes of adjusting its prices either with a contracting hospital or with its own medical unit, an HMO was considered an institutional provider of health care and therefore regulated by § 300.18. For purposes of adjusting its rates to HMO subscriber members, an HMO was considered an insurer and therefore regulated by § 300.20.

Due to the difficulty in applying two separate and distinct regulations to the integrated system of the HMO as an insurer and provider of health services, these Phase IV sections set forth a set of controls that has been molded to the style of operations unique to the HMO.

Section 150.536 prescribes limitations on factors in the ratemaking formula such as administrative expenses, claim frequency, actual costs, and anticipated costs for determining rate increases by an HMO.

Section 150.536(a)(5) establishes specific criteria for that portion of the factor in the ratemaking formula which represents the major costs of providing various types of health care by an HMO.

In order to encourage the successful operations of newly formed HMO's, new HMO's, defined as those in operation for less than four years and having less than 35,000 subscriber members, are not subject to the limitations specified in § 150.536.

An HMO having more than 60,000 HMO members is required by Section 150.538 to prenotify those proposed rate increases in excess of 5 percent which effects $500,000 or more of its annual revenues under that existing rate.

In addition, all HMO's will be required to submit annual reports no later than 120 days following the end of each of their fiscal years (§ 150.544).

Sections 150.537, covering changes in ratemaking formula; 150.539, relating to State certification; 150.540, relating to self-certification; 150.541, covering Federal Employees Health Benefits; 150.542, covering Council actions following notice of certification or prenotification; and 150.543 covering HMO rates subject to State laws, have been provided because the correlated requirements for insurers under Subpart M of this Title are equally relevant to Health Maintenance Organizations.

Due to the limitations set forth in § 150.536 on the factors used in the ratemaking formula of an HMO, no profit margin limitation has been established for HMOs at this time.

Section 150.545 sets forth the rules applicable to an HMO provider of health care, which has been defined as an acute care hospital, long term care institution, or medical practitioner who derives at least 75 percent of his annual revenues from health care services rendered to HMO subscriber members. These HMO providers of health care, by virtue of doing a majority of their business with HMOs, are excluded from the provisions

of the sections relating to acute care hospitals, long term care institutions, or medical practitioners. HMO providers of health care are not subject to a profit margin limitation but are limited in their prices or charges with respect to their provision of health care to HMO members.

Generally, HMO providers of health care that are acute care hospitals are subject to the same limitations on increased charges as acute care hospitals. HMO health care providers who are medical practitioners are subject to the same limitations as medical practitioners. These restrictions are detailed in § 150.545.

In consideration of the foregoing it is proposed to amend Title 6, Code of Federal Regulations as set forth below.

(Economic Stabilization Act of 1970, as amended, Pub. L. 92-210, 85 Stat. 743; Pub. L. 93-28, 87 Stat. 27; E.O. 11723, 38 FR 15765; Cost of Living Council Order No. 30, 38 FR 16267.)

Issued in Washington, D.C., on November 5, 1973.

JOHN T. DUNLOP,
Director,
Cost of Living Council.

Amend Part 150 by revising Subpart O to read as follows:

PART 150—COST OF LIVING COUNCIL PHASE IV REGULATIONS

Subpart O—Health Care

GENERAL

Sec.
150.501 Scope and applicability.
150.502 Continued applicability of existing regulations.
150.503 Definitions.
150.504 Prior commitments.

MEDICAL PRACTITIONERS

150.508 Price increase limitations.
150.509 Revenue margin limitation.
150.510 New services or property.
150.511 Group formation.
150.512 Price schedules.
150.513 Exceptions.

ACUTE CARE HOSPITALS

150.516 Limitation on charge and expense increases per inpatient admission.
150.517 Volume adjustment for change in inpatient admissions.
150.518 Limitation in price or cost increases for outpatient services.
150.519 Cumulative increases.
150.520 Special pricing rules.
150.521 Price schedules.
150.522 Reporting procedures.
150.523 Exceptions.
150.524 Advisory state actions.
150.525 State control program.

LONG TERM CARE INSTITUTIONS

150.528 Limitations on average realized revenues per diem.
150.529 Application of limitations.
150.530 Medicaid reimbursement rates.
150.531 Special pricing rules.
150.532 Price schedules.
150.533 Reporting procedures.
150.534 Exceptions; advisory state actions; state control program.

HEALTH MAINTENANCE ORGANIZATIONS AND HEALTH MAINTENANCE ORGANIZATION PROVIDERS OF HEALTH CARE

150.536 Criteria for rate increases.
150.537 Change in ratemaking formula.
150.538 Prenotification.
150.539 Certification by state regulatory agency.
150.540 Self-certification.
150.541 Federal Employees Health Benefits Law.
150.542 Cost of Living Council actions.
150.543 HMO rates subject to State laws.
150.544 Reporting.
150.545 HMO providers of health care.

GENERAL

§ 150.501 Scope and applicability.

(a) Sections 150.508 through 150.513 apply to medical practitioners effective January 1, 1974. A medical practitioner who is under contract to one or more Health Maintenance Organizations and who derives at least 75 percent of his aggregate annual revenues from services rendered to Health Maintenance Organization members pursuant to contract, is subject to the rules and regulations applicable to Health Maintenance Organizations.

(b) Sections 150.516 through 150.525 apply to each acute care hospital beginning with its first fiscal year commencing on or after January 1, 1974.

(1) Long term care, home health services, community health services, and similar patient services when operated by or for an acute hospital, are subject to the rules and regulations applicable to such services under this subpart.

(2) An acute care hospital which is owned or operated by or under contract to a Health Maintenance Organization and which derives at least 75 percent of its gross inpatient operating revenues from services rendered to enrolled participants, is subject to the rules and regulations applicable to Health Maintenance Organizations.

(c) Sections 150.528 through 150.534 apply to each long term care institution beginning with its first fiscal year commencing on or after January 1, 1974. A long term care institution which is owned or operated by or under contract to a Health Maintenance Organization and which derives at least 75 percent of its gross inpatient operating revenues from services rendered to enrolled participants, is subject to the rules and regulations applicable to Health Maintenance Organizations.

(d) Sections 150.536 through 150.545 apply to each Health Maintenance Organization (HMO) beginning with its first fiscal year commencing on or after January 1, 1974, and to each HMO provider of health care beginning with the effective date of these rules for such providers.

§ 150.502 Continued applicability of existing regulations.

For a health care provider covered under this subpart whose current fiscal year will end during calendar year 1974, the rules and regulations in effect on December 31, 1973 remain in effect until the completion of the current fiscal year.

§ 150.503 Definitions.

"Acute care hospital" means any hospital that meets the requirements of the American Hospital Association for registration as a short term care general or special hospital.

"Admissions" means the number of patients accepted for inpatient service in beds licensed for hospital care. For the purposes of this definition, infants born in a hospital shall not be included within the number of patients by the fact of birth alone.

"Aggregate annual revenues" means the total revenues for the fiscal year concerned derived from the provision of all medical services and properties, including—

(1) Revenues from daily patient services (surgery, laboratory and X-ray, office visits, home and hospital calls, and similar services);

(2) Revenues from the sale of medicines and drugs; and

(3) Revenues from other services, sales, and activities directly related to the provision of health care.

"Average realized revenues" means the realized revenues for each long-term-care institution's class of purchasers for each level of care divided by the number of patient days of care provided for the same level of care for the same class of purchasers.

"Base period revenue margin" means the ratio that the base period net revenues (aggregate annual revenues less total operating expenses directly related to the provision of health care) bears to the base period aggregate annual revenues, computed in accordance with the medical practitioner's customary accounting practices consistently applied. For the purpose of this definition, revenues and operating expenses derived from the provision of health care under a contract with a Health Maintenance Organization (HMO) are not included in the computation of base period revenue margin.

"Health maintenance organization" (HMO) means a private or public organization which provides, either directly or indirectly through arrangements with others, a reasonably comprehensive provision of health care to health maintenance organization members on a per capita pre-payment basis, and in which one or more of the health maintenance organization providers of health care shares in the financial risk. If an HMO operates in more than one geographical region, then for the purposes of this definition, the organization may elect to treat each region as a separate HMO.

"HMO member" means a person entitled to the provision of health care by virtue of a prepaid contract or for stipulated consideration with an HMO.

"HMO provider of health care" means:

(1) An acute-care hospital which is owned or operated by or under contract to an HMO and which derives at least 75 percent of its total inpatient operating charges from services rendered to HMO members;

(2) A medical practitioner who is under contract to an HMO and who derives at least 75 percent of his aggregate annual revenues from services rendered to HMO members; or

(3) A long term care institution which is owned or operated by or under con-

tract to an HMO and which derives at least 75 percent of its realized revenues from services rendered to HMO members.

"HMO system" means two or more HMOs under common direct or indirect control.

"Levels of care" means the following:

(1) For Medicare patients—skilled nursing care.

(2) For Medicaid patients—those categorizations of care specified by each State Title XIX (42 USC 1395aa) agency for reimbursement purposes.

(3) For all other patients—existing classifications of levels of care for patients, specifically identified in the accounting practices of the institution during the preceding fiscal year.

"Long term care institution" means any institution which is:

(1) A licensed hospital or part thereof that does not meet the requirements of the American Hospital Association for registration as a short term care general or special hospital.

(2) An institution or part of an institution that is certified for participation in Medicare as a skilled nursing facility;

(3) An institution or part of an institution that participates in Medicaid as a skilled nursing facility or intermediate care facility.

(4) Other skilled nursing facilities, intermediate care facilities and other nursing homes licensed by a State to provide medical care.

For the purposes of this definition, if any housing for the elderly includes as part of its facility a distinct part licensed or certified for the provision of skilled nursing or intermediate care, only such distinct part is included in this definition. As used herein, "housing for the elderly" includes purely residential shelter, and personal and sheltered care institutions that provide health-related services as part of a general program of supervision and personal care to residents not in need of substantial, continuous nursing services or medical care. The availability of 24-hour nursing service does not preclude the inclusion of an institution in the definition of "housing for the elderly," unless the primary purpose of the institution, or of a distinct part of the institution, is to provide nursing care on a continuous basis.

"Long term care institution's class of purchasers" means the following three classes:

(1) Medicare patients.

(2) Medicaid patients.

(3) All other patients.

"Medical practitioner's class of purchasers" means a category or a group of purchasers to which a medical practitioner has charged a comparable price for comparable service or property pursuant to a customary price differential among those groups or categories of purchasers.

"Medical practitioner" means physicians and surgeons, osteopathic physicians, dentists and dental surgeons, podiatrists, optometrists, chiropractors, and clinical psychologists. A medical practitioner may be an individual, partnership, association, firm, group, or corporation.

"New facility" means:

(1) An acute care hospital or a long term care institution which commenced operation for the first time, or which was not operated at any time during the one-year period immediately preceding a commencement of operation; or

(2) An acute care hospital or long term care institution which undergoes physical replacement; or major renovation, remodeling or expansion that costs a dollar amount equal to at least 70 percent of the book value of its capital assets or $100,000, whichever is greater. For the purposes of this definition, the mere acquisition of a hospital or institution or of the person that controls the hospital or institution by another person does not constitute a new facility.

"New HMO" means an HMO that has been in operation less than four years and has less than 35,000 HMO members.

"New level of care" means the establishment of a new separate category of services recognized by accepted third party reimbursement agents. For purposes of this definition, the new category of services must entail distinct costs which are significantly different from the costs associated with the levels of care previously provided. The new level of care must furnish significantly different kinds or intensity of services from those already prevailing within the institution.

"New market" means a change in location from the site where health care services were previously provided of greater than 50 miles or, with the prior approval of the Council, a change in location of 50 miles or less.

"New service or property" means a service or property which the hospital, institution or practitioner did not sell or lease in the same or substantially similar form at any time during the one-year period immediately preceding the first date on which it is offered for sale or lease. For the purposes of this definition, a change in appearance, arrangement, or combination, or a change in the method or technology of providing a service, does not create a new service or property.

"Prenotifier" means an HMO or an HMO system that had more than 60,000 HMO members during the calendar year preceding the effective date of a proposed rate increase.

"Price" means any charge for the sale or lease of any service or property, regardless of form. For the purposes of this definition, the "price" in a percentage of gross or net revenues contract is the percentage specified therein multiplied by the unit price of each service performed or product provided.

"Principal services or property" means those services or property which comprise 90 percent of a medical practitioner's aggregate annual revenues.

"Rate" means a unit charge which produces a premium amount to be charged or paid for the providing of health care through an HMO, calculated in accordance with a ratemaking practice or formula, or developed under a classification system.

"Rate increase" includes a restriction in coverage, an increase in a deductible level, or any similar reduction in benefits to HMO members without a corresponding reduction in rates.

"Realized revenues" means:

(1) For institutions on a cash basis of accounting, the total cash received for patient services; and

(2) For institutions on an accrual basis of accounting, the total charges accrued for patient services rendered during the same fiscal year.

"Revenue margin" means the ratio that net revenues (aggregate annual revenues less total operating expenses directly related to the provision of health care) bears to aggregate annual revenues for a fiscal year computed in accordance with the medical practitioner's customary accounting practices consistently applied. For the purpose of this definition, revenues and operating expenses derived from the provision of health care under a contract with an HMO are not included in the computation of revenue margin.

"State regulatory agency" means any commission, board, or other legal body that has jurisdiction over rates or practices of HMO's in a State or the District of Columbia.

"Total inpatient operating charges" means the sum of billed charges for all services performed on an inpatient basis in any fiscal year, computed by taking the sum of all inpatient service charges for the year concerned, including:

(1) Charges for daily patient services (routine services);

(2) Charges for other nursing services (operating room, central services and supplies, and similar services);

(3) Charges for other professional services (ancillary-laboratory, radiology, anesthesiology, and similar services); and

(4) All other inpatient service charges not covered above.

"Total inpatient operating expenses" means the sum of operating expenses, both direct and indirect, including interest and depreciation, allocated to inpatient services in accordance with Medicare accounting practice when the hospital has Medicare or Medicaid patients, or in accordance with generally accepted hospital accounting practices.

§ 150.504 Prior commitments.

Notwithstanding any other provision of these regulations, all prospective decisions, rulings, interpretations issued by the Council prior to January 1, 1974 to providers of health care services covered under this subpart remain in effect.

MEDICAL PRACTITIONERS

§ 150.508 Price increase limitations.

(a) Except as provided in paragraph (b) of this section with respect to prices charged under fixed dollar amount contracts and except for prices charged under a contract with a new HMO, a medical practitioner may not increase any of his prices in excess of the following limitations:

(1) The aggregate weighted price, computed on the preceding calendar year's billings, for all services and property may not be more than 104 percent of the aggregate weighted price for all services and property lawfully in effect on the last day of the preceding calendar year; and

(2) The price charged for any service or property may not be more than 110 percent of the price lawfully in effect for that service or property on the last day of the preceding calendar year (however this subparagraph does not require that price increases be limited to amounts less than $1.00).

(b) The price specified in a fixed dollar amount contract including a maximum or minimum guarantee may not exceed 106.2 percent of the amount specified in the contract in the preceding contract year.

(c) Notwithstanding the limitation of paragraph (a)(1) of this section, any unused aggregate weighted price increase to which a medical practitioner is lawfully entitled (including those accruing prior to the effective date of this regulation) may be accumulated but not compounded.

(d) The formula for computing the percentage aggregate weighted price increase (%AWPI) is as follows:

$$\%\text{AWPI} = \Sigma \frac{P_1 - P_2}{P_1} \times \frac{B_1}{B_2} \times 100$$

where:

P_1—the price lawfully in effect on the last day of the immediately preceding calendar year for a service or property.

P_2=the highest price charged during the current calendar year for that service or property.

B_1=the actual gross billings during the immediately preceding calendar year for that service or property.

B_2=the total gross billings during the immediately preceding calendar year for all services or property.

Σ=the sum of

(e) *Dentists—items using gold.* A dentist may increase the price of a dental item in which gold is used, without regard to paragraphs (a)(1) and (a)(2) of this section, to reflect the increase since January 1, 1974, in the cost of gold used in that item on a dollar-for-dollar basis, without rounding off. Any decrease in the cost of gold used in that item shall likewise be reflected, dollar-for-dollar in the price of that item.

§ 150.509 Revenue margin limitation.

(a) In addition to the limitations set forth in § 150.508, if a medical practitioner increases any price, except for a price charged under a contract with an HMO, over the price lawfully in effect on the last day of the preceding fiscal year, his revenue margin during—

(1) That fiscal year, if the price is increased during the first fiscal quarter, or

(2) That fiscal year and the succeeding fiscal year, if the price is increased subsequent to the first fiscal quarter—

may not exceed his base period revenue margin.

(b) If a medical practitioner has incorporated during or subsequent to the base period, the medical practitioner shall determine his revenue margin and base period revenue margin under paragraph (a) of this section by excluding from operating expenses any salary or pension or other deferred compensation in excess of the amount permitted to be deferred under 26 U.S.C. 401 (the Keogh Plan) and paid to any individual medical practitioner employed by and who is an officer or owner of the corporation.

§ 150.510 New services or property.

The price for a new service or property or for a service or property being provided in a new market shall be determined as follows:

(a) To the maximum extent possible, the price of the service or property shall be the average price received in a substantial number of current transactions by other comparable medical practitioners providing comparable health care services and properties.

(b) If comparable health care services or property are not provided by other comparable medical practitioners, then the medical practitioner may use any other pricing practice commonly used by other comparable medical practitioners engaged in comparable medical practice.

§ 150.511 Group formation.

The price with respect to the furnishing of a service or property when one medical practitioner has joined or formed a group with another medical practitioner or practitioners shall be—

(a) The price in effect for each of the medical practitioners; or

(b) The highest price charged for the service or property by all medical practitioners in at least 40 percent of their transactions with the same class of purchasers during the proceeding calendar year.

§ 150.512 Price schedules.

Each medical practitioner shall maintain, even if no price increases are implemented, at each of its facilities a schedule showing his prices in effect on October 1, 1973 for each class of purchasers for his principal services or property, each subsequent change in the price of these services or property, the date the change of price was made, and the weights of these services or property used to determine the aggregate weighted price change. The schedule shall be made available for public inspection, and a copy shall be furnished to any person upon request. Each practitioner shall post a conspicuous and easily readable sign in each of his facilities stating the availability and location of the schedule. No price may be increased before the sign is posted and the schedule is made available for public inspection.

§ 150.513 Exceptions.

No medical practitioner may implement a price increase in excess of the limitations set forth in these sections unless the medical practitioner has requested and received an exception from the Cost of Living Council for the purpose of preventing or correcting a serious hardship or gross inequity. Subject to the general requirements relating to exceptions imposed by Part 155, the Council shall consider all relevant factors in reviewing an exception request, such as—

(a) The prices lawfully in effect prior to the effective date of this regulation or base period revenue margin are not substantially representative of the nature of the petitioner's current practice.

(b) In the absence of the factors in paragraph (a) of this section, there is a presumption that the petitioner's revenue margin must be declining before the following are to be considered as factors that may cause the petitioner a serious hardship or gross inequity—

(1) Government mandated cost increases;

(2) Costs incurred with respect to wage increases for employees whose wages are substandard, as defined in § 152.32 of this Title, or below minimum wage rates imposed by Federal or State statutes of general application.

(3) Cost increases related to substantial and significant improvements in the quality of service or property already provided;

(4) Current operating revenues inadequate to meet current operating expenses;

(5) Significant change in amount of bad debts; and

(6) Effective cost containment initiatives undertaken by the medical practioner.

(c) In the case of a request for an exception to the revenue margin limitation, the Council will consider a demonstrable increase in the amount of medical care delivered (including as one measurement, the additional total hours worked).

Acute Care Hospitals

§ 150.516 Limitation on charge and expense increases per inpatient admission.

Except as provided in § 150.517, an acute care hospital's total inpatient operating charges and total inpatient operating expenses per admission during any fiscal year may not be more than 107.5 percent of their respective levels during the preceding fiscal year.

§ 150.517 Volume adjustment for change in inpatient admissions.

(a) If during any fiscal year a hospital has more admissions than in its preceding fiscal year, for each admission exceeding 102 percent of the admissions during the preceding fiscal year, total inpatient operating charges and total inpatient operating expenses per admission may not exceed 43 percent of their respective levels during the preceding fiscal year. However, this paragraph does not require that the overall increase in total inpatient operating charges and in total inpatient operating expenses per admission permitted by § 150.516, this paragraph, and § 150.519 be limited to less than 103 percent of their respective levels during the preceding fiscal year.

(b) If during any fiscal year a hospital's admissions are fewer than 100 percent but not less than 95 percent of its admissions during the preceding fiscal year, its total inpatient operating charges and its total inpatient operating expenses during that fiscal year may not be more than 107.5 percent of their respective levels during the preceding fiscal year.

(c) If during any fiscal year a hospital has fewer admissions than in its preceding fiscal year, for each admission below 95 percent of the admissions during the preceding fiscal year, an amount equal to the number of the admissions times 43 percent of the total inpatient operating charges per admission and 43 percent of the total inpatient operating expenses per admission during the preceding fiscal year, shall be deducted from the total inpatient operating charges and the total inpatient operating expenses, respectively, allowed under paragraph (b) of this section. However, this paragraph does not permit the overall increase in total inpatient operating charges and in total inpatient operating expenses per admission permitted by § 150.516, this paragraph, and § 150.519 to exceed 120 percent of their respective levels during the preceding fiscal year.

(d) In the case of a hospital which has either less than $2,000,000 of total inpatient operating expenses or less than 3,500 admissions in its preceding fiscal year, the limitations on total inpatient operating charges and total inpatient operating expenses per admission contained in paragraphs (a) and (c) of this section shall not apply unless its admissions increase above 104 percent or fall below 90 percent of the admissions during the preceding fiscal year.

(e) In the case of a hospital that has an increase of 10 percent or more over the preceding fiscal year in its licensed bed complement, the limitations on total inpatient operating charges and total inpatient operating expenses per admission contained in paragraphs (a) and (c) of this section do not apply until after the first full fiscal year following the increase.

(f) In the case of a new facility, the limitations on total inpatient operating charges and total inpatient operating expenses per admission contained in paragraphs (a) and (c) of this section do not apply until after the first full 2 fiscal years of operation.

§ 150.518 Limitation on price or cost increases for outpatient services.

(a) (1) This section applies to—

(i) the prices charged in each revenue department and cost center, as determined by the hospital's customary practice, in which at least 70 percent of the total billed charges of that revenue department or cost center are attributable to the providing of outpatient services; and to

(ii) the price charged for each outpatient service for which there is a separately identified outpatient charge.

(2) Regardless of whether or not prices for outpatient services are required to be controlled under this section, all charges and costs attributable to the provision of inpatient services shall be included in the computations made under § 150.516 and § 150.517.

(b) An acute care hospital may elect to control its prices for outpatient services under this section on the basis of either a unit price system or an aggregate weighted average price system.

(1) If the hospital elects the unit price system, it may not charge a price for any outpatient service that is more than 106 percent rounded to the nearest quarter dollar of the price lawfully in effect for that service on the last day of the preceding fiscal year.

(2) If the hospital elects the aggregate weighted price system:

(i) The aggregate weighted price charged for all of its outpatient services may not be more than 106 percent of the aggregate weighted price for all such services lawfully in effect during the preceding fiscal year; and

(ii) The price charged for any outpatient service many not be more than 110 percent of the price lawfully in effect for that service on the last day of the preceding fiscal year (however this subparagraph does not require that price increases be limited to amounts less than $1.00).

(c) Where by contract or legislation, outpatient services are reimbursed on a cost basis, cost increases per occasion of service, as defined in the contract or legislation, may not be more than 106 percent of the cost per occasion of service over the preceding fiscal year. Prospectively determined rates for outpatient services reimbursed on behalf of third party cost reimbursers are not to be subject to this paragraph.

§ 150.519 Cumulative increases.

In the application of § 150.516, § 150.517, and § 150.518, price or cost increases permitted in one year but not fully implemented may be accumulated, but not compounded, and can be used only in the next fiscal year following the year in which the full allowable increase was not taken.

§ 150.520 Special pricing rules.

(a) The prices for a new service or property for outpatient care, for a service or property provided by a new facility and for a service or property provided by an acute care hospital serving a new market shall be determined as follows:

(1) To the maximum extent possible, the price of the service or property shall be the average price received in a substantial number of current transactions by other comparable hospitals providing comparable health care services and properties. If there are no comparable hospitals with similar debt service and depreciation costs, the incremental amount of these costs may be reflected in the prices.

(2) If comparable health care services are not provided by comparable hospitals, then the hospital may use any other pricing practice commonly used by other hospitals, with the adjustment for debt service and depreciation costs permitted by paragraph (a) (1) of this section.

(b) Each hospital which prices a property or service provided by or in a new facility or new market, respectively, in accordance with paragraph (a) of this section shall submit justification for those prices to the Cost of Living Council on CLC Form at the end of the fiscal year in which the price was implemented.

§ 150.521 Price schedules.

Each acute care hospital shall maintain at each of its facilities a schedule showing its prices for all services on the last day of the preceding fiscal year, and each subsequent change in those prices and the date each change was made. The schedule shall be made available for public inspection, and a copy shall be furnished to the public, to third-party payors and to a representative of the Cost of Living Council upon request. Each hospital shall post an easily readable sign stating the availability and location of the schedule. The sign must be posted conspicuously in each location where a patient may be received for service and where payment for services is accepted. No price may be increased before the sign is posted and the schedule is made available.

§ 150.522 Reporting procedures.

Each acute care hospital shall, within 120 days after the end of each fiscal year, submit a completed CLC Form to the Cost of Living Council, Office of Health, Compliance Division, 2000 M Street NW., Washington, D.C. 20508.

§ 150.523 Exceptions.

(a) No acute care hospital may exeed the limitations set forth in these sections unless the hospital has requested and received an exception from the Cost of Living Council. Subject to the general requirements relating to exceptions imposed by Part 155, the Council, in reviewing requests for exceptions, will examine the following data:

(1) All exception requests for additional revenues will be evaluated for cost justification. In examining the cost justification, the Council will make its evaluation on the basis of prudent management practices and generally accepted accounting principles consistently applied. In making this evaluation, the Council will consider the following items:

(i) Any investment or operating costs resulting from capital expenditures.

(ii) Costs ensuing from mandatory requirements imposed by government regulation resulting in increased expenses by the hospital.

(iii) Costs incurred with respect to wage increases for employees whose wages are substandard, as defined in § 152.32 of this Title, or below minimum wage rates imposed by Federal or state statutes of general application.

(iv) Working capital needs.

(2) Significant changes in patient mix that require substantially more expensive care.

(3) Any statutory necessity for adjustment of charges which are less than costs.

(4) Experimentation in hospital reimbursement methodologies.

(5) Evidence of effective cost containment initiatives undertaken by the hospital.

(b) The primary criteria that will be used in evaluating exception requests involving capital expenditures, as defined in section 1122 of the Social Security Act (42 U.S.C. 1320a–1) and its implementing regulations (42 CFR Part 100), are the community need for the capital expenditure, and the justification for the price increase requested. In addition the following procedural rules apply:

(1) The burden of documenting community need and price justification is on the hospital.

(2) If a planning agency designated by the governor of a state (for example, an agency acting pursuant to section 1122 of the Social Security Act, a certificate of need agency, or a rate setting commission) has approved on substantive grounds a capital expenditure for which an exception is requested, there is a presumption of community need for the expenditure.

(3) If a planning agency approves a certificate of need on procedural grounds only, or refuses or fails to act, there is no presumptive proof of community need.

(4) If a planning agency denies a certificate of need on substantive grounds, or if a final determination of community need under section 1122 of the Social Security Act is made by the Department of Health, Education and Welfare and the determination is negative, there is an adverse presumption against the requested price increase for capital and related operating expenditures.

§ 150.524 Advisory state actions.

The governor of each state and the mayor of the District of Columbia are requested to designate an agency to advise the Council on requests for exceptions to these regulations or on any other matters that the Council may from time to time specify.

§ 150.525 State control program.

(a) Any State or the District of Columbia that has a health care price control program may apply to the Cost of Living Council for authorization to administer the State control program in lieu of the controls set forth in these sections and administered by the Cost of Living Council. The agency designated by the State to administer the program shall submit to the Cost of Living Council its existing or proposed rules for use by the agency in considering requests for price increases for each kind of acute care hospital service under its jurisdiction.

(b) The existing or proposed rules must be generally fair and equitable, and have substantially the same effect on health care charges and costs as set forth herein; provided, however, that the provisions of § 150.521 shall apply to any control program administered by an agency pursuant to this section.

(c) If the Cost of Living Council approves the proposed rules of an agency, it will notify the agency that when those proposed rules are finally adopted by the agency in accordance with applicable laws, the Cost of Living Council will issue a certificate of compliance to that agency. If the Cost of Living Council approves existing rules of an agency, it will issue a certificate of compliance to that agency.

(d) An acute care hospital may place in effect, in accordance with the rules of an agency to which a certificate of compliance has been issued, any price increase authorized or allowed to go into effect by that agency.

(e) The decisions of an agency pursuant to rules covered by a certificate of compliance issued under paragraph (c) of this section are not subject to review by the Cost of Living Council, or by any judicial or other body which would not be authorized to review the decisions of said agency in the absence of the Economic Stabilization Program. The rules shall be considered to be the rules of the agency and shall not displace any other rules or laws to which the agency is subject or which it has adopted which are not inconsistent with those rules.

(f) Each agency to which a certificate of compliance has been issued under paragraph (c) of this section shall also agree to furnish periodically to the Cost of Living Council such information as the Council may prescribe for the Council's use in determining whether the agency is following the rules it adopted in its decisions and practices and whether the purposes of the Economic Stabilization Program are being served.

(g) The Cost of Living Council may revoke a certificate of compliance issued under paragraph (c) of this section at any time, or take such other action with respect to the certificate as it considers appropriate, if it determines that the rules to which the certificate applies are not being followed or are not serving the purposes of the Economic Stabilization program. Price increases which an agency has finally approved, before a revocation or other action by the Cost of Living Council under this paragraph, pursuant to rules which have received a Cost of Living Council certificate of compliance shall in no way be affected by the Council's revocation of, or other action with respect to, the certificate.

Long Term Care Institutions

§ 150.528 Limitations on average realized revenues per diem.

A long-term-care institution's average realized revenues per diem during any fiscal year may not be more than 106.5 percent of its average realized revenues per diem during the preceding fiscal year.

§ 150.529 Application of limitations.

In applying § 150.528, the following shall apply:

(a) In determining the levels of care provided and the amount of average realized revenues, an institution shall follow generally accepted accounting principles consistently applied; provided, however, that in no event shall an institution change the criteria used during the preceding fiscal year for determining the respective levels of care for its patients.

(b) Unused revenue increases permitted for any level of care of any class of purchaser in any fiscal year may not be applied in that year to any other level of care of any class of purchaser.

(c) Revenue increases permitted in one year but not fully implemented may be accumulated, but not compounded, and only for the level of care of the class of purchaser to which the increase applied, and only in the next fiscal year following the year in which the full allowable increase was not taken.

§ 150.530 Medicaid reimbursement rates.

(a) If a State agency responsible for administering the Medicaid program within that State wishes to raise its general level of Medicaid reimbursement by more than 6.5 percent for any level of care and obtain an exception to the limitations of § 150.528 with respect thereto for each long term care institution within the State, the State may demonstrate and certify to the Council the following with respect to that Medicaid reimbursement rate increase:

(1) The former rate, the date it was established, the new rate, the percentage increase, and the proposed effective date of the new rate.

(2) That the increase is cost related, as demonstrated by a valid statistical sample.

(3) That the increase is necessary to implement and maintain the minimum standards of service required by Federal or State regulations, or both; and

(4) That the increase, in the opinion of the agency, is not inflationary within the meaning of the Economic Stabilization Program guidelines.

(b) Within 30 days after receipt of the State agency's certification, the Council may take one or more of the following actions:

(1) Require the State agency to furnish additional information regarding the rate increase.

(2) Suspend the 30-day period for Council action.

(3) Issue the State agency a certificate of compliance.

(4) Refuse to issue the State agency a certificate of compliance.

(c) If the Council issues a certificate of compliance to a State agency or fails to take any action within the time specified, then long-term care institutions in that State are not subject to the limitations contained in § 150.528 with respect to their average realized revenues derived from levels of care covered by the State agency's certification.

(d) If the Council refuses to issue a certificate of compliance to a State agency, then long-term care institutions in that State remain subject to all the limitations contained in § 150.528.

§ 150.531 Special pricing rules.

(a) The price for a new level of care, for a service or property provided by a new facility and for a service or property

provided by a long term care institution serving a new market shall be determined as follows:

(1) To the maximum extent possible, the price of the level of care or of the service or property shall be the average price received in a substantial number of current transactions by comparable institutions providing comparable levels of care or comparable health care services and properties. If there are no comparable institutions with similar debt service and depreciation costs, the incremental amount of these costs may be reflected in the price.

(2) If comparable levels of care or comparable health care services are not provided by comparable institutions, then the institution may use any other pricing practice commonly used by other institutions, with the adjustment for debt service and depreciation costs commonly used by other institutions, permitted by paragraph (a)(1) of this section.

(b) The revenues derived from the provision of a new level of care, from the provision of a service or property by a new facility and from the provision of a service or property by a long term care institution serving a new market are not subject to the limitations contained in § 150.528.

(c) Each institution which prices a property or service provided by or in a new facility or new market, respectively, in accordance with paragraph (a) of this section shall submit justification for those prices to the Cost of Living Council on CLC Form ____ at the end of the fiscal year in which the price was implemented.

§ 150.532 Price schedules.

Each long term care institution shall maintain at each of its facilities a schedule showing its prices for all services provided to private pay patients on the last day of the preceding fiscal year, and each subsequent change in such a price and the date such change was made. The schedule shall be made available for public inspection, and a copy shall be furnished to the public, to third party payors, and to a representative of the Cost of Living Council upon request. Each institution shall post a conspicuous and easily readable sign in each of its facilities stating the availability and location of the schedule. No price may be increased before the sign is posted and the schedule is made available.

§ 150.533 Reporting procedures.

Each long term care institution shall, within 120 days after the end of each fiscal year, submit a completed CLC Form ____ to the Cost of Living Council, Office of Health, Compliance Division, 2000 M Street, NW., Washington, D.C. 20508.

§ 150.534 Exceptions; advisory state actions; state control program.

The provisions of § 150.523, § 150.524, and § 150.525 relating to exceptions, advisory state actions and state control programs for acute care hospitals, also apply to long term care institutions.

Health Maintenance Organizations and Health Maintenance Organization Providers of Health Care

§ 150.536 Criteria for rate increases.

(a) Except as provided in paragraphs (b) and (c) of this section, each rate increase put into effect by an HMO after December 31, 1973, which would increase the rate above the level in effect on that date, must be consistent with the following criteria:

(1) Actual costs may be used in the customary manner in the ratemaking process.

(2) Factors in the ratemaking process or in the actual determination of the final rate that relate to or reflect changes in claim frequency, occurrence or utilization, or similar changed conditions of risk may be used in accordance with customary practice provided such factors are supported statistically.

(3) Administrative expenses may be loaded on an actual cost basis, if statistically supported. If factors for administrative expenses are loaded as a percentage of the rate, they must be limited to a maximum of a 5-percent increase in the dollar amount represented by the loading that was used in the prior rate.

(4) Any profit portion of the rate, whether loaded as a percentage of the rate or a dollar amount per contract, must be limited to a 2.5-percent increase in the dollar amount represented by the loading for the profit that was used in the prior rate. For purposes of this section, any portion of the rate which is classified as a contribution to reserve, contingency reserve or similar element where a profit as such is not a part of the ratemaking process, shall be treated as the profit provision.

(5) Factors in the ratemaking process anticipating costs or price increases may be used, if statistically supported, in accordance with customary practice in the ratemaking process, subject to the following restrictions:

(i) For that portion of the factor that represents the provision of inpatient care in an acute care hospital, if the contract between the HMO and the acute care hospital is on a percentage of charge or fixed charge per admission basis the increase is limited to 7.5 percent per admission per year; if the contract is on a fixed charge per capita basis, the increase is limited to 9 percent per capita per year; or if the acute care hospital is owned or operated by the HMO, the increase is limited to 9 percent of its inpatient operating expenses per year.

(ii) For that portion of the factor that represents the provision of outpatient hospital care, the increase is limited to 6 percent per procedure per year.

(iii) For that portion of the factor that represents the provision of health care by a medical practitioner, if the contract is on a fee-for-service basis the increase is limited to 4 percent per charge per year; or if the contract is on a fixed dollar amount or per capita basis, the increase is limited to 6.2 percent per year.

(iv) For that portion of the factor that represents the provision of inpatient care by a long term care institution, the increase is limited to 6.5 percent in average realized revenues per diem per year.

(b) A rate increase approved by the Cost of Living Council on or before December 31, 1973 but not put into effect by the HMO prior to that date may be put into effect according to its terms.

(c) A new HMO is not subject to the limitations set forth in paragraph (a)(5) of this section.

§ 150.537 Change in ratemaking formula.

No HMO may change a ratemaking formula, procedure, or technique, or other element in the ratemaking process unless—

(a) The change will not result in an overall rate increase; or

(b) The change is necessitated by legislation or regulation promulgated in a particular jurisdiction; or

(c) Written approval has been granted by the Cost of Living Council.

§ 150.538 Prenotification.

Each prenotifier shall file a written notice with the Cost of Living Council and the appropriate State regulatory agency of the State to which the rate increase is applicable or the State regulatory agency of the HMO's domicile when a rate increase is proposed for use in more than one State, of each proposed rate increase in excess of 5 percent which affects $500,000 or more of its annual revenues under the existing rate. Each HMO submitting a notice under this section shall certify to the Cost of Living Council and the State regulatory agency that the proposed rate increase conforms to the requirements of §§ 150.536 and 150.537. The certification must be signed by the chief executive officer of the prenotifier or by an individual to whom he has delegated that authority. A copy of the delegation must be filed with the Cost of Living Council.

§ 150.539 Certification by State regulatory agency.

A State regulatory agency may agree, in writing, with the Cost of Living Council to certify that the rate increases of which it has received prenotification under § 150.538 are or are not in compliance with §§ 150.536 and 150.537. Each agency entering into such agreement with the Cost of Living Council shall furnish its certification to the Council (with a copy to the HMO) within 20 days after it receives the notice. A certification by an agency under this section is prima facie evidence that the proposed rate increase is or is not in compliance with §§ 150.536 and 150.537.

§ 150.540 Self-certification.

Whenever a prenotifier cannot obtain a certification of a rate increase from a State regulatory agency in accordance with § 150.539 because:

(a) There is no State regulatory agency:

(b) The State regulatory agency concerned has not agreed to furnish certification under that section; or

(c) The State regulatory agency did not act upon the filing within the period required under this section; the prenotifier shall immediately notify the Cost of Living Council that it cannot obtain the certification and may request the Council to act upon the certification filed with it under § 150.538.

§ 150.541 Federal Employees Health Benefits Law.

The Cost of Living Council designated the U.S. Civil Service Commission to act as certifying agent for contracts of HMO's under the Federal Employees Health Benefits Law. Each prenotifier that proposes to increase rates under a Federal Health Benefits contract by more than 5 percent shall file notice thereof with the Cost of Living Council that the increase is or is not in compliance with § 150.536 and that certification is prima facie evidence of compliance or noncompliance. A rate certified by the Civil Service Commission as being in compliance may go into effect on any date, specified by that Commission, that is at least 10 days after the date of the certification, and at least 30 days after the date of prenotification.

§ 150.542 Cost of Living Council actions.

(a) With respect to any rate increase certified by a State regulatory agency under § 150.539, or self-certified by a prenotifier, the Cost of Living Council may, within 30 days after the State regulatory agency received the prenotification, or within 30 days after the Cost of Living Council receives the prenotification under § 150.538, take one or more of the following actions:

(1) Require the HMO to furnish additional information regarding the increase.

(2) Delay the effective date of the increase pending further Council action.

(3) Suspend all or part of the effect of the increase, pending further action by the Cost of Living Council or by the State regulatory agency.

(4) Limit, refuse, rescind, reduce, or modify the increase.

(b) If the Cost of Living Council does not act upon a request under this section before the end of the thirtieth day as described above, the increase may go into effect. However, in any case in which that period would otherwise end on a Saturday, Sunday, or Federal holiday, it will end at the close of the next succeeding workday. However, if after implementation of the rate increase the Council finds that the increase is inconsistent with the rules of this subpart or unreasonably inconsistent with the goals of the Economic Stabilization Program, it may issue an order modifying, deferring, suspending or disapproving the rate increase. A prenotification to a State regulatory agency which has been certified by that agency as being not in compliance with §§ 150.536 and 150.537 may not be placed into effect unless the written approval of the Cost of Living Council has been granted.

§ 150.543 HMO rates subject to State laws.

Approval of an HMO rate increase or rating formula under these sections does not authorize the use of a rate or formula in contravention of any applicable State law.

§ 150.544 Reporting.

Each HMO shall file an annual report with the Cost of Living Council with a copy to the appropriate State regulatory agency at the time it normally releases its annual reports, but in any event no later than 120 days after the end of the fiscal year. This report shall include information specified by the Cost of Living Council on a form to be prescribed by the Council.

§ 150.545 HMO providers of health care.

(a) An HMO provider of health care that is an acute care hospital is limited to:

(1) In the provision of outpatient care, an increase in its charges of 6 percent per procedure per year;

(2) In the provision of inpatient care:

(i) An increase in its charges of 7.5 percent per admission per year, if the contract between the HMO and the acute hospital is on a percentage of charge or fixed charge per admission basis; or

(ii) An increase in its charges of 9 percent per capita per year, if the contract is on a per capita basis; or

(iii) An increase in its inpatient operating expenses of 9 percent per capita per year if that acute care hospital is owned or operated by the HMO.

(b) An HMO provider of health care that is a medical practitioner is limited to:

(1) An increase of 4 percent per year in his aggregate weighted price, computed on the preceding calendar year's billings, for all services and property, if the contract between the HMO and the practitioner is on a fee-for-service basis; or

(2) An increase in its charges of 6.2 percent per year, if the contract is a fixed dollar amount or on a per capita basis.

(c) An HMO provider of health care that is a long term care institution is limited to an increase of 6.5 percent per year in its average realized revenues per diem.

(d) An HMO provider of health care is excluded from the limitations of paragraphs (a), (b), and (c) of this section if it is providing health care for an HMO that is a new HMO.

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