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WASHINGTON, D.C.

Volume 38 ■ Number 217

Pages 31159-31269



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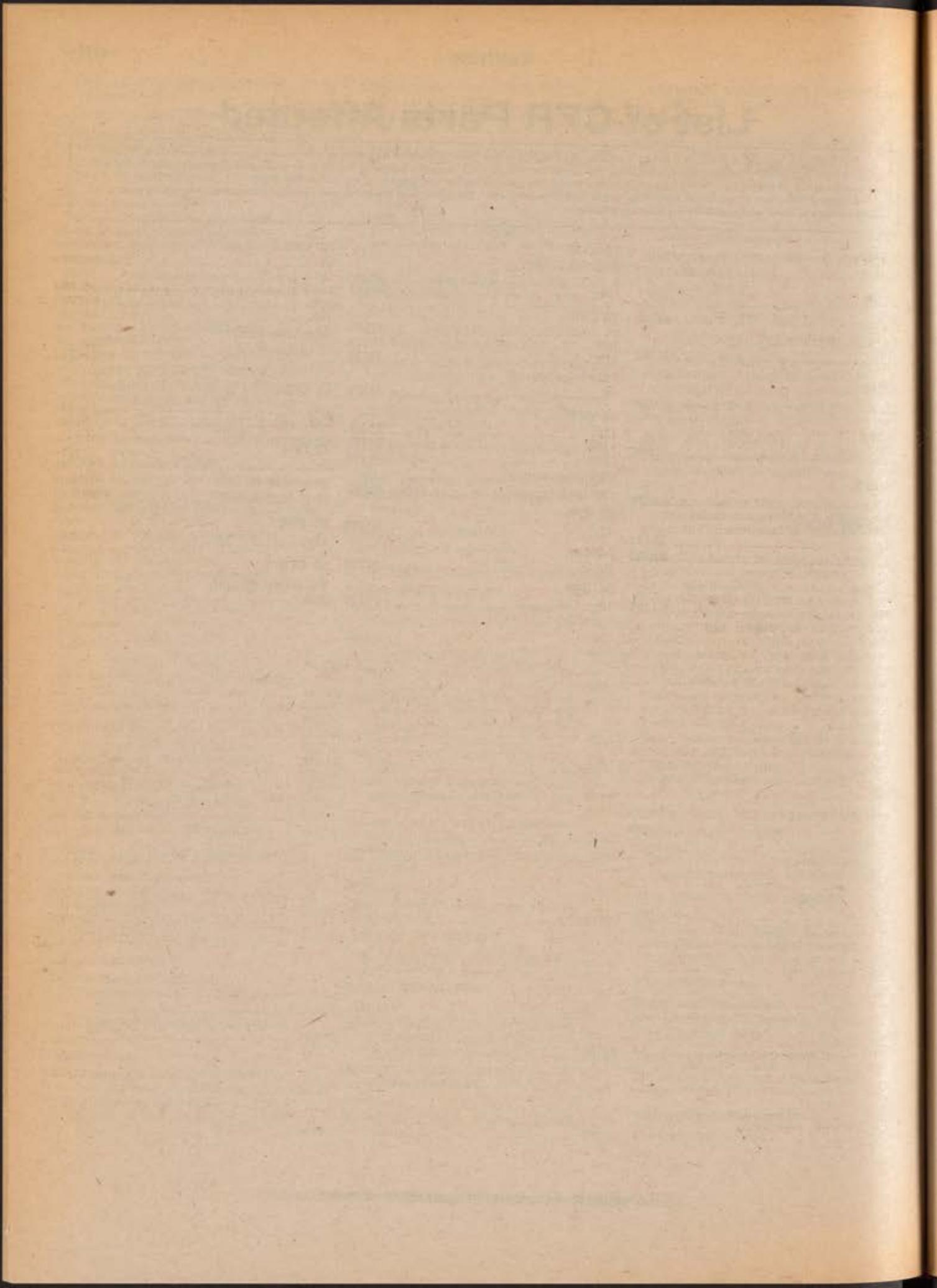
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 A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1973, and specifies how they are affected.

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# Rules and Regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

## Title 6—Economic Stabilization

### CHAPTER I—COST OF LIVING COUNCIL

[Phase IV Price Ruling 1973-6]

#### PUBLIC UTILITY RATE EXEMPTION

##### Phase IV Price Ruling

**Facts.** Firm A operates a radio broadcasting station, Firm B is a contract motor carrier not under the jurisdiction of the Interstate Commerce Commission, Firm C provides public warehousing services, Firm D is a stock exchange, Firm E operates a marine terminal, and Firm F is a barge line. Each firm asserts that its service is of public consequence or need and that the firm provides the services of a public utility as defined in 6 CFR 150.31.

**Issue.** Which services are exempt under 6 CFR 150.56, which states that rate increases for commodities or services provided by a public utility are exempt?

**Ruling.** Division E of the 1972 Standard Industrial Classification Manual "Transportation, Communications, Electric, Gas, and Sanitary Services" is the starting point to determine which services qualify as public utility services. Only services which appear in Division E of the Standard Industrial Classification Manual may qualify for the exemption provided by § 150.56, although some of the services in Division E do not fall within the exemption.

Division E is broken down into three and four-digit industry codes. Most of those codes describe the activities of firms which provide utility services. Some of them describe activities incidental to a public utility service.

Activities within the following industry group numbers are exempt under § 150.56:

- 401 Railroads.
- 404 Railway Express Service.
- 411 Local and Suburban Passenger Transportation.
- 412 Taxicabs.
- 413 Intercity and Rural Highway Passenger Transportation.
- 414 Passenger Transportation Charter Service.
- 415 School Buses.
- 421 Trucking, Local and Long Distance.
- 441 Deep Sea Foreign Transportation.
- 442 Deep Sea Domestic Transportation.
- 443 Great Lakes-St. Lawrence Seaway Transportation.
- 444 Transportation on Rivers and Canals.
- 445 Local Water Transportation.
- 451 Air Transportation, Certificated Carriers.
- 452 Air Transportation, Noncertificated Carriers.
- 461 Pipe Lines, Except Natural Gas.
- 471 Freight Forwarding.

- Sec.
- 481 Telephone Communication (Wire or Radio).
- 482 Telegraph Communication (Wire or Radio).
- 491 Electric Services.
- 492 Gas Production and Distribution.
- 493 Combination Electric and Gas, and Other Utility Services.
- 494 Water Supply.
- 495 Sanitary Services.
- 496 Steam Supply.
- 497 Irrigation Systems.

The rates for services in group Nos. 431 and 483 (U.S. Postal Service and Radio and Television Broadcasting) do not qualify for the public utility rate exemption.

Rates for services within the remaining industry group numbers in Division E, which generally describe activities incidental to a public utility service and are listed below, are exempt only if those revenues are included in the computations setting the rates for public utility services which are otherwise exempt under this ruling. The one exception to this rule is community antenna television services which have been determined to be public utility services in CIC Phase IV Price Ruling 1973-3.

- 417 Terminal and Service Facilities for Motor Vehicle Passenger Transportation.
- 422 Public Warehousing.
- 423 Terminal and Joint Terminal Maintenance Facilities for Motor Freight Transportation.
- 446 Services Incidental to Water Transportation.
- 458 Fixed Facilities and Services Related to Air Transportation.
- 472 Arrangement of Transportation.
- 474 Rental of Railroad Cars.
- 478 Miscellaneous Services Incidental to Transportation.
- 489 Communication Services, Not Elsewhere Classified.

Based upon the foregoing, Firm A's radio broadcasting activities are not exempt since those activities are within group No. 483 (Radio and Television Broadcasting), a group which does not qualify for the public utility rate exemption.

Firm B's contract motor carriage activities fall within group No. 421 (Trucking, Local and Long Distance) and are exempt.

Firm C's public warehousing activities fall within group No. 422 (Public Warehousing) and are not exempt unless the revenues received are included in the computations setting the rates for services which are identified as public utility services in this ruling.

Firm D, the stock exchange, falls within group No. 623 (Security and

Commodity Exchanges), which is in Division H of the Standard Industrial Classification Manual, and is therefore not exempt as a public utility.

Firm E's marine terminal activities fall within group No. 446 (Services Incidental to Water Transportation) and are not exempt unless the revenues received are included in the computations setting the rates for services which are identified as public utility services in this ruling.

Section 150.56 exempts only rates for public utility services, not all activities of firms engaged in providing those services. Therefore, the portion of a firm's business which is not listed in Division E is not subject to the exemption. Examples of those types of activities have been given in the introduction to the division and include: maintenance and repair of physical facilities; repair of railroad cars and engines, if done for other companies; sales of electric and gas appliances to household consumers; ice manufacturing. The list of examples is not a complete one, but is intended to serve as a guide.

ANDREW T. H. MUNROE,  
Acting General Counsel,  
Cost of Living Council.

NOVEMBER 6, 1973.

[FR Doc.73-23978 Filed 11-7-73;9:46 am]

## Title 7—Department of Agriculture

### SUBTITLE A—OFFICE OF THE SECRETARY OF AGRICULTURE

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

##### Appointment of Uniformed Armed Guards as Special Policemen

Part 2, Subtitle A of Title 7, Code of Federal Regulations, is amended to delegate to the Assistant Secretary for Conservation, Research, and Education, and to redelegate to the Administrator, Agricultural Research Service, the authority to appoint uniformed armed guards as special policemen at certain locations, and to make all needful rules and regulations pursuant to authority delegated to the Secretary by the Administrator, General Services Administration.

These delegations supersede the delegations to the Director, Science and Education, and to the Administrator, Agricultural Research Service, appearing in 36 FR 21706.

Sections 2.19(a) and 2.57(a) (23) are amended as follows:

**Subpart C—Delegations of Authority to the Under Secretary, Assistant Secretaries and Directors**

**§ 2.19 Delegations of authority to the Assistant Secretary for Conservation, Research, and Education.**

(a) \* \* \*

(23) Pursuant to authority delegated by the Administrator of the General Services Administration to the Secretary of Agriculture in 34 FR 6406, 36 FR 1293, 36 FR 18440, and 38 FR 23838, appoint uniformed armed guards as special policemen, make all needful rules and regulations, and annex to such rules and regulations such reasonable penalties, (not to exceed those prescribed in 40 U.S.C. 318c), as will ensure their enforcement, for the protection of persons, property, buildings, and grounds of the Arboretum, Washington, D.C., the U.S. Meat Animal Research Center, Clay Center, Nebraska, the U.S. Agricultural Research Center, Beltsville, Maryland, and the Animal Disease Laboratory, Plum Island, New York, over which the United States has exclusive or concurrent criminal jurisdiction, in accordance with the limitations and requirements of the Federal Property and Administrative Services Act of 1949 (63 Stat. 377) as amended, the Act of June 1, 1948 (62 Stat. 281), as amended, and the policies, procedures and controls prescribed by the General Services Administration. Any rules or regulations promulgated under this authority shall be approved by the Director of the Office of Plant and Operations and the General Counsel prior to issuance.

**Subpart G—Delegations of Authority by the Assistant Secretary for Conservation, Research, and Education**

**§ 2.57 Administrator, Agricultural Research Service.**

(a) \* \* \*

(23) Appoint uniformed armed guards as special policemen, make all needful rules and regulations, and annex to such rules and regulations such reasonable penalties (not to exceed those prescribed in 40 U.S.C. 318c), as will ensure their enforcement, for the protection of persons, property, buildings and grounds of the Arboretum, Washington, D.C., the U.S. Meat Animal Research Center, Clay Center, Nebraska, the U.S. Agricultural Research Center, Beltsville, Maryland, and the Animal Disease Laboratory, Plum Island, New York, over which the United States has exclusive or concurrent criminal jurisdiction, in accordance with the limitations and requirements of the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), as amended, the Act of June 1, 1948 (62 Stat. 281), as amended, and the policies, procedures and controls prescribed by the General Services Administration. Any rules or regulations promulgated under this authority shall be approved by the Director of the Office of Plant and Oper-

ations and the General Counsel prior to issuance.

Effective date: November 12, 1973.

EARL L. BUTZ,  
Secretary of Agriculture.

Dated: November 6, 1973.

ROBERT W. LONG,  
Assistant Secretary for  
Conservation, Research,  
and Education.

Dated: October 29, 1973.

[FR Doc.73-23991 Filed 11-9-73;8:45 am]

**Title 8—Aliens and Nationality**

**CHAPTER I—IMMIGRATION AND NATURALIZATION SERVICE, DEPARTMENT OF JUSTICE**

**PART 212—DOCUMENTARY REQUIREMENTS: NONIMMIGRANTS; WAIVERS; ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE**

**Labor Certification Exemption; Students**

Reference is made to the notice of proposed rulemaking which was published in the FEDERAL REGISTER on August 28, 1973 (38 FR 22964) pursuant to section 553 of Title 5 of the United States Code (80 Stat. 383) and in which there was set forth the proposed amendment revoking the exemption for certain students from the labor certification requirement under § 212.8(b) (5) as it read immediately prior to August 2, 1972. The representations which were received concerning the proposed rule of August 28, 1973 have been considered. No change has been made in the proposed rule.

An application for adjustment of status under section 245 of the Immigration and Nationality Act which was submitted to an office of the Immigration and Naturalization Service after August 1, 1972, and was rejected solely for lack of a labor certification may be resubmitted and accepted as properly filed, with a priority date as of the date of original submission, if (1) a nonpreference visa number was available for issuance to the applicant at the time of initial submission, (2) a claim, verified from the official records of the Service, was made at that time to the student exemption from the labor certification requirement under 8 CFR 212.8(b) (5) as it read immediately prior to August 2, 1972, and (3) the application is resubmitted before January 1, 1974.

The proposed rule as set out below is hereby adopted:

In § 212.8(b), item 5, as it read immediately prior to August 2, 1972, is revoked.

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

The basis and purpose of the above prescribed rule is to terminate the student exemption from the labor certification requirement and thereby require a student of employable age, just as any

other intending immigrant of employable age, to establish, in accordance with section 212(a) (14) of the Immigration and Nationality Act, as amended, that he is in possession of a labor certification or that he does not intend to perform skilled or unskilled labor in the United States at any time after entry.

Effective date. This order shall become effective on December 12, 1973.

Dated: November 1, 1973.

JAMES F. GREENE,  
Acting Commissioner of Immigra-  
tion and Naturalization.

[FR Doc.73-24022 Filed 11-9-73;8:45 am]

**Title 9—Animals and Animal Products**

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

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

**PART 113—STANDARD REQUIREMENTS**

**Miscellaneous Amendments**

**Correction**

In FR Doc. 73-22965 appearing at page 29885 in the issue for Tuesday, October 30, 1973, subdivisions (iv) and (vi) under § 113.52(d) (4) (v) should be deleted.

**Title 14—Aeronautics and Space**

**CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION**

[Airspace Docket No. 73-WA-41]

**PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES**

**Alteration to Waypoint Reference Facility**

The purpose of this amendment to Part 75 of the Federal Aviation Regulations is to change the reference facility for Flat Rock, Va., waypoint on J995R from Gordonsville, Va., to Richmond, Va. J958R will be realigned effective November 8, 1973 (38 FR 23397), in part from Society, S.C., via Flat Rock, Va., to Brooke, Va., and will use Richmond, Va., as the reference facility for Flat Rock waypoint. Use of a single reference facility for waypoints used on multiple routes reduces chart clutter and simplifies traffic control and pilot procedures.

Since this amendment is a minor editorial change on which the public would have no particular reason to comment, notice and public procedure thereon are unnecessary, and it may be made effective in less than 30 days after publication.

In consideration of the foregoing, Part 75 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., November 8, 1973, as hereinafter set forth.

Section 75.400 (38 FR 700, 13368, 15364) is amended as follows:

In J995R delete "Flat Rock, Va. 37°-31'42" N. 77°49'43" W. Gordonsville, Va." and substitute "Flat Rock, Va. 37°-

31°42' N. 77°49'43" W. Richmond, Va." therefor.

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

Issued in Washington, D.C., on November 5, 1973.

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

[FR Doc.73-23980 Filed 11-9-73;8:45 am]

**Title 17—Commodity and Securities  
Exchanges**

**CHAPTER II—SECURITIES AND  
EXCHANGE COMMISSION**

[Release No. 33-5424A]

**PART 230—GENERAL RULES AND  
REGULATIONS, SECURITIES ACT OF 1933**

**Brief Descriptive Summary of  
Registration Statement; Correction**

On September 20, 1973, the Securities and Exchange Commission announced in Securities Act Release No. 5424, as published in the FEDERAL REGISTER for October 10, 1973 at 38 FR 27923, the adoption of a new § 230.458 under Title 17, Chapter II of the Code of Federal Regulations. The Commission wishes to correct a typographical error which was inadvertently included in that section as published.

*Commission action.* In paragraph (a) (4) of § 230.458 in Chapter II of Title 17 of the Code of Federal Regulations, the word "offering" is amended to read "filing". As so amended the pertinent portion of that section will read as follows:

**§ 230.458 Brief descriptive summary of  
registration statement.**

(a) \* \* \*

(4) The price of the security, if known at the time of the filing;

\* \* \*

For the Commission, pursuant to delegated authority.

[SEAL] **GEORGE A. FITZSIMMONS,**  
*Secretary.*

NOVEMBER 1, 1973.

[FR Doc.73-23654 Filed 11-9-73;8:45 am]

**Title 19—Customs Duties**

**CHAPTER I—UNITED STATES CUSTOMS  
SERVICE, DEPARTMENT OF THE TREASURY**

[T.D. 73-310]

**AVAILABILITY OF INFORMATION**

Part 103 of the Customs Regulations (19 CFR Part 103) implements the procedures for dissemination of certain Customs information to the public pursuant to the Freedom of Information Act (5 U.S.C. 552). These provisions define the right of the public to obtain that information, the steps enabling the public to obtain it, and the duties of Customs officials which are ancillary to its dissemination. Based on experience gained in the past several years, and

taking into account the principles and guidelines on this subject adopted by the Administrative Conference of the United States, the Committee on Government Operations of the House of Representatives, and the Justice Department, it has been decided to revise Part 103 to clarify procedures, to identify Customs officers responsible for implementing those procedures, to describe the duties of Customs officers in response to public requests for certain Customs records, and to enumerate appeal and other rights available to the public. Section 24.12(b) of the Customs Regulations (19 CFR 24.12(b)), pertaining to Customs fees is deleted from Part 24 of the Customs Regulations (19 CFR Part 24), and incorporated in Part 103. Changes in numbering and cross-references, together with other conforming changes have been made.

Accordingly, revised Part 103, with the conforming changes in Parts 24 and 153 of the Customs Regulations, Chapter I, Title 19 of the Code of Federal Regulations, are hereby adopted as set forth below:

**PART 24—CUSTOMS FINANCIAL AND  
ACCOUNTING PROCEDURE**

**§ 24.12 [Amended]**

Section 24.12 is amended by deleting paragraph (b).

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

**PART 103—AVAILABILITY OF  
INFORMATION**

- 103.0 Scope.
- 103.1 Public reference facilities.
- 103.2 Requests for identifiable records and copies.
- 103.3 Replies to requests.
- 103.4 Processing of requests.
- 103.5 Appeals from initial denials.
- 103.6 Maintenance of files and records.
- 103.7 Availability of Customs documents.
- 103.8 Other Customs records.
- 103.9 Fees for furnishing records.
- 103.10 Classes of Customs documents exempt from disclosure.
- 103.11 Information for the press and associations.
- 103.12 Sanction for improper disclosure by Customs officer or employee.
- 103.13 Statements for publication.
- 103.14 Testimony or the production of documents in court.

*Authority:* Sec. 501, 65 Stat. 290 (5 U.S.C. 301, 552, 31 U.S.C. 483a). Additional authority and statutes interpreted or applied are cited in the text or following the section affected.

**§ 103.0 Scope.**

This part contains the regulations of the United States Customs Service implementing the Freedom of Information Act (5 U.S.C. 552), which set forth the procedures by which records may be obtained from Headquarters, United States Customs Service, Washington, D.C., and from offices of regional commissioners of Customs and district directors of Customs. The fees charged for furnishing such records are also prescribed in this part. The regulations govern inspection, copying, or otherwise obtaining copies of Customs opinions, orders made in the adjudication of cases, rulings, and rec-

ords. This part also contains the general rules covering the release of certain information to the press and the giving of testimony or the production of Customs documents in Court. To the extent permitted by other laws, the United States Customs Service will make available records which it is authorized to withhold under 5 U.S.C. 552(b) and this part whenever it determines that such disclosure is in the public interest. Persons seeking information on records may find it useful to consult with the Public Information Division, United States Customs Service, Washington, D.C. 20229, or with public information officers in Customs field offices before invoking the formal procedures set out in this part. The Attorney General's Memorandum on the Public Information Section of the Administrative Procedure Act, which was published in June 1967, is available from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

**§ 103.1 Public reference facilities.**

Each office listed below will maintain a public reading room or public reading area where the material required to be made available under 5 U.S.C. 552(a) (2) and this part may be inspected and copied:

**UNITED STATES CUSTOMS SERVICE  
(HEADQUARTERS)**

2100 K Street NW., Washington, D.C. 20229.

**REGION I—BOSTON**

24th Floor, John F. Kennedy Bldg., Government Center, Boston, Mass. 02203.

**REGION II—NEW YORK**

6 World Trade Center, New York, N.Y. 10048.

**REGION III—BALTIMORE**

U.S. Customhouse, 40 S. Gay Street, Baltimore, Md. 21202.

**REGION IV—MIAMI**

Plaza Executive Centre, Suite 300, 7370 NW. 36th Street, Miami, Fla. 33166.

**REGION V—NEW ORLEANS**

Room 13036, Federal Building, 701 Loyola Avenue, New Orleans, La. 70113.

**REGION VI—HOUSTON**

500 Dallas Street, Suite 1240, Houston, Tex. 77002.

**REGION VII—LOS ANGELES**

New Federal Building, 300 N. Los Angeles Street, Los Angeles, Calif. 90012.

**REGION VIII—SAN FRANCISCO**

New Federal Building, 450 Golden Gate Avenue, Box 36117, San Francisco, Calif. 94102.

**REGION IX—CHICAGO**

Room 1501, 55 East Monroe Street, Chicago, Ill. 60603.

The Reading Rooms are open to the public during regular business hours unless other hours are posted, Monday through Friday of each week, exclusive of national holidays. A fee for copies of requested material will be charged in accordance with § 103.9.

**§ 103.2 Requests for identifiable records and copies.**

(a) *To whom requests for records should be addressed.* Requests to inspect or copy records of the United States Customs Service including those not customarily made available and which are not available in a public reading room (see § 103.1), shall be addressed to the local regional commissioner or district director of Customs, if the records are located in his office, or to Headquarters, United States Customs Service, Washington, D.C. 20229, to the attention of the Director, Classification and Value Division, Office of Regulations and Rulings.

(b) *Request should be in writing and for identifiable records.* A request to inspect or copy records should be submitted in writing and should sufficiently identify the records requested to enable Customs personnel to locate them with a reasonable amount of effort. Where possible, specific information regarding dates, titles, file designations, and other information which may help identify the records should be supplied by the requester. If the request relates to a matter in pending litigation, the court and its location should be identified.

(c) *Standard forms not necessary.* Standard forms are not necessary for making requests. Any written request is acceptable if it identifies a record sufficiently to enable it to be located with a reasonable amount of effort.

(d) *Requests for records falling within a specific category.*—(1) *Must meet identifiable records requirement.* A request for all records falling within a reasonably specific category shall be regarded as conforming to the statutory requirement that records be identifiable if it can reasonably be determined which particular records come within the request, and the records can be searched for and collected without unduly burdening or interfering with Customs operations because of the staff time consumed or the resultant disruption of files.

(2) *Assistance in reformulating non-conforming requests.* If it is determined that a categorical request would unduly burden or interfere with Customs operations under subparagraph (1) of this paragraph, the response denying the request on those grounds shall specify the reasons why and the extent to which compliance would burden or interfere with Customs operations. An opportunity shall be extended to the requester to confer with knowledgeable Customs personnel in an attempt to reduce the request to manageable proportions by reformulation and by agreeing on an orderly procedure for the production of the records.

(e) *Requests for records of other agencies.* Where it is determined that the question of the availability of requested records is primarily the responsibility of another agency, the request will be referred to the other agency for processing in accordance with its regulations, and the person submitting the request will be so notified.

(f) *Authority of Customs field officers.* A regional commissioner or district di-

rector of Customs to whom a request is made for permission to inspect or copy a record may grant the request if the record is of a type enumerated in § 103.7 or § 103.8, or if precedents from headquarters authorize the granting of the request. A regional commissioner or district director may deny a request to inspect or copy a Customs record if the case is clearly covered by a previous decision made by the Commissioner of Customs or the Assistant Commissioner, Office of Regulations and Rulings, but any case not so covered shall be sent to headquarters for a decision. A deletion is, in effect, a denial of information, and shall be made only if consistent with paragraph (b) of § 103.4, or if the case is clearly covered by a previous decision made by the Commissioner of Customs.

(g) *Requests from foreign governments.* Each request from a foreign government will be forwarded to headquarters for a decision.

**§ 103.3 Replies to requests.**

(a) *Replies or acknowledgments.* Requests for sufficiently identified records shall be complied with or denied, or their receipt acknowledged, as soon as practicable after their receipt by a regional commissioner or district director of Customs. Requests for sufficiently identified records addressed to Headquarters, United States Customs Service, shall be complied with or acknowledged by the Director, Classification and Value Division, or denied by the Assistant Commissioner, Office of Regulations and Rulings, as soon as practicable after their receipt.

(b) *Acknowledgment appropriate.* Acknowledgment of, rather than action upon, the request is appropriate only in one or more of the following circumstances:

(1) The requested records are stored in whole or part at other locations than the office in receipt of the request.

(2) The request requires the collection of a substantial number of specified records.

(3) The request is couched in categorical terms and requires an extensive search for the records responsive to it.

(4) The requested records have not been located in the course of a routine search and additional efforts are being made to locate them.

(5) The requested records require examination and evaluation to determine if they are exempt from disclosure.

(6) The requested records or some of them involve the responsibility of another agency or another bureau or office of the Department of the Treasury, whose assistance or views are being sought in processing the request.

(c) *Notation of reason for delay on acknowledgment.* When compliance with a request for sufficiently identified records will be delayed for one or more of the above reasons, the acknowledgment shall include a notation of the reason or reasons for the delay.

(d) *Forwarding to other agency.* If action on the request will be delayed because of paragraph (b) (6) of this sec-

tion, a copy of the request will be forwarded immediately to the other agency or office concerned.

(e) *Insufficient information.* When the request does not identify a record sufficiently to enable it to be located with a reasonable amount of effort, the requester shall be notified as soon as practicable after receipt of the request that additional information is necessary to identify the record.

**§ 103.4 Processing of requests.**

(a) *Procedure to be followed.* Upon receipt of a request to inspect, copy or purchase a copy of any Customs document, the applicant will be advised in accordance with § 103.3 whether the information, or any part thereof, may be released to the applicant, with or without the deletion of identifying details. If it is concluded that the document or any part thereof may be released to the applicant, he will be advised of the cost of securing the information or a copy of the document and the manner of making payment (see § 103.9). Upon receipt of this amount, or of a guarantee of payment, the information or copy will be made available.

(b) *Deletion of identifying details from documents.*—(1) *General.* Where an opinion, order, ruling, or other Customs document contains information of the type described in subparagraph (2) of this paragraph, but the actual opinion, order, ruling, or substance of the document can be separated from the exempted matter, partial copies containing only such parts as can properly be disclosed will be furnished insofar as practicable.

(2) *Reasons for deletion.* Ordinarily, information will be deleted which:

(i) Relates to details of business transactions of private parties the disclosure of which may be detrimental to the interests of the parties involved.

*Example.* The name of the importer or exporter, or other member of the public directly concerned, generally will be deleted from any document if its inclusion in the document would disclose trade secrets, the operations of his business or other commercial or financial information.

(ii) Was submitted in reliance upon a long-established assurance that such information will be kept in confidence and used only for official purposes, or

(iii) Is prohibited from disclosure by law.

(3) *Decision to delete.* Any document from which identifying details have been deleted must be accompanied by a statement in writing expressing the reason for the deletion.

(c) *Form of denial.* A reply denying a written request for a record shall be in writing signed by the Assistant Commissioner, Office of Regulations and Rulings, at headquarters, Washington, D.C., or by the regional commissioner or district director of Customs pursuant to § 103.2(f), and shall include:

(1) *Exemption category.* A reference to the specific exemption or exemptions under the Freedom of Information Act (5 U.S.C. 552), and § 103.10 authorizing

the withholding of the record or a part thereof and a brief explanation of how the exemption applies to the record withheld; and

(2) *Administrative appeal and judicial review.* An outline of the appeal procedure within the United States Customs Service and a statement that, in the event of denial upon appeal, the Freedom of Information Act (5 U.S.C. 552) makes judicial review available in the United States district court in the district in which the requester resides, or has a principal place of business, or in which the agency records are situated.

(d) *Record cannot be located or does not exist.* If a requested record cannot be located, or is known to have been destroyed or otherwise disposed of, the requester shall be so notified.

(e) *Copy of response to Classification and Value Division.* A copy of each grant or denial letter and each notification under paragraph (d) of this section which is issued in response to a written request for a record shall be furnished to the Director, Classification and Value Division, at headquarters, Washington, D.C.

**§ 103.5 Appeals from initial denials.**

(a) *Time for appeal.* When the Assistant Commissioner, Office of Regulations and Rulings, at headquarters, Washington, D.C., or the appropriate regional commissioner or district director of Customs, has denied a request for records in whole or in part, the requester may, within 30 days of its receipt, appeal the denial to the Commissioner of Customs, Washington, D.C. 20229. The appeal shall be in writing.

(b) *Action by Commissioner.* The Commissioner of Customs will act upon the appeal as expeditiously as possible upon its receipt. However, where novel and difficult questions are involved, or where the advice of another agency is needed, the Commissioner of Customs may delay final action on the appeal pending a thorough analysis of the questions involved or, where requested, the receipt of advice from another agency. When a delay in acting upon the appeal is contemplated, the Commissioner of Customs will notify the requester of the delay and of the reason or reasons therefor.

(c) *Form of action on appeal.* The decision of the Commissioner of Customs on an appeal shall be in writing. A denial in whole or in part of a request on appeal shall set forth the exemption relied on, a brief explanation consistent with the purpose of the exemption of how the exemption applies to the records withheld, and the reasons for asserting it.

**§ 103.6 Maintenance of files and records.**

(a) *Responsibility for maintaining files.* The Director, Classification and Value Division, at headquarters, Washington, D.C., and each regional commissioner and district director will maintain a file which will include each request for a record, as defined in paragraph (c) of this section, and the action taken thereon.

(b) *Appeals.* The Director, Classification and Value Division, at headquarters,

Washington, D.C., will maintain a file of copies of both grants and denials on appeal. This file will be open to the public and indexed, to the extent possible, according to the exemptions asserted and according to the type or subject of the records requested.

(c) *"Request for record" defined.* For purposes of uniformity in recordkeeping, a "Request for a record" is defined as a written request for an identifiable record of the United States Customs Service which has not been published in the FEDERAL REGISTER, the Customs Bulletin, by press release or otherwise, or made available in a public reading room, or which has not previously been customarily furnished to requesters whether or not the request makes reference to the Freedom of Information Act (5 U.S.C. 552).

**§ 103.7 Availability of Customs documents.**

Except as exempted by § 103.10, all administrative staff manuals and instructions to staff that affect any member of the public, and indices thereto, are available for public inspection and copying in the United States Customs Service public reference facilities (see § 103.1), including the following:

- Catalogue of Customs Forms.
- Customs Manual (abridged edition).
- Customs Statistical Manual.
- Fundamentals of Duty Assessment (except for Part 9, which is exempt from disclosure pursuant to § 103.10(b)).
- KWIC Index of United States Custom Service Circular, Letters and supplementary monthly checklists.
- Marking Digest.
- Synopsis of Decisions on the Duty Assessment Process.

**§ 103.8 Other Customs records.**

(a) *General.* In general, all other documents issued by the Secretary of the Treasury, the Commissioner of Customs, or other officials of the Department of the Treasury of the United States Customs Service in matters administered by the United States Customs Service, if sufficiently identified, and unless exempted from disclosure under § 103.10, are available for inspection. Copies thereof may be obtained by request in person, or by correspondence. However, documents contained in files on pending matters may be withheld from inspection or copying in the interest of effective operation.

(b) *Classes of records available for inspection and copying.* The following classes of records of the United States Customs Service may be inspected and copied, upon request. Individual documents in certain records may be exempt from disclosure under § 103.10, or may be made available with identifying details deleted. The list does not purport to be exhaustive:

- (1) Records relating to:
  - (i) Comments submitted by private parties in response to a published notice of proposed rule making and of proposed changes in tariff classification, unless the submitter states clearly that the information is privileged or confidential, giving reasons therefor, and the Commissioner of Customs agrees that

the information contained therein is entitled to exemption from disclosure under § 103.10.

(ii) Advisory committees on Customs matters.

(iii) Rosters of licensed customhouse brokers.

(iv) Names of individual licensed customhouse brokers.

(v) Names and titles of all Customs personnel.

(vi) Performance awards.

(vii) Suggestion awards.

(viii) Proceedings under the countervailing duty provision of the Tariff Act of 1930 (19 U.S.C. 1303), after publication of notice or order to countervail.

(ix) The administration of and decisions concerning import quotas.

(x) Proceedings under the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.), as provided for in § 153.23 of this chapter.

(xi) Customs laboratory methods.

(2) Records relating to decisions concerning

(i) Matters arising under the Tariff Schedules of the United States (19 U.S.C. 1202).

(ii) Whether or not specific items, articles, or merchandise qualify for entry under the Trade Fair Act of 1959 (19 U.S.C. 1751 et seq.), and decisions concerning disposition of articles previously entered under the Trade Fair Act; Customs participation and assistance at Trade Fairs.

(iii) The dutiable status of gifts pursuant to section 321, Tariff Act of 1930, as amended (19 U.S.C. 1321).

(iv) The eligibility of vehicles used in international traffic pursuant to section 322(a), Tariff Act of 1930 (19 U.S.C. 1322(a)) and other instruments of international traffic generally for duty-free entry.

(v) Prohibition from entry of merchandise produced by convict, forced, or indentured labor.

(vi) The entry or valuation of merchandise.

(vii) Liens in cases arising under section 564, Tariff Act of 1930, as amended (19 U.S.C. 1564).

(viii) Bills of lading, carriers' certificates, or rights in respect of merchandise, cases arising under section 483 or 484 (c), (h), or (i), Tariff Act of 1930, as amended (19 U.S.C. 1483, 1484).

(ix) Trademarks, trade names, copyrights, patents, and related matters.

(x) Country of origin marking requirements of section 304, Tariff Act of 1930, as amended (19 U.S.C. 1304).

(xi) Psittacine or other birds, bird feathers, bird skins, monkeys, dogs, cats, and other animals and pets prohibited entry or subject to restrictions and controls on entry.

(xii) Entry of articles admitted temporarily free of duty under bond as provided in schedule 8, part 5C, Tariff Schedules of the United States (19 U.S.C. 1202) and entry of articles admitted temporarily free of duty under A.T.A. and E.C.S. Carnets as provided in § 114.22 (a) and (b) of this chapter.

(xiii) Tonnage taxes (regular, special, and discriminatory) and light money.

(xiv) The entry, clearance, and use of vessels and permits for them to proceed coastwise.

(xv) The regulation of vessels in the foreign, coastal, fishing, and other trades of the United States.

(xvi) The limitation of the use of foreign vessels in waters under the jurisdiction of the United States.

(xvii) Salvage operations by vessels within the territorial waters of the United States.

(xviii) The assessment and collection of duties on equipment or repairs of vessels or aircraft under section 466, Tariff Act of 1930, as amended (19 U.S.C. 1466) and decisions regarding the remission or refund of such duties.

(xix) Requirements for entry, clearance, and use of aircraft.

(xx) The arrival or departure and the use of motor vehicles, railway trains, or other vehicles.

(xxi) Adequacy of premises at Customs bonded warehouses and control of the merchandise stored therein.

(xxii) Use of protective Customs seals and labels.

#### § 103.9 Fees for furnishing records.

(a) *Availability to the public.* The schedule of fees prescribed by this section shall be made available to the public at all offices of the United States Customs Service. When payment of such fee is received by any Customs employee, a receipt therefor shall be issued.

(b) *Services charged for, and amount charged.* Except for services in connection with fees prescribed by § 4.98(a) of this chapter, the following charges shall be made:

(1) Whenever files are searched to obtain records for private parties, whether for copying by them or for examination, a charge shall be made, based upon the actual time and salary of the employee, computed in multiples of 1 minute based on an hourly rate computed in accordance with § 19.5(b) of this chapter, but no charge shall be made for such service where the amount, so computed, is less than 50 cents. Where the amount, so computed, is 50 cents or more, but less than \$1, a minimum charge of \$1 shall be made. There shall be included in computing the cost of such labor any amount actually payable to the employee for performing such service outside his basic 40-hour workweek. However, no charge shall be made under this subparagraph for any service rendered in making any entry and related documents available for examination by authorized person prior to liquidation of the entry or during any period thereafter in which a timely protest may be filed against the liquidation or reliquidation of the entry.

(2) If any copy of a Customs record is made by a Customs employee for a party in interest, such party shall reimburse the Government for the actual cost of material, labor, including that used in searching for the record, and any required postage. The charge for labor shall be computed as prescribed in subpara-

graph (1) of this paragraph, but a minimum total charge of \$2 shall be imposed for each order. For copying by mechanical methods the charge shall be based on the prevailing rates established by private concerns in the locality: *Provided*, That such charge shall not be less than an amount computed according to the following minimum scale of charges with a minimum total charge of \$2 for each order:

Methods and sizes	First copy	Additional copy of same size
Photocopy:		
Up to 9 by 12 inches	\$0.25	\$0.15
12 by 18 (two 9 by 12 inch units)	.40	.30
18 by 24 inches (four 9 by 12 inch units)	.75	.65
Photostatic (wet process) photocopy) all sizes	1.25	1.00
Photographic film negatives and prints, approximately 8 by 10 1/2 inches (including negatives)	3.75	1.00

(3) In any case where a search of the files is necessary to verify the correctness of a document which is to be certified by a Customs employee, and for which a fee of 20 cents is charged, a separate charge for the time required for searching shall be made. This charge shall be computed as prescribed in subparagraph (1) of this paragraph, but shall not be imposed if the amount is less than 50 cents. If the amount, so computed, is 50 cents or more, but less than \$1, a minimum charge of \$1 shall be made.

(c) *Governmental agencies or officers.* No charge will be made for providing information to other Federal, State, or local governmental agencies or officers thereof submitting requests in their official capacities.

#### § 103.10 Classes of Customs documents exempt from disclosure.

United States Customs Service opinions, orders, rulings, statements of policy, interpretations, and records generally may be inspected, copied, or otherwise obtained unless they relate to the following:

(a) *Matters kept secret pursuant to Executive Order.* Matters specifically required by Executive Order to be kept secret in the interest of national defense or foreign policy. This includes:

(1) Special category export shipments the disclosure of which might endanger the security of the United States. Such restriction upon disclosure is in effect during any period covered by a finding by the President under section 1 of the Act of August 9, 1950, as amended (50 U.S.C. 191). Such a finding was made by Executive Order No. 10173, October 18, 1950 (3 CFR 1949-1953 Comp. p. 356; 15 FR 7005).

(2) Material classified as "Top Secret," "Secret," or "Confidential" under Executive Order No. 11652 of March 8, 1972, 37 FR 5209.

(b) *Certain internal rules and procedures.* Information relating solely to the internal personnel rules and practices

of any agency. This includes guidelines, operational rules, and procedural manuals for the guidance of Customs officers and employees which relate to such functions as investigation, inspection, auditing, and other functions of a like nature. Examples of this type of information are:

Audit Manual.  
Audit Standards and Techniques Manual.  
Customs Accounting Manual.  
Emergency Planning Manual.  
Enforcement and Technical Investigation manuals.  
Inspectors' Manual.  
Sampling Guide.

(c) *Matters exempted from disclosure by statute.* Information specifically exempted from disclosure by statute. This includes information pertaining to trade secrets, business operations, and commercial or financial information of importers, exporters, and other persons who transact Customs business (18 U.S.C. 1905).

(d) *Privileged or confidential information.* Trade secrets and commercial or financial information obtained from any person and privileged or confidential. The information contained in invoices, entries, vessel manifests, export declarations, official reports of investigating officers, records pertaining to the licensing of and the revocation or suspension of a license of a customhouse broker, and other papers or documents filed with Customs officers for any official purpose which contain trade secrets, or commercial or financial information, is exempt from disclosure, except for the purpose for which such documents are required to be filed. However, information contained in vessel manifests and summary statistical reports of importations and exportations are available for inspection and copying by certain representatives of the press to the extent permitted by § 103.11. Further, importers and exporters or their duly authorized brokers, attorneys, or agents, may be permitted to examine manifests with respect to any consignment of goods in which they have a proper and legal interest as principal or agent, but shall not be permitted to make any general examination of manifests or make any copies or notations from them except with reference to the particular importation or exportation in which they have a proper and legal interest. Information obtained in connection with investigations under the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.), is available for disclosure under the provisions of § 153.23 of this chapter.

(e) *Certain inter-agency or intra-agency correspondence.* Inter-agency or intra-agency memoranda or letters which would not be available by law to a private party in litigation with the agency. This information includes, but is not limited to, memoranda expressing the views of subordinates, comments endorsing or dissenting from conclusions reached in official rulings, work papers, and other informal expressions of view, and certain documents addressed to

other Government agencies (unless such documents are released for disclosure by the recipient).

(f) *Material involving personal privacy.* Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. These include, but are not limited to, leave records of individual employees, personnel investigative records, personnel security records, personnel financial statements submitted in connection with conflicts of interest, and other records which relate to the private, personal, financial, or business affairs of an individual employee or members of his family, unless the person concerned or his duly authorized agent authorizes disclosure, or unless otherwise made available in this part.

(g) *Certain investigatory files.* Investigatory files compiled for law enforcement purposes except to the extent available by law to a private party. Some examples of records included in this category are investigative reports relating to: The value and classification for tariff purposes of imported merchandise; suspected violations of section 592 of the Tariff Act of 1930, as amended (19 U.S.C. 1592); allegations of the importation of merchandise into the United States in contravention of the countervailing duty provision of section 303 of the Tariff Act of 1930 (19 U.S.C. 1303); and the importation of certain books, pictures, or other articles in contravention of the so-called "obscenity statute" (19 U.S.C. 1305). This listing is intended to be illustrative only, and is not intended to be, and is not, an exhaustive listing.

#### § 103.11 Information for the press and associations.

(a) *Disclosure to members of the press.* Although the following classes of information are exempt from the requirement of disclosure under the provisions of § 103.10, accredited representatives of the press, including newspapers, commercial magazines, trade journals, and similar publications may be permitted to examine vessel manifests and summary statistical reports of imports and exports and to copy therefrom for publication information and data not of a confidential nature, subject to the following rules:

(1) Of the information and data appearing on outward manifests, only the general character, destination, and quantity (or value) of the commodity, name of vessel, and country of destination may be copied and published. Where the manifests show both quantity and value, either may be copied and published, but not both in any instance.

(2) Commercial or financial information, such as the names of the shippers and consignees, marks and numbers, and both quantities and values of commodities shall not be copied from outward manifests or any other papers.

(3) Of the information shown on inward manifests, only the name of the consignee, the general character of the commodity, the quantity (or value), name of vessel, and the country of dis-

patch shall be copied and published. When an inward manifest shows both quantity and value of the commodity, either may be copied and published, but not both in any instance.

(b) *Review of data.* All copies and notations from inward or outward manifests shall be submitted for examination by a Customs officer designated for that purpose.

(c) *Disclosure to members of associations.* Accredited representatives of regularly established associations, whether incorporated or not, shall be permitted to obtain information from, but not examine, vessel manifests for the purpose of securing data relative to merchandise of the kind or class in the importation of which the association is interested, subject to the foregoing rules, but this authority does not extend to attorneys, agents, or customhouse brokers acting on behalf of individual importers.

(d) *Suspension of disclosure.* (1) Except as provided in § 103.14, upon written application of a consignee or importer, access to the name of such consignee or importer on a manifest will thereafter be refused.

(2) If any individual shall abuse the privilege granted him of examining inward and outward manifests or shall make any improper use of any information or data obtained from such manifests or other papers filed in the customhouse, both he and the party or publication which he represents shall thereafter be denied access to such papers.

#### § 103.12 Sanction for improper disclosure by Customs officer or employee.

The improper disclosure of the confidential information contained in Customs documents, or the disclosure to one importer or exporter of information relative to the business of another importer or exporter acquired by any Customs officer or employee by reason of his official employment, shall constitute grounds for dismissal from the United States Customs Service, suspension, or other disciplinary action, and if done for a valuable consideration will subject such person to criminal prosecution.

#### § 103.13 Statements for publication.

District directors of Customs and other Customs officers shall refrain from disclosing facts concerning seizures, investigations, and other pending cases until Customs action is completed. The district director of Customs or other authorized Customs officer may make public information concerning any case involving an offense against the Customs and navigation laws after completion of the investigation and the case has been closed by final Customs action, such as settlement of a civil liability. Field officers shall exercise proper restraint and judgment in disclosing local transactions.

#### § 103.14 Testimony or the production of documents in court.

(a) *General.* In answer to a legal process or demand from a court issued in behalf of the United States or an officer thereof, Customs officers or employees

shall produce in court, in Customs custody and may testify with respect to, any official Customs papers or documents demanded. When any such process or demand is issued in behalf of a party other than the United States, it shall be complied with only to the extent that the party in whose behalf the papers or documents are demanded is permitted under these regulations to inspect or copy such papers or documents. Exceptions to this rule shall be made only on the written order of the Commissioner of Customs. When requested, copies may be authenticated pursuant to the provisions of section 1733, title 28, United States Code.

(b) *Request of Customs Court.* Except as stated in § 103.10, nothing in this part shall preclude Customs officers or employees from producing in the United States Customs Court, in Customs custody, any Customs papers or documents, or from testifying or otherwise rendering all proper assistance to the court in proceedings before it when request therefor is made by the court; nor from furnishing to counsel for the United States information in, and permitting him to inspect, Customs papers and documents requested by him, nor from testifying on behalf of the United States or otherwise assisting him in the performance of his official duties.

(c) *Subpoena or subpoena duces tecum.* Upon being served with a subpoena or subpoena duces tecum from a court or officer thereof calling for testimony or the production of papers or documents in cases not covered by paragraph (a) or (b) of this section, or in cases where the testimony or documents desired would disclose matters the disclosure of which would be contrary to these regulations, the matter shall be referred to headquarters for instructions, with a report which shall specifically describe the testimony or documents desired; shall set forth the view of the submitting officer whether the giving of the testimony or the furnishing of the documents would disclose information not permitted to be disclosed under these regulations; and shall state in what particulars, if any, the disclosure of the information and work incidental thereto would interfere with the orderly conduct of Customs business. If instructions are not received prior to the date set for appearance or production of documents, or if headquarters declines to permit their production or the disclosure of the information contained therein or otherwise within the knowledge of the Customs officer or employee whose testimony is requested, the Customs officer or employee shall appear in court or before the officer concerned in answer to the subpoena and respectfully decline to produce the documents called for or to testify, except to the extent specifically authorized elsewhere in this section, citing this regulation as authority for his refusal. If the matter has not already been referred to headquarters for instructions, the Customs officer or employee shall advise the court or officer that it will be so referred.

## PART 153—ANTIDUMPING

## § 153.23 [Amended]

In § 153.23, paragraph (a) is amended by substituting "103.9" for "24.12" in the last sentence.

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

Because this revision and conforming changes merely amplify the public's right to information, notice and public procedure thereon is found to be unnecessary and good cause exists for dispensing with a delayed effective date under the provisions of 5 U.S.C. 553.

*Effective date.* These amendments shall be effective on November 12, 1973.

[SEAL]

VERNON D. ACREE,  
Commissioner of Customs.

Approved: November 1, 1973.

EDWARD L. MORGAN,  
Assistant Secretary of the  
Treasury.

[FR Doc.73-24016 Filed 11-9-73;8:45 am]

## Title 21—Food and Drugs

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

## SUBCHAPTER C—DRUGS

## PART 135d—NEW ANIMAL DRUGS FOR INTRAMAMMARY USE

## PART 149c—HETACILLIN

## Potassium Hetacillin for Intramammary Infusion Veterinary

The Commissioner of Food and Drugs has evaluated a new animal drug application (55-054V) filed by Bristol Laboratories, Division of Bristol-Myers Co., Post Office Box 657, Syracuse, NY 13201, proposing the safe and effective use of potassium hetacillin for intramammary infusion veterinary for the treatment of bovine mastitis in lactating cows. The application is approved.

The drug is subject to batch certification under provisions of section 512(n) of the Federal Food, Drug, and Cosmetic Act and, accordingly, this order provides for the appropriate amendments to the antibiotic drug certification regulations. Hetacillin is hydrolyzed to ampicillin; therefore § 135g.83, which provides for ampicillin in milk, provides for an appropriate tolerance for the use of this drug.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512 (i) and (n), 82 Stat. 347, 350-351; 21 U.S.C. 360b (i) and (n)) and under authority delegated to the Commissioner (21 CFR 2.120), Parts 135d and 149c are amended as follows:

1. Part 135d is amended by adding the following new section:

## § 135d.2 Potassium hetacillin for intramammary infusion veterinary.

(a) *Specifications.* The drug is in an oil suspension and conforms to the certification requirements of § 149c.10 of this chapter.

(b) *Sponsor.* See code No. 044 in § 135.-501(c) of this chapter.

(c) *Conditions of use.* (1) The drug is used for the treatment of acute, chronic, or subclinical bovine mastitis in lactating cows caused by susceptible strains of *Streptococcus agalactiae*, *Streptococcus dysgalactiae*, *Staphylococcus aureus*, and *Escherichia coli*.

(2) Infuse 10 milliliters (potassium hetacillin equivalent to 62.5 milligrams ampicillin activity) into each infected quarter. Repeat at 24-hour intervals until a maximum of three treatments has been given. If definite improvement is not noted within 48 hours after treatment, the causal organism should be further investigated.

(3) Milk that has been taken from animals during treatment and for 72 hours (6 milkings) after the latest treatment must not be used for food. Treated animals must not be slaughtered for food until 10 days after the latest treatment.

(4) Federal law restricts this drug to use by or on the order of a licensed veterinarian.

2. Part 149c is amended by adding the following new section:

## § 149c.10 Potassium hetacillin for intramammary infusion veterinary.

(a) *Requirements for certification—*

(1) *Standards of identity, strength, quality and purity.* Potassium hetacillin for intramammary infusion contains potassium hetacillin in a menstruum of refined peanut oil with a suitable and harmless dispersing agent. It contains in each 10 milliliter syringe an amount of potassium hetacillin equivalent to 62.5 milligrams of ampicillin. Its potency is satisfactory if it contains not less than 90 percent and not more than 120 percent of the number of milligrams of ampicillin that it is represented to contain. It gives a positive identity test for hetacillin. Its moisture content is not more than 1.0 percent. Its pH is not less than 7.0 and not more than 8.0. The potassium hetacillin used conforms to the requirements of § 149c.1b.

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

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

(i) Results of tests and assays on:

(a) The potassium hetacillin used in making the batch for potency, safety, moisture, pH, potassium hetacillin content, identity, and crystallinity.

(b) The batch for potency, moisture, pH, and identity.

(ii) Samples required:

(a) The potassium hetacillin used in making the batch, 10 packages, each containing approximately 300 milligrams.

(b) The batch: A minimum of 8 immediate containers.

(b) *Tests and method of assay.—*(1) *Potency.* Proceed as directed for ampicillin in § 141.110 of this chapter using the ampicillin working standard as the

standard of comparison and preparing the sample for assays as follows: Expel the syringe contents into a high speed glass blending jar containing 1 milliliter of polysorbate 80 and sufficient 0.1M potassium phosphate buffer, pH 8.0 (solution 3) to give a stock solution of convenient concentration. Blend for 3 to 5 minutes. Further dilute an aliquot of the stock solution with solution 3 to the reference concentration of 0.1 microgram of ampicillin per milliliter (estimated).

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

(3) *pH.* Proceed as directed in § 141.-503 of this chapter, preparing the sample for assay as follows: Transfer the contents of the well-shaken 10-milliliter syringe into a large centrifuge tube, add 20.0 milliliters of benzene, shake vigorously for 3 minutes and centrifuge at medium speed for 5 minutes. Carefully decant the benzene without disturbing the precipitate. Reconstitute the residue with 10.0 milliliters of carbon dioxide-free water.

(4) *Hetacillin identity.* Proceed as directed in § 141.554 of this chapter preparing the sample solution as follows: Place 1.0 milliliter of the well-shaken sample into a 50 milliliter volumetric flask. Brink to volume with a 4:1 solution of acetone and 0.1N hydrochloric acid.

*Effective date.* This order shall be effective on November 9, 1973.

(Sec. 512(i) and (n), 82 Stat. 347, 350-351; (21 U.S.C. 360b(i) and (n)).)

Dated: November 6, 1973.

C. D. VAN HOUWELING,

Director,

Bureau of Veterinary Medicine.

[FR Doc.73-24003 Filed 11-9-73;8:45 am]

## Title 22—Foreign Relations

## CHAPTER I—DEPARTMENT OF STATE

## SUBCHAPTER E—VISAS

[Dept. Reg. 108.694]

## PART 42—VISAS: DOCUMENTATION OF IMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED

## Aliens Entering To Perform Skilled or Unskilled Labor

On August 28, 1973, there was published in the FEDERAL REGISTER (38 FR 22963) a notice of proposed rulemaking with a proposed amendment of § 42.91(a) (14) (ii). The proposed amendment would revoke § 42.91(a) (14) (ii) (f) and would, thereby, preclude an alien seeking to immigrate to the United States from satisfying the requirements of section 212 (a) (14) of the Immigration and Nationality Act, as amended, by establishing that he is not within the purview of that section because he will be enrolled in a full course of study at an institution of learning for at least two years after admission into the United States and will not be required to resort to employment to assure his financial support during such period.

Written comments with respect to the proposed amendment were submitted. After due consideration of all comments submitted, it has been determined that the proposed amendment should be adopted. The proposed amendment is hereby adopted without change and is set forth below.

Section 42.91(a)(14)(ii)(e) is amend-

ed to read "and (e) a member of the Armed Forces of the United States."

Section 42.91(a)(14)(ii)(f) of Title 22 Code of Federal Regulations, Part 42, as it read prior to July 22, 1972, is revoked.

*Effective date.* This amendment will become effective on December 12, 1973.

For the Secretary of State.

[SEAL] BARBARA M. WATSON,  
Administrator, Bureau of Security and Consular Affairs,  
Department of State.

NOVEMBER 7, 1973.

[FR Doc.73-24021 Filed 11-9-73;8:45 am]

Title 24—Housing and Urban Development  
CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-246]

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE  
Status of Participating Communities

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

§ 1914.4 Status of participating communities.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of authorization of sale of flood insurance for area
Maryland	Cecil	Elkton, Town of				Nov. 7, 1973, Emergency.
New York	Schenectady	Niakayuna, Town of				Do.
Ohio	Hamilton	Blue Ash, City of				Do.
Tennessee	Hamilton	Red Bank, City of				Do.
Virginia	Botetourt	Unincorporated Areas				Do.
Do.	Mecklenburg	do				Do.
Do.	Independent City	Petersburg, City of				Do.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (secs. 408-410, Pub. L. 91-182, Dec. 24, 1969), 42 U.S.C. 4001-4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969.)

Issued: October 31, 1973.

GEORGE K. BERNSTEIN,  
Federal Insurance Administrator.

[FR Doc.73-23944 Filed 11-9-73;8:46 am]

Title 40—Protection of Environment  
CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

PART 104—STANDARDS-SETTING CONFERENCES, HEARINGS, AND NOTIFICATION OF ALLEGED VIOLATORS OF WATER QUALITY STANDARDS  
PART 106—PUBLIC HEARINGS UNDER THE FEDERAL WATER POLLUTION CONTROL ACT  
PART 107—FILING OF REPORTS WITH THE ADMINISTRATOR BY PERSONS WHOSE ALLEGED ACTIVITIES RESULT IN DISCHARGES CAUSING OR CONTRIBUTING TO WATER POLLUTION

Notice of Revocation

Regulations codified in 40 CFR Parts 104, 106, and 107 establish procedures required to implement provisions of the Federal Water Pollution Control Act (FWPCA) as in effect prior to October 18, 1972, for the convening of conferences and public hearings and the filing of reports required under section 10 of such prior Act.

Sections 303, 308, and 309 of the Federal Water Pollution Control Act, as amended by the Federal Water Pollution Control Act Amendments of 1972, contain new procedures for the establishment and enforcement of water quality standards and for the maintenance of records by owners or operators of point sources. Moreover, enforcement conferences are not included within the standard-setting and enforcement authorities of the amended Act. In view of these new provisions, the provisions of 40 CFR Parts 104, 106 and 107 are obsolete. However, section 4(b) of the 1972 Amendments, which provides that all regulations under the former law continue in full force until modified or rescinded, requires that these regulations be formally rescinded.

Part 104, promulgated under section 10(c) of the old law, established procedures governing the conduct of conferences and public hearings to be held in the event that a State did not establish water quality standards; it also provided procedures for the notification to be

given alleged violators of such standards. Under the new Act, no conferences or public hearings are required. A notice of interstate and intrastate standards subject to review under section 303(a) of the Act (37 FR 28775, December 29, 1972) describes the Act's requirements concerning revision or adoption of water quality standards.

Part 106 set forth procedures for public hearings to be held when appropriate remedial action was not taken following an enforcement conference under section 10(d) of the prior Act. However, section 309 of the new Act does not authorize or require enforcement conferences as part of the Federal enforcement process.

Part 107, promulgated under section 10(k) of the old law, established procedures for the filing of reports by persons whose alleged activities result in discharges causing or contributing to water pollution. As the hearings and conferences which necessitated such reports have been eliminated by section 309 of the new Act, these regulations are no

longer needed. Such procedures have also been superseded by those of section 308 of the FWPCA, as amended, which contain certain requirements concerning record-keeping and reports by owners or operators of point sources (see also 40 CFR 125.5(b), 124.61 et seq.).

Parts 104, 106 and 107 of Chapter 40 of the Code of Federal Regulations are hereby revoked. Because of the purely technical nature of this action, notice of proposed rulemaking and consideration of public comments is found to be unnecessary and not in the public interest. For the same reasons this revocation is effective November 9, 1973.

Dated: November 6, 1973.

RUSSELL E. TRAIN,  
Administrator.

[FR Doc. 73-23969 Filed 11-9-73; 8:45 am]

#### SUBCHAPTER E—PESTICIDE PROGRAMS

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

#### Dimethyl (2,2,2-Trichloro-1-Hydroxyethyl) Phosphonate

An order was published in the FEDERAL REGISTER of Monday, January 29, 1973 (38 FR 2681), establishing a tolerance (§ 180.198) for residues of the insecticide dimethyl (2,2,2-trichloro-1-hydroxyethyl) phosphonate in or on lima beans at 12 parts per million. A question has been raised as to whether the term "lima beans" refers to the shelled beans or the pod plus the beans.

As in the case of other tolerances for residues of pesticides in or on lima beans, this tolerance covers residues on the beans plus the pod.

Accordingly, it is concluded that (a) § 180.1 should be revised to include a definition of lima beans and (b) the established tolerance of 12 parts per million for residues of the insecticide dimethyl (2,2,2-trichloro-1-hydroxyethyl) phosphonate in or on lima beans be changed to reflect the distinction between the shelled beans and the beans plus the pod.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055; (21 U.S.C. 371(a))), the authority transferred to the Administrator of the Environmental Protection Agency (36 FR 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticide Programs (36 FR 9038), Part 180 is amended as follows:

1. In § 180.1, by adding a new subparagraph (j) (8) as follows:

#### § 180.1 Definitions and interpretations.

(j) \* \* \*

(8) The term "lima beans" means the beans and the pod.

2. In § 180.198, by revising the paragraph "12 parts per million \* \* \*" to read as follows:

#### § 180.198 Dimethyl (2,2,2-trichloro-1-hydroxyethyl) phosphonate; tolerances for residues.

Twelve parts per million in or on lima beans (reflecting a negligible residue of 0.1 part per million in or on the shelled beans), lima bean vine hay, lima bean vines, and sugar beet tops.

Any person who will be adversely affected by the foregoing order may at any time before December 9, 1973, file with the Hearing Clerk, Environmental Protection Agency, Room 1019E, 4th and M Streets SW., Waterside Mall, Washington, D.C. 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective November 12, 1973.

(Sec. 701(a), 52 Stat. 1055; (21 U.S.C. 371(a)).)

Dated: November 2, 1973.

EDWIN L. JOHNSON,  
Acting Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 73-23971 Filed 11-9-73; 8:45 am]

#### Title 45—Public Welfare

### CHAPTER II—SOCIAL REHABILITATION SERVICE (ASSISTANCE PROGRAMS), DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

#### PART 233—COVERAGE AND CONDITIONS OF ELIGIBILITY IN FINANCIAL ASSISTANCE PROGRAMS

#### PART 248—COVERAGE AND CONDITIONS OF ELIGIBILITY FOR MEDICAL ASSISTANCE

##### Citizen and Alienage

##### Correction

In FR Doc. 73-23357 appearing at page 30259, in the issue of Friday, November 2, 1973, in the effective date paragraph, the date reading "January 2, 1973" should read "January 2, 1974".

#### Title 47—Telecommunication

### CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[FCC 73-1128]

#### PART 0—COMMISSION ORGANIZATION

##### Delegations of Authority to Chief, Broadcast Bureau

##### Order.

In the matter of amendment of Part 0 of the Commission's rules—Commission organization—with respect to delegations

of authority to the Chief, Broadcast Bureau.

1. The Commission has completed its review of the delegations of authority to the Chief, Broadcast Bureau, and has concluded that in addition to the need for up-dating, the public interest would be served by eliminating the lengthy recitation of specific delegations of authority presently appearing in § 0.281 of the rules, and in lieu thereof to restructure that section in terms of those matters to be referred to the Commission en banc. As so amended, the residue of undefined matters will be disposed of at staff level in accordance with established policy and precedent unless, in the opinion of the staff, a particular matter warrants referral to the Commission.

2. Despite the extensive nature of the changes herein ordered, the internal handling of petitions for reconsideration and applications for review will not vary substantially from past practice. Specifically, petitions for reconsideration filed under section 405 of the Communications Act will continue to be acted on by the Commission en banc or by the "designated authority" within the Commission, depending upon the circumstances of the case, whereas all properly filed applications for review will, in accordance with section 5(d) of the Communications Act, continue to be referred to the Commission en banc. Persons aggrieved by actions taken at any level within the Commission are thus assured that their right of access to the full Commission is in no way affected by the ordered changes.

3. The restatement of specific delegations of authority herein ordered requires that the working relationships of the Broadcast Bureau with other bureaus and staff offices be defined as to joint areas of responsibility. A new section (§ 0.282) has been added for this purpose.

4. Authority for the adoption of this order is contained in section 5(d) of the Communications Act of 1934, as amended. Since it relates to internal Commission management, practice, and procedure, and because the early implementation of these changes will expedite the transaction of public business, compliance with the notice and effective date provisions of the Administrative Procedure Act (5 U.S.C. 553) is not required.

5. Accordingly, it is ordered, That effective November 13, 1973, § 0.281 of the rules is amended, and a new section (§ 0.282) is added in the manner set forth below.

(Sec. 5, 48 Stat. as amended, 1068 (47 U.S.C. 155).)

Adopted: October 31, 1973.

Released: November 9, 1973.

FEDERAL COMMUNICATIONS COMMISSION,<sup>1</sup>

[SEAL] VINCENT J. MULLINS,  
Secretary.

<sup>1</sup> Commissioner Johnson dissenting and issuing a statement which is filed as part of the original document.

Part 0 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

1. Section 0.281 is amended to read as follows:

**§ 0.281 Authority delegated.**

The performance of functions and activities described in § 0.71 is delegated to the Chief, Broadcast Bureau: *Provided*, That the following matters shall be referred by the Chief, Broadcast Bureau, to the Commission en banc for disposition:

(a) *Applications.* Formal and informal applications for new or modified AM, FM, and TV facilities, and for the renewal, assignment, and transfer of construction permits and licenses involving such facilities, when such applications fail to satisfy the requirements of Commission rules or established Commission policy in the following areas of special concern:

(1) *Multiple ownership, concentration of control, and cross-interests.* (i) Acquisition of a third broadcast station within 100 miles of a presently owned station; "one-to-a-market" situations involving UHF stations or TV satellite stations; and duopoly situations involving TV satellite stations. (Commonly owned AM and FM stations in the same market are treated as one station for the purpose of the "third station" limitation.)

(ii) Acquisition of a broadcast station by a newspaper in the same area, or other organization having substantial interests in the print media in the same area.

(iii) Creation of common ownership interests, management ties, or employment relationships between licensees serving substantial common areas and populations. Commonality of areas and populations served shall be determined in duopoly situations by overlap of the following service contours:

AM—1 mV/m; FM—1 mV/m; and TV—Grade B. In "one-to-a-market" situations, commonality of areas and populations served shall be determined by community encompassment with the following service contours: AM—2 mV/m; FM—1 mV/m; and TV—Grade A.

(iv) Acquisition of broadcast properties by corporations or individuals appearing to dominate the economic life of the community.

(2) *Trafficking.* Acquisition of broadcast properties by persons having a history of short term buying and selling such properties, or seeking waiver of the "three-year rule" (§ 1.597 of this chapter) when the seller will realize a profit.

(3) *Anti-trust activity, unfair trade practices, and violations of law not previously considered by the Commission.*

(i) Proposals by applicants against whom communications-related anti-trust suits are pending or against whom there is pending any anti-trust suit in which an adverse verdict has been reached.

(ii) Proposals by applicants who have entered into a consent decree, have pleaded guilty or nolo contendere, or have been adjudged guilty in an anti-trust

case during the three-year period preceding the filing of the application.

(iii) Proposals by applicants who have been the subject of a final cease and desist or consent order issued by the Federal Trade Commission during the three-year period preceding the filing of the application.

(iv) Proposals by applicants or including parties with felony or capital offense conviction records, or against whom a criminal proceeding is pending.

(4) *Violations and complaint matters.* Proposals filed by applicants against whom violation notices of a serious nature are outstanding or against whom questions suggesting serious misconduct remain unresolved, or by applicants with records of serious past misconduct.

(5) *Equal employment opportunities.* Proposals filed by applicants whose equal employment opportunities programs do not comply with Commission rules or policies and cannot be cleared by further staff inquiry or action, or whose past performance suggests the existence of discriminatory practices.

(6) *Short-term licenses and renewals.* Proposals which in the opinion of the Chief, Broadcast Bureau, warrant the issuance of a short-term license or renewal authorization.

(7) *Programming: Commercial matter.* (i) Commercial AM and FM proposals in non-seasonal markets exceeding 18 minutes of commercial matter per hour, or providing for exceptions permitting in excess of 20 minutes of commercial matter per hour during 10 percent or more of the station's total weekly hours of operation, or during periods of high demand for political advertising, providing for exceptions permitting in excess of 22 minutes of commercial matter per hour during 10 percent or more of the station's total weekly hours of operation.

(ii) Commercial AM and FM proposals in seasonal markets (e.g., resort markets) exceeding 20 minutes of commercial matter per hour, or providing for exceptions permitting in excess of 22 minutes of commercial matter per hour during 10 percent or more of the station's total weekly hours of operation.

(iii) Commercial TV proposals exceeding 16 minutes of commercial matter per hour, or during periods of high demand for political advertising, providing for exceptions permitting in excess of 20 minutes of commercial matter per hour during 10 percent or more of the station's total weekly hours of operation.

(8) *Programming: Program content and ascertainment of community needs.*

(i) Commercial AM, FM, and TV proposals for less than 8, 6, and 10 percent, respectively of total non-entertainment programming.

(ii) Commercial AM, FM, and TV proposals containing substantial ascertainment defects which, for any reason, cannot be resolved by further staff inquiry or action.

(9) *Programming: Substantial shifts in format.* Commercial AM, FM, and TV applications disclosing substantial

changes affecting either the entertainment or non-entertainment portions of existing formats which raise significant public interest questions, or which are opposed by the listening or viewing public.

(10) *Programming: Promise versus performance.* Commercial AM, FM, and TV renewal, transfer, and assignment applications which vary substantially from prior representations with respect to non-entertainment programming or commercial practices.

(11) *Hearing orders.* (i) Mutually exclusive applications involving non-routine hearing issues.

(ii) Renewal, assignment, and transfer applications which appear to call for evidentiary hearing.

(iii) Such other applications, as in the opinion of the Chief, Broadcast Bureau, warrant referral to the Commission prior to designation for hearing.

(12) *Interference and mileage separations.* Proposals for new or modified AM, FM, and TV facilities which would create substantial new prohibited overlap or station separation shortages. In the case of AM proposals (other than Class IV), a net increase in objectionable interference to another AM station involving more than 1 percent of the population served by such other station, whether or not consented to by the station affected, shall be referred to the Commission.

(13) *Station location.* (i) Commercial AM, FM, and TV proposals which, on their face, appear realistically intended to serve another community of larger size. Signal penetrations of 5 mV/m (AM), 3.16 mV/m (FM), and city grade (TV) shall be used in determining whether referral to the Commission is appropriate.

(ii) Any other such proposal raising allocations problems or presumptions under section 307(b) of the Communications Act which, for any reason, cannot be resolved by further staff inquiry or action.

(14) *Main studio relocation.* All AM, FM, and TV proposals for main studio relocation, or for waiver of main studio program origination requirements, under circumstances which have traditionally been viewed as creating a de facto change in station location.

(15) *VHF television expansion.* Commercial VHF television proposals seeking to bring or extend their Grade B contours into a significant area or population included within the predicted Grade B contour of a VHF television station where the area or population involved is covered by fewer than 4 VHF television signals.

(16) *Agreements to amend or dismiss applications.* Any situation in which a community will be deprived of a proposed broadcast station by reason of amendment or dismissal of an application mutually exclusive with another application for a different community.

(17) *Experimental and development operation.* Proposals for experimental and developmental authority containing policy implications which, in the opinion

of the Chief, Broadcast Bureau, warrant referral to the Commission.

(18) *Miscellaneous applications and requests.* (i) Proposals for special temporary, emergency, conditional, or interim operating authority of more than routine significance.

(ii) Any other application, proposal, or request presenting novel questions of fact, law, or policy which cannot be resolved under outstanding precedents and guidelines.

(b) *Petitions and other requests for Commission action.* (1) Petitions to deny directed against AM, FM, and TV applications for new or modified facilities, or for renewal or assignment of license or transfer of control, when such petitions are timely filed and properly lie as a matter of law. Untimely and otherwise improperly filed petitions to deny; e.g., against applications for minor changes in facilities or applications for licenses to cover construction permits, will be processed as informal objections and will be referred to the Commission only if they contain new or novel arguments not previously considered by the Commission, or present facts or arguments which appear to justify a change in Commission policy.

(2) Petitions and other requests for reconsideration of actions taken by the Chief, Broadcast Bureau, when such petitions or requests contain new or novel arguments not previously considered by the Commission, or present facts or arguments which appear to justify a change in Commission policy.

(3) Applications for review of actions taken by the Chief, Broadcast Bureau, which comply with § 1.115 of this chapter.

(4) Petitions and other requests for waiver of Commission rules, whether or not accompanied by an application, when such petitions or requests contain new or novel arguments not previously considered by the Commission, or present facts or arguments which appear to justify a change in Commission policy.

(5) Petitions and other requests for declaratory rulings, when such petitions or requests contain new or novel arguments not previously considered by the Commission, or present facts or arguments which appear to justify a change in Commission policy.

(6) Petitions for, and final dispositions of, rule making proceedings except for the issuance of notices of proposed rule making (including orders to show cause, where appropriate) involving routine changes in the FM and TV tables of assignments.

(7) Petitions and other requests for waiver of the prime-time access rule, in areas where Commission policy is not clearly established.

(8) Petitions and other requests for long-term waiver of the policy limiting affiliations by commonly owned networks in the same market.

(9) Petitions and other requests for waiver of the sponsorship identification provisions of the Communications Act, in accordance with section 317(d) thereof.

(10) Any other petition, pleading, or request presenting novel questions of fact, law, or policy which cannot be resolved under outstanding precedents and guidelines.

(c) *Administration and enforcement.* (1) Proposed orders to show cause why station licenses or construction permits should not be revoked.

(2) Proposed actions following any case remanded by the courts.

(3) Proposed Notices of Apparent Liability and final forfeiture orders involving penalties of more than \$2,000.

(4) Proposed public notices expressing Commission policy, interpreting the provisions of law, regulations, or treaties, or warning the broadcast industry as to certain types of violations.

(5) Problems involving apparent violation of the Commission's rules governing equal employment opportunities or otherwise indicating the existence of discriminatory practices which, in the opinion of the Chief, Broadcast Bureau, or the Equal Employment Opportunity Commission should be brought to the attention of FCC Commissioners.

(6) Any other complaint or enforcement matter presenting novel questions of fact, law, or policy which cannot be resolved under outstanding precedents and guidelines.

2. Section 0.282 is added new to read as follows:

§ 0.282 Actions taken under delegated authority.

(a) In discharging the authority conferred by section 0.281 of this part, the Chief, Broadcast Bureau, shall establish working relationships with other bureaus and staff offices to assure the effective coordination of actions taken in the following areas of joint responsibility:

(1) Complaints arising under sections 315 and 605 of the Communications Act—Office of General Counsel.

(2) Objections to proposed call signs and requests for waiver of procedural rules governing call sign assignments—Office of Chief Engineer.

(3) Requests for waiver or refund of filing and/or grant fees—Office of Executive Director and Office of General Counsel.

(4) Requests for waiver of tower painting and lighting specifications—Field Engineering Bureau.

(5) Matters involving emergency communications—Office of Executive Director.

(6) Complaints involving equal employment opportunities—Office of General Counsel.

(7) Requests for use of frequencies or bands of frequencies shared with private sector nonbroadcast or government services—Office of Chief Engineer and appropriate operating bureau.

(8) Requests involving coordination with other agencies of government—Office of General Counsel, Office of Chief Engineer and appropriate operating bureau.

(9) Proposals involving transmitter sites on public lands owned or controlled

by the Departments of Agriculture or Interior—Office of Chief Engineer.

(10) Proposals involving possible harmful impact on radio astronomy or radio research installations—Office of Chief Engineer.

(b) With respect to non-routine applications granted under authority delegated in § 0.281, the Chief, Broadcast Bureau or his designees, shall enter on the working papers associated with each application a narrative justification of the action taken. While not available for public inspection, these working papers shall, upon request, be made available to the Commissioners and members of their staffs.

(c) The Chief, Broadcast Bureau, shall prepare and submit to the Commission a quarterly statistical summary of actions taken during the preceding quarter under authority delegated to him in § 0.281. The statistical summary shall be accompanied by a statement of industry trends apparent in the staff handling of non-routine matters during the same quarter.

[FR Doc. 73-23995 Filed 11-9-73; 8:45 am]

#### Title 49—Transportation

### CHAPTER X—INTERSTATE COMMERCE COMMISSION

#### SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S.O. 1160]

#### PART 1033—CAR SERVICE

##### Substitution of Refrigerator Cars for Boxcars

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 5th day of November 1973.

It appearing, that an acute shortage of boxcars for transporting shipments of lumber and related products exists in certain sections of the country; that some carriers have adequate supplies of certain types of refrigerator cars; that use of these cars for the transportation of lumber and related products is precluded by certain tariff provisions, thus curtailing shipments of these commodities; and that there is need for the use of these refrigerator cars to supplement the supplies of plain boxcars for transporting shipments of lumber and related products; that it is the opinion of the Commission that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure herein are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1160 Substitution of refrigerator cars for boxcars.

(a) Each common carrier by railroad subject to the Interstate Commerce Act shall observe, enforce, and obey the following rules, regulations, and practices with respect to its car service:

(1) *Substitution of cars.* Subject to the concurrence of the shipper, the carrier may substitute refrigerator cars listed in 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 "RS" and with inside length between bunkers of 42 ft. or less for boxcars when loaded with lumber and related products under the provisions of Transcontinental Freight Bureau Tariffs 17-V, I.C.C. 1743; 18-R, I.C.C. 1847; or 28-Q, I.C.C. 1750, issued by E. A. McCarron, supplements thereto or relissues thereof, regardless of tariff provisions requiring the use of boxcars.

(2) *Minimum weights.* The minimum weight per shipment of lumber or related products transported in "RS"-type refrigerator cars under the provisions of this order shall be that specified in the applicable tariff, or 50,000 lbs. per car loaded, whichever is the lesser. Cars must be loaded to full visible capacity.

(3) Bills of lading covering movements authorized by this order shall contain a notation that shipment is moving under authority of Service Order No. 1160.

(4) The term "boxcars" means all cars listed in the Official Railway Equipment Register, I.C.C. No. 388, issued by W. J. Trezise, or successive issues thereof, as having mechanical designations "XL", "XLI", "XM", "XMI", or "XP."

(b) *Rules and regulations suspended.* The operation of tariffs or other rules and regulations, insofar as they conflict with the provisions of this order, is hereby suspended.

(c) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign commerce.

(d) *Effective date.* This order shall become effective at 12:01 a.m., November 7, 1973.

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

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

*It is further ordered.* That a copy of this order and direction 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 order 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.73-24034 Filed 11-9-73;8:45 am]

Title 35—Panama Canal  
CHAPTER I—CANAL ZONE REGULATIONS  
PART 70—RULEMAKING

Establishment of Procedures for Rule-making by the Panama Canal Company

This document promulgates a new part that is being added to the Canal Zone regulations. It establishes the administrative procedure for rulemaking by the Panama Canal Company in those cases where a notice and hearing are required by the Canal Zone Code. Inasmuch as the material contained in this part is a matter relating to rules of agency procedure or practice, the relevant provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation and delay in effective date are inapplicable.

In accordance with the spirit of the public policy set forth in (5 U.S.C. 553), interested persons may submit written comment, suggestions, data, or argument to the Secretary, Panama Canal Company, Room 312, Pennsylvania Bldg., 425 13th St. NW., Washington, D.C. 20004, on or before December 12, 1973. Material thus submitted will be evaluated and acted upon in the same manner as if this document were a proposal. Until such time as further changes are made, however, Part 7 of Chapter I as set forth herein shall remain in effect.

Subchapter B of Chapter I of Title 35 of the Code of Federal Regulations, is amended by adding a new Part 70, reading as follows:

Sec.	
70.1	Scope.
70.2	Definitions.
70.3	Official language.
70.4	Publication of notice.
70.5	Content of notice.
70.6	Data filed by interested persons.
70.7	Time and place of hearing.
70.8	Hearing panel.
70.9	Appearance by counsel.
70.10	Supplementary data.
70.11	Conduct of hearing.
70.12	Transcript.
70.13	Report of panel.
70.14	Adoption of rule.
70.15	Publication of rule.

AUTHORITY: 2 C.Z.C. §§ 63(a), 66(a) (7), 76A Stat. 10, 11.

§ 70.1 Scope.

These regulations establish procedures for rulemaking as defined in § 70.2 when notice and hearing are required by the Canal Zone Code as part of the rulemaking process. The regulations do not cover adjudication, licensing or sanctions.

§ 70.2 Definitions.

As used in this part:

(a) "Board of Directors" means the Board of Directors of the Panama Canal Company, appointed pursuant to section 63 of Title 2, Canal Zone Code, 76A Stat. 10.

(b) "Company" means the Panama Canal Company.

(c) "Hearing" means a public proceeding at which interested persons are af-

forded an opportunity to participate in rulemaking through submission of written data, views, or arguments with or without oral presentation.

(d) "Panel" means the members of the Board of Director of the Panama Canal Company designated to conduct a hearing in accordance with § 70.8.

(e) "Party" includes a person or agency of the United State Government properly seeking and entitled as of right to participate in rulemaking.

(f) "Person" includes an individual, partnership, corporation, association, or public or private organization other than an agency of the United States Government.

(g) "Rule" means the whole or a part of an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy, and includes the approval or prescription of rates, services or allowances therefor, or practices bearing on any of the foregoing.

(h) "Rulemaking" means agency process for formulating, amending or repealing a rule when notice and hearing are required by the Canal Zone Code as a part of the process.

§ 70.3 Official language.

Hearings, arguments, views, and other data provided for by these rules, whether written or oral, shall be in the English language.

§ 70.4 Publication of notice.

Except as otherwise provided in § 70.5, notice of proposed rulemaking shall be published in the FEDERAL REGISTER not less than 15 days before the date of the hearing specified in the notice.

§ 70.5 Contents of Notice.

The notice of proposed rulemaking shall include:

(a) A statement of the time, place, and nature of the rulemaking proceedings.

(b) Reference to the legal authority under which the rule is proposed, and

(c) Either the terms or substance of the proposed rule or a description of the subjects and issues involved.

This rule and § 70.4 shall not apply in the case of interpretative rules, general statements of policy, or rules of organization, practice or procedure, or when the Panama Canal Company for good cause finds and incorporates the finding and a brief statement of reasons therefor in the rules issued that notice and public procedures thereon are impracticable, unnecessary, or contrary to the public interest.

§ 70.6 Data filed by interested persons.

After notice required by § 70.4, interested persons shall be given the opportunity to participate in the rulemaking through submission of written data, views, or arguments, which shall be filed with the Secretary of the Panama Canal Company within the time prescribed in the notice. Copies of such data or other

material shall be available for distribution to other interested persons on payment of the cost prescribed by the Panama Canal Company.

**§ 70.7 Time and place of hearing.**

Hearings required by these rules shall be held at such times and places as may be determined by the Board of Directors. Notice of such hearings shall be provided in accordance with §§ 70.4 and 70.5. In fixing the time and places for hearings, due regard shall be had for the convenience of the parties and their representatives.

**§ 70.8 Hearing panel.**

One or more members of the Board of Directors shall be designated by the Board as a panel to conduct the hearing. If two or more members are so designated, one shall be appointed by the Board to act as Chairman.

**§ 70.9 Appearance by counsel.**

Interested parties may appear at the hearing in person or by or with counsel or other duly qualified representative. Notice of appearance by or with counsel or other qualified representative, including the names and addresses of the persons appearing, shall be furnished in writing to the Secretary of the Company within the time prescribed in the notice of hearing.

**§ 70.10 Supplementary data.**

Interested parties who have submitted written data, views, or arguments in accordance with § 70.6 may, upon notice

filed with the Secretary of the Company within the time prescribed in the notice of hearing, present supplementary data, oral arguments, or statements at the hearing. The notice shall state the names and addresses of any witnesses to appear at the hearing, the capacity in which they will appear, the place at which they desire to be heard if hearings are scheduled at more than one place, and the approximate time requested for the presentation of each witness. Upon presentation of such arguments, statements or supplementary data, the panel may request further information or clarification.

**§ 70.11 Conduct of hearing.**

The panel shall conduct the hearing in an impartial manner. Subject to applicable statutes and rules the panel may:

- (a) Regulate the course of the hearing,
- (b) Administer or require the administration of oaths or affirmations,
- (c) Hold conferences for the settlement or simplification of the issues by consent of the parties,
- (d) Dispose of procedural requests or similar matters,
- (e) Exclude irrelevant, immaterial or unduly repetitious material offered by the parties.

**§ 70.12 Transcript.**

A transcript of the proceedings at the hearing shall be made available to any party on request and payment of the costs prescribed by the Panama Canal Company.

**§ 70.13 Report of panel.**

Upon conclusion of the hearing the panel shall submit a report to the Board of Directors, which shall include the written data filed under §§ 70.6 and 70.10 the transcript of the proceedings, copies of documents submitted at the hearing, and recommendations by the panel with respect to action on the proposed rule.

**§ 70.14 Adoption of rules.**

After consideration of the relevant matter presented, the Board of Directors shall incorporate in the rules adopted a concise statement of their basis and purpose.

**§ 70.15 Publication of rule.**

Any rule adopted under this Part shall be published in the FEDERAL REGISTER. Such publication shall be at least 30 days prior to the effective date of the rule except:

- (a) A substantive rule which grants or recognizes an exemption or relieves a restriction,
- (b) An interpretative rule or statement of policy, or
- (c) As otherwise provided by the Company for good cause found published with the rule.

Effective Date: This amendment is effective November 12, 1973.

(2 C.Z.C. II 63(a), 66(a) (7), 76A Stat. 10, 11.)

By direction of the Board of Directors,  
Panama Canal Company.

THOMAS M. CONSTANT,  
Secretary.

[FR Doc.73-24095 Filed 11-9-73; 8:45 am]

# Proposed Rules

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

## DEPARTMENT OF THE TREASURY

### Customs Service

#### [ 19 CFR Part 19 ]

#### BONDED WAREHOUSE PROPERTIES

#### Proposed Increase in Reimbursable Charge for Services Performed by an Intermittent When-Actually-Employed Employee

Notice is hereby given that under the authority of 5 U.S.C. 301, R.S. 251, as amended (19 U.S.C. 66), and section 624, 46 Stat. 759 (19 U.S.C. 1624), it is proposed to amend § 19.5(b) of the Customs Regulations to provide for an increase in the reimbursable charge to bonded warehouse proprietors for the services of an intermittent when-actually-employed employee (temporary Customs employee), when such employee performs the duties of a Customs warehouse officer, or is temporarily assigned to act as a Customs warehouse officer at a bonded warehouse.

The present reimbursable charge for this service is 107 percent of the hourly rate of the employee's regular pay. The proposed amendment increases the rate to 108 percent. This increase is necessary to compensate for the Federal Government's increased contribution under the Federal Insurance Contributions Act (26 U.S.C. 3111), as amended by Pub. L. 92-603 dated October 30, 1972 (sec. 135, 86 Stat. 1363, 1364), effective January 7, 1973.

The citations of authority in the text of § 19.5(b) and at the end of § 19.5 are also changed to reflect the current citations.

Accordingly, it is proposed to amend § 19.5 of the Customs Regulations as set forth below:

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

In § 19.5, the third and fourth sentences of paragraph (b) are amended to read as follows:

§ 19.5 Customs warehouse officer; compensation of.

(b) \* \* \*. The charge to be made for the services of a Customs warehouse officer or a Customs employee temporarily assigned to act as a Customs warehouse officer at a bonded warehouse on a holiday or outside his established basic workweek shall be the amount actually payable to the employee for such services under the Federal Employees Pay Act of 1945, as amended (5 U.S.C. 5542 (a), 5546), or the Customs overtime laws (19 U.S.C. 267, 1451), or both, as the case may be. When services of a Custom

warehouse officer or a Customs employee temporarily assigned to act as a Customs warehouse officer at a bonded warehouse are performed by an intermittent when-actually-employed employee, the charge for such services shall be computed at a rate per hour equal to 108 percent of the hourly rate of the regular pay of such employee to provide for reimbursement of the Government's contribution under the Federal Insurance Contributions Act, as amended (26 U.S.C. 3111), and employee uniform allowance. \* \* \*

The citation of authority for § 19.5 is amended to read:

(Sec. 5, 36 Stat. 901, as amended, secs. 451, 555, 556, 46 Stat. 715, as amended, 743, as amended, 68A Stat. 416, as amended; (5 U.S.C. 5332, 5504, 5542, 5545, 5546, 6101, 19 U.S.C. 267, 1451, 1555, 1556, 26 U.S.C. 3111).)

Data, views, or arguments with respect to the foregoing proposal may be addressed to the Commissioner of Customs, Attention: Regulations Division, Washington, D.C. 20229. To insure consideration of such communications, they must be received on or before December 12, 1973.

Written material or suggestions submitted will be available for public inspection in accordance with § 103.3(b) of the Customs Regulations (19 CFR 103.3(b)), at the Regulations Division, Headquarters, United States Customs Service, Washington, D.C., during regular business hours.

Approved: November 1, 1973.

[SEAL] VERNON D. ACREE,  
Commissioner of Customs.

EDWARD L. MORGAN,  
Assistant Secretary of  
the Treasury.

[FR Doc. 73-24017 Filed 11-9-73; 8:45 am]

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### [ 7 CFR Part 1098 ]

[Docket No. AO 184-A34]

#### MILK IN THE NASHVILLE, TENNESSEE MARKETING AREA

#### Notice of Hearing on Proposed Amendments to Tentative Marketing Agreement and Order

Notice is hereby given of a public hearing to be held at the Hilton Airport Inn, Nashville Municipal Airport, Nashville, Tennessee, beginning at 1:00 p.m., November 19, 1973, with respect to proposed amendments to the tentative marketing

agreement and to the order, regulating the handling of milk in the Nashville, Tennessee marketing area.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by Dairymen, Inc.:

#### PROPOSAL NO. 1

Delete § 1098.10 *Approved Plant*, and substitute therefor the following:

#### § 1098.10 Distributing Plant and Supply Plant.

(a) "Distributing Plant" means a plant in which milk approved by a duly constituted regulatory authority for fluid consumption or filled milk is processed or packaged and which has route disposition in the marketing area during the month.

(b) "Supply Plant" means a plant from which a fluid milk product acceptable to a duly constituted regulatory authority for fluid consumption or filled milk is shipped during the month to a pool plant.

#### PROPOSAL NO. 2

Amend § 1098.11 *Pool plant*, to read as follows:

#### § 1098.11 Pool plant.

Except as provided in paragraph (d) of this section, "pool plant" means:

(a) A distributing plant that has route disposition, except filled milk, during the month of not less than 50 percent of the fluid milk products, except filled milk, approved by a duly constituted regulatory authority for fluid consumption that are physically received at such plant or diverted as producer milk to a nonpool plant pursuant to § 1098.13 and that has route disposition, except filled milk, in the marketing area during the month of not less than 15 percent of its total disposition of fluid milk products, except filled milk, during the month.

(b) A supply plant from which not less than 50 percent of the total quantity of

milk approved by a duly constituted regulatory authority for fluid consumption that is physically received from dairy farmers at such plant or diverted as producer milk to a nonpool plant pursuant to § 1098.13 during the month is shipped as fluid milk products, except filled milk, to pool plants pursuant to paragraph (a) of this section. A plant that was a pool plant pursuant to this paragraph in each of the immediately preceding months of August through February shall be a pool plant for the months of March through July unless the milk received at the plant does not continue to meet the requirements of a duly constituted regulatory authority or a written application is filed by the plant operator with the market administrator on or before the first day of any such month requesting that the plant be designated as a nonpool plant for such month and each subsequent month through July during which it would not otherwise qualify as a pool plant.

(c) For the purpose of qualifying a supply plant under paragraph (b) of this section, a cooperative association supplying pool distributing plants during the month at least two-thirds of the producer milk of its members (including both milk delivered directly from their farms and that transferred from the supply plant(s) of the cooperative) may count (irrespective of other requirements of § 1098.8(c)) as shipments from the plant to pool distributing plants the milk delivered to pool distributing plants under § 1098.8(c). The cooperative association may withdraw such supply plant from qualification under this section:

(1) If the cooperative notifies the market administrator in writing prior to or during the month of its intention not to qualify the plant under this section during that month; and

(2) The milk actually shipped during the month from such plant to plant(s) qualified under paragraph (a) of this section is less than 50 percent of the Grade A milk actually received from dairy farmers at such supply plant or diverted as producer milk to a nonpool plant pursuant to § 1098.13 during the month.

(d) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant; and

(2) A plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act, unless such plant is qualified as a pool plant pursuant to paragraph (a) or (b) of this section and a greater volume of fluid milk products, except filled milk, is disposed of from such plant in this marketing area as route disposition and to pool plants qualified on the basis of route disposition in this marketing area than is disposed of from such plant in the marketing area regulated pursuant to the other order as route disposition and to plants qualified as fully regulated plants under such other order on the basis of route disposition in its marketing area.

#### PROPOSAL No. 3

Amend Paragraph (b) of § 1098.13 *Producer milk*, to read as follows:

#### § 1098.13 *Producer milk.*

(b) Diverted from a pool plant to a nonpool plant that is not a producer-handler plant: *Provided*, That for purposes of pricing, such milk shall be considered to be received by the diverting handler at the location of the nonpool plant to which diverted.

#### PROPOSAL No. 4

Amend § 1098.18 *Route*, to read as follows:

#### § 1098.18 *Route disposition.*

"Route disposition" means any delivery (including delivery by a vendor or a sale from a plant store) of fluid milk products other than a delivery to a milk or filled milk processing plant.

PROPOSED BY THE DAIRY DIVISION,  
CONSUMER AND MARKETING SERVICE

#### PROPOSAL No. 5

Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator, 100 Oaks Shopping Center, Suite 251, Nashville, Tennessee, or from the Hearing Clerk, Room 112-A, Administration Building, United States Department of Agriculture, Washington, D.C. 20250 or may be there inspected.

Signed at Washington, D.C., on November 7, 1973.

JOHN C. BLUM,  
Deputy Administrator,  
Regulatory Programs.

[FR Doc. 73-24059 Filed 11-9-73; 8:45 am]

## DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric  
Administration

[ 50 CFR Part 216 ]

### MARINE MAMMALS

#### Incidental Taking in the Course of Tuna Purse-Seining Operations

The Marine Mammal Protection Act of 1972 (Pub. L. 92-522 (16 U.S.C. 1361-1407), "the Act") was implemented by interim regulations governing the taking and importing of marine mammals published in the FEDERAL REGISTER on December 21, 1972 (37 FR 28177). Section 101(a)(2) of the Act provides, in pertinent part, that:

During the twenty-four calendar months initially following the date of the enactment of this Act, the taking of marine mammals incidental to the course of commercial fishing operations shall be permitted, and shall not be subject to the provisions of sections 103 and 104 of this title: *Provided*, That such taking conforms to such conditions and regulations as the Secretary is authorized and directed to impose pursuant to section 111 hereof to insure that those techniques and equipment are used which will produce the least practicable hazard to marine mammals in such commercial fishing operations.

#### Under section 111(b) of the Act:

The Secretary, after consultation with the Marine Mammal Commission, is authorized and directed to issue, as soon as practicable, such regulations, covering the twenty-four-month period referred to in section 101(a)(2) of this title, as he deems necessary or advisable, to reduce to the lowest practicable level the taking of marine mammals incidental to commercial fishing operations. Such regulations shall be adopted pursuant to section 553 of title 5, United States Code. In issuing such regulations, the Secretary shall take into account the results of any scientific research under paragraph (a) of this section and, in each case, shall provide a reasonable time not exceeding four months for the persons affected to implement such regulations.

Preliminary research and gear studies, undertaken pursuant to section 111(a) of the Act, have indicated that porpoise mortality in connection with commercial tuna purse-seining operations can be reduced through gear modifications and the utilization of specialized fishing techniques. Therefore, it is proposed for purposes of efficient and simplified administration of the Act that section 216.10 of the interim regulations be amended to set forth regulations with respect to commercial fishing operations as authorized under section 111(b) of the Act. In accordance with the Act these regulations will remain in force and effect until October 21, 1974, unless earlier amended or superseded.

Written comments, views, or objections concerning these proposed regulations may be made to the Director, National Marine Fisheries Service, Washington, D.C. 20235, until the close of business on December 10, 1973.

Masters or owners of vessels currently complying with Section 216.10(b) may voluntarily submit a certification and have their nets inspected at any time after the date of publication of these proposed regulations in order to facilitate approval of nets under § 216.10(d).

Section 216.10 is hereby proposed to be amended to read as follows:

#### § 216.10 Same-taking and related acts incidental to commercial fishing operations.

(a) Until October 21, 1974, marine mammals may be taken incidental to the course of commercial fishing operations and no permit shall be required, so long as the taking constitutes an incidental catch, except as required in (b) and (c) below for tuna purse-seine vessels. It is the immediate goal that the incidental kill or incidental serious injury of marine mammals occurring in the course of commercial fishing operations be reduced to insignificant levels approaching a zero mortality and serious injury rate.

(b) Commercial tuna fishing vessels of 300 tons or more carrying capacity utilizing purse-seine nets to catch yellowfin tuna shall be required to equip the purse-seine nets with a porpoise safety panel prior to utilizing the net in actual fishing operations. Vessels at sea on the effective date of these regulations which have not had their purse-seine nets approved shall be required to equip the nets with a

porpoise safety panel prior to leaving port for any fishing trip commencing after March 1, 1974.

(1) The porpoise safety panel shall consist of the substitution of small mesh webbing not to exceed 2" stretch mesh, preshrunk, either knotted or knotless, having a minimum mesh depth equivalent to one full strip of 4 1/4" stretch meshes x 100 meshes (425") extending from the corkline down.

(2) The panel shall be of sufficient length, starting at the end of the #3 cork-bunching line (bunch) around the perimeter of the net a sufficient distance that when five bunches of corks are pulled, the panel will extend around the back-down area to the tie-down point. At a minimum, the length of the panel shall not be less than 100 fathoms. Further, the entire perimeter back-down area will be protected with a porpoise safety panel, whether three, four, or five bunches of corks are pulled.

(3) Each end of the porpoise safety panel must be identified with an easily distinguishable marker which may be separate from the corkline or may be a single cork in the corkline of a different color than the one on either side.

(4) Throughout the length of the corkline in which the porpoise safety panel is located, hand-hold openings are to be secured by either (a) false hangings, or (b) installation of small sections of 2" stretch mesh, or (c) hand-constructed webbing of the same size as the porpoise safety panel. In any event, by whatever means these areas are closed to prevent porpoise entrapment, proof of its utility to achieve results shall be its resistance to the insertion of a cylindrical shaped object no larger than 2" diameter equal to resistance encountered in the porpoise safety panel.

(5) Throughout the entire net, corkline hangings shall be inspected following each set. Hangings found to have loosened to the extent that a 3" diameter cylindrical object will not meet resistance to its insertion between the cork and corkline hangings, must be tightened so that a 3" cylindrical object cannot be inserted.

(c) Following a net set by a purse-seining vessel of any carrying capacity where porpoises or any other marine mammals are captured in the course of commercial purse-seine tuna fishing operations, back down or other release procedures shall be continued until all live animals have been released from the net. "Back down procedures" means a series of maneuvers which take place after the seine is tied-down following a set and pursing, which keep the net open to the greatest degree, and allow porpoises to leave the pursued net, over the net floats which are submerged when the vessel moves astern.

(d) Certification.

(1) Masters or owners of vessels subject to the requirements of these regulations shall certify to the Regional Director, National Marine Fisheries Service, Terminal Island, California, prior to March 1, 1974, that:

(i) The required porpoise safety panel has been permanently installed in all purse-seine nets aboard his vessel which will be used in fishing operations after March 1, 1974, in accordance with these interim regulations;

(ii) Hand-hold areas along the corkline throughout the length of the porpoise safety panel have been closed in accordance with these regulations;

(iii) Corkline hangings have been inspected along the entire length of the net and openings restricted in accordance with these regulations; and

(iv) Nets will be maintained in good repair, in conformance with these regulations.

Upon receipt of the above certification, the Regional Director may issue a notice that the net or nets so certified by vessel masters or owners are conditionally approved for use pending an initial inspection of the net or nets by an authorized agent of the National Marine Fisheries Service during the period beginning March 1, 1974, and ending October 20, 1974. After inspection of any conditionally approved vessels by an authorized agent of the National Marine Fisheries Service, and upon the satisfaction of the Regional Director that nets on such vessels fully conform to these regulations, the Regional Director shall notify the vessel masters or owners that the subject nets are approved for use.

(2) Masters or owners of tuna purse-seine vessels of over 300 tons carrying capacity entering tuna purse-seine fishing operations after March 1, 1974, must, prior to departure from any port on a fishing trip, submit the certification required in § 216.10(d) (1) and receive approval for use of the net or nets so certified.

(e) Inspection of purse-seine nets by an authorized agent of the National Marine Fisheries Service may be made at any time at the discretion of the Regional Director, National Marine Fisheries Service, Terminal Island.

(f) Failure to comply with the provisions of § 216.10 (a), (b), (c), (d), or (e)—including, but not limited to, failure to submit upon demand to a net inspection by an authorized agent of the National Marine Fisheries Service, failure at any time of purse-seine nets to satisfy the requirements of § 216.10(b), failure to receive an initial net inspection no later than October 20, 1974, after being notified to submit to a net inspection, will subject vessel masters or owners to immediate revocation by the Regional Director of approval of such net or nets for use in the tuna fishery and to the penalties provided for under the Act. Furthermore, any person who in actual fishing operations uses a non-approved net is subject also to the penalties provided in the Act.

(g) Importation of yellowfin tuna fish.

(1) It shall be unlawful to import any yellowfin tuna fish, whether fresh, frozen, or otherwise prepared, if caught by vessels not registered under the laws of the United States in a manner not in conformance with the provisions of paragraphs (b) and (c) above.

(2) The master of any cargo vessel seeking permission to land in a port of the United States a cargo of yellowfin tuna fish shall be required to provide, as an agent and on behalf of the person desiring to import such tuna fish, to the nearest Customs Office as a prerequisite to obtaining such permission from Customs the following information with respect to such cargo:

(i) A description of the quantity of yellowfin tuna fish desired to be landed and the manner in which prepared, i.e., fresh, frozen, or otherwise;

(ii) A statement that, to the best of the master's and the importer's knowledge and belief, the yellowfin tuna fish in the subject shipment were caught in conformance with these regulations; and

(iii) A signed statement from a responsible official of the government of each nation from which yellowfin tuna fish in the shipment was exported to the United States, or a statement signed by the master or masters of the fishing vessel or vessels which caught the yellowfin tuna fish certifying:

(A) The identity of the fishing vessels which caught the yellowfin tuna fish, and

(B) That the yellowfin tuna fish in the shipment concerned were caught in conformance with these regulations, or

(C) That the yellowfin tuna fish in the shipment concerned were not caught with purse-seine gear or were caught by a vessel identified by a nation as prescribed in (h) below.

(3) Any person who unloads or permits to unload yellowfin tuna fish from a cargo vessel in violation of paragraph (2) of this subsection (g) or any person that provides false information in violation of paragraph (2) of this subsection shall be subject to the penalties provided in the Act.

(h) Any nation may certify to the United States Government a list of vessels, by name and official number, fishing under such nation's flag, which are fishing in conformance with these regulations.

(i) In furtherance of the Secretary's research and development program under Section 111 of the Act, the following regulations shall apply. Any duly authorized agents of the Secretary may from time to time, after timely oral or written notice to the vessel owner or charterer board and/or accompany commercial fishing vessels documented under the laws of the United States, whenever the Secretary determines that there is space available, on regular fishing trips, for the purpose of conducting research or observation operations. Such research and observation operations shall be carried out in such manner as to minimize interference with commercial fishing operations. No master, charterer, operator or owner of such vessel shall impair or in any way interfere with the research or observations being carried out. The Secretary shall provide for the payment of all reasonable costs directly related to

the quartering and maintaining of such agents on board such vessels.

Dated: November 7, 1973.

JACK W. GEHRINGER,  
Acting Director,  
National Marine Fisheries Service.

[FR Doc. 73-24014 Filed 11-9-73; 8:45 am]

## DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[ 14 CFR Part 71 ]

[Airspace Docket No. 73-WA-9]

### TERMINAL CONTROL AREA

Cleveland, Ohio; Proposed Addition

The Federal Aviation Administration (FAA) is considering the adoption of a Group II Terminal Control Area (TCA) for Cleveland, Ohio. Rules for the control and segregation of all aircraft operated within terminal control areas are contained in Part 91, §§ 91.24, 91.70, and 91.90 of the Federal Aviation Regulations. Further information concerning flight within TCA's is contained in FAA Advisory Circular 91-30, Terminal Control Areas (TCA's), dated June 11, 1970.

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Additionally, comments are invited on the potential impacts of this proposal on the quality of the human environment. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Great Lakes Region, attention: Chief, Air Traffic Division, Federal Aviation Administration, 2300 East Devon, Des Plaines, Ill. 60018. All communications received on or before January 11, 1974, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Rules Docket, Room 916, 800 Independence Avenue SW., Washington, D.C. 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The establishment of terminal control areas at 22 large hub airports was proposed in Notice 69-41 and supplemental notices thereto, and adopted on May 20, 1970 (35 FR 7782), to create a safer environment in those congested terminal areas. The need for TCA's has been well established, and a priority implementation schedule has been developed which is based on the air traffic congestion at each location, the capability of the terminal air traffic control facility to provide separation service to VFR aircraft, the experience gained from earlier established TCA's, and the publication dates of associated aeronautical charts.

Notice 69-41 and the amendments thereto delineated those major hub cities

for which TCA's were planned. This Notice is intended to produce the input necessary to design an appropriate airspace configuration that can provide the safest environment with the least impact on the airspace users. TCA's have now been designated at all Group I locations, and this Notice proposes a configuration for a Group II TCA at Cleveland, Ohio.

On June 6, 1973, the Federal Aviation Administration held an FAA/Industry meeting at Cleveland, Ohio, to consider user operational requirements.

The question was raised as to whether the traffic activity at Cleveland-Hopkins Airport was sufficient to justify implementing a Group II TCA. Although activity figures were not available at the meeting, user representatives were assured that total aircraft operations, total instrument operations, and enplaned passengers were sufficient to justify implementation of the TCA. A review of the Cleveland-Hopkins Airport activity over the past five years indicates that while the total aircraft operations have decreased slightly, the annual instrument operations have increased by more than 20,000 and enplaned passengers have increased by more than 125,000.

Representatives of the parachuting interest were concerned that their operations from Mole Field (11 miles southwest of Cleveland-Hopkins Airport) would be curtailed. They were informed that present regulations do not prohibit parachute operations in TCA airspace, however the aircraft and pilot requirements stated in FAR 91.90 are mandatory.

The Director of Aviation for Cuyahoga County Airport proposed that the Cuyahoga County Airport be excluded from the horizontal limits of the TCA. Further study has confirmed that the TCA airspace, as proposed over that airport, is required for radar vectors to Cleveland-Hopkins Airport ILS localizers to Runways 23L and 28R. The 4,000-foot TCA floor, as proposed over Cuyahoga County Airport, provides ample airspace for the type of operations conducted at this airport.

In consideration of the foregoing and for reasons stated in Docket No. 9880 (35 FR 7782), it is proposed to amend Part 71 of the Federal Aviation Regulations by adding the following to § 71.401 (b) Group II Terminal Control Areas.

#### CLEVELAND, OHIO, TERMINAL CONTROL AREA

##### PRIMARY AIRPORT

Cleveland-Hopkins International Airport (Lat. 41°24'37" N., Long. 81°50'56" W.).

Cleveland-Hopkins distance measuring equipment (DME) antenna (Lat. 41°24'15" N., Long. 81°51'44" W.).

##### BOUNDARIES

###### Area A

That airspace extending upward from the surface to and including 8,000 feet MSL within a 5-mile radius of the Cleveland-Hopkins International Airport DME antenna, excluding that airspace within a 1-mile radius of the Strongsville Airport (Lat. 41°19'25" N., Long. 81°52'00" W.) and Gilbert Airport (Lat. 41°22'00" N., Long. 81°58'00" W.).

###### Area B

That airspace extending upward from 1,800 feet MSL to and including 8,000 feet MSL within a 8.5-mile radius of the Cleveland-Hopkins International Airport DME antenna excluding Area A previously described, and that airspace within a 2-mile radius of Burke Lakefront Airport (Lat. 41°30'45" N., Long. 81°41'15" W.).

###### Area C

That airspace extending upward from 3,000 feet MSL to and including 8,000 feet MSL within a 15-mile radius of the Cleveland-Hopkins International Airport DME antenna excluding Areas A and B previously described.

###### Area D

That airspace extending upward from 4,000 feet MSL to and including 8,000 feet MSL within a 20-mile radius of the Cleveland-Hopkins International Airport DME antenna, excluding Areas A, B, and C previously described.

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

Issued in Washington, D.C., on October 25, 1973.

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

[FR Doc. 73-23981 Filed 11-9-73; 8:45 am]

### [ 14 CFR Part 91 ]

[Docket No. 11350; Reference Notice No. 72-35]

#### VFR WEATHER MINIMUMS

##### Withdrawal of Notice of Proposed Rulemaking

The purpose of this notice is to withdraw Notice No. 72-35 (38 FR 800), in which the FAA proposed to prescribe distance from cloud minimums for VFR aircraft operating 1,200 feet or less above the surface outside controlled airspace. Section 91.105 provides that aircraft operating under those conditions must remain clear of clouds. Notice No. 72-35 proposed that such aircraft must remain at least 500 feet below, 2,000 feet horizontally from, and 1,000 feet above clouds.

Approximately 1,300 public comments were received in response to the notice, nearly all of which were opposed to it, generally on the grounds that flight safety would be derogated; that the present flight rule allows operations at low altitudes while still complying with the minimum safe altitude requirements of § 91.79; and that to require an additional distance of 500 feet below clouds would result in aircraft operating at lower levels where surface obstructions are more numerous; it was further argued that this would tend to increase operational hazards to people and objects on the surface as well as to the aircraft and its occupants. The FAA does not agree that safety would be derogated by adoption of the rule as proposed. It is recognized, however, that flights could not be operated when lower ceilings would not per-

mit compliance with the minimum safe altitude rule and that the restriction is unnecessary.

Comments noted that agricultural and industrial operations would be seriously handicapped by the proposed rule when low ceilings exist. It was also stated that flight training operations, routine business, sight seeing, and pleasure flights would be inhibited.

There was general disagreement with the suggestion in Notice 72-35 that the proposed rule would eliminate the complexity of interpreting the criterion of remaining clear of clouds. The comments indicate that pilots have experienced little difficulty in applying the criterion, and that merely increasing the distance from clouds would not simplify the rules. Also, many comments pointed out that the current cloud clearance minimums have been in effect for many years, that there is no basis for concluding that any particular increase in these minimums would result in a corresponding increase in safety.

As stated in the notice, the FAA desired to focus public comment on the clearance-from-cloud aspect of the several related subjects considered in the advance notice of proposed rulemaking No. 71-24 (36 FR 17052). In view of the comments, and recognizing that many flights would unnecessarily be prohibited from operating under the proposed rule, the FAA has concluded that rulemaking action on the proposed amendment is not appropriate, and that Notice No. 72-35 should be withdrawn.

The withdrawal of this notice, however, does not preclude the FAA from issuing similar notices in the future or commit the FAA to any course of action.

In consideration of the foregoing, the notice of proposed rulemaking published in the FEDERAL REGISTER (38 FR 800) on January 4, 1973, and circulated as Notice No. 72-35 entitled "VFR Weather Minimums" is hereby withdrawn.

This withdrawal is issued under the authority of sections 307 and 313(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348 and 1354(a)); and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

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

RAYMOND G. BELANGER,  
Director, Air Traffic Service.

[FR Doc.73-23982 Filed 11-9-73;8:45 am]

## ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

HAWAII

### Proposed Revision to Implementation Plan

On May 31, 1972 (37 FR 10842), pursuant to section 110 of the Clean Air Act and 40 CFR Part 51, the Administrator approved, with specific exceptions, State plans for implementation of the national ambient air quality standards. In the preamble to the May 31 approval/disapproval, the Administrator noted that he would extend for a period not to exceed 18 months the deadline for sub-

mittal of that portion of a State plan which would implement a national secondary standard when the conditions specified in 40 CFR 51.31 were met. Those conditions are: (1) If the plan fails to provide for attainment of that standard, and (2) if the attainment would require emission reductions exceeding those which can be achieved through the application of reasonably available control technology.

The State of Hawaii requested and was granted by the Administrator an 18-month extension of the deadline for submittal of the control strategy for the attainment of the national secondary ambient air quality standards for particulate matter (37 FR 10860). The State of Hawaii Department of Health adopted a control strategy on August 16, 1973, after a public hearing which was held on July 24, 1973. It was approved by the Governor and submitted to the EPA Region IX Office on August 15, 1973.

The control strategy submitted by the State consists of emission limitations for process industries, incinerators, and bagasse combustion; prohibition of open burning except agricultural; and a permit system for such agricultural burning.

The Air Quality Data Summary and the Emission Inventory Summary included in the implementation plan have been revised. Section V of the plan, the Air Quality Data Summary, has been revised to include air quality data obtained during 1972. Section VI, the Emission Inventory Summary, has been revised to reflect a change in particulate matter emissions attributed to agricultural burning, due to the development of new emission factors for sugar cane and pineapple field burning.

The control strategy is based on the revised emission inventory and the air quality data obtained during 1972, and is designed to attain the national secondary ambient air quality standard in 1975.

The Administrator's decision to approve or disapprove this control strategy will be based on whether it meets the requirements of section 110(a)(2)(A)-(D) of the Clean Air Act and EPA regulations in 40 CFR Part 51. During the EPA review period public comment on this control strategy will be considered. Copies of the plan will be available for public inspection during normal business hours in the Library of EPA Region IX, 100 California Street, San Francisco, California, 94111, and at the EPA Pacific Islands Office, 1000 Bishop Street, Suite 601, Honolulu, Hawaii, 96813. Interested persons are invited to comment on whether the proposed plan should be approved or disapproved by submitting written comments to the EPA Regional Administrator, Region IX, at the above addresses. All comments submitted on or before December 12, 1973, will be considered.

(42 U.S.C. 1857c-5.)

Dated: November 7, 1973.

RUSSELL E. TRAIN,  
Administrator.

[FR Doc.73-24009 Filed 11-9-73;8:45 am]

### [40 CFR Part 180]

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

### O,O-Diethyl O-[p-(Methylsulfinyl)phenyl] Phosphorothioate; Proposed Tolerance

An order was published in the FEDERAL REGISTER of August 30, 1968 (33 FR 12229), in connection with Pesticide Petition No. 8E0696 establishing a tolerance of 0.02 part per million for negligible residues of the insecticide O,O-diethyl O-[p-(methylsulfinyl)phenyl] phosphorothioate in or on the raw agricultural commodity bananas. Based on the data submitted in that petition, Chemagro Division of Baychem Corp., Post Office Box 4913, Hawthorn Road, Kansas City, MO 64120, now proposes establishment of a tolerance for negligible residues of the subject insecticide in or on the raw agricultural commodity plantain at 0.02 part per million.

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

1. The insecticide is useful for the purpose for which the tolerance is proposed.
2. There is no reasonable expectation of residues in eggs, meat, milk, or poultry and § 180.6(a)(3) applies.
3. The proposed tolerance will protect the public health.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(e), 68 Stat. 514; (21 U.S.C. 346a(e))), the authority transferred to the Administrator of the Environmental Protection Agency (35 FR 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticide Programs (36 FR 9038), it is proposed that § 180.234 be amended by revising the paragraph "0.02 part per million (negligible residue) . . ." to read as follows:

§ 180.234 O,O-Diethyl O-[p-(methylsulfinyl)phenyl] phosphorothioate; tolerances for residues.

Negligible residue 0.02 part per million in or on bananas, plantain, and sugarcane.

Any person who has registered or submitted an application for the registration of an economic poison under the Federal Insecticide, Fungicide, and Rodenticide Act, containing any of the ingredients listed herein, may request, before December 12, 1973, that this proposal be referred to an advisory committee in accordance with section 408(e) of the act.

Interested persons may, before December 12, 1973, file with the Hearing Clerk, Environmental Protection Agency, Room 1019E, Fourth and M Streets SW, Water-side Mall, Washington, D.C. 20460, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. All written submissions made pursuant to this proposal will be made available for public

inspection at the office of the Hearing Clerk.

Dated: November 2, 1973.

EDWIN L. JOHNSON,  
Acting Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.73-23972 Filed 11-9-73;8:45 am]

## FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 19827]

### FM BROADCAST STATIONS IN CERTAIN CITIES IN SOUTH CAROLINA

#### 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, (Lake City, Mullins, and Kingstree, South Carolina)*, Docket No. 19827, RM-2065.

1. On September 19, 1973, the Commission adopted a notice of proposed rulemaking in the above-captioned proceeding. Publication was given in the FEDERAL REGISTER on September 28, 1973, 38 FR 27086. Comment and reply comment dates are presently designated as November 2 and November 12, 1973.

2. On November 2, 1973, Earl Bradsher requested that the time for filing comments be extended to and including November 16, 1973. Mr. Bradsher states he needs the additional time in which to prepare a counter proposal in this proceeding.

3. It appears that the requested time is warranted: *Accordingly, it is ordered*, That the times for filing comments and reply comments are extended to and including November 16 and November 28, 1973, respectively.

4. This action is taken pursuant to authority found in sections 4(d), 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 and Released: November 6, 1973.

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

[FR Doc.73-23998 Filed 11-9-73;8:45 am]

[47 CFR Part 73]

[Docket No. 19314; FCC 73-1143]

### TELEVISION BROADCAST STATIONS

#### Inclusion of Program Identification Patterns in Visual Transmissions; Report and Order Terminating Proceeding

In the matter of amendment of Part 73, § 73.682(a) (22) of the Commission's rules and regulations concerning the inclusion of program identification patterns in the visual transmissions of television broadcast stations, Docket No. 19314, RM-1783.

1. Responding to a petition filed by International Digisonics Corporation on April 12, 1971, a notice of proposed rule-

making in the above-entitled proceeding was adopted by the Commission on September 8, 1971 (FCC 71-953, 36 FR 18657). The deadlines for filing comments and reply comments in the proceeding, specified in the notice as December 8, 1971, and January 7, 1972, were extended by subsequent orders to and including March 10, 1972, and up to and including May 10, 1972, respectively.

2. As listed in the Appendix below, 48 parties filed comments on the matters raised in this proceeding. Seven of these comments, one of which was accompanied by a petition for its late acceptance, were filed after the March 10 deadline. However, since preparation of a decision in this matter has been delayed by other factors, the late filed comments may be considered without impeding the orderly disposition of this matter. Accordingly, these comments have been accepted and considered in this proceeding.

3. Timely filed reply comments were submitted by ten parties, who are also listed in the Appendix below.

4. All such comments and reply comments have been considered fully in arriving at a decision in this instant proceeding, whether or not specific mention is made of a particular filing in this decision.

5. At issue is the action to be taken, in the light of three years experience with its application, with respect to a rule, adopted April 15, 1970, by a Report and Order in Docket 18605, for the purpose of making possible the implementation of a system whereby transmitted television programs and commercials might be identified by automatic means.

6. This rule, specifically § 73.682(a) (22) of our rules and regulations, reads as follows:

The intervals within the first and last ten microseconds of lines 21 through 23 and 260 through 262 (on a "field" basis), may contain coded patterns for the purpose of electronic identification of television broadcast programs and spot announcements. No single transmission shall exceed one second in duration. The transmission of these patterns shall not result in significant degradation of broadcast transmission.

The text of the rule, as adopted, is essentially the same as that proposed by International Digisonics Corporation (IDC), whose petition resulted in the institution of the proceeding in Docket 18605.

7. Identification patterns inserted in recorded program material, and transmitted in accordance with this rule would occupy small rectangular blocks in the extreme four corners of the active television picture, but normally would not be visible to the broadcast audience, since the usual television receiver is so adjusted by the manufacturer that the periphery of the received picture is hidden from view. The transmitted patterns, however, are susceptible to interception by receiving equipment especially designed for this purpose.

8. After the rule became effective, IDC undertook to provide an identification service to advertisers interested in ob-

taining an independent verification of the times their commercials were broadcast over particular television stations. It established strategically placed unattended monitors in the major market areas intended to intercept the transmitted identification patterns previously inserted in recorded program material broadcast by stations in the area, to extract the identifying information and relay it to a central computer, where it is correlated and compiled in a form suitable for distribution to IDC's clients.

9. Almost from its inception, this service has been plagued by the occurrence of pattern transmissions which have failed to comply with the requirements of § 73.682(a) (22); in many instances, as amply attested by all concerned with this problem, transmitted patterns frequently have occupied more of the active picture area than the rule permits, and on occasion have been grossly misplaced. This difficulty has been experienced primarily in the transmission of identification patterns printed on motion picture film, which has constituted the great bulk of recorded commercial material furnished for broadcast. The situation has persisted up to the present time, despite strenuous and continued efforts of IDC, working with film processors and broadcast station licensees, to devise and implement methods and procedures which would result in satisfactory pattern transmission.

10. During this period, relying on IDC's assurances that eventual compliance with the rule would be achieved when the parties involved in the preparation and transmission of program material on film containing identification patterns were furnished with the proper tools and educated in the procedures necessary to insure proper pattern transmission, the Commission refrained from active enforcement procedures, and authorized transmissions not complying with the certain provisions of the rule through a series of Public Notices, which, in effect, granted limited waivers of the rule to all television broadcast stations.<sup>1</sup>

11. While some improvement in the situation resulted from IDC's efforts, it eventually concluded that the processes of film production and projection were subject to inaccuracies and instabilities of such magnitude that identification patterns on films could not be transmitted consistently with the degree of precision necessary to meet the requirements of the rule and, in the petition which initiated this proceeding sought an amendment of § 73.682(a) (22), to relax these requirements. The proposed amendment reads as follows:

The first and last ten microseconds of the first six field lines measured from the top of picture (as used in § 73.699, Fig. 6) and the last six field lines measured from the bottom of picture (as used in § 73.699, Fig. 7) may contain identification patterns intended for the purpose of electronically identifying tele-

<sup>1</sup> FCC 70-1148, November 22, 1970; FCC 71-72, January 21, 1971; FCC 71-953, September 17, 1971. See also Memorandum Opinion and Order (FCC 71-54) adopted January 18, 1972.

vision program and commercial material. In order to allow for alignment tolerances, the patterns may occupy an additional three field lines at either the top or bottom of picture. No single transmission of identification patterns shall exceed one second in duration. The transmission of these patterns shall not result in significant degradation of broadcast transmission.<sup>2</sup>

This rule, in effect, doubles the basic size of the picture areas which may be employed for identification pattern transmission, specifies pattern locations with respect to the active picture area, rather than as to numbered scanning lines, as does the present rule, and prescribes a "floating" three field line tolerance, additive to either the top or bottom pattern areas, primarily to provide for framing variations in film projection at the broadcast station. It was IDC's contention that coded motion picture film in then current production would be transmitted consistently in accordance with this rule.

12. A number of detailed oppositions were filed in response to the IDC petition. Taking cognizance of the positions advanced in these oppositions, which, among other things, reiterated the claims of many broadcasters and of some agencies engaged in film processing that undue burdens were involved in the preparation and broadcast of coded film, we specified the following issues in this proceeding:

(1) Will identification patterns on motion picture film be transmitted consistently in accordance with the proposed rule?

(2) Will pattern transmissions in accordance with the proposed rule cause significant degradation of picture transmission?

(3) Does the preparation and transmission of film containing identification patterns place an additional and continuing burden on film processor and broadcaster which is disproportionate to the benefits the system provides?

(4) Is the broadcaster effectively prevented from insuring that his station will operate in accordance with the rules by his practical inability to determine, prior to its actual use, that a film including identification patterns will be transmitted in accordance with the rules?

(5) In view of the findings made with respect to the issues above, should the amendment to § 73.682(a)(22) be adopted as proposed, adopted with some modification, or should the rule be deleted?

13. Since we indicated that we intended to authorize continued identification pattern transmissions during the course of the proceeding, we urged that showings with respect to the first two issues be supported by specific evidence based on properly conducted measurements of transmitted patterns, and other appropriate investigation.

14. For the resolution of Issue (3) we requested, among other things, specific information as to the extent that identification pattern transmission was rendering the "rapid, efficient, and accurate" service which was contemplated

when the rule authorizing these transmissions was adopted.<sup>3</sup>

15. Many of the comments filed in response to the rulemaking notice report the results of investigations, some quite elaborate and extensive in nature, of the probability that identification patterns recorded on film would be transmitted in accordance with the proposed rule. Several of these studies, based on measurements at the broadcasting station of patterns on film still-framed in the projector, are of somewhat limited value, even though carefully conducted, since, as most parties agree, measurements made under such conditions may not closely reflect the performance of the moving film. However, these studies, together with a detailed analysis submitted by the Society of Motion Picture and Television Engineers (SMPTE) of the variables involved in the production and projection of coded film which must be expected within tolerances susceptible to practical maintenance, all provide valuable corroboration of results obtained in test programs conducted by IDC and the Columbia Broadcasting System (CBS), both of which employed technical measurement systems which yielded results reflecting the actual on-the-air characteristics of the transmitted identification patterns.<sup>4</sup>

16. The conclusions drawn (and we believe, fairly) by the parties from their measurements (excluding, for the moment, IDC) is that, while the proposed rule, if adopted, would receive a higher degree of compliance than would the present rule, an appreciable percentage of pattern transmissions would still exceed the limits prescribed in the rule, while a small percentage would involve deviations so great that a rule devised to accommodate all such deviations would be so relaxed as to be virtually meaningless.

17. The variability in the observed transmitted pattern size extended in both directions—in some cases patterns were unduly large, in others, extremely small. An opinion voiced by several of the parties engaging in these studies, based on observations of the vestigial nature of many of the transmitted patterns was

<sup>2</sup> Over the past few years, the Commission has received many letters from national advertisers and advertising agencies, furnished by IDC or sent directly by advertisers, in support of the IDC system. Generally, however, these letters express a need for a reliable and accurate means of program identification, and the hope, or, perhaps, the expectation that the IDC system would eventually fulfill this need. However, the letters contain little evidence that the companies submitting them were satisfied with the existing performance of the system or were relying on it as the primary means for off-the-air determinations of the transmission of their commercials.

<sup>4</sup> In addition to IDC and CBS, parties submitting measurements include Cox Broadcasting Corp., Taft Broadcasting Co., Association of Maximum Service Telecasters, Inc., American Broadcasting Companies, Inc., Storer Broadcasting Co., and RKO General, Inc.

that it appeared unlikely that such patterns could be intercepted and reliably decoded by practical means. CBS stated that about 20 percent of ostensibly coded film commercials it had examined would appear to present problems of this nature.

18. IDC's own observations, and its further experience in attempting to achieve satisfactory functioning of the identification system has led it to conclusions not dissimilar to those of other parties with respect to the first issue.

19. Moreover, in its evaluation of the reliability of detection of received identification patterns, when the patterns are recorded on film, it confirms the suspicion voiced by other parties that, under present conditions, the accuracy of detection of coded patterns on film at IDC monitors is so low as not to support an identification system on which complete reliance may be placed.

20. Specifically, IDC states that "a recent study of videotapes of actual transmissions by 114 licensees in 38 cities of more than 1,600 film and tape identification patterns during the past ten months concludes that more than 93.8 percent of the patterns have been transmitted with the 6+6+3 allowance \* \* \* 6.4 percent of the patterns have exceeded that standard. Likewise, although approximately 80 percent of the transmitted patterns have been detectable, almost 20 percent remain too small to activate monitors." It concludes that "since the 6+6+3 standard cannot reasonably be met 100 percent of the time and does not allow sufficient margin for detection tolerances, it would be impracticable in application to automatic monitoring."

21. IDC alleges that the major reason for limited accuracy with which it has been able to perform its identification service is "missed detections \* \* \* caused by tolerances in the broadcast process and the consequent transmission of a pattern too small to register on a monitor. This, however, is a result of the present unrealistic regulations, not an inherent defect in the system. By purposefully keeping identification patterns as small as possible to avoid an occasional over-line transmission which could result in a fine for a broadcaster under the rules, regardless of the lack of an effect on viewers, IDC must run the risk of patterns which are transmitted too small for detection. The existence of this risk is not dictated by the system, but by the regulation."

22. IDC is prepared to concede the special technical problems faced by the broadcaster in transmitting identification patterns included on film: "Because the tolerances in film production and broadcast are not yet completely predictable, IDC believes it likely that some small number of identification patterns on film always would exceed any reasonable field line standard. This would mean that the possibility would always exist that a licensee might violate the Commission's transmission standards simply by broadcasting an identified film unless each film and each identification pat-

<sup>3</sup> This is sometimes referred to, in the subsequent discussion, as the "6+6+3 standard".

tern were pre-screened and the station's film chains aligned with extreme frequency. Since the broadcasting industry has determined that such a situation is intolerable, it is apparent that the proposed 6+6+3 standard, and any similar specified-line standard, simply does not provide the best remedy for the existing problems of an occasional over-line broadcast and attendant inadvertent violation of the Commission's regulations.

23. IDC insists that its identification system, in spite of the limited accuracy of its present performance, is nevertheless of considerable use to advertisers and others. It calls attention to numerous letters, directed to the Commission by various advertisers and advertising agencies urging Commission action to prevent the elimination of IDC service.

24. Eight companies engaging in TV advertising on a national or regional basis have filed formal or informal comments in this proceeding urging a continuation of the IDC service and attesting to its present or potential value in the direction and verification of their advertising efforts.

25. The Screen Actors Guild (SAG) and American Federation of Radio and Television Artists (AFTRA) emphasize that a feasible electronic monitoring system would facilitate residual payments to members of performer's unions. Present methods for computing these payments are slow, of unsatisfactory accuracy, and inordinately expensive. Recognizing the initial difficulties experienced in the implementation of the IDC system, they aver an amendment of the rules as proposed by IDC would remove these difficulties, and make possible the implementation of a presently suspended provision of their collective bargaining agreements, which, for each agreement, read as follows:

The parties recognize that a system of coding of television commercials would be beneficial to the Industry. Therefore, on notice from the Industry (Guild) (AFTRA) Standing Committee that an adequate and feasible system or systems for monitoring of televised commercials is operative and with the consent of the ANA-AAAA Joint Policy Committee on Broadcast Talent Relations and (Screen Actors Guild) (AFTRA), Producers shall take appropriate steps to code all commercials for which such Producer is responsible hereunder, with the necessary identifying data and information.

26. Generally in support of the IDC proposals are the individual comments of ten optical laboratories, all of which have worked with IDC in placing identification patterns on film. They express confidence that, within the relaxed tolerances which the rule proposed by IDC would make possible, the patterns could accurately be placed on film, and such additional burdens as may be involved in adding these patterns is assumed as necessary in insuring that film will continue to be used in the production of television commercials.

27. However, the Association of Cinema Laboratories (ACL), an organization representing 98 firms, of which 68

are film processors, elaborates on the difficulties involved in insuring that the final film product will have accurately located identification patterns, and the special problems involved in placing such patterns on film that is originally "shot" in 16 mm format. It points to the detailed study submitted by SMPTE in this proceeding in support of its position that the IDC system is fundamentally incompatible with film.

28. While the above comments were directed to the IDC proposal that initiated this proceeding, they are, in the main, equally applicable to its revised proposal, which is described hereunder.\*

29. Having concluded that the rule it had proposed, despite its leniency as compared to the existing rule, is inadequate, in that it will still present compliance problems for broadcasters, and have the effect of requiring a restriction on identification pattern size so stringent that satisfactory accuracy of detection cannot be achieved, IDC abandons its support of the rule amendment it presented in its petition, and, instead, in its comments, proposes the following as a substitute:

The visual transmission may include identification patterns intended for the electronic identification of program and commercial material, provided that no single transmission of identification patterns shall exceed one second in duration and that the existence of the identification pattern shall not result in significant degradation of the broadcast transmission.

30. IDC alleges that such a rule, which relies only on the one second limitation on pattern transmission time and the prohibition against "significant degradation of the broadcast transmission" for the protection of the viewing audience from adverse effects of visible identification patterns, has the following virtues:

(1) It will relieve the broadcaster from the burdens imposed by the present rule, which include onerous or impracticable pre-screening and exacting adjustment and maintenance of film projection equipment, as well as sparing him the hazard of inadvertent

\* Also pointed out in the comments is that identification pattern transmission pursuant to the present rule, or any modification thereof, will continue to present a problem which has troubled many broadcasters—that they are engaged in the transmittal of information prepared by others whose nature and content is not readily reviewable by the station licensee, since it is in "coded" form. Consequently, the licensee is effectively precluded from adequately discharging his statutory responsibility to maintain control over the content of his station's transmissions. We have provided for a full exploration of this question with respect to visual or aural signals utilized for automatic program identification in the rulemaking proceeding in Docket 18877. It should be noted in passing, however, that any policy developed in this area may need to be sufficiently broad to encompass such "data" transmission by broadcast stations as the Commission, in the future, may find it in the public interest to authorize, e.g., the transmission of signals providing captioning of television programs for those with impaired hearing who have receivers especially equipped to utilize those signals.

violation of a rule establishing a fixed standard.

(2) It will permit IDC flexibility so that pattern size and placement may be modified as necessary for the improvement of detection accuracy.

(3) It will relieve the Commission of administrative burdens "by creating a situation in which the regulation is almost self-enforcing". IDC suggests that the advertiser, the monitoring service and the broadcaster will all work to eliminate pattern transmissions which might trouble the public, and public complaints to the Commission could be relied on as indicia that such efforts are inadequate, and enforcement or remedial action is necessary.

31. IDC urges that operation under the rule it now proposes could, in fact, be conducted without "significant degradation" of programming—that the occasional presence of visible identification patterns does not in any degree adversely affect the viewers' enjoyment of television programs. It claims that this has been proven by experience with identification transmissions beginning on May 1, 1970. Since that time "none of the literally billions of pattern 'exposures' has been seen, or, if seen, regarded by any of the millions of television viewers as an annoyance warranting the registering of a complaint or even an inquiry at the Commission." This has been the case, IDC notes, despite the fact that, as shown in its study included in Appendix A to its comments, a number of transmissions have included patterns exceeding in size both those permitted by the existing rule, and by the "6+6+3" rule which IDC had proposed in its petition.\*

32. In further support of its position, IDC refers to the results of a survey and tests included in Appendix B to its comments, performed for IDC by Home Arts Guild Research Center, an independent research organization. The Center conducted both tests designed to obtain viewer reactions in the home environment to regular program material, and simulated showings of program material including identification patterns of var-

\* IDC quotes a conclusion reached by the Commission in the Report and Order in Docket 18605, in support of its position that visible identification patterns, per se, do not cause "significant degradation" of the television picture, viz., "the effect of the code transmissions on the quality of the viewed picture is negligible, even when the picture includes the code. The size, placement, and length of exposure of the code patterns are such that a viewer, not alerted to look for them, would be unaware that the transmissions had taken place. We believe they could not, in any sense, be held to be obtrusive or distracting." It must be observed that this conclusion was reached after Commission personnel witnessed a demonstration in which videotaped three field line patterns (the largest patterns permissible under the rule then proposed), properly located in the extreme corners of the picture raster, were made visible by a deliberate reduction in picture size to bring its periphery into view. Whether we would have reached the same conclusion if the identification patterns had been considerably larger and had extended further into the picture area, we, of course, are unable to say.

ious sizes before a carefully selected panel of typical viewers. We quote the summary of the Center's conclusions verbatim:

It is our conclusion that the IDC code patterns are not disturbing to the television viewer in contrast to a great many other occurrences, both of a visual and aural nature that are disturbing. In fact, in the normal home viewing environment people do not notice the code at all.

In a more critical viewing situation with large simulated codes presented (up to the equivalent of 28 lines per corner), less than 1 percent of the code appearances are noted. Those few that are noted are categorized as having no more than a negligible effect on the viewer.

When viewers are completely informed of the nature and timing of the code and are shown television commercials containing very large code patterns (up to the equivalent of 36 lines per corner), the great majority of code appearances (more than 90 percent), are judged as having no more than a negligible effect on the viewer.

33. This approach by IDC to the question assumes that "significant degradation" of the picture occurs only when identification patterns are so prominent and apparent as to distract or annoy the viewer. Other parties adopt a more restrictive interpretation of the term—the most conservative opinion is to the effect that any intrusion of a pattern into the viewed area of the picture results in degradation of the picture.

34. If we were to accept fully IDC's conclusion that, limited to one second in duration, visible identification patterns of considerable size produce no adverse effects on the viewing of programs, the question of whether transmitted identification patterns of given characteristics will, in fact, appear in the viewed picture area of the television receiver is relatively unimportant. On the other hand, if the intrusion of these patterns into the viewed area is held to be objectionable, per se, a determination of the limitations on pattern size necessary to prevent or minimize such intrusions becomes a matter of considerable importance.

35. Without passing on the relative merits of these positions at this time, we note that both IDC and SMPTE have reported on the results of studies they have caused to be made as to relative amount of masking of the active picture occurring in typical television receivers, with relationship to the particular question of the size of identification patterns which could be accommodated in the unviewed picture area in receivers available to or in the hands of the general public.

36. The IDC study involved the examination of 51 receivers of recent manufacture, of various makes, types and sizes, to determine the number of field lines masked, in each of the four corners of the active picture, measured at points marking the end of the first and the beginning of the last 10 microseconds of the scanning line (the limits of the extension of the identification patterns into the active picture in the horizontal direction, under the existing rule or the rule IDC initially proposed in this proceeding).

The study found that the mean masking for this group of receivers was between 13.2 and 25.9 field lines, depending upon which of the four corners of the active picture is considered. The deviation from this mean is substantial, however. For instance, it is noted that the basic six field line pattern contemplated in the rule proposed in the Notice, and for the rule covering videotaped transmissions suggested by IDC in its comments, as discussed hereunder, would be at least partially visible in one or more corners of the picture on up to 13.7 percent of the receivers examined in the study. Jansky & Bailey, the firm conducting the study, was unable to translate the results of its study into terms of the percentages of the various makes and types of the receivers examined which are in the hands of the general public.

37. The SMPTE pleading includes a study of receiver masking conducted in the Rochester, New York area under the direction of Mr. Ronald J. Zavada. In this study, four local television stations simultaneously transmitted a test slide, especially designed to permit, on the basis of individual viewers' reports of particular numbers or letters seen at the periphery of the viewing screens of their receivers, an evaluation of the degree of masking occurring in each of these receivers. Public participation in the test was solicited through newspapers and by direct handouts, and 5,948 viewers completed and submitted a questionnaire providing information required for the evaluation. Of particular pertinence to this proceeding is the analysis of the viewers' ability to see one or more of three letters arranged in the four corners of the test slide. These letters were between 6 and 7 field lines in height and placed so that the innermost letter from each corner (i.e., the letter placed furthest into the picture in the horizontal direction), was just included within an estimated 10 microsecond points from the beginning and end of the active picture. While an extensive analysis of the results of the test is included in the report, we will note here only items in the summary to the effect that 15 percent of the participants reported seeing at least one letter in at least one corner, and a further finding that approximately 9 percent of viewers were able to see at least one letter set (which was included in about the innermost half of the horizontal extension of the area expected to be occupied by the pattern) in at least one corner.

38. While the IDC method of testing is the more exact, the more approximate SMPTE procedure provided results from a much larger sample, and one, moreover, which should represent the actual distribution of receivers in the hands of the public. It may be noted that the particular results obtained, in the two tests as cited, are not greatly different, and taken together, might be summarized thus—a six or seven field line pattern transmission would be at least partially visible, in at least one corner of the viewer's picture, in 13 to 15 percent of all receivers.

39. While IDC believes that the rule it now proposes provides adequate protection for the viewer, and the same time relieves the broadcaster of undue burdens, it notes that the considerations which make impracticable the imposition of specific standards of filmed pattern transmissions have much less applicability to patterns on videotape—transmission of videotaped patterns may be made to comply with stated standards. It cites certain industry reports predicting the utilization of videotape for virtually all commercials within a five- or six-year period. Accordingly, it suggests that, in addition to adopting the one-second-no significant degradation rule, the Commission may wish to establish a separate standard, applying only to videotaped identification pattern transmissions. It offers the following as an acceptable standard:

The first and last ten microseconds of lines 22 through 27 and 257 through 262 (on a field basis) of the television transmission of videotape material may contain identification patterns intended for the electronic identification of program and commercial material, provided that no single transmission of identification patterns shall exceed one second in duration and that the existence of the identification patterns shall not result in significant degradation of the broadcast transmission.

40. The expansion of the vertical dimension of the identification pattern from the three field lines permitted by the present rule, to six field lines corresponding to the interim standard presently applicable, as proposed above, is necessary, even for videotape, states IDC, because playback imperfections can at times result in omission of portions of a picture line, "together with tolerances in the functioning of IDC monitors."

41. IDC avers that, the results of the technical studies it has made, as reported in the Appendices to its comments, support its contention that patterns transmitted in accordance with the six-line standard "would remain well within the non-viewed picture area and, even if they did not, they would not be considered bothersome by viewers. Broadcasters would find, as they have in the past, that identification patterns on tape have been consistently reliable."

42. ABC and Eastman in their reply comments, point out that since the IDC proposal, as outlined above, differs substantially from the one based on IDC's petition which was offered for consideration in the notice of proposed rulemaking, it is not appropriate to consider it in the instant proceeding—that the requirements of fairness and for adequate notice to other parties will be satisfied only if the new proposal is made the subject of a further rulemaking proceeding. Nevertheless, ABC devotes a major portion of its reply to an analysis of the new IDC proposal, and all but two of the nine other reply comments treat the proposal in detail, without questioning its validity from a procedural standpoint.

43. IDC finds little support for its "one second-no significant degradation" proposal by the commenting parties. The

objections raised may be summarized as follows:

(1) That the standard is virtually unenforceable since "significant degradation" is not a term precisely defined, or indeed, susceptible to precise definition.

(2) That, relieved of its obligation to meet a specified pattern placement requirement, IDC would proceed to expand the size of the patterns on film to the extent necessary to achieve a satisfactory level of identification accuracy. CBS suggests that "code blocks imprinted on film would have to be increased to a point where 26 field lines could penetrate into one or more corners of the picture, in well over 1 percent of all transmission". Eastman anticipates "at least a 12- to 15-line penetration top and bottom" would be required "to achieve the minimum reliability required for detection, and to account for the variables listed in the reports heretofore submitted by the SMPTE". It is urged that experience with the public's passive acceptance of those occasionally visible patterns transmitted under present conditions forms no basis for predicting its reaction to larger patterns, transmitted with the greater frequency which might be anticipated should increased reliability of the IDC system achieved through the employment of larger patterns result in its greater acceptance and use by advertisers.

(3) The rule could not in any sense be considered a temporary one, to be supplanted by a definite line standard on conversion of all pattern transmissions to videotape. Many parties vigorously contest IDC's forecast of the rapid retirement of film, and cite industry trends which portend not only the continued but perhaps expanded use of film in the future. It is the position of a number of the parties that any program identification system (which most of the parties now concede as desirable) must be and continue to be practicably applicable to film as well as to videotape. They hold the present IDC system is not satisfactory for film, and question its complete feasibility when applied to videotape.

(4) The rule does not relieve broadcasters of all of the burdens which are imposed under the present rule. IDC has suggested that they still would have to conduct "random" prescreening to detect grossly misplaced patterns. Public objections to visible pattern transmissions (which would be deemed as evidence of "significant degradation" under the rule) would develop only after the offending transmissions had occurred, and possibly subject the broadcaster to sanctions for rule violations.

(5) If IDC's predictions were realized, and all identification patterns were recorded on videotape, the broadcaster would be rendered even less able than under present conditions to exercise control over the informational content of these transmissions.

44. It is the virtually unanimous recommendation of broadcasters and broadcast organizations that both IDC's original and modified proposals be rejected, and that the existing rule (§ 73.682(a)(22)) be deleted, perhaps after a period of time aimed at accommodating an orderly retirement of commercials presently bearing identification patterns.

45. It is further urged that the Commission turn its attention to other means of program identification which do not have the demonstrated deficiencies of the present system. Eastman Kodak Company and Association of Maximum Service Telecasters, Inc. (AMST) suggest, as an alternative, the aural system presently under consideration in

Docket No. 18877: CBS, National Broadcasting Co. (NBC), and SMPTE favor the development of the optimum parameters for a program identification system through a broadly based inquiry into various possible methods; the CBS and SMPTE proposals contemplate the creation of an all-industry committee which, in addition to program identification, would develop technical standards for a variety of ancillary signals foreseen as useful additions to the basic program transmissions.<sup>1</sup> In this general context, we note the statement of Broadcast Advertisers Reports, Inc. (BAR) that it is studying the feasibility of a recently developed "voice print" method which, if it can be practicably applied, would make possible a system of electronic program identification not requiring the addition of any extraneous signal whatsoever to the broadcast transmission. In any event, states BAR, even if this particular system is not ready to offer an immediate solution to the electronic monitoring problem, the functioning of the IDC system can be safely terminated for the period required for the orderly development of an acceptable automatic system without seriously discommodating the industry, for which BAR has long provided an alternative program identification service.

#### DISCUSSION

46. The initial question to be decided is whether we can properly arrive at a decision herein in the light of a situation in which the petitioner for the rule amendment set forth in the notice of proposed rulemaking, and with respect to which comments were invited, has abandoned support of this amendment, and in its comments, requested consideration of another, much more permissive, rule. Other parties directed their comments to the merits of the rule originally proposed, and, some of the parties argue, have not been afforded an adequate opportunity to deal with the new proposal. These parties urge this proposal should be made the subject of further rulemaking.

47. This is, of course, the course of action which would normally be required under such circumstances. However, as a practical matter, we observe that literally all of the arguments marshalled by the parties who opposed adoption of the rule originally proposed apply with equal or greater force to the revised proposal, except, perhaps, for the likelihood that broadcasters' cited problems with the transmission of identification patterns on film would be appreciably lessened should IDC's new proposal be adopted. Furthermore, the majority of those who filed reply comments, which generally include those who had opposed the original proposal, took cognizance of and directed their comments to the revised proposal,

<sup>1</sup>In the autumn of 1972, the Joint Committee for Intersociety Coordination, whose membership includes IEEE, NAB, SMPTE, EIA, and NCTA, established an Ad Hoc Committee on Television Broadcast Ancillary Signals, for conducting the kind of study contemplated by SMPTE and CBS.

which they found little more to their liking. Of course, IDC has enjoyed no opportunity to reply to these oppositions, but it inevitably sacrificed this opportunity when it undertook to submit its new proposal under these circumstances and rested its case upon such a presentation. We believe, finally, that whether the procedures which are employed can be deemed fully adequate, depends to a great extent on the nature of our decision in this matter. Thus, had we found such merit in the revised IDC proposal that we considered its eventual adoption a distinct possibility, our proper course would have been to initiate a new proceeding. However, this is not the case, and we believe the record is fully adequate to support our action in this proceeding.

48. Existing § 73.682(a)(22) of our rules permits the transmission of identification patterns by television broadcast stations of no more than 1 second in duration pursuant to technical standards intended to result, at the reception point, in patterns located in the four corners of the active picture, each somewhat less than 20 percent of the picture width in horizontal extent, and no more than three field lines in height. The establishment of this standard was supported by a finding that patterns of the size and at the locations permitted by the rule would appear in the viewing field of the average television receiver in use at the time the rule was adopted. The requirement of the rule that pattern transmissions not cause "significant degradation of the broadcast transmission" is an additional safeguard, intended to afford some measure of protection for the television program service from adverse effects which conceivably might result, even when identification patterns were transmitted fully in accordance with the specified technical standards.

49. There is no disagreement among the parties to this proceeding that the "rapid, efficient, and accurate automatic program identification service" which this rule was designed to accommodate cannot be provided by a system functioning within the technical limitations prescribed by the rule.<sup>2</sup>

50. This being the case, two diametrically different courses of action are proposed. The first, urged by the owners and operators of broadcasting stations, by NAB and by the networks, who have been subject to the considerable burdens involved in attempting in their operations to achieve compliance with the rule, and parties involved in the production and processing of film, who see the continuation of the identi-

<sup>2</sup>The variables involved in the recording and transmission of identification patterns on film are of such magnitude that the maintenance and enforcement of this rule would effectively preclude all transmissions of patterns recorded on film; videotaped pattern recordings sufficiently small to be transmitted, in all cases, in accordance with the rule, according to IDC would be of insufficient size for reliable detection by its monitoring receivers.

fication system pursuant to the rule proposed in the Notice as forcing a conversion of program recording to videotape, is that the rule be deleted and that identification transmissions under the present system be terminated, perhaps over a sufficiently long period of time to allow the orderly retirement of existing recorded program material containing identification patterns.

51. The second approach, favored by IDC, by organizations engaged in advertising on television, who see an automatic program identification service as an answer to many of their practical problems, performers' unions, who believe such a service would expedite and facilitate the payments of residuals to their members, and by some optical houses, concerned, like others involved in film processing with the effect that Commission action may have on the continued use of this recording medium, but electing to cast their lot with IDC, is the amendment and relaxation of the existing rule to the extent necessary to accommodate the demonstrated vagaries of the IDC system.

52. The basic rule which IDC now supports, as previously discussed, imposes just two restrictions on identification pattern transmissions: (1) A limitation of one second on their duration, and (2) a condition that they not cause "significant degradation to broadcast transmissions."

53. From IDC's standpoint, no doubt, such a rule has much to recommend it. Tailored to the requirements of its system, which, at least for transmissions of identification patterns on film, has proved itself incapable of operating within any specified limits for pattern size and placement, the rule is devoid of such limits; IDC would be free to adjust these parameters in any way found necessary to improve the presently unsatisfactory pattern detection accuracy. Since broadcasters would have no specific standard to meet in their transmissions of these patterns, their present opposition to the use of coded film material might be expected to diminish. Based on past experience with non-complying pattern transmissions, and the results of the viewer tests it has reported in this proceeding is IDC's confidence that the television audience would not react adversely—at least to the extent of filing verbal or written protests—to visible one second identification patterns, even if they are of considerable size—thus, in IDC's view, "significant degradation" would be unlikely to occur.

54. IDC urges that "although the proposed standard is not as specific as the existing regulation, it is nevertheless an enforceable standard. The Commission may continue to monitor licensees. If their transmissions of identification patterns consistently exceed the national distribution of transmitted pattern size found to exist today, an explanation may be sought. National figures compiled in a manner similar to Appendix A could provide a general indication of transmissions which clearly do not constitute significant degradation unless some evidence to the contrary, such as a number

of viewer complaints, becomes available. IDC is willing to supply, or the Commission may itself prepare, quarterly summaries of national performance in the transmission of identification patterns. Were these ever to indicate an overall change in transmitted pattern placement which the Commission had reason to believe was causing interference to any party, it could put the industry on notice of this fact. If modifications were not forthcoming, enforcement action could be taken."

55. Contrary to IDC assertions, we do not consider "significant degradation" as a "standard" under any accepted meaning of the latter term, and the cumbersome, and, as we evaluate it, woefully ineffective procedure which IDC outlines for its enforcement bears no perceptible resemblance to any procedure which the Commission has heretofore employed in ascertaining violations of its technical rules and in exacting compliance therewith. Rather, IDC has devised a singular (and, we are almost inclined to say, preposterous) regulatory scheme applicable only to identification pattern transmissions.<sup>18</sup>

56. Furthermore, we are unable to agree with IDC's apparent view that intrusions of non-broadcast program identification signals into the television pic-

<sup>18</sup> IDC appears to be of the impression that, because of previous Commission action, the public interest requires that a program identification service continue to be rendered by the IDC system. Thus, on page 12 of its comments, it states: "In its first consideration of the IDC automatic monitoring system in 1969-70, the Commission found that 'the economy, convenience and efficiency of broadcasting would be enhanced by the authorization of this service and the public interest thereby served'. Nothing has transpired in the interim which would support a change in this finding." The language which IDC quotes is contained in paragraph 44 of the Report and Order of April 15, 1970 (FCC 70-386). As a full reading of this paragraph will reveal, the finding which we made was that the rendition of a particular non-broadcast service in the broadcasting band—that of automatic program identification—is in the public interest. This was a necessary antecedent to the adoption of rules permitting the transmission of program identification signals by any means whatsoever, and constituted no endorsement of any particular system.

<sup>19</sup> Even if viewer complaints are received, or pattern transmission "consistently exceeds the national distribution of pattern size," it appears that the individual licensee would not be subject to sanctions—rather "an explanation may be sought," or we could "put the industry on notice." If all else fails, "enforcement action could be taken"—we are not sure against whom. The Commission obviously cannot issue a violation notice to "the industry"; an alternative would appear to be the mass issuance of such notices to all television stations carrying identification patterns for causing "significant degradation to broadcast transmission." It is difficult to believe that such action would not be contested in the courts, but it is not difficult to predict the outcome of a test of such "unconstitutionally vague" regulation. The adoption by the Commission of IDC's "rule" would be a virtual guarantee for IDC of future freedom from troublesome regulatory problems.

ture should be tolerated up to the point where the public finds them so objectionable that it is moved to file verbal or written complaints, and any regulations which undertakes to limit these intrusions to some predetermined and measurable level (established well below the limit of public toleration), is somehow "unrealistic." If the regulatory theory which IDC espouses in this case were applied to other technical facets of broadcast operation, it would dictate the elimination of frequency tolerances and specified limits on the magnitude of interfering signals from our rules, and require us to rely, after the fact, on complaints of injured parties to determine when remedial action should be taken. The result, we submit, would be regulatory chaos. While, of course, such a general breakdown need not occur should this unusual scheme be adopted with respect to program identification signals alone, the only apparent reason for according these signals such unique regulatory treatment—that the signals cannot be transmitted within a specified tolerance—is quite insufficient to justify this action.

57. The proposed rule is objectionable also in that it is so devoid of technical specifications and limitations as to offer what is, in effect, a carte blanche for the transmission of program identification signals by any method whatsoever, in any part of the visual television signal—including all of the active picture area, and in any portion of the vertical blanking interval available under our rules for the transmission of special signals.<sup>19</sup>

58. While IDC has proposed the six field line rule as a supplement to its one second-no significant degradation proposal, for application only to videotaped program identification transmissions, our dissatisfaction with its basic proposal prompts us to examine the virtues and deficiencies of the six field line rule with respect to its adoption alone as an amendment to existing § 73.682(a) (22) of the rules.

59. Whether or not this rule were adopted with the language specifically limiting its application to videotaped identification transmissions, the net effect of its adoption would be the same—all identification pattern transmissions meeting its requirements must necessarily be supplied from videotaped recordings.

60. In general, videotaped identification transmissions have not suffered from the gross errors in pattern placement which have plagued the transmission of patterns recorded on film, and the broadcaster has not had to contend, to the same degree, with the technical problems which he encounters in attempting to achieve satisfactory transmission of film

<sup>20</sup> For instance, the adoption of the rule would appear to make possible the transmission of program identification signals on line 20 in the vertical interval, a proposed use of this line which the Commission has recently had occasion to inform the national networks (FCC 73-370) cannot be authorized without formal rulemaking.

identification patterns. It would further appear that transmissions of videotaped patterns have been detected by IDC's monitoring system with a much higher level of accuracy than have transmissions of patterns recorded on film.

61. IDC insists, however, that to obtain a sufficiently high degree of detection accuracy with its present monitoring system, a rule for videotape should specify a six field line limit, permitting pattern transmissions having twice the vertical extent of patterns conforming with the existing rule (and incidentally, six times the size of the one-line pattern, which, in the original proceeding (Docket 18605) IDC suggested might become feasible if all identification patterns were recorded on videotape).

62. In assessing the magnitude of adverse effects on television picture reception which might result from identification pattern transmission within a six field line tolerance, we have turned to the results of the tests made in behalf of IDC and SMPTE, discussed above, which, as we interpret them, indicate that a portion of at least one of the four identification patterns included in a six field line identification transmission might be visible to some extent on up to 15 percent of receivers in the hands of the general public.<sup>19</sup> Thus, assuming that degradation of the television picture of some degree will occur when any non-picture material appears on the screens of viewer's receivers, pattern transmissions pursuant to the six-line standard would cause such degradation on many receivers. While any unnecessary degradation is, per se, undesirable, our past experience has indicated that one second patterns complying with the six line standard, to the degree that they might be within the viewing area of some receivers, would not produce a degree of degradation so serious but that it might be tolerated if the adoption of the rule produced a result which was, overall, in the public interest. To make such a finding, however, we must determine the indirect benefits accruing to the public through the rendition of an automatic program identification service requiring the use of active picture area are sufficiently great to justify such picture degradation as may occur. While we, in effect, made such a determination in adopting the existing rule, a new determination must be made, both because the new rule contemplates use of a larger portion of the active picture area, and at the same time would permit a program identification service of only limited scope—that is, utilizable only with videotape. Furthermore, another serious question is presented—if the more restricted system can render a service which, considered by itself, would still confer appreciable public benefits, can we justify authorizing it under a rule permitting use of the active picture area for its rendition, when such use would be unnecessary

<sup>19</sup> SMPTE has suggested that as more and more receivers with rectangular picture tubes are placed in use the percentage of receivers on which these identification patterns might be visible would steadily increase.

with videotaped recordings except for the limitations of a system designed primarily for employment with a recording medium which the adoption of the proposed rule would effectively preclude from being used?<sup>20</sup>

#### DECISION

63. In this matter we are dealing with the use of frequencies which are allocated both nationally and internationally for the rendition of a television broadcast service to the general public, and the Commission has been dedicated consistently to the use of these frequencies for the maintenance and improvement of that service. In the furtherance of this aim we have adopted policies which we have determined will promote the optimum operation of the facilities which provide this service. Such policies, in certain instances, are reflected in rules which permit broadcast stations to transmit signals not intended for reception and use by the broadcast audience, for purposes calculated to support the efficient and economical performance of the broadcast function; subject, however, to technical restrictions intended to insure that such signals will not impair or limit broadcast service to the public.

64. Thus, in the television broadcast service, pursuant to § 73.682(a)(21) of the rules, stations have been authorized to transmit cue, control, and test signals on certain lines in the vertical blanking interval. Such signals, intended primarily for the use by broadcasters themselves, are transmitted outside of the active picture area, and have no adverse impact whatever on the quality of the transmitted television picture.

65. In the Report and Order in Docket 18605, we determined that television broadcast stations should be permitted to transmit special signals intended for use by persons not members of the general public for the automatic identification of television programs. The public interest justification for the transmission by television stations of such non-broadcast signals involved an extension of the the-

<sup>20</sup> Private interests, of course, are substantially affected by the action which we take here. IDC has allegedly invested several millions of dollars in the monitoring service which it established after our adoption of § 73.682(a)(22) of the rules, and this whole investment could well be jeopardized if we do not adopt rules permitting the continuation and improvement of its present service. Should we adopt rule amendments which, in practical effect, would require that identification patterns, in the future, be recorded on videotape, those engaged in the production and processing of motion picture film allege that such action would result in a rapid conversion from film to videotape, with resulting financial loss to the film industry. IDC states that this conversion is already occurring, and, to the extent that it is making increasing use of videotape, it is taking advantage of a trend, not creating it. It asserts that the film maker's fears are, in any event, based entirely on speculation. While these considerations are obviously of major importance to the parties involved, they cannot be controlling in the public interest determination which we are required to make in this proceeding.

ory under which we had found that the transmission of non-broadcast signals should be permitted for broadcast station use, that provision for automatic program identification would promote the efficient and economical functioning of organizations participating in the preparation of programming for television transmission, to the ultimate benefit of the viewing public.

66. By the above-mentioned Report and Order, we amended our rules with the adoption of § 73.682(a)(22), which permits television broadcast stations to transmit program identification signals of short duration, in certain specifically limited portions of the active picture area. This action was not taken lightly. It was, and remains, the only instance in which the Commission has, by rule, authorized the inclusion of non-broadcast signals in television picture information. We believed that the transmission of the identification signals in this area was made necessary by the characteristics of the recording medium which the identification system was primarily designed to accommodate, motion picture film (such film was, and perhaps still is the principal medium on which television programs material is recorded). As we observed in the Order (Paragraph 45):

If the automatic identification information could be transmitted by means having not even a theoretical potential for degradation of broadcast material transmitted to the public (for instance, as has been suggested, in the vertical retrace interval), this, of course, would be desirable. However, it seems evident that any automatic identification information must be incorporated in the program material at the time it is recorded, and transmitted as a part of the program material \* \* \*.

In a finding precedential to the adoption of the rule, we determined that program identification patterns transmitted in accordance with this rule would be of such size, and be so located that they would not be within the viewing areas of most receivers, and such marginal visibility as might occur on receivers with less than normal overscan would not be sufficient to result in appreciable degradation of the television picture, particularly in view of the short duration of each pattern transmission.

67. We are now faced with a situation in which it has been fully demonstrated that a program identification service established to take advantage of the privileges offered by § 73.682(a)(22) of the rules cannot function viably within the restrictions which this rule prescribes, and we are considering two possible amendments to the rule, which are treated as alternatives.

68. The first of these, the "one second-no significant degradation" rule, has been offered as a basis on which the identification system purportedly would be able to provide the kind of service its proponent initially intended that it render—from identification information recorded on either motion picture film or on videotape (although we have only IDC's assertions that an identification service of adequate accuracy, utilizing

motion picture film as the recording medium, would result even if this rule were adopted).

69. However, we have found that this proposed rule, which prescribes no technical limitations whatever on the size and location of transmitted identification patterns, and represents an almost complete abandonment of the carefully constructed restrictions of the existing rule, involves an undue hazard for picture degradation, and is literally unenforceable. It is, therefore, a completely unacceptable substitute for our present rule.

70. The "six field line proposal," although permitting the transmission of identification patterns considerably larger than allowed by the existing rule, we have indicated might represent, at this point, a tolerable compromise if its adoption would make possible the operation of an identification system unrestricted in its applicability. We find that it would fail to meet this criterion. The transmission of identification patterns consistently meeting the requirements of such a rule could only be produced from videotape recordings. Such a limitation militates against the adoption of the rule on two counts:

(1) Assuming that film will continue to be used as a recording medium for television programs, some other system must be developed for the automatic identification of such programs (most parties now agree that the automatic program identification function is, *per se*, desirable). We believe that the provision for a multiplicity of such systems, each limited in its area of applicability, represents an unwarranted and uneconomical use of broadcast frequencies.

(2) Assuming that the restricted applicability of the six field line standard is not a fatal defect, we fail to see how the public interest will be served by doubling the size of the picture area available under the existing rule for identification pattern transmissions simply to accommodate identification information recorded on videotape. It seems to us that this medium should require less, not more, information capacity than the rule now affords.

71. If either of these rules had been initially proposed to make possible the establishment of an automatic program identification system they almost certainly would have been rejected out of hand by the Commission as not meriting further exploration in a formal rule-making proceeding. If they are to be given any more serious consideration at the present time, it seems obvious that we must find that the public interest in the continued operation of the existing identification system, whatever its limitations, is sufficiently compelling to require us to make provision in our rules to accommodate those limitations.

72. In our consideration of this aspect of the matter, we would first lay finally to rest any misunderstanding which may exist that the Commission has found it in the public interest that a program identification service be rendered by the "IDC automatic monitoring system." Up to the present time, the Commission has made two formal determinations in this matter:

(1) It has found that the transmission on broadcast frequencies of signals intended to be used in the rendition of a non-broadcast automatic program identification service to be in the public interest.

(2) It has authorized the licensees of television stations to transmit program identification signals in accordance with the conditions specified in § 73.682(a) (22).

The finding described in (1) was, of course, a necessary preliminary to the adoption of any rule specifically authorizing the transmission of signals for program identification, and standing by itself constitutes no more than a statement of policy. Section 73.682(a) (22) is the only rule which we have adopted which permits the transmission of program identification signals. It specifically prescribes the technical limits within which these signals may be transmitted. While the rule was intended to accommodate signals transmitted in an identification system IDC had designed, its adoption did not, in any way, commit the Commission to the support of that system, *per se*, when it failed to operate within the parameters prescribed in the rule.

73. The direct beneficiaries of affirmative rulemaking in this instance would be IDC, and those advertisers who have undertaken to avail themselves of IDC's services. As we have previously observed, the benefit the public reaps from the rendition of an automatic program identification service is, in any case, indirect, deriving from the more efficient and economical performance by program producers made possible by the availability of the identification service. Arraigned against this factor, and clearly outweighing it in importance, is the possible detriment to the television broadcast service if identification information is transmitted by such means that some direct impact on this service is inevitable. In adopting the existing rule, we permitted invasion of the active picture area by the identification signal on the theory that such invasion was necessary if the identification system was to be of general application, but adopted safeguards intended to make the impact of the signal on television viewing negligible. We are unable to find a public benefit resulting from action which permits the continuation of the existing identification service by the adoption of permanent rules, which either permit identification transmissions in the active picture area under conditions where their impact on the television broadcast service is not negligible (the one-second-no significant degradation rule) or where the impact is unnecessary (the six field line rule).

74. We are unpersuaded by IDC's argument that since a "useful" service is being provided by an identification system which has operated at variance with the existing rule without public complaint being registered, we are compelled by the mandate of the Communications Act to "encourage the larger and more effective use of radio" to forthwith tailor our rules essentially to fit the actual operation of the system. Rather, in the light of our

experience in this matter, we are convinced that our proper course of action at this time is to reject proposed rules which might accommodate the deficiencies in the performance of the present system, to require that identification transmissions be made within the limitations prescribed in the existing rule, and to delete the rule and bring about the termination of these transmissions if compliance with the rule is not achieved.

75. We are mindful of the fact that the present situation has developed largely as a result of IDC's extended, and, it transpires, fruitless efforts to make its system, as it was originally intended, function in some acceptable manner with motion picture film. Had it earlier abandoned these efforts, and placed all identification patterns, as it apparently now does, on video tape, by this time it might have evolved a system which not only would provide identification pattern transmissions in compliance with the existing rule, but have had in operation a monitoring network capable of detecting these patterns with an acceptable degree of accuracy. Under such circumstances, the occasion for this proceeding would not have arisen. While, therefore, we are unwilling to relax the existing rule to accommodate the present conditions of operation of the identification system, we believe that IDC should be afforded an opportunity to make such changes in the system as may be necessary to achieve compliance with the existing rule.

76. Accordingly, we do not find it in the public interest to adopt either the one second-no significant degradation proposal or the six field line rule. We will retain § 73.693(a) (22) of our rules, as it now stands, for a period of two years, ending November 30, 1975, during which period we expect that intensive efforts will be made to modify the existing identification system so that it will be capable of functioning satisfactorily in accordance with this rule.

77. At the end of this period, the Commission will reevaluate the situation, to determine what further action should then be taken. If IDC has not found it feasible to make the modifications specified, we expect to delete the rule, on the basis of the record in this proceeding, and require, on an orderly basis, the termination of identification transmissions under the present system. On the other hand, if, on or before that time, the IDC system has been converted to operate within the three field line rule, this rule will be retained. In this event, some temporary provision will also have to be made for the retirement of non-complying identification transmissions. However, the specific schedule for accomplishing this will be decided upon on the basis of the conditions then existing (e.g., the date on which IDC begins to insert three-line identification information on recorded material).

78. In requiring adherence to the existing rule, we realize we are, in practical effect, restricting identification transmissions to those recorded on video-

tape, since it is not to be expected that film recordings of identification signals, even with improvements in the IDC system, can be transmitted consistently within the present rule. This restriction appears inevitable if the present system is to continue to function, without either involving an unnecessary hazard of program degradation, or inflicting an undue burden on the broadcaster (typically, videotaped patterns have not presented a major compliance problem). While we consider the limited applicability to the present system to be a serious deficiency, we believe it is one which must be remedied by some alternative approach to the matter.

79. Therefore, we urge IDC, and others who may be interested in this matter, either individually, or collectively (for instance, in a competent industry committee), to work toward the development of an identification system of more general utility than the one for which the rule provides, and one which involves less potential impact on broadcast program material. In this connection, the aural systems which are the subject of Docket 18877 should, of course, be given full consideration. We expect to take further action in this proceeding in the near future.

80. During the two-year period specified above, the limited waiver of the requirements of § 73.693(a)(22) of our rules will be continued, as set forth in our Public Notice of September 17, 1971 (FCC 71-969), which permits the transmission of identification patterns occupying the first and last ten micro-seconds of the first six and the last six field lines of the active picture.

81. We expect IDC, within 30 days of the date of this Report and Order, to notify the Commission whether it intends to undertake the equipment modifications necessary to permit the identification system to function within the limitations of the existing rule, and, if its response is in the affirmative, to furnish us at successive 6 month intervals, with reports on its progress toward achieving this objective.

82. This action is taken pursuant to authority contained in sections 4(d) and

303(r) of the Communications Act of 1934, as amended.

83. It is ordered, That this proceeding is terminated.

Adopted: October 31, 1973.

Released: November 7, 1973.

FEDERAL COMMUNICATIONS  
COMMISSION,<sup>14</sup>

[SEAL] VINCENT J. MULLINS,  
Secretary.

APPENDIX  
COMMENTS

AFC Color Lab.  
EFX Unlimited, Inc.  
ESKAY Film Services.  
The Film Place.  
Mini Effects.  
The Optical Hour, Inc.  
Optimum Effects, Inc.  
Technicolor, Inc.  
Radiant Laboratory, Inc.  
The Pepsi Cola Company.  
Stokely-Van Camp, Inc.  
International Digisonics Corp. (IDC).  
National Association of Broadcasters (NAB).  
American Broadcasting Companies, Inc. (ABC).  
Columbia Broadcasting System, Inc. (CBS).  
National Broadcasting Company, Inc. (NBC).  
Association of Maximum Service Telecasters, Inc. (AMST).  
Cox Broadcasting Corp. (Cox).  
WEAL Television, Inc. (WEAL).  
WOMETCO Enterprises, Inc. (WOMETCO).  
Pennsylvania Association of Broadcasters (PAB).  
Taft Broadcasting Company (TAFT).  
Columbus Broadcast Company, Inc. et al.  
Broadcast Advertisers Reports, Inc. (BAR).  
Screen Actors Guild (SAG).  
Association of Cinema Laboratories (ACL).  
Eastman Kodak Co. (EKC).  
The Hearst Corporation (Hearst).  
Ford Motor Company.  
Champion Spark Plug Company  
Block Drug Company.  
STP Corporation.  
Viasic Foods, Inc.  
Manley & James Laboratories.  
Pacific & Southern Co., Inc.  
WOWL-TV.  
WPHL-TV.  
Mullins Broadcasting Co.  
Arizona Television, Inc.  
Westinghouse Broadcasting Co., Inc.  
Sonna Division, Beatrice Foods Co.

<sup>14</sup> Commissioners Johnson and Reid concurring in the result.

EKO General, Inc.  
Storer Broadcasting Co.  
Fisher's Blend Station, Inc.  
American Federation of Television and Radio Artists (AFTRA).  
Van der Veer Photo Effects.  
Society of Motion Picture and Television Engineers (SMPTE).  
Florida Association of Broadcasters, Inc.  
Audicom Corp.

REPLY COMMENTS

International Digisonics Corp. (IDC).  
Columbus Broadcasting Company, Inc., et al.  
National Association of Broadcasters (NAB).  
American Broadcasting Companies, Inc. (ABC).  
Columbia Broadcasting System, Inc. (CBS).  
Association of Maximum Service Telecasters, Inc. (AMST).  
National Broadcasting Company, Inc. (NBC).  
Association of Cinema Laboratories (ACL).  
Eastman Kodak Company (EKC).  
Society of Motion Picture & Television Engineers (SMPTE).

[FR Doc.73-23997 Filed 11-9-73;8:45 am]

FEDERAL POWER COMMISSION

[ 18 CFR Parts 2, 154 ]

[Docket No. R-478]

ESTABLISHMENT OF RATES

Extension of Time for Issuance of Staff  
Composite of Schedules

NOVEMBER 5, 1973.

Nationwide rulemaking to establish just and reasonable rates for natural gas produced from wells commenced before January 1, 1973.

Notice is hereby given that the date fixed for the issuance of the Staff's composite of the data submitted in Schedules 1, 2, 3, 4, and 4-A, is hereby extended to and including December 21, 1973.

The "Order Prescribing Further Procedure" which was issued in proceeding on August 17, 1973 (38 FR 22898), specified that the Staff's composite would be due on or before November 21, 1973. The date for the issuance of the Staff composite is extended to and including December 21, 1973.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.73-24055 Filed 11-9-73;3:45 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 DEFENSE

### Department of the Air Force SCIENTIFIC ADVISORY BOARD STRATEGIC PANEL

#### Notice of Meeting

NOVEMBER 6, 1973.

The USAF Scientific Advisory Board Strategic Panel will hold closed meetings on November 13, 1973, from 8 a.m. until 5 p.m., and on November 14, 1973, from 8 a.m. until 3 p.m., at Offutt Air Force Base, Nebraska.

The Panel will receive classified briefings on strategic issues.

For further information contact the Scientific Advisory Board Secretariat at 202-697-8404.

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

[FR Doc.73-24023 Filed 11-9-73;8:45 am]

#### Office of the Secretary

### DEFENSE INTELLIGENCE AGENCY SCIENTIFIC ADVISORY COMMITTEE

#### Notice of Closed Meetings

Pursuant to the provisions of section 10 of Pub. L. 92-463, effective January 5, 1973, notice is hereby given that closed meetings of the DIA Scientific Advisory Committee will be held at the Pentagon, Washington, D.C. on:

Monday, November 12, 1973  
Thursday, November 15, 1973  
Friday, December 14, 1973

These meetings commencing at 9 a.m. will be to discuss classified matters.

MAURICE W. ROCHE,  
Director, Directorate for Correspondence and Directives,  
OASD (Comptroller).

NOVEMBER 6, 1973.  
[FR Doc.73-23988 Filed 11-9-73;8:45 am]

## DEPARTMENT OF THE INTERIOR

### National Park Service MOUNT RAINIER NATIONAL PARK, WASHINGTON

#### Notice of Public Hearings Regarding Wilderness Proposal

Notice is hereby given in accordance with the provisions of the Act of September 3, 1964 (78 Stat. 890, 892 (16 U.S.C. 1131, 1132)); and in accordance with Departmental procedures as identified in 43 CFR 19.5 that public hearings will be held January 17 and 19, 1974, for the

purpose of receiving comments and suggestions as to the appropriateness of a proposal for the establishment of wilderness within Mount Rainier National Park, Washington. The January 17 hearing will be held beginning at 9 a.m. in the Community Building at Park Headquarters, Mount Rainier National Park, Longmire, Washington. A similar hearing will be held on January 19, beginning at 9 a.m. in the Basement of Kilworth Chapel, University of Puget Sound, 1500 North Warner, Tacoma, Washington.

The wilderness proposal for Mount Rainier National Park includes 202,200 acres. All lands proposed for wilderness are presently within the exterior boundaries of the park. Mount Rainier National Park is located in the west central portion of the State of Washington.

Packets containing draft master plans, maps depicting the preliminary boundaries of the proposed wilderness areas, and draft environmental impact statements for the proposals may be obtained from the Superintendent, Mount Rainier National Park, Longmire, Washington 98397, or from the Regional Director, Pacific Northwest Region, National Park Service, Fourth and Pike Building, Seattle, Washington 98101.

Descriptions of the preliminary boundaries and maps of the areas proposed for establishment as wilderness are available for review in the above offices and in Room 1210 of the Interior Building at 18th and C Streets NW., Washington, D.C.

Interested individuals, representatives of organizations, and public officials are invited to express their views in person at the aforementioned public hearings. In order to be included on the hearing program, notify the Hearing Office in care of the Superintendent, Mount Rainier National Park, Longmire, Washington 98397 by January 9, 1974.

Time limitations may make it necessary to limit the length of oral presentations and to restrict to one person the presentation made in behalf of an organization. An oral statement may, however, be supplemented by a more complete written statement which may be submitted to the Hearing Officer at the time of presentation of the oral statement. Written statements presented in person at the hearings will be considered for inclusion in the transcribed hearing records. However, all materials so presented at the hearings shall be subject to determinations that they are appropriate for inclusion in the transcribed hearing record. To the extent that time is available after presentation of oral statements by those who have given the

required advance notice, the Hearing Officer will give others present an opportunity to be heard.

After an explanation of the proposal by a representative of the National Park Service, the Hearing Officer, insofar as possible, will adhere to the following order in calling for the presentation of oral statements:

- (1) Governor of the State or his representative.
- (2) Members of Congress.
- (3) Members of the State Legislature.
- (4) Official representative of the counties in which the proposed wilderness is located.
- (5) Officials of other Federal agencies or public bodies.
- (6) Organizations in alphabetical order.
- (7) Individuals in alphabetical order.
- (8) Others not giving advance notice, to the extent there is remaining time.

Dated: November 1, 1973.

IRA WHITLOCK,  
Acting Associate Director,  
National Park Service.

[FR Doc.73-23977 Filed 11-9-73;8:45 am]

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service SHIPPERS ADVISORY COMMITTEE

#### Notice of Public Meeting

Pursuant to the provisions of § 10(a) (2) of Pub. L. 92-463, notice is hereby given of a meeting of the Shippers Advisory Committee established under Marketing Order No. 905 (7 CFR Part 905). This order regulates the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida and is effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The committee will meet in the auditorium of the Florida Citrus Mutual Building, 302 South Massachusetts Avenue, Lakeland, Florida, at 10:30 a.m., local time, on November 20, 1973.

The meeting will be open to the public and a brief period will be set aside for public comments and questions. The agenda of the committee includes the receipt and review of market supply and demand information incidental to consideration of the need for modification of current grade and size limitations applicable to domestic and export shipments of the named fruits and container and pack requirements for export shipments.

The names of committee members, agenda, summary of the meeting and other information pertaining to the meeting may be obtained from Frank D.

Trevillion, Manager, Growers Administrative Committee, P.O. Box R, Lakeland, Florida 33802; telephone 813-682-3103.

Dated: November 8, 1973.

JOHN C. BLUM,  
Deputy Administrator,  
Regulatory Programs.

[FR Doc.73-24150 Filed 11-9-73;8:45 am]

#### Farmers Home Administration

[Notice of Designation Number A032]

#### GEORGIA

##### Designation of Emergency Areas

The Secretary of Agriculture has found that a general need for agricultural credit exists in the following counties in Georgia:

Appling	Lanier
Atkinson	Lowndes
Bacon	Pierce
Brooks	Ware
Cook	Wayne

The Secretary has further found that such general need for agricultural credit existing in these areas cannot be met temporarily by private, cooperative, or other responsible sources at reasonable rates and terms for loans for similar purposes and periods of time, and that the need for such credit in such areas is the result of a natural disaster consisting of excessive rainfall and drought.

Therefore, the Secretary has designated these areas as eligible for Emergency loans, pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Pub. L. 93-24, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor Jimmy Carter that such designation be made.

Applications for emergency loans must be received by this Department prior to December 31, 1973, for physical losses and prior to August 2, 1974, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 6th day of November 1973.

FRANK B. ELLIOTT,  
Administrator,  
Farmers Home Administration.

[FR Doc.73-23994 Filed 11-9-73;8:45 am]

[Notice of Designation Number A033]

#### SOUTH CAROLINA

##### Designation of Emergency Areas

The Secretary of Agriculture has found that a general need for agricultural credit exists in the following counties in South Carolina:

Clarendon	Lee
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The Secretary has further found that such general need for agricultural credit

existing in these areas cannot be met temporarily by private, cooperative, or other responsible sources at reasonable rates and terms for loans for similar purposes and periods of time, and that the need for such credit in such areas is the result of a natural disaster consisting of excessive rainfall June 10-12, 1973, in Clarendon County and excessive rainfall followed by drought in August and September 1973 in Lee County.

Therefore, the Secretary has designated these areas as eligible for emergency loans, pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Pub. L. 93-24, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor John C. West that such designation be made.

Applications for emergency loans must be received by this Department prior to December 31, 1973, for physical losses and prior to August 2, 1974, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 6th day of November 1973.

FRANK B. ELLIOTT,  
Administrator,  
Farmers Home Administration.

[FR Doc.73-23993 Filed 11-9-73;8:45 am]

[Notice of Designation Number A034]

#### TEXAS

##### Designation of Emergency Areas

The Secretary of Agriculture has found that a general need for agricultural credit exists in the following counties in Texas:

Fort Bend	Willacy
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The Secretary has further found that such general need for agricultural credit existing in these areas cannot be met temporarily by private, cooperative, or other responsible sources at reasonable rates and terms for loans for similar purposes and periods of time, and that the need for such credit in such areas is the result of a natural disaster consisting of heavy rainfall in both of these counties and Tropical Storm Della in Fort Bend County.

Therefore, the Secretary has designated these areas as eligible for emergency loans, pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Pub. L. 93-24, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor Dolph Briscoe that such designation be made.

Applications for emergency loans must be received by this Department prior to December 31, 1973, for physical losses and prior to August 2, 1974, for production losses, except that qualified borrowers who receive initial loans pursuant to

this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated areas makes it impracticable and contrary to the public interest to give advance notice of proposed rule making and invite public participation.

Done at Washington, D.C., this 6th day of November 1973.

FRANK B. ELLIOTT,  
Administrator,  
Farmers Home Administration.

[FR Doc.73-23992 Filed 11-9-73;8:45 am]

#### Federal Crop Insurance Corporation

[Notice No. 75]

#### WHEAT—ARIZONA AND CALIFORNIA

##### Extension of the Closing Date for Filing of Applications for the 1974 Crop Year

Pursuant to the authority contained in § 401.103 of Title 7 of the Code of Federal Regulations, the time for filing applications for wheat crop insurance for the 1974 crop year in the Arizona and California counties listed below is hereby extended until the close of business on November 16, 1973. Such applications received during this period will be accepted only after it is determined that no adverse selectivity will result.

ARIZONA	
Maricopa	Yuma
Pinal	
CALIFORNIA	
Imperial	
[SEAL]	M. R. PETERSON, Manager, Federal Crop Insurance Corporation.
[FR Doc.73-24058 Filed 11-9-73;8:45 am]	

#### Soil Conservation Service

#### TILLATOBA CREEK WATERSHED PROJECT, MISSISSIPPI

##### Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Soil Conservation Service, U.S. Department of Agriculture, has prepared a draft environmental statement for the Tillatoba Creek Watershed Project, Yalobusha, Tallahatchie, and Grenada Counties, Mississippi, USDA-SCS-ES-WS-(ADM)-74-18 (D).

The environmental statement concerns a plan to reduce stream channel degradation and caving, reduce floodwater damages and reduce erosion and resultant sediment production. Planned works or improvement include conservation land treatment measures supplemented by channel works on 9.87 miles of stream channels, 12 floodwater retarding structures and four overfall structures.

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

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

Soil Conservation Service, USDA, Room 503, Milner Building, Lamar at Pearl Streets, Jackson, Mississippi 39201

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151. Please use name and number of statement above when ordering. The estimated cost is \$4.50.

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

Comments concerning the proposed action or requests for additional information should be addressed to W. L. Heard, State Conservationist, Soil Conservation Service, Room 502, Milner Building, Lamar at Pearl Streets, Jackson, Mississippi 39201.

Comments must be received on or before December 10, 1973, in order to be considered in the preparation of the final environmental statement.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

Dated: November 2, 1973.

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

[FR Doc.73-23990 Filed 11-9-73;8:45 am]

## DEPARTMENT OF COMMERCE

Domestic and International Business  
Administration

### DEPARTMENT OF COMMERCE, NOAA

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

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

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

Docket Number: 73-00464-81-01020.  
Applicant: U.S. Department of Commerce, NOAA, NOS, Lake Survey Center, 630 Federal Building and U.S. Courthouse, Detroit, Mich. 48226. Article: Buoy mounted inertial accelerometer with data telemetry capability and accompanying accessories. Manufacturer: Datawell N.V. Laboratory for Instrumentation, the Netherlands. Intended use of article: The article is intended to be used for the investigation of the processes of generation, growth, and decay of wind waves, their propagation and spatial variations, their interactions with the atmospheric field as well as their linear and non-linear characteristics. The objectives pursued in the course of investigation are:

(i) To satisfy the need of definitive field wave data by an extensive measurement program;

(ii) To provide unique information of measure data with which to correlate the available theories of wind wave generation and propagation and their applicability to the Great Lakes waves; and

(iii) To provide also the much needed input for the development of lake-wide wind wave prediction program.

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

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

Reasons: The foreign article, a wave-riding, buoy-mounted inertial accelerometer, is a complete and self-dependable instrument needing no auxiliary structure for mounting or supporting. The article also provides additional capabilities for measuring deep fresh-water wind-generated lake waves at selected sites and for continuously transmitting data to a recording station over long distances (at least 25 miles), requiring minimum equipment. The National Bureau of Standards (NBS) advised in its memorandum dated October 15, 1973, that the capabilities described above are pertinent to the purposes for which the article is intended to be used. NBS also advised that it knows of no domestic instrument of equivalent scientific value to the foreign article for the applicant's intended use.

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

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

A. H. STUART,  
Director,

Special Import Programs Division.

[FR Doc.73-23985 Filed 11-9-73;8:45 am]

### PHILADELPHIA GENERAL HOSPITAL AND HOSPITAL OF THE GOOD SAMARITAN MEDICAL CENTER

Notice of Consolidated Decision on Applications for Duty-Free Entry of Ultramicrotomes

The following is a consolidated decision on applications for duty-free entry of ultramicrotomes pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897), and the regulations issued thereunder as amended (37 FR 3892 et seq.). (See especially § 701.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review during ordinary business hours of the Department of Commerce, at the Special Import Programs Division, Office of Im-

port Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 74-00041-33-46500.  
Applicant: Philadelphia General Hospital, 700 Civic Center Boulevard, Philadelphia, Pennsylvania 19104. Article: Ultramicrotome, Model LKB 8800A and 4806A Ultratome Table. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used in research on animal brain which has been inoculated with cells believed to contain a virus responsible for the pathogenesis of multiple sclerosis (MS). Objectives are (1) to explore the possibility that a virus is responsible for MS (2) to grow this virus in cell cultures and (3) to create MS lesions in the brains of monkeys and identify the virus. Application received by Commissioner of Customs: July 24, 1973. Advice submitted by Department of Health, Education, and Welfare on: October 18, 1973.

Docket Number: 74-00042-33-46500.  
Applicant: Hospital of the Good Samaritan Medical Center, 1212 Shatto Street, Los Angeles, California 90017. Article: Ultramicrotome, Model LKB 8800A, 14800-1 CryoKit, and 4806A Ultratome Table. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is to be used in studies of normal and pathological human tissue, specifically, normal and malignant cells taken from biopsies of human breast and urinary bladder. Application received by Commissioner of Customs: July 24, 1973. Advice submitted by Department of Health, Education, and Welfare on: October 18, 1973.

Comments: No comments have been received with respect to any of the foregoing applications. Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles for such purposes as these articles are intended to be used, is being manufactured in the United States. Reasons: Each of the foreign articles provides a range of cutting speeds from 0.1 to 20 millimeters per second. The most closely comparable domestic instrument is the Model MT-2B ultramicrotome which is manufactured by Ivan Sorvall, Inc. (Sorvall). The Model MT-2B has a range of cutting speeds from 0.09 to 3.2 millimeters per second. The conditions for obtaining high-quality sections that are uniform in thickness, depend to a large extent on the hardness, consistency, toughness, and other properties of the specimen materials, the properties of the embedding materials, and geometry of the block. In connection with a prior application (Docket Number 69-00665-33-46500), which relates to the duty-free entry of an article that is identical to those to which the foregoing applications relate, the Department of Health, Education, and Welfare (HEW) advised that "Smooth cuts are obtained when the speed of cutting (among such [other] factors as knife edge condition and angle), is adjusted to the characteristics of the material being sectioned. The range of cutting speeds and a capability

for the higher cutting speeds is, therefore, a pertinent characteristic of the ultramicrotome to be used for sectioning materials that experience has shown difficult to section." In connection with another prior application (Docket Number 70-00077-33-46500), which also relates to an article that is identical to those described above, HEW advised that "ultrathin sectioning of a variety of tissues having a wide range in density, hardness, etc." requires a maximum range in cutting speed and, further, that the "production of ultrathin serial sections of specimens that have a great variation in physical properties is very difficult." Accordingly, HEW advises in its respectively cited memoranda, that cutting speeds in excess of 4 millimeters per second are pertinent to the satisfactory sectioning of the specimen materials and the relevant embedding materials that will be used by the applicants in their respective experiments. For these reasons, we find that the Sorvall Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

A. H. STUART,  
Director,

Special Import Programs Division.

[FR Doc.73-23987 Filed 11-9-73; 8:45 am.]

#### UNIVERSITIES OF WASHINGTON AND MIAMI

##### Notice of Consolidated Decision on Applications for Duty-Free Entry of Recording Current Meters

The following is a consolidated decision on applications for duty-free entry of recording current meters pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 FR 3892 et seq.). (See especially § 701.11(e).)

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

Docket Number: 73-00436-56-17500. Applicant: University of Washington, CR-Physical Ocean, Department of Oceanography, Seattle, Wash. 98195. Article: Recording Current Meter, Model 4. Manufacturer: Ivar Aanderaa, Norway. Intended use of article: The article is intended to be used to determine water

structure and circulation by measurement of the water temperature, salinity (conductivity related), and pressure to calculate density differences and, finally the horizontal pressure gradients at various levels above some arbitrary datum plane. The article will also be used in the course Ocean 360: Methods and Instruments in Oceanography to familiarize students with methods of measuring environmental parameters. The articles will be demonstrated in class session ashore and afloat and deployed in short experiments for students. Application received by Commissioner of Customs: March 20, 1973. Advice submitted by Department of Health, Education, and Welfare on: October 17, 1973.

Docket Number: 73-00509-55-17500. Applicant: University of Miami, Box 8184, Coral Gables, Fla. 33124. Article: Recording Current Meter, Model 4. Manufacturer: Ivar Aanderaa, Norway. Intended use of article: The article is intended to be used in an experiment to distinguish between motions of the density surface due to internal waves and apparent motions of a temperature surface. This study has a significant bearing on the usual method of measuring internal waves by measuring the temperature field. Application received by Commissioner of Customs: May 7, 1973. Advice submitted by Department of Health, Education, and Welfare on: October 17, 1973.

Comments: No comments have been received with respect to any of the foregoing applications. Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles, for such purposes as these articles are intended to be used, is being manufactured in the United States. Reasons: Each foreign article is a self-contained instrument which provides the capabilities for recording current speed, direction, water temperature, pressure, and conductivity on magnetic tape. The National Bureau of Standards (NBS) advised in the respectively cited memoranda that the capabilities described above are pertinent to the purposes for which each of the foreign articles cited above is intended to be used. NBS also advised that it knows of no domestically manufactured instrument which is scientifically equivalent to any of the foreign articles to which the foregoing applications relate for such purposes as these articles are intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

A. H. STUART,  
Director,

Special Import Programs Division.

[FR Doc.73-23984 Filed 11-9-73; 8:45 am.]

#### UNIVERSITY OF CALIFORNIA—LIVERMORE

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

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

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

Docket Number: 73-00481-75-20900. Applicant: University of California, Lawrence Livermore Laboratory, P.O. Box 808, Livermore, Calif. 94550. Article: 50 hydrogen thyratron tubes, model FX2520. Manufacturer: English Electric, United Kingdom. Intended use of article: The article is intended to be used in the development of a thermonuclear fusion power source. The present stage of research of the fusion reaction is the creation and study of the magnetic container of the fusion plasma, and its instabilities. In the Astron machine, the magnetic bottle is created by a sheet of high energy electrons interacting with a strong externally applied magnetic field. In creating this magnetic bottle a linear accelerator supplies the high energy, high current electron beam for the Astron experiment.

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

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the article was ordered (April 13, 1972).

Reasons: The foreign article provides a maximum peak forward anode voltage of 36 kilovolts, a maximum peak anode current of 2,000 amperes, a maximum anode current rate of rise of 40,000 amperes per microsecond, a maximum anode delay of 0.2 microsecond, a maximum anode delay drift of 0.025 microsecond, and a maximum time jitter of 0.003 microsecond. The National Bureau of Standards (NBS) advised in its memorandum dated October 17, 1973 that all the capabilities described above are pertinent to the purposes for which the article is intended to be used. NBS also advised that it knows of no domestic instrument of equivalent scientific value to the foreign article for the applicant's intended use.

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

manufactured in the United States at the time the article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

A. H. STUART,  
Director,

Special Import Programs Division.

[FR Doc.73-23986 Filed 11-9-73;8:45 am]

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Food and Drug Administration

#### ADVISORY COMMITTEES

##### Notice of Establishment

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 establishment by the Secretary, Department of Health, Education, and Welfare, on October 15, 1973, of eight public advisory committees as follows:

##### 1. Designation. Panel on Review of Radiology Devices.

*Purpose.* The panel will: (1) Advise the Commissioner of Food and Drugs on the safety, effectiveness, and current problems concerning currently marketed radiology devices; (2) review and evaluate all available information concerning those devices in order to determine the regulatory category most appropriate for the adequate control of these devices; and (3) attempt to identify problems and recommend specific performance characteristics of devices which should have standards developed for them.

##### 2. Designation. Panel on Review of Pathology Devices.

*Purpose.* The panel will: (1) Advise the Commissioner of Food and Drugs on the safety, effectiveness, and current problems concerning currently marketed pathology devices; (2) review and evaluate all available information concerning those devices in order to determine the regulatory category most appropriate for the adequate control of these devices; and (3) attempt to identify problems and recommend specific performance characteristics of devices which should have standards developed for them.

##### 3. Designation. Panel on Review of General Hospital Devices.

*Purpose.* The panel will: (1) Advise the Commissioner of Food and Drugs on the safety, effectiveness, and current problems concerning currently marketed general hospital devices; (2) review and evaluate all available information concerning those devices in order to determine the regulatory category most appropriate for the adequate control of these devices; and (3) attempt to identify problems and recommend specific performance characteristics of devices which should have standards developed for them.

##### 4. Designation. Panel on Review of Psychiatry Devices.

*Purpose.* The panel will: (1) Advise the Commissioner of Food and Drugs on the safety, effectiveness, and current problems concerning currently marketed psychiatry devices; (2) review and evaluate all available information concerning those devices in order to determine the regulatory category most appropriate for the adequate control of these devices; and (3) attempt to identify problems and recommend specific performance characteristics of devices which should have standards developed for them.

##### 5. Designation. Panel on Review of Neurology Devices.

*Purpose.* The panel will: (1) Advise the Commissioner of Food and Drugs on the safety, effectiveness, and current problems concerning currently marketed neurology devices; (2) review and evaluate all available information concerning those devices in order to determine the regulatory category most appropriate for the adequate control of these devices; and (3) attempt to identify problems and recommend specific performance characteristics of devices which should have standards developed for them.

##### 6. Designation. Panel on Review of Ear, Nose, and Throat Devices.

*Purpose.* The panel will: (1) Advise the Commissioner of Food and Drugs on the safety, effectiveness, and current problems concerning currently marketed ear, nose, and throat devices; (2) review and evaluate all information concerning those devices in order to determine the regulatory category most appropriate for the adequate control of these devices; and (3) attempt to identify problems and recommend specific performance characteristics of devices which should have standards developed for them.

##### 7. Designation. Panel on Review of Ophthalmic Devices.

*Purpose.* The panel will: (1) Advise the Commissioner of Food and Drugs on the safety, effectiveness, and current problems concerning currently marketed ophthalmic devices; (2) review and evaluate all available information concerning those devices in order to determine the regulatory category most appropriate for the adequate control of these devices; and (3) attempt to identify problems and recommend specific performance characteristics of devices which should have standards developed for them.

##### 8. Designation. Panel on Review of General and Plastic Surgery Devices.

*Purpose.* The panel will: (1) Advise the Commissioner of Food and Drugs on the safety, effectiveness, and current problems concerning currently marketed general and plastic surgery devices; (2) review and evaluate all information concerning those devices in order to determine the regulatory category most appropriate for the adequate control of these devices; and (3) attempt to identify problems and recommend specific performance characteristics of devices which should have standards developed for them.

Authority for these committees will expire October 15, 1975, unless the Sec-

retary formally determines that continuance is in the public interest.

Dated: November 5, 1973.

SAM D. FINE,  
Associate Commissioner  
for Compliance.

[FR Doc.73-23999 Filed 11-9-73;8:45 am]

[FAP 2A2746]

ICI AMERICA, 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:

In accordance with § 121.52 Withdrawal of petitions without prejudice of the procedural food additive regulations (21 CFR 121.52), ICI America, Inc., Wilmington, DE 19899, formerly Atlas Chemical Industries, Inc., has withdrawn its petition (FAP 2A2746), notice of which was published in the FEDERAL REGISTER of January 4, 1972 (37 FR 28), proposing that § 121.1029 Sorbitan monostearate (21 CFR 121.1029) and § 121.1030 Polysorbate 60 (21 CFR 121.1030) be amended to provide for safe use of polysorbate 60 and sorbitan monostearate as emulsifiers in water-fat emulsion beverages.

Dated: November 1, 1973.

VIRGIL O. WODICKA,  
Director, Bureau of Foods.

[FR Doc.73-24000 Filed 11-9-73;8:45 am]

[FAP 2B2740]

MONTECANTINI EDISON, S.P.A.

#### 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:

In accordance with § 121.52 Withdrawal of petitions without prejudice of the procedural food additive regulations (21 CFR 121.52), Montecantini Edison, S.P.A., P.zza della Repubblica, 16; 20124—Milano; Repubblica Italia, has withdrawn its petition FAP 2B2740, notice of which was published in the FEDERAL REGISTER of December 7, 1971 (36 FR 23262), proposing that § 121.2527 Antistatic and/or antifogging agents in food packaging materials (21 CFR 121.2527) and § 121.2569 Resinous and polymeric coatings for polyolefin films (21 CFR 121.2569) be amended to provide for safe use of cetylpyridinium chloride as an antistatic agent in polypropylene food-packaging materials, and as an antistatic adjuvant substance in resinous and polymeric coatings for polyolefin films for food-contact use.

Dated: November 1, 1973.

VIRGIL O. WODICKA,  
Director, Bureau of Foods.

[FR Doc.73-24002 Filed 11-9-73;8:45 am]

[FAP 3H2919]

**NALCO CHEMICAL CO.****Notice of Filing of Petition for Food Additive**

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 3H2919) has been filed by Nalco Chemical Co., 180 N. Michigan Ave., Chicago, IL 60601, proposing that § 121.1225 Adjuvants for pesticide use dilutions (21 CFR 121.1225) be amended to provide for safe use of sodium acrylate and acrylamide copolymer with an average molecular weight of 12,000,000 where 30 percent of the polymer is comprised of acrylate units and 70 percent acrylamide units.

The environmental impact analysis report and other relevant material have been reviewed, and it has been determined that the proposed use of the additive will not have a significant environmental impact. Copies of the environmental impact analysis report may be seen in the office of the Assistant Commissioner for Public Affairs, Rm. 15B-42 or the office of the Hearing Clerk, Food and Drug Administration, Rm. 6-86, 5600 Fishers Lane, Rockville, MD 20852, during working hours Monday through Friday.

Dated: November 1, 1973.

VIRGIL O. WODICKA,  
Director, Bureau of Foods.

[FR Doc.73-24001 Filed 11-9-73;8:45 am]

**Office of Education****ADVISORY COMMITTEE ON ACCREDITATION AND INSTITUTIONAL ELIGIBILITY****Notice of Public Meeting**

Notice is hereby given, pursuant to Pub. L. 92-463, that the winter meeting of the Advisory Committee on Accreditation and Institutional Eligibility will be held on December 10-12, 1973, at 9:00 a.m. local time, in Room 3008, the Assistant Secretary's Conference Room (December 10) and the Education Division Conference Center (December 11-12) of FOB #6, 400 Maryland Avenue SW., Washington, D.C.

The Advisory Committee on Accreditation and Institutional Eligibility is established pursuant to section 253 of the Veterans' Readjustment Assistance Act (Chapter 33, Title 38, U.S. Code). The Committee is established to advise the Commissioner of Education in fulfilling his statutory obligations to publish a list of nationally recognized accrediting agencies and associations which he determines to be reliable authority as to the quality of training offered by educational institutions and programs. It also serves to advise the Commissioner in fulfilling his statutory obligation to publish a list of State agencies which he has determined to be reliable authority concerning the quality of public postsecondary vocational education in their respective States, pursuant to section 438

(b) of the Higher Education Act of 1965, as amended by Pub. L. 92-318.

The meeting of the Committee shall be open to the public on Monday, December 10. The proposed agenda includes presentations by representatives of the nationally recognized accrediting agencies and associations and of the State agencies which have petitions for recognition pending before the Committee, and a review of various policy items. Under the authority of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) and section 552(b) of Title 5 of the United States Code, the meeting will be closed to the public from 9:00 a.m. on December 11 through December 12. Records shall be kept of all Committee proceedings.

Signed at Washington, D.C., on November 1, 1973.

JOHN R. PROFFITT,  
Director, Accreditation and Institutional Eligibility Staff,  
Office of Education.

[FR Doc.73-24024 Filed 11-9-73;8:45 am]

**CAREER OPPORTUNITIES AND URBAN/RURAL SCHOOL DEVELOPMENT PROGRAMS****Notice of Closing Date for Receipt of Applications**

Pursuant to the authority contained in title V, Part D of the Higher Education Act of 1965 as amended (20 U.S.C. 1119), notice is hereby given that the U.S. Commissioner of Education has established a closing date for receipt of applications for grants for continuation projects under the Career Opportunities and Urban/Rural School Development Programs. Applications for new projects will not be accepted.

The Career Opportunities Program and the Urban/Rural School Development Program are designed to improve the qualifications of persons who are serving or preparing to serve in educational programs in elementary or secondary schools or postsecondary vocational schools in areas serving disadvantaged children. A notice of proposed rulemaking governing these programs has been published in the FEDERAL REGISTER, 38 FR 17501, July 2, 1973. In addition, a notice of proposed rulemaking relating to general fiscal and administrative provisions for all Office of Education programs has been published in the FEDERAL REGISTER, 38 FR 10386, April 26, 1973. When these general regulations become effective they will also be applicable to these programs.

In reviewing applications for continuation projects to be awarded in Fiscal Year 1974, the Commissioner will take into account the extent to which the project has been effective in attaining the objectives which it originally set out to fulfill and whether there is a continuing need for the project in light of the availability and quality of other existing services in the area served by the applicant.

In order to be assured of consideration, applications must be received on or be-

fore December 14, 1973. Applications for the National projects should be submitted to the Application Control Center, 7th and D Streets SW., Room 5673, Washington, D.C. 20202. All other applications should be submitted to the appropriate Regional Offices. (20 U.S.C. 1119)

(Catalog of Federal Domestic Assistance Program Numbers 13.421 (Career Opportunities Program); 13.505 (Urban/Rural School Development Program).)

Dated: November 7, 1973.

JOHN OTTINA,  
U.S. Commissioner of Education.

[FR Doc.73-24122 Filed 11-9-73;8:45 am]

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT****Office of Interstate Land Sales Registration**

[Docket No. N-73-206]

**TURF MOBILE ESTATES****Order of Suspension**

Notice is hereby given that the Department of Housing and Urban Development sent to the Developer a Notice of Proceedings and Opportunity for Hearing, dated December 29, 1972, informing the Developer of alleged untrue statements or omissions of material facts to the Developer's Statement of Record. The Developer failed to request a hearing pursuant to 24 CFR 1720.160 within 15 days of said Notice.

Therefore, pursuant to 15 U.S.C. 1706(d) and 24 CFR 1710.45(b)(1) the Department of Housing and Urban Development issued an Order of Suspension dated February 23, 1973, which Order was to suspend the Statement of Record filed by the Developer. However, the Order of Suspension could not be served because the Developer had moved leaving no address. Accordingly, pursuant to 15 U.S.C. 1706(d) and 24 CFR 1710.45(b)(1), the Order of Suspension is being issued as follows:

**ORDER OF SUSPENSION**

1. Site-Pak Development Corporation, hereinafter referred to as the developer, being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90-448) (15 U.S.C. 1701 et seq.) and the rules and regulations lawfully promulgated thereto pursuant to 15 U.S.C. has filed its Statement of Record covering its subdivision, located in Maricopa County, Arizona (OILSR No. 0-1500-02-281), which became effective March 16, 1971, pursuant to 24 CFR 1710.21 of the Interstate Land Sales Regulations. Said Statement is still in effect.

2. Pursuant to lawful delegation, as authorized by 15 U.S.C. 1715, the authority and responsibility for administration of the Interstate Land Sales Full Disclosure Act has been vested in the Interstate Land Sales Administrator.

3. Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1710.45(b)(1), if it appears to the Interstate Land Sales Administrator

at any time that a Statement of Record, which is in effect, includes any untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statement therein not misleading, the Administrator may, after notice, and after an opportunity for a hearing requested within 15 days of receipt of such notice, issue an order suspending the Statement of Record.

4. A Notice of Proceedings and Opportunity for Hearing was served on the Developer on January 9, 1973, pursuant to 15 U.S.C. 1706(d) and 24 CFR 1710.45 (b)(1) informing the Developer of information obtained by the Office of Interstate Land Sales Registration showing an untrue statement of a material fact or an omission of a material fact required to be stated therein or necessary to make the statements therein not misleading in the above-specified Statement of Record. The Developer was notified of his right to request a hearing and that if he failed to request a hearing he would be deemed in default and the proceedings would be determined against him, the allegations of which would be determined to be true. The Developer has failed to request a hearing pursuant to 24 CFR 1720.160 within 15 days of service of said Notice of Proceedings and Opportunity for Hearing.

Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1710.45 (b)(1), the Statement of Record filed by the Developer covering its subdivision is hereby suspended, effective as of the date of publication of this Order of Suspension in the FEDERAL REGISTER. This Order of Suspension shall remain in full force and effect until the Statement of Record has been properly amended as required by the Interstate Land Sales Full Disclosure Act and the implementing Regulations.

Any sales or offers to sell made by the Developer or its agents, successors, or assigns while this Order of Suspension is in effect will be in violation of the provisions of said Act.

Issued in Washington, D.C., November 7, 1973.

By the Secretary.

GEORGE K. BERNSTEIN,  
Interstate Land Sales  
Administrator.

[FR Doc.73-24013 Filed 11-9-73;8:45 am]

## ATOMIC ENERGY COMMISSION

[Docket Nos. 50-352 and 50-353]

### PHILADELPHIA ELECTRIC CO.

Notice of Availability of the Final Environmental Statement for the Limerick Generating Station, Units 1 and 2

Pursuant to the National Environmental Policy Act of 1969 and the United States Atomic Energy Commission's regulations in Appendix D to 10 CFR Part 50, notice is hereby given that the Final Environmental Statement prepared by the Commission's Directorate of Licensing, related to the proposed

Limerick Generating Station, Units 1 and 2, to be constructed by the Philadelphia Electric Company in Montgomery County, Pennsylvania, is available for inspection by the public in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C., and in the Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464. The Final Environmental Statement is also being made available at the Office of Radiological Health, Department of Environmental Resources, P.O. Box 2063, Harrisburg, Pennsylvania 17105.

The notice of availability of the Draft Environmental Statement, dated December 1973, for the Limerick Generating Station, Units 1 and 2, and request for comments from interested persons was published in the FEDERAL REGISTER on December 7, 1973 (37 FR 26053). The notice of availability of the Draft Environmental Statement, dated August 1973, for the Limerick Generating Station, Units 1 and 2, and request for comments from interested persons was published in the FEDERAL REGISTER on August 15, 1973 (38 FR 157). The comments received from Federal, State and local officials and interested members of the public have been included as appendices to the Final Environmental Statement.

Single copies of the Final Environmental Statement may be obtained by writing the U.S. Atomic Energy Commission, Washington, D.C. 20545, attention: Deputy Director for Reactor Projects, Directorate of Licensing.

Dated at Bethesda, Maryland, this 7th day of November 1973.

For the Atomic Energy Commission.

GEORGE W. KNIGHTON,  
Chief, Environmental Projects  
Branch 1, Directorate of  
Licensing.

[FR Doc.73-24131 Filed 11-9-73;8:45 am]

## CIVIL AERONAUTICS BOARD

[Docket No. 24260]

### KODIAK-WESTERN ALASKA AIRLINES, INC., ET AL.

Notice of Proposed Approval of Certain Lease Transactions and Interlocking Relationships

Joint application of Kodiak-Western Alaska Airlines, Inc., Helen C. Hall, and Robert L. Hall for approval of certain lease transactions and interlocking relationships pursuant to sections 408 and 409 of the Federal Aviation Act of 1958, as amended, Docket 24260.

Notice is hereby given, pursuant to the statutory requirements of section 408(b) of the Federal Aviation Act of 1958, as amended, that the undersigned intends to issue the attached order under delegated authority. Interested persons are hereby afforded a period of fifteen days from the date of this notice within which to file comments or request a hearing with respect to the action proposed in the order.

Dated at Washington, D.C., November 7, 1973.

WILLIAM B. CALDWELL, Jr.,  
Director, Bureau of  
Operating Rights.

Issued under delegated authority.

Joint application of Kodiak-Western Alaska Airlines, Inc., Helen C. Hall, and Robert L. Hall for approval of certain lease transactions and interlocking relationships pursuant to sections 408 and 409 of the Federal Aviation Act of 1958, as amended, Docket 24260.

Order Kodiak-Western Alaska Airlines, Inc. (Kodiak), Helen C. Hall, and Robert L. Hall have applied to the Board for approval pursuant to sections 408 and 409, or exemption pursuant to section 416, of the Federal Aviation Act of 1958, as amended (the Act), of certain relationships arising out of aircraft finance leases between the Halls and Kodiak. At the time the leases were transacted, Kodiak was wholly owned by the Halls, both of whom were officers in the carrier as well.<sup>1</sup>

Specifically, the Halls, jointly, have leased two aircraft to Kodiak for use in Kodiak's commercial fleet. One lease involves a new Bell Jet Ranger 206-A helicopter purchased by the Halls and leased to Kodiak for rentals equal to the total purchase price plus bank interest on the financed portion (\$80,000 out of \$132,000 purchase price).<sup>2</sup> The other lease involves a Grumman G-21A Goose aircraft purchased by the Halls for their own private use, but thereafter leased to the air carrier. The lease is for a three year period at the end of which title to the aircraft will be turned over to Kodiak.

Applicants allege that both the helicopter and the fixed-wing aircraft are needed additions to the air carrier's fleet; that their utilization has been high and that, in the case of the helicopter, the rental payments are significantly lower than the terms which might be obtained from commercial leasing companies. With respect to the Grumman aircraft, applicants state that the monthly rentals under the lease agreement for this aircraft are pegged at precisely the amount required to pay off the bank loan by which the Halls financed the aircraft with interest over the term of the loan; that there is no profit element for the Halls; and that, in effect, the Halls have purchased the aircraft for the account of the company and are currently retaining title to the aircraft solely as a matter of financial convenience to both parties.

No comments or requests for a hearing relative to this joint application have been received.

After consideration of the applications,<sup>3</sup> it is concluded that the Halls are engaged in phase of aeronautics within the meaning of section 408; that the properties leased from

<sup>1</sup>Subsequently, the Board approved the merger between Kodiak and Western Alaska Airlines, Inc., Order 72-11-71, November 16, 1972.

<sup>2</sup>The term of this lease is five years, although it had originally been eight years with a nominal rental for the last three. See amendment No. 1 to application of Kodiak and Helen C. Hall and Robert L. Hall, filed March 3, 1972.

<sup>3</sup>It appears that the section 408 and 409 relationships involving Kodiak and the Halls have been in existence since at least 1969. Nevertheless, it has been determined that exceptional circumstances exist in this case and that the application should be considered on the merits. Sherman Control and Interlocking Relationships Case, 15 CAB 876 (1952).

the Halls constitute a substantial part of their properties; and, therefore, that these lease transactions are subject to the provisions of section 408. However, it is further concluded that these transactions do not affect the control of an air carrier directly engaged in the operation of aircraft within the meaning of the third proviso of subsection 408(b), and do not result in creating a monopoly, or restrain competition. Furthermore, no person claiming a substantial interest in the proceeding is currently requesting a hearing, nor does the public interest require one.<sup>4</sup>

The Board has in the past considered transactions between air carriers and their controlling shareholders similar to the leases between the Halls and Kodiak. Its position regarding such transactions is clear: it looks with disfavor upon this type of transaction because of the absence of arm's-length bargaining.<sup>5</sup> The conclusion to approve the present relationships is predicated on the unique facts of this case, including (1) evidence concerning the advantage of these transactions from the air carrier's point of view and (2) the added assurance given by the fact that Kodiak's subsequent merger partner has been willing to consummate the merger transaction while being aware of the existence and relative importance of these agreements.<sup>6</sup>

In view of the foregoing, it has been determined to approve, without hearing under the third proviso of section 408(b) of the Act, the two lease transactions between Helen C. Hall and Robert L. Hall and Kodiak, subject to the condition that any further lease transactions are prohibited between these parties as long as the control relationship between the Halls and Kodiak exists. This disposition is consistent with the Board's conclusion in the Capitol case, supra.

In so far as the application may result in relationships that raise questions of jurisdiction under section 409 of the Act, we have concluded that such relationships come within the scope of the exemption from the provisions of section 409 provided by §§ 287.2 and 287.4 of the Board's Economic Regulations. In these circumstances we will dismiss that portion of the application.

Pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.13 and 385.3, it is found that the foregoing lease transactions should be approved under section 408(b) of the Act without a hearing.

Accordingly, it is ordered, That:

1. The subject leases by Helen C. and Robert L. Hall of one Bell Jet Ranger 206-A helicopter and one Grumman G-21A Goose aircraft to Kodiak-Western Alaska Airlines, Inc., as described in the application in Docket 24260, be and they hereby are approved; *Provided*, That any further leasing transactions between the individual parties and Kodiak-Western Alaska Airlines are prohibited.

2. To the extent that the application in Docket 24260 requests relief under section 409 of the Act, these requests be and they hereby are dismissed.

Persons entitled to petition the Board for review of this order pursuant to the Board's

<sup>4</sup> Notice of intent to dispose of the application without hearing has been published in the *FEDERAL REGISTER* and a copy of such notice has been furnished to the Attorney General in accordance with section 408(b) of the Act.

<sup>5</sup> Capital International Airways, Inc., Order E-25854, October 10, 1967.

<sup>6</sup> Kodiak-Western Alaska Merger Case, Initial Decision, June 2, 1972, at 13-14, Docket 23760.

Regulations, 14 CFR 385.50, may file petitions for review of this order within ten days after the date of this order.

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

[SEAL] EDWIN Z. HOLLAND,  
Secretary.

[FR Doc.73-24020 Filed 11-9-73;8:45 am]

[Docket No. 25929]

#### NORTHWEST AIRLINES, INC.

#### Notice of Postponement of Prehearing Conference Regarding 52-Passenger Affinity and Single Entity Group Fares

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that prehearing conference in this proceeding, set for November 13, 1973 (38 FR 29522, October 25, 1973), is postponed indefinitely.

Dated at Washington, D.C., November 6, 1973.

[SEAL] HENRY WHITEHOUSE,  
Administrative Law Judge.

[FR Doc.73-24019 Filed 11-9-73;8:45 am]

[Docket No. 25920]

#### SCANSPEED FLIGHT AB AND SCANSPEED FLIGHT INC.

#### Notice of Prehearing Conference and Hearing Regarding Foreign Air Carrier Permit Indirect Foreign Air Transportation

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on December 5, 1973, at 10:00 a.m. (local time) in Room 503, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Administrative Law Judge John E. Faulk.

Notice is also given that the hearing may be held immediately following conclusion of the prehearing conference unless a person objects or shows reason for postponement on or before November 28, 1973.

Dated at Washington, D.C., November 7, 1973.

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

[FR Doc.73-24018 Filed 11-9-73;8:45 am]

#### COMMISSION ON CIVIL RIGHTS

#### CALIFORNIA STATE ADVISORY COMMITTEE

#### Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights that a factfinding meeting of the California State Advisory Committee (SAC) will convene at 9:00 a.m. on November 30, and reconvene at 9:00 a.m. on December 1, 1973, in Meeting Room No. 381 of the Los Angeles County Board of Supervisors at 500 West Temple, Los Angeles, California 90012. These sessions shall be open to the public.

The purpose of these meetings shall be to collect information concerning legal developments constituting a denial of the equal protection of the laws under the Constitution because of race, color, religion, sex, or national origin which affect the civil rights of the Asian American residing in the State of California; to appraise denial of equal protection of the laws under the Constitution because of race, color, religion, sex, or national origin as these pertain to the civil rights of the Asian American residing in the State of California; and to disseminate information with respect to denials of the equal protection of the laws because of race, color, religion, sex, or national origin which affect the civil rights of the Asian American residing in the State of California; and to related areas.

A planning meeting of the California SAC will convene at 7:00 p.m. on November 29, 1973, in the Buffalo Room of the Statler Hilton Hotel, 930 Wilshire Boulevard, Los Angeles, California 90024. Persons wishing to attend this meeting should contact the Committee Chairman, or the Western Regional Office of the Commission, Room 1015, 312 North Spring Street, Los Angeles, California 90012. The purpose of this meeting shall be to brief SAC members on issues and review final plans for conducting the November 30-December 1, 1973, factfinding meeting on the Asian American in Los Angeles County.

Closed or executive SAC sessions may be held at such time and place as deemed necessary to discuss matters which may tend to defame, degrade, or incriminate individuals. Such sessions will not be open to the public.

These meetings will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., November 2, 1973.

ISAIAH T. CRESWELL, Jr.,  
Advisory Committee  
Management Officer.

[FR Doc.73-24007 Filed 11-9-73;8:45 am]

#### DELAWARE STATE ADVISORY COMMITTEE

#### Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Delaware State Advisory Committee (SAC) to this Commission will convene at 12:00 noon on November 14, 1973, in Room 203, YMCA, 11th and Washington Streets, Wilmington, Delaware 19801.

Persons wishing to attend this meeting should contact the Committee Chairman, or the Mid-Atlantic Regional Office of the Commission, Room 510, 2120 L Street NW., Washington, D.C. 20425.

The purpose of this meeting shall be to review draft of the Delaware State Prison Project report and to discuss plans for the release of this report.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., November 6, 1973.

ISAIAH T. CRESWELL, Jr.,  
Advisory Committee  
Management Officer.

[FR Doc.73-24008 Filed 11-9-73; 8:45 am]

#### GEORGIA STATE ADVISORY COMMITTEE Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a factfinding meeting of the Georgia State Advisory Committee will convene at 10:00 a.m. on November 16 and reconvene at 10:00 a.m. on November 17, 1973, in Courtroom No. 324, Old Post Office Building, Forsyth and Walton Streets, Atlanta, Georgia 30303. These sessions shall be open to the public.

Closed or executive SAC sessions may be held at such time and place as deemed necessary to discuss matters which may tend to defame, degrade, or incriminate individuals. Such sessions will not be open to public.

The purpose of this meeting shall be to collect information concerning legal developments constituting a denial of the equal protection of the laws under the Constitution because of race, color, religion, sex, or national origin which affect persons residing in the State of Georgia with special emphasis on the conditions in Georgia penal institutions as they relate to the civil rights of inmates; to appraise denial of equal protection of the laws under the Constitution because of race, color, religion, sex, or national origin as these pertain to Georgia penal institutions as they relate to the civil rights of inmates; and to disseminate information with respect to denials of the equal protection of the laws because of race, color, religion, sex, or national origin with respect to Georgia penal institutions; and to related areas.

A planning meeting of the Georgia State Advisory Committee will convene at 8:00 p.m. on November 15, 1973, at the White House Motor Hotel, 70 Houston, Atlanta, Georgia 30303. Persons wishing to attend this meeting should contact the Committee Chairman, or the Southern Regional Office, Room 362, Citizens Trust Bank Building, 75 Piedmont Avenue NE, Atlanta, Georgia 30303. The purpose for this meeting shall be to hold a final briefing session in preparation for the November 16-17, 1973, factfinding meeting on Georgia penal institutions.

These meetings will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., November 5, 1973.

ISAIAH T. CRESWELL, Jr.,  
Advisory Committee  
Management Officer.

[FR Doc.73-24004 Filed 11-9-73; 8:45 am]

#### KANSAS STATE ADVISORY COMMITTEE

##### Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Kansas State Advisory Committee (SAC) to this Commission will convene at 10:00 a.m. on November 15, 1973, at the Ramada Inn, 420, 6th Street, Topeka, Kansas 66201.

Persons wishing to attend this meeting should contact the Committee Chairman, or the Central States Regional Office, Room 3103, Old Federal Office Building, 911 Walnut Street, Kansas City, Missouri 64106.

The purpose of this meeting shall be to discuss the rechartering of the Kansas SAC and make plans for future activities of the Committee.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., October 31, 1973.

ISAIAH T. CRESWELL, Jr.,  
Advisory Committee  
Management Officer.

[FR Doc.73-24006 Filed 11-9-73; 8:45 am]

#### RHODE ISLAND STATE ADVISORY COMMITTEE

##### Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights that a factfinding meeting of the Rhode Island State Advisory Committee to this Commission will convene at 9:00 a.m. on November 14, reconvene at 7:00 p.m. on November 15 and at 9:00 a.m. on November 16, 1973, in Room 313 of the State House, 83 Smith Street, Providence, Rhode Island 02903. This meeting shall be open to the public.

The purpose of this meeting shall be to collect information concerning legal developments constituting a denial of the equal protection of the laws under the Constitution because of race, color, religion, sex, or national origin which affect persons residing in the State of Rhode Island with special emphasis on State and local government employment practices; to appraise denial of equal protection of the laws under the Constitution because of race, color, religion, sex, or national origin which affect persons residing in the State of Rhode Island with special emphasis on State and local government employment practices; and to disseminate information with respect to denials of the equal protection of the laws because of race, color, religion, sex, or national origin which affect persons residing in the State of Rhode Island with special emphasis on State and local government employment practices; and to related areas.

Closed or executive SAC sessions may be held at such time and place as is

deemed necessary to discuss matters which may tend to defame, degrade, or incriminate individuals. Such sessions will not be open to the public.

These meetings will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., October 31, 1973.

ISAIAH T. CRESWELL, Jr.,  
Advisory Committee  
Management Officer.

[FR Doc.73-24005 Filed 11-9-73; 8:45 am]

#### COST OF LIVING COUNCIL

[Cost of Living Council Order No. 45]

#### DEPUTY ADMINISTRATOR AND DIRECTOR OF OPERATIONS, OFFICE OF FOOD

##### Delegation of Authority

Pursuant to the authority vested in me as Administrator, Office of Food, by Cost of Living Council Order No. 42, it is hereby ordered as follows:

1. There is redelegated to the Deputy Administrator, Office of Food, all of the authorities granted to me as Administrator, Office of Food, by Cost of Living Council Order No. 42.
2. There is redelegated to the Director of Operations, Office of Food, the authority to order, pursuant to 6 CFR 150.154 (b), the suspension and resumption of the running of the 30-day prenotification period for proposed price increases.
3. None of the authorities redelegated herein may be further redelegated.
4. This order is effective August 13, 1973.

KENNETH FEDOR,  
Administrator, Office of Food.

[FR Doc.73-24136 Filed 11-8-73; 3:42 pm]

#### HEALTH INDUSTRY ADVISORY COMMITTEE

##### Notice of Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given that the Health Industry Advisory Committee, created by section 6(b) of Executive Order 11695, will meet on November 19, 1973, at the Cost of Living Council offices, 2000 M Street NW., Washington, D.C.

The meeting, which will be held from 10:00 a.m. to 4:00 p.m. in the second floor auditorium, will be open to the public.

The Chairman of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Only members of the Committee, and its staff, may question the witnesses. Due to space limitations, it is possible that there will not be enough seating. For that reason, persons will be admitted on a first-come-first-served basis.

While no unscheduled oral presentations will be entertained, anyone may submit a written statement by mailing it to Robert Saner, 2000 M Street NW.,

Washington, D.C. 20508. Any statement received three or more days prior to the meeting will be provided to the Committee before the meeting. Any statement over three pages in length should be submitted with twenty copies.

Issued in Washington, D.C., on November 9, 1973.

HENRY H. PERRITT, Jr.,  
Executive Secretary,  
Cost of Living Council.

[FR Doc. 73-24221 Filed 11-9-73; 11:31 am]

### AUTOMOBILE PRICE INCREASE

#### Notice of Public Hearing

Notice is hereby given that the Cost of Living Council will hold a public hearing beginning at 9:30 a.m. on Tuesday, November 20, 1973 and on Wednesday, November 21, 1973 in the Cost of Living Council Auditorium, Room 2105, 2000 M Street NW., Washington, D.C. to receive comments from interested persons on price increase prenotifications filed with the Cost of Living Council by automobile manufacturers. The hearing will examine the potential impact which the proposed price increases could have on the total economy, and will center on each company's justification for increased prices.

On August 13, 14, and 15, 1973, General Motors Corporation, Ford Motor Company, Chrysler Corporation, and American Motors Corporation prenotified various price increases primarily to cover costs of federally mandated equipment. A public hearing was held in Washington on August 28, 1973 to consider these increases. Subsequently, the Council issued on September 7, 1973, decisions and orders approving some price increases representing dollar-for-dollar pass through of federally mandated bumper and safety equipment costs for all 1974 model vehicles. The Council deferred action on a portion of the proposed increases without prejudice to their resubmission at a later date. American Motors was allowed an average price increase of \$55 instead of the \$61 prenotified; Chrysler, \$51 instead of the \$70 prenotified; Ford, \$74 instead of the \$106 prenotified, and General Motors, \$73 rather than the \$102 prenotified.

On September 18, 1973, Chrysler Corporation prenotified for an additional price increase of \$73 per vehicle and the Council deferred action on that filing stating that the Council would review that action on November 1, 1973. On November 1, 1973, Chrysler Corporation submitted an additional price increase prenotification for \$63 per vehicle. Prenotification submissions were received on October 31, 1973 from American Motors (\$114 per vehicle), on November 1, 1973 from Ford Motor Company (\$188 per vehicle), and on November 8, 1973 from General Motors Corporation (\$208 per vehicle).

Inasmuch as the four major automobile manufacturers have now filed prenotifications based on economic costs for

the 1974 model year, the Council has decided to hold public hearings.

This public hearing will be conducted under the authority of section 207(c), the Economic Stabilization Act of 1970, as amended, which requires that to the maximum extent possible, formal hearings be conducted for the purpose of acquiring information bearing on a change or a proposed change in prices which have or may have a significantly large impact upon the national economy.

The Cost of Living Council is inviting public participation in the form of written submissions as well as oral presentations. The Council requests all interested persons to submit written suggestions, and comments on the subject for Council consideration not later than November 26, 1973.

All written submissions should be sent to Auto Hearing, Executive Secretariat, Cost of Living Council, 2000 M Street NW., Washington, D.C. 20508. All written submissions received before 5:00 e.s.t., November 26, 1973 will be made part of the official records of the hearing.

Any information or data considered by the person furnished it to be confidential must be submitted in writing, one copy only, before the person's scheduled appearance, or by November 26, 1973, as applicable. The Cost of Living Council reserves the right to determine the confidential status of the information or data and to treat it accordingly.

Any person who has an interest in the subject of the hearings, or who is a representative of a group or class of persons which has an interest in the subject of the hearings, may request the opportunity to make an oral presentation by telephoning the Executive Secretariat of the Cost of Living Council at (202) 254-8637 before 5:00 p.m., e.s.t., Thursday, November 15, 1973. The person making the request should be prepared to describe the interest concerned; if appropriate to state why he is a proper representative of a group or class of persons which has such an interest; and to give a concise summary of the proposed oral presentation and a phone number where he may be contacted through November 16, 1973. Oral presentations may be supplemented by written submissions filed with the Council not later than November 26, 1973.

The Council reserves the right to select the persons to be heard at the hearings, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearings. Each presentation may be limited, based on the number of persons requesting to be heard.

Each person selected to be heard will be so notified by the Council before 5:00 p.m., e.s.t., November 16, 1973 and must send 50 copies of his statement to the Executive Secretariat before 5:00 p.m., e.s.t., November 19, 1973.

A Cost of Living Council official will be designated to preside at the hearings. They will not be judicial- or evidentiary-type hearings. Questions may be asked

only by those conducting the hearings, and there will be no cross-examination of persons presenting statements. Any decision made by the Council with respect to the subject matter of the hearings will be based on all information available to the Council, from whatever source received. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity if he so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and may not exceed 10 minutes each.

Any interested person may submit questions, to be asked of any person making a statement at the hearings, before 5:00 p.m., e.s.t., November 19, 1973. Any person who makes an oral statement and who wishes to ask a question at the hearings may submit the question, in writing, to the presiding officer. The Council, or the presiding officer if the question is submitted at the hearings, will determine whether the question is relevant, and whether time limitations permit it to be presented for answer.

Due to wide public interest in the hearings, available space may not accommodate all those who wish to attend; thus members of the general public will be admitted on a first come, first served basis.

Any further procedural rules needed for the proper conduct of the hearings will be announced by the presiding officer.

A transcript of the hearings will be made and the entire record of the hearings, including the transcript, will be retained by the Council and made available for inspection at the Public Reference Facility of the Council, Room 2313, 2000 M Street NW., Washington, D.C., between the hours of 8:30 a.m. and 5:30 p.m. Monday through Friday. Anyone may buy a copy of the transcript from the reporter.

Issued at Washington, D.C., on November 9, 1973.

JAMES W. McLANE,  
Deputy Director,  
Cost of Living Council.

[FR Doc. 73-24222 Filed 11-9-73; 11:31 am]

### ENVIRONMENTAL PROTECTION AGENCY

#### CROWN ZELLERBACH CORP.

#### Notice of Withdrawal of Petition for Food Additive

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:

In accordance with § 121.52 Withdrawal of petitions without prejudice of the procedural food additive regulations (21 CFR 121.52), Crown Zellerbach Corp., One Bush Street, San Francisco, CA 94119, has withdrawn its petition (FAP 3H5039), notice of which was published in the FEDERAL REGISTER of July 20, 1973

(38 FR 19451), proposing establishment of a food additive tolerance (21 CFR Part 121) for residues of butyl benzyl phthalate in or on raisins at 35 parts per million resulting from use of butyl benzyl phthalate as a solvent for the insecticide malathion in formulations applied to paper trays used in drying grapes.

Dated: November 2, 1973.

EDWIN L. JOHNSON,  
Acting Deputy Assistant Administrator  
for Pesticide Programs.

[FR Doc. 73-23973 Filed 11-9-73; 8:45 am]

#### PARAQUAT

##### Notice of Establishment of Temporary Tolerance

In response to a petition (PP 4G1441) from Mr. Glenn W. Kreuzer, Director State of Nebraska Department of Agriculture, Post Office Box 94844, Lincoln, NE 68509, a temporary tolerance of 2 parts per million is established for residues of the desiccant paraquat (1,1'-dimethyl-4,4'-bipyridinium) derived from application of either the dichloride or bis(methylsulfate) salt (calculated in both instances as the cation) in or on the raw agricultural commodity grain sorghum, which is to be used only for animal feed.

It has been determined that a temporary tolerance of 2 parts per million for residues of the desiccant in or on grain sorghum, which is to be used only for animal feed, will protect the public health. This temporary tolerance is established on condition that the desiccant will be used in accordance with the temporary permit which is being issued concurrently.

This temporary tolerance expires March 31, 1974.

This action is being taken pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(j), 68 Stat. 516 (21 U.S.C. 346a(j))), the authority transferred to the Administrator of the Environmental Protection Agency (35 FR 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticide Programs (36 FR 9038).

Dated: November 5, 1973.

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

[FR Doc. 73-23974 Filed 11-9-73; 8:45 am]

#### SHELL CHEMICAL CO.

##### Notice of Establishment of Temporary Tolerances

Shell Chemical Co., 1700 K Street, NW, Washington, D.C. 20006, submitted a petition (PP 3G1377) requesting establishment of temporary tolerances for residues of the herbicide 2-[4-chloro-6-(ethylamino)-s-triazin-2-yl]amino]-2-methylproprionitrile in or on the raw agricultural commodities cottonseed and soybeans at 0.05 part per million.

It has been determined that temporary tolerances for residues of the herbicide

in or on cottonseed and soybeans at 0.05 part per million will protect the public health. They are therefore established as requested on condition that the herbicide be used in accordance with the temporary permit being issued concurrently and which provides for distribution under the Shell Chemical Co. name.

These temporary tolerances expire.

This action is taken pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(j), 68 Stat. 516; (21 U.S.C. 346a(j))), the authority transferred to the Administrator of the Environmental Protection Agency (35 FR 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticide Programs (36 FR 9038).

Dated: November 5, 1973.

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

[FR Doc. 73-23970 Filed 11-9-73; 8:45 am]

### FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 19154; FCC 73-1146]

#### BROADCAST RENEWAL APPLICANT

##### Order Extending Time for Filing Comments and Reply Comments

In the matter of formulation of policies relating to the broadcast renewal applicant, stemming from the comparative hearing process, Docket No. 19154.

1. On October 9, 1973, the Commission released a Second Further Notice of Inquiry in the above-entitled proceeding. Publication was made in the FEDERAL REGISTER on October 12, 1973, 38 FR 28325. Comment and reply comment dates are presently November 12 and November 28, 1973, respectively. A questionnaire to be completed by all commercial television stations was issued by the Commission at the same time as the Notice and the date designated for completion of this questionnaire was November 19, 1973.

2. On October 26, 1973, the firm of Kooten and Burt (K & B) filed a "Motion for Extension of Time in Which to File Comments" stating that the Commission's Notice stresses that while it has received broad general comments concerning the concept of establishing quantitative program standards, it has received few comments on the substantial pragmatic problems relating to implementation of a quantitative standard principle. K & B contends that the questionnaire and supplement to it ask for substantial amounts of data, much of which is not now available. It further states that the data which will be obtained from the completed questionnaires relate directly to pragmatic problems on which the notice requests comments. It therefore requests that the time for filing comments be extended until after the completed questionnaires are returned, the full results made available to all interested persons, and those persons afforded an appropriate period in which to analyze fully the facts and their impact

on pragmatic problems attendant to quantitative standards and prepare comments based on that analysis. K & B further suggests that the Commission make the results of the questionnaire study available in both computer print-out and computer punch card form so that interested persons can most efficiently analyze those results.

3. On October 30, 1973, the American Broadcasting Companies, Inc. (ABC) filed a "Motion to Temporarily Defer Further Action or, in the Alternative, to Extend Time For Filing Comments" in the above-entitled proceeding. ABC states that this proceeding is closely linked to parallel developments in Congress which may affect the license renewal process. It further avers that present reports seem to indicate that the nature and timing of further Congressional action on license renewal legislation in both the House and Senate is most uncertain. ABC points out that in light of this overall uncertainty and recognizing that some specific Congressional action has been initiated, it believes it is important that further deliberations here be temporarily deferred until the direction Congress will take in this area becomes more clear. ABC states that if the Commission does not see fit to temporarily defer this proceeding in order to reassess parallel developments, general principles of fairness and orderly procedure dictate that the period for comments by interested parties should be extended at least until the results of an on-going television industry inquiry are made available.

4. We are of the view that this proceeding should continue to go forward and that action herein should not be deferred pending further Congressional action, and the request of ABC for such deferral will therefore be denied.

5. However, there appears to be merit to the suggestions of K & B and ABC that the date for filing comments be extended to give interested parties an opportunity to examine the questionnaire results prior to making their submission of comments. Thus we shall extend the date for filing comments to December 19, 1973. In so doing, we should emphasize the importance of licensees submitting the completed questionnaire as soon as possible, and certainly no later than November 19, 1973. We are not prepared at this time to respond to the K & B request that the results of the questionnaire study be made available in both computer print-out and punch card form. This request will be reevaluated after the statistics generated by the questionnaire have been tabulated.

6. In view of the foregoing: *It is ordered*, That the dates for filing comments and reply comments in this proceeding are extended to and including December 19, 1973, and January 7, 1974, respectively.

7. *It is further ordered*, That the aforementioned motions filed by K & B and by ABC are granted to the extent that they are consistent with the foregoing, and in other respects are denied.

8. This action is taken pursuant to authority found in sections 4(d), 4(d)(D), and 303(r) of the Communications Act of 1934, as amended.

Adopted: October 31, 1973.

Released: November 6, 1973.

FEDERAL COMMUNICATIONS  
COMMISSION.

[SEAL] VINCENT J. MULLINS,  
Secretary.

[FR Doc.73-23996 Filed 11-9-73;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. CI63-1224, etc.]

CALIFORNIA CO., ET AL.

Applications, Abandonment of Service and  
Petitions To Amend<sup>1</sup>

NOVEMBER 2, 1973.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before November 30, 1973, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

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

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

KENNETH F. PLUMB,  
Secretary.

<sup>1</sup> This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and Date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
CI63-1224 D 10-19-73	The California Co., a Division of Chevron Oil Co., 1111 Tulane Ave., New Orleans, La. 70112	Texas Gas Transmission Corp., Downsview Field, Union Parish, La.	Nonproductive	
CI65-825 CE 10-19-73	The California Co., a division of Chevron Oil Co. (successor to River Corp.)	Transcontinental Gas Pipe Line Corp., Block 23 Field, South Marsh Island Area, offshore Louisiana	1 20.0	15.025
CI73-705 (CI63-20) (CI71-833) F 9-18-73	BLMP Oil Co. (successor to Exxon Corp.), 804 First National Bldg., Oklahoma City, Okla. 73102	Arkansas Louisiana Gas Co., South Pine Hollow Field, Pittsburg County, Okla.	1 13.21	14.65
CI74-182 10-12-73**	Atlantic Richfield Co., P.O. Box 2819, Dallas, Tex. 75221	Transwestern Pipeline Co., Atoka Field, Eddy County, N. Mex.	1 25.0	14.65
CI74-255 A 10-17-73	Texas Gas Exploration Corp., 1100 First City National Bank Bldg., Houston, Tex. 77052	Texas Gas Transmission Corp., Block 99, Eugene Island Area, offshore Louisiana	1 45.0	15.025
CI74-267 A 10-19-73	Gulf Oil Corp., P.O. Box 1589, Tulsa, Okla. 74102	El Paso Natural Gas Co., Blanco Pictured Cliffs Field, San Juan County, N. Mex.	1 28.0	15.025
CI74-265 (G-16922) F 10-23-73	J. O. Garland (successor to W. C. Feazel Estate (Operator) et al.), 604 Johnson Bldg., Shreveport, La. 71101	Texas Gas Transmission Corp., Blackburn Field, Webster Parish, La.	1 21.625	15.025
CI74-265 (G-17877) F 10-23-73	J. O. Garland (successor to Amoco Production Co.)	do	1 21.625	15.025
CI74-265 (G-18294) F 10-23-73	J. O. Garland (successor to Sun Oil Co.), 604 Johnson Bldg., Shreveport, La. 71101	do	1 21.625	15.025
CI74-265 (G-18338) F 10-23-73	J. O. Garland (successor to Placid Oil Co.)	do	1 21.625	15.025
CI74-267 (CI60-206) B 10-19-73	Ashland Oil, Inc. (Operator) et al., P.O. Box 193, Houston, Tex. 77001	South Texas Natural Gas Gathering Co., Schuster Field, Hidalgo County, Tex.	Depleted	
CI74-268 (G-4406) F 10-24-73	Vernon E. Faulkner (Operator) (successor to H. L. Hawkins, et al.), P.O. Box 1251, Kilgore, Tex. 75662	Texas Gas Transmission Corp., Carthage Field, Panola County, Tex.	1 15.0	14.65

<sup>1</sup> Subject to downward B.U. adjustment.

<sup>2</sup> Inclusive of tax reimbursement and a 3 cent compression charge deduction.

<sup>3</sup> Filing to request authorization to sell gas from acreage obtained after payout.

<sup>4</sup> Being notified because amendment to application filed Oct. 12, 1973, reflects a change in price.

<sup>5</sup> Subject to upward and downward B.U. adjustment.

<sup>6</sup> Applicant is willing to accept a certificate at an initial rate of 26 cents per Mcf, subject to downward B.U. adjustment; however, the contract price is 45 cents per Mcf, subject to downward B.U. adjustment.

<sup>7</sup> Applicant is willing to accept a certificate conditioned in accordance with Order No. 435.

<sup>8</sup> Including 2.625 cents per Mcf tax reimbursement.

Filing code: A—Initial service.  
B—Abandonment.  
C—Amendment to add acreage.  
D—Amendment to delete acreage.  
E—Succession.  
F—Partial succession.

[FR Doc.73-23909 Filed 11-9-73;8:45 am]

[Docket No. CI74-57]

C. CRADY DAVIS ET AL.

Order Providing for Hearing, and To Show Cause, Granting Intervention, Directing Action Pendente Lite and Prescribing Procedures

NOVEMBER 5, 1973.

On July 24, 1973, C. Crady Davis et al. (Davis) tendered for filing an application under section 7(b) of the Natural Gas Act requesting authorization to abandon the sale of gas made to Southern Union Gathering Company (Southern) in Blanco-Mesa Verde Gas Field, San Juan County, New Mexico.

In support of its application, Davis stated that the contract between Davis and Southern terminated on April 30, 1973, and that subsequent thereto the parties have not been able to agree to the terms of a new contract.

On August 20, 1973, Southern filed a petition to intervene in opposition to the proposed abandonment stating that the abandonment contained no benefit to the public interest since Southern was required to pay a higher rate to Davis and that higher rate would have a triggering effect on prices Southern pays pursuant to other contracts which it has in the same area. Southern states that

it is willing to pay Davis a higher rate for its purchases commencing January 1, 1974, since it expects to be paying other wellhead sellers higher rates at that time.

On August 27, 1973, Davis filed an answer to Southern's petition to intervene. This answer asserts certain factual and legal arguments in support of Davis' original application.

The application for abandonment, petition to intervene, and the answer thereto contain questions of law and fact that should be resolved through evidentiary proceedings. Accordingly, we will order a proceeding to resolve the issues raised in these filings. In addition, the urgency of the situation herein requires the setting of a hearing with all possible expedition.

On September 6, 1973, Davis filed a petition for emergency relief asserting that Southern has, since August 24, 1973, shut in Davis' wells and refuses to accept delivery of any gas therefrom. In addition, Davis claims that such action by Southern violates section 7(b) of the Natural Gas Act.

In response thereto, Southern filed on September 13, 1973, an answer to Davis' petition for emergency relief. In this answer, Southern alleges factual and legal reasons why their action is in the public

interest and why the Commission should deny Davis the relief they request.

The hearings that we are setting hereinafter will undertake to resolve, among other things, the issues contained in Davis' petition for emergency relief and Southern's answer thereto.

In addition, because there is an apparent refusal by Southern to receive quantities of natural gas dedicated to the interstate market from the wells of C. Crady Davis et al., we will direct Southern to immediately resume taking deliveries from the affected wells and to continue taking such deliveries pendente lite and to show cause why they should not be held in violation of section 7(b) of the Natural Gas Act.

*The Commission finds.*

(1) Good cause exists for setting for immediate formal hearing the issues involved in the aforementioned pleadings and for establishing the procedures for that hearing all as hereinafter ordered.

(2) The participation of Southern in this proceeding may be in the public interest.

(3) Good cause exists for directing Southern to immediately resume taking deliveries of natural gas from the wells involved in the instant proceeding, and to continue taking such deliveries pendente lite, or alternatively to show cause why it should not be held in violation of section 7(b) of the Natural Gas Act.

*The Commission orders.*

(A) Pursuant to the authority of the Natural Gas Act, particularly section 7(b) and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. 1), a public hearing shall be held commencing November 27, 1973, at 10:00 a.m. e.d.t., in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, concerning the propriety of issuing a certificate of public convenience to the applicant for the abandonment of service as requested in its application filed herein on July 24, 1973.

(B) On or before November 19, 1973, applicant shall file and serve its testimony and exhibits comprising its case-in-chief in support of its application upon all parties to this proceeding including Commission staff.

(C) An 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 hearings in this proceeding and shall prescribe relevant procedural matters not herein provided.

(D) The petitioner hereinabove set forth is permitted to intervene in this proceeding subject to the Rules and Regulations of the Commission; *Provided, however,* That the participation of such intervenor shall be limited to matters affecting asserted rights and interests specifically set forth in the petition to intervene; and, *Provided, further,* That the

admission of said intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order of the Commission entered in this proceeding.

(E) Southern Union Gathering Company is hereby directed to begin receiving volumes of gas from the wells of C. Crady Davis et al. that are the subject of this proceeding, such receipt to commence upon the effective date of this order and to continue pendente lite. Additionally, Southern Union will be required to show cause through the submittal of direct testimony and service thereof on all parties to the proceeding on or before November 19, 1973, that they were not in violation of section 7(b) of the Natural Gas Act.

By the Commission.

[SEAL] KENNETH F. PLUMB,  
Secretary.  
[FR Doc.73-24056 Filed 11-9-73;8:45 am]

[Docket No. E-8457]

**GEORGIA POWER CO.**

**Notice of Initial Rate Schedule Filing**

NOVEMBER 5, 1973.

Take notice that Georgia Power Company on October 26, 1973, tendered for filing Initial Rate Schedules for the following wholesale delivery points:

Coweta-Fayette EMC No. 8.  
Hart County EMC No. 12.  
Little Ocmulgee EMC No. 7.  
City of Barnesville No. 2.

Georgia Power states that the rate schedules for these delivery points provide for service at the Company's WR-5 (for Cooperative) or WR-4 (for Municipal) wholesale service rates. According to Georgia Power, service has already commenced at the above delivery points and therefore the Company requests that the Commission accept these rate schedules effective as of the date of commencement of service, and waive the 30-day filing requirement.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 19, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.73-24054 Filed 11-9-73;8:45 am]

[Docket No. CI74-270]

H. J. HEADRICK

**Notice of Application**

NOVEMBER 5, 1973.

Take notice that on October 29, 1973, H. J. Headrick (Applicant), 570 Milner Building, Jackson, Mississippi 39201, filed in Docket No. CI74-270 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to United Gas Pipe Line Company from the West Bryceland Field, Bienville 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 to sell up to 2,000 Mcf of gas per day for one year at 45.0 cents per Mcf at 15.025 p.s.f.a. within the contemplation of § 2.70 of the Commission's General Policy and Interpretations (18 CFR 2.70). Estimated monthly sales are 60,000 Mcf of gas. The contract provides for the sale of all available gas.

It appears reasonable and consistent with the public interest in this case to prescribe 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 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). 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 herein, if the Commission on its own 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.73-24049 Filed 11-9-73;8:45 am]

[Docket No. CI74-262, CI74-263]

**HONDO PRODUCTION CO. AND SAN ORA PRODUCTION CO.**

**Notice of Applications**

NOVEMBER 5, 1973.

Take notice that on October 18, 1973, Hondo Production Company and San Ora Production Company (Applicants), both with mailing addresses of P.O. Box 1885, Paso Robles, California 93446, filed in Docket Nos. CI74-262 and CI74-263, respectively, pursuant to section 7(b) of the Natural Gas Act applications for permission and approval to abandon sales for resale of natural gas in interstate commerce to Kerr-McGee Oil Industries, Inc. (Kerr-McGee), from acreage in Carson County, Texas, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Hondo and San Ora, holders of small producer certificates in Docket Nos. CS-73-106 and CS73-107, respectively, state that they have been selling gas to Kerr-McGee from properties known as the Barnard Lease in Carson County pursuant to a contract dated August 1, 1961, as amended by a letter agreement dated December 4, 1964. Applicants further state that pursuant to such contracts they have the right to terminate such sales at this time and propose to do so. Accordingly, Applicants request herein authorization to abandon such sales to Kerr-McGee. Applicants indicate that they desire to sell the remaining gas production from the aforesaid properties to Natural Gas Pipeline Company of America, but have not yet signed a contract with Natural.

Any person desiring to be heard or to make any protest with reference to said applications should on or before November 27, 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. 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

<sup>1</sup> Applicants receive from Kerr-McGee for such gas 75 percent of Kerr-McGee's resale price but not less than 12 cents per Mcf at 14.65 ppsa.

7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, hearings will be held without further notice before the Commission on these applications if no petitions to intervene are filed within the time required herein, if the Commission on its own review of the matter finds that grants of the certificates are required by the public convenience and necessity. If petitions for leave to intervene are timely filed, or if the Commission on its own motion believes that formal hearings are required, further notice of such hearings will be duly given.

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

KENNETH F. PLUMB,  
Secretary.

[FR Doc.73-24047 Filed 11-9-73;8:45 am]

[Docket No. CP74-107]

**NORTHERN NATURAL GAS CO.**

**Notice of Application**

NOVEMBER 5, 1973.

Take notice that on October 23, 1973, Northern Natural Gas Company (Applicant), filed in Docket No. CP74-107 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon certain facilities located in Monroe County, Wisconsin, and Polk County, Iowa, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to abandon and remove its satellite sales station, designated Sparta TBS#2, which was installed pursuant to Commission authorization in Docket No. CP67-33 issued September 16, 1966 (36 FPC 648), to deliver natural gas for sale and delivery to Wisconsin Gas Company for resale to the Radio Corporation of America/McCoy Job Corps Center located in Monroe County, Wisconsin. Applicant states this job corps center has been deactivated and it will no longer require natural gas service.

Applicant also proposes to abandon two satellite sales stations, Des Moines TBS#9 and TBS#10, which were formerly used to deliver gas to Iowa Power & Light Company (IP&L) for resale service to two rural residences. Applicant states these houses have been removed due to the expansion of IP&L's Sycamore Electric Station and that neither station is being used to serve any other customer. Applicant states these stations are no longer required and should be abandoned in the interest of safety.

Applicant estimates the cost of removal of the Sparta TBS#2 facility to be \$4,200 and the abandonment and removal of the Des Moines TBS#9 and #10 facilities to be \$200. Applicant states these costs will be financed from funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before Novem-

ber 27, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

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

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

KENNETH F. PLUMB,  
Secretary.

[FR Doc.73-24050 Filed 11-9-73;8:45 am]

[Docket No. CI74-260]

**OCCIDENTAL PETROLEUM CORP.**

**Notice of Application**

NOVEMBER 5, 1973.

Take notice that on October 24, 1973, Occidental Petroleum Corporation (Applicant), P.O. Box 2247, Houston, Texas 77027, filed in Docket No. CI74-260 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 of natural gas in interstate commerce to Texas Eastern Transmission Corporation (Texas Eastern) from the La Sal Vieja Area, Willacy County, Texas, and delivery of said gas to Hydrocarbon Development Corporation (Hydrocarbon), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it commenced an emergency sale of natural gas from the subject acreage to Texas Eastern on September 30, 1973, within the contemplation of § 157.29 of the Commission's regulations under the Natural Gas Act (18 CFR 157.29) for a period of 180 days pur-

suant Commission Order No. 491<sup>1</sup> and proposes to continue said sale for an additional six months (presumably after the end of the emergency period) at a price of 45.0 cents per Mcf at 14.65 psia subject to downward Btu adjustment within the contemplation of § 2.70 of the Commission's General Policy and Interpretations (18 CFR 2.70). Applicant indicates that the gas will be delivered to Texas Eastern through the pipeline system of Hydrocarbon, which will take the gas at the wellhead and transport it to Texas Eastern's 30-inch line in Hidalgo County, Texas. Applicant estimates monthly deliveries of gas at 54,000 Mcf.

It appears reasonable and consistent 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 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 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

<sup>1</sup>Commission Order No. 491, Docket No. RM74-3, Statement of Policy and Order Amending Prior Policy Statements and Regulations under the Natural Gas Act, issued September 14, 1973, 50 FPC —, modified on reconsideration and denying motion for stay of order by Commission Order No. 491-A issued September 25, 1973, 50 FPC —. On October 3, 1973, the United States Court of Appeals for the District of Columbia in Docket No. 73-2009, *Consumer Federation of America, et al. v. FPC* —, stayed Commission Order No. 491 pending final action by the Commission pursuant to ordering paragraph (F) of Commission Order No. 491-A.

unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.73-24046 Filed 11-9-73;8:45 am]

[Docket No. C174-264]

PENNZOIL CO.

Notice of Application

NOVEMBER 5, 1973.

Take notice that on October 18, 1973, Pennzoil Company (Applicant), 900 Southwest Tower, Houston, Texas 77002, filed in Docket No. C174-264 an application pursuant to section 7(c) of the Natural Gas Act and § 2.75 of the Commission's General Policy and Interpretations (18 CFR 2.75) for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Panhandle Eastern Pipe Line Company (Panhandle) from wells commenced after April 6, 1972, on acreage subject to an amendatory agreement between Applicant and Panhandle dated August 6, 1973, 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 Panhandle gas produced from wells commenced after April 6, 1972, in the East Hobart Ranch and Buffalo Wallow Areas, Hemphill County, Texas, pursuant to the terms of its existing contract with Panhandle dated April 30, 1971, as modified by an amendatory agreement dated August 6, 1973. Said agreement provides for an increased price of 50 cents per Mcf, subject to upward and downward adjustment, for the subject natural gas in return for additional well drilling by Applicant. Applicant states said agreement is being filed simultaneously herewith as a Notice of Change in Rate Schedule to Applicant's Rate Schedule No. 32.

Applicant alleges the initial price of 50 cents per Mcf and the specified periodic increases in Applicant's contract of April 30, 1971, as amended, with Panhandle are reasonable. The application states that recently negotiated intrastate contracts contain rates which are in excess of the prices for the sale proposed herein. Applicant states further that the assurance of long-term supply of natural gas produced domestically and delivered at the contract price is beneficial to consumers faced with the prospect of paying in excess of \$1.00 for gas imported or transported over long distances from Alaska, or in relation to the cost of alternative fuels.

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, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and pro-

cedure (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.73-24048 Filed 11-9-73;8:45 am]

[Docket No. E-7726]

PHILADELPHIA ELECTRIC CO. AND  
SUSQUEHANNA ELECTRIC CO.

Notice of Filing of Rate Schedule Supplements, Computation of Refund and Cancellation of Rate Schedule

NOVEMBER 5, 1973.

Take notice that on October 19, 1973, Philadelphia Electric Company and Susquehanna Electric Company (Applicants) tendered for filing rate schedule supplements reflecting the Rate Settlement approved by the Commission in its order issued September 24, 1973, in this docket. The filing is in purported compliance with that order which required that such supplements be filed within 30 days of the issuance of such order.

Additionally Applicants filed a computation sheet said to show refunds made to Conowingo based on the new and lower Fuel Adjustment Clause charges provided in the rate schedule supplements and a notice of cancellation of Rate Schedule FPC No. 4 of Conowingo. These filings are being made pursuant to § 35.18 of the Commission's Regulations under the Federal Power Act and in accordance with the provisions of the Commission's order of September 24, 1973, Docket No. E-7726 relating to the subject Tri-Partite Agreement.

Philadelphia and Susquehanna state that Supplement No. 1 to Rate Schedule FPC No. 36 of Philadelphia and Supplement No. 1 to Rate Schedule FPC No. 2 of Susquehanna being filed herewith pro-

vide for the new and lower Fuel Adjustment Clause to be effective September 24, 1973.

Applicants state that they have refunded to Conowingo, for the period July 7, 1972 through September 23, 1973, the difference between the amounts collected from Conowingo under billing with the Fuel Adjustment Clause effective during this period and the amounts that would have been billed using the new and lower Fuel Adjustment Clause effective September 24, 1973. Applicants state that this refund, which amounted to \$38,947.95, with 7 percent interest, was refunded to Conowingo on October 12, 1973.

Finally, the cancellation of Rate Schedule FPC No. 4 of Conowingo by Applicants is said to be appropriate inasmuch as Rate Schedule FPC No. 4 of Conowingo is the same as Rate Schedule FPC No. 16 of Philadelphia in the Tri-Partite Agreement; i.e., a Joint Use Agreement between Conowingo and Philadelphia dated November 25, 1953, both of which had been supplemented October 30, 1971. Therefore, Rate Schedule FPC No. 4 of Conowingo, according to Applicants, should be cancelled since it has been superseded by Rate Schedule FPC No. 36 of Philadelphia.

According to Philadelphia and Susquehanna, copies of the data being filed herewith have been furnished to all parties.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 16, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc.73-24053 Filed 11-9-73;8:45 am]

[Docket No. CP74-108]

### TRANSWESTERN PIPELINE CO.

#### Notice of Application

NOVEMBER 5, 1973.

Take notice that on October 23, 1973, Transwestern Pipeline Company (Applicant), P.O. Box 2521, Houston, Texas 77001, filed in Docket No. CP74-108 an application pursuant to section 7(c) of the Natural Gas Act and § 157.7(b) of the Regulations thereunder for a certificate of public convenience and necessity authorizing the construction, during the calendar year 1974, and operation of facilities to enable Applicant to take into its certificated main pipeline system nat-

ural gas which will be purchased from producers thereof, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in contracting for and connecting to its pipeline system additional supplies of natural gas in areas generally co-extensive with said system.

The application states that the total cost of all facilities will not exceed \$7,000,000, with no single project to exceed a cost of \$1,000,000.

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, 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.73-24057 Filed 11-9-73;8:45 am]

[Docket No. RP74-20]

### UNITED GAS PIPE LINE CO.

#### Order Accepting Proposed Tariff Sheets for Filing, Suspending Rate Increase, Setting Matter for Hearing and Permitting Intervention

NOVEMBER 6, 1973.

On September 21, 1973, United Gas Pipe Line Company (United) filed in this docket proposed changes in its FPC Gas Tariff, First Revised Volume No. 1.<sup>1</sup> The

<sup>1</sup> See Appendix A for the Proposed tariff sheets. Appendix A filed as part of the original.

proposed changes would increase revenues from jurisdictional sales and services by approximately \$34.9 million, based on the 12 month period ending June 30, 1973, as adjusted.

The Company states that a comparison of revenue at present and proposed rates in its filing uses the filed rates in Docket No. RP72-75. The settlement in Docket No. RP72-75, according to United, did not provide a set of settlement rates but, rather, provided that United should continue to charge the rates filed in that docket subject to specified refund obligations. United states that the demand and commodity components of the proposed rates have been designed to directly recover allocated costs based on the "unmodified" Atlantic Seaboard method of cost classification and allocation.

Northern and El Paso each purchase substantial quantities of gas from fields in Lea County, New Mexico (Permian Area). Northern has available to it from such fields supplies of gas in excess of the capacity of its existing gathering and processing facilities resulting in accumulated underproduction in such fields of approximately three billion cubic feet. Production of this Lea County gas is needed now to alleviate shortage and improve the reserve situation on both the Northern and El Paso systems.

To assist Northern in its efforts to maintain adequate service to its customers and to adjust its Lea County allowable status by increasing takes, Northern and El Paso entered into a letter agreement dated December 27, 1972, whereby Northern would sell and deliver to El Paso certain quantities of raw gas which would concurrently sell and deliver to Northern volumes of equivalent residue gas. The parties commenced service under such arrangement pursuant to Section 157.22 of the Regulations on December 22, 1972. Northern and El Paso subsequently entered into a three year limited term gas sales and purchase agreement dated January 31, 1973, which provides for essentially the same arrangement. The instant applications request authorization to continue the sale and repurchase arrangement in accordance with the January 31, 1973, agreement.

Northern in its application proposed to sell and deliver up to 75,000 Mcf per day of raw gas to El Paso or to Warren Petroleum Company (Warren) for El Paso's account at seven points in Lea County, New Mexico, where its gathering facilities interconnect with those of El Paso's and Warren's. The raw gas will be wet, sour, and delivered at a pressure of 100 p.s.i.a. or less. Approximately 32,000 Mcf per day of raw gas will be delivered into Warren's gathering facilities for processing in its Monument and Eunice Plants situated in Lea County. El Paso presently purchases residue gas from such plants. The remaining 43,000 Mcf per day will be delivered into El Paso's gathering system for processing in its Jal complex.

El Paso in its application proposes to sell and deliver to Northern quantities

of sweet, high pressure gas equivalent to the quantities of residue gas remaining after processing the raw gas purchased from Northern (approximately 60,000 Mcf per day). Deliveries will be made to Northern at the outlet of Mobil Oil Corporation's (Mobil) Cuyanosa Plant located in Pecos County, Texas, or at the point of interconnection of El Paso's and Northern's field gathering facilities in Lea County. Both El Paso and Northern currently purchase gas from Mobil's Cuyanosa Plant.

Northern retains one third of the liquid products attributable to the raw gas sold to El Paso for reimbursement to Northern's producers. The remaining two-thirds vests in El Paso.

The proposal under consideration is predicated upon the continued existence of spare capacity in the processing facilities of El Paso and Warren: nothing in the agreements submitted with the applications grants Northern's Lea County gas any sort of priority over El Paso's internal requirements or over other processing currently undertaken by Warren. However, new production from Lea County sources is not anticipated, and it appears likely that the spare processing capacity of El Paso and Warren will remain available for the duration of any certificate issued.

There are two major alternatives to the proposal. The first alternative is for Northern to expand its own processing and gathering facilities in Lea County, which, under production estimates would be unneeded by 1975 when Lea County production is expected to drop sharply. Depreciation of the cost of additional facilities over a short period of time sharply raises unit costs to 10.7¢ per Mcf as compared with 6.2¢ per Mcf under the present proposal. Moreover, construction of facilities by Northern might raise additional environmental issues and would, in any event, require compliance with local, state and federal regulations. In view of the short-term nature of the excess deliverability anticipated in Lea County from Northern's producers, every advantage seems to weigh on the side of utilization of existing spare processing capacity of El Paso and Warren.

The second alternative is to take no action. This would require Northern to level out its Lea County production over the next five or six years at a rate at which Northern's present facilities would be able adequately to handle it.

(C) At the prehearing conference on March 19, 1974, United's prepared testimony (Statement D) together with its entire rate filing shall be admitted into the record subject to appropriate motions, if any, by parties to the proceeding. All parties will be expected to come to this conference prepared to effectuate the provisions of §§ 1.18 and 2.59 of the Commission's rules of practice and procedure.

(D) On or before March 1, 1974, the Commission staff shall serve its prepared testimony and exhibits. Any prepared testimony and exhibits of the intervenors shall be served on or before March 29, 1974. Any rebuttal evidence by United

shall be served on or before April 19, 1974. Cross-examination of the evidence filed shall commence at 10:00 a.m., e.s.t. on April 30, 1974, in a hearing room of the Federal Power Commission.

(E) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5(d)), shall preside at the hearing initiated by this order, and shall conduct such hearing in accordance with the Natural Gas Act, the Commission's Rules and Regulations, and the terms of this order.

(F) The aforementioned petitioners for intervention shall be permitted to intervene in this proceeding, subject to the Commission's rules and regulations; *Provided, however*, That the admission of such intervenor shall not be construed as recognition by the Commission that it might be aggrieved by any orders entered in this proceeding and *Provided, further*, That the participation of such intervenor shall be limited to matters affecting rights and interest specifically set forth in its petition to intervene.

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

By the Commission.

[SEAL] KENNETH F. PLUMB,  
Secretary.  
[FR Doc.73-24057 Filed 11-9-73; 8:45 am]

[Docket No. CP74-115]

#### WESTERN GAS INTERSTATE CO.

##### Notice of Application

NOVEMBER 5, 1973.

Take notice that on October 29, 1973, Western Gas Interstate Company (Applicant), 1500 Fidelity Union Tower, Dallas, Texas 75201, filed in Docket No. CP74-115 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to El Paso Natural Gas Company from acreage in Eddy County, New Mexico, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to sell, commencing November 28, 1973, up to 20,000 Mcf of gas per day for two years at 45.0 cents per million Btu within the contemplation of § 2.70 of the Commission's General Policy and Interpretations (18 CFR 2.70). The subject sale is stated to be from the same sources as the sale of natural gas authorized in Docket No. CP73-50 to be made to Transwestern Pipeline Company at 35.0 cents per million Btu.

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 19, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to inter-

vene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

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

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

KENNETH F. PLUMB,  
Secretary.

[FR Doc.73-24052 Filed 11-9-73; 8:45 am]

#### GENERAL SERVICES ADMINISTRATION

#### JOINT FEDERAL, STATE, AND LOCAL GOVERNMENT ADVISORY PANEL ON PROCUREMENT AND SUPPLY

##### Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, October 6, 1972, notice is hereby given of a meeting on November 15, 1973, of the Joint Federal, State, and Local Government Advisory Panel on Procurement and Supply. The meeting will convene at 9 a.m., in Room 1129, Crystal Mall Building 4, 1941 Jefferson Davis Highway, Arlington, Virginia.

The Panel provides a forum for discussion between all levels of government on problems and policies pertaining to procurement and supply to the end that resources, experience, and expertise may be fully utilized.

The agenda will include discussions on: (1) National Institute of Governmental Purchasing training and certification of purchasing and contracting officers, (2) effect of revenue sharing on State and local government purchasing, (3) utilization of excess/surplus property, and (4) the energy crisis.

This meeting is open to the public (within the limitations of conference room facilities). Anyone who wishes to attend or desires further information

should contact Mr. Dale A. McInroy, Executive Secretariat, Office of National Supply Policies and Programs (telephone 703-557-2028).

Dated at Washington, D.C., November 5, 1973.

M. J. TIMBERS,  
Commissioner.

[FR Doc.73-24115 Filed 11-9-73;8:45 am]

[GSA Bulletin FPMR G-82; Supp. 1]

### TRANSPORTATION AND MOTOR VEHICLES

#### Conservation of Motor Vehicle Fuels

1. *Purpose.* This supplement reduces the maximum speed limit for the operation of Government-owned and operated motor vehicles.

2. *Effective date.* This supplement is effective November 8, 1973, and will remain in effect until revised or canceled.

3. *Background.* The President, in his message of November 7, 1973, concerning the need to conserve energy at all levels of Government, ordered all vehicles owned by the Federal Government to travel no faster than 50 miles per hour except in emergencies.

4. *Change.* Paragraph 4.b.(1) of GSA Bulletin FPMR G-82, Conservation of motor vehicle fuels, is revised to read as follows:

"(1) Travel at reduced speeds. Limit maximum speed to 50 miles per hour. Fuel consumption generally increases greatly above 50 miles per hour \* \* \*

5. *Exemption.* Law enforcement and emergency vehicles are exempt from the speed limit restrictions established herein.

6. *Codification.* The fuel conservation measures in GSA Bulletin FPMR G-82 and this supplement will be codified in Subchapter G of the Federal Property Management Regulations.

ARTHUR F. SAMPSON,  
Administrator of General Services.

NOVEMBER 8, 1973.

[FR Doc.73-24206 Filed 11-9-73;10:44 am]

### NATIONAL CREDIT UNION ADMINISTRATION

#### NATIONAL CREDIT UNION BOARD

##### Notice of Meeting and Agenda

Pursuant to the provisions of the Federal Advisory Committee Act, Pub. L. 92-463, 86 Stat. 770, notice is hereby given that the National Credit Union Board will hold its quarterly meeting on December 6-7, 1973, at the Region VI Regional Office of the National Credit Union Administration, 760 Market Street, San Francisco, California. The meeting will commence at 9:00 a.m. daily in Room 809.

The agenda for this meeting will consist of an update briefing regarding the activities of the several offices of the National Credit Union Administration, a briefing on the progress of the Administration's library project, a briefing on

share insurance activities, a briefing on two-year insured Federal credit unions, and other aspects of the Administration. Matters for discussion will include review of NCU Board rules and/or policies and legislative activities.

This meeting of the National Credit Union Board will be open to the public. Members of the public may file written statements with the Board either before or after the meeting. To the extent that time permits, interested persons may be permitted to present oral statements to the Board only on items listed in the aforementioned agenda. Requests to present such oral statements must be approved in advance by the Chairman of the Board. Such requests should be directed to the Chairman, National Credit Union Board, National Credit Union Administration, Washington, D.C. 20456.

HERMAN NICKERSON, Jr.,  
Administrator.

NOVEMBER 2, 1973.

[FR Doc.73-23979 Filed 11-9-73;8:45 am]

### NATIONAL ENDOWMENT FOR THE ARTS

#### PUBLIC MEDIA 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 Public Media Advisory Panel to the National Council on the Arts will be held at 9:30 a.m. on November 14, 15, 16 and 17 in the first floor conference room, Shoreham Building, 806 15th Street NW., Washington, D.C.

A portion of this meeting will be open to the public on November 14 from 9:30 a.m. to 12:30 p.m. on a space available basis. Accommodations are limited. The remaining sessions of this meeting on November 14, 15, 16, and 17 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. Luna Diamond, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 382-5871.

PAUL BERMAN,  
Director of Administration, National Foundation on the Arts and the Humanities.

[FR Doc.73-24193 Filed 11-9-73;9:14 am]

### SECURITIES AND EXCHANGE COMMISSION

#### ALABAMA POWER CO.

[70-5409]

#### Proposed Issue and Sale, at Competitive Bidding, of First Mortgage Bonds and Preferred Stock

Notice is hereby given that Alabama Power Company (Alabama), 600 North 18th Street, Birmingham, Alabama 35291, an electric utility subsidiary company of The Southern Company, 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 following proposed transaction. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transaction.

Alabama proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, up to \$75,000,000 principal amount of its First Mortgage Bonds, ---- percent Series (Bonds) having a term of not less than 5 years nor more than 30 years. Alabama will decide on the terms of the Bonds prior to the filing of the registration statement. The interest rate (which shall be a multiple of  $\frac{1}{8}$  percent) and the price, exclusive of accrued interest, to be paid to Alabama (which shall be not less than 99 percent nor more than 102 $\frac{3}{4}$  percent of the principal amount thereof) will be determined by the competitive bidding. The Bonds will be issued under an Indenture, dated as of January 1, 1942, between Alabama and Chemical Bank, as Trustee, as heretofore supplemented and as to be further supplemented by a Supplemental Indenture to be dated as of December 1, 1973, which includes a prohibition until December 1, 1978 against refunding the Bonds with the proceeds of funds borrowed at a lower effective interest cost.

Alabama also proposes to issue 500,000 shares of its ---- percent preferred stock, par value \$100.00 per share (Preferred Stock) and to sell such shares at competitive bidding. The terms of the Preferred Stock include a prohibition until December 1, 1978, against refunding the stock, directly or indirectly with funds obtained from the issuance of debt securities at a lower effective interest cost or of preferred stock at a lower effective dividend cost.

Alabama proposes to use the proceeds from the sale of the bonds together with: (1) Cash contributions to capital of \$65,000,000 by the Southern Company (\$43,200,000 of which had been received through August 31, 1973) heretofore authorized by the Commission (Holding Company Act Release No. 17824), (2) proceeds from the sale in August 1973, of \$100,000,000 principal amount of First Mortgage Bonds, and (3) cash on hand in excess of operating requirements, interest and dividends, to finance its 1973

construction program (estimated at \$364,710,000), to pay short-term promissory notes payable in the form of bank notes and commercial paper notes incurred for such purpose, and for other lawful purposes. Alabama estimates that no additional financing will be required for construction purposes during 1973, except for the issuance and sale of short-term bank notes and commercial paper notes authorized by the Commission (Holding Company Act Release No. 17824). It is estimated that no notes payable will be outstanding at December 31, 1973.

It is stated that the Alabama Public Service Commission has approved the proposed issuance and sale of the Bonds by Alabama. No other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction. A statement of the fees and expenses to be incurred in connection with the proposed transaction will be supplied by amendment.

Notice is further given that any interested person may, not later than November 22, 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 (air mail 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 Regulation promulgated under the Act, or the Commission may grant exemption from its rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,  
Secretary.

[FR Doc.73-24030 Filed 11-9-73;8:45 am]

[File No. 500-1]

#### FAIRFIELD GENERAL, INC.

#### Notice of Suspension of Trading

OCTOBER 31, 1973.

It appearing to the Securities and Exchange Commission that the summary

suspension of trading in the common stock of Fairfield General, Inc., 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 11:30 a.m. (e.s.t.) October 31, 1973 through midnight (e.s.t.) November 9, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,  
Secretary.

[FR Doc.73-24032 Filed 11-9-73;8:45 am]

[812-3475]

#### FIFTH EMPIRE FUND, INC. AND THIRD EMPIRE FUND, INC.

#### Application for an Order Exempting Certain Transactions

Notice is hereby given that Fifth Empire Fund, Inc. (Fifth) and Third Empire Fund, Inc. (Third), 421 Seventh Avenue, Pittsburgh, Pennsylvania 15219, both registered as diversified, open-end management investment companies under the Investment Company Act of 1940 (Act) (herein referred to collectively as "Applicants"), have filed an application pursuant to section 17(b) of the Act for an order of the Commission exempting from the provisions of section 17(a) of the Act the proposed merger of Third into Fifth as more fully described below. All interested persons are referred to the application on file with the Commission for a statement of the representatives contained therein, which are summarized below.

Applicants, both Maryland corporations, were created under substantially similar governing instruments as "exchange or swap" funds, that is, funds which issue their shares for shares of other companies. The investment objectives of Applicants are identical and may be characterized as long-term growth of capital and of income. The same individuals who serve as directors for Fifth also serve as directors for Third. Empire V. Research Corp. and T.E.F. Research Corp., both wholly owned subsidiaries of Federated Investors, Inc., act as investment advisers to Fifth and Third respectively, and Federated Research Corp., another wholly owned subsidiary of Federated Investors, Inc., acts as sub-investment adviser to Third and Fifth. Accordingly, each of the Applicants may be deemed to be under common control, and, therefore, each of the Applicants may be deemed to be an affiliated person of the other within the meaning of section 2(a) (3) of the Act.

Applicants have entered into a Plan and Agreement of Merger (Agreement of Merger) which provides for the merger, pursuant to Maryland law, of Third into Fifth. Pursuant to a ruling by the Internal Revenue Service, the merger will constitute a tax-free reorganization, no gain or loss will be recognized by the Appli-

cants or their shareholders as a result of the merger, and the assets of Third will have the same tax basis in the hands of Fifth as they had in the hands of Third. Approval of the Agreement of Merger requires the affirmative vote of the holders of a majority of the outstanding shares of each of the Applicants. If the Agreement of Merger is approved, it is anticipated that the merger will take place on December 1, 1973.

On the effective date of the merger, the outstanding shares of common stock of Third owned by each Third stockholder will be converted into that number of full shares (and fractional interests in a full share) of Fifth as shall have an aggregate net asset value, as of the last day on which the New York Stock Exchange is open for unrestricted trading prior to the effective date of the merger, equal to each Third stockholder's pro rata interest in the value of the net assets of Third. Prior to the effective date of the merger, Fifth and Third will each declare a dividend to its respective stockholders consisting of substantially all of its undistributed net taxable investment income and net short-term capital gains. With respect to net long-term capital gains realized by Third from December 1, 1972, up to the effective date of the merger, Third will accrue the Federal tax payable thereon as a liability to be paid by Fifth as the surviving corporation and in determining the number of shares of Fifth to be issued in the transaction a redemption in an amount equal to such tax will be made in the net asset value of Third. Fifth will distribute to its stockholders all of its net long-term capital gains realized from December 1, 1972, up to shortly before the effective date of the merger.

No adjustment in the net asset values of the Applicants will be made to compensate for any potential Federal income tax impact on the shareholders of Applicants which may result from differences between the Applicants in the percentage of each Applicant's net unrealized capital appreciation to its net asset value. Applicants assert that such potential tax consequences to shareholders cannot practically be determined and that there is, therefore, no way in which such potential consequences can be offset in an equitable manner. Applicants contend, moreover, that, in any case, such consequences will be minor.

If the proposed merger had taken place on November 30, 1972, when Fifth had 622,735 shares outstanding and net assets of \$11,883,984, and Third had 257,860 shares outstanding and net assets of \$2,875,874, approximately 150,705 shares of Fifth would be transferred to the shareholders of Third. On such date the net asset value per share for Fifth and Third were \$19.08 and \$11.16 respectively.

Section 17(a) of the Act, in pertinent part, provides that it is unlawful for any affiliated person of a registered investment company or any affiliated person of such affiliated person, to sell to, or pur-

chase from, such investment company any security or property unless the Commission, upon application pursuant to section 17(b) of the Act, grants an exemption from the provisions of section 17(a) after finding that the terms of the proposed transaction are fair and reasonable and do not involve any overreaching on the part of any person concerned, that the proposed transaction is consistent with the policy of each registered investment company concerned, and that the proposed transaction is consistent with the general purposes of the Act.

Applicants represent that the transaction is fair and reasonable and does not involve overreaching by any party concerned in that the merger will be accomplished on the basis of the net asset values of Fifth and Third determined at the same point in time. Applicants assert the shareholders of both Applicants will benefit by the elimination of certain presently duplicated expenses such as legal, proxy, and advisory expenses. In addition, greater investment flexibility both with respect to normal portfolio transaction and redemption procedures is expected.

The aggregate expenses of both of the Applicants in connection with the proposed merger, including legal, accounting, transfer agent and other miscellaneous expenses, are estimated at \$19,000. All such expenses will be allocated to each Applicant in proportion to its respective net asset value.

Notice is further given that any interested person may, not later than November 27, 1973, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the 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 November 27, 1973, 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. 73-24027 Filed 11-9-73; 8:45 am]

[812-3490]

#### GENERAL FOODS OVERSEAS DEVELOPMENT CORP.

##### Application for Order Exempting Applicant

Notice is hereby given that General Foods Overseas Development Corporation (Applicant), 250 North Street, White Plains, New York 10602, has filed an application for an order of the Commission pursuant to section 6(c) of the Investment Company Act of 1940 (Act) (i), rescinding the Commission's order issued on December 16, 1965, exempting Applicant from all the provisions of the Act and the rules and regulations thereunder, subject to certain conditions specified therein and (ii), permitting Applicant to exclude investments in and loans to General Foods Corporation and its domestic subsidiaries from Applicant's assets for purposes of determining whether Applicant meets the conditions of paragraphs (b) (6) and (7) of Rule 6c-1 under the Act. Interested persons are referred to the application on file with the Commission for a statement of the representations therein which are summarized below.

Applicant, a Delaware corporation, is a wholly owned subsidiary of General Foods Corporation (GF), a publicly held company. Applicant was organized by GF in 1965 for the primary purpose of financing the foreign business operations of GF in a manner consistent with the voluntary cooperation program instituted by President Johnson in February 1965, to improve the balance of payments of the United States through the issuance and sale of debt securities outside of the United States. Pursuant to an application the filing of which was noticed on December 2, 1965 (Act Release No. 4427), the Commission, on December 16, 1965, issued an order exempting Applicant from all of the provisions of the Act and the rules and regulations thereunder, subject to certain conditions specified therein (Act Release No. 4450).

In furtherance of its primary purpose, in December 1965, Applicant issued directly to a limited number of purchasers outside the United States \$12,000,000 principal amount of its 5½ percent promissory notes due December 1, 1971-1980 (the "Notes"); and in October 1967 Applicant issued to underwriters, for resale to foreign purchasers in a Eurodollar public offering, \$50,000,000 principal amount of its 4½ percent Guaranteed Debentures due October 1, 1982 (the "Debentures"), convertible into shares of common stock of GF. Both the Notes and the Debentures are guaranteed by GF.

At the time Applicant was organized in 1965, it was expected that most of its

assets would be invested outside the United States, eventually primarily in debt and equity securities of GF's foreign subsidiaries. This would have satisfied the requirement that Applicant be formed or availed of for the principal purpose of obtaining funds for foreign issuers or obligors within the meaning of section 4912(b)(3) of the Internal Revenue Code (the "IRC") so that a United States person who acquired Notes or Debentures would have to pay the interest equalization tax imposed by section 4911 of the IRC. This would also have permitted Applicant to satisfy the requirement that more than 80 percent of its gross income be derived from sources outside the United States so that interest payments on the Notes and Debentures made to non-resident aliens would be exempt from United States withholding tax pursuant to section 861(a)(1)(B) of the IRC.

Notwithstanding Applicant's expectations, at June 30, 1973, Applicant's investments in debt and equity securities of GF's foreign subsidiaries aggregated only \$9,053,000 (including \$3,043,000 of short-term investments), out of total assets of approximately \$82,636,000.

Although most of the funds borrowed by Applicant were not utilized as direct investments by Applicant in foreign subsidiaries of GF, these borrowings nevertheless did permit GF to expand its foreign operations in a manner consistent with the limitations of the Foreign Direct Investment Regulations (the "FDIR"). A portion of Applicant's foreign borrowings were used for FDIR reporting purposes to offset "direct investments" in affiliated foreign nationals of GF resulting from "net transfers of capital" by GF and its domestic subsidiaries (including Applicant) and from "reinvested earnings" of GF's foreign subsidiaries. Having so used these proceeds for FDIR reporting purposes, Applicant was in fact required to invest such proceeds within the United States.

Consequently a substantial portion of Applicant's assets has been temporarily invested in bank time deposits in the United States Virgin Islands. Such deposits are considered to be within the United States for FDIR compliance purposes, but the interest earned thereon is considered to be income from sources outside the United States for purposes of section 861(a)(1)(B) of the IRC.

Pursuant to amendments to the IRC effective April 1, 1971, a domestic corporation may elect under section 4912(c) of the IRC to have certain of its debt obligations made subject to the Interest Equalization Tax. If such election is made, then, pursuant to section 861(a)(1)(G), no withholding tax is required on interest payments made to non-resident aliens with respect to such debt obligations irrespective of whether the is-

<sup>1</sup> Term defined in the FDIR.

suer's income is from sources within or without the United States. Although it will not be possible to make that election in regard to Applicant's Notes (because the Notes were sold directly to the purchasers rather than through underwriters), Applicant has determined to make the election permitted under section 4912 (c) of the IRC with respect to its Debentures. That election will have the effect of permitting Applicant to invest its assets in the United States without regard to the requirement of section 881(a) (1) (B) of the IRC that more than 80 percent of its gross income be derived from sources outside the United States to avoid the payment of withholding tax on interest payments to non-resident aliens. But unless Applicant is relieved of the obligation to invest its assets in accordance with the intentions expressed in its 1965 application for its exemption order, or in accordance with the conditions contained in paragraphs (b) (6) and (7) of Rule 6c-1, referred to below, it will be necessary for Applicant to limit its investments in the United States largely to United States Government securities and cash items. Applicant believes that much better use of its assets could be made if Applicant were free to make investments in and loans to GF and GF's domestic subsidiaries.

Rule 6c-1 exempts from all provisions of the Act a domestic subsidiary of a corporation organized to finance the foreign operations of the corporation, provided various conditions are met. Applicant presently meets all of these conditions, but the provisions of paragraphs (b) (6) and (7) would not permit Applicant to invest in and loan its assets to GF and GF's domestic subsidiaries. Paragraph (b) (6) requires that, upon completion of the long-term investment program of a finance subsidiary, at least 80 percent of its assets, exclusive of United States Government securities and cash items, consist of investments in or loans to foreign companies (or domestic companies substantially all the business of which is conducted outside the United States); and paragraph (b) (7) requires that at least 90 percent of its assets, exclusive of United States Government securities and cash items and short term foreign investments, be invested in or loaned to companies at least 10 percent of the equity securities of which are owned by the parent company of the finance subsidiary (which has the effect of limiting investments in or loans to the parent company to less than 10 percent of the assets of the finance subsidiary).

The application states that the result desired to be accomplished by the requested order could also be achieved by merging Applicant into GF, which would eliminate any need for an exemption from the Act. However, this would be less advantageous to Applicant and GF due to certain tax consequences principally involving foreign tax credits, and would involve substantial additional costs due to the necessity to supplement the agreements and indentures under which the Notes and Debentures are issued and to changes in the arrangements under

which the Debentures are listed on the New York and Luxembourg Stock Exchanges. Thus, it is desirable for these reasons for Applicant to continue in existence.

Since the Notes and Debentures will continue to be subject to the Interest Equalization Tax and the proposed use of Applicant's assets to make investments in and loans to GF and its domestic subsidiaries will continue to be consistent with both the purpose for which Applicant was formed and the current program to improve the balance of payments position of the United States, Applicant contends that it is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act for the Commission to enter an order (i) rescinding Applicant's existing order and (ii) permitting Applicant to exclude its investments in and loans to GF and GF's domestic subsidiaries from Applicant's assets for purposes of determining whether Applicant meets the conditions of paragraphs (b) (6) and (7) of Rule 6c-1.

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 (air mail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit, or in case of attorney at law, by certificate) shall be filed contemporaneously with the request. As provided by Rule O-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.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,  
Secretary.

[FR Doc. 73-24206 Filed 11-9-73; 8:45 am]

[812-3179]

**INVENTURE CAPITAL CORP., ET AL.**  
Application for Order Regarding Joint Participation by an Investment Company and Affiliated Persons

Notice is hereby given that Inventure Capital Corp. (the "Fund"), a non-diversified, closed-end management investment company Act of 1940 (the

"Act"), Studley, Shupert & Co., Inc. of Boston (the "Adviser"), the Fund's investment adviser, Bounty Imports, Inc. (Bounty), a company of which the Fund is the majority shareholder, and Mr. Irving Levine (Levine), 441 Stuart Street, Boston, Massachusetts 02116, a vice-president and director of the Adviser (hereinafter collectively called "Applicants"), have filed an application for an order pursuant to section 17(d) of the Act and Rule 17d-1 thereunder permitting Levine to receive compensation in an amount not to exceed \$10,000 annually in payment for his services as a business consultant to Bounty. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below.

The Fund has an investment objective of capital appreciation to be achieved, in part, through venture capital investments in small and unseasoned companies. The Fund owns 51 percent of the outstanding shares of capital stock of Bounty, which is in the business of importing ladies' handbags and specialty items. At the time Bounty was organized, and contemporaneously with the Fund's investment in that company, the Fund entered into an agreement to guarantee the payment of Bounty's indebtedness to the First National Bank of Boston up to the amount of \$400,000.

Applicants state that Levine has had considerable experience in the ladies' handbag business, and that he has been actively involved in an advisory capacity in the day-to-day business management and operation of Bounty since its inception. His services include, among other things, advising Bounty regularly with respect to merchandising, style and design planning, and bookkeeping. In recent months, Applicants assert, Levine has devoted a substantial portion of his working hours to these activities. Levine is also a director of Bounty.

Applicants contend that the services being performed by Levine for Bounty are not required of Levine or the Adviser under the advisory contract in effect between the Fund and the Adviser. Applicants further contend that such services are not customarily rendered by investment advisers of registered investment companies to companies in which such investment companies may have invested. Therefore, Applicants assert, Levine is entitled to the proposed compensation of up to \$10,000 annually, which Bounty wishes to pay to Levine for his continued services, which compensation shall be separate from, and in addition to, any compensation to be paid to the Adviser pursuant to said advisory contract by the Fund. Levine shall not be entitled to any compensation in the event that there is a material reduction in the quantity of the advisory services rendered by him or if Bounty decides that it no longer wishes him to perform them.

Applicants state that there will be no adjustment, direct or indirect, in Levine's compensation from the Adviser on account of the receipt by him of compensation from Bounty under the arrange-

ment proposed herein. Accordingly, there will be no financial benefit to the Adviser from such arrangement, other than the indirect benefit which would result if the Fund's net asset value (and, therefore, the Adviser's advisory fee) increased by reason of the successful operation of Bounty.

Applicants represent that the proposed compensation is reasonable in view of Levine's considerable experience and expertise in the field, in view of the amount of time and expense involved in Levine's performance of these services, and in view of the unlikelihood that a consultant of comparable ability could be obtained by Bounty for that amount.

Section 17(d) of the Act and Rule 17d-1 thereunder provide, among other things, that it shall be unlawful, with certain exceptions not here applicable, for an affiliated person of a registered investment company or any affiliated person of such a person, acting as principal, to participate in, or effect any transaction in connection with, any joint enterprise or arrangement in which any such registered company or a company controlled by such registered company is a participant unless an application for an order of exemption regarding such arrangement has been granted by the Commission, and that in passing upon such an application, the Commission shall consider whether the participation of such registered investment company or controlled company in such arrangement 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.

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 (air mail 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 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 herein will be issued by the Commission as of course following November 26, 1973, 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.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,  
Secretary.

[FR Doc.73-24025 Filed 11-9-73;8:45 am]

[70-5417]

#### MISSISSIPPI POWER & LIGHT CO.

##### Proposed Amendment of Mortgage and Deed of Trust and Solicitation of Bondholders' Consent

Notice is hereby given that Mississippi Power and Light Company (Mississippi), Electric Building, Jackson, Mississippi 39201, an electric utility subsidiary company of Middle South Utilities, Inc., a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6(a)(2), 7 and 12(e) of the Act and Rules 62 and 65, promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

Mississippi proposes to amend its Mortgage and Deed of Trust dated as of September 1, 1944, as heretofore supplemented and amended (Indenture) to Irving Trust Company, et al., as trustees. The proposed amendment to the Indenture would remove from Sections 20 and 126 thereof the fixed ceiling limitation which presently limits the aggregate principal amount of first mortgage bonds issued thereunder to \$250 million at any one time. No change is proposed in any of the other provisions of the Indenture relating to or restricting the issue of such bonds.

The declaration states that, at the present time, Mississippi has outstanding \$219,998,000 aggregate principal amount of first mortgage bonds; that it is anticipated that the capital requirements of Mississippi within the next two years will cause such Indenture ceiling to be reached; and that the proposed amendment to the Indenture will permit the issuance of additional bonds to finance future capital expenditures.

The proposed amendment of the Indenture will require the affirmative vote of holders of at least 70 percent in principal amount of Mississippi's outstanding first mortgage bonds. Mississippi, therefore, proposes to call a meeting of its bondholders, to be held on or about February 20, 1974, and to submit the proposed amendments to the Indenture for adoption. Mississippi proposes the solicitation of such consents by mail, by officers, directors, and employees of Mississippi, by Georgeson and Company, and by White, Weld and Co., Inc. Mississippi also proposes to call a special meeting of its common and preferred stockholders, to be held on or about January 29, 1974, and at such meeting submit the foregoing proposal for their adoption. The

declaration states, however, that since Middle South Utilities, as the owner of 100 percent of Mississippi's common stock, intends to vote such shares in favor of the proposed amendments, such a vote would necessarily constitute the required approval of the holders of a majority of all of the outstanding shares of Mississippi's common and preferred stock. Consequently, no proxies will be solicited from Mississippi stockholders in connection with this special stockholders' meeting, although an information statement with respect to the matters to be acted upon at such meeting will be supplied to the holders of the preferred stock in compliance with section 14(c) of the Securities Exchange Act of 1934.

A statement of the fees, commissions, and expenses to be incurred in connection with the proposed transactions will be supplied by amendment. The declaration states that no 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 28, 1973, request in writing that a hearing be held with respect to such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration, as filed or as it may be amended, 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 declarant at the above-stated address, and proof of service (by affidavit or, in the case of an attorney at law, by certificate), should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exception 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.73-24023 Filed 11-9-73;8:45 am]

[70-5281]

**NEW ENGLAND ELECTRIC SYSTEM, ET AL.**  
**Second Post-Effective Amendment Proposing To Increase Short-Term Borrowing Limits**

Notice is hereby given that New England Electric System (NEES), 20 Turnpike Road, Westborough, Massachusetts 01581, a registered holding company, and the above-named subsidiary companies, have filed with this Commission a second post-effective amendment to the amended application-declaration heretofore filed in this proceeding pursuant to sections 6(a), 7, 9(a), 10, and 12(c) of the Public Utility Holding Company Act of 1935 (Act) and Rule 42 promulgated thereunder. All interested persons are referred to the application-declaration, as heretofore amended and as it is now further amended, summarized below, for a complete statement of the proposed transactions.

By orders dated January 3, 1973 (Holding Company Act Release No. 17836), and September 13, 1973 (Holding Company Act Release No. 18094), the Commission authorized Lawrence Gas Company (Lawrence), Lynn Gas Company (Lynn), Mystic Valley Gas Company (Mystic Valley), and North Shore Gas Company (North Shore), and certain other NEES subsidiary companies to issue from time to time through December 31, 1973, unsecured short-term promissory notes to banks, to dealers in commercial paper and to NEES and/or Massachusetts Gas System (Mass Gas), a NEES subsidiary holding company.

Applicants now request that the Commission's above-described order, as amended, be amended again to permit Lawrence, Lynn, Mystic Valley, and North Shore to increase the amounts of borrowings presently authorized to be outstanding at any one time through December 31, 1973. At present Lawrence is authorized to have outstanding at any one time a maximum of short-term debt owed to banks or Mass Gas of \$8,200,000; Lynn \$7,350,000; Mystic Valley \$18,300,000; and North Shore \$7,300,000. The post-effective amendment proposes to increase these amounts outstanding at any one time to \$8,500,000, \$8,500,000, \$19,000,000, and \$8,000,000, respectively. In all other respects the transactions remain unchanged. The applicants represent that there will be no additional fees or expenses incurred as a result of the proposed transactions.

Notice is further given that any interested person may, not later than November 26, 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 amended by the post-effective amendment, may be granted and permitted to become effective in the manner provided by 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.73-24028 Filed 11-9-73;8:45 am]

[File No. 500-1]

**UNITED GIBRALTAR CORP.**

**Notice of Suspension of Trading**

October 31, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of United Gibraltar 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 11:30 a.m. (e.s.t.) on October 31, 1973, through November 9, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,  
*Secretary.*

[FR Doc.73-24031 Filed 11-9-73;8:45 am]

**DEPARTMENT OF LABOR**

**Office of the Secretary**

**FEDERAL MOGUL CORP., SOUTHFIELD, MICHIGAN**

**Notice of Certification of Eligibility of Workers to Apply for Adjustment Assistance**

Under date of September 28, 1973, the U.S. Tariff Commission made a report of the results of its investigation (TEA-W-206) under section 301(c) (2) of the Trade Expansion Act of 1962 (76 Stat. 884) in response to a petition for determination of eligibility to apply for adjustment assistance submitted on behalf of the workers formerly employed at the Detroit, Michigan plants of the Bower Roller Bearing Division of the Federal Mogul Corp., Southfield, Mich. In this re-

port the Commission found that articles like or directly competitive with tapered roller bearings having an outside diameter of less than 4 inches (except bearings for use in aircraft) produced by the Federal Mogul Corp. are, as a result in major part of concessions granted under trade agreements, being imported into the United States in such increased quantities as to cause the unemployment or underemployment of a significant number or proportion of the workers of such firm or appropriate subdivision thereof.

Upon receipt of the Tariff Commission's affirmative finding, the Department, through the Director of the Office of Foreign Economic Policy, Bureau of International Labor Affairs, instituted an investigation.

Following this, the Director made a recommendation to me relating to the matter of certification (Notice of Delegation of Authority and Notice of Investigation, 34 FR 18342; 37 FR 2472; 38 FR 27853; 29 CFR Part 90). In the recommendation she noted that trade concession-generated imports like or directly competitive with the 0- to 4-inch tapered roller bearings produced by Federal Mogul were increasing substantially during the period 1968 to 1972 when Federal Mogul decided to terminate most of its 0- to 4-inch tapered roller bearing production. Over the years, increased imports of 0- to 4-inch tapered roller bearings for use in the original equipment market for automobiles reduced the profitability of Federal Mogul's sales of these items. Such imports had captured greater shares of the domestic market and were expected to capture more in the future as bearing production capacity expanded abroad.

Federal Mogul's Shoemaker Ave. plant in Detroit, Michigan, produced high volume tapered roller bearings 0 to 4 inches in diameter until September 1973 when all operations ceased. The adjacent Aircraft plant also terminated production of straight roller bearings for aircraft in September 1973 but for reasons unrelated to import competition. The other Detroit plant on Hart Ave., which manufactured low volume tapered roller bearings 0 to 4 inches in diameter and other bearings over 4 inches in diameter, is scheduled to close in December 1973. Workers in all departments of the Hart Ave. plant were primarily involved in employment related to over 4-inch bearing production and, therefore, increased imports of 0- to 4-inch tapered roller bearings are not the major factor causing their unemployment or underemployment.

Employment reductions at the Shoemaker Ave. plant due in major part to increased imports of 0- to 4-inch tapered roller bearings resulted in a significant number of workers becoming unemployed or underemployed beginning in September 1972. After due consideration I make the following certification:

All hourly and salaried workers of the Shoemaker Ave., Detroit, Michigan, plant of the Federal Mogul Corporation's Bower Roller Bearing Division who became unemployed or underemployed after August 27, 1972, and

before November 1, 1973, are eligible to apply for adjustment assistance under Title III, Chapter 3, of the Trade Expansion Act of 1962, except that the following identified employees of the Shoemaker Ave. plant shall be eligible to apply for adjustment assistance even if they become unemployed or underemployed after November 1, 1973.

## NAME AND LAST KNOWN ADDRESS

Carl A. Sbanoski, 14432 Alma, Detroit, Michigan 48205.  
Noble Orr, 28200 26 Mile Road, New Haven, Michigan 48048.  
Kenneth Howard, 163 South Lafayette Blvd., Warren, Michigan 48091.  
James Chaffin, 64677 Walcott Road, Romeo, Michigan 48065.  
Francis Moore, 16101 Toulouse, Fraser, Michigan 48026.  
Joseph Vranesich, 12048 Burtley, Sterling Hts., Michigan 48078.  
Leo Scanlin, 18910 Blackmore, Detroit, Michigan 48204.  
Roman Chmielewski, 19642 Albion, Detroit, Michigan 48205.

Signed at Washington, D.C., this 5th day of November 1973.

JOEL SEGALL,  
Deputy Under Secretary,  
International Affairs.

[FR Doc.73-24015 Filed 11-9-73;8:45 am]

## INTERSTATE COMMERCE COMMISSION

[Notice 383]

### ASSIGNMENT OF HEARINGS

NOVEMBER 7, 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 135524 Sub 11, G. F. Trucking Co., now assigned November 26, 1973, at Columbus, Ohio, is postponed indefinitely.  
MC-119619 Sub 43, Distributors Service Co., now assigned January 21, 1974, at Chicago, Ill., is canceled and the application is dismissed.  
MC-119619 Sub 44, Distributors Service Co., Extension—Foodstuffs between 24 States (Chicago, Ill.), now assigned December 10, 1973, at New York, N.Y., is canceled and the application is dismissed.  
MC-F-11870, Overnite Transportation Company—Purchase (Portion)—Mills Transfer Co., now assigned December 3, 1973, at Columbus, Ohio, is canceled and transferred to modified procedure.  
MC-C-8087, Larsen Motor Lines, Inc.—Investigation and Revocation of Certificate—now assigned December 11, 1973, at New Orleans, La., is postponed indefinitely.  
MC-C-8116, L. C. Waller, DBA L. C. W. Trucking Co., Glenn Elliott, Harvey W. Jones, Summersgill Enterprises, Inc., and Nola

Forwarding Co., Inc.—Investigation of Operations—now assigned December 4, 1973, at Baton Rouge, La., is postponed indefinitely.

MC-136315, Olen Burrage Trucking, Inc., now assigned December 10, 1973, at New Orleans, La., is canceled and reassigned December 10, 1973, in Sun-n-Sand Motel, Room 403, 401 North Lamar Street, Jackson, Miss.

[SEAL] ROBERT L. OSWALD,  
Secretary.  
[FR Doc.73-24043 Filed 11-9-73;8:45 am]

### FOURTH SECTION APPLICATIONS FOR RELIEF

NOVEMBER 7, 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 by November 27, 1973.

FSA No. 42767—*Iron or steel articles from or to points in Texas, also to or from points in IFA, Southern, Southwestern and WTL Territories.* Filed by Southwestern Freight Bureau, Agent (No. B-439), for interested rail carriers. Rates on iron or steel articles, in carloads, as described in the application, from or to specified points in Texas, on the one hand, to or from points in Illinois Freight Association, southern, southwestern, and western trunk-line territories, on the other.

Grounds for relief—Rate relationship. Tariff—Supplement 1 to Southwestern Freight Bureau, Agent, tariff 301-F, I.C.C. No. 5098. Rates are published to become effective on December 9, 1973.

FSA No. 42768—*Freight, All Kinds from and to Points in Southwestern and Southern Territories.* Filed by Southwestern Freight Bureau, Agent (No. B-440), for interested rail carriers. Rates on freight, all kinds, in carloads, as described in the application, from and to points in Arkansas, Louisiana, Missouri (including Kansas City, Kan.), Oklahoma, and Texas; also Memphis, Tenn.

Grounds for relief—Short-line distance formula and grouping.

Tariff—Supplement 35 to Southwestern Freight Bureau, Agent, tariff 291-F, I.C.C. No. 4890. Rates are published to become effective on December 13, 1973.

FSA No. 42769—*Joint water-rail container rates—Seatrains International, S. A.* Filed by Seatrain International, S. A. (No. WEE-4), for itself and interested rail carriers. Rates on general commodities, between rail carrier terminal in Houston, Texas, and ports in Europe.

Grounds for relief—Water competition.

Tariffs—Seatrains International tariffs I.C.C. Nos. 9, 10, 11, 12, 13 and 14. Rates

are published to become effective on December 6, 1973.

By the Commission.

[SEAL] ROBERT L. OSWALD,  
Secretary.  
[FR Doc.73-24033 Filed 11-9-73;8:45 am]

[Ex Parte No. 299 (Sub-No. 1)]  
LONG ISLAND RAIL ROAD CO.

### Increases in Freight Rates and Charges To Offset Retirement Tax Increases

At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 2nd day of November 1973.

It appearing that by report and order entered on September 13, 1973, the petition of the Long Island Rail Road Company (the Long Island), filed under the amendments to section 15a of the Interstate Commerce Act enacted in the Railroad Rate Adjustment Act of 1973, for permission to file terminal surcharges of 3.5 percent effective October 1, 1973, and 5.5 percent effective January 1, 1974, to apply in lieu of the 3.5-percent increase, was denied without prejudice on the ground that such a terminal surcharge was not permitted by the statutory language; and that by order of September 21, 1973, a petition for reconsideration of that decision was denied;

It further appearing that thereafter, on September 27, 1973, the United States District Court for the Eastern District of New York issued its order temporarily restraining the Commission from refusing to permit the filing of a tariff providing for the terminal surcharge and requiring the sums collected thereby to be held in separate trust fund, subject to refund;

It further appearing that on September 28, 1973, the Long Island filed schedules of terminal surcharges to become effective on October 8, 1973, and January 1, 1974;

It further appearing that section 15a (4)(c) of the act, added by the Railroad Rate Adjustment Act of 1973, provides that the Commission "shall within sixty days from the date of establishment of interim rates" commence hearings for the purpose of making the final rate determination;

It further appearing that since the report entering herein denied the petition for permission to file the interim surcharges, no provision was made in the accompanying order for the further proceedings necessary to comply with the terms of the statute; and that, in view of the fact that interim surcharges are now in effect, such proceedings must be provided for; therefore,

It is ordered, That this proceeding be, and it is hereby, assigned for oral hearing at a time and place to be hereafter designated.

It is further ordered, That any person interested in this proceeding shall notify this Commission, by filing with the Interstate Commerce Commission, Office

of Proceedings, Room 5342, Washington, D.C. 20423, on or before November 19, 1973, the original and one copy of a statement of his interest. Inasmuch as the Commission desires wherever possible (a) to conserve time, (b) to avoid unnecessary expense to the public, and (c) the service of pleadings by parties in proceedings of the type only upon those who intend to take an active part in the proceeding, the statement of intention to participate shall include a specification of the extent of such person's interest, including (1) whether such interest extends merely to receiving Commission releases in this proceeding, (2) whether he genuinely wishes to participate in the formal proceeding, (3) if he so desires to participate as described in (2), whether he will consolidate or is capable of consolidating his interests with those of other interested parties by filing joint statements in order to limit the number of copies of pleadings that need be served such consolidation of interest being strongly urged by the Commission, and (4) any other pertinent information which will aid in limiting the service list to be used in this proceeding; and that this Commission shall then prepare and make available to all such persons a list containing the names and addresses of all parties desiring to participate in this proceeding, and shall designate the nature of further proceedings.

And it is further ordered, That notice of the entry of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission, and by filing a copy with the Director, Office of the Federal Register, for publication therein.

By the Commission.

[SEAL] ROBERT L. OSWALD,  
Secretary.

[FR Doc. 73-24035 Filed 11-9-73; 8:45 am]

[Notice 386]

#### MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's Special Rules of Practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before December 3, 1973. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matter relied upon by petitioners must be specified in their petitions with particularity.

No. MC-PC-74784. By order entered November 5, 1973, the Motor Carrier Board approved the transfer to Quick Special Delivery Messengers, Inc., Philadelphia, Pa., of the operating rights set forth in Permit No. MC-102799, issued June 26, 1970, to Hourly Messengers, Inc., doing business as H. M. Package Delivery Service, Philadelphia, Pa., authorizing the transportation of processed and unprocessed film, 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., restricted to a transportation service to be performed under a continuing contract, or contracts with Eastman Kodak Company, of Rochester, N.Y., and Kodak Processing Laboratory, Inc., of Washington, D.C.; and between points in Berks, Bucks, Chester, Dauphin, Delaware, Lancaster, Lebanon, Lehigh, Montgomery, Northampton, and Philadelphia Counties, Pa., restricted to a transportation service to be performed under a continuing contract, or contracts, with Eastman Kodak Company, of Rochester, N.Y. V. Baker Smith, 2107 The Fidelity Building, Philadelphia, Pa. 19109, attorney for applicants.

No. MC-PC-74789. By order of November 5, 1973, the Motor Carrier Board approved the transfer to Doris Edwin Kirby, doing business as Kirby Trucking Company, Checotah, Okla., of the operating rights in Permit No. MC-115806 (Sub-No. D), issued May 17, 1971, to Claudis W. Allison, doing business as C. W. Allison, Checotah, Okla., authorizing the transportation of concrete building blocks and steel wall tiles from Fort Smith, Ark. to specified areas in Oklahoma. Don A. Smith, P.O. Box 43, Fort Smith, Ark. 72901, attorney for applicants.

[SEAL] ROBERT L. OSWALD,  
Secretary.

[FR Doc. 73-24041 Filed 11-9-73; 8:45 am]

[Notice 152]

#### MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

NOVEMBER 6, 1973.

The following are notices of filing of application, except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application, for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67, (49 CFR 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representa-

tive, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

#### MOTOR CARRIERS OF PROPERTY

No. MC 26396 (Sub-No. 101 TA), filed October 29, 1973. Applicant: POPELKA TRUCKING CO., doing business as THE WAGGONERS, 201 W. Park, P.O. Box 990, Livingston, Mont. 59047. Applicant's representative: Charlotte Vicars (same address as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Molasses, liquid, in bulk, from points in Washington, to points in Montana, Wyoming, and North Dakota, for 180 days. SUPPORTING SHIPPER: Yellowstone Sales Company, 201 Sugar Avenue, Billings, Mont. 59101. SEND PROTESTS TO: Paul J. Labane, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Rm. 222, U.S. Post Office Building, Billings, Mont. 59101.

No. MC 34087 (Sub-No. 5 TA), filed October 29, 1973. Applicant: NORMAN HILLS, RD #1, Rt. 60, Fredonia, N.Y. 14063. Applicant's representative: S. Michael Richards, P.O. Box 235, Webster, N.Y. 14580. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Foodstuffs, (except in bulk) from the H. J. Heinz facilities in Allegheny Co., Pa., to points in New York on and west of Interstate Highway 81 and on and south of New York Highway 12, for 90 days. SUPPORTING SHIPPER: Heinz U.S.A., Division of H. J. Heinz Co., P.O. Box 57, Pittsburgh, Pa. 15230. SEND PROTESTS TO: George M. Parker, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 612 Federal Building, 111 West Huron Street, Buffalo, N.Y. 14202.

No. MC 52704 (Sub-No. 106 TA), filed October 29, 1973. Applicant: GLENN McCLENDON TRUCKING COMPANY, INC., Post Office Drawer "H", Opelika Highway, LaFayette, Ala. 36862. Applicant's representative: Archie B. Culbreth, Suite 246, 1252 West Peachtree Street NW., Atlanta, Ga. 30309. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) Charcoal, (except in bulk) and lighter fluid (naphtha distillate), hickory chips, fireplace logs, and vermiculite, other than crude, when moving in mixed shipments with charcoal, from Dothan, Ala., to points in Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia, and (2) materials and supplies, from points in Arkansas, Florida, Georgia, North Carolina, Kentucky, Louisi-

ana, Mississippi, Missouri, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia, to Dothan, Ala., for 180 days. **SUPPORTING SHIPPER:** Kingsford Company, 940 Commonwealth Building, Louisville, Ky. 40201. **SEND PROTESTS TO:** Clifford W. White, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 814-2121 Building, Birmingham, Ala. 35203.

No. MC 87720 (Sub-No. 154 TA), filed October 25, 1973. Applicant: BASS TRANSPORTATION CO., INC., P.O. Box 391, Flemington, N.J. 08822. Applicant's representative: Bert Collins, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Glass containers, closures, caps, covers, cartons and carton parts, and material used in the manufacture, sale and distribution of glass containers, for account of Dart Industries, Inc., Thatcher Glass Manufacturing Co. Division, between the plantsite of Dart Industries, Inc., Thatcher Glass Manufacturing Co. Division at Lawrenceburg, Ind., and Baltimore, Md., and its commercial zone, for 180 days.* **SUPPORTING SHIPPER:** Dart Industries, Inc., Thatcher Glass Mfg. Company Division, P.O. Box 265, Elmira, N.Y. 14902. **SEND PROTESTS TO:** District Supervisor Richard M. Regan, Interstate Commerce Commission, Bureau of Operations, 428 East State Street, Room 204, Trenton, N.J. 08608.

No. MC 87720 (Sub-No. 155 TA), filed October 25, 1973. Applicant: BASS TRANSPORTATION CO., INC., P.O. Box 391, Flemington, N.J. 08822. Applicant's representative: Bert Collins, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: (A) *Paper bags and closures therefor, from Ayer, Mass., to points in New York, New Jersey, Pennsylvania, Delaware, Maryland, and Virginia;* (B) *Plastic sheet liners and containers, from Ayer, Mass., to points in New York, New Jersey, Pennsylvania, Delaware, Maryland, and Virginia;* (C) *Paper and plastic bags, from Ayer, Mass., to Flemington, N.J.;* and (D) *Paper and plastic products and closures, from Ayer, Mass., to points in North Carolina and South Carolina, for 180 days.* **RESTRICTION:** The proposed service to be under contract with Bemis Company, Inc. **SUPPORTING SHIPPER:** Bemis Company, Inc., Chapel Place, East Pepperell, Mass. 01437. **SEND PROTESTS TO:** Richard M. Regan, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 428 East State Street, Room 204, Trenton, N.J. 08608.

No. MC 99019 (Sub-No. 6 TA), filed October 29, 1973. Applicant: KILLIAN-BLACK TRUCKING, INC., Roseville & Hydraulic Streets, Buffalo, N.Y. 14210. Applicant's representative: Robert D. Gunderman, Statler Hilton—Suite 710, Buffalo, N.Y. 14202. Authority sought to operate as a common carrier, by motor

vehicle, over irregular routes, transporting: *Flour, in bulk, in tank vehicles, from Buffalo, N.Y., to Allentown, Altoona, Berwick, Bloomington, Bridgeville, Carnegie, Downingtown, Dubois, Easton, East Greenville, Greensburg, Harrisburg, Hatboro, High Spire, King of Prussia, Lake City, Lansdowne, Lebanon, McKee's Rocks, Milton, Monaca, Monessen, New Castle, Norristown, North East, Philadelphia, Pittsburgh, Reading, River Valley, Sayre, West Bridgewater, West Brownsville, West Hazelton, Wilkes-Barre, and Williamsport, Pa.; Bayonne, Bloomfield, Camden, Carlstadt, East Orange, Edgewater, Edgewater Docks, Edison, Ellzabeth, Englewood, Fair Lawn, Flemington, Florence, Jersey City, Linden, Little Falls, Long Branch, Mattawan, Newark, New Brunswick, North Bergen, Orange, Passaic, Paterson, Pennsauken, Perth Amboy, Pleasantville, Riverside, Rutherford, South Hackensack, Totowa, Trenton, Union, Unionbury, West Paterson, West Orange, and Woodbridge, N.J.; Adams, Attleboro, Auburn, Boston, Brockton, Cambridge, Charlestown, Fall River, Framingham, Holyoke, Lawrence, Lowell, Lynn, Medford, Natick, New Bedford, Newton, Pittsfield, Revere, Springfield, Taunton, Watuppa, West Cambridge, Westminster, Woburn, and Worcester, Mass.; Akron, Ashtabula, Bedford Heights, Boardman, Cincinnati, Cleveland, Columbus, Cuyahoga Falls, Dillonvale, Lima, Martins Ferry, Millersburg, Navarre, Steubenville, Solon, Toledo, and Youngstown, Ohio; Bridgeport, Colchester, Devon, East Hartford, Enfield, Hartford, Meriden, Milldale, New Britain, New Haven, Norwalk, Norwich, Plainville, Southington, Stratford, Yantic, Waterbury, West Haven, Westport, and Windsor Locks, Conn.; Auburn, Augusta, Bangor, Bath, Biddeford, Caribou, Brunswick, Deering Junction, East Raymond, Fairfield, Gardner, Lewiston, North Windham, Old Town, Portland, and Waterville, Maine; Berlin, Claremont, Claremont Center, Dover, Manchester, Nashua, Portsmouth, and Salem, N.H.; Cranston, Darlington, Olneyville, Pawtucket, Providence, Rumford, Saylesville, Westerly, West Warwick, and Woonsocket, R.I.; Burlington, Montpelier, Weston and White River Junction, Vt.; and Wheeling, W. Va., for 180 days.* **SUPPORTING SHIPPERS:** (1) Peavey Company, 87 Childs Street, Buffalo, N.Y.; (2) International Multifoods Corp., 120 Childs St., Buffalo, N.Y.; (3) Standard Milling Company, 503 Seneca Street, Buffalo, N.Y.; (4) The Pillsbury Company, 250 Ganson Street, Buffalo, N.Y.; and (5) General Mills, 54 S. Michigan Avenue, Buffalo, N.Y. **SEND PROTESTS TO:** George M. Parker, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 612 Federal Building, 111 West Huron Street, Buffalo, N.Y. 14202.

No. MC 100666 (Sub-No. 253 TA), filed October 29, 1973. Applicant: MELTON TRUCK LINES, INC., 1129 Grimmert Drive, P.O. Box 7666, Shreveport, La. 71107. Applicant's representative: Wilburn L. Williamson, 3535 NW. 58th

Street, Oklahoma City, Okla. 73122. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Cereal binders, sealing compounds, corn flour, industrial flour, industrial starches, and processed grain product (except commodities in bulk, animal and poultry feed and feed ingredients, and edible flour), from McPherson, Kans., to points in Oklahoma and New Mexico, for 180 days.* **SUPPORTING SHIPPER:** McPherson Custom Products, Inc., 503 W. Grant Street, McPherson, Kans. 67460, Mr. Paul F. Werler, President. **SEND PROTESTS TO:** Ray C. Armstrong, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, T-9038 U.S. Postal Service Bldg., 701 Loyola Avenue, New Orleans, La. 70113.

No. MC 108298 (Sub-No. 34 TA), filed October 24, 1973. Applicant: ELLIS TRUCKING CO., INC., 1205 South Platte River Drive, Denver, Colo. 80223. Applicant's representative: Eldon E. Bresee (same address as above). 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, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the Holiday Industrial Park located within Desoto County, Miss., as an off-route point in connection with applicant's regular route authority to and from Memphis, Tenn., for 180 days.*

**NOTE:**—Applicant will tack its existing authority at Memphis, Tenn., docket MC 108298 lead docket, Route 10 and other sub-thereto. **SUPPORTING SHIPPERS:** Holiday Inns, Inc., Parent Corp. of Holiday Press, Inc.; Master Kraft, Inc.; Modern Plastics, Inc., 3796 Lamar Avenue, Memphis, Tenn. 38118. **SEND PROTESTS TO:** District Supervisor Roger L. Buchanan, Interstate Commerce Commission, Bureau of Operations, 2022 Federal Building, Denver, Colo. 80202.

No. MC 112520 (Sub-No. 276 TA), filed October 25, 1973. Applicant: MCKENZIE TANK LINES, INC., New Quincy Road, P.O. Box 1200, Tallahassee, Fla. 32302. Applicant's representative: Sol H. Proctor, 2501 Gulf Life Tower, Jacksonville, Fla. 32207. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia, in bulk, from Dawson, Ga., to Mobile, Ala., for 180 days.* **SUPPORTING SHIPPER:** Ashland Chemical Company, Division of Ashland Oil, Inc., 5200 Paul Blazer Parkway, Columbus, Ohio 43017. **SEND PROTESTS TO:** District Supervisor G. H. Fauss, Jr., Interstate Commerce Commission, Bureau of Operations, Box 35008, 400 W. Bay Street, Jacksonville, Fla. 32202.

No. MC 112520 (Sub-No. 277 TA), filed October 26, 1973. Applicant: MCKENZIE TANK LINES, INC., New Quincy Road, P.O. Box 1200, Tallahassee, Fla. 32302. Applicant's representative: Sol H. Proctor, 2501 Gulf Life Tower, Jacksonville,

Fla. 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alkyd-resins, paint material and paint plasticizers*, in bulk, in tank vehicles, from points in Columbia County, Fla., to points in Louisiana, Mississippi, and Tennessee, for 180 days. SUPPORTING SHIPPER: Cargill, Inc., Cargill Bldg., Minneapolis, Minn. 55402. SEND PROTESTS TO: District Supervisor G. H. Fauss, Jr., Interstate Commerce Commission, Bureau of Operations, Box 35008, 400 W. Bay Street, Jacksonville, Fla. 32202.

No. MC 113855 (Sub-No. 284 TA), filed October 29, 1973. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, Minn. 55901. Applicant's representative: Michael E. Miller, 502 First National Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural machinery and agricultural machinery parts and attachments*, from points in Pepin County, Wis., to points in Idaho, Utah, California, Washington, Oregon, and Missouri, for 180 days. SUPPORTING SHIPPER: Northern Wisconsin Mfg. Co., Pepin, Wis. SEND PROTESTS TO: A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 448 Federal Bldg., and U.S. Courthouse, 110 South Fourth Street, Minneapolis, Minn. 55401.

No. MC 116474 (Sub-No. 30 TA), filed October 26, 1973. Applicant: LEAVITTS FREIGHT SERVICE, INC., 3855 Marcola Road, Springfield, Ore. 97477. Applicant's representative: Earle V. White, 2400 Southwest Fourth Avenue, Portland, Ore. 97201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Laminated wood products; prefabricated wooden timbers, trusses, and beams and accessories* used in the erection, construction, and completion of the foregoing when transported therewith, for the account of Riddle Laminators Division of D. R. Johnson Lumber Co., from Riddle, Ore., to points in California and Nevada, for 180 days. SUPPORTING SHIPPER: Riddle Laminators Division of D. R. Johnson Lumber Co., P.O. Box 66, Riddle, Ore. 97469. SEND PROTESTS TO: District Supervisor Odoms, Interstate Commerce Commission, Bureau of Operations, 450 Multnomah Bldg., 319 Southwest Pine, Portland, Ore. 97204.

No. MC 117119 (Sub-No. 487 TA), filed October 25, 1973. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Ark. 72728. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, (A) from Shelbyville, Tenn., to points in Alabama, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Maine, Massachusetts, Michigan, Mississippi, Missouri, Nebraska, New York, New

Jersey, New Hampshire, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Texas, Vermont, Virginia, and West Virginia; (B) from Humboldt, Tenn., to points in Alabama, Connecticut, Delaware, Florida, Georgia, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Mississippi, New Jersey, New York, New Hampshire, North Carolina, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, West Virginia, and the District of Columbia; (C) from Little Rock, Ark., to points in Illinois, Iowa, Kansas, Louisiana, Michigan, Mississippi, Missouri, New Hampshire, Nebraska, Oklahoma, Texas, and Vermont; (D) from Berryville, Rogers, and Bentonville, Ark., to points in Iowa, Kansas, Illinois, Louisiana, Mississippi, Missouri, Nebraska, Oklahoma, and Texas; and (E) from Springdale, Ark., to points in Iowa, Illinois, and Louisiana, for 180 days. SUPPORTING SHIPPER: Tyson Foods, Inc., P.O. Box E, Springdale, Ark. 72764. SEND PROTESTS TO: District Supervisor William H. Land, Jr., 2519 Federal Office Building, 700 West Capitol, Interstate Commerce Commission, Bureau of Operations, Little Rock, Ark. 72201.

No. MC 118060 (Sub-No. 3 TA), filed October 24, 1973. Applicant: CAPITOL PACKING CO., 1050 Yuma Street, Suite 109, Denver, Colo. 80204. Applicant's representative: Billy James, 530 Denargo Market, Denver, Colo. 80216. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat and packing-house products*, frozen and unfrozen, from Denver Commercial zone, Colo., to points in Connecticut, Pennsylvania, New York, Maryland, New Hampshire, Massachusetts, New Jersey, and Washington, D.C., for 180 days. SUPPORTING SHIPPERS: Pepper Packing Company, 901 East 46th Avenue, Denver, Colo.; American Beef Packers, Inc., 1700 West Colfax, Denver, Colo.; Wilhelm Food Inc., 5590 High, Denver, Colo.; Litvak Packing Co., 5900 York Street, Denver, Colo.; Wilson & Co., Inc., 4950 Washington, Denver, Colo.; United Packing Company, Inc., 500 Clark Street, Denver, Colo., and Roth Boneless Beef, Inc., 4955 Jackson Street, Denver, Colo. SEND PROTESTS TO: District Supervisor Herbert C. Ruoff, Interstate Commerce Commission, Bureau of Operations, 2022 Federal Building, Denver, Colo. 80202.

No. MC 118178 (Sub-No. 16 TA), filed October 29, 1973. Applicant: BILL MEEKER, 1632 North Mosley, P.O. Box 11184, Wichita, Kans. 67202. Applicant's representative: Gallyn L. Larsen, 521 South 14th Street, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses*, from Mankato, Kans., to points in Alabama, Georgia, Florida, South Carolina, North Carolina, Tennessee, and Kentucky, for 180 days. SUPPORTING SHIPPER: Dubuque Packing Company, 1410 East 21st Street, Wichita, Kans. SEND PRO-

TESTS TO: M. E. Taylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 501 Petroleum Bldg., Wichita, Kans. 67202.

No. MC 120981 (Sub-No. 18 TA), filed October 26, 1973. Applicant: BESTWAY EXPRESS, INC., 415 Fifth Avenue South, Nashville, Tenn. 37203. Applicant's representative: J. L. Carroll (same address as above). 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, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) Between Lexington, Ky. and Charleston, W. Va., from Lexington, Ky. over U.S. Highway 60 to Charleston, W. Va. and return over the same route, serving all intermediate points east of Owingsville, Ky. and its commercial zone; (2) Between Lexington, Ky. and Charleston, W. Va., from Lexington, Ky. over Interstate Highway 64 to Charleston, W. Va. and return over the same route, serving the junctions of Kentucky Highway 32, Kentucky Highway 2, and Kentucky Highway 1 for joinder only, as an alternate route for operating convenience only; (3) Between the junction of Interstate Highway 64 and Kentucky Highway 32 and Morehead, Ky., from the junction of Interstate Highway 64 and Kentucky Highway 32 over Kentucky Highway 32 to Morehead, Ky. and return over the same route serving all intermediate points; (4) Between the junction of Interstate Highway 64 and Kentucky Highway 2 and Olive Hill, Ky., from the junction of Interstate Highway 64 and Kentucky Highway 2 over Kentucky Highway 2 to Olive Hill, Ky. and return over the same route, serving all intermediate points; (5) Between the junction of Interstate Highway 64 and Kentucky Highway 1 and Grayson, Ky., from the junction of Interstate Highway 64 and Kentucky Highway 1 over Kentucky Highway 1 to Grayson, Ky., and return over the same route, serving all intermediate points; and (6) points within the commercial zones of all named points and of all intermediate points authorized to be served in paragraphs (1) through (5) next above, for 180 days.

NOTE.—Applicant proposes to tack the authority sought herein at Lexington, Ky. with its existing authority in MC 120981 and subs thereunder. Applicant proposes to interline traffic with existing motor common carriers at Lexington, Ky.; Nashville, Tenn.; Bardonia, Ky.; Mitchell, Tenn.; Jackson, Miss.; and Baton Rouge, La. SUPPORTING SHIPPERS: There are approximately 57 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: Joe J. Tate, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 803-1808 West End Building, Nashville, Tenn. 37203.

No. MC 133233 (Sub-No. 24 TA), filed October 25, 1973. Applicant: CLARENCE L. WERNER, doing business as WER-

NER ENTERPRISES, 805 32nd Avenue, P.O. Box 831, Council Bluffs, Iowa 51501. Applicant's representative: D. L. Ehrlich (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber* (1) from Afton, Wyo., to points in Oklahoma and Texas and (2) from Evanston, Wyo., to points in Kansas, Oklahoma, and Texas, for 180 days. SUPPORTING SHIPPER: Lee Ekman, Sales Manager, Star Studs Co., P.O. Box 517, Afton, Wyo. 83110. SEND PROTESTS TO: Carroll Russell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Suite 620, Union Pacific Plaza Building, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 134574 (Sub-No. 15 TA), filed October 29, 1973. Applicant: FIGOL DISTRIBUTORS LIMITED, 11041 105th Avenue, Edmonton, Alberta, Canada. Applicant's representative: Eldon M. Johnson, 650 California Street, Suite 2808, San Francisco, Calif. 94108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned or preserved foodstuffs*, from points in California, to ports of entry along the United States-Canadian Boundary line located in the States of Washington, Idaho, and Montana, restricted to shipments destined to points in the Provinces of Alberta and Saskatchewan, Canada, for 180 days. SUPPORTING SHIPPERS: Allied Canners and Packers, Inc., 444 Market Street, San Francisco, Calif. 94104, and Alberta Grocers Wholesale Ltd., 14505 125th Avenue, Edmonton, Alberta, Canada. SEND PROTESTS TO: Paul J. Labane, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Rm. 222, U.S. Post Office Bldg., Billings, Mont. 59101.

No. MC 136285 (Sub-No. 6 TA), filed October 26, 1973. Applicant: SOUTHERN INTERMODAL LOGISTICS, INC., 137 Fair Street, P.O. Box 9165, Savannah, Ga. 31402. Applicant's representative: William P. Jackson, Jr., 919 18th Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Bagged clay*, in cargo containers, from points in Gadsden County, Fla., to Jacksonville, Fla., restricted to the transportation of traffic having a subsequent movement by water, and (2) *empty cargo containers* to be used in the transportation of bagged clay, from Jacksonville, Fla., to points in Gadsden County, Fla., for 180 days. SUPPORTING SHIPPER: Floridin Company, Pittsburgh, Pa. 15235. SEND PROTESTS TO: District Supervisor G. H. Fauss, Jr., Interstate Commerce Commission, Bureau of Operations, Box 35008, 400 W. Bay Street, Jacksonville, Fla. 32202.

No. MC 138328 (Sub-No. 3 TA), filed October 23, 1973. Applicant: CLARENCE L. WERNER, doing business as WERNER ENTERPRISES, 805 32nd Avenue, P.O. Box 831, Council Bluffs, Iowa 51501. Ap-

plicant's representative: D. L. Ehrlich (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed and feed ingredients*, from points in Louisiana and Texas, to points in Idaho, Oregon, and Washington, for 180 days. SUPPORTING SHIPPER: Rangen, Inc., Thorlief Rangen, Secretary-Treasurer, P.O. Box 706, Buhl, Idaho 83316. SEND PROTESTS TO: Carroll Russell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Suite 620, Union Pacific Plaza, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 139149 (Sub-No. 1 TA), filed October 25, 1973. Applicant: CONSOLIDATED FREIGHT & STORAGE CO., INC., 503 Des Moines Street, Webster City, Iowa 50595. Applicant's representative: Ronald L. Hemmen (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packing-houses*, 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 hides and commodities in bulk), (1) from Webster City, Iowa, to Snyder, Nebr. and (2) from Schuyler, Nebr., to Webster City, Iowa, for 180 days. SUPPORTING SHIPPER: The Nissen Company, Webster City, Iowa 50595. SEND PROTESTS TO: Herbert W. Allen, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 875 Federal Building, Des Moines, Iowa 50309.

No. MC 139192 (Sub-No. 1 TA), filed October 25, 1973. Applicant: JOHN PERRY, doing business as JOHN PERRY TRUCKING, 1535 Industrial Avenue, San Jose, Calif. 95112. Applicant's representative: Marvin Handler, 100 Pine Street, Suite 2550, San Francisco, Calif. 94111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fiberglass parabolic antennae and mounts, parts, accessories, equipment, tools and supplies necessary or incidental to the construction and maintenance and repair thereof when included in the same vehicles with the antennas under continuing contract with Prodelin Inc., from the plantsite of Prodelin Inc., in Santa Clara, Calif., to points in Arizona, New Mexico, Oklahoma, Kansas, Missouri, Illinois, Tennessee, Oregon, Washington, Louisiana, and Arkansas, for 180 days. SUPPORTING SHIPPER: Prodelin Inc., 1350 Duane Ave., Santa Clara, Calif. 95050. SEND PROTESTS TO: District Supervisor Claud W. Reeves, Interstate Commerce Commission, Bureau of Operations, 450 Golden Gate Ave., Box 36004, San Francisco, Calif. 94102.*

No. MC 139193 (Sub-No. 1 TA), filed October 25, 1973. Applicant: ROBERTS & OAKE, INC., 208 South LaSalle Street, Chicago, Ill. 60604. Applicant's representative: Jacob B. Billig, 1126 16th Street

NW., Washington, D.C. 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meats, meat products, and meat by-products*, as defined by the Commission 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 hides and commodities in bulk), from Fergus Falls, Minn., to points in the United States (except Alaska and Hawaii) and (2) *Such commodities as are used by meatpackers in the conduct of their business, from points in the United States (except Alaska and Hawaii), to Fergus Falls, Minn., for 180 days. RESTRICTION: Restricted to traffic transported under contracts with John Morrell & Co. SUPPORTING SHIPPER: Robert L. Lee, Manager, Rates and Services, John Morrell & Co., 208 South LaSalle Street, Chicago, Ill. 60604. SEND PROTESTS TO: William J. Gray, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, 219 South Dearborn Street, Room 1086, Chicago, Ill. 60604.*

No. MC 139197 (Sub-No. 1 TA), filed October 25, 1973. Applicant: MADISON TRANSPORTATION, INC., Vaughn Drive, P.O. Box 421, Madison, Ind. 47250. Applicant's representative: Robert W. Loser, II, 1009 Chamber of Commerce Bldg., Indianapolis, Ind. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Leather fibreboard*, from Madison, Ind., to Milwaukee, Wis.; Cape Girardeau and St. Louis, Mo.; Cincinnati, Ohio; and Nashville, Tenn.; (2) *Scrap leather*, from Madison, Ind., to Cincinnati, Ohio; and (3) *Scrap leather and materials and supplies used or useful in the manufacture of leather fibreboard*, from Milwaukee, Wis.; Cape Girardeau and St. Louis, Mo.; Hamilton and Cincinnati, Ohio; and Nashville, Tenn., to Madison, Ind., for 180 days. RESTRICTION: The transportation services authorized herein are restricted to a service to be performed under a contract or continuing contracts with Robus Products Corporation, Madison, Ind. SUPPORTING SHIPPER: Robus Products Corporation, 4201 Wilson Road, Madison, Ind. 47250. SEND PROTESTS TO: District Supervisor James W. Habermehl, Interstate Commerce Commission, Bureau of Operations, 802 Century Bldg., 36 S. Penn. Street, Indianapolis, Ind. 46204.

No. MC 139198 TA, filed October 25, 1973. Applicant: PECOS VALLEY, INC., Post Office Box 280, Carlsbad, N. Mex. 88220. Applicant's representative: H. M. Moutray, 1107 North Shore Drive, Carlsbad, N. Mex. 88220. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Salt, salt products, prepared animal feeds, and all animal feed minerals and supplements* and (2) *agricultural commodities as described in Section 203 (b) (6) when moved in mixed lots with commodities described in (1) above, between points in Eddy County, N. Mex.*

and points in Texas on and west of U.S. Highway 87 and north of U.S. Highway 80 (I 20); Pampa, Tex. and Guymon, Okla., for 180 days. SUPPORTING SHIPPERS: Hi-Pro Feeds, Post Office Box 1088, Friona, Tex.; Seven Rivers Cattle Company, Seven Rivers, N. Mex. 88220; and United Salt Corporation, Post Office Drawer SS, Carlsbad, N. Mex. 88220. SEND PROTESTS TO: William R. Murdoch, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1106 Federal Office Building, 517 Gold Avenue SW., Albuquerque, N. Mex. 87101.

No. MC 139199 TA, filed October 26, 1973. Applicant: BOYD TRUCKING COMPANY, INC., P.O. Box 621, Athens, Tenn. 37303. Applicant's representative: James Clarence Evans, 16th Floor, Third National Bank Bldg., Nashville, Tenn. 37219. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *General commodities* (except articles of unusual value, Class A and B explosives, used household goods, commodities in bulk, and commodities requiring special equipment), between Athens, Tenn., on the one hand, and, on the other, points in McMinn, Monroe, Meigs and Rhea Counties, Tenn., but restricted to transportation of shipments having an immediate prior or subsequent movement by rail in trailer on flat car service, for 180 days. SUPPORTING SHIPPERS: Beaunit Corporation, Research Triangle Park, N.C.; Vestal Manufacturing Company, Sweetwater, Tenn.; Tennessee Fibers, Inc., Decatur, Tenn.; Carolyn Products, Inc., Sweetwater, Tenn.; Brock Heading and Stave Company, Spring City, Tenn.; J. M. Huber Corporation, Edison, N.J.; and Louisville & Nashville Railroad, Louisville, Ky. SEND PROTESTS TO: Joe J. Tate, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 803-1808 West End Bldg., Nashville, Tenn. 37203.

No. MC 139200 TA, filed October 26, 1973. Applicant: INDIAN RIVER REFRIGERATED LINES, INC., 2309 Rita, Wichita, Kans. 67213. Applicant's representative: William J. Boyd, 29 South LaSalle Street, Chicago, Ill. 60603. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Frozen citrus products*, from the plantsite and storage facilities of Indian River Processors, Inc., at or near Vero Beach, Fla., to Trafalgar, Ind. and Kansas City, Mo., restricted to the transportation of traffic originating at the plantsite and warehouse of Indian River Processors, Inc., at or near Vero Beach, Fla., and for the account of Indian River Processors, Inc., for 180 days. SUPPORTING SHIPPER: Indian River Processors, Inc., P.O. Box 1297, Vero Beach, Fla. 32960. SEND PROTESTS TO: M. E. Taylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 501 Petroleum Building, Wichita, Kans. 67202.

No. MC 139201 TA, filed October 29, 1973. Applicant: MERCHANTS DELIV-

ERY, INCORPORATED, 515 East Third Street, Alton, Ill. 62002. Applicant's representative: Ernest A. Brooks, II, 1301 Ambassador Building, St. Louis, Mo. 63101. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Small packages and parcels* weighing not more than 100 lbs., in peddle delivery service, from the warehouse facilities of Stix, Baer & Fuller Co. in St. Louis, Mo., to points in St. Clair, Madison, Monroe, Clinton, and Washington Counties, Ill., for 180 days. SUPPORTING SHIPPER: Merrill Montgomery, Service Center Supt., Stix, Baer & Fuller Co., 1431 North Kingsland Avenue, St. Louis, Mo. 63133. SEND PROTESTS TO: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Leland Office Building, 527 East Capitol Avenue, Room 414, Springfield, Ill. 62701.

By the Commission.

[SEAL] ROBERT L. OSWALD,  
Secretary.  
[FR Doc. 73-24039 Filed 11-9-73; 8:45 am]

[Notice 153]

#### MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

NOVEMBER 7, 1973.

The following are notices of filing of application, except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application, for temporary authority under section 210(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

#### MOTOR CARRIERS OF PROPERTY

No. MC 2202 (Sub-No. 455 TA), filed October 31, 1973. Applicant: ROADWAY EXPRESS, INC., 1077 Gorge Blvd., P.O. Box 471, Akron, Ohio 44309. Applicant's representative: William Slabaugh (same address as above). Authority sought to operate as a common carrier, by motor

vehicle, over regular routes, transporting: *General commodities*, serving the terminal site of Roadway Express, Inc. located at or near Holtsville, Suffolk County, N.Y., as an off-route point in connection with carrier's regular route operation, for 180 days.

NOTE.—Applicant will tack with MC 2203 and subs thereto, but will not interline with other carriers. SUPPORTING SHIPPER: Roadway Express, Inc., 1077 Gorge Blvd., Akron, Ohio 44309. SEND PROTESTS TO: Franklin D. Ball, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 181 Federal Office Bldg., 1240 East Ninth Street, Cleveland, Ohio 44199.

No. MC 21800 (Sub-No. 2 TA), filed October 23, 1973. Applicant: SWIFTWAY TRANSPORTS, INC., 29 Blackwood Lane, St. Peters, Mo. 63376. Applicant's representative: Lee K. Mathews, 1302 Ambassador Bldg., St. Louis, Mo. 63101. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Iron and steel articles* (except such articles which because of size and weight require the use of special equipment), from the plantsite of Tubular Steel Incorporated at Hazelwood, Mo., to points in Nebraska and Iowa, for 180 days. SUPPORTING SHIPPER: Tubular Steel Incorporated, 7220 Polson, Hazelwood, Mo. 63042. SEND PROTESTS TO: District Supervisor J. P. Werthmann, Interstate Commerce Commission, Bureau of Operations, Room 1465, 210 N. 12th Street, St. Louis, Mo. 63101.

No. MC 25869 (Sub-No. 117 TA), filed October 31, 1973. Applicant: NOLTE BROS. TRUCK LINE, INC., 6217 Gilmore Avenue, Omaha, Nebr. 68107. Applicant's representative: Donald L. Stern, Suite 530, Univac Building, 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products, and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk and tank vehicles), from Denver, Colo., to Waukesha, Wis., and Chicago, Ill., and its commercial zone, for 180 days. SUPPORTING SHIPPER: Wilson & Co. Inc., 4950 Washington, Denver, Colo. 80216. SEND PROTESTS TO: Carroll Russell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Suite 620, Union Pacific Plaza Building, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 72495 (Sub-No. 11 TA), filed October 30, 1973. Applicant: DON SWART TRUCKING, INC., Route 2, Box 49, Wellsburg, W. Va. 26070. Applicant's representative: D. L. Bennett, 129 Edgington Lane, Wheeling, W. Va. 26003. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Slag*, granulated, in bulk or in bags, from the plant site of H. B. Reed & Company, Inc., Cresap (Moundsville), W. Va., to points in Delaware, Indiana, Kentucky, Maryland, New

York, Virginia, Washington, D.C., that part of Ohio on and west of U.S. Highway 21, that part of Pennsylvania other than the counties of Allegheny, Greene, Washington, Westmoreland, and Fayette, for 180 days. SUPPORTING SHIPPER: H. B. Reed & Company, Inc., 8149 Kennedy Avenue, Highland, Ind. 46322. SEND PROTESTS TO: Joseph A. Niggemyer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 416 Old Post Office Bldg., Wheeling, W. Va. 26003.

No. MC 99780 (Sub-No. 31 TA), filed October 29, 1973. Applicant: CHIPPER CARTAGE COMPANY, INC., 1327 NE. Bond Street, Mfg. P.O. Box 1345 (Box zip 61601), Peoria, Ill. 61603. Applicant's representative: John R. Zang (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: frozen bakery goods, frozen prepared foods, frozen juices, frozen fruits and vegetables, frozen meats, fish, and poultry, from the plantsite and facilities of Continental Freezers of Illinois, a Division of F. H. Prince and Company, Inc., at Chicago, Ill., to points in Indiana, Illinois, Michigan, and Ohio, and to that portion of Iowa bounded by U.S. Route 63 on the west and the State lines on the North, East, and South including all of Waterloo, Iowa; Cedar Falls, Iowa; and Ottumwa, Iowa; and Louisville, Ky., for 180 days. RESTRICTION: The authority granted herein is restricted to the transportation of traffic originating at the above named origin and destined to the above named destinations. SUPPORTING SHIPPER: Clarence E. Huset, Traffic Manager, Continental Freezers of Illinois, Division of F. H. Prince and Company, 4220 So. Kildare, Chicago, Ill. 60632. SEND PROTESTS TO: Richard Shullaw, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 219 South Dearborn Street, Room 1086, Chicago, Ill. 60604.

No. MC 100666 (Sub-No. 256 TA), filed October 30, 1973. Applicant: MELTON TRUCK LINES, INC., 1129 Grimmer Drive, P.O. Box 7666, Shreveport, La. 71107. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Bldg., 3535 NW 58th Street, Oklahoma City, Okla. 73112. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Asbestos cement pipe, from the plantsite and warehouse facilities of Certain-Teed Products Corp. at or near St. Louis, Mo., to points in Alabama, Arkansas, Louisiana, Mississippi, Oklahoma, Tennessee, and Texas for 180 days. SUPPORTING SHIPPER: Certain-Teed Products Corporation, Valley Forge, Pa. 19491. Mr. P. D. Bruno, Traffic Supervisor. SEND PROTESTS TO: Ray C. Armstrong, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, T-9038 U.S. Postal Service Bldg., 701 Loyola Ave., New Orleans, La. 70113.

No. MC 103993 (Sub-No. 779 TA) (AMENDMENT), filed October 15, 1973,

published in the FEDERAL REGISTER issue of October 29, and republished as amended this issue. Applicant: MORGAN DRIVE-AWAY, INC., 2800 West Lexington Avenue, Elkhart, Ind. 46514. Applicant's representative: Paul D. Borghe-sani (same address as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Modular motel units, from points in Mecklenburg County, N.C., to Ocala, Fla., for 180 days. SUPPORTING SHIPPER: Modular Corp. of America, 501 Atando Ave., P.O. Box 2756, Charlotte N.C. SEND PROTESTS TO: W. S. Ennis, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 345 West Wayne St., Room 204, Fort Wayne, Ind. 46802.

NOTE.—The purpose of this republication is to add "Mecklenburg County, N.C.", in lieu of "Mecklenburg, N.C.", which was published in error.

No. MC 112832 (Sub-No. 301 TA), filed October 30, 1973. Applicant: BRAY LINES INCORPORATED, 1401 N. Little Street, P.O. Box 1181, Cushing, Okla. 74023. Applicant's representative: Robert A. Stone (same address as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Foodstuffs, from the plantsite of Skyland Foods Corp., at or near Delta, Colo., to points in Iowa, Kansas, Missouri, Nebraska, and Minnesota, for 180 days. SUPPORTING SHIPPER: Skyland Food Corporation, M. E. Simpson, 917 Dodge Street, Delta, Colo. 81416. SEND PROTESTS TO: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240, Old P.O. Bldg., Oklahoma City, Okla. 73102.

No. MC 113651 (Sub-No. 163 TA), filed October 29, 1973. Applicant: INDIANA REFRIGERATOR LINES, INC., 2404 North Broadway, Muncie, Ind. 47303. Applicant's representative: Henry A. Dillon (same address as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Foodstuffs, frozen and non-frozen, from Presque Isle, Caribou and Portland, Maine, to points in New York, Pennsylvania, Ohio, Michigan, Indiana, Illinois, Missouri, Kentucky, Tennessee, West Virginia, Arkansas, Virginia, Maryland, Alabama, Georgia, North Carolina, and South Carolina, restricted to transportation from the plantsite and/or storage facilities utilized by Potato Service, Inc. at the above-named origins and destined to the above-named destination states, for 180 days. SUPPORTING SHIPPER: Potato Service, Inc., P.O. Box 809, Presque Isle, Maine 04769. SEND PROTESTS TO: J. H. Gray, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 345 W. Wayne St., Room 204, Fort Wayne, Ind. 46802.

No. MC 120800 (Sub-No. 54 TA), filed October 18, 1973. Applicant: CAPITOL TRUCK LINE, INC., 2500 North Alameda Street, Compton, Calif. 90222. Applicant's representative: David P. Christianson,

825 City National Bank Bldg., 606 South Olive Street, Los Angeles, Calif. 90014. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Liquefied natural gas, from Portland, Oreg., to points in Los Angeles County, Calif., for 150 days. SUPPORTING SHIPPER: McDonnell Douglas Aircraft Corporation, 5301 Bolsa Street (Mall Station 49-1), Huntington Beach, Calif. 92647. SEND PROTESTS TO: Walter W. Strakosch, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 7708 Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 123639 (Sub-No. 153 TA), filed October 29, 1973. Applicant: J. B. MONTGOMERY, INC., 5150 Brighton Boulevard, Denver, Colo. 80216. Applicant's representative: John F. DeCock (same address as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Meats, meat products, meat by-products, and articles distributed by meat packing houses as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766, from Denver, Colo., to points in Maryland, New Jersey, and New York; East Hartford, Conn.; District of Columbia; Indianapolis, Ind.; Jeffersontown and Louisville, Ky.; Boston, Marlboro, Springfield, Somerville, and Worcester, Mass.; Hazelwood, Kansas City, and St. Louis, Mo.; Detroit, Livonia, and Richmond, Mich.; Canton, Cincinnati, Cleveland, Columbus, Dayton, and Solon, Ohio; Irwin, Harrisburg, DuBois, Philadelphia, and Allentown, Pa.; Salem and Roanoke, Va., including all points in the commercial zones of specific points named, for 180 days. SUPPORTING SHIPPERS: United Packing Company, 5000 Clarkson Street, Denver, Colo. 80216; Litvak Meat Co., Inc., 5900 York Street, Denver, Colo. 80216; Wilhelm Foods, Inc., 5590 High St., Denver, Colo. 80216; and Wilson & Co., Inc., 4950 Washington Street, Denver, Colo. 80216. SEND PROTESTS TO: District Supervisor Roger L. Buchanan, Interstate Commerce Commission, Bureau of Operations, 2022 Federal Building, 1961 Stout Street, Denver, Colo.

No. MC 135283 (Sub-No. 10 TA), filed October 31, 1973. Applicant: GRAND ISLAND MOVING & STORAGE, CO., INC., Box 1665, E. Highway 30, Grand Island, Nebr. 68801. Applicant's representative: Gailyn L. Larsen, 521 South 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: 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 hides, skins, and pieces therefrom and except commodities in bulk, in tank vehicles), from the plantsite and storage facilities of Swift & Company at or near

Grand Island, Nebr., to points in Indiana, Ohio, and Michigan, for 180 days. SUPPORTING SHIPPER: Swift Fresh Meats Company, a Division of Swift & Company, 115 West Jackson Boulevard, Chicago, Ill. 60604. SEND PROTESTS TO: Carroll Russell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Suite 620, Union Pacific Plaza Building, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 135874 (Sub-No. 25 TA), filed October 31, 1973. Applicant: LTL PERISHABLES, INC., 132nd and "Q" Street, Mlg: P.O. Box 37468 (Box zip 68152), Omaha, Nebr. 68137. Applicant's representative: Bill White (same address as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Grand Forks, N. Dak. and Commercial Zones, to points in Iowa, Minnesota, Kansas, Missouri, Nebraska, and South Dakota, for 90 days. SUPPORTING SHIPPER: Western Potato Service, Inc., P.O. Box 518, Highway 2 West, Grand Forks, N. Dak. 58201. SEND PROTESTS TO: Carroll Russell,

District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite 620, Union Pacific Plaza Building, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 138875 (Sub-No. 12 TA), filed October 29, 1973. Applicant: SHOE-MAKER TRUCKING COMPANY, 8624 Franklin Road, Boise, Idaho 83705. Applicant's representative: F. L. Sigloh, P.O. Box 7651, Boise, Idaho 83707. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Lumber-lumber mill products including plywood, built-up woods and composition board*, from Chowchilla, Clovis, and Dinuba, Calif., to points in Ada and Canyon Counties, Idaho, for 180 days. SUPPORTING SHIPPER: Idaho Forest Industries, Inc., P.O. Box 7442, Boise, Idaho 83707. SEND PROTESTS TO: C. W. Campbell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 550 West Fort Street, Box 07, Boise, Idaho 83724.

By the Commission.

[SEAL] ROBERT L. OSWALD,  
Secretary.

[PR Doc.73-24040 Filed 11-9-73;8:45 am]

#### MOTOR CARRIER TRANSFER PROCEEDINGS

[Notice 387]

NOVEMBER 7, 1973.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC-74826. By application filed November 5, 1973, GEORGE B. MURPHY, 21 W. 151 Hill, Glen Ellyn, IL 60613, seeks temporary authority to lease the operating rights of ROBERTS CARTAGE COMPANY, 3200 Archer, Chicago, IL 60608, under section 210a(b). The transfer to GEORGE B. MURPHY, of the operating rights of ROBERTS CARTAGE COMPANY, is presently pending.

By the Commission.

[SEAL] ROBERT L. OSWALD,  
Secretary.

[PR Doc.73-24042 Filed 11-9-73;8:45 am]

## CUMULATIVE LISTS OF PARTS AFFECTED—NOVEMBER

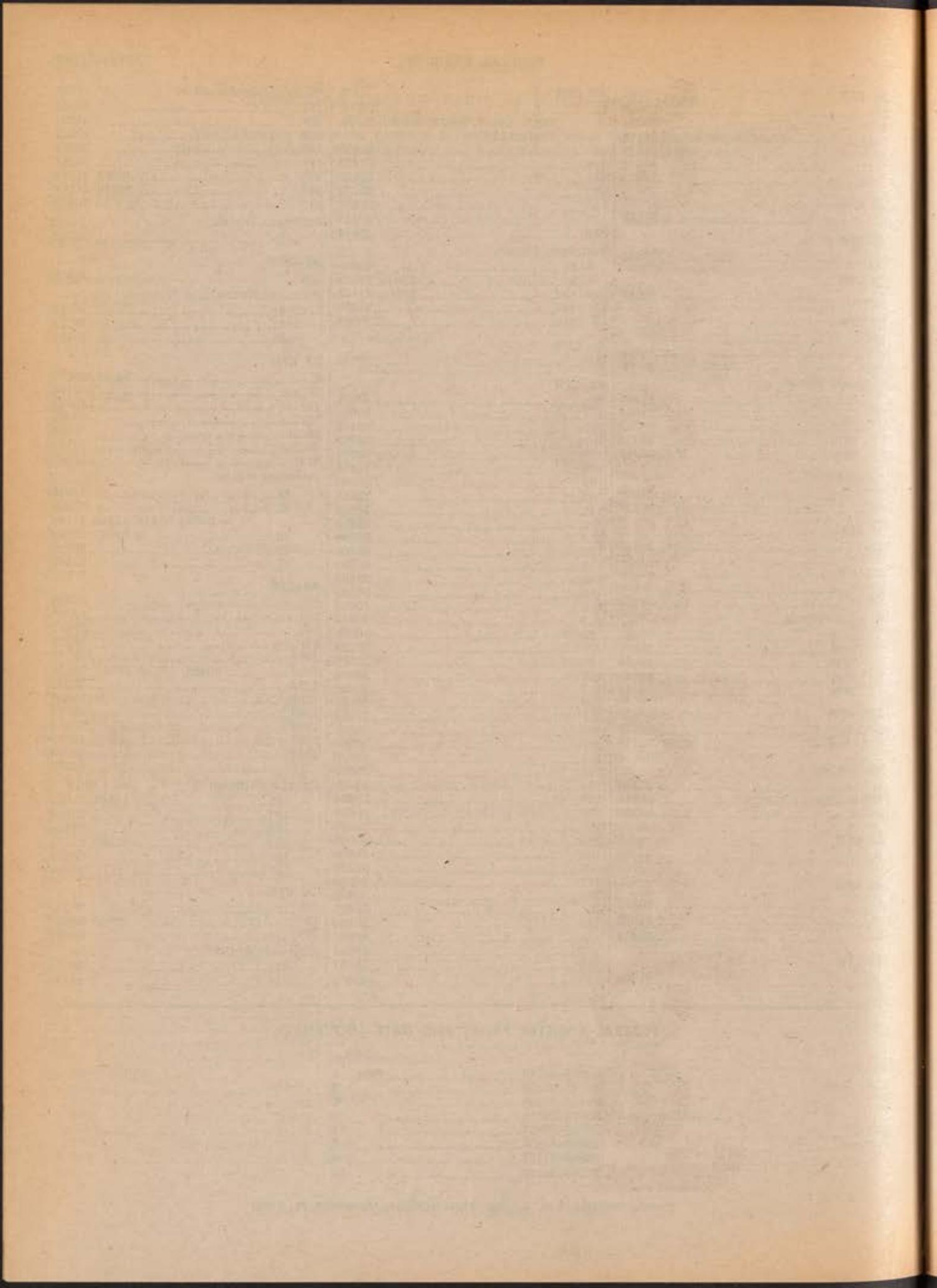
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PART II



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## ENVIRONMENTAL PROTECTION AGENCY

■

### AIR PROGRAMS, APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

California Transportation Control Plan

## Title 40—Protection of Environment

## CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

## SUBCHAPTER C—AIR PROGRAMS

## PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

## California Transportation Control Plan

This notice of final rulemaking sets forth transportation control plans for the following California Intra-state Air Quality Control Regions (AQCR) (hereafter referred to also as Regions): San Francisco Bay Area, Sacramento Valley, San Diego, San Joaquin Valley, and Metropolitan Los Angeles. A General Preamble was published on November 6, 1973, and is part of this rulemaking.

## BACKGROUND

On March 20, 1973, by publication in the FEDERAL REGISTER (38 FR 7325), the Administrator, acting in response to a court order, notified the Governor of California that a transportation control plan should be submitted by April 15, 1973, for the first four of the five regions mentioned above.

The Los Angeles Metropolitan Intra-state Region was already the subject of a separate Court order. There, the U.S. District Court for the Central District of California ordered on November 16, 1972, that EPA propose a transportation control plan for the Los Angeles AQCR by January 15, 1973. This proposed plan appeared in the January 22, 1973, FEDERAL REGISTER (38 FR 2194) with minor corrections published on February 7, (38 FR 3526).

Extensive public hearings were held on the plan throughout the AQCR. The proposal was later revised to make it consistent with the transportation control plans developed for the other Regions. This revised proposal appeared in the July 2, 1973, FEDERAL REGISTER (38 FR 17683) and was the subject of a public hearing on August 9-10, 1973.

California did not submit a transportation control plan by the Court-ordered deadline for the other four Regions and accordingly EPA was forced to propose substitute regulations for the San Francisco Bay Area, Sacramento Valley, San Diego, and San Joaquin Valley Intra-state Air Quality Control Regions, 38 FR 18948 (July 16, 1973). These regulations were the subject of public hearings in each of the affected Regions on August 6-10, 1973. No regulations were proposed for the Southeast Desert because the air pollution there comes almost entirely from the Los Angeles Region.

The transcripts of all public hearings are available for inspection at the Federal Information Center, 300 North Los Angeles Street, Room 1011, Los Angeles, California 90012; the U.S. Environmental Protection Agency, Region IX, 100 California Street, San Francisco, California 94111; and the U.S. Environmental Protection Agency, Office of Public Affairs, Room W 311, 401 M Street SW., Washington, D.C. 20460.

The plans promulgated today have, to the maximum extent possible, been

drafted to reflect the expressed preference of the State of California and the affected local jurisdictions.

*California Implementation Plan, Revision 3.* The Governor of California submitted Revision 3 of the California State Implementation Plan (SIP) to the EPA by letter dated July 25, 1973; it was received by the Region IX Office for the Administrator on August 2, 1973. This revision included the State's plans for transportation controls as well as a general revision to many rules and regulations pertaining to stationary sources. On September 21, 1973, the Administrator acknowledged receipt of the SIP revision in the FEDERAL REGISTER (38 FR 26462) and solicited public comment on that Plan. The notice gave the public 21 days (until October 12, 1973) to submit comments to the Administrator on the revised State plan. Based upon EPA's review of the Plan and a review of all relevant public comments, the Administrator will revise the approval/disapproval notice of the original implementation plan, published on June 22, 1973, in the FEDERAL REGISTER and rescind any EPA regulations that are deemed unnecessary based upon the State submission.

Although the Administrator cannot make any final determination of the acceptability of the recently submitted State plan until all public comments have been evaluated, some tentative observations can be made.

The State Implementation Plan Revision 3 does not provide for attainment of the photochemical oxidant standard in the Los Angeles AQCR, nor is a strategy presented for attainment. The State Plan proposes the retrofitting of catalysts to automobiles and trucks in the San Francisco Bay Area AQCR; the EPA concurs with this strategy. The State Plan assumes a 95 percent reduction in aircraft emissions by 1977. The EPA believes that this reduction is not attainable without a significant reduction in the number of flights, and such a reduction is not feasible at this time. The State Plan endorses gasoline marketing controls to prevent gasoline vapor losses; the EPA also endorses such controls. The State Plan relies upon local transportation agencies, such as the San Francisco Bay Area's Metropolitan Transportation Commission, to develop and implement improvements in mass transit. The EPA endorses this approach, but requires that the improvements be spelled out in regulatory form. The State does not in all cases utilize the most recent air quality data; an example is San Francisco. For instance, more recent data for San Francisco suggest that emission reductions must be greater than those shown in the State Plan, and these data have been used in this promulgation.

Copies of the Environmental Protection Agency's testimony on the State Implementation Plan Revision 3 given at the State hearings on said Plan are available from the EPA Region IX Office in San Francisco. Inquiries should be directed to the Regional Counsel, EPA

Region IX, 100 California Street, San Francisco, California 94111.

## SUMMARY

A significant reduction of reactive hydrocarbons will have to occur in all regions covered by this promulgation if the ambient air quality standard for photochemical oxidants is to be attained. In all cases, the controls promulgated will effect the required reduction in reactive hydrocarbons; attainment and maintenance of the oxidant standards will ensure attainment and maintenance of the carbon monoxide and nitrogen oxide standards as well.

The promulgated control measures reflect what EPA considers to be the most feasible approach for meeting the national standards in each region. However, these measures are subject to change subsequent to further study conducted by EPA and others.

Much of the reduction in photochemical oxidant levels will result from measures submitted by the State and already approved, but these measures are not enough to meet the standards. The Administrator has concluded that an extension of the deadline for achieving the standards to 1977 under section 110(e) of the Act is justified because the necessary technology or other alternatives are not available and will not be available soon enough to permit full compliance before 1977. The extension applies to all Regions covered by this promulgation for photochemical oxidants and for carbon monoxide. In reaching this conclusion, the Agency has considered, and applied as part of its plan, reasonably available alternative means of attaining the primary standard.

The plan set forth herein provides for the application of its requirements to most emission sources other than motor vehicles not later than June 1975, as required by section 110(e)(2)(A) of the Clean Air Act, and provides for the application of reasonable interim measures for control of motor vehicle emissions as soon as they can reasonably be put into effect.

Most of the plan utilizes reasonable and apparently available means of reducing photochemical oxidants, carbon monoxide, and nitrogen dioxide. These measures include review of all new parking facilities with more than 50 spaces to determine their air quality impact; fees to increase parking costs at existing facilities; a ban on motorcycle use if stringent emission standards for new motorcycles are not established; and mandatory inspection and maintenance of light-duty vehicles (including light-duty trucks). In addition, bus-carpool lanes or other bus and carpool preference systems will be set up on selected major streets and highways, carpooling systems will be established in all Regions covered by this rulemaking, and employers who provide more than 70 employee parking spaces will have to take stringent steps to discourage single-passenger car commuting by their employees.

Retrofits of catalysts by 1977 and vacuum spark advance disconnect (VSAD)

devices on some existing light-duty vehicles upon change of ownership will also be required.

Each of the measures discussed above will be applied as soon as it is reasonably available. However, in many cases implementation will not be practicable by 1975 due either to the present unavailability of the necessary equipment, to the administrative problems involved in setting up the necessary regulatory mechanisms, or to the need to phase in the measures so that the public can adjust to them. Accordingly, as noted above, extensions until 1977 in the time for achieving the standards have been granted to each of the Regions for which plans are being promulgated today.

Even if all the reasonable measures mentioned above are imposed on the timetable indicated (see Table 1), it is estimated that the national standards for photochemical oxidants will not be met in the Regions by 1977. Under the Clean Air Act, the Agency has no choice but to include in the plan a measure that can achieve the standards by 1977. Consequently, gasoline sales limitations of whatever degree necessary have been included for 1977. If implemented, this would achieve the standards for both photochemical oxidants and carbon monoxide. However, the Agency will utilize every means available to avoid the need to impose severe gasoline rationing to reach that goal by 1977.

vehicle was to be inspected yearly and maintenance performed on failing vehicles to minimize emissions.

10. *Stationary source controls.* These regulations included installation of vapor recovery systems at gasoline stations, additional controls on dry cleaning emissions, elimination of certain industrial solvent compounds, improved control on painting operation solvent loss, and additional restrictions on the loss of organic solvents in general industrial use.

SUMMARY OF PUBLIC COMMENTS

EPA held public hearings on its transportation control proposals in each affected AQCR, and these hearings were well attended. EPA was impressed with the quality, breadth, and detail of the testimony received and has attempted to modify its plan in response to public comments where possible. Comments were received both on specific technical controls and on broad public policy issues.

*Economic incentives and disincentives.* Many witnesses testified on the subject of emission "taxes", expressing the belief that economic incentives and disincentives might reduce vehicle miles traveled (VMT) more effectively than other measures, and, as a bonus, produce revenue that could be used for mass transit. In general, the schemes presented would either: (1) Surcharge gasoline sales heavily; (2) surcharge some features of the automobile related to its gasoline consumption level, such as weight, displacement, or number of cylinders; or (3) surcharge facilities that serve the automobile, such as parking. The revenue raised by these taxes or charges would be used to improve mass transit and/or subsidize the retrofitting of cars with emission control devices. The City of Los Angeles strongly urged the use of parking fees to discourage unnecessary driving; it was estimated that a charge of only 50 cents per hour of parking time applied in the Los Angeles central business district (CBD) would raise over \$10 million a year, or enough to put some 110 to 120 buses on the road. Many urged the adoption of schemes that both discourage driving and raise revenue, since it was stated repeatedly at the hearings that the public would only accept restrictions on driving if it sees a feasible mass transit system being put into operation at the same time. Surcharge schemes, properly applied, can accomplish both objectives.

It was emphasized, however, that any scheme to surcharge parking must extend beyond the urban cores, in order to keep core areas competitive with outlying employment and shopping centers. If only CBD parking is charged, people may go where the parking is cheaper or free, further contributing to the decay of the central city. Witnesses also pointed out that parking charges to be effective must be applied to private as well as public parking.

*Standards and attainment date.* Significant controversy arose over two particular requirements under the Clean Air Act. The questions concerned: (1)

TABLE 1.—APPLICABILITY OF EPA CONTROL STRATEGIES FOR CALIFORNIA

Control measures	Regions				
	Los Angeles	San Francisco Bay Area	San Diego	Sacramento Valley	San Joaquin Valley
<b>I. Stationary source:</b>					
a. Vapor recovery at service stations	X <sup>1</sup>	S	S	X <sup>1</sup>	X <sup>1</sup>
b. Organic solvents usage	S	X	S <sup>1</sup>	X	X
c. Control of degreasing operations	X	X	X	X	X
d. Dry cleaning solvent vapor losses	X	X	X	X	X
e. Metal surface coating thinner and reducer	X	X	X	X	X
<b>II. Mobile sources:</b>					
a. Catalyst retrofit (1966-74), LDV and MDV	X <sup>1</sup>	X <sup>1</sup>	X	X	X
b. Vacuum Spark Advance Disconnect (1965-65)	S	S	S	X	X
c. Inspection/Maintenance (loaded)	X <sup>1</sup>	X <sup>1</sup>	X <sup>1</sup>	X <sup>1</sup>	X <sup>1</sup>
d. Motorcycle limitations <sup>2</sup>	X	X	X	X	X
<b>III. VMT Reduction measures:</b>					
a. Exclusive bus/carpool lanes	X <sup>1</sup>	X	X <sup>1</sup>	X <sup>1,3</sup>	X <sup>1</sup>
b. Bus/carpool matching	X <sup>1</sup>	X	X <sup>1</sup>	X <sup>1</sup>	X <sup>1</sup>
c. Parking supply management	X	X	X	X	X
d. Mass Transit incentives for employees	X <sup>1</sup>	X <sup>1</sup>	X <sup>1</sup>	X	X
e. Parking surcharge	X <sup>1</sup>	X	X	X	X
f. VMT/air quality improvement monitoring program	X	X	X	X	X

Note: All AQCR's require O<sub>3</sub>/CO extension to 1977.

- X = EPA plan.
- S = Included in approved State plan.
- <sup>1</sup> = Additional regulations are being promulgated.
- <sup>2</sup> = Limit only if new motorcycle emission standards not promulgated.
- <sup>3</sup> = Require study and specific recommendations by State.
- <sup>4</sup> = Included in State-submitted plans.
- <sup>5</sup> = Recommended by State and local task force as VMT-reduction measure.

*Summary of original proposal.* Below is a summary of the controls proposed in the July 2 and July 16, 1973, FEDERAL REGISTERS for the affected Regions.

1. *Catalyst retrofit.* All automobiles in the San Diego, San Francisco, Metropolitan Los Angeles, Sacramento Valley, and San Joaquin Valley AQCR's, of model years 1966 through 1974, and capable of performing adequately on non-leaded 91 research octane number gasoline (approximately 75 percent of 1971 through 1974 model year cars and 20 percent of 1966 through 1970 model years) were to be equipped with a catalytic muffler. The cost of this device is estimated at \$150 per car.

2. *Vacuum spark advance disconnect.* Automobiles of 1955 through 1965 model years in the Sacramento and San Joaquin Valley AQCR's would have been retrofitted upon change of ownership. The cost would be approximately \$35. In the other critical AQCR's covered by this promulgation, the law currently requires the installation of such devices.

3. *Bus and carpool lanes.* In all AQCR's at least one lane for the exclusive use of buses and carpools was to have been provided on all 3- and 4-lane highways park-

ing facilities would have been required to reduce capacity by 20 percent.

5. *New Parking facilities review.* All new parking facilities, public or private, were to have been reviewed for their impact on air quality before construction.

6. *Computerized carpooling service.* Under this proposal, the State would have to set up a computerized carpool matching system for application in the appropriate AQCR's.

7. *Limitation on gasoline sales.* Gasoline consumption in recent years has grown at a rate of about 4 percent per year. Under this proposal, sales in future years would have been limited to the amount sold in a 1972-1973 12-month period.

8. *Motorcycle controls.* This proposal would have limited the registration (and therefore growth in total number) of motorcycles, as well as placing an operating ban on motorcycles during certain hours of the day during the "smog season."

9. *Inspection and maintenance.* Under this proposal, the State was to operate a network of inspection stations to detect and minimize the number of improperly adjusted or defective automobiles. Each

Whether the National Ambient Air Quality Standard (NAAQS) for oxidant of 0.08 parts per million (ppm) for a 1-hour averaging time is an appropriate standard; and (2) if a socially disruptive measure such as extensive gasoline rationing is required to meet the NAAQS's for oxidant and carbon monoxide by 1977, whether the attainment date should be delayed beyond 1977.

The EPA, as required by the Clean Air Act, continuously reviews the medical basis for the NAAQS's. It is the Administrator's determination that to comply with the meaning of the Clean Air Act—that is, to protect public health with an adequate margin of safety—the 0.08 ppm standard for photochemical oxidant is a sound standard.

With regard to the second question, it is not within the authority of the EPA at the time of promulgation of this plan to extend attainment of the NAAQS's beyond 1977. The Clean Air Act specifically provides for no major form of transportation, are unduly wasteful of land, energy, and other resources, and have contributed to the decay of central cities. Comprehensive land use planning that takes air quality into account can eliminate the need for many such controls through placement of sources, proximity of employment and residential centers, and provision for mass transit and other measures.

Regulations that require land-use planning tied to air quality considerations were recently promulgated by EPA in response to a court order (38 FR 15834, June 18, 1973). These "indirect source" guidelines required each State to submit to EPA appropriate review procedures, both long term and short term, to ensure the maintenance of the NAAQS in the future. The State of California has not submitted such review procedures to the EPA, although it is developing them. The Administrator has, therefore, proposed Federal regulations for the review of "indirect sources." These regulations will require the review for effect on air quality of all new large parking facilities, highways, airports, housing developments, and other development and/or construction that may increase automobile emissions because of increased vehicular travel.

The State of California Air Resources Board, under the direction of State Senate Bill 981, is developing an indirect source review procedure. The EPA believes that the review of indirect sources should be at the State and local level. Consequently, when the State submits an approvable procedure, the EPA will rescind any duplicating EPA regulations.

**Review of new highway construction.** Many comments were received on the continued construction of new highways. Urban sprawl is often precipitated by significant highway construction. Section 109(j) of the Federal Aid Highway Act, as amended, 23 U.S.C. 109(j), requires that any new Federally aided highways must be consistent with applicable implementation plans under the Clean Air Act. The "indirect sources" regulations or the State measures that

may be approved in their place will be integral parts of these implementation plans. Such regulations would not be consistent with the requirements of the statute or the court order if they were interpreted to allow construction of major new freeways in heavily polluted urban areas, such as the Century Freeway in Los Angeles.

EPA also reviews and comments on new highway aid projects as part of its review of environmental impact statements under the National Environmental Policy Act (NEPA), 42 U.S.C. 4321-4347.

**Aircraft emissions.** Testimony at every hearing urged some additional controls on emissions from aircraft. Some witnesses, including the California State Air Resources Board, believed that aircraft should be required to reduce emissions by the same amount as automobiles. Witnesses also suggested that if safety factors prevent this amount of emission reduction, that controls be placed on the operation of aircraft. Since restrictions are being placed on the operation of automobiles and possibly motorcycles, witnesses stated that equity considerations justified extending operational controls to aircraft: They suggested that this could be done through changing schedules to permit only full or nearly full planes to take off.

Aircraft emissions represent a significant portion of present emissions, and will become increasingly important as automobile-emitted pollutants decrease. The original transportation control proposal stated that emissions from aircraft engines in 1977 were expected to be somewhat less than the emissions projected by using current emission factors (EPA promulgated aircraft emission regulations in the July 17, 1973, FEDERAL REGISTER (38 FR 19088)). This reduction is due to lower-emission engines that are expected to replace and supplement engines presently in use. Although a reduction is anticipated, the emissions from aircraft are still quite significant. For example, aircraft emissions in San Francisco are projected to account for 34 tons/day of reactive hydrocarbons in 1977. Total allowable emissions of reactive hydrocarbons from all sources must be less than 125 tons/day if the national standard for oxidants is to be achieved. This plan will reduce emissions to 198 tons/day without gasoline rationing. Aircraft emissions, therefore, will account for 17 percent of the anticipated emissions in 1977.

The EPA believes that the aircraft industry and airlines should continue to promote and, if possible, accelerate the development of engines with lower emission rates, and investigate the possibility of modifying current in-use aircraft engines to reduce emissions. The EPA will continue to assess the feasibility of such controls, and work closely with the Federal Aviation Administration (FAA).

Further reductions in aircraft emissions beyond those that currently effective Federal regulations will provide may be possible through a variety of means. First, EPA has under study the possibil-

ity of controlling ground operations at major airports in order to reduce emissions from taxiing airplanes (37 FR 26502, December 12, 1972). Second, portions of the legislative history of the Clean Air Act Amendments of 1970 support the position that States, as part of their implementation plans, can both control such ground operations and also limit the number of flights to given airports. A limitation on the number of flights by a local government acting in its proprietary capacity as the owner of an airport would also appear proper. See *City of Burbank v. Lockheed Air Terminal, Inc.*, 93 S. Ct. 1854 (1973).

**Bicycle usage.** America is experiencing an unprecedented boom in bicycle sales and usage. In 1972 bicycles outsold automobiles, 13 million to 11 million. Bicycle use has doubled in the last 10 years, to approximately 80 million users now.

A preliminary analysis by EPA suggests that increased use of bicycles in urban commuting could reduce auto vehicle miles traveled by as much as 3 percent in areas particularly amenable to bicycle travel.

Public comment received concerning bicycle usage indicated a growing enthusiasm for using the bicycle as a form of transportation particularly suitable for use in commuting to park-and-ride facilities (such as BART stations in the San Francisco Bay Area). The major disincentives to cycling are: High accident rates, exposure to auto pollutants, high bicycle theft rates, and insufficient support facilities. The latter problem tends to cause the previous three.

Such problems could be greatly reduced through better support facilities, segregated bikeways and secure parking arrangements. In addition, such facilities would further promote bicycle usage by improving the convenience of this mode of transportation. Indeed, the ultimate development would be to integrate the bicycle mode with mass transit through parking facilities designed to provide a "feeder" function.

Since 1971, the Department of Transportation (DOT) has been the leader in promoting bicycle use. DOT has allowed States to fund bikeways along federally funded roads using trust fund monies.

In terms of new legislation, the most promising development is the latest amendment of the Federal Aid to Highways Act of 1973 (Pub. L. 93-87). The bikeway section of the Act authorizes \$120 million of trust fund monies to be used for bikeway construction over the next 3 years.

The EPA supports vigorous State and local programs providing for the safe and efficient use of bicycles.

**Air quality baseline.** Testimony was received relative to the method of calculating the emission reductions necessary for attainment of the photochemical oxidant standard. In response to that testimony, the EPA has developed a substantiating methodology which validated the amount of emission reductions necessary. A discussion of this method, titled "Methodology for Determining the Base Year Oxidant Level" will be available

shortly from the EPA Region IX office. The resultant calculations based on 3 years (1969-1971) of hourly oxidant data from several locations in each AQCR, showed that the statistically based values varied not more than 0.03 ppm from the maximum values used as the air quality baseline (plus or minus 8 percent). Thus, no substantial change has occurred in the air quality improvement that is necessary. Table 2 compares these statistically based values with the design values used in the plan.

TABLE 2.—COMPARISON OF EXPECTED ANNUAL MAXIMUM 1-HOUR OXIDANT CONCENTRATIONS WITH ACTUAL VALUES USED IN ROLLBACK CALCULATIONS (PPM)

Region	Statistically projected (maximum)	Actually observed (maximum)
Metropolitan Los Angeles...	0.60	0.62
San Francisco Bay Area....	.33	.36
San Diego.....	.30	.32
Sacramento Valley.....	.25	.24
San Joaquin Valley.....	.26	.24

#### GENERAL DISCUSSION OF THIS PROMULGATION

This section of the Preamble discusses the pollution control measures that are being applied generally in this plan, why they were chosen, and the respects in which they differ from the measures in the proposal. The measures are classified under three headings: "Stationary Source Controls", "Hardware Controls for Vehicles", and "VMT Reduction Measures".

#### STATIONARY SOURCE CONTROLS

For a variety of reasons, EPA looked first to the reductions in emissions that might be achieved by further control of stationary sources. The states and EPA have had significant experience in enforcing similar measures. It can be predicted with confidence that none of these measures will cause any noticeable economic or social disruption even though some burden on individuals may result from them.

**Control of degreasing operations.** The control of degreasing operations regulation is changed from the proposed regulation in the July 16, 1973, FEDERAL REGISTER to reflect the need for continued use of certain degreasing solvents. The control approach in this final regulation does not ban any particular degreasing solvent. The regulation instead either requires that the discharge be reduced by 85 percent or else requires that the solvent meet a volume composition requirement; it allows no exemption on the basis of the amount or rate of emissions. This regulation is neither to be construed as allowing any lessening of emission reduction requirements specified in any other EPA or EPA-approved rules, nor as negating certain specified allowances or privileges otherwise allowed in the rules.

**Control of dry cleaning solvent vapor losses.** The control of dry cleaning solvent vapor losses regulation is changed from a similar proposed regulation in the July 16, 1973, FEDERAL REGISTER. The requirements for vapor removal efficiency

and an implementation date now reflect the apparent difficulty encountered in the most likely candidate process for removing the reactive organic vapors encountered in dry cleaning processes. In addition, a volume cut-off point of 4 percent reactive organic material was introduced to allow for tolerances in dry cleaning solvent compositions.

**Gasoline marketing controls.** The gasoline transfer vapor control regulation and the control of evaporative losses from the filling of vehicular tanks regulation were changed from the proposed regulations in the July 16, 1973, FEDERAL REGISTER to reflect more recent technical considerations and also the testimony received at the EPA hearings on the proposed transportation control plan. EPA technical staff has indicated that, because of equipment development problems, a time extension should be given for the installation of systems for the control of evaporative losses from the filling of vehicular tanks; this determination is reflected in the final regulations. It is also EPA's present position not to require the installation of gasoline vapor adsorption or refrigeration-condensation systems because of present equipment development and supply uncertainties. Therefore, the control efficiency in both Sections was lowered from 95 percent to 90 percent, so that the installation of vapor balance or vapor return systems can meet the requirements of this rule in the short-term and more elaborate systems can be installed at a later date. However, it is the opinion of EPA that adsorption and refrigeration-condensation systems will be developed and readily available in the near future, and for this reason, a provision is made that any vapor balance or vapor return system be amendable to add-on retrofit with an adsorption system, refrigeration-condensation system, or equivalent vapor removal system. These more advanced and sophisticated types of vapor removal systems are being developed by industry primarily as a result of stringent gasoline vapor loss control regulations promulgated by San Diego County and by the San Francisco Bay Area Air Pollution Control District. EPA approves and encourages these stringent control regulations and tactics, and supports such vigorous emission control approaches consistent with technology and development considerations.

Testimony was given to EPA that extreme hardship would occur to certain gasoline distributors if small delivery vehicles and certain bulk terminals were required to retrofit with vapor balance or return systems. Taking this into account, EPA has granted an additional year before such retrofit would be required on delivery vehicle compartments that have capacities of 1,000 gallons or less and also certain bulk terminals so that the problem areas can be further analyzed and documented or resolved.

**Organic solvents.** The organic solvent usage regulations and the metal surface coating thinner and reducer composition regulations are modifications of the two proposed organic solvent usage regula-

tions found in the July 16, 1973, FEDERAL REGISTER. The implementation date for the 3,000 pound limit restriction in the organic solvent usage regulations has been extended from 1974 to 1976 to reflect the need for lead time required by industry to comply with this restriction. In the high solids and water base incentive portions of the solvent usage rules, an allowance was granted to qualify for exemption presently installed equipment in which solvent comes into contact with flame. The incentive for the use of high solids materials has been liberalized by raising the allowable organic content from 5 percent to 30 percent; this is then lowered to 20 percent in 1977. Two 8-carbon aromatic hydrocarbons (phenyl acetate and methyl benzoate) were deleted from the photochemically reactive classification, reflecting the results of recent reactivity studies and the guidance presented in the August 14 and November 25, 1971, FEDERAL REGISTERS.

The compliance date for requirements for architectural coatings and their use has been extended to January 1, 1975, to allow suppliers and distributors of these coatings to comply in an orderly manner without severe economic penalties. The special control requirements for metal object surface coatings are no longer in the organic solvent usage regulations, but are now found in a modified form in the section entitled "Metal Surface Coating Thinner and Reducer Composition". This section will result in a significant improvement in organic emissions in metal surface coating operations. Representatives of the paint and coatings industry have expressed a willingness to cooperate in reformulating basic paint compositions so that total solvent composition in the paint, when diluted with solvent thinners and reducers for actual metal surface application purposes, will conform to paragraph (k) of § 52.254 so as to be defined as non-photochemically reactive. After some additional study, EPA expects to propose regulations in the near future to effect a lowering in the reactivity of metal surface coating paint and coatings compositions, after dilution with organic thinners and reducers.

During the course of investigating the use and the effect of certain organic solvent usage rules now in effect in the San Diego, Los Angeles, and San Francisco Regions, which are similar to § 52.254, it appeared that certain parts of § 52.254 deserved reconsideration in terms of eliminating organic emission allowances. This became apparent in terms of a present allowance for uncontrolled organic emissions of up to 40 pounds in any day or 8 pounds in any hour from individual sources. This allowance, for instance, resulted in virtually all automobile body paint refinishing-repair operations neither being required to control emissions nor required to use paints whose compositions meet the non-photochemically reactive composition requirements of § 52.254. EPA will contact the State and local air pollution control districts to elicit comment and further insight into the scope of this general problem, with the goal of proposing additional regula-

tions for the control of stationary source organic emissions.

#### HARDWARE CONTROLS FOR VEHICLE RETROFITS

Comments were received on the feasibility of requiring retrofit emission control devices on existing automobiles. Based on the comments received, the EPA position on retrofits has not changed from the proposed regulations.

Catalytic converters will still be required by 1977 on all light-duty vehicles (which include light-duty trucks) that can run on the octane levels of unleaded gasoline that will be available at that time. Information available to the Administrator indicates that such retrofits are feasible on light-duty trucks and thus a regulation providing for such retrofits is being promulgated.

The California nitrogen oxide, hydrocarbon, and carbon monoxide reduction device program for used cars will be expanded as proposed in the original regulations. Presently available devices basically consist of a controlled vacuum spark advance disconnect. The EPA regulation requires application of the State's present program for 1955 through 1965 model year vehicles to the Sacramento and San Joaquin Regions. The present State program exempts these regions from this retrofit program.

*Inspection/maintenance programs.* Considerable reductions in motor vehicle emissions can be achieved by requiring all vehicles in an area to be tested annually for emissions, failing those emitting pollutants that exceed a certain level, and requiring maintenance on those that fail in order to bring them into compliance. This process is called "inspection and maintenance" throughout this discussion.

Three different types of tests are possible. The car can be tested while running in gear on a treadmill-like device called a "dynamometer" (a "loaded test"); it can be tested while running in neutral (an "idle test"); or certain emission-related engine components can simply be examined to make sure they are in good working order ("parameter" inspection). A loaded test is the most effective and most expensive; parameter inspection is the least effective and least expensive. Since an inspection and maintenance program cannot be expected to achieve maximum effectiveness in reducing emissions unless a loaded test is adopted, EPA is requiring its adoption.

The State of California is proceeding with an inspection/maintenance system that will result in emission reductions. This plan will require that the State's inspection/maintenance system be expanded to require mandatory inspection and maintenance of all light-duty motor vehicles in Regions covered by this proposal. The inspection and maintenance program recently adopted by the State may be applicable to light-duty vehicles only in the Los Angeles Region. EPA has determined that extension of inspection/maintenance program to light-duty trucks is technically and administratively feasible because they are in many respects similar to light-duty vehicles.

*Gaseous fuel usage.* Using compressed natural gas (CNG) and liquefied petroleum gas (LPG) for the fueling of internal combustion engines significantly reduces the emissions those same engines would produce if gasoline powered. The EPA encourages the use of gaseous fuel, particularly LPG, for fleet vehicles.

The Agency believes that those automobiles unable to run on unleaded gasoline and, therefore, unable to be retrofitted with catalyst exhaust systems, should possibly be converted to gaseous fuels. Because of the distribution problems and the anticipated effectiveness of catalytic mufflers, however, the Agency is not requiring gaseous fuel conversion. Nevertheless, those fleet owners and individual auto owners who have installed such conversion systems before the effective date of the catalyst retrofit program will be exempt from the requirements of that program.

Transit agencies should consider the advantages of gaseous fueling of buses rather than either gasoline or diesel power systems, prior to the purchase of these vehicles.

#### VMT REDUCTION MEASURES

*Motorcycle controls.* In the July 16, 1973, proposal, regulations were included that would have restricted 2-stroke motorcycle operation during the "smog season" in California. This action was taken due to the very high pollution potential of the 2-stroke motorcycle. The average 2-stroke motorcycle emits approximately 31 times as much exhaust hydrocarbons per mile as a new California 1975 automobile will emit. Consequently, prevention of increases in the number of motorcycles was proposed to prevent counter-productive shifts from automobiles to motorcycles as a result of other elements of the control strategy. The Agency has evaluated the feasibility of establishing emission standards for new motorcycles and is currently evaluating the availability of motorcycle emission control technology for existing motorcycles to reduce emissions.

Based upon testimony presented by motorcycle manufacturers, testimony presented by motorcycle trade associations, and an independent analysis by the Environmental Protection Agency, it appears that significant reductions in the emissions from new motorcycles can be achieved.

Accordingly, the EPA is no longer requiring an unconditional ban on motorcycle operations. Instead, the ban regulation has been rewritten to provide that it will not go into effect in the event that nationally applicable Federal regulations are promulgated that require at least a 50 percent reduction of 2-stroke motorcycle hydrocarbon emissions by 1976 and conformity with the 1976 hydrocarbon automobile standards by 1979 for both 2-stroke and 4-stroke vehicles. Significant reductions for carbon monoxide will also be required.

The Administrator will soon issue an Advance Notice of Proposed Rulemaking for emission standards for new motorcycles.

*Bus and carpool lanes.* The original proposal for the establishment of bus and carpool lanes has been retained in substance. However, the method of selecting the lanes has been changed from one based on the number of lanes in the road to one looking to the establishment of a coherent network of such lanes along transportation corridors. In some regions, pilot programs will be conducted to discover the best way to implement a full-scale program. EPA recognizes that, in some cases, measures such as freeway metering or the conversion of entire streets to bus and carpool use may prove preferable to such lanes. In every case, however, the establishment of bus/carpool lanes will proceed on the schedule specified unless and until other measures of equivalent stringency can be substituted for them.

*Parking management program.* The proposal for review of new commercial parking facilities has been retained in essence. It has been modified, however, to allow a wider range of variables to be considered. In essence, the regulation promulgated today would require the obtaining of a permit before commencing the construction of any facility of 50 or more spaces. A permit will only be granted after it is determined that the parking facility will not have an effect inconsistent with a plan's VMT reduction goals or cause a violation of any ambient air quality standard.

The promulgated regulations will encourage as an alternative to one-by-one review of new facilities that the appropriate local government submit to the Administrator a plan outlining the locally planned management of parking facilities for the next 5 years. If a submittal is made that shows to the satisfaction of the EPA that such planned parking management does not conflict with the California State Implementation Plan, the EPA will no longer review each proposed new parking facility individually. Such review by either the State or EPA will be consistent with the previously discussed indirect sources regulations.

*Control of existing parking spaces; surcharge on parking.* The proposal that spaces in public parking facilities be reduced by 20 percent drew almost universal adverse comment during this rule-making proceeding. At the same time, the use of regulatory fees to discourage pollution-causing activities was widely supported. In particular the use of fees to control parking was mentioned.

EPA also believes that the use of such parking fees has much to recommend as a matter of policy. Accordingly, EPA is not promulgating a reduction in publicly owned parking spaces and is instead promulgating a regulatory fee to increase the price of parking in the three most heavily polluted AQCR's. Both the regulation's graphic coverage and the amount of the surcharge will be increased in three phases. At least 50 percent of the revenues will be used for mass transit.

In addition, testimony at the public hearings pointed out that the provision of parking spaces by employers for their employees tends to encourage employees

to drive to their place of employment rather than use carpools or mass transit. Such employers may therefore be regulated as "indirect sources" of air pollution as that term is defined in the General Preamble. At the same time, individual employers are particularly well equipped to establish and administer programs to reduce the dependence of their employees on the single-passenger automobile. Accordingly, as a further replacement for the proposed reduction in public parking spaces, a regulation is being promulgated that provides for employer-paid mass transit fares and special parking privileges to those who travel by carpool. It also provides for a surcharge over and above the commercial parking rate to be assessed on those who continue to commute by single-passenger automobile. The revenues from this surcharge will be used by each employer to promote use of mass transit.

This regulation will be implemented in stages, the first stage applicable to employers who provide more than 700 employee parking spaces, and the second to those who provide more than 70.

The purpose of this regulation is to effect sizeable reductions in VMT caused by commuting, which appears to be the mode of travel most easily diverted to mass transit and carpools.

This regulation also contains a provision restricting the enforcement of local zoning or land-use laws that require an employer to provide a given number of parking spaces for a given number of employees.

EPA was reluctant to interfere with local land-use decisions even to the limited extent that today's regulations provide. However, in light of the relationship among parking spaces, vehicle miles traveled, and air quality, a requirement that employers must provide a certain number of parking spaces could not be squared with the objectives of the Clean Air Act.

It should be emphasized, however, that the Agency recognizes that many aspects of the surcharge and employer incentive regulations are new and indeed unprecedented. They are being promulgated because of the requirement of the court order that all measures necessary to move towards the standards be included in the plans as promulgated. Even though promulgation was necessary to make these regulations legally effective, the Agency particularly invites public comment on them during the next 30 days. At the conclusion of that period, and after comments have been evaluated, the regulations will be revised if revision is appropriate in the light of the comments.

EPA also recommends that local jurisdictions consider whether present legal requirements unduly hamper shifts away from the present dependence on automobiles. Regulations such as those which require that any bus service obtain a certificate of public convenience and necessity before commencing operations may significantly discourage increased public transit service.

**Carpooling systems.** In all Regions, EPA is requiring the establishment of carpool matching systems to enable persons with similar daily travel patterns to make contact with each other and arrange carpools. In some regions, pilot programs will be established prior to establishment of the system throughout the region. Such a measure is necessary if the restraints on individual vehicle use contained in this plan are to have the desired effect of reducing VMT.

The EPA Regional Office in San Francisco has contacted various Federal agencies in order to facilitate the implementation of the pilot programs called for in the regulation. The Regional Office has experienced initial success in its first contacts, and this effort is continuing. A detailed guide for the operation of a bus/carpool matching program, along with a discussion of a number of successful programs in operation in many areas of the country are discussed in a U.S. Department of Transportation Federal Highway Administration Publication "Carpool and Buspool Matching Guide (Second Edition)", May 1973. This report discusses the considerations involved in a successful program such as public information, incentives, data processing, and a continuing updating of the service, and is an excellent guide and reference for conducting such a program.

The EPA believes that this approach to reducing vehicle miles traveled is an excellent short-term strategy. It involves a minimum investment and deserves the active promotion and support of government and industry.

**Gasoline limitations.** As noted above, the Clean Air Act leaves the Administrator no alternative to promulgating all measures necessary to meet the standards by 1977. Accordingly, the plan also contains a provision for reducing the supply of gasoline to the extent necessary to ensure attainment of the standards by that date. Such a measure, if implemented, would achieve the air quality standards. However, the EPA does not believe that massive gasoline rationing is either socially acceptable or enforceable, and will work toward alleviating the necessity for such drastic control in 1977.

**State, local, and Federal implementation of control measures.** In order to preserve the intent of the Clean Air Act that pollution problems be dealt with primarily at the local level, the Agency is requiring that State and local governments take action wherever possible and will involve the Federal Government only in the direct implementation of some programs. State and/or locally enforced, Federally promulgated requirements include: Retrofit programs; parking surcharge; bus and carpool lanes; and inspection and maintenance. Federally operated programs will be: motor-cycle controls, gasoline limitations, and a bus/carpool incentive regulation directed at major employers.

#### STATE AND REGIONAL RESPONSIBILITIES

The State of California has recently redesignated some of the responsibilities of the California Air Resources Board (ARB). The ARB has the responsibility of developing and submitting implementation plans to achieve State and Federal air quality standards. When these plans require transportation controls that are not hardware devices, the California Department of Transportation (Cal/Trans) is responsible for the planning and development of these transportation control measures. The California Department of Transportation has informed EPA that it will submit alternative transportation plans for each AQCR based on the findings of State and local task forces.

**State/local task forces.** State/local task forces were formed in all AQCRs covered by this promulgation to develop alternatives to the EPA-proposed control measures, with the goal of developing draft plans by mid-October, 1973. Meetings were held between each task force and EPA representatives to discuss potential alternatives for inclusion in the EPA control plan promulgated for each AQCR. Although the EPA promulgations are not wholly comprised of recommendations of the task forces, EPA hopes that they reflect reasonable and locally acceptable measures to improve air quality in each AQCR. EPA also hopes that the recommended alternative plans being developed by the task forces later this fall will be approvable by EPA and will allow EPA to rescind its regulations.

The membership of the task forces follows:

**Los Angeles.** District VII Cal/Trans, California Air Resources Board, City and County of Los Angeles, California Highway Patrol, Southern California Association of Governments, Los Angeles County Air Pollution Control District, Southern California Rapid Transit District, South Coast Air Basin Coordinating Council, and the League of California Cities.

**San Francisco.** District IV Cal/Trans, California Air Resources Board, San Francisco Bay Area Metropolitan Transportation Commission, Association of Bay Area Governments, and the Bay Area Air Pollution Control District.

**San Diego.** District XI Cal/Trans, California Air Resources Board, San Diego Comprehensive Planning Organization (CPO), San Diego County Office of Environmental Management, San Diego County Air Pollution Control District, City of San Diego, the San Diego Unified Port District, and San Diego Transit Corporation.

**San Joaquin Valley.** Cal/Trans, California Air Resources Board, Regional Fresno Community Council, local transit officials, and county, city, and governmental bodies, including the Fresno County Air Pollution Control District.

**Sacramento Valley.** Cal/Trans, California Air Resources Board; Sacramento Regional Area Planning Commission, Sacramento and Yolo Solano Air Pollution Districts, county, city, and regional governmental bodies, and Sacramento Regional Transit District.

#### SOCIAL AND ECONOMIC IMPACT OF THE CONTROLS

A full analysis of the social and economic effects of the transportation con-

trol plans has not been made, because of the lack of time and because of the innate complexity of the problem. Many factors, such as the willingness of the public to use mass transit instead of the automobile for some trips, cannot be predicted. However, preliminary analysis has outlined some general trends and impacts.

The impact of stationary source controls is most easily predictable. Where manufacturing and marketing of certain goods and services require control devices or new distribution techniques, the cost of the devices and techniques will probably be passed on to the consumer. The requirements for vapor recovery in gasoline marketing will likely result in conservation of energy since gasoline, which previously was lost as vapor, will be recovered and used.

The program requiring inspection and mandatory maintenance of light-duty vehicles will involve two kinds of costs: (1) An inspection fee of about \$2 for all vehicle owners; and (2) the cost of the required maintenance for vehicles failing the inspection, about \$20 to \$30. These costs are low, but they may fall most heavily on the owners of older cars, and these tend to be from the lower income groups. The cost of retrofit devices will vary according to the device required. Vacuum spark advance disconnect (VSAD) and exhaust as recirculation devices can be purchased and installed for \$20 to \$35, and an oxidizing catalyst will cost approximately \$150. Again, the cost of retrofit devices will fall most heavily on the lower income groups, since they tend to own older, less-controlled automobiles. The cost of both inspection/maintenance and retrofit can be subsidized by State or local government through systems of taxing or fees. In the absence of subsidies or other relief, lower income groups will bear a disproportionate part of the burden of these costs.

Many control measures are designed to provide incentives for the use of mass transit. Preferential treatment of buses and carpools on freeways and city streets, incentives to employees to use mass transit, financing for mass transit, and management of parking facilities should make the use of buses and carpools more easy and attractive. This would result in a more balanced system of transportation, available to the entire public. It will necessarily cause some inconvenience and delay in the driving of private automobiles until the public shifts some trips from automobiles to mass transit. Increased ridership has been found to be a vital factor in improved bus service, and it is hoped that the regulations promoting the use of mass transit will lead to an improved system, which in turn is even more attractive. Improvements in public transportation will most benefit the poor, the old, and the young, so-called "captive" riders, although commuters should also benefit from preferential treatment of buses and carpools on highways and city streets. Improved public transit may also uncover and serve a latent trip demand in the present users of public transit.

It is also important to reiterate that the enforcement of the transportation control regulations will remove the present and future danger to public health from photochemical smog and carbon monoxide. This will result in better health among the affected population, greater human productivity because of elimination of some sick-days, and protection of the health of marginal groups.

*Study of social and economic impact on San Diego AQCR.* EPA has recently contracted the firm of Peat, Marwick, Mitchell, and Company of Washington, D.C., to conduct an initial socioeconomic impact study of the EPA-promulgated regulations for the San Diego Air Quality Control Region. The study will assess in particular the several transportation control measures initially promulgated and then project the socioeconomic effects of such controls if extended into additional phases. In addition to providing specific information on the San Diego plan, this study should provide a systematic methodology for assessing socioeconomic impacts in the other metropolitan areas of the country requiring transportation controls to meet air quality standards. Subcontractor support will be provided by the San Diego Comprehensive Planning Organization (CPO). In addition to CPO, coordination and technical review will be provided by the San Diego County Office of Environmental Management and the San Diego County Air Pollution Control District.

*Public information grants.* EPA realizes that no control program can work without public understanding and public support. The Agency is most anxious that the public be aware of the real public health need for transportation controls, and aware of the alternatives to the private automobile. It also desires strongly that the public have readily available routes of communication to EPA, and that they present their criticism, suggestions, and desires.

Besides its normal public affairs activities, publications, and contacts with groups and individuals, EPA is sponsoring a special public information campaign on the transportation controls. In this campaign, local community-based and civic groups will provide the public with information on the controls themselves, on the options communities have to ease the impact of and the need for the controls, and on the alternatives to the automobile, particularly mass transit. The local groups will work through both the media and through community meetings and involvement.

Those interested in obtaining information from these groups or participating in their efforts should contact the following groups:

- Fresno: The Fresno Community Council, 208 Crocker Citizen's Bank Building, Fresno, Calif. 93721.
- Los Angeles: The Clean Air Constituency, 1670 Beverly Boulevard, Los Angeles, Calif. 90026.
- Sacramento: The League of Women Voters, 3140 "J" Street, Sacramento, Calif. 95816.
- San Diego: Integrated Regional Environmental Management, 1600 Pacific Highway, San Diego, Calif. 92101.

San Francisco: The League of Women Voters, Hotel Claremont, Berkeley, Calif. 94705.

#### SOUTHEAST DESERT INTRASTATE AIR QUALITY CONTROL REGION CONTROL STRATEGY

The Southeast Desert Intrastate Region, also known as the Southeast Desert Air Basin, is located in the southeast portion of the State of California. It is composed of all of Imperial County, the eastern portions of San Bernardino, Riverside, Kern, and San Diego Counties, and the northern portions of Los Angeles County. Geographically, this Region covers 33,600 square miles and is separated from the coastal regions by a series of mountain ranges. Elevations vary from 235 feet below sea level to 11,000 feet above sea level.

Air quality monitoring stations in the Region and in particular those in the Coachella Valley have recorded photochemical oxidant levels up to five times the national ambient air quality standards. The overall 1971 maximum readings in the Region are 0.38 part per million oxidants (recorded in Palm Springs) and 17 parts per million carbon monoxide (recorded in Indio). Using simple rollback and assuming a linear relationship between reactive hydrocarbons and oxidant concentrations, the reductions required to achieve the national standards are 70 percent of the reactive hydrocarbons and 47 percent of the carbon monoxide.

Significant data support the hypothesis that air pollution from the Metropolitan Los Angeles Intrastate Region is transported to and contributes substantially to high oxidant levels in the desert areas east of Los Angeles. It is expected that the emission controls proposed by the Administrator for the Metropolitan Los Angeles Region, in addition to State and local emission controls, will provide for attainment of the carbon monoxide and photochemical oxidant standards in the Southeast Desert Region by May 31, 1977. Any delay experienced in attaining the oxidant and carbon monoxide standards in the Los Angeles Region will cause a corresponding delay in attainment of the standards in the Southeast Desert Region.

A discussion of studies relating the air quality in the Southeast Desert Region to that in the Los Angeles Region can be found in "Air Quality Implementation Plan Development for Critical California Air Quality Control Regions: Summary Report," prepared under contract for the Environmental Protection Agency and available from the EPA Region IX office at 100 California Street, San Francisco, California 94111.

Because of the dependence of air quality in the Southeast Desert Region upon that in the Los Angeles Region, and because of the very small impact that emissions in the Southeast Desert Region have upon air quality there, no transportation controls are promulgated for this Region at present.

**METROPOLITAN LOS ANGELES INTRASTATE AIR QUALITY CONTROL REGION CONTROL STRATEGY**

The Metropolitan Los Angeles Air Quality Control Region, also known as the South Coast Air Basin, covers a major portion of Southern California, encompassing all of Orange and Ventura Counties, the western portion of Riverside County, the southwest portion of San Bernardino County, the southern coastal portion of Santa Barbara County, and all but the northeastern corner of Los Angeles County. The air quality problems of the region are, in many ways, unique. The region is geographically and meteorologically closed. The encircling mountains and frequent inversions, hold in pollutants, and the Southern California climate provides ample sunshine to aid the formation of photochemical smog. The automobile is by far the dominant mode of transportation. In 1972 the South Coast Air Basin contained over 10 million persons and nearly 6 million motor vehicles.

This extremely high automobile population is combined with a low-density, sprawling pattern of development that distributes the population over the entire area of the basin, linked by a complex network of freeways. Moreover, the area is still growing. The current rate of population growth is now a 1.7 percent increase per year. However, the automobile population grows more rapidly, at 3 percent to 4 percent per year, and gasoline consumption grows even more quickly, at 4.5 percent per year.

This AQCR has the worst photochemical oxidant problem in the United States. In 1970, the national standard for photochemical oxidant was exceeded on over 250 days in the South Coast Basin. The high reading in the Basin was over 7 times the national standard, and during 1970 a full 10 percent of the oxidant readings taken in the Basin were 0.40 ppm (five times the national standard) or higher.

In 1970, a high reading for photochemical oxidants of 0.62 ppm was taken at Riverside, and this reading is being used for air planning purposes.

Testimony was received that was critical of the procedures that EPA employed in selecting the maximum 1-hour reading for use in the rollback calculations. In response, EPA evaluated 3 years of air quality data at several locations within the South Coast Intra-state AQCR and found that the statistically evaluated maximum 1-hour value was 0.60 ppm. This value was only 0.02 ppm different from the value used to calculate the emissions reductions tabulated in the original proposal, and therefore has little or no effect on the VMT reductions required. A high carbon monoxide 8-hour average reading of 41 ppm was taken in 1970, and that reading is being used for air planning purposes. The overwhelming majority of the hydrocarbon and carbon monoxide emissions in the Basin are from motor vehicles. Besides stringent controls on stationary sources and requirements for emission controls on motor vehicles, a

reduction in vehicle miles traveled (VMT) by the entire population of automobiles will be necessary to meet the oxidant standard in 1977. It should be pointed out that EPA estimates that some of the emission control strategies for motor vehicles, e.g., installation of catalytic mufflers, cannot be fully carried out before 1977.

*Discussion of final EPA control strategy for metropolitan Los Angeles AQCR.* The control strategy for the Los Angeles Region consists of various stationary and mobile source controls. Many of the stationary source controls are the same or slightly modified versions of the regulations proposed in the July 2, 1973, FEDERAL REGISTER. The transportation control measures have been modified considerably. The measures reflect testimony received at the August 9-10, 1973, public hearings in Los Angeles and written comments received on the plan. Additionally, various State and/or locally implemented controls are noted as part of the total strategy, but not claimed as part of the EPA plan reductions. EPA will carefully assess the reductions in VMT and improvements in air quality obtained from the various strategies and control regulations, and recommend additional or revised strategies as needed.

The requirements for bus/carpool lanes and review of parking facilities are also being promulgated essentially as proposed, although significant changes in form have been made. Approximately 184 miles of traffic lanes, in two phases, will eventually be set aside for buses and carpools under this promulgation. Measures to require employers to discourage commuting by single-passenger automobiles, and to require the establishment of a regional carpooling system, have been added. The proposal for a reduction in public parking spaces has been dropped, and a regulatory fee to increase the price of parking has been added. The provision for gasoline limitations prior to 1977 has been eliminated. The ban on motorcycles during the smog season will not take effect as promulgated if emission standards for new motorcycles are established.

As an initial phase, some 65 miles on 3 freeway corridors have been designed for establishment of exclusive bus and carpool lanes, and another 12 miles of surface streets have been designated for the same purpose. The choice of specific routes was made at the recommendation of the Los Angeles Task Force and other testimony received at the public hearing, discussed earlier.

The proposal to require a bus/carpool computer matching and promotion system by March, 1974, has been modified to require a phased computer matching program that will initially involve employees in the Los Angeles City CBD and eventually expand to include all employees in the Region.

The control tactics (including such details as the emission control reduction factors and the population fraction affected by the tactics), and other data needed to calculate the emission inventory outlined in Table 3 are outlined or referenced in the appendix of the Tech-

nical Support Document for the Metropolitan Los Angeles Intra-state Air Quality Regional Transportation Control Plan—Final Promulgation, available from the EPA, Region IX Office at 100 California Street, San Francisco, California 94111, and at the Freedom of Information Center, EPA, 401 M Street SW., Washington D.C. 20460.

Many of the measures EPA and the local task force have designed to reduce VMT are untried. EPA has gathered the available data and has funded several studies and analyses of the VMT reductions possible from various transportation control; based upon the available data, EPA has made rough estimates of the VMT reductions that can reasonably be expected from the EPA and local measures. The EPA strategy for the Metropolitan Los Angeles AQCR should yield reductions of between 14 and 31 percent. (These and subsequent calculations can be found in the Technical Support Document, available at the Region IX and Washington offices specified above.) It should be noted that EPA has promulgated many of the local measures and therefore the 14 to 31 percent VMT reduction reflects these task force measures. An additional VMT reduction of 3 to 12 percent would result from other task force recommended measures. Based on present data, the remaining VMT reduction can only be achieved by means such as gas rationing.

TABLE 3.—SUMMARY OF IMPACT OF CONTROL STRATEGIES IN THE LOS ANGELES AQCR IN 1977

Emission source and control measures	Emissions and reductions of RHC, ton/day	Percent reduction per measure
Stationary source emissions in 1977 without proposed control strategy	236	
Expected reductions:		
1. Vapor recovery at gasoline stations	-132	18.0
2. Dry cleaning solvent controls and degreasing solvent controls	-32	4.3
Stationary emissions remaining	72	
Mobile source emissions in 1977 without proposed control strategy	613	
Expected reductions:		
1. Reductions from only EPA-promulgated VMT control strategies assuming a 14% VMT reduction <sup>1</sup>	-61	8.3
2. Catalyst retrofit, and mandatory inspection and maintenance	-103	14.0
3. Motorcycle limitations	-24	3.3
4. VMT reductions and evaporative emission reductions necessary from additional control strategies to be implemented in 1977	-354	52.1
Mobile emissions remaining	41	
Total emissions remaining	113	
Total emissions allowable <sup>2</sup>	113	

<sup>1</sup> Using optimistic assumptions and estimations of both EPA and local VMT reduction measures, a total reduction of 43 percent VMT, or 187 tons/day could occur.

<sup>2</sup> Based on the "Schnuck Model" which is described in the "Los Angeles Technical Support Document."

*Locally implemented controls.* A task force, discussed elsewhere in this preamble, was formed in the Los Angeles area to develop alternatives to the EPA plan. The task force has since made several preliminary recommendations for

local actions that could reduce emissions both by developing a better, more widely used public transportation system, and by smoothing and speeding the flow of automobile traffic. The Task Force report states that a long-range and a short-range plan to expand public transit services and facilities are being drawn up now by member agencies of the task force. EPA supports the goals of these plans: To provide an alternate form of transportation to absorb trips diverted from the automobile, and to develop a more balanced transportation system in the South Coast Basin. We expect to cooperate closely with the task force members in drawing up these plans.

The task force recommended a series of measures to speed the flow of traffic and avoid the bottlenecks and stop-and-go driving that are both polluting and wasteful of energy. These measures include: Automated and interconnected traffic signals; freeway ramp metering; expanded fringe park-and-ride facilities; and other traffic flow improvements. The task force believes these systems can speed traffic, cut emissions, and conserve energy.

The task force recommendations have not been adopted as enforceable regulations and submitted to EPA as part of the California Air Quality Standards and Implementation Plan. However, EPA encourages the adoption submission of these recommendations as part of the State plan.

#### SACRAMENTO VALLEY INTRASTATE AIR QUALITY CONTROL REGION CONTROL STRATEGY

The Sacramento Valley Intrastate Air Quality Control Region, also known as the Sacramento Valley Air Basin, lies in the center of Northern California, bounded on the west by the Coast Range, on the north and east by the Cascade Range and the Sierra-Nevada Range, and on the south by the San Joaquin Valley. This region is composed of portions of 15 counties. The Region contains approximately 21,300 square miles, 1.2 million people, and 840,000 motor vehicles. Air pollution control in the Region falls under the jurisdiction of the local air pollution control districts. As in the rest of the State, the local and regional organizations deal primarily with stationary source controls, leaving mobile source controls to the California Air Resources Board.

During the period 1970 to 1972, the Sacramento Valley Region experienced numerous violations of both Federal and State air quality standards. Photochemical oxidants are the predominant problem, and it appears from the limited data evaluated that the problem has increased in recent years, both in number of violations that occur and the maximum oxidant level experienced. Based on the highest or base year 1-hour maximum oxidant reading of 0.28 ppm during 1972 in Sacramento and using the proportional rollback model, a 71 percent reduction in reactive hydrocarbon emissions from 1972 base year emission levels would be required to meet the national

ambient air quality standard for oxidants. (The maximum oxidant reading used was evaluated by the method described earlier in the Metropolitan Los Angeles preamble, and was found to be substantially correct).

Since the air quality levels are most severe in the southern portion of the Region, centering around Sacramento County, it appears appropriate to attempt to solve the airshed problem by developing a control strategy specifically for Sacramento County and the three counties in its immediate vicinity (Yolo, Placer, and El Dorado). In the Sacramento Valley and also the San Joaquin Valley, vast areas are sparsely populated but others are highly urbanized and have high emission densities in comparison with the rural areas. Thus, most transportation control strategies are limited to these urbanized areas.

Table 4 summarizes the effects of the promulgated control strategies.

TABLE 4.—SUMMARY OF IMPACT OF CONTROL STRATEGIES IN SACRAMENTO "REGIONAL AREA" IN 1977

Source of pollutant and control measures	Emissions and reductions tons/day of reactive hydrocarbons	Percent reductions per measure
Stationary source emissions in 1977 without control strategy.	40.6	-----
Expected reductions:		
1. Gasoline marketing vapor recovery	-26.0	43.0
2. Surface coating improvements	-1.1	1.6
3. Dry-cleaning controls	-0.7	1.2
4. Degreasing controls	-1.9	3.2
5. State limitations on burning	-2.1	3.4
Stationary emissions remaining	8.8	-----
Mobile source emissions in 1977 without proposed control strategy	54.1	-----
Expected reductions:		
1. Reductions from only EPA-promulgated VMT control strategies assuming a 5 percent VMT reduction <sup>1</sup>	-1.7	2.7
2. Catalyst retrofit, mandatory inspection/maintenance program, and vacuum spark advance program	-9.0	6.2
3. Motorcycle emission regulations	-2.0	3.3
4. VMT reductions necessary from additional control strategies to be implemented in 1977	-15.3	25.4
Mobile emissions remaining	25.2	-----
Total emissions remaining	34.0	-----
Allowable emissions to attain standards for photochemical oxidants <sup>2</sup>	34.5	-----

<sup>1</sup> Using optimistic assumptions and estimations of both EPA and local VMT reduction measures, a total reduction of 27 percent VMT, or 9.2 tons/day could occur.

<sup>2</sup> Based on linear rollback model.

VMT will have to be reduced by 64 percent if the national ambient air quality standard for photochemical oxidants is to be attained by 1977 in the Sacramento Valley Region.

Based upon the available data, EPA has made rough estimates of the VMT reductions that can reasonably be expected from the EPA and the local measures. The EPA strategy for the Sacramento Valley Intrastate AQCR should yield reductions of between 45 and 14

percent; the local measures should provide an additional 4 to 13 percent improvement in air quality. It should be noted that EPA has promulgated many of the locally supported measures, and therefore the 5 to 14 percent VMT reduction includes the effects of these measures. An additional VMT reduction of 4 to 13 percent could result from additional locally implemented measures. Based on present data, the remaining reduction needed can only be achieved through more stringent measures, such as gasoline rationing, in 1977.

*Discussion of final EPA control strategy for the Sacramento Valley.* The control strategy for the Sacramento Valley Region consists of various stationary and mobile source controls designed to reach the photochemical oxidant standard by 1977. Many of the stationary source controls are the same, or slightly modified versions, of the regulations proposed on July 16, 1973. The transportation control measures have been modified considerably. Each of the regulations promulgated or approved is considered to be enforceable by the Agency.

The measures reflect testimony received at the August 10, 1973 public hearing in Sacramento and written comments received on the plan. Additionally, various State and/or locally implemented controls are noted as part of the total strategy to achieve the standard by 1977. EPA will carefully assess the reduction in VMT and improvements in air quality obtained from the various strategies and control regulations, and recommend additional strategies as needed between now and the 1977 legal attainment date.

The proposal to achieve a bus/carpool computer matching and promotion system by March of 1974 has been modified to require that such a system be initially established at McClellan Air Force Base in Sacramento. Upon evaluation, the system will be expanded throughout the portions of the Regions.

A "Mass Transit Priority and Planning" regulation for a four-county portion of the Sacramento Valley Region has been added to the control plan. The Sacramento Regional Area Planning Commission (SRAPC) July 1972 report "Transit Plan and Program", states that the Sacramento City "J" Street bus and traffic situation justified bus priority treatment. In addition, SRAPC reports and discussions at the meetings between EPA and the Task Force indicate that there is a near term potential for mass transit priority treatment (e.g. U.S. 99 through Southern Sacramento). As a result, EPA has promulgated final regulations calling for specific action in the "J" Street situation, and a general action outline plan for mass transit priority treatment on streets and freeways.

Surcharges on public and private parking have not been imposed in the urbanized portions of the Sacramento Valley Region as they have in San Francisco, San Diego, and Los Angeles. However, the use of such a surcharge to raise revenues for mass transit is being considered by the Administrator, and written com-

ment on this point is particularly invited.

**Locally implemented strategies.** The public hearing testimony, written comments, and the Sacramento Task Force indicated a wide variety of measures that could best be carried out on the local or State level. The EPA plan notes these measures as being applicable toward attainment of the oxidant standard and will encourage their implementation, although the reductions are not credited as part of the EPA plan. Furthermore, EPA will evaluate progress and success in the implementation of these and similar measures and if found necessary, promulgate additional measures to supplement them. Many of these measures will likely be contained in the anticipated revisions to the State Implementation Plan as a result of the Cal/Trans task force findings.

Major improvements to the mass transit system in Sacramento have occurred during the past year and are expected to be expanded as additional funds become available for these purposes.

A meeting between EPA and the transportation task force officials confirmed that the Sacramento Regional Transit District had initiated and is in the process of implementing an innovative and aggressive transit program. It is expected that the State of California Department of Transportation vehicle miles traveled reduction plan to be submitted to EPA will further define this program, and will allow EPA to monitor and evaluate the progress of future public mass transit program implementation, including the present and estimated future financial commitment to mass transit. The Sacramento Regional Transit District initiated a 25¢ flat fare recently, and bus ridership has dramatically increased since that time. Express bus routes to outlying areas of the metropolitan area were established in the past year and several more will be in operation by the end of 1977. Fringe parking lots have been established and are being expanded along these routes as well as at major regional shopping centers. There are plans to place bicycle protection facilities at these fringe parking lots to allow nearby residents to bicycle to the bus stops. Bikeways are very extensive in the Sacramento area due to the flat terrain. Ridership incentive programs are being planned through an extensive public information program. Dial-A-Bus and subscription bus service will also be carefully examined. An area being seriously examined for applicability of special bus service is the route between the University of California campus at Davis and certain residential areas in the city of Sacramento, 18 miles away.

Various traffic flow improvement programs are also underway or proposed for the next 4 years in the Sacramento Region. These include a synchronized traffic signal system for major arterials, easing of traffic bottlenecks, and additional ramp metering.

A final measure that will likely be the subject of further consideration and experimentation in the next few years will be the variation of the work week to four 10-hour days, and other combinations to determine the effects of the variations on air quality and VMT. Governmental agencies will be early candidates for this program.

#### SAN JOAQUIN VALLEY INTRASTATE AIR QUALITY CONTROL REGION CONTROL STRATEGY

The San Joaquin Valley Intra-state Region, also known as the San Joaquin Air Basin, consists of all of the counties of Amador, Calaveras, Fresno, Kings, Madera, Mariposa, Merced, San Joaquin, Stanislaus, Tulare, and Tuolumne, and the western portion of Kern County. This Region lies in the southern portion of the Central Valley and extends into the neighboring mountain slopes. It is bounded on the west by the Coastal Range, on the east and south by the Sierra-Nevada and Tehachapi Mountains, respectively, and on the north by the Sacramento Valley Intra-state Region. The Region includes 30,200 square miles of land area and had a population of over 1.6 million people in 1970. Population is growing rapidly. Although it contains 19 percent of the State's land area, the Region has only 8 percent of the State's population. National ambient air quality standards have been exceeded in seven locations in the San Joaquin Valley Region: Stockton, Fresno, Bakersfield, Modesto, Visalia, Parlier, and Five Points. The highest or base year 1-hour maximum oxidant value of .24 ppm occurred in the Region in 1971 at Modesto. The base year maximum oxidant reading used was statistically evaluated by the method described earlier in the Metropolitan Los Angeles preamble, and was found to be substantially correct. Each of the areas surrounding the cities has unique characteristics with regard to air quality, meteorology, stationary sources, population distribution, and transportation; the transportation control strategy proposed herein recognizes this fact. A thorough analysis was made on Kern County (Bakersfield), Fresno County (Fresno), and San Joaquin County (Stockton). Insufficient data exist for adequate analyses of Parlier and Five Points (both in Fresno County and Modesto), but it is expected that the proposed transportation controls as applied to Fresno, Bakersfield, and Stockton areas will be adequate for attainment of the national ambient air quality standard for photochemical oxidants in these other locations as well.

Using the proportional rollback model, reductions in base year emission levels of reactive hydrocarbons of up to 67 percent (for Modesto) will be required in various counties in the Region in order to meet the air quality standards.

As an example, Table 5 shows the approximate effect that the control strategies will have in Kern County.

A 39 percent reduction in VMT is necessary by 1977 for attainment of the

standards in Kern County. In Stanislaus County a similar situation exists with a corresponding need for VMT reduction. In Fresno County, present studies indicate that a 16 percent VMT reduction by 1975 would provide for attainment of the standards. In San Joaquin County, a 32 percent VMT reduction is necessary in 1975 for attainment of the standards, but only 8 percent in 1977.

TABLE 5.—SUMMARY OF IMPACT OF CONTROL STRATEGIES IN KERN COUNTY PORTION OF SAN JOAQUIN VALLEY REGION IN 1977

Sources and control measures	Emissions and reductions of reactive hydrocarbons, tons/day	Percent reductions per measure
Stationary source emissions in 1977 without proposed control strategy	11.3	
Expected reductions:		
1. Vapor recovery at gasoline stations	-5.8	37.2
2. Surface coating restrictions, drycleaning controls, and degreasing controls	-0.7	4.5
Stationary source emissions remaining	4.8	
Mobile source emissions in 1977 without the proposed control strategy	21.4	
Expected reductions:		
1. Reductions from only EPA promulgated VMT control strategies assuming a 4 percent VMT reduction <sup>1</sup>	-6	3.8
2. Catalyst retrofit, expansion of State nitrogen oxides program, and mandatory inspection and maintenance	-4.0	25.6
3. Motorcycle emission regulations	-.8	5.1
4. VMT reductions necessary from additional control strategies to be implemented in 1977	-3.7	23.8
Mobile emissions remaining	12.5	
Total emissions remaining	17.3	
Allowable emissions for attainment of standards for photochemical oxidants <sup>2</sup>	17.2	

<sup>1</sup> Using optimistic assumptions and estimations of both EPA and local VMT reduction measures, a total reduction of 24 percent, or 3.6 tons/day could occur.

<sup>2</sup> Based on linear rollback model.

Based upon the available data, EPA made rough estimates of the VMT reductions that can reasonably be expected from the EPA and the local measures. The EPA strategy for the San Joaquin Valley Intra-state AQCR should yield reductions of between 4 and 13 percent; the local measures should provide an additional 3 to 11 percent reduction in VMT. Based on present data the remaining VMT reduction can only be achieved through more stringent means such as gas rationing in 1977.

**Discussion of final EPA control strategy for the San Joaquin Valley AQCR.** The control strategy for the San Joaquin Valley Region consists of various stationary and mobile controls designed to reach the photochemical oxidant standard by 1977. Many of the stationary source controls are the same as or slightly modified versions of the regulations proposed on July 16, 1973. The transportation control measures have been modified considerably. The measures reflect testimony received at the August 6 and 7, 1973, public

hearings in Fresno, and written comments received on the plan. Additionally, various State and/or locally implemented controls are noted as part of the total strategy to achieve the standard by 1977. EPA will carefully assess the reductions in VMT and improvements in air quality obtained from the various strategies and control regulations, and recommend additional strategies as needed between now and the 1977 legal attainment date.

The proposal to require a bus/carpool computer matching and promotion system by March 1974 has been modified to require that such a system be initially established at the Internal Revenue Center in Fresno. Upon evaluation, the system will be expanded throughout the four metropolitan areas of the Region. Finally, a "Mass Transit and Transit Priority Planning" regulation for the San Joaquin Valley Region has been added to the control plan.

A study sponsored by the California Department of Transportation is presently being conducted to determine the potential for public transit usage in the Fresno Area. Of particular interest to EPA will be the potential to establish preferential bus/carpool treatment on a north-south corridor between the Fresno CBD and northern residential suburbs. A six-lane freeway presently under construction in this corridor will be closely examined. It appears that similar studies will be necessary in other metropolitan areas of the Region in order to provide a rational basis for expanding mass transit service in certain areas of the San Joaquin Valley Region. As a result, EPA has promulgated final regulations calling for additional studies in the Stockton, Bakersfield, and Modesto areas. From these future investigations and the Fresno study (in progress) transit strategy recommendations, including transit priority strategies, are to be submitted. These are to include implementation milestone timetables and obstacles, so that the Administrator can review all available information and determine the need for and the progress of implementation.

Surcharges on public and private parking have not been imposed in the urbanized portions of the San Joaquin Valley Region as they have in San Francisco, San Diego, and Los Angeles. However, the use of such a surcharge to raise revenue for mass transit is being considered by the Administrator, and written comment on this point is particularly invited.

*Locally implemented strategies.* The public hearing testimony, written comments, and the San Joaquin Valley Task Force indicated a wide variety of measures that could best be carried out on the local or state level. The EPA plan notes these measures as being applicable toward attainment of the oxidant standard and will encourage their implementation, although the reductions are not credited as part of the EPA plan. Furthermore, EPA will evaluate the progress and success in the implementation of these and similar measures and, if found necessary, promulgate additional measures to supplement them. Many of these measures will likely be contained in the

anticipated revisions to the State Implementation Plan as a result of the Cal/Trans task force findings. In meetings between EPA and the transportation task force officials, it was noted that the cities of Fresno and Stockton were in the process of upgrading and expanding their mass transit bus systems. The City of Bakersfield has recently taken over operation of a mass transit bus system, and has experienced encouraging initial success in its effort to increase ridership. The California Department of Transportation vehicle miles traveled reduction plan to be submitted to EPA is expected to document the progress made by the present mass transit programs in the Valley, and allow EPA to monitor and evaluate the need for and progress of future public mass transit program implementation, including the present and the estimated future financial commitment to mass transit.

Local agencies and private citizens gave written and verbal testimony on the desirability of improved bicycle networks. Due to the level terrain, many trips in the San Joaquin Valley could be taken by bicycle. It is anticipated that improvements of this type will be made in the next several years.

#### SAN DIEGO INTRASTATE AIR QUALITY CONTROL REGION CONTROL STRATEGY

The San Diego IntraState Region, also known as the San Diego Air Basin, is located in the southwest corner of the State and consists of nearly all of San Diego County. It is bounded on the east by the summit of the Peninsular Range, on the north by Orange County, and on the south and west by Mexico and the Pacific Ocean, respectively. The airshed has a land area of approximately 3,040 square miles, and, as of 1973, a population of some 1.5 million people. It is estimated that the motor vehicle population in 1972 was approximately 715,000. The Region's population is concentrated primarily in the City of San Diego and in the incorporated areas along the coast. The mountainous terrain and frequent inversions hold in pollutants, and the Southern California climate provides ample sunshine to aid in the formation of photochemical oxidants. The automobile is presently the dominant mode of transportation, and accounts for the majority of the hydrocarbon and carbon monoxide emissions. Air pollution control in the Region is the local responsibility of the San Diego County Air Pollution Control District. Since the airshed is contained within one county, no additional regional coordinating council is required for stationary source controls. As in the rest of the State, mobile source emission controls are the responsibility of the California Air Resources Board.

An important factor in the design of any air pollution control strategy for the San Diego Region is the proximity of the Tijuana, Mexico, metropolitan area. Tijuana is now the fifth largest city in Mexico with a population of over 500,000, and is located adjacent to the United States-Mexico Border, 12 miles south of downtown San Diego. Although prevail-

ing meteorological conditions do not normally move Tijuana-caused air pollutants over the metropolitan San Diego area, there is substantial movement of motor vehicles from Tijuana to locations in the San Diego area on a daily basis. Furthermore, enforcement of several of the EPA-promulgated regulations will be more difficult due to the border problem. EPA will work closely with environmental authorities in the Republic of Mexico to help alleviate air pollution problems in this and other international urban areas.

The national ambient air quality standards for photochemical oxidants and carbon monoxide have been exceeded in the Region. In 1970, the maximum 1-hour oxidant reading recorded in the Region was 0.40 ppm at the Oceanside station. The use of this oxidant reading for air planning purposes was rejected on the basis that the reading was the result of an unusual traffic stoppage caused by highway construction, combined with unusually heavy volume that day. The next highest maximum 1-hour oxidant reading that occurred in the Region was 0.32 ppm at the Escondido Station, in 1972, and this reading was used for oxidant air planning purposes. (The maximum oxidant reading was statistically evaluated by the method described earlier in the Metropolitan Los Angeles preamble, and was found to be substantially correct.) A high 8-hour carbon monoxide reading of 18 ppm recorded in 1972 is being used for carbon monoxide air planning purposes. As in other areas of California, the predominant air pollution problem is photochemical oxidants. A review of air quality data for 1970-1972 shows that both oxidant and carbon monoxide standards were frequently exceeded. Both the frequency of violations and the maximum levels of oxidant experienced indicate the need for extensive mobile and stationary source control if the national ambient air quality standards are to be achieved. The oxidant problem is the main obstacle to attainment of the standards.

Emissions must be lowered to the following levels to meet the photochemical oxidant and the 8-hour carbon monoxide standards: the reactive hydrocarbon emissions must be lowered to 25 percent of 1972 emission levels in order to meet the oxidant standard, and the carbon monoxide emissions must be lowered to 50 percent of 1972 emission levels in order to meet the carbon monoxide standard, using the proportional rollback model.

The majority of the carbon monoxide and reactive hydrocarbon emissions in the Region are attributable to motor vehicles. In addition to stringent controls for stationary sources and requirements for mechanized emissions controls on motor vehicles, VMT reductions will also have to be effected in order to meet the oxidant standard in 1977. It should also be pointed out that it is estimated by EPA that one of the proposed technical strategies, catalyst retrofit, cannot be implemented before 1977.

Table 6 shows the impact the proposed measures will have on total emissions in the San Diego Region.

TABLE 6.—SUMMARY OF IMPACT OF CONTROL STRATEGIES IN SAN DIEGO REGION IN 1977

Source and control measures	Emissions and reductions of reactive hydrocarbons, tons/day	Percent reductions per measure
Stationary source emissions in 1977 without proposed control strategy	30.6	
Expected reductions:		
1. Surface coating restrictions, dry cleaning, and degreasing controls	-15.8	28.2
Stationary emissions remaining	4.8	
Mobile source emissions in 1977 without proposed control strategy	86.4	
Expected reductions:		
1. Reductions from only EPA promulgated VMT control strategies assuming an 11 percent VMT reduction <sup>1</sup>	-6.4	11.4
2. Catalyst retrofit, and mandatory inspection and maintenance	-12.9	23.0
3. Motorcycle limitations	-1.9	3.4
4. VMT reductions necessary from additional control strategies to be implemented in 1977	-12.0	34.0
Mobile emissions remaining	46.2	
Total emissions remaining	51.0	
Allowable emissions for attainment of standard for photochemical oxidants <sup>2</sup>	51.0	

<sup>1</sup> Using optimistic assumptions and estimations of both EPA and local VMT reduction measures, a total reduction of 29 percent, or 16.9 tons/day could occur.

<sup>2</sup> Based on linear rollback model.

Based upon the available data, EPA has made rough estimates of the VMT reductions that can reasonably be expected from the EPA and local measures. The EPA strategy for the San Diego Intrastate AQCR should yield reductions of between 11 and 19 percent. The local measures not promulgated by EPA should provide an additional 7 to 10 percent reduction in VMT. It should be noted that EPA has promulgated many of the local measures and therefore the 11 to 19 percent VMT reduction reflects these task force measures. An additional VMT reduction of 7 to 10 percent would result from additional task-force recommended measures. Based on present data, the remaining VMT reduction can only be achieved through more stringent means such as gas rationing in 1977.

It is assumed by EPA, and is implicit in the control strategy calculations, that all Federal facilities will comply with State, local, and EPA air pollution emissions rules and regulations. Due to the extensive military activities in the San Diego Region and the significant harm to air quality that emissions from sources connected with these activities could produce, it is particularly important that military vehicles, operations, and facilities follow presidential Executive Order 11507 by conforming to State, local, and EPA rules and regulations. It is estimated that 40 percent of all aircraft operations in the San Diego area are by the military.

A recent decision to consolidate various Naval activities in the San Diego area is estimated by local officials to have the

net effect of adding 50,000 persons to the San Diego area in the next 2 years. Several of the EPA regulations will initially be specific to military facilities, and EPA will work closely with the Department of Defense to develop additional strategies to lessen the impact of emissions from military activities.

*Discussion of final EPA control strategy for San Diego AQCR.* The control strategy for the San Diego Region consists of various stationary and mobile source controls designed to reach the photochemical oxidant standard by 1977. Many of the stationary source controls are the same, or slightly modified. Versions of the regulations proposed in the July 16, 1973, FEDERAL REGISTER. The transportation control measures have been modified considerably. The measures reflect testimony received at the August 7, 1973, public hearing in San Diego and written comments received on the plan. Additionally, various State and/or locally implemented controls are noted as part of the total strategy to achieve the standard by 1977.

The proposal to require a bus/carpool computer matching and promotion system by March 1974 has been modified to require that such a system be initially established at the U.S. Navy Electronics Laboratory and the U.S. Navy Underwater Systems Center in San Diego. Upon evaluation, the system will be expanded throughout the region. The Cal/Trans task force estimates a 4-percent reduction in VMT by 1977 if half the employees use the three-phase volunteer carpool system. Total cost of implementing this measure is \$175,000. Finally, approximately 10 miles of freeway will be given preferential bus/carpool treatment through ramp metering with bus/carpool bypass lanes, and a major downtown San Diego street, Broadway, will be converted to exclusive bus usage as the first phase of a program to establish preferential treatment for mass transit.

*Locally implemented strategies.* The public hearing testimony, written comments, and the San Diego Task Force indicated a wide variety of measures that could best be carried out on the local or State level. The EPA plan notes these measures as being applicable toward attainment of the oxidant standard and will encourage their implementation, although the reductions are not credited as part of the EPA plan. Furthermore, EPA will evaluate the progress and success in the implementation of these and similar measures and if necessary, promulgate additional measures to supplement them. Many of these measures will likely be contained in the anticipated revisions to the State Implementation Plan as a result of the Cal/Trans task force findings. The task force estimates that the measures discussed below will accomplish at least a 12.5 percent reduction in VMT by 1977.

Major improvements to the mass transit system in San Diego have occurred during the past year and are expected to be expanded as additional funds become available for these purposes. San Diego Transit initiated a 25¢, all-destinations,

fare in August 1972 and bus ridership has doubled since that time. Three express bus routes to outlying areas of the metropolitan area were established in the past year and at least six more will be in operation by the end of 1977. This part of the system will require at least 125 new buses with an additional 175 feeder and local, off-peak buses to serve the express routes. Also, it is planned that 30 buses will be added to the North County system. Fringe parking lots will be established along these routes as well as at major regional shopping centers. Approximately 20 fringe parking lots are planned to serve the expanded mass transit system with a pilot project planned at Miramar for 1975. There are plans to place bicycle protection facilities at these fringe parking lots to allow nearby residents to bicycle to the bus stops. Ridership incentive programs are being planned through an extensive public information program. Dial-A-Bus and subscription bus service will also be carefully examined. The Cal/Trans task force estimates a 5-percent reduction in VMT by 1977 through implementation of these measures.

The City of San Diego has a \$125,000 regional bikeway plan under consideration, consisting of 30 local bikepath proposals. Additionally, Cal/Trans is examining at least two bike routes to parallel portions of proposed freeway improvements.

Various traffic flow improvement programs are either underway or proposed for the next 4 years in the San Diego Region. These include a major synchronized traffic signal system for major arterials, easing of traffic bottlenecks, and additional ramp metering. City officials are examining the possibility of fringe parking facilities on the perimeter of the central business district with a system of people-movers and automobile bans in the same area.

A final measure that will likely be the subject of further consideration and experimentation in the next few years will be the variation of the work week to four 10-hour days and other combinations to determine the effects of such variations on air quality and VMT. Governmental agencies will be early candidates for this program.

#### SAN FRANCISCO BAY AREA INTRASTATE AIR QUALITY CONTROL REGION CONTROL STRATEGY

The San Francisco Bay Area Intrastate Region is comprised of nine counties, namely: Alameda, Contra Costa, Marin, San Francisco, San Mateo, Santa Clara, Napa, Solano, and Sonoma. The region covers approximately 5,600 square miles and has within its bounds approximately 4.6 million people and 2.7 million motor vehicles. Air pollution control in the region falls under the jurisdiction of the Bay Area Air Pollution Control District created by the California Legislature in 1955. During 1971, the Region experienced numerous violations of both Federal and State air quality standards. Based upon the linear rollback model and a high year or base year maximum

1-hour oxidant reading of .36 ppm which occurred in 1971 at San Leandro, a 78-percent reduction in base year reactive hydrocarbon emissions is required to achieve the ambient air quality standards for photochemical oxidant. (The maximum oxidant reading used was statistically evaluated by the method described earlier and was found to be substantially correct.)

Although mobile sources presently account for the majority of the emissions, their control alone will not be sufficient to allow for attainment of national ambient air quality standards. Table 7 shows the impact the proposed measures will have on the total emissions in the Region.

TABLE 7.—SUMMARY OF IMPACT OF CONTROL STRATEGIES IN SAN FRANCISCO BAY REGION IN 1977

Source of pollutant and control measures	Emissions and reductions tons/day of reactive hydrocarbons	Percent reduction per measure
Stationary source emissions in 1977 without control strategy.	226	
Expected reductions:		
1. Gasoline marketing vapor recovery	-138	45.8
2. Surface coating, dry cleaning, and degreasing controls	-37	12.3
Stationary source emissions remaining	50	
Mobile source emissions in 1977 without proposed control strategy	201	
Expected reductions:		
1. Reductions from only EPA-promulgated VMT control strategies assuming an 11 percent VMT reduction <sup>1</sup>	-14	4.7
2. Light-duty motor vehicle inspection and maintenance and catalytic converter retrofit	-33	11.0
3. Motorcycle emissions regulation	-6	2.0
4. VMT reductions necessary from additional control strategies to be implemented in 1977	-73	24.2
Mobile emissions remaining	75	
Total emissions remaining	125	
Allowable emissions to attain standards <sup>2</sup>	125	

<sup>1</sup> Using optimistic assumptions and estimations of both EPA and local VMT reduction measures, a total reduction of 31 percent VMT, or 41 tons/day could occur.

<sup>2</sup> Based on linear rollback model.

A VMT reduction of 97 percent is necessary if the national standard for photochemical oxidants is to be attained by 1977.

Based upon the available data, EPA has made rough estimates of the VMT reductions that can reasonably be expected from the EPA and the local measures. The EPA strategy for the San Francisco Bay Area Intrastate AQCR should yield reductions of between 11 and 28 percent; the local measures should provide an additional 4 percent improvement in air quality. Based on present data, the remainder of the VMT reduction needed can only be achieved through more stringent measures, such as gas rationing, imposed in 1977.

It is hoped that in the process of developing a regional transportation plan, the Metropolitan Transportation Commission will be able to determine the

effect of its plan upon air quality generally, and specifically upon the miles traveled by automobiles. Many of the measures in the EPA-promulgated control plan consist of MTC adopted strategies.

*Discussion of final EPA control strategy for San Francisco Bay Area AQCR.* The control strategy for the San Francisco Bay Area Region consists of various stationary and mobile source controls designed to reach the photochemical oxidant standard by 1977. Many of the stationary source controls are the same, or slightly modified, versions of the regulations proposed in the July 16, 1973, FEDERAL REGISTER. The transportation control measures have been modified considerably. The measures reflect testimony received at the August 8, 1973 public hearing in San Francisco and written comments received on the plan. Additionally, various State and/or locally implemented controls are noted as part of the total strategy to achieve standard by 1977. For example, full implementation of the Bay Area Rapid Transit (BART) system during the next year should reduce VMT by 2 percent in the Region. EPA will carefully assess the reductions in VMT and improvements in air quality obtained from the various strategies and control regulations, and recommend additional strategies as needed between now and the 1977 legal attainment date.

The proposal to require a bus/carpool computer matching and promotion system by March of 1974 has been modified to require an in-depth evaluation of the present carpool program being implemented by governmental agencies in the San Francisco CBD and to determine the most feasible plan for full scale implementation. Special emphasis is given to pilot bus/carpool programs at Alameda Naval Air Station, Moffett Field Naval Air Station, U.S. Army Presidio, and Treasure Island Naval Station.

*Locally implemented strategies.* The public hearing testimony, written comments, and the meetings with the State and local transportation officials (San Francisco "Task Force") indicated a wide variety of measures that could be best carried out on the local or State level. In the San Francisco Bay Area, such measures as those being investigated and implemented through the Metropolitan Transportation Commission (MTC) are of particular interest to the Environmental Protection Agency, particularly with regard to their effect on air quality. At the public hearings on the EPA transportation control plan proposal, testimony given by an official representing the MTC shows that 10- to 15-percent VMT reduction will occur as a result of the MTC plan, and that an additional 5-percent VMT reduction could occur with an enlarged MTC program. In regulations promulgated by this rule-making, the EPA is requiring the State to submit an analysis of the status of each element of the MTC Regional Transportation Plan and to substantiate its effect on air quality. It is the Administrator's

understanding that such an analysis is currently underway by the California Department of Transportation (Cal/Trans) and will be submitted to EPA.

Locally implemented strategies that the MTC and State are investigating include in part: Bridge toll fare increases, exclusive bus and carpool lanes, ramp metering, increased bicycle facilities, improved local transit, anticipated Bay Area Rapid Transit expansion, increased ferry service to the North Bay, fringe parking facilities, and reduced transit fares.

*Possible further action.* The Clean Air Act requires that all "reasonably available" measures to reduce emissions be applied between now and 1977. The plan promulgated today attempts to fulfill this requirement.

The Administrator is conscious, however, that his knowledge of this field is necessarily imperfect and incomplete. Measures may not work as well as anticipated, or they may work better. Further study may show that more controls are needed or feasible or that different methods of attaining the same end would be preferable. In cases where State or local actions are considered in calculating emission reductions, they may not be implemented as presently anticipated.

The plan approved today constitutes final rulemaking. Its measures are legally enforceable, and EPA will enforce them unless and until alternatives are suggested and found to be preferable. However, the lack of knowledge in this field makes it highly conceivable that such alternatives will be suggested. EPA welcomes such suggestions, and will in addition monitor the effect of this plan continuously to see whether revisions, or the addition of more stringent measures, is in order.

(Secs. 110(c), 301(a), Pub. L. 89-272, 79 Stat. 992 (42 U.S.C. 1857c-5(c)).)

Dated: October 30, 1973.

JOHN QUARLES,  
Acting Administrator.

Part 52 of Chapter I, Title 40, of the Code of Federal Regulations is amended as follows:

Subpart F—California

1. In § 52.222, paragraphs (b) and (c) are added to read:

§ 52.222 Extensions.

(b) The Administrator hereby extends the attainment dates for the national standards for carbon monoxide and photochemical oxidants (hydrocarbons) as follows: San Francisco Bay Intrastate, two years (to May 31, 1977); Metropolitan Los Angeles Intrastate, two years (to May 31, 1977); San Diego Intrastate, two years (to May 31, 1977); Sacramento Valley Intrastate, two years (to May 31, 1977); San Joaquin Valley Intrastate, two years (to May 31, 1977); Southeast Desert Intrastate, two years (to May 31, 1977).

(c) The Administrator hereby extends the attainment dates for the national

standards for nitrogen dioxide as follows: Metropolitan Los Angeles Intra-state, two years (to May 31, 1977).

§ 52.237 [Reserved]

2. Section 52.237 is revoked and re-served.

§ 52.238 [Amended]

3. In § 52.238, the attainment date table is amended by revoking footnotes f and g and revising the first column (Air Quality Control Region) and the last three columns (Nitrogen Dioxides, Carbon Monoxide, and Photochemical oxidants (Hydrocarbons)) to read as follows:

Air Quality Control Region	Nitrogen dioxide	Carbon monoxide	Photochemical oxidants (Hydrocarbons)
North Coast Intra-state	(e)	(e)	(e)
San Francisco Bay Intra-state	(e)	May 31, 1977	May 31, 1977
North Central Coast Intra-state	(e)	(e)	(a)
South Central Coast Intra-state	(e)	(e)	(a)
Metropolitan Los Angeles Intra-state	May 31, 1977	May 31, 1977	May 31, 1977
San Diego Intra-state	(e)	(e)	(e)
Northeast Plateau Intra-state	(e)	(e)	(e)
Sacramento Valley Intra-state	(e)	May 31, 1977	May 31, 1977
San Joaquin Valley Intra-state	(e)	May 31, 1977	May 31, 1977
Great Basin Valley Intra-state	(e)	(e)	(e)
Southeast Desert Intra-state	(e)	May 31, 1977	May 31, 1977

§ 52.239 [Reserved]

4. Section 52.239 is revoked and re-served.

5. Sections 52.241 through 52.266 are added to read as follows:

§ 52.241 Gasoline limitations.

(a) Definitions:

(1) "Distributor" means any person or entity that transports, 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 regulation is applicable in the Metropolitan Los Angeles, San Francisco Bay Area, Sacramento Valley, San Joaquin Valley, and San Diego Intra-state Air Quality Control Regions (the "Regions") to all distributors of gasoline to any retail outlet in the Regions, and to the owners and operators of all retail outlets in the Regions.

(c) If the Administrator determines, on the basis of air quality monitoring in the Regions, that the national ambient air quality standards for carbon monoxide and photochemical oxidants will not be attained in a 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 in that Region to that amount which, when combusted, will not result in the 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 Regions 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 report that he may deem necessary for the implementation of this section.

§ 52.242 Inspection and maintenance program.

(a) Definitions:

(1) "Inspection and maintenance program" means a program to reduce emissions from in-use vehicles through identifying vehicles which need emission control-related maintenance and requiring that maintenance be performed.

(2) "Light-duty vehicle" means any gasoline-powered motor vehicle rated at 6,000 pounds GVW or less.

(3) All other terms used in this section that are defined in Appendix N to Part 51 of this chapter, are used herein with the meanings so defined.

(b) This section is applicable in the Metropolitan Los Angeles, San Diego, Sacramento Valley, San Joaquin Valley, and San Francisco Bay Area Intra-state Air Quality Control Regions (hereinafter referred to as the Regions).

(c) The State of California shall establish an inspection and maintenance program applicable to all light-duty vehicles registered in the Regions that operate on streets or highways over which it has ownership or control. No later than June 1, 1974, the State shall submit legally adopted regulations to EPA establishing such a program. The State may exempt any class or category of vehicles which it finds are rarely used on public streets and highways (such as classic or antique vehicles). The regulations shall include:

(1) Provisions for inspection of all light-duty motor vehicles at periodic intervals no more than one year apart by means of a loaded test.

(2) Provisions for inspection failure criteria consistent with the emission reductions claimed in the plan for the strategy. These emission reductions are 15 percent for hydrocarbons and 12 percent for carbon monoxide. These criteria are estimated to include failure of 50

percent of the vehicles in the first inspection cycle.

(3) Provisions to ensure that failed vehicles receive within two 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 ensure 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 to ensure that, following inspection or maintenance, vehicles are not intentionally readjusted or modified in such a way as would cause them no longer to comply with the inspection standards. This might include spot checks of idle adjustments and/or a suitable type of physical tagging. This program shall include appropriate penalties for violation.

(5) Provisions for beginning the first inspection cycle on October 1, 1975, and completing it by September 30, 1976.

(6) Designation of an agency or agencies responsible for conducting, overseeing, and enforcing the inspection and maintenance program.

(d) After September 30, 1976, the State shall not register or allow to operate on its streets or highways any light-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) After September 30, 1976, no owner of a light-duty vehicle shall operate or allow the operation of 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 vehicle.

(f) The State of California shall submit no later than February 1, 1974, a detailed compliance schedule showing the steps it will take to establish and enforce an inspection and maintenance program pursuant to paragraph (c) of this section, including the text of needed statutory proposals and needed regulations that it will propose for adoption. The compliance schedule shall also include:

(1) The date by which the State will recommend any needed legislation to the State legislature.

(2) The date by which necessary equipment will be ordered.

(3) A signed statement from the Governor and State Treasurer identifying the sources and amount of funds for the program. If funds cannot legally be obligated under existing statutory authority, the text of needed legislation shall be submitted.

§ 52.243 Motorcycle limitation.

(a) Definitions:

(1) "Motorcycle" means any self-propelled, two- or three-wheeled motor ve-

hicle capable of carrying one or more persons.

(b) This section is applicable in the San Diego, Los Angeles, San Francisco Bay Area, San Joaquin Valley, and Sacramento Valley Air Quality Control Regions (the "Region").

(c) As of January 1, 1976, the State of California shall prohibit the operation of motorcycles in each Region between the hours of 6 a.m. and 8 p.m. during the months of May, June, July, August, and September.

(d) The restrictions set forth in paragraph (c) of this section shall be of no force and effect during the period from January 1, 1976, to December 31, 1978, if the Administrator establishes legally valid and binding emission standards applicable to all new motorcycles meeting the light-duty vehicle definition of the Clean Air Act, sold in 1976 and later model years, and such standards require emission levels representing at least a 50 percent reduction in present emission levels of hydrocarbons emitted by 2-stroke motorcycles and a significant reduction in emissions of carbon monoxide from present levels emitted by both 2- and 4-stroke motorcycles.

(e) The restrictions set forth in paragraph (c) of this section shall be of no force and effect on and after January 1, 1979, if the Administrator establishes legally valid and binding emission standards for new motorcycles sold in the 1979 and later model years, and such standards receive motorcycles manufactured during the 1979 and later model years to achieve at least the same degree of emission control of hydrocarbons and carbon monoxide as is required for 1976 and later model year light-duty vehicles.

(f) No later than July 1, 1975, and July 1, 1978, respectively (unless the applicable exemptions under paragraphs (d) or (e) of this section have become available), the State shall submit a detailed compliance schedule showing the steps it will take to implement and enforce these requirements, including:

(1) The text of needed statutory proposals and needed regulations which it will propose for adoption.

(2) A date by which the State will adopt procedures (or submit evidence that they are in existence) necessary to restrict the operation of motorcycles as required above. Such date shall be no later than December 1, 1975, and December 1, 1978, respectively.

#### § 52.244 Oxidizing catalyst retrofit.

(a) Definitions:

(1) "Oxidizing catalyst" means a device installed in the exhaust system of a vehicle that utilizes a catalyst and, if necessary, an air pump to reduce emissions of hydrocarbons and carbon monoxide from that vehicle.

(2) "Light-duty vehicle" means any gasoline-powered motor vehicle rated at 6,000 pounds GVW or less.

(3) All other terms used in this section that are defined in Part 51, Appendix N, of this chapter, are used herein with the meanings so defined.

(b) This section is applicable in the San Diego, San Francisco Bay Area, San Joaquin Valley, Sacramento Valley, and Metropolitan Los Angeles Intrastate Air Quality Control Regions.

(c) The State of California shall establish a retrofit program to ensure that on or before May 31, 1977, all gasoline-powered, light-duty motor vehicles of model years 1966 through 1974, which are subject under currently existing legal requirements to registration in the area defined in paragraph (b) of this section, and which are capable of operating on unleaded gasoline having a research octane number (RON) of 91 or lower, are equipped with an appropriate oxidizing catalyst retrofit device. No later than September 1, 1974, the State shall submit legally adopted regulations to EPA establishing such a program. The regulations shall include:

(1) Designation of an agency responsible for evaluating and approving such devices for use in motor vehicles subject to this section.

(2) Designation of an agency responsible for ensuring that the provisions of paragraph (c) (3) of this section are enforced.

(3) A provision that, starting no later than December 1, 1975, the State of California shall commence retrofitting oxidizing catalysts to those light-duty motor vehicles able to operate properly and safely on unleaded 91 RON gasoline. The installation shall be completed by May 31, 1977.

(4) A method and proposed procedures for ensuring that those installing the retrofits have the training and ability to perform the needed tasks satisfactorily and that they have an adequate supply of retrofit components.

(d) After May 31, 1977, the State shall not register or allow to operate on public streets or highways any light-duty, gasoline-powered vehicle that does not comply with the applicable standards and procedures adopted pursuant to paragraph (c) of this section.

(e) After May 31, 1977, no owner of a vehicle subject to this section 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.

(f) The State of California shall submit, no later than April 1, 1974, a detailed compliance schedule showing the steps it will take to establish and enforce a retrofit program pursuant to paragraph (c) of this section, and the text of needed statutory proposals and needed regulations that it will propose for adoption. The compliance schedule shall include a date by which the State shall evaluate and approve devices for use in this program. Such date shall be no later than January 1, 1975.

#### § 52.245 Control of oxides of nitrogen, hydrocarbon, and carbon monoxide emissions from in-use vehicles.

(a) The State of California retrofit program, authorized under section 39176

of the State of California Health and Safety Code and established by the California Air Resources Board for the purpose of controlling oxides of nitrogen, hydrocarbon, and carbon monoxide emissions from model year 1955 through 1965 light-duty motor vehicles, shall be extended to the San Joaquin Valley and Sacramento Valley Intrastate Air Quality Control Regions (the "Regions").

(b) Beginning March 31, 1974, the State of California shall commence the operation of this program in the Regions.

#### § 52.246 Control of dry cleaning solvent vapor losses.

(a) For the purpose of this section, "dry cleaning operation" means that process by which an organic solvent is used in the commercial cleaning of garments and other fabric materials.

(b) This section is applicable in the Metropolitan Los Angeles, San Diego, Sacramento Valley, San Joaquin Valley, and San Francisco Bay Area Intrastate Air Quality Control Regions.

(c) Any dry cleaning establishment that uses solvents containing 4 percent or more by volume of any reactive organic material listed under paragraphs (k) (1), (2), and (3) of § 52.254 except perchloroethylene or any saturated halogenated hydrocarbon shall reduce the emissions of the discharged organics by 90 percent by use of activated carbon adsorption or other appropriate means; not later than January 1, 1975.

(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.

#### § 52.247 Definitions for parking management regulations.

(a) For purposes of §§ 52.248, 52.249, 52.250, and 52.251:

(1) "Parking facility" (also called "facility") means any facility, building, structure, lot, or portion thereof used primarily for temporary storage of motor vehicles.

(2) "Parking space" means any area whatsoever customarily used for the temporary storage of a motor vehicle that is not being held for the sole purpose of original sale, resale, or repair.

(3) "Employer" means any person or entity that employs 50 or more persons. "Employee parking space" means any parking space reserved or provided by any employer for the primary use of his employees.

(4) "Residential parking space" means any parking space used primarily for the parking of vehicles of persons residing within less than half a mile of the space.

(5) "Commercial parking space" means any parking space in which the parking of a single motor vehicle is permitted for a fee. It includes on-street parking governed by parking meters, and excludes employee and residential parking spaces.

(6) "Free parking space" means any parking space in which the parking of a single motor vehicle without a fee is per-

mitted or encouraged by the person having control of such space, whether for the purpose of encouraging patronage of commercial establishment(s) or otherwise. It includes free on-street parking and free parking on vacant lots, and excludes employee and residential parking spaces. All parking spaces are either commercial, employee, residential, or free parking spaces.

**§ 52.248 Surcharge on commercial parking spaces.**

(a) This section is applicable in the Los Angeles, San Diego, and San Francisco Bay Area Intrastate Air Quality Control Regions (the "Regions").

(b) A surcharge of the amount designated in paragraph (c) of this section shall be applied to all contracts or other agreements whereby a vehicle is parked for a fee in any commercial parking space located in the areas described in paragraph (a) of this section. Such surcharge shall be collected by the county or municipality having regulatory jurisdiction over the particular commercial parking space involved or by its designated agent. The surcharge fees minus collection expenses, but in any event no less than 50 percent of the gross proceeds, shall be utilized for EPA approved or designated mass transit improvements within the Region in which the surcharge is collected. The State of California, or its designated agent, if it wishes, may collect such surcharge instead of the relevant local governmental entity. The surcharge shall be calculated on an hourly basis and applied to all parking between the hours of 7:00 a.m. and 7:00 p.m. on all days other than Saturdays, Sundays, and legal holidays. However, the maximum daily surcharge shall not exceed ten times the hourly surcharge rate, and if a vehicle is parked for more than one day, only the surcharge for the first day shall be collected. Exemptions from this surcharge may be given to handicapped persons and disabled veterans.

(c) The surcharge shall be implemented on the following schedule:

Effective date	Hourly rate	Area of applicability
July 1, 1974.....	\$0.10	All cities with population greater than 100,000 in the Regions.
July 1, 1975.....	.20	All cities with population greater than 50,000 in the Regions.
July 1, 1976.....	.25	Regions as a whole.

(d) Each person or entity owning or operating any commercial parking space subject to this section, and each local government entity on which obligations are imposed by this section shall, at least 3 months before the effective date of any surcharge provided by this section, submit to the Administrator a detailed compliance schedule showing the steps it will take to collect the said surcharge. The compliance schedule shall specify steps to be taken to keep a permanent record of the number of vehicle hours of park-

ing for which the facility is used each day that can be compared with the revenues collected, and, in the case of governmental entities responsible for collecting such fees, shall also detail a system of spot checks or similar enforcement measures designed to assure that owners and operators of commercial parking spaces are complying with the requirements of this section, the exact manner in which the revenues so collected will be used to promote mass transit, and a documentation of the surcharge collection expenses incurred.

(e) Parking spaces or facilities that are used exclusively to service mass transit (for example, park-and-ride facilities) shall be exempt from the provisions of this section, but a request for exemption must be made to the Administrator and approved by him.

**§ 52.249 Surcharge on free parking spaces.**

(a) This section is applicable in the Metropolitan Los Angeles, San Diego, and San Francisco Bay Area Intrastate Air Quality Control Regions (the "Regions").

(b) Any owner or operator of more than five free parking spaces shall be subject to a regulatory fee in the amount set forth in paragraph (c) of this section. Such surcharge shall be collected by the county or municipality having regulatory jurisdiction over the particular free parking space involved, or its designated agent, and the surcharge fees minus collection expenses, but in any event no less than 50 percent of the gross proceeds shall be utilized for EPA approved or designated mass transit improvements within the Region in which the surcharge was collected. The State of California, or its designated agent, if it wishes, may collect the surcharge instead of the relevant local government. The surcharge shall be assessed annually each July 1 on the number of free parking spaces in existence at that date. Spaces temporarily removed for the purpose of avoiding the surcharge shall also be assessed.

However, to the extent that any person subject to a surcharge under this section elects to make payments to promote mass transit or carpooling in a manner satisfactory both to the Administrator and the collecting agency, the amount of the surcharge shall be abated. For example, a shopping center might institute a Dial-a-Ride service.

(c) The surcharge shall be implemented on the following schedule:

Effective date	Yearly amount per parking space	Area of applicability
July 1, 1974.....	\$180	All cities with population greater than 100,000 in the Regions.
July 1, 1975.....	360	All cities with population greater than 50,000 in the Regions.
July 1, 1976.....	450	Regions as a whole.

The amount of the fee was determined by calculating what the annual proceeds of the surcharge imposed by § 52.248 of this subpart on a commercial parking space would be assuming a 250-day year and 60 percent average occupancy during the days on which the fee was collected.

(d) Each person or entity owning or operating any free parking space subject to this section shall, at least 5 months before the effective date of any surcharge provided by this section, submit to the Administrator an exact accounting of the number and location of such spaces under its ownership or control. Each local government entity on which obligations are imposed by this section shall, at least 3 months before the effective date of any surcharge provided by this section, submit to the Administrator a detailed compliance schedule showing the steps it will take to assess the accuracy of and correct any omissions in the accounts submitted by owners or operators subject to this section, the steps to collect the surcharge provided by this section, the exact manner in which the revenues so collected will be used to promote mass transit, and a documentation of the surcharge collection expenses incurred.

(e) Parking spaces or facilities that are used exclusively for serving mass transit (for example, park-and-ride facilities) shall be exempt from the provisions of this section, but a request for such exemption must be made to the Administrator and approved by him.

**§ 52.250 Employers provision for mass transit priority incentives.**

(a) Definitions:

(1) "Carpool" means a vehicle containing two or more persons.

(2) "Commercial rate" means the average daily rate charged by the three operators of parking facilities containing 100 or more commercial parking spaces that are closest in location to any employee parking space affected by this section.

(b) This section is applicable in the Metropolitan Los Angeles, San Francisco Bay Area, and San Diego Intrastate Air Quality Control Regions: in the Stanislaus, Fresno, San Joaquin, and Kern County portions of the San Joaquin Valley Intrastate Air Quality Control Region; and in the Sacramento, Yolo, El Dorado, and Placer County portions of the Sacramento Valley Air Quality Control Region (the "Regions").

(c) Each employer in the areas listed below maintaining more than the number of employee parking spaces specified, shall, commencing on the date listed, charge no less than the rate shown in the following table for the use of any such employee parking space by employees driving to work and not traveling in carpools:

## EMPLOYER PARKING RATES

Employers (classified by number of employee parking spaces maintained)	Effective date	Total rate equals commercial rate (CR) plus—	Area of applicability
700.....	July 1, 1974	\$1.00	All areas.
70.....	July 1, 1974	1.00	All cities over 100,000 in the Los Angeles, San Diego, and San Francisco Regions.
700.....	July 1, 1975	2.00	All areas.
70.....	July 1, 1975	2.00	All cities over 50,000 in the Los Angeles, San Diego, and San Francisco Regions.
70.....	July 1, 1975	1.00	All areas other than cities over 50,000.
700.....	July 1, 1976	2.50	All areas.
70.....	July 1, 1976	2.50	All areas in the Los Angeles, San Diego, and San Francisco Regions.
70.....	July 1, 1976	2.00	All areas in the Sacramento and San Joaquin Regions.
70.....	Mar. 31, 1977	2.50	All areas.

No employer may charge employees traveling to work in two-person carpools more than half the parking rate specified for non-carpool vehicles by this table. Carpools of three or more shall be allowed to park free of charge, and shall be allotted the spaces closest to the employment facility.

(d) Each employer subject to an obligation under paragraph (c) of this section, shall on the first date such an obligation becomes effective, also

(1) Institute a program of reimbursing employees for their expenses in utilizing mass transit facilities. However, such reimbursements need not exceed \$200 per year per employee. Reimbursements shall be made in a form usable only as payment for the cost of such mass transit to be used by the employee only for commuting travel.

(2) Take all reasonable steps to encourage employees to commute to work by subscription or charter bus and similar privately owned mass transit facilities.

(3) Any funds collected under this section and remaining after overhead and payments to employees under paragraph (d) (1) and (2) of this section shall be disbursed to a State-designated, EPA-approved mass transit planning agency.

(e) Each employer subject to obligations under this section shall, at least 3 months prior to the effective date of any such obligation, submit to the Administrator a detailed compliance schedule setting forth the steps it will take to meet those requirements. The compliance schedule shall include a procedure for checking vehicles to determine whether or not they are carpools; for collecting the fees required to be collected hereunder; for disbursing any sums to in-

dividual employees in compensation for their use of mass transit; and for ensuring that such disbursements are used only for that purpose. It shall specify the steps that will be taken to determine the commercial parking rate for each affected employment facility and to encourage use of such private transit facilities as charter buses.

(f) As of the date that any obligations under this section become effective as to any employer, any zoning or land-use requirement specifying that an employer shall provide a given number of employee parking spaces for any given number of employees shall, as applied to such employer, be of no force or effect, except as specifically approved in writing by the Administrator.

#### § 52.251 Management of parking supply.

(a) Definitions: All terms used in this section but not specifically defined below shall have the meaning given them in Part 51 of this chapter and this Part 52.

(1) "Vehicle trip" means a single movement by a motor vehicle that originates or terminates at a parking facility.

(2) "Construction" means fabrication, erection, or installation of a parking facility, or any conversion of land or a building structure or portion thereof for use as a parking facility.

(3) "Modification" means any change, including enlargement, in the design, construction, capacity, or method of operation of a parking facility that increases or may increase the motor vehicle capacity of or the motor vehicle activity associated with such parking facility.

(4) "Commence" means to undertake a continuous program of on-site construction or modification.

(b) This regulation is applicable in the Metropolitan Los Angeles, San Diego, and San Francisco Bay Area Intrastate Air Quality Control Regions, in the Stanislaus, Fresno, San Joaquin, and Kern County portions of the San Joaquin Valley Intrastate Air Quality Control Region, and in the Sacramento, Yolo, El Dorado, and Placer County portions of the Sacramento Valley Intrastate Air Quality Control Region.

(c) The requirements of this section are applicable to the following parking facilities in the areas specified in paragraph (b) of this section, the construction or modification of which commenced after August 15, 1973.

(1) Any new parking facility with parking capacity for 50 or more motor vehicles.

(2) Any parking facility that will be modified to increase parking capacity by 50 or more motor vehicles.

(3) Any parking facility constructed or modified in increments which individually are not subject to review under this section, but which, when all such increments occurring since August 14, 1973, are added together, as a total would subject the facility to review under this section.

(d) No person shall commence construction or modification of any facility subject to this section without first obtaining written approval from the Administrator or any agency designated by him; provided that this paragraph shall not apply to any proposed parking facility for which a general construction contract was finally executed by all appropriate parties on or before August 15, 1973.

(e) No approval to construct or modify a facility shall be granted unless the applicant shows to the satisfaction of the Administrator or agency approved by the Administrator that:

(1) The design or operation of the facility will not cause a violation of the control strategy which is part of the applicable implementation plan, and will be consistent with the plan's VMT reduction goals, and

(2) The emissions resulting from the design or operation of the facility will not prevent or interfere with the attainment or maintenance of any national ambient air quality standard at any time within 10 years from the date of application. A permit will be granted in every case where the applicant makes a showing satisfactory to the Administrator that the spaces to be built will be used exclusively for serving mass transit (for example, as part of a park-and-ride system.)

(f) All applications for approval under this section shall include the following information:

(1) Name and address of the applicant.  
 (2) Location and description of the parking facility.  
 (3) A proposed construction schedule.  
 (4) The normal hours of operation of the facility and the enterprises and activities that it serves.

(5) The total motor vehicle capacity before and after the construction or modification of the facility.

(g) All applications under this section for new parking facilities with parking capacity for 250 or more vehicles, or for any modification which, either individually or together with other modifications since August 15, 1973, will increase capacity by that amount, shall, in addition to that information required by paragraph (f) of this section, include the following information unless the applicant has received a waiver from the provisions of this paragraph from the Administrator or agency approved by him:

(1) The number of people using or engaging in any enterprises or activities that the facility will serve on a daily basis and a peak hour basis.

(2) A projection of the geographic areas in the community from which people and motor vehicles will be drawn to the facility. Such projection shall include data concerning the availability of mass transit from such areas.

(3) An estimate of the average and peak hour vehicle trip generation rates,

before and after construction or modification of the facility.

(4) An estimate of the effect of the facility on traffic pattern and flow.

(5) An estimate of the effect of the facility on total VMT for the air quality control region.

(6) An analysis of the effect of the facility on site and regional air quality, including a showing that the facility will be compatible with the applicable implementation plan, and that the facility will not cause any national air quality standard to be exceeded within 10 years from date of application. The Administrator may prescribe a standardized screening technique to be utilized in analyzing the effect of the facility on ambient air quality.

(7) Additional information, plans, specifications, or documents required by the Administrator.

(h) Each application shall be signed by the owner or operator of the facility, whose signature shall constitute an agreement that the facility shall be operated in accordance with applicable rules, regulations, permit conditions, and the design submitted in the application.

(i) Within 30 days after receipt of an application, the Administrator or agency approved by him shall notify the public, by prominent advertisement in the Region affected, of the receipt of the application and the proposed action on it (whether approval, conditional approval, or denial), and shall invite public comment.

(1) The application, all submitted information, and the terms of the proposed action shall be made available to the public in a readily accessible place within the affected air quality region.

(2) Public comments submitted within 30 days of the date such information is made available shall be considered in making the final decision on the application.

(3) The Administrator or agency approved by him shall take final action (approval, conditional approval, or denial) on an application within 30 days after close of the public comment period.

(j) As an alternative to satisfying the requirements of paragraphs (d) through (i) of this section, any local jurisdiction or authority may submit to the Administrator a comprehensive parking management plan covering, at a minimum, the next 5 years. The plan should be submitted no later than March 31, 1974. The Administrator shall approve such plan if he finds that:

(1) The agency submitting the plan has full and adequate legal authority to enforce compliance with its requirements.

(2) The area over which the agency exercises the authority described in paragraph (j) (1) of this section is a logical unit for air pollution control planning purposes.

(3) The plan sets forth a complete description of where additional construction of parking facilities will be allowed under the plan, and where parking spaces will be eliminated, either by the operation of the measures set forth in

§§ 52.248 through 52.250, or by further measures already adopted or to be adopted. The plan must state in detail the reasons for expecting any anticipated reduction in parking spaces, and must provide that no parking facility may legally be constructed in the area subject to the plan unless such construction is specifically authorized by the plan.

(4) The plan demonstrates that if its terms are carried out, air quality will improve at least as much as if all new parking facilities were subject to the requirements of paragraphs (d) through (i) of this section. If any increases in VMT would result under the proposed plan over and above the VMT figure that would result if the review system outlined in paragraphs (d) through (i) of this section were followed, the plan shall show by clear and convincing evidence any resulting impact on air quality to be insubstantial.

(5) The plan has been adopted after a public hearing held in conformity with the requirements of § 51.4 of this chapter.

(k) In any area covered by a parking management plan approved under paragraph (j) of this section, no action to expand the number of spaces at parking facilities may be taken that is not explicitly provided for in the plan without a permit issued in accordance with the requirements of paragraphs (d) through (i) of this section.

#### § 52.252 Control of degreasing operations.

(a) "Degreasing" means any operation using an organic solvent as a surface cleaning agent prior to fabricating, surface coating, electroplating, or any other process.

(b) This section is applicable in the Metropolitan Los Angeles, San Diego, Sacramento Valley, San Joaquin Valley, and San Francisco Bay Area Intrastate Regions.

(c) Any organic emissions discharged from degreasing operations must either be reduced by at least 85 percent, or the degreasing solvent must be classified as non-photochemically reactive as defined by paragraph (k) of § 52.254 not later than January 1, 1975. This regulation shall not be construed as lessening any emission control requirement specified under EPA approved regulations or § 52.254. Degreasing operations using perchloroethylene or saturated halogenated hydrocarbons shall be exempt from the requirements of this section.

#### § 52.253 Metal surface coating thinner and reducer.

(a) All terms defined in § 52.254 are used herein with the meanings so defined.

(b) This section is applicable in the Metropolitan Los Angeles, San Diego, San Joaquin Valley, Sacramento Valley, and San Francisco Bay Area Intrastate Air Quality Control Regions (the "Regions").

(c) The composition of the organics in all metal surface coating thinners and reducers that are manufactured after January 1, 1975, and are used in the Regions, shall conform to paragraph (k) of § 52.254 so as to be defined as a non-photochemically reactive solvent.

(d) After July 1975, the composition of the organics in all metal surface coating thinners and reducers that are used in the Regions, shall conform to paragraph (k) of § 52.254 so as to be defined as a non-photochemically reactive solvent.

(e) If there is an inadequate supply of necessary solvent ingredients needed in the manufacture of metal surface coating thinners and reducers for the purpose of meeting the composition requirements of this section in the time constraint required by this section; then evidence of such a supply inadequacy must be presented to the Administrator by the manufacturers of the metal surface coating thinners and reducers, so that the Administrator may grant to the industry an appropriate implementation time extension for meeting the requirements of this section, if and as warranted by the evidence presented.

#### § 52.254 Organic solvent usage.

(a) This section is applicable in the San Joaquin Valley, Sacramento Valley, and San Francisco Bay Area Intrastate Air Quality Control Regions (the "Regions").

(b) No person shall discharge into the atmosphere more than 15 pounds of organic materials in any 1 day or more than 3 pounds in any 1 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 said discharge has been reduced by at least 85 percent. Those portions of any series of articles, machines, equipment, or other contrivances designed for processing continuous web, strip, or wire that emit organic materials in the course of using operations described in this section shall be collectively subject to compliance with this section.

(c) A person shall not discharge to the atmosphere more than 40 pounds of organic materials in any 1 day or more than 8 pounds in any 1 hour from any article, machine, equipment, or other contrivance used under conditions other than those described in paragraph (b) of this section for employing or applying any photochemically reactive solvent, as defined in paragraph (k) of this section, or material containing such photochemically reactive solvent, 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, or other contrivance described in this section shall be included in determining compliance with this paragraph. Emissions resulting from baking, heat-curing, or heat-polymerizing as described in paragraph (b) of this section 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 that emit organic materials in the course of using operations de-

scribed in this section shall be collectively subject to compliance with this section.

(d) A person shall not, after August 31, 1976, discharge into the atmosphere more than 3,000 pounds of organic materials in any 1 day or more than 450 pounds in any 1 hour from any article, machine, equipment, or other contrivance in which any non-photochemically reactive organic solvent or any material containing such a 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 as described in paragraph (b) of this section 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 that emit organic materials in the course of using operations described in this section shall be collectively subject to compliance with this section.

(e) Emissions of organic materials to the atmosphere from the cleaning with photochemically reactive solvent, as defined in paragraph (k) 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 for determining compliance with this rule.

(f) Emissions of organic materials into the atmosphere required to be controlled by paragraphs (b), (c), or (d) of this section, shall be reduced by:

(1) Incineration, provided that 90 percent or more of the carbon in the organic material being incinerated is oxidized to carbon dioxide, or

(2) Adsorption, or

(3) Processing in a manner determined by the Administrator to be not less effective than the methods outlined in paragraph (f) (1) or (2) of this section.

(g) 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 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.

(h) 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.

(i) The provisions of this section shall not apply to:

(1) The manufacture of organic solvents, or the transport or storage of organic solvents or materials containing organic solvents.

(2) The use of equipment for which other requirements are specified by rules or which are exempted from air pollution control requirements by applicable rules affecting the storage of petroleum products, effluent oil-water separators, and the transfer of gasoline.

(3) The spraying or other employment of insecticides, pesticides, or herbicides.

(4) The employment, application, evaporation, or drying of saturated halogenated hydrocarbons or perchloroethylene.

(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 volatile content of such materials consists only of water and organic solids, and

(ii) The organic solvents comprise not more than 20 percent by volume of said volatile content, and

(iii) The volatile content is not photochemically reactive as defined in paragraph (k) of this section, and

(iv) The organic solvent or any material containing organic solvent does not come into contact with flame.

This last stipulation applies only for those articles, machines, equipment, or contrivances that are constructed or modified after the effective date of this section.

(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 30 percent by volume of said material; this to be effective until January 1, 1977. After January 1, 1977, the organic solvent content of such material must not exceed 20 percent by volume of said material.

(ii) The volatile content is not photochemically reactive as defined in paragraph (k) of this section, and

(iii) The organic solvent or any material containing organic solvent does not come into contact with flame. This last stipulation applies only for those articles, machines, equipment, or contrivances that are constructed or modified after the effective date of this section.

(j) For the purposes of this section, organic solvents include diluents, thinners, and reducers and are defined as organic materials that are liquids at standard conditions and are used as solvers, viscosity reducers, or cleaning agents, except that such materials exhibiting a boiling point higher than 220° F at 0.5 millimeter mercury absolute pressure or having an equivalent vapor pressure shall not be considered to be solvents unless exposed to temperatures exceeding 220° F.

(k) For the purpose 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 be-

low 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 cycloolefinic type of unsaturation; 5 percent;

(2) A combination of aromatic compounds with 8 or more carbon atoms to the molecule except ethylbenzene, phenyl acetate, and methyl benzoate; 8 percent;

(3) A combination of ethylbenzene, ketones having branched hydrocarbon structures, trichloroethylene or toluene; 20 percent.

Whenever any organic solvent or any constituent of an organic solvent may be classified from its chemical structure into more than one of the above groups of organic compounds, it shall be considered as a member of the most reactive chemical group, that is, that group having the least allowable percent of the total volume of solvents.

(l) For the purpose of this section, organic materials are defined as chemical compounds of carbon excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbonates, and ammonium carbonate.

(m) Architectural coatings and their use shall conform to the following requirements, on or before January 1, 1975:

(1) A person shall not sell or offer for sale or use in the areas in which this section applies, in containers of 1-quart capacity or larger, any architectural coating containing photochemically reactive solvent, as defined in paragraph (k) of this section.

(2) A person shall not employ, apply, evaporate, or dry in the areas in which this section applies, any architectural coating purchased in containers of 1-quart capacity or larger containing photochemically reactive solvent, as defined in paragraph (k) of this section.

(3) A person shall not thin or dilute any architectural coating with a photochemically reactive solvent, as defined in paragraph (k) of this section.

(4) For the purpose of this section, an architectural coating is defined as a coating used for residential or commercial buildings and their appurtenances, or for industrial buildings.

(n) A person shall not during any one day dispose of a total of more than 1.5 gallons of any photochemically reactive solvent as defined in paragraph (k) of this section, or of any material containing more than 1.5 gallons of any such photochemically reactive solvent by any means that will permit the evaporation of such solvent into the atmosphere.

(o) Compliance schedule. (1) Except where other final compliance dates are provided in this section, the owner or operator of any stationary source subject to this section shall comply with this section on or before March 31, 1974. In any event:

(1) Any owner or operator in compliance with this section on the effective date of this section shall certify such compliance to the Administrator no later

than 120 days following the effective date of this section.

(ii) Any owner or operator who achieves compliance with this section after the effective date of this section shall certify such compliance to the Administrator within 5 days of the date compliance is achieved.

(p) Any owner or operator of a stationary source subject to paragraph (o) (1) of this section may, not later than 120 days following the effective date of this section, submit to the Administrator for approval a proposed compliance schedule that demonstrates compliance with the provisions in paragraph (o) (1) of this section as expeditiously as practicable but no later than July 31, 1975. The compliance schedule shall provide for increments of progress toward compliance. The dates for achievement of such increments of progress shall be specified. Increments of progress shall include, but not be limited to: Submittal of a final control plan to the Administrator; letting of necessary contracts for construction or process changes or issuance of orders for the purchase of component parts to accomplish emission control or process modification; initiation of onsite construction or installation of emission control equipment or process modification; completion of onsite construction or installation of emission control equipment or process modification and final compliance.

(q) Any owner or operator who submits a compliance schedule pursuant to this section shall, within 5 days after the deadline for each increment of progress, certify to the Administrator whether or not the required increment of the approved compliance schedule has been met.

#### § 52.255 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 Los Angeles, Sacramento Valley, and San Joaquin Valley Intra-state Air Quality Control Regions.

(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 adapted to retrofit with an adsorption system, refrigeration-condensation system, or equivalent vapor removal system, and so constructed as to anticipate compliance with § 52.256.

(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) Facilities that do not have more than a 20,000 gallons per day throughput and distribute less than 10 percent of daily volume to delivery vehicles that in turn service storage tanks that do not have a vapor return or balance system, will not be required to have a vapor recovery system in operation before January 1, 1977. Facilities that exclusively service delivery vehicles that in turn service storage tanks that do not have a required vapor return or balance system, will not be required to have a vapor recovery system.

(iv) 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 paragraph (c) of this section 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 section.

(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 that 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) January 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 section for the affected source.

(g) Nothing in this section 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 section that installs a storage tank after the effective date of this section shall comply with the requirements of paragraph (c) of this section by March 1, 1976 and prior to that date shall comply with paragraph (e) of this section as far as possible. Any facility subject to this section that installs a storage tank after March 1, 1976, shall comply with the requirements of paragraph (c) of this section at the time of installation.

#### § 52.256 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 Los Angeles, Sacramento Valley, and San Joaquin Valley Intra-state Air Quality Control Regions.

(c) A person shall not transfer gasoline to an automotive fuel tank from a 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 or to an adsorption, absorption, incineration, refrigeration-condensation system or its equivalent.

(e) Components of the systems required by paragraph (c) of § 52.255 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 for a class of vehicles, 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 and using in the most effective manner a system required by paragraph (c) of this section.

(g) Compliance schedule:

(1) February 1, 1974—Submit to the Administrator a final control plan, which describes at a minimum the steps that 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. Compliance with the requirements of paragraph (c) of this section shall be as soon as practicable, but no later than specified in paragraph (4) and (5) of this section.

(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 (g) 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 section for the affected source.

(i) Nothing in this section 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 section that installs a gasoline dispensing system after the effective date of this section shall comply with the requirements of paragraphs (c) of this section by May 31, 1977, and prior to that date shall comply with paragraph (g) of this section as far as possible. Any facility subject to this section that 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.

#### § 52.257 Computer carpool matching.

(a) "Carpool matching" means assembling lists of commuters with similar daily travel patterns and providing a mechanism by which persons on such lists may be put in contact with each other for the purpose of forming carpools.

(b) This section is applicable in the Metropolitan Los Angeles, San Francisco Bay Area, and San Diego Air Quality Control Regions; in the Fresno, San Joaquin, Stanislaus, and Kern counties of the San Joaquin Valley Air Quality Control Region; and in the Sacramento, Placer, Yolo, and El Dorado counties of the Sacramento Valley Intrastate Air Quality Control Region (the "Regions").

(c) The State of California shall, unless exempted by the Administrator on the basis of a finding that equivalent service is being or will be provided by some other public or private entity, establish on or before January 1, 1975, a computer-aided carpool matching system that is conveniently available to the general public and to all employees of businesses within the Regions having more than 100 employees who operate light-duty vehicles on streets and highways over which the State of California has ownership or control. In the Los Angeles Region, however, the system need only, by January 1, 1975, cover employees in Los Angeles County and other cities in the Region having populations greater than 50,000, but it must be expanded to its full required scope by May 31, 1975.

(d) No later than July 1, 1974, the State of California shall furnish the Administrator with separate compliance schedules (including any necessary draft or adopted regulations) for implementing the requirements of paragraph (c) of this section in each of the Regions. The compliance schedule 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 time, origin, and destination, and the applicant's de-

sire to ride only, drive only, or share driving;

(iii) A computer method of matching information that will have provisions for locating each applicant's origin and destination within the relevant Region, matching applicants with similar origins and destinations and travel schedules, and enabling the persons so matched to make contact with each other at the request of any one of them;

(iv) 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 lists are periodically updated to remove applicants who no longer meet the governing criteria and add new applicants who do;

(v) An agency or agencies responsible for operating, overseeing, and maintaining the computer carpool matching system.

(e) No later than September 31, 1974, the State of California shall submit to the Administrator validly adopted regulations establishing the program outlined in each such compliance schedule.

(f) The State of California shall, in conjunction with the employers listed below, establish pilot programs for each region specified to assist it in developing the full-scale carpooling systems required by paragraph (c) of this section:

(1) In the San Diego Region—U.S. Navy Underwater Systems Center and the U.S. Navy Electronics Laboratory.

(2) In the San Francisco Region—U.S. Naval Base at Treasure Island, Alameda U.S. Naval Air Station, Presidio of the U.S. Army, and U.S. Naval Air Station at Moffet Field.

(3) In the Sacramento Valley Region—the McClellan Air Force Base, Sacramento.

(4) In the San Joaquin Valley Region—the Internal Revenue Service, Butler and Willow Avenues, Fresno.

(5) In the Los Angeles Region—the State shall cooperate with the City of Los Angeles to establish a pilot program for all employees in the Los Angeles central business district.

(g) The pilot programs listed in paragraph (f) of this section shall be implemented on the following schedule:

(1) On or before December 31, 1973, each employer or other entity subject to obligations under paragraph (f) of this section shall, together with the State of California, submit to the Administrator a compliance schedule conforming to the substantive requirements of paragraph (d) (1) of this section.

(2) No later than March 31, 1974, the pilot program shall begin operation.

#### § 52.258 Mass transit priority—exclusive bus use.

(a) This regulation is applicable in the San Diego Intrastate Air Quality Control Region.

(b) On or before October 30, 1974, the City of San Diego shall convert all lanes of Broadway, from Kettner Boulevard to 14th Street, in the City of San Diego, to the exclusive use of buses.

(c) On or before March 31, 1974, the City of San Diego shall submit to the Administrator a detailed compliance schedule showing the steps it will take to convert Broadway to the exclusive use of buses. The compliance schedule shall specify measures to prevent the use of Broadway by non-buses and shall provide for the establishment of a synchronized signal system to maintain traffic speed.

(d) No later than June 1, 1975, the City of San Diego shall submit to the Administrator a detailed compliance schedule in the form specified in paragraph (c) of this section for the conversion to the exclusive use of buses of a significant additional number of miles of street (based on studies available to the Administrator) unless other measures deemed equivalent by the Administrator are submitted. No later than January 31, 1976, the City of San Diego shall put the program so outlined into effect.

(e) On or before October 30, 1974, the State of California shall begin to provide preferential traffic treatment for buses operating between the eastern terminus of the Broadway exclusive bus route established under paragraph (c) of this section and the entrances to State Highway 163.

(f) On or before March 31, 1974, the State of California shall submit to the Administrator a detailed compliance schedule showing the steps it will take to establish the required system of preferential treatment. This schedule may provide for the conversion of selected streets to the exclusive use of such buses, for the establishment of bus lanes, for metering of all other traffic using streets set aside for priority use by buses, or for any other such system acceptable to the Administrator.

#### § 52.259 Ramp metering and preferential bus/carpool lanes.

(a) "Carpool" means a vehicle containing three or more persons.

(b) This regulation is applicable in the San Diego IntraState Air Quality Control Region.

(c) On or before June 30, 1974, the State of California shall institute a program to grant preferential treatment to buses and carpools using the following sections of road:

(1) California State Highway 125 from Interstate 8 to the junction with California State Highway 94; and

(2) California State Highway 94 from the junction with California State Highway 125 to the junction with Interstate Freeway 5.

(d) On or before December 31, 1973, the State of California shall submit to the Administrator a detailed compliance schedule detailing the steps it will take to establish the preferential treatment system. The program shall include:

(1) A system of ramp metering designed to prevent the entrance of vehicles other than buses and carpools onto the designated road segments at any time when their entrance would have the effect of reducing the average speed at which buses and carpools travel. Such metering shall be established on each

access ramp serving the designated highway segments provided that any given ramp may be exempted from this requirement if the State of California makes a showing satisfactory to the Administrator that the effect on average bus and carpool speed of installing such metering would be insubstantial.

(2) A system of bypass lanes designed to allow buses and carpools to avoid congestion or restrictions caused by the metering system described in paragraph (d) (1) of this section.

(3) A system of enforcement containing appropriate penalties for other vehicles to ensure that the bypass lanes are used only by buses and carpools.

(e) No later than September 30, 1975, the State of California shall implement a further system of preferential treatment for buses and carpools. Unless other measures deemed equivalent by the Administrator are submitted, this program shall at a minimum provide for the significant expansion based on studies to be designated by the Administrator of both the bus/carpool lane and the ramp metering systems.

(f) No later than March 30, 1975, the State of California shall submit to the Administrator a detailed compliance schedule showing the steps it will take to establish the preferential treatment system required under paragraph (e) of this section.

#### § 52.260 Organic solvent usage. (Federal regulation adding to and replacing parts of Rule 66 of San Diego County)

(a) This section is applicable in that portion of San Diego County contained within the San Diego IntraState Air Quality Control Region. This section is effective as of January 1, 1975.

(b) Rule 66 of San Diego County as contained in the local air pollution control district regulations for the San Diego County is hereby incorporated by reference in this plan and is amended by replacing subparagraph (1) (5), and adding in place thereof subparagraphs (5), (6), and (7). The amendment is as follows:

(5) The use of any material, in any article, machine, equipment, or other contrivance described in sections (a), (b), (c), or (e), if:

(i) The volatile content of such material consists only of water and organic solvents, and

(ii) The organic solvents comprise not more than 20 percent of volume of said bulk content, and

(iii) The volatile content is not photochemically reactive as defined in section (n), and

(iv) The organic solvent or any material containing organic solvent does not come into contact with flame. This requirement is to be effective only for those articles, machines, equipment or contrivances covered by this regulation, and that are constructed or modified after the effective date of this regulation.

(6) The use of any material in any article, machine, equipment, or other contrivance described in sections (a), (b), (c), or (e) if:

(i) The organic solvent content of such material does not exceed 30 percent by volume of said material: This is to be effective until January 1, 1977. After such date the

organic solvent content of such material must not exceed 20 percent by volume.

(ii) The volatile content is not photochemically reactive as defined in section (n), and

(iii) The organic solvent or any material containing organic solvent does not come into contact with flame. This requirement is to be effective only for those articles, machines, equipment, or contrivances that are constructed or modified after the effective date of this regulation.

(7) A person shall not during any one day dispose of a total of more than 1.5 gallons of any photochemically reactive solvent, as defined in paragraph (n) of this rule, or of any such photochemically reactive solvent, by any means that will permit the evaporation of such solvent into the atmosphere.

#### § 52.261 Preferential bus/carpool lanes, San Francisco Bay Area.

(a) Definitions:

(1) "Bus/carpool lane" means a lane on a street or highway open only to buses (or buses and carpools), whether constructed especially for that purpose or converted from existing lanes.

(2) "Carpool" means a vehicle containing three or more persons.

(b) This regulation is applicable in the San Francisco Bay Area IntraState Air Quality Control Region (the "Region").

(c) On or before May 1, 1974, the State of California, through the State Department of Transportation or through other agencies to which legal responsibility may have been delegated, shall establish upon at least three major highways having three or more lanes running in each direction, a system of bus/carpool lanes totalling not less than 45 miles running each morning and evening during the hours specified in paragraph (d) (5) of this section in the direction of maximum traffic flow.

(d) On or before December 31, 1973, the State of California shall submit to the Administrator a detailed compliance schedule showing the steps it will take to establish the system of bus/carpool lanes required by paragraph (c) of this section, with each schedule to include the following:

(1) Each street or highway that will have bus/carpool lanes must be identified with a schedule for the establishment of the lanes.

(2) Bus/carpool lanes must be prominently indicated by overhead signs at appropriate intervals and at each intersection of entry ramps.

(3) Bus/carpool lanes must be prominently indicated by distinctive painted, pylon, or physical barriers.

(4) Vehicles legally using the bus/carpool lanes shall have the right of way when crossing other portions of the road to enter or leave such lanes.

(5) The bus/carpool lanes required hereunder may be either concurrent flow or contraflow and, at a minimum, shall operate from 6:30 a.m. to 9:30 a.m. and from 3:30 p.m. to 6:30 p.m. each weekday.

(e) On or before May 31, 1975, the State of California shall implement a further bus/carpool lane program under which the total mileage of bus/carpool lanes required by paragraph (c) of this section shall, at a minimum, be doubled.

On or before December 31, 1974, the State of California shall submit to the Administrator a detailed compliance schedule in the form specified by paragraph (d) of this section, indicating the measures it will take to establish this further program.

**§ 52.262 Submittal of studies—San Francisco Bay Area.**

(a) The State of California shall submit to the Administrator by December 31, 1973, a status report on all "corridor issues" presented in the San Francisco Metropolitan Transportation Commission Report of June 27, 1973. This status report shall include, but not necessarily be limited to:

- (1) A complete description of the particular corridor issue study.
- (2) The date of completion of the study.
- (3) The total person-hours necessary for the study.
- (4) The relevance of the study to automotive emission reductions.
- (5) The status of the study as of December 31, 1973.

(6) The Administrator will evaluate this status report and determine if greater Federal participation is required for either resolution of the study conclusions or implementation of the study's recommendations.

**§ 52.263 Priority treatment for buses and carpools—Los Angeles Region.**

(a) Definitions:

- (1) "Carpool" means a vehicle containing three or more persons.
- (2) "Bus/carpool lane" means a lane on a street or highway open only to buses (or to buses and carpools), whether constructed especially for that purpose or converted from existing lanes.

(3) "Preferential treatment" for any class of vehicles, means either the setting aside of one traffic lane for the exclusive use of such vehicles or other measures (for example, access metering or setting aside the entire street), which the Administrator finds would be at least equal in VMT reduction effect to the establishment of such a lane.

(b) This regulation is applicable in the Metropolitan Los Angeles Intra-state Air Quality Control Region (the "Region").

(c) On or before May 31, 1974, the State of California, through the State Department of Transportation or through other agencies to which legal authority has been delegated, shall establish the following system of bus/carpool lanes.

(1) Ventura/Hollywood Corridor—a concurrent flow exclusive bus/carpool lane from Topanga Canyon Boulevard, Woodland Hills (U.S. 101) to junction of the Hollywood Freeway, and contraflow on the Hollywood Freeway (U.S. 101) from the junction with Ventura Freeway in North Hollywood to Vermont Avenue, and bus preferential treatment on arterial surface streets from Vermont Avenue to the Los Angeles central business district (CBD).

(2) Harbor Freeway Corridor—contraflow on Harbor Freeway (California

11) from vicinity of Pacific Coast Highway, in Wilmington, to junction of Santa Monica Freeway (I-10), then by surface street preferential treatment to LA/CBD.

(3) Wilshire Corridor—surface street preferential bus treatment from vicinity of San Vicente Boulevard, to LA/CBD.

(4) San Bernardino Freeway Corridor—Bus/carpool lane, either contraflow or concurrent flow on San Bernardino Freeway from El Monte terminus of existing San Bernardino Freeway bus lane (I-10), to vicinity of Ontario Airport.

(5) Priority Treatment in CBD—provide preferential treatment in CBD on surface streets to connect Wilshire and San Bernardino corridors.

(d) On or before May 31, 1976, the State of California, through the State Department of Transportation or other agencies to which legal authority has been delegated, shall establish the following system of bus and bus/carpool lanes:

(1) Contraflow lane on the Golden State Freeway (I-5) from junction of Ventura Freeway (California 134) in Los Angeles to San Bernardino Freeway (I-10).

(2) Contraflow on Pasadena Freeway (California 11) from terminus in City of Pasadena to Hollywood Freeway (U.S. 101).

(3) Contraflow on Pomona Freeway from San Gabriel Freeway (I-605) to Santa Ana Freeway (I-5).

(4) Concurrent flow in San Diego Freeway (I-405) from Ventura Freeway (U.S. 101) in Sherman Oaks to Newport Freeway (California 55), Costa Mesa.

(5) Concurrent flow on Long Beach Freeway (California 7) from Santa Ana Freeway (I-5), City of Commerce to San Diego Freeway (I-405), Long Beach.

(6) Artesia Freeway (California 91) from Santa Ana Freeway (I-5) to Long Beach Freeway (California 7), Long Beach.

(e) Stage III will include specific routes in other portions of the Region.

(f) On or before December 31, 1973, the State of California shall submit to the Administrator a compliance schedule showing the steps it will take to establish the system of bus/carpool lanes required by paragraphs (c) and (d) of this section, with each schedule to include the following:

(1) A schedule for the establishment of the lanes. The schedule for the lanes required by paragraph (d) of this section shall provide for the first such lane to be set aside no later than June 1, 1974.

(2) Bus/carpool lanes must be prominently indicated by overhead signs at appropriate intervals and at each intersection of entry ramps.

(3) Bus/carpool lanes must be prominently indicated by distinctive painted, pylon, or physical barriers.

(4) Vehicles using a bus/carpool lane shall have the right of way when crossing other portions of the road to enter or leave such lanes.

(5) At a minimum, the bus/carpool lanes so set aside shall operate from 6:30

a.m. to 9:30 a.m. and from 3:30 to 6:30 a.m. each weekday.

(g) No deviation from the system of bus/carpool lanes required under paragraphs (c) and (d) of this section shall be permitted except upon application made by the State of California to the Administrator at the time of submittal of compliance schedules and approved by him, which application must contain a satisfactory designation of alternate routes for the establishment of such lanes.

**§ 52.264 Mass transit priority strategy and planning.**

(a) In this section and § 52.265, "Mass transit priority" means any preferential treatment that is given to mass transit operations and carpool versus the private single passenger automobile, in terms of access, rights-of-way, or any other appropriate measures.

(b) This section is applicable in the four county area of El Dorado, Placer, Sacramento, and Yolo contained in the Sacramento Valley Intra-state Air Quality Control Region.

(c) A study to determine the method or methods suitable for providing mass transit bus operation priority treatment on or in the vicinity of "J" Street in the City of Sacramento, shall be conducted by the State of California or a designated local or regional transportation authority. In addition to or as an adjunct to, the "J" Street study, the State of California or a designated local or regional transportation authority, shall investigate the present and near-term future (i.e. 1975 to 1977) need for priority treatment of mass transit buses in freeway and major thoroughfare operations in the four county area.

(1) The "J" Street portion of this study shall be completed and submitted to the Administrator by March 31, 1974, shall outline a suitable transit priority strategy and shall present in detail the implementation timetables and obstacles associated with the strategy, so that the Administrator can review implementation progress. No later than September 30, 1974, the "J" Street mass transit priority strategy must be implemented.

(2) The "freeway and major thoroughfare" portion of the study shall be completed by March 31, 1974. Estimated implementation timetables and obstacles associated with likely strategies shall be outlined so that the Administrator can review and determine the need and progress of implementation.

(3) With regard to both the "J Street" and the "freeway and major thoroughfare" sections of the study, general guidelines and criteria shall be established for determining the need for or appropriateness of providing mass transit priority in freeway, major thoroughfare, and local street operations, and a system of review for determining the need for implementing mass transit priority strategies shall be presented.

**§ 52.265 Mass transit and transit priority planning.**

(a) This section is applicable in the Standard Metropolitan Statistical Areas

(SMSA's) of the cities of Fresno, Stockton, Bakersfield, and Modesto in the San Joaquin Valley Intrastate Air Quality Control Region.

(b) A study being sponsored by the State of California Department of Transportation is presently in progress and is scheduled for completion in January of 1974. This study will indicate the potential for public transit usage in the Fresno City area. Using this study and other appropriate information as a guide, the State of California or a designated local or regional transportation authority shall, by May 31, 1974, submit to the Administrator recommended mass transit strategies, including mass transit priority strategies, that are potentially useful and feasible in the time frame of the present to 1975 and 1977. The recommendation shall present in detail the implementation milestone timetables and the obstacles associated with the strategies so that the Administrator can review and determine the need for and progress of implementation.

(c) Studies shall be conducted in the Stockton, Bakersfield, and Modesto SMSA's by the State of California or by designated local or regional transportation authorities. These studies shall be completed and submitted to the Administrator by September 30, 1974, and shall

recommend mass transit strategies, including mass transit priority strategies, that are potentially useful and feasible in the time frame of the present to 1975 and 1977. The recommendation shall present in detail the implementation timetables and obstacles associated with the strategies, so that the Administrator can review all available information and determine the need for and progress of implementation.

**§ 52.266 Monitoring transportation mode trends.**

(a) This section is applicable to the San Francisco Bay Area, Los Angeles, San Diego, San Joaquin Valley, and Sacramento Intrastate Air Quality Control Regions.

(b) The State of California or a designated agency approved by the Administrator shall monitor the actual per vehicle emissions reductions occurring as a result of the retrofit devices and inspection and maintenance programs required under §§ 52.242, 52.244, and 52.245, and the observed changes in vehicle miles traveled and average vehicle speeds as a result of traffic flow changes and reductions in vehicle use required under §§ 52.241 (if implemented), 52.243 (if implemented), 52.248, 52.249, 52.250, 52.251, 52.257, 52.258, 52.259, 52.261, 52.263, 52.264, and 52.265.

(c) No later than March 1, 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.

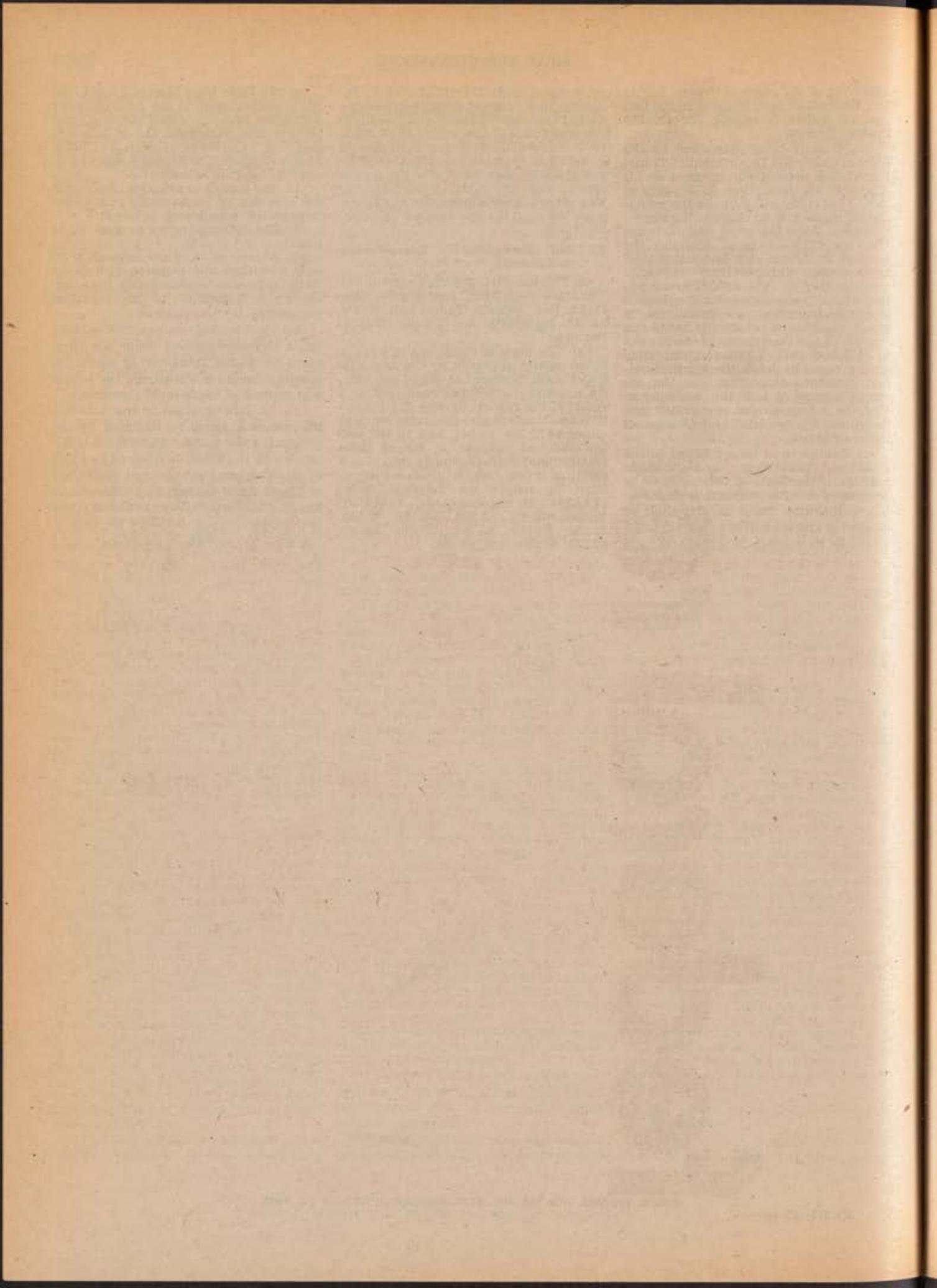
(2) The administrative process to be used.

(3) A description of the methods to be used to collect the emission reduction/VMT reduction/vehicle speed data, including a description of any modeling techniques to be employed.

(4) The funding requirements, including a signed statement from the Governor or State Treasurer or their respective designees identifying the source and amount of funds for the program.

(d) All data obtained by the monitoring program shall be included in the quarterly report submitted to the Administrator by the State, as required by § 51.7 of this chapter, in the format prescribed in Appendix M to part 51 of this chapter. The first quarterly report shall cover the period January 1-March 31, 1975.

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PART III



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## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration



## OVER THE COUNTER DRUGS

## Title 21—Food and Drugs

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

## SUBCHAPTER C—DRUGS

## PART 130—NEW DRUGS

## General Conditions for OTC Drugs

In the FEDERAL REGISTER of April 5, 1973 (38 FR 8714), the Commissioner of Food and Drugs proposed general conditions for OTC drugs which are generally recognized as safe and effective and are not misbranded.

A number of comments were received in response to the proposal. The points raised and the Commissioner's conclusions are as follows.

## GENERAL COMMENTS

1. One comment contended that the general conditions set forth in this section are premature because other OTC panels may reach differing conclusions.

The Commissioner does not agree that promulgation of the general conditions set out in the proposal is premature. These conditions are subject to revision and augmentation if future panel reports or other information justifies such changes. The Commissioner also recognizes that a specific monograph may properly modify these general conditions, i.e., create an exemption, where appropriate.

2. There was comment that the purpose and intent of this proposal is unclear because it refers to specific regulations already promulgated by the Food and Drug Administration and seems to be an attempt to codify the various regulations, thereby changing their legal status.

The new regulation sets forth in one place the various regulations that relate to OTC drugs. These regulations embody legal requirements that must be satisfied by an OTC drug in order to avoid regulatory action, and thus their incorporation by reference in no way changes their legal status.

3. There was comment that the requirement in paragraph (c) will cause confusion because it seems to be an amendment to the provisions of § 1.102a (b) (21 CFR 1.102a(b)), relating to OTC drug labeling.

The Commissioner has reviewed § 1.102a(b) and can find no inconsistency or confusion between these two provisions.

4. There were a number of comments that the Food and Drug Administration does not have the authority to regulate the advertising of OTC drugs or request copies of all the advertising.

The Food and Drug Administration recognizes that the Federal Trade Commission has responsibility for the regulation of OTC drug advertising. The statement in the regulation applies only to the extent that advertising, exceeds the approved labeling. The Federal Food, Drug, and Cosmetic Act prohibits a manufacturer from advertising a drug to treat a condition for which there are no adequate directions for use on the label.

(U.S. v. Articles of Drug \* \* \* Foods Plus, Inc., 362 F.2d 923 (3d Cir. 1966); V. E. Irons, Inc. v. U.S., 244 F.2d 84 (1st Cir. 1957), cert. den., 354 U.S. 923 (1957); Alberty Foods Products Co. v. U.S., 185 F.2d 321 (9th Cir. 1950).)

5. There was comment that the word "harmless" should be deleted from the statement in paragraph (e) on inactive ingredients since "harmless" has no definition in the Act, and also that the statement about testing should be clarified.

The Commissioner agrees and this provision has been rewritten.

6. There was comment that reference should be made to § 133.9, governing product containers and their components, to avoid confusion in paragraph (f).

The Commissioner agrees and this provision has been revised.

7. A comment was made that the general warnings required in paragraph (g) (i.e., "Keep this and all drugs out of the reach of children" and, "In case of accidental overdose contact a physician immediately"), are inappropriate as general conditions and should be dealt with by each panel. Toothpaste was cited as an example of drugs that need no such warnings. One comment recommended that the proposed labeling changes should comply with 21 CFR Part 131.

The Commissioner agrees that some formulations do not require such warnings. This can be handled through appropriate exemptions in the applicable monographs. The Dental Panel, for example, could determine that the warnings appearing in § 130.302(g) are inappropriate for toothpaste, and recommend an exemption from that general requirement. The statement that 21 CFR Part 131 also removes the necessity of this subsection is incorrect. That section will be amended when the OTC drug review is completed to delete all OTC drug warnings since it will be superseded by the individual OTC drug monographs. The Commissioner intends that, as they are promulgated, the monograph warnings will be used in place of the Part 131 warnings, which will thereby be made obsolete.

8. There was comment that the word "accidental" should be removed from the warning because the seriousness of an overdose is not necessarily related to its cause.

The Commissioner concludes, however, that deletion of that term might well be misinterpreted by the layman, resulting in unnecessary confusion.

9. One comment recommended the following standard warning to be used whenever a Panel concludes that drug interaction is a problem: "Warning: If you are taking a prescription medicine, consult your physician before taking this medication."

The Commissioner agrees with this approach, and has included where necessary such a standard warning using the wording recommended by the Panel, which the Commissioner concludes to be preferable.

10. There was comment that a reading of paragraph (h) could result in the min-

imum dose being interpreted as the maximum amount allowed.

The Commissioner concludes that such an erroneous interpretation is quite unlikely and that no change in the wording is warranted. Even where the product is sufficiently safe that no maximum daily dosage limit is necessary, there is no justification for recommending levels higher than those that will achieve effectiveness.

11. Section 130.305(e) (1) of the proposed antacid monograph published in the FEDERAL REGISTER of April 5, 1973 (38 FR 8724), would have required quantitative labeling of the active ingredients. The tentative final monograph, published elsewhere in this issue of the FEDERAL REGISTER, deletes this requirement because the statute presently requires quantitative labeling of active ingredients only for prescription drugs, and because the Commissioner has concluded that quantitative labeling of active ingredients should be recommended (but not required) for all OTC drugs. Accordingly, the provision included in the proposed antacid monograph has been transferred to § 130.302(j) and revised as a recommendation for all OTC drugs.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201, 502, 505, 701, 52 Stat. 1040-1042 as amended, 1050-1053 as amended, 1055-1056 as amended by 70 Stat. 919 and 72 Stat. 948; 21 U.S.C. 321, 352, 355, 371), the Administrative Procedure Act (secs. 4, 5, 10, 60 Stat. 238 and 243, as amended; 5 U.S.C. 553, 554, 702, 703, 704) and under authority delegated to the Commissioner (21 CFR 2.120), 21 CFR Part 130 is amended by adding a new § 130.302 to read as follows:

## § 130.302 General conditions.

An over-the-counter (OTC) drug listed in this subpart is generally recognized as safe and effective and is not misbranded if it meets each of the conditions contained in this section and each of the conditions contained in any applicable monograph. Any product which fails to conform to each of the conditions contained in this section and in an applicable monograph is liable to regulatory action.

(a) The product is manufactured in compliance with current good manufacturing practices, as established by Part 133 of this chapter.

(b) The establishment(s) in which the drug product is manufactured is registered, and the drug product is listed, in compliance with Part 132 of this chapter. It is requested but not required that the number assigned to the product pursuant to Part 132 of this chapter appear on all drug labels and in all drug labeling. If this number is used, it shall be placed in the manner set forth in Part 132 of this chapter.

(c) The product is labeled in compliance with Chapter V of the act and § 1.100 et seq. of this chapter. For purposes of § 1.102a(b) of this chapter, the statement of identity of the product shall be the term or phrase used in the

applicable monograph established in this subpart.

(d) The advertising for the product prescribes, recommends, or suggests its use only under the conditions stated in the labeling.

(e) The product contains only suitable inactive ingredients which are safe in the amounts administered and do not interfere with the effectiveness of the preparation or with suitable tests or assays to determine if the product meets its professed standards of identity, strength, quality, and purity. Color additives may be used only in accordance with section 706 of the act and Parts 8 and 9 of this chapter.

(f) The product container and con-

tainer components meet the requirements of § 133.9 of this chapter.

(g) The labeling contains the general warning: "Keep this and all drugs out of the reach of children. In case of accidental overdose, contact a physician immediately." The Food and Drug Administration will grant an exemption from this general warning where appropriate upon petition.

(h) Where no maximum daily dosage limit for an active ingredient is established in this subpart, it is used in a product at a level that does not exceed the amount reasonably required to achieve its intended effect.

(i) The labeling for any drug for which an applicable monograph requires a drug

interaction warning contains the following warning: "Warning: Do not take this product concurrently with a prescription drug except on the advice of a physician."

(j) It is recommended that the labeling of the product contain the quantitative amount of each active ingredient, expressed in terms of the dosage unit stated in the directions for use (e.g., tablet, teaspoonful).

*Effective date.* This order shall become effective on December 12, 1973.

Dated: November 2, 1973.

A. M. SCHMIDT,  
Commissioner of Food and Drugs.

[FR Doc. 73-23928 Filed 11-9-73; 8:46 am]

DEPARTMENT OF HEALTH,  
EDUCATION, AND WELFARE

Food and Drug Administration

[ 21 CFR Part 130 ]

OVER-THE-COUNTER DRUGS GENERALLY  
RECOGNIZED AS SAFE AND EFFECTIVE  
AND NOT MISBRANDED

Tentative Final Order for Antacid Products

In the FEDERAL REGISTER of April 5, 1973 (38 FR 8714), the Commissioner of Food and Drugs, pursuant to § 130.301(a) (6) ((21 CFR 130.301(a) (6))), published a proposed monograph on over-the-counter (OTC) antacid drugs.

Interested persons were invited to submit comments on the proposal within 60 days. Twenty-seven such comments were received. For thirty days after the final day for submission of comments, reply comments could be filed with the Hearing Clerk in response to comments filed in the initial 60-day period. Eleven reply comments were received. A transcript of a Senate hearing held by the Subcommittee on Monopoly of the Select Committee on Small Business, chaired by Senator Nelson, on June 8, 1973, during which testimony was presented on OTC antacid drugs, was filed with the Hearing Clerk and has been considered in the same way as all other comments.

In accordance with § 130.301(a) (2) all data and information submitted with respect to OTC antacid drugs for consideration by the Advisory Review Panel has been put on public display at the office of the Hearing Clerk, Food and Drug Administration, Rm. 6-86, 5600 Fishers Lane, Rockville, Maryland 20852, after deletion of a small amount of trade secret information.

The Commissioner has reviewed the Report and Monograph and all comments and reply comments and has reached the following conclusions.

GENERAL COMMENTS

1. One comment stated that the proposal establishing a monograph for OTC antacid products is invalid because Executive Order 11671 was violated in that no notice appeared in the FEDERAL REGISTER or in the local media stating the purpose, membership, or activities of the Panel, including the dates, places, and agenda of open meetings.

The Food and Drug Administration published in its Public Advisory Committee publication [DHEW Publication 1972 0-464-928] the authority, structure, function of the Panel and names and addresses of the Panel Chairman and its members. The establishment and activities of the Panel, both prospectively and retrospectively, were extensively reported in the trade and public press. A call for submission of data and views was published in the FEDERAL REGISTER of January 5, 1972 (37 FR 102). An opportunity for a personal appearance before the Panel was granted to all interested persons making such a request and numerous persons met with the Panel, including representatives from industry. No request to appear before the Panel

was denied. Information on meetings was regularly carried in the professional and trade press. The comment does not contend that any interested person was not aware of the existence of the Panel or did not receive notice of meetings or was not apprised of an opportunity to appear before the Panel. Thus, there is no basis for concluding that Executive Order 11671 was violated or that the monograph is invalid because of the failure to provide interested persons with an opportunity to make their views known to the Panel.

2. There was comment that the Food and Drug Administration has no authority pursuant to the OTC drug review to determine which drugs are generally recognized as safe and effective and not misbranded where there has been a prior court adjudication that a particular product is neither adulterated nor misbranded.

A prior court adjudication is not determinative of the legality of a drug at all times in the future. The OTC drug review considers data and information not previously available and reevaluates prior data in light of the most current medical and scientific information. Accordingly, the results of this review are regarded by the Food and Drug Administration as superseding all earlier administrative or court determinations.

3. Numerous comments contended that the agency does not have the authority under the Federal Food, Drug, and Cosmetic Act to establish substantive rules. This subject was dealt with in some detail in paragraphs 85 through 91 of the preamble to the procedures for classification of over-the-counter drugs published in the FEDERAL REGISTER of May 11, 1972 (37 FR 9464), and the Commissioner reiterates the conclusions stated there. Legal decisions handed down since then have sustained the Commissioner's authority to issue substantive regulations establishing the legal status of OTC drugs.

(United States v. Articles of Food and Drug \* \* \* Coli-trol 80 Medicated, N.D. Ga., Cosm. L. Rep. par. 40,837 (1973). United States v. Bentex Pharmaceuticals, 412 U.S. 645, 93 S.Ct. 2488 (1973). Warner Lambert v. FTC D.D.C. (Civil No. 652-73), decided June 14, 1973.)

4. There was comment that there are no data to suggest that the proposed labeling changes will be complied with and have their intended effect, or that they will even be read.

The Food and Drug Administration is presently engaged in studies to assess the understanding and acceptability by the public of current drug labeling and to develop new labeling formats that can lead to easier reading, improved comprehension, and better use of OTC drug labeling. Other groups, including consumer, industry, and advertising groups are also concerned with developing product labeling that can be and will be read and followed by the consumer. The Commissioner welcomes their cooperation on this matter.

5. There was comment that required relabeling should be supplemented by

corrective media advertising to counter the effects of longstanding inappropriate advertised claims.

The Food and Drug Administration does not regulate OTC drug advertising. As the comment correctly noted, this is a responsibility of the Federal Trade Commission. The Food and Drug Administration maintains close liaison with the Commission on relevant matters concerning the over-the-counter drug efficacy review and will inform the Commission about all required drug labeling changes.

6. One comment suggested that consumer participation in panel deliberations by a non-voting liaison member should not be a substitute for making the decision making process more accessible to the general public.

This matter was fully discussed in paragraph 37 of the preamble to the procedural regulations published in the FEDERAL REGISTER of May 11, 1972 (37 FR 9464). Public participation and accessibility to decisions and data are fundamental principles of the OTC drug review. Any interested person may submit written presentations to the Panel. In addition to continuous and direct participation by consumer and industry liaison members, a period of time has been set aside at each panel meeting for interested persons to present relevant information in open session. No request to appear before a panel has been denied by any panel. Minutes of each panel meeting, including interim conclusions of the panel, have been made available to interested persons. All data submitted to the panel, with the exception of a very small amount of confidential trade secrets, has been made available to the public after the Panel report has been published. All interested persons may then offer additional written comments, reply comments, and objections; may request a hearing before the Commissioner; and may appeal the final monograph to the courts. The public therefore has ample opportunity to participate in this process.

7. There was comment that the circulation of the draft proposed report to the consumer and industry liaison member, and thus to all interested members of the public, was not provided for in § 130.301(a) and that, if it was a helpful procedure, it should be added to the regulations and a proposal should be published in the FEDERAL REGISTER.

The Food and Drug Administration has organized the review panels to get independent scientific judgments on the safety, effectiveness, and proper labeling of OTC drugs. The Commissioner believes that the panels should have maximum discretion in accomplishing their task. One panel's decision to circulate an early draft of their proposed report should not require other panels to follow the same procedure. The regulations provide for two publications of the monograph in the FEDERAL REGISTER before it becomes final.

8. One comment stated that it was not possible to comment on the report and proposed monograph because the Panel's summary minutes were cryptic and no public transcript was available.

The object of writing and making available summary minutes was to maintain a full and accurate record of the Panel's reasoning and judgments and to minimize the circulation of speculative and misleading information as to the current status of the review. The minutes were read and approved by all members of the Panel and were then made available to the public. The Commissioner has reviewed the Panel's minutes and concludes that, when viewed in the light of the report and the data on file with the Hearing Clerk, on which the Panel relied, they amply serve their intended purpose. The public record is sufficient for any person to comment meaningfully on the proposed monograph.

9. It was stated that the publication of the proposed monograph without review by the Commissioner is not consistent with the procedure set forth in § 130.301 (a) (6).

The Commissioner concluded that the public interest was best served in the case of the proposed Antacid Monograph by publishing the document exactly as received by the Food and Drug Administration and to defer evaluation and any amendments until after the initial comment period. With future reports, because of length or types of recommendations he may wish to evaluate the report before publication. The deferral of his review in this case does not adversely affect the procedure established in § 130.301(a) (6) nor is it prohibited by the provisions of that section. To clarify this matter, however, the Commissioner is publishing a proposal to amend the regulations in order explicitly to confirm the propriety of this procedure elsewhere in this issue of the FEDERAL REGISTER.

10. The greatest number of comments concerned the proposed effective date of the final monograph after publication in the FEDERAL REGISTER. Some felt six months was too long considering the lengthy review procedures, while others claimed the time was inadequate to arrange for formulation and labeling changes. Some suggested a year to eighteen months.

Manufacturers and other interested parties have had full access to interim and final conclusions of the panel. There is ample time to develop new labeling and formulations before the final regulations issue. The Commissioner concludes that it is reasonable to require all manufacturers to be in compliance within six months of publication of a final monograph.

11. There was comment that the Commissioner ignored his responsibility to make a determination of the conditions that would result in an OTC product not being generally recognized as safe and effective or would result in misbranding or where data are insufficient to permit classification at this time.

The Commissioner proposed in that notice to adopt the findings in the panel report, including the "conditions under which antacid products are not generally recognized as safe and effective or are misbranded" (Category II), and the con-

ditions where data are "insufficient to permit final classification at this time" (Category III). His tentative final conclusions on these issues are contained in this notice.

12. There was comment that all drugs which are not generally recognized as safe and effective or are misbranded (Category II) should be removed from the market immediately upon publication of the final monograph unless a new drug application (NDA) has been filed in support of the drug.

Since the final monograph will not become known until publication, manufacturers cannot be expected to have definite knowledge of the ingredients to be removed from the market until that date. Nor can tests that have already begun necessarily be completed by then. Sufficient time should be allowed for a manufacturer to reformulate his product, remove it from the market, or file an NDA. The Commissioner concludes that a 6-month period is adequate for these purposes.

13. There was comment proposing that in the future the Category III ingredients be listed as part of the proposed monograph and published in the FEDERAL REGISTER including a list of tests which the manufacturers would need to start immediately in order to transfer the ingredient to Category I. This comment argued that such testing should be completed within the 6-month implementation period.

The Category III ingredients were listed in the proposal, and their manufacturers and users are therefore on notice about the need for additional testing. All interested persons must of course be given an opportunity to comment on the need for further testing. Whenever feasible, appropriate testing for Category III ingredients will be indicated. Upon further consideration, the Commissioner concludes that a two year period after publication of the final monograph is reasonable for completion of all required additional testing for the Category III ingredients covered by the Antacid monograph.

14. It was proposed that manufacturers who market products containing Category III ingredients change their labeling immediately. There were some comments that the industry should not be allowed two years to prove false and misleading claims and that Category III ingredients should be removed immediately.

The Commissioner has reviewed this matter thoroughly and concurs with the Panel's recommendation that Category II conditions should be eliminated within 6 months of publication of the final monograph but that Category III conditions may be continued for up to two years conditioned upon further testing. The Commissioner knows of no health hazard that would result from this interim use of Category III ingredients and conditions of use.

15. There was comment that the Food and Drug Administration must become involved in consumer education to alert the purchaser of OTC drugs to the labeling changes.

The Commissioner agrees. In addition to undertaking the studies mentioned under paragraph 4, the Food and Drug Administration is planning an extensive multi-media campaign to alert consumers to formulation and labeling changes for OTC drugs.

16. One comment suggested that a third class of drugs should be formed. This class would be OTC drugs available only from a pharmacist, and for which the pharmacist would maintain a patient dispensing record.

This matter is not within the purview of the OTC drug review. The purpose of the review is to determine those drugs that may safely and effectively be purchased and used without a physician's prescription and supervision regardless of the channel of distribution. All drugs contained in the final monographs will meet those criteria. Comments on a third class of drugs are therefore not pertinent to the review.

17. Numerous comments were received to the effect that the language for warnings, directions for use, and indications should only be guidelines and that language of similar intent should be acceptable.

The use of dissimilar labeling in situations involving identical uses and hazards would cause consumer confusion and could lead to deception and unsafe use. Use of the same language will reduce the likelihood of confusion and harm. The Commissioner therefore concludes that the labeling specified in the monograph will be mandatory.

18. There was comment that no inventory recall of noncomplying products should be required after the effective date of the final order.

The Food and Drug Administration at this time sees no need to recall any OTC antacid product after publication of the final monograph. If the Agency finds that a manufacturer, distributor or buyer has an inventory of a size that is obviously intended to prolong the marketing of a Category II product, or concludes that a hazard exists, appropriate action will be taken.

19. One of the most frequent comments was that clinical investigators are not enthusiastic about studies on OTC drugs because they are subjective in nature, difficult to perform, and retrospective in approach, and therefore not popular with scientific journals. It was contended that this makes it difficult to obtain adequate scientific data on Category III ingredients.

The Food and Drug Administration recognizes that OTC drug studies are often more difficult to undertake than those involving prescription drugs. OTC drug studies are principally concerned with measuring symptomatic relief, requiring methods that are more subjective than those used to measure the resolution of a disease condition. In all cases, however, such tests are entirely feasible and, indeed, have in many cases been conducted in the past. Nor is difficulty in performing studies sufficient justification for retaining on the market drugs the safety and effectiveness of which are inadequately documented.

20. There was comment that the preamble and proposal did not state how new data on Category III ingredients are to be reviewed.

The Food and Drug Administration is establishing an Implementation Unit within the OTC drug staff to advise interested persons on the kinds and extent of research needed to substantiate the safety and effectiveness of Category III conditions. The Implementation Unit will consult with the Office of Scientific Evaluation and may request the assistance of the OTC Antacid Review Panel and appropriate Bureau of Drugs advisory committees.

21. There was comment that the status of Category III ingredients, individually and in combination, has not been stated.

Section 130.301(a)(6) and the proposal clearly state that any Category III ingredient or condition or combination with other ingredients in Category I or III may continue to be marketed if testing for proof of efficacy is in fact undertaken during the period provided. Products that claim to be antacids must meet the acid neutralizing test during this two-year period, but any products which do not contain acid-reducing claims need not modify their claims until the two-year period has terminated.

22. There was comment that undertaking tests and studies should not be a condition for continued marketing of drugs in Category III.

The proposal included this condition for the continued marketing of Category III drugs because otherwise there is no justification whatever for such marketing. The Commissioner concludes that it would be unreasonable and unwarranted to permit the continued use of unsubstantiated conditions during the two year period provided for additional testing if in fact no such testing is being undertaken to obtain the necessary substantiation.

23. There was a comment that the monograph failed to include mildly alkaline products such as alkaline mineral waters.

No evidence was presented to the Panel or with the comments to show that such ingredients or products containing them are safe and effective as antacids. The Commissioner concludes that they are neither proven nor generally recognized as safe and effective for use in antacid therapy and are thus misbranded for such use.

#### COMMENTS ON THE REPORT

24. There was comment that the Panel exceeded its charge in recommending the development of an in vivo standard for OTC antacid drugs.

The Food and Drug Administration has asked the advisory review panels for their scientific judgment and expertise. To make sure that independent judgment is obtained, the Food and Drug Administration has stressed to all the panels that the Agency will consider any advice they offer. This recommendation was well within the Panel's charge. The Food and Drug Administration will investigate

further to determine whether an in vivo standard is feasible.

25. There was comment that an antacid product containing alginic acid is safe and effective for the symptomatic treatment of reflux esophagitis (a condition with the symptom of heartburn caused by the regurgitation of stomach acid). Three published and one unpublished studies were filed in support for that indication. One article had been previously submitted to the Panel and evaluates the effectiveness of an antacid/alginic acid product in the treatment of reflux esophagitis over a one month period (*Journal of the American Geriatrics Society* 20(7): 293-304, 1972). The findings are merely summarized and are largely testimonial in nature. The study lacks a well defined protocol and fails to include a non-alginic acid containing antacid control. Additional data, not previously submitted to the Panel, includes an unpublished study involving 47 patients with radiographic evidence of hiatal hernia and symptoms of reflux esophagitis. Two antacids, one containing alginic acid, were compared in the treatment of symptomatology associated with reflux esophagitis over a 4-week period. The findings indicate improvement for the symptom epigastric retrosternal distress for the antacid/alginic acid product but little difference between the combination and an antacid in treating regurgitation and epigastric gas. However, the results are inconclusive for insufficient data was submitted, including lack of baseline values, incomplete follow-up examinations and the inclusion of several patients with a normal esophagus. In a published double-blind cross-over study (*Current Medical Research and Opinion* 1(2): 63-69, 1972), an alginate/antacid compound was compared to alginate without antacid and a placebo in relieving regurgitation and heartburn. Relief of symptoms is reported with the alginate/antacid compound but alginate alone was only marginally better than placebo. Here again the findings are inconclusive for an antacid control was not included and patients apparently went from one treatment to another without allowing for an interval between treatments or re-evaluation at the end of each treatment period. In another submitted article involving a study in infants with persistent vomiting, the results indicate a reduction in vomiting when the alginic acid containing antacid is included in the prepared baby formula. The study fails to include sufficient information about previous treatments described in the article or compare the ingredient with a placebo (*Australian Pediatric Journal* 8: 279-281, 1972). The Commissioner concludes that the additional studies were not well controlled and based upon all of the data submitted affirms the Panel's conclusion that alginic acid has not been shown to be effective and thus should remain in Category III, pending further study.

26. There was comment that the labeling "Do not take this product concurrently with a prescription drug except on the advice of your physician or pharmacist"

should not be restricted to charcoal, but should be included for any other OTC drugs where side effects and drug interactions may occur.

The antacid review panel did not list any other drug interactions of which the consumer should be aware, nor was there sufficient documentation of any such interaction in comments submitted on the proposal. Pursuant to another comment, the Commissioner is adopting elsewhere in this issue of the *FEDERAL REGISTER*, a standard drug interaction warning to be used whenever a panel determines that it is appropriate.

27. There was comment that inclusion of the pharmacist in the label warning against concurrent use of charcoal and prescription drugs is inappropriate because pharmacists may not be sufficiently knowledgeable about drug interactions and because such advice may contravene certain State laws.

The Commissioner believes that the pharmacist is an important member of the health care team. Neither the knowledge nor competence of the pharmacist nor the precise role of the pharmacist in the organization and delivery of health care is at issue in this matter. His precise role in clinical health care, however, is the subject of intense interest and debate as part of the larger issue of the future of the entire health care delivery system. The Commissioner concludes that such an important matter should be resolved in the context of broad health policy deliberations and not as a part of the OTC drug review, and thus that no reference should be made to pharmacists in OTC drug labeling at this time. Once the larger issues of health care delivery have been resolved, the Commissioner will reconsider this matter.

28. There were comments that the Panel did not spend sufficient time reviewing inactive ingredients and that a separate OTC panel should review inactive ingredients.

The large number of ingredients and the amount of data to be reviewed by the Panel made it necessary to exclude routine consideration of inactive ingredients in the review. Pursuant to § 130.301, the call for data requested information only on active ingredients. The panel did review two inactive ingredients felt to be of special importance and it is anticipated that future panels will also give special attention to some inactive ingredients. The Commissioner has asked the National Advisory Drug Committee to consider the advisability of listing inactive ingredients on OTC drug labels.

29. There were a number of comments about the "Clinical Toxicological Data" recommendation of the Panel in its section on "Data Pertinent to Antacid Ingredient Evaluation."

The Panel recommended that an effort be made to collect any pertinent data that might be available from poison control or drug information systems on the lethal dose in humans. These recommendations were intended to be used by the Food and Drug Administration and the industry as a guide to needed information.

COMMENTS ON THE PROPOSED MONOGRAPH  
ACTIVE INGREDIENTS

30. A number of comments stated that requiring an OTC antacid ingredient to contribute at least 25 percent of the acid neutralizing capacity was not based on scientific fact, and that it should be deleted or the 10-percent figure originally proposed in the minutes should be adopted.

The 25-percent figure was based on the conclusion that an ingredient which contributes less than that reaches the point where its contribution as an active ingredient is insignificant. To require no minimum contribution at all would be to allow the use of amounts so small as to be misleading and deceptive to the consumer. Moreover, small percentage contributions, accompanied by a proliferation of ingredients in various formulations, would make difficult the evaluation of safety and effectiveness and the identification of possible side effects. It would be unreasonable and deceptive to permit the use of 10 active ingredients, each contributing only 10 percent of the effects. Use of a requirement less than 25 percent would permit inclusion of ingredients solely for promotional purposes. The Commissioner therefore affirms the Panel's judgment that a minimum 25-percent contribution to acid neutralizing capacity by each active ingredient is a reasonable requirement.

31. There was comment that the Panel should have established a procedure for allowing a product to be marketed as an antacid where it is effective but does not pass the acid neutralizing test.

Such an ingredient has not been identified to the Food and Drug Administration. If and when this circumstance arises, the monograph can be amended as provided in § 130.301(a) (11).

32. There were numerous comments that the acid neutralizing test should not be adopted until it has been fully validated by an appropriate body of scientific experts.

The Commissioner agrees. The Food and Drug Administration is conducting appropriate studies to validate the test. No comment offered persuasive evidence showing that the proposed test is invalid.

33. One comment stated that a tablet disintegration test is necessary because a tablet may pass the acid neutralizing test and still not be dissolved.

Passing the acid neutralizing test in fifteen minutes does not exempt the official tablets from passing the standard U.S.P. tablet disintegration test. The acid neutralizing test is an additional standard and does not supplant other required standards. It should be noted, however, that the Panel concluded that any tablet that passed the acid neutralizing test would be disintegrated.

34. A comment contended that the acid neutralizing test would favor fast-acting strong alkaline ingredients and that this could result in undesirable "acid rebound."

The Commissioner concluded there is little support for the acid rebound theory,

and there is no reason to believe the test favors strong alkaline products to the disadvantage of other antacid ingredients. The Commissioner believes that the acid neutralizing capacity is only one of many factors that a physician will consider in selecting an effective antacid for his patient.

35. The fifteen minute test duration was criticized because an antacid may be in the stomach much longer.

The test takes into consideration the fact that the fasting stomach retains an antacid for about fifteen minutes. Unless it is effective in that time, the patient may not obtain relief. The fact that an antacid may have a prolonged duration of action is one of the reasons why the acid neutralizing value is only one factor to be considered in antacid effectiveness and may be used only in ethical labeling.

36. The pH 3.5 endpoint of the test was criticized as unduly restrictive since the pH necessary to relieve upper gastrointestinal symptoms is not known.

The Commissioner concurs in the Panel's conclusion that an increase in pH to 3.5 is an appropriate standard for supporting a claim of decreased stomach acidity. No data were presented to dispute that conclusion.

37. The U.S.P. has established a method for assaying antacids. One comment stated that this method should be used instead of the acid neutralizing test in the proposed monograph.

The two U.S.P. acid consuming capacity tests are concerned only with total consumption and not with the duration of activity. If a drug takes an hour to neutralize a given amount of acid but is in the stomach for only fifteen minutes, its therapeutic value is highly questionable. The proposed test is designed to take both neutralizing capacity and time into account.

38. There was comment that the in vitro acid neutralizing test will discourage research in the development and evaluation of new antacids.

The Commissioner concludes that nothing in the test or in any other provision of the proposed monograph should discourage or retard research in antacid therapy. On the contrary, the test should serve to kindle new ideas about and methods of measuring the effectiveness of such treatment. In accordance with the Panel's recommendation, the Commissioner also intends to explore reliable in vivo tests of effectiveness for antacids.

39. A comment stated that the stirring speed should be measured by a phototachometer or similar device.

The Commissioner agrees and the tentative final monograph so provides.

40. A comment stated that the stirring speed should be increased to 500 RPM or a surfactant used because the slower speeds result in floating particles.

The Commissioner agrees and the tentative final monograph so provides.

41. Another comment suggested that the pH meter should be calibrated between 1.1 and at least 7 to permit accurate measurements.

The Commissioner concludes that the

method of calibration proposed by the Panel is satisfactory. No data were submitted to support the comment.

42. It was commented that the grinding and sieving of double layer tablets following the procedure results in disproportionately richer mixtures.

The Commissioner recognizes that modifications of the method of preparation of the product may be warranted. It is the responsibility of the manufacturer to propose an alternative method through a petition pursuant to § 130.301(a) (11).

43. A comment stated that the equipment specifications should be amended to substitute a rotating bottle apparatus for magnetic stirrer because of better temperature control and stirring speed reliability.

The Commissioner concludes that the rotating bottle method would be awkward for use in this test. The comment included no data to show that such a method would significantly increase reliability.

44. A comment suggested that one normal HCl is too strong in that it causes viscous antacids to stick to electrodes and carbonated products to foam. The comment stated that 0.1N HCl should be substituted since it represents a concentration of acid more in keeping with the acid concentration of the stomach.

The Commissioner concludes that either 0.1N or 1.0N HCl may be used, and the tentative final order so provides.

45. There was comment that, since aluminum compounds may interfere with prescription medications, they should no longer be marketed.

Aluminum ingredients are safe and effective as antacids. The evidence that they may decrease the absorption of certain prescription products is uncertain. Thus, to eliminate this antacid ingredient would be inappropriate in view of the current lack of evidence that a drug interaction exists. The Commissioner welcomes any additional evidence on this issue, and will take appropriate action if drug interaction is shown.

46. There was comment that this subsection could be construed to exclude aluminum hydroxide.

That was not the intent and the language has been clarified in the tentative final monograph.

47. There was comment that the provisions concerning bicarbonates should be deleted because these ions are sufficiently addressed in the sodium subsection.

The limits on the bicarbonate ion involve consideration of potential alkalosis whereas the primary concern with the sodium ion relates to hypertension. The Commissioner concludes that, for this reason, these different species are properly treated as distinct entities.

48. There was comment that it should be made clear that sodium carbonate is only to be used as a component of effervescent tablets.

This provision has been so revised in the tentative final monograph.

## INDICATIONS

49. There were a number of comments that the four allowed terms, "heartburn", "sour stomach", "acid indigestion", and "antacid", lack meaning to the consumer and are restrictive beyond the intent of § 130.301(4) (v) which requires terms "likely to be read and understood by the ordinary individual, including individuals of low comprehension". One of the comments submitted a national probability study of consumer language to show that terms other than those designated by the Panel are used by the consumer to designate the symptom for which he takes an antacid. Five nationally advertised products were used in the study. They were an antacid-analgesic, an antacid-flatulent, an antacid-diarrheal, and two antacids. About 1,000 heads of households were contacted. It was reported that "upset stomach" was the leading term used by the consumer irrespective of sex, age, income level or education.

The Commissioner concludes that the study is not relevant to the question whether acid indigestion also encompasses an upset stomach. Of the five products selected, two have been heavily advertised for "upset stomach", thus promoting the misconception that an antacid is useful for this purpose. These products have very different formulations, which would not be effective under all of the same conditions of use. It is further evident from the terms used by the consumers who participated in the study that a great deal of consumer confusion exists, possibly because of overzealous promotion.

The Commissioner concludes that the terms recommended by the Panel fully meet the intent of the regulation. Allowing each manufacturer to select the words to be used would result in continued consumer confusion and deception. The terms proposed by the Panel all relate to symptoms caused by excess gastric acidity, the sole condition for which antacids are generally recognized as effective. Other proposed terms such as "stomach upset" have different meanings to different individuals ranging from acid indigestion to nausea, cramps, and diarrhea, for which an antacid is ineffective. The Commissioner concludes that the evidence presented does not justify expansion of the present number of permitted terms.

## WARNINGS

50. There was a comment that the warning statements under subparagraphs (1) and (2) of paragraph (c) should be combined.

The Commissioner agrees and the tentative final monograph so provides.

51. There was comment that the language proposed for limiting use of the product at the maximum dosage for two weeks is inappropriate since it implies a question about the product's safety, when in fact it is the patient's continuing symptoms that are of concern.

The Commissioner concludes that the phrase proposed by the comment, delet-

ing the maximum dosage statement, would not be as complete or meaningful to the consumer as the Panel's language. The proposed language neither states nor implies a safety problem.

52. There was comment that a 5-percent incidence of constipation or laxation as a determinant of the warning requirement is arbitrary and should be replaced with a term such as "significant proportion" of users. No data were submitted to support a different figure.

The Commissioner concludes that deletion of the 5-percent figure would significantly lessen the ability to enforce the labeling statement. An endless debate could be engaged about the significance of any particular incidence, and different manufacturers would use different figures. The Commissioner concurs with the Panel's conclusion that 5 percent is appropriate in the absence of more specific data or expert opinion establishing a different figure.

53. There was comment that the sodium warning directed at antacid users on salt-restricted diets, proposed for drugs containing more than 5 milliequivalents, is inappropriate and should be deleted. The comment also stated that, if the warning is retained, it should apply only to daily dosages in excess of 10 milliequivalents.

While it is generally true that sodium-containing antacids would not materially interfere with a low-salt regimen, OTC antacids are often used under medical supervision at higher than recommended doses. Patients should have information about sodium content in the event that the physician's directions are not fully understood or the patient changes antacids on his own volition. The Commissioner therefore concludes that the proposed sodium warning is appropriate.

## DIRECTIONS FOR USE

54. There was comment that the directions for use should include the recommended total number of administrations in a given time period (e.g. "four times a day") as an alternative to single doses in a given time period (e.g. "every four hours").

The Commissioner agrees and the tentative final monograph so provides.

## STATEMENT OF ACTIVE INGREDIENTS

55. There were several comments commending the Panel for recommending that the labeling of all OTC antacid products be required to include a quantitative listing of each active ingredient. There were also many comments citing 21 U.S.C. 352(e)(1)(A), which provides for quantitative ingredient labeling only for prescription drugs.

The Food and Drug Administration concurs that the statute presently requires quantitative ingredient labeling only for prescription drugs. The National Advisory Drug Committee has recommended that all OTC drugs be labeled with a quantitative statement of the active ingredients. No comments offered persuasive reasons why this is not in the public interest. Accordingly, the Com-

missioner has deleted the provision relating only to antacid drugs and has included such a provision, as a recommendation, in the general conditions for all OTC drugs established under new § 130.302, published elsewhere in this issue of the FEDERAL REGISTER. The Commissioner urges manufacturers to comply with this request without the necessity for a change in the statute.

## ETHICAL LABELING

56. There was comment that the warning statements appearing on OTC products should not be included in ethical labeling.

The Commissioner concludes that such an approach is without merit, since it would deprive the physician of important information that he can expect his patient to have in hand.

57. There were numerous comments that the acid neutralizing capacity of an OTC antacid should appear on all OTC labeling. Others argued that this information should not even be included in ethical labeling because it would encourage a competitive "numbers game."

The Commissioner agrees with the Panel that the physician should be supplied with as much relevant data as possible, including the acid neutralizing capacity. However, inclusion of this technical information on the consumer label could result more in confusion than enlightenment, and could result in unwarranted consumer reliance solely upon this information as an indication of relative effectiveness. If there is evidence in the future that shows that such information could be placed in a labeling format useful to the consumer, the Commissioner will reconsider this decision.

58. Another comment suggested that a label statement of a suitable range for the neutralizing capacity be permitted, since variations may occur between manufactured batches and after extended shelf life.

The Commissioner realizes that variations may occur and therefore concludes that such information should be permitted in the form of a range. A product should not be labeled with an acid neutralizing capacity value exceeding 10 percent of the determined lower limit. If the acid neutralizing capacity of a product is reduced with extended shelf life, ethical labeling may indicate the value at the time of manufacture and/or what can be reasonably expected after a specified period of time. No product may be marketed with an acid neutralizing capacity below 5 meq. The tentative final order has been so revised.

59. Some comments were concerned that the Panel recognized that aluminum and other antacids may interfere with prescription drug absorption but proposed inclusion of such information only in ethical labeling, not in the consumer labeling where such information is also needed.

The Commissioner concurs with the Panel that the evidence of drug interaction is fragmentary and conflicting

and requires explanation to the consumer by a physician or pharmacist where appropriate. Since the physician or pharmacist should already be aware of such information they are the proper persons to be informed of possible drug interactions through ethical labeling. If a drug interaction is proved, the Commissioner will reopen the question of proper consumer labeling.

60. It was recommended that the ethical labeling claims for antacids be expanded to include gastric hyperacidity and hiatal hernia.

The Commissioner concludes that the terms "hiatal hernia" and "gastric hyperacidity" may be included in ethical labeling and has so provided in the tentative final monograph.

#### COMBINATIONS WITH NONANTACID ACTIVE INGREDIENTS

61. There was comment that the laxative ingredient in the antacid/laxative combination should be listed on the label.

This provision has been so revised in the tentative final order.

62. There was comment that antacid-salicylate combinations have been labeled and promoted for many years primarily for antacid use alone, and that labeling changes are not sufficient to assure the informed and proper use of these products. There were several comments that where an antacid-salicylate combination had been labeled as an antacid, removal from the market or reformulation to exclude salicylates were the only effective means of protecting the consumer.

The Panel concluded and the Commissioner concurs that this combination should not be used for antacid purposes alone. The proposed labeling limits the combination for use where the individual has symptoms requiring both an analgesic and an antacid. For continued marketing these limitations must be clearly identified in all future promotional efforts. The Commissioner concludes that proper labeling in the future will be sufficient to assure proper use of such combination products. The Federal Trade Commission has responsibility for assuring the propriety of future advertising of these products. The Commissioner also concludes that there is insufficient data to warrant removal of the combination or the salicylate from the combination, even though it was labeled in the past as an antacid.

63. All comments recognize that aspirin causes gastrointestinal bleeding, and few questioned the claim that the combination of an antacid salicylate causes less gastric bleeding in normal individuals than unbuffered aspirin. Many contended that there is no evidence to support the use of a salicylate-containing product in patients with gastric disease and therefore the combination should be reformulated as an antacid or labeled and used exclusively as an analgesic.

The Commissioner agrees that OTC antacid products, including combinations, should not be used by patients with gastric diseases except on the advice of a physician, but he concurs with the Panel

that there is a significant target population for which the antacid-salicylate combination provides rational concurrent therapy, (e.g., headache and acid indigestion). In fact, the combination is probably a safer more effective medication because it is buffered. The Commissioner therefore concludes that the combinations should not have to be reformulated as an antacid or labeled exclusively as an analgesic.

64. There was also comment that the Panel was overly restrictive in not recognizing the potential for analgesics in relieving certain transient symptoms of upper gastrointestinal distress. It was noted that the Panel recognized that the etiology of upper gastrointestinal distress is not well understood. One comment suggested that these symptoms of gastric distress may be associated with inflammatory reactions and that analgesics may be beneficial in reducing gastric inflammation and pain.

The Commissioner finds the proposals conjectural and at this time concludes that there is a lack of substantial evidence to support such claims. The Commissioner welcomes any scientific data that would adequately demonstrate the effectiveness of this combination in reducing gastric inflammation and pain.

65. Comment and testimony on OTC antacid drugs were presented June 6, 1973 before the Subcommittee on Monopoly of the Senate Select Committee on Small Business. It was reported by one physician that, during an 18-month period, he observed 18 patients in whom gastrointestinal hemorrhage was engendered by ingestion of aspirin preparations. In 5 patients, the preparation used was an effervescent antacid-analgesic product repeatedly taken over a short period of time to treat symptoms of gastric distress. Only one of the five patients referred to had no history of heavy alcohol ingestion, ulcer, or other serious disease that could well have caused the difficulty, prior to the ingestion of the combination. No controlled data were presented. The witness concluded that the advertising of the product as beneficial for stomach distress should cease, but acknowledged that it could be promoted as an analgesic. Another physician witness testified that many people are not aware of the potential hazards of salicylates or the true nature of their gastrointestinal symptoms, and questioned the advisability of including aspirin in any OTC drug preparations. The other witnesses presented their personal opinions as to the use of combinations but gave no data.

Based on the review of all the data submitted, the Commissioner concurs with the Panel that there is a significant target population having both symptoms. Even the witness describing the five patients had one patient taking an antacid and aspirin separately. The data submitted show the antacid-analgesic combination to cause less occult blood loss than taking each separately and there are no studies to indicate such a com-

bination is not safe. One case history is not sufficient to demonstrate a lack of safety. If additional data are provided to show that the combination does cause more gastrointestinal hemorrhage than each taken separately and that the proposed labeling is insufficient to protect the public, then the Commissioner will reconsider the issue.

66. There was criticism of a study on an effervescent antacid-analgesic product contained in an unpublished 1968 report submitted by the manufacturer during the comment period and not previously available to the panel. The report describes a study performed in Australia by a physician in which the effect of the drug on gastrointestinal bleeding was evaluated in 20 subjects free of any gastrointestinal symptoms or disease. During oral testimony before the OTC Analgesic Panel meeting on July 30, 1973, the manufacturer stated that the report had not been submitted to the OTC Antacid Panel because of differences between the formulation marketed in Australia used in the study, and the formulation marketed in the United States. In the study, bleeding was estimated by fecal determination of radioactive chromium ( $^{51}\text{Cr}$ ) labeled red blood cells. The effects were measured for 16 consecutive days on each subject—8 days with treatment (2 tablets 4 times daily) and 8 days without treatment (control period). Employing statistical procedures, the investigator omitted the values of three subjects having blood loss well in excess of the range of the other subjects. He concluded that the drug produced no significant blood loss. One comment, using a different statistical approach which included the aberrant values, found a statistically significant increase in bleeding for each subject. Further evaluation by others using additional statistical methods are conflicting. Previous data submitted to the Panel included six other fecal blood loss studies, in addition to the Australian study. All investigators concluded that there was no significant blood loss from the product.

The Commissioner concludes that the findings in the Australian study are not consistent with blood loss patterns normally observed following ingestion of aspirin. Three subjects had blood loss in excess of the range of other subjects on one day during drug treatment, but were essentially normal within 24 hours. Only one subject for three consecutive days had excessive blood loss during the treatment period but showed marked improvement with no blood loss on the final day of the study. If the blood loss were attributable to the product, it should have continued for the duration of the treatment period.

The Commissioner further concludes, on reviewing all the blood loss studies and other available data, that the blood loss reported in the Australian study is not clinically significant. Normal blood loss often exceeds the relatively small amount lost by even the three high subjects. Nor is there evidence to show that

a small increase in blood loss is in any way harmful to persons taking OTC medications, particularly since the choice is between taking the analgesic and antacid separately or in combination.

67. There was comment that the Panel should have found simethicone to be a safe and effective antitflatulent. The comment stated that, in failing to do so, the Panel had reached a conclusion which was inconsistent with § 130.301(a) (4) (ii), because the Panel accepted the fact that simethicone was effective for lessening postoperative gas pains and amounts of gaseous accumulations as judged by x-ray. Using the definition of effectiveness the comment found that there is a reasonable expectation that a significant portion of the target population will obtain clinically significant relief of the type claimed.

The Commissioner, after reviewing the panel report and the additional data submitted (see paragraph 68), concludes that simethicone is a safe and effective antitflatulent. However, because this ingredient is not an antacid the Commissioner has concluded to establish a separate monograph for antitflatulents. He also recognizes the possibility that other safe and effective antitflatulents may be available but were not submitted to the Antacid Panel. For this reason, he has decided that any other claimed antitflatulent active ingredients should be submitted when the call for data for miscellaneous internal products is published. After such data are reviewed, the Commissioner will amend the antitflatulent monograph to include any additional safe and effective ingredients.

68. There were comments that antacid-simethicone combinations should have been found to be a safe and effective antacid-antitflatulent, because excessive gas and bloating generally accompany functional gastrointestinal disturbances. It was stated that the consumer may not be able to distinguish between symptoms caused by gastric acid and those caused by gas accumulation and that the combination of an antacid and simethicone is useful in both types of distress without decreasing the safety or efficacy of either ingredient. The Panel had questioned whether coalescence of gas bubbles is clinically beneficial, whether simethicone reduces gas accumulation symptoms under ordinary conditions of life, and whether any of the sensations of gas accumulation are actually produced by the gas. Two additional studies evaluating simethicone alone were submitted during the comment period in an attempt to resolve these questions: (1) A double blind 10-day study in which patients evaluated the reduction of gas accumulation symptoms, and (2) a double blind cross-over study evaluating symptoms after ingestion of a symptom-provoking meal. In both studies, the patients showed a statistically significant preference for simethicone over the placebo.

After reviewing the Panel report, the data filed in the original submissions and the two additional studies, the Com-

missioner had determined there is a reasonable expectation that simethicone will be effective if used in such a combination. Proper labeling of the combination is important. Any claim of effectiveness for an antacid-simethicone combination must be related to the antacid properties of the product because there is a lack of evidence that the combination is effective for gas accumulations alone. The tentative final monograph for antacids has been amended to include an antacid-antitflatulent combination, and a separate antitflatulent monograph has been established.

#### INACTIVE INGREDIENTS

69. There was comment that the maximum dosage of lactose is unreasonable because § 130.305(a) (9) allows milk solids to be used without limitation and dairy products are often used in a Sippy regimen.

The Panel's primary concern was for those individuals unable to produce sufficient lactase enzyme to digest lactose. These lactase deficient individuals normally limit their consumption of milk products which contain lactose.

The comment is correct. The limitation is inconsistent and will be revised. The Commissioner has concluded that lactase deficient individuals should be provided with the labeling information and a statement has therefore been added to the warnings, § 130.305(c).

#### COMMISSIONER'S DETERMINATION OF (CATEGORY II) CONDITIONS UNDER WHICH ANTACID PRODUCTS ARE NOT GENERALLY RECOGNIZED AS SAFE AND EFFECTIVE OR ARE MISBRANDED

Based upon the record before him (all data submitted, the minutes of the Panel meetings, the Panel report, and all comments), the Commissioner determines that the use of antacids under the following conditions is unsupported by scientific data, and in many instances by sound theoretical reasoning. The Commissioner concludes that the ingredients, labeling, and combination drugs involved should not be permitted in interstate commerce effective as of 6 months after publication of the final monograph in the FEDERAL REGISTER, until scientific testing supports their use.

A. *Active ingredients.* No active ingredients that are not included in the Monograph or Category III have, in the Commissioner's opinion, been shown by adequate and reliable scientific evidence to be safe and effective.

B. *Labeling.* The Commissioner concludes that it is not truthful and accurate to make claims or to use indications on the package label that the product may directly affect "nervous or emotional disturbances," "excessive smoking," "food intolerance," "consumption of alcoholic beverages," "acidosis," "nervous tension headaches," "cold symptoms," and "morning sickness of pregnancy" since the relationship of such phenomena to gastric acidity is both unproven and unlikely.

C. *Drugs combining antacid and other*

*active ingredients.* 1. The Commissioner concludes that it is valid to combine an antacid with aspirin for the purpose of buffering the aspirin and for the treatment of concurrent symptoms. He further concludes that fixed antacid-aspirin combinations are irrational for antacid use alone and therefore may not be labeled or marketed for such use. Not only are OTC antacids sometimes indiscriminately used, which may lead to aspirin toxicity with such combinations, but aspirin also has a potential for damaging the gastrointestinal mucosa by the topical action of breaking the mucosal barrier or by other mechanisms. Because of this potential and the lack of evidence of effectiveness of salicylate for antacid indications, benefit-risk considerations dictate that such a product not be indicated solely for antacid purposes.

2. The Commissioner concludes that it is not safe and effective concurrent therapy to add an anticholinergic ingredient to an OTC antacid product, because optimal use of antacids and anticholinergic drugs requires independent adjustment of dosages of each drug, because the addition of an anticholinergic drug in a concentration large enough to have detectable pharmacologic effects would result in a compound too toxic for use in self-medication, and because entirely safe amounts of anticholinergics have not been shown to affect gastric secretion or upper gastrointestinal symptoms. Since elderly persons number prominently among antacid users, cycloplegia and urinary retention induced by anticholinergic drugs is a definite risk. Thus, a fixed combination of antacid and anticholinergic will result, regardless of how formulated, in a mixture that is either unsafe or ineffective.

For the same reasons, the Commissioner also concludes that it is not safe and effective concurrent therapy to combine antacids with sedative-hypnotic ingredients.

3. The Commissioner concludes that it is not rational concurrent therapy for a significant portion of the target population for the label to claim that a combination product (e.g., mineral oil and magnesium hydroxide) is to be used both as an antacid and as a laxative if the laxative claim is supported by a non-antacid laxative ingredient.

The Commissioner recognized that there are active antacid ingredients to be reviewed by the OTC Laxative Panel that may be effective as laxatives at higher doses than those used for antacid action, and for this reason takes no position on use of these ingredients as laxatives at this time.

4. The Commissioner is not aware of any study showing that the addition of an antipeptic agent to an antacid product increases the product's efficacy as an antacid or is otherwise effective as a means of managing upper gastrointestinal symptoms. All antacids are antipeptic in the sense that peptic activity is reduced as pH increases and pepsin is irreversibly inactivated at pH's above 7. No claim for antipeptic activity can be considered

truthful and accurate until it is substantiated both by scientifically valid *in vitro* tests showing that the antipeptic action is substantially greater than that of an agent with only antacid action (such as sodium bicarbonate), and it is proved by studies that the antipeptic activity is clinically meaningful and therefore contributes significantly to the product's effectiveness.

5. The Commissioner concludes that the addition of proteolytic agents or bile or bile salts to antacid products is unsafe. Since pepsin is presumably involved in the pathogenesis of peptic ulcer, the addition of pepsin to antacid products may be potentially harmful. Since bile and bile salts can damage gastric mucosa, and since they may be involved in the pathogenesis of gastric ulcer, these substances should not be permitted in antacid products.

6. The Commissioner concludes that the addition of an antiemetic to an antacid product is not rational therapy for a significant portion of the target population.

**COMMISSIONER'S DETERMINATION OF (CATEGORY III) CONDITIONS FOR WHICH THE AVAILABLE DATA ARE INSUFFICIENT TO PERMIT FINAL CLASSIFICATION AT THIS TIME**

Based upon the record before him, the Commissioner determines that adequate and reliable scientific evidence is not available at this time to permit final classification of the active ingredients listed below.

A. *Active ingredients.* These ingredients have either no or negligible antacid action, and there is inadequate evidence of their effectiveness for their nonantacid action in the relief of upper gastrointestinal symptoms or in their adjuvant or corrective properties. The Commissioner concludes it reasonable to provide 2 years for the development and review of such evidence. Marketing need not cease during this time if adequate testing is undertaken to prove effectiveness, provided that any product that claims to be an antacid (i.e., neutralize stomach acid) meets the *in vitro* antacid effectiveness standard (see monograph). If adequate effectiveness data are not obtained within 2 years, these ingredients listed in this category should no longer be permitted, even in a product that meets the *in vitro* antacid effectiveness standard, because of a lack of evidence that these ingredients make a meaningful contribution to the claimed effects.

1. *Alginic acid.* Although the ingestion of alginic acid-containing products may produce a layer of material floating on top of the gastric contents, the Commissioner concludes that present evidence is insufficient to demonstrate the effectiveness of this action. The studies are fragmentary, uncontrolled, and few in number. No evidence is presented as to reproducibility of results. There is insufficient evidence that alginic acid-containing antacid products, even if they do produce a floating layer on top of the gastric contents, are clinically beneficial.

Indeed, such evidence as there is indicates that these products do not increase the pH of gastric contents as a whole. Since regurgitation of gastric contents is particularly apt to occur when patients are lying down rather than in the upright position, alginic acid-containing products may be less beneficial than a standard antacid which is more likely to increase the pH throughout the gastric contents.

The Commissioner concludes alginic acid to be safe in amounts usually taken orally (e.g., 4 grams per day) in antacid products, and believes it unnecessary to impose a specific dosage limitation at this time.

2. *Attapulgit (activated).* The Commissioner concludes that this ingredient is safe in the amounts usually taken orally in antacid products, and believes it unnecessary to impose a specific dosage limitation at this time.

3. *Charcoal, activated.* The Commissioner concludes charcoal to be safe in amounts usually taken orally in antacid products, and believes it unnecessary to impose a specific dosage limitation at this time. Since charcoal-containing products may decrease absorption of certain oral drugs, the label should state during this interim period the standard drug interaction warning: "Warning: Do not take this product concurrently with a prescription drug except on the advice of your physician." Study is specifically needed to determine whether the charcoal used contains benzpyrene or methylcholanthrene type carcinogens.

4. *Gastric mucin.* The Commissioner concludes that this ingredient is safe in the amounts usually taken orally in antacid products, and believes it unnecessary to impose a specific dosage limitation at this time.

5. *Kaolin.* The Commissioner concludes kaolin to be safe in amounts usually taken orally in antacid products, and believes it unnecessary to impose a specific dosage limitation at this time.

Since kaolin affects gastrointestinal absorption, the Commissioner concludes that ethical labeling should indicate that kaolin may interfere with the absorption of other drugs.

6. *Methylcellulose.* The Commissioner concludes methylcellulose to be safe in amounts usually taken orally (e.g., 2 grams per day in antacid products), and believes it unnecessary to impose a specific dosage limitation at this time.

7. *Pectin.* The Commissioner concludes that this ingredient is safe in the amounts usually taken orally in antacid products, and believes it unnecessary to impose a specific dosage limitation at this time.

8. *Carboxy methylcellulose.* The Commissioner concludes carboxy methylcellulose to be safe in amounts usually taken (e.g., 3 grams per day) in antacid products, and believes it unnecessary to impose a specific dosage limitation at this time.

B. *Labeling.* 1. OTC products containing ingredients listed in Category I or III are often used to treat symptoms that are not known to be related to acidity of

gastric contents. These products may or may not qualify as antacids by the *in vitro* acid neutralizing test. The symptoms include "indigestion," "gas," "upper abdominal pressure," "full feeling," "nausea," "excessive eructations," "upset stomach," and the like. Some of these symptoms are vague, most are poorly understood as to pathophysiological mechanism, and none have been shown by adequate and reliable scientific evidence to be caused by or alleviated by changes in gastric acidity. The Commissioner concludes that companies marketing products that make claims for alleviation of these or other similar symptoms must within 2 years provide evidence of effectiveness, consisting of statistically valid clinical trials, in relieving each of these symptoms for which a claim is made. No claim for acid neutralizing properties can be made unless the product meets the *in vitro* standard (see monograph). Claims for those symptoms for which such evidence has not been provided by that time must be withdrawn.

2. The Commissioner concludes that claims or indications which link certain signs and symptoms, such as "sour breath," "upper abdominal pressure," "full feeling," "nausea," "stomach distress," "indigestion," "upset stomach," and "excessive eructations" with normal or hypernormal gastric acidity, are unproven since the relationship of such signs and symptoms to gastric acidity is unknown or dubious and there is no adequate and reliable scientific evidence to support these claims. Such claims or indications encourage the user to draw conclusions as to the cause or intermediation of such symptoms, a conclusion that even the medical professional is incapable of drawing at this time. Therefore, the Commissioner concludes those claims and indications that link these symptoms to acidity or "hyperacidity" should not be permitted unless supported by statistically valid clinical trials obtained within two years.

3. The Commissioner concludes that the evidence currently available is inadequate to support the claim that such properties as "floating," "coating," "defoaming," "demulcent," and "carminative" contribute to the relief of upper gastrointestinal symptoms. The continued use of such claims, or ones closely allied to them, requires additional studies both to confirm the claimed specific action and to demonstrate clinical significance. These studies must also be completed within two years.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201, 502, 505, 701, 52 Stat. 1040-1042 as amended, 1050-1053 as amended, 1055-1056 as amended by 70 Stat. 919 and 72 Stat. 948; (21 U.S.C. 321, 352, 371), the Administrative Procedure Act (secs. 4, 5, 10, 60 Stat. 238 and 243 as amended; (5 U.S.C. 553, 554, 702, 703, 704)), and under authority delegated to him (21 CFR 2.120), the Commissioner of Food and Drugs is publishing as tentative final monographs new §§ 130.305 and

130.306, as amendments to Subpart D of Part 130, to read as follows:

§ 130.305 Antacids.

An over-the-counter antacid product in a form suitable for oral administration is generally recognized as safe and effective and is not misbranded if it meets each of the following conditions and each of the general conditions established in § 130.302.

(a) *Antacid active ingredient(s)*. The active antacid ingredient(s) of the product consist(s) of one or more of the ingredients permitted in subparagraphs (2) through (14) of this paragraph within any maximum daily dosage limit established, each ingredient is included at a level that contributes at least 25 percent of the total acid neutralizing capacity of the product, and the finished product has a pH of 3.5 or greater at the end of the initial 10-minute period as measured by the method established in subparagraph (1) of this paragraph. To meet the 25 percent requirement, four times the amount of each ingredient present in a unit dose of a product containing two or more ingredients must meet the requirements of the acid neutralizing test. This requirement does not apply to an antacid ingredient specifically added as a corrective to prevent a laxative or constipating effect.

(1) The neutralizing capacity of the product shall be measured in the following way:

- (i) Materials.
  - (a) Antacid.
  - (b) 0.1 N HCl.
  - (c) 1.0 N HCl.
  - (d) Standardizing buffer pH 4.0 (0.05 M potassium hydrogen phthalate).
  - (e) pH meter.
  - (f) Magnetic stirrer.
  - (g) Magnetic stirring bars (25 mm. long, 9 mm. diameter).
  - (h) 100 ml. beakers (45 mm. inside diameter).
  - (i) 50 ml. buret.
  - (j) Buret stand.
  - (k) 50 ml. pipet calibrated to deliver.
  - (l) Tablet comminuting device.
  - (m) Temperature controlling equipment.
  - (n) 12 and 16 standard mesh sieves.
  - (o) Phototachometer or similar device.
- (ii) Procedure.
  - (a) Control temperature at 37° C.
  - (b) Standardize pH meter at pH 4.0 with standardizing buffer and at pH 1.1 with 0.1 N HCl.

(c) Place empty beaker on stirrer, add stirring bar, determine setting for stirring at 500 r.p.m. throughout.

(d) Add one unit dose of antacid and 50 ml. 0.1 N HCl to beaker. Acid or antacid may be added first. If antacid is in tablet form, it may be added as whole tablets or as particles except that if label states that tablets are to be swallowed whole, whole tablets should be used in the test. Particles should be prepared from ground tablets taking particles that pass a 12 standard mesh sieve and are held by a 16 standard mesh sieve. If particles are used, the weight of par-

ticles should equal the weight of a unit dose.

(e) Stir for exactly 10 minutes at 500 r.p.m.

(f) Read and record pH.

(g) If pH is 3.5 or greater, proceed; if pH is below 3.5, stop test.

(h) If pH in item (g) of this subdivision is 3.5 or greater, add 0.1 N or 1.0 N HCl from buret to bring pH to 3.5. Continue to add 0.1 N or 1.0 N HCl at the rate required to hold pH at 3.5.

(i) Exactly 5 minutes after beginning addition of 0.1 N or 1.0 N HCl (15 minutes after mixing antacid and acid) read and record ml. of 0.1 N or 1.0 N HCl used.

(j) Calculation: 5 mEq. (in 50 ml. 0.1 N HCl used in 1st 10 min.) ÷ mEq(s) (number of mls. 1.0 HCl or 0.1 times number of mls. of 0.1 N HCl) added during period 10 to 15 min. = mEq. acid neutralized in 15 min.

(iii) The formulation and/or mode of administration of certain products (e.g., in chewing gum form) may require modification of this *in vitro* test.

(2) Aluminum-containing active ingredients:

- (i) Aluminum carbonate.
- (ii) Aluminum hydroxide (or as aluminum hydroxide-hexitol stabilized polymer, aluminum hydroxide-magnesium carbonate codried gel, aluminum hydroxide-magnesium trisilicate codried gel, aluminum-hydroxide sucrose powder hydrated).
- (iii) Dihydroxyaluminum aminoacetate and dihydroxyaluminum aminoacetic acid.
- (iv) Aluminum phosphate, maximum daily dosage limit 8 grams.
- (v) Dihydroxyaluminum sodium carbonate.

(3) Bicarbonate-containing active ingredients: Bicarbonate ion, maximum daily dosage limit 200 mEq. for persons up to 60 years old and 100 mEq. for persons 60 years or older.

(4) Bismuth-containing active ingredients:

- (i) Bismuth aluminate.
  - (ii) Bismuth carbonate.
  - (iii) Bismuth subcarbonate.
  - (iv) Bismuth subgallate.
  - (v) Bismuth subnitrate.
- (5) Calcium-containing active ingredients: Calcium, as carbonate or phosphate, maximum daily dosage limit 160 mEq. calcium (e.g., 8 grams calcium carbonate).

(6) Citrate-containing active ingredients: Citrate ion, as citric acid or salt, maximum daily dosage limit 8 grams.

(7) Glycine (aminoacetic acid).

(8) Magnesium-containing active ingredients:

- (i) Hydrate magnesium aluminate activated sulfate.
- (ii) Magaldrate.
- (iii) Magnesium aluminosilicates.
- (iv) Magnesium carbonate.
- (v) Magnesium glycinate.
- (vi) Magnesium hydroxide.
- (vii) Magnesium oxide.
- (viii) Magnesium trisilicate.
- (9) Milk solids, dried.

(10) Phosphate-containing active ingredients:

(i) Aluminum phosphate, maximum daily dosage limit 8 grams.

(ii) Mono or dibasic calcium salt, maximum daily dosage limit 2 grams.

(iii) Tricalcium phosphate, maximum daily dosage limit 24 grams.

(11) Potassium-containing active ingredients:

(12) Sodium-containing active ingredients:

(i) Sodium bicarbonate (or carbonate when used as a component of an effervescent preparation). The maximum daily dosage limit is 200 mEq. of sodium for persons up to 60 years old and 100 mEq. of sodium for persons 60 years or older; and 200 mEq. of bicarbonate ion for persons up to 60 years old and 100 mEq. of bicarbonate ion for persons 60 years or older.

(13) Silicates:

(i) Magnesium aluminosilicates.

(ii) Magnesium trisilicate.

(14) Tartrate-containing active ingredients. Tartaric acid or its salts, maximum daily dosage limit 200 mEq. (15 grams) of tartrate.

(b) *Indications*. The labeling of the product represents or suggests the product as an "antacid," to alleviate the symptoms of "heartburn," "sour stomach," or "acid indigestion."

(c) *Warnings*. The labeling of the product contains the following warnings:

(1) "Do not take more than (maximum recommended daily dosage, broken down by age groups if appropriate, expressed in units such as tablets or teaspoonfuls) in a 24-hour period, or use the maximum dosage of this product for more than 2 weeks, except under the advice and supervision of a physician."

(2) For products which cause constipation in 5 percent or more of persons who take the maximum recommended dosage: "May cause constipation."

(3) For products which cause laxation in 5 percent or more of persons who take the maximum recommended dosage: "May have laxative effect."

(4) For products containing more than 50 mEq. of magnesium in the recommended daily dose: "Do not use this product except under the advice and supervision of a physician if you have kidney disease."

(5) For products containing more than 5 mEq. sodium in the maximum recommended daily dose: "Do not use this product except under the advice and supervision of a physician if you are on a sodium restricted diet."

(6) For products containing more than 25 mEq. potassium in the maximum recommended daily dose: "Do not use this product except under the advice and supervision of a physician if you have kidney disease."

(7) For products containing more than 5 gm per day lactose in a maximum daily dosage: "Do not use this product except under advice and supervision of a physician if you are allergic to milk or milk products."

(d) *Directions for use.* The labeling of the product contains the recommended dosage per time interval (e.g., every 4 hours) or time period (e.g., 4 times a day) broken down by age groups if appropriate, followed by "except under the advice and supervision of a physician."

(e) *Statement of sodium containing ingredients.* The labeling of the product contains the sodium content per dosage unit (e.g., tablet, teaspoonful) if it is 0.2 mEq. (5 mg) or higher.

(f) *Ethical labeling.* The labeling of the product provided to physicians (but not to the general public):

(1) Shall contain the neutralizing capacity of the product, as calculated in paragraph (a) (1) (ii) (f) of this section, expressed in terms of the dosage recommended per minimum time interval or, if the labeling recommends more than one dosage, in terms of the minimum dosage recommended per minimum time interval. The neutralizing capacity value reported in such labeling may not exceed ten percent of the determined lower limit. Such labeling may indicate the value at the time of manufacture and/or after a specified period of time. No product may be marketed with an acid neutralizing capacity below 5 mEq.

(2) Shall, if the product is an aluminum or kaolin-containing antacid, contain a warning that absorption of other drugs may be interfered with by the aluminum or kaolin in the product.

(3) May contain an indication for the symptomatic relief of hyperacidity associated with the diagnosis of peptic ulcer, gastritis, peptic esophagitis, gastric hyperacidity, and hiatal hernia.

(g) *Combination with nonantacid active ingredients.* (1) An antacid may contain any generally recognized as safe and effective nonantacid laxative ingredient (see laxative monograph) to correct for constipation caused by the antacid. No labeling claim of the laxative effect may be used for such a product.

(2) An antacid may contain any generally recognized as safe and effective analgesic ingredient(s) (see analgesic monograph) if it is indicated for use solely for the concurrent symptoms involved (e.g., headache and acid indigestion).

(3) An antacid may contain any generally recognized as safe and effective antifatulent ingredient (see antifatulent monograph) if it is indicated for use solely for the concurrent symptoms of gas associated with heartburn, sour stomach or acid indigestion.

**§ 130.306 Antifatulent.**

An over-the-counter antifatulent product in a form suitable for oral administration is generally recognized as safe and effective and is not misbranded if it meets each of the following condi-

tions and each of the general conditions established in § 130.302.

(a) *Active ingredient(s).* Simethicone. Maximum daily dose 500 mg.

(b) *Indications.* The labeling of the product represents or suggests the product as an "antifatulent" to alleviate the symptoms of gas.

(c) *Directions for use.* The labeling of the product contains the recommended dosage per time interval (e.g., every 4 hours) or time period (e.g., 4 times a day) broken down by age group if appropriate, followed by "except under the advice and supervision of a physician."

(d) *Ethical labeling.* The labeling of the product provided to physicians (but not to the general public) may contain as additional indications postoperative gas pain.

(e) *Combination with non-antifatulent active ingredient(s).* An antifatulent may contain any generally recognized safe and effective antacid ingredient(s) (see antacid monograph) if it is indicated for use solely for the concurrent symptom of gas associated with heartburn, sour stomach or acid indigestion.

Interested persons may file written objections and request an oral hearing before the Commissioner regarding this proposal on or before December 12, 1973. Request for an oral hearing must specify points to be covered and time requested.

All objections and requests shall be addressed to the Hearing Clerk, Food and Drug Administration, Room 6-86, 5600 Fishers Lane, Rockville, MD 20852, and may be accompanied by a memorandum or brief in support thereof. Received objections and requests may be seen in the above office during working hours, Monday through Friday. Any scheduled oral hearing will be announced in the FEDERAL REGISTER.

Dated: November 2, 1973.

A. M. SCHMIDT,  
Commissioner of Food and Drugs.

[FR Doc.73-23927 Filed 11-9-73;8:46 am]

[ 21 CFR Part 130 ]

**OVER-THE-COUNTER DRUGS**

**Proposed Procedures Regarding Public Comment on Review Panel Reports**

Section 130.301(a)(6) of the procedures governing the over-the-counter (OTC) drug review provides that, after an advisory review panel issues its report to the Commissioner of Food and Drugs, the Commissioner shall publish in the FEDERAL REGISTER a proposed order containing his proposed action.

In reviewing the report of the first OTC advisory review panel, on antacids, it became apparent to the Commissioner

that it would be more expeditious to publish the panel's report and proposed monograph, without change, in order to obtain full public comment before he made any decision on the matters involved. It appears likely that this procedure may also be useful for handling the reports of other OTC advisory review panels. The Commissioner believes that this procedure is within the intent of the existing regulation, but comments on the proposed antacid monograph contended that it is not. Accordingly, to clarify this matter the Commissioner is proposing to revise § 130.301(a)(6) explicitly to incorporate this procedure.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201, 502, 505, 701, 52 Stat. 1040-1042 as amended, 1050-1053 as amended, 1055-1056 as amended by 70 Stat. 919 and 72 Stat. 948; (21 U.S.C. 321, 352, 355, 371) and the Administrative Procedure Act (secs. 4, 5, 10, 60 Stat. 238 and 243, as amended; (5 U.S.C. 553, 554, 702, 703, 704)) and under authority delegated to him (21 CFR 2.120), the Commissioner proposes to amend 21 CFR 130.301(a)(6) by adding the following sentence to the end of the undesignated paragraph following subdivision (iv), to read as follows:

**§ 130.301 Over-the-counter (OTC) drugs for human use; procedures for rule-making for the classification of OTC drugs as generally recognized as safe and effective and not misbranded under prescribed, recommended, or suggested conditions of use.**

- (a) \* \* \*
- (6) \* \* \*
- (iv) \* \* \*

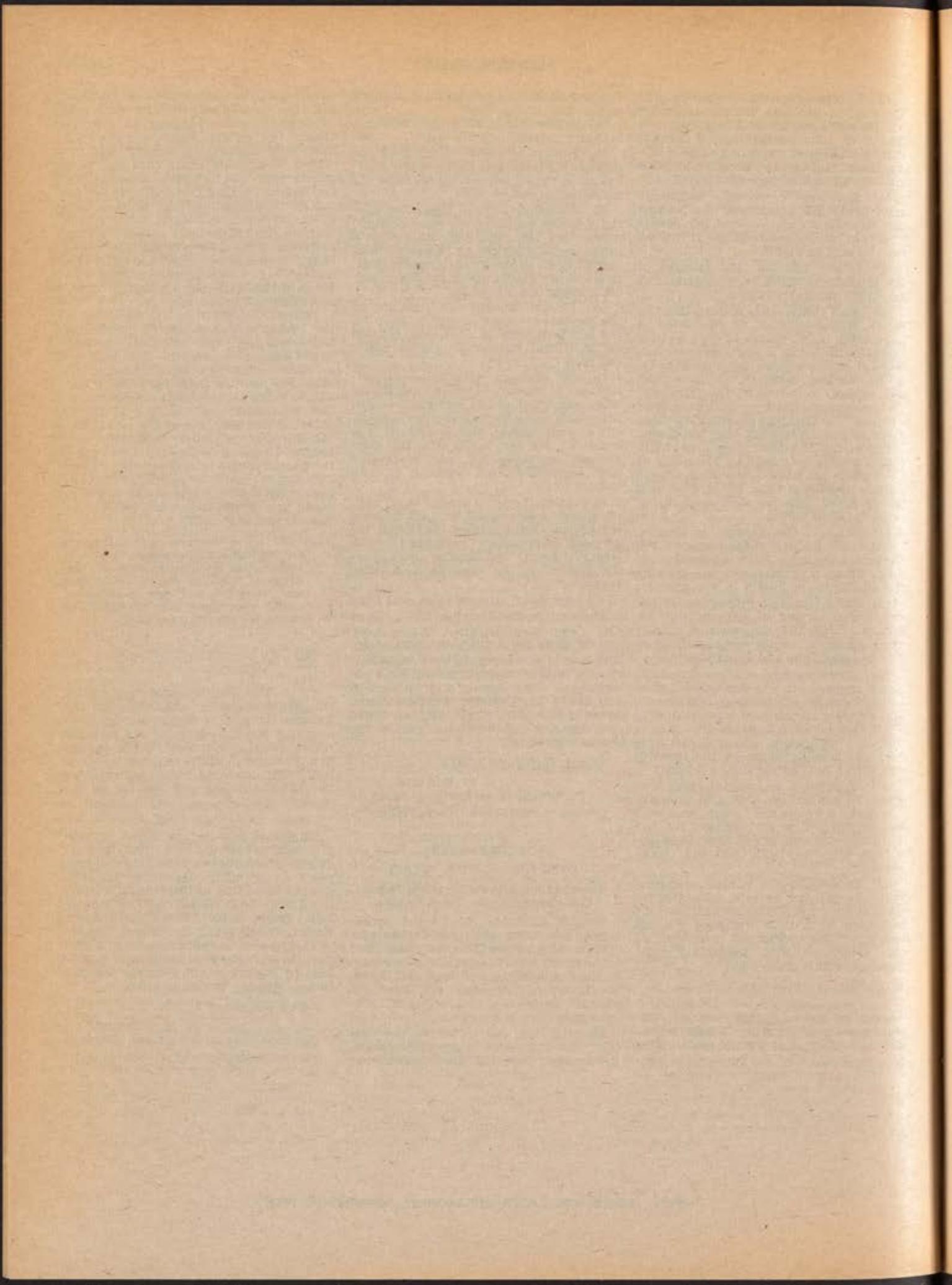
\* \* \* The Commissioner may satisfy this requirement by publishing in the FEDERAL REGISTER a proposed order summarizing the full report of the advisory review panel, containing its conclusions and recommendations, in order to obtain full public comment before undertaking his own evaluation and decision on the matters involved.

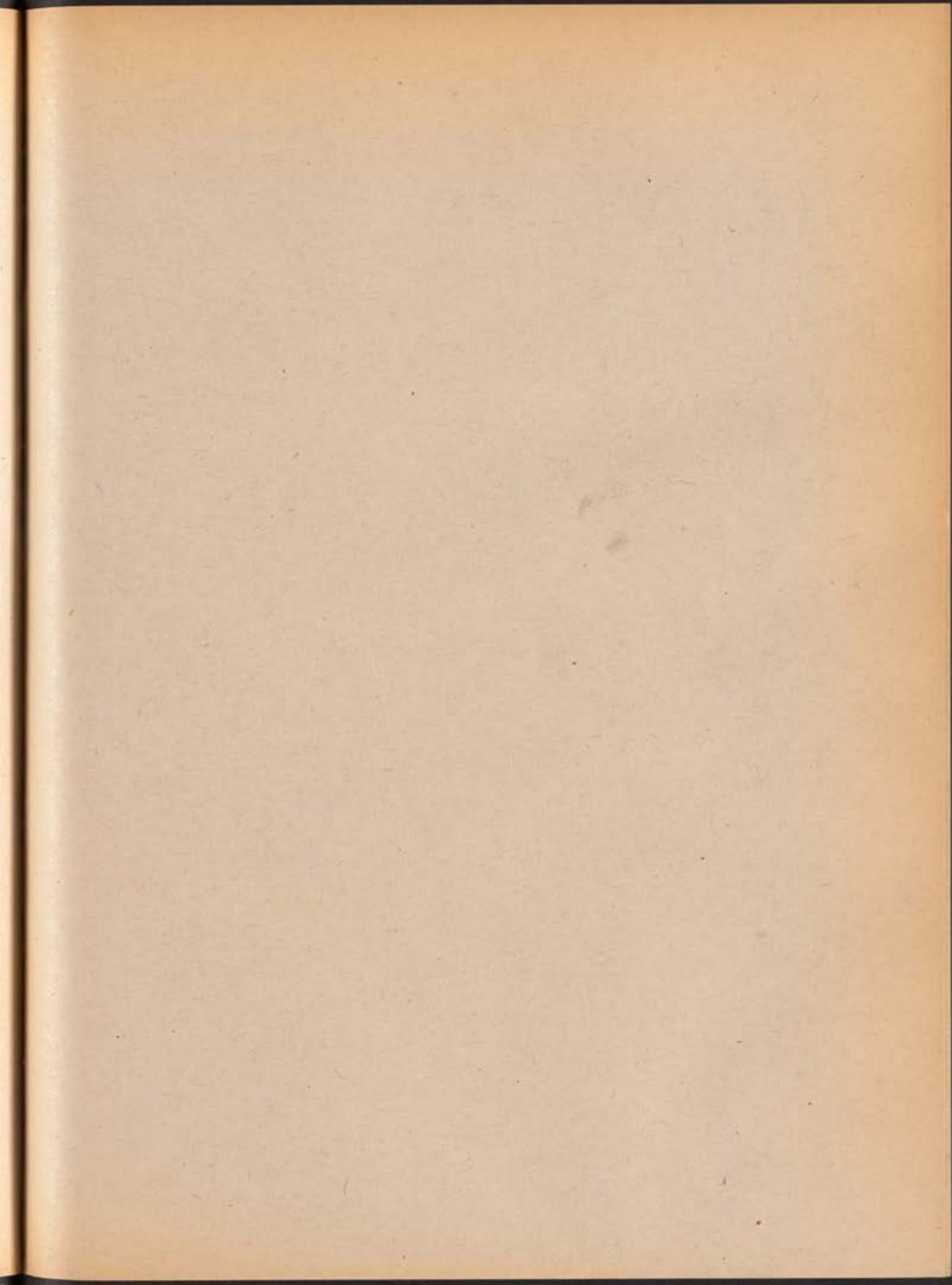
Interested persons are invited to submit their comments in writing (preferably in quintuplicate) regarding this proposal on or before December 12, 1973. Comments should be filed with the Hearing Clerk, Food and Drug Administration, Room 6-86, 5600 Fishers Lane, Rockville, MD 20852, and may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

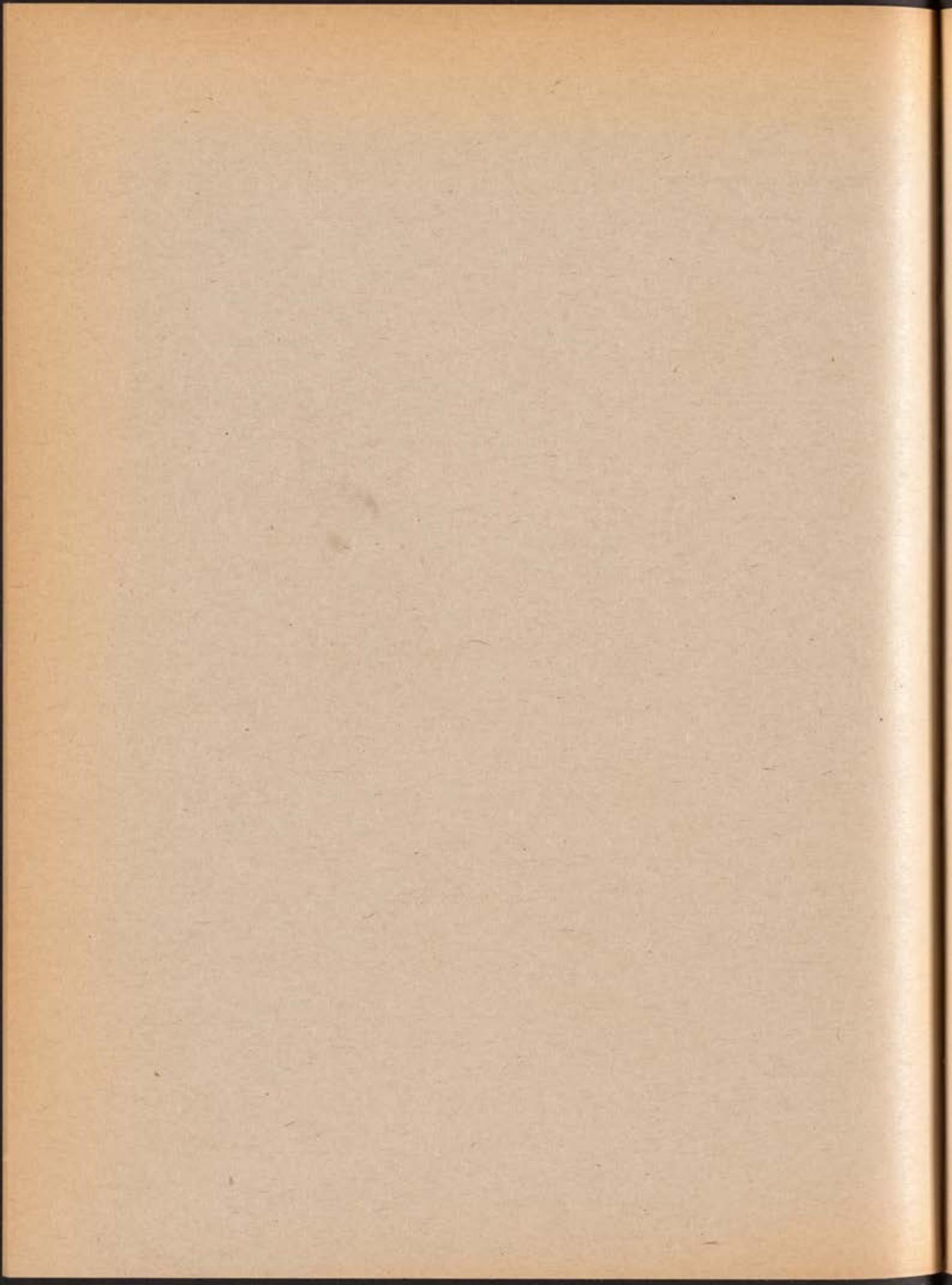
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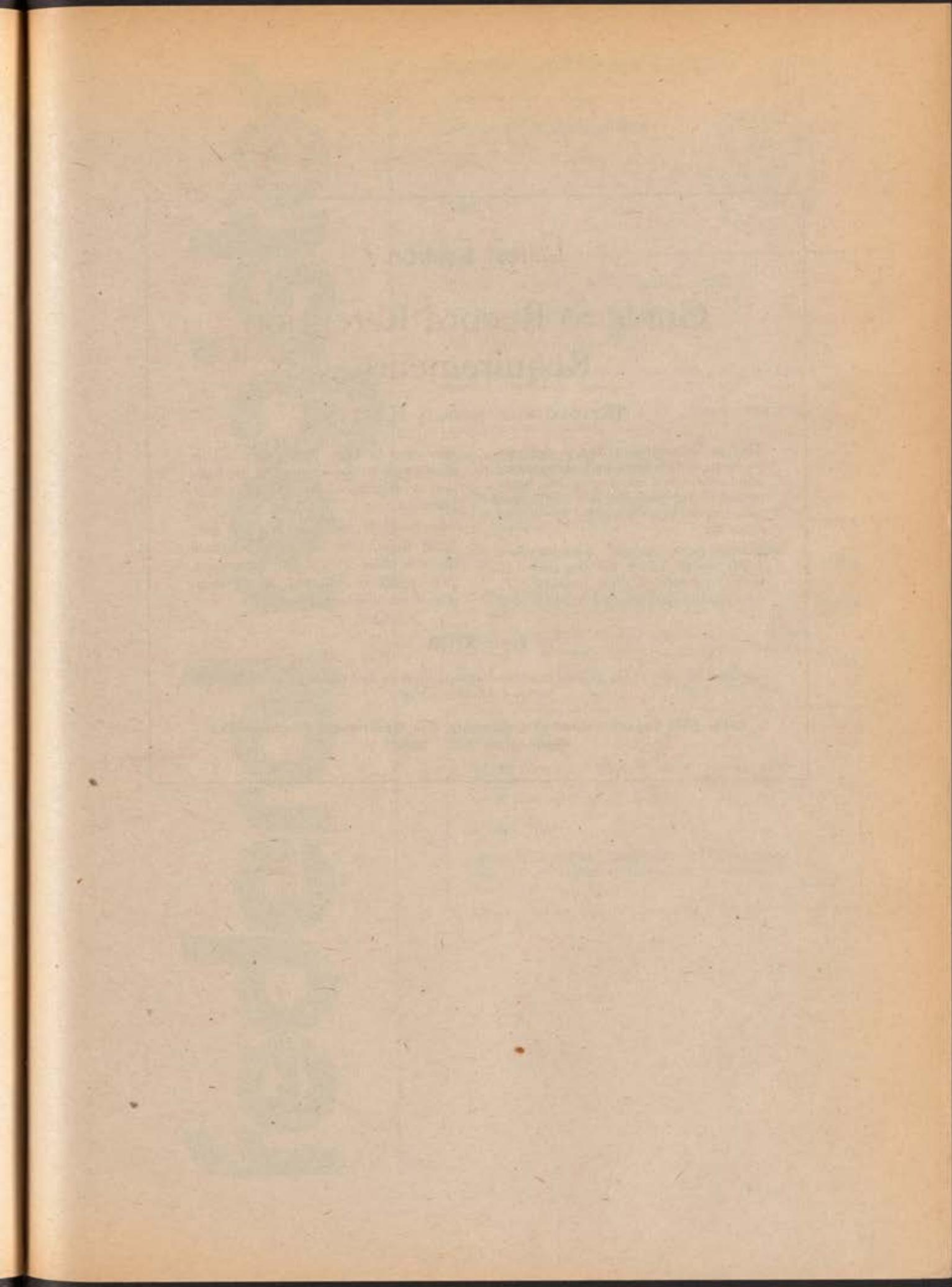
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[FR Doc.73-23926 Filed 11-9-73;8:46 am]









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