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Title 3—The President

PROCLAMATION 4256

Bill of Rights Day
Human Rights Day and Week

By the President of the United States of America

A Proclamation

Among the principles undergirding our Declaration of Independence in 1776 was the fundamental conviction that all men are endowed with certain inalienable rights and that the purpose of instituting governments is to secure these rights. The first Congress acted quickly to secure the basic rights of the American people by proposing ten amendments to the Constitution of the United States. These amendments, our Bill of Rights, came into effect one hundred eighty-two years ago, on December 15, 1791, and have served ever since as guiding ideals of our democracy. Each generation of Americans has contributed in its own way to realizing the promise of the Bill of Rights, ensuring its responsiveness to the increasingly complex conditions of American society.

The continuing vitality of that promise depends upon our own steadfast dedication to the principles upon which this Republic was founded. Now, in this decade of our Bicentennial, it is especially appropriate for us to commemorate the anniversary of the adoption of the Bill of Rights and to recall with pride the efforts of our predecessors to make its ideals a true guarantee of the rights of all Americans.

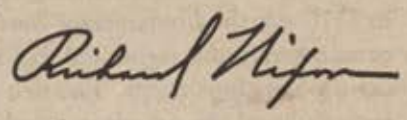
It is fitting that we take note at the same time of the progress made by the world community in its recognition of the rights of all members of the human family. This week marks the twenty-fifth anniversary of the Universal Declaration of Human Rights, adopted by the United Nations General Assembly on December 10, 1948, to proclaim standards of freedom and equality common to all nations and all peoples. Though widely separated by time and authorship, the Bill of Rights and the Universal Declaration of Human Rights share a common commitment to the ideals of equality, dignity, and individual worth.

Our actions as Americans to strengthen the Bill of Rights are inseparable from our commitment to the ideals of the Universal Declaration

of Human Rights. The strength and success of our efforts to advance these goals here at home will have a positive impact on the cause of human rights throughout the world.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby proclaim December 10, 1973, as Human Rights Day and December 15, 1973, as Bill of Rights Day. I call upon the people of the United States to observe the week beginning December 10, 1973, as Human Rights Week. Let us make this observance a time for reaffirming the high principles of the Bill of Rights and of the Universal Declaration of Human Rights and for making them a living reality in the daily lives of every American. For each of us, through our own example, can do a great deal to strengthen the cause of liberty and justice for all.

IN WITNESS WHEREOF, I have hereunto set my hand this seventh day of December, in the year of our Lord nineteen hundred seventy-three, and of the Independence of the United States of America the one hundred ninety-eighth.



[FR Doc.73-26283 Filed 12-7-73;2:02 pm]

Rules and Regulations

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Miscellaneous Revocations

Subpart C of Part 213 is amended to show that under the provisions of § 213.3101b 97 positions are no longer excepted under Schedule C.

Effective December 11, 1973, Subpart C of Part 213 is amended as set out below.

§ 213.3303 Executive Office of the President.

* * * * *

(j) *Special Action Office for Drug Abuse Prevention.*

(1) One Confidential Secretary to the Director.

* * * * *

§ 213.3304 Department of State.

* * * * *

(c) *Office of the Assistant Secretary for Congressional Relations.* * * *

(3) [Revoked.]

* * * * *

§ 213.3305 Treasury Department.

(a) *Office of the Secretary.*

(1) [Revoked.]

* * * * *

§ 213.3306 Department of Defense.

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

(2) One Private Secretary to the Deputy Secretary of Defense and one Private Secretary to each of the following: the Director of Defense Research and Engineering; the Principal Deputy Director of Defense Research and Engineering; the Deputy Directors of Defense Research and Engineering (Tactical Warfare Programs), (Strategic Systems), (Research and Technology); the Director, Advanced Research Projects Agency; the Assistant Secretaries of Defense (Manpower and Reserve Affairs), (International Security Affairs), (Public Affairs), (Installations and Logistics), (Comptroller), (Systems Analysis), (Intelligence), and (Legislative Affairs); the General Counsel; the Deputy General Counsel; the Assistant to the Secretary of Defense (Atomic Energy); and the Military Assistants to the Secretary of Defense.

* * * * *

(4) One Confidential Assistant to the Assistant Secretary of Defense (International Security Affairs).

* * * * *

(43) [Revoked.]

(44) [Revoked.]

* * * * *

(50) [Revoked.]

(51) [Revoked.]

* * * * *

§ 213.3308 Department of the Navy.

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

(9) Two Special Assistants to the Military Assistant to the President.

(10) [Revoked.]

* * * * *

§ 213.3310 Department of Justice.

* * * * *

(e) *Civil Division.* * * *

(2) [Revoked.]

* * * * *

(q) *Civil Rights Division.* * * *

(3) [Revoked.]

* * * * *

(r) *Community Relations Service.* * * *

(3) [Revoked.]

* * * * *

§ 213.3312 Department of the Interior.

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

(3) Six Special Assistants (Field Representatives).

* * * * *

(28) [Revoked.]

* * * * *

(36) [Revoked.]

* * * * *

(41) [Revoked.]

* * * * *

(43) [Revoked.]

* * * * *

(k) *Southwestern Power Administration.* * * *

(2) [Revoked.]

* * * * *

§ 213.3314 Department of Commerce.

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

(4) One Private Secretary to the Assistant Secretary for Economic Affairs.

* * * * *

(13) [Revoked.]

* * * * *

(28) [Revoked.]

* * * * *

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

(4) [Revoked.]

* * * * *

(6) [Revoked.]

* * * * *

(h) [Revoked.]

* * * * *

(j) [Revoked.]

* * * * *

(m) *Office of the Assistant Secretary for Domestic and International Business.*

(1) One Private Secretary and one Confidential Assistant to the Assistant Secretary.

* * * * *

(6) One Confidential Assistant to the Director, Bureau of International Commerce.

* * * * *

(q) *Office of the Assistant Secretary for Economic Development.* * * *

(3) [Revoked.]

* * * * *

(r) *National Oceanic and Atmospheric Administration.* * * *

(3) [Revoked.]

* * * * *

§ 213.3315 Department of Labor.

(a) *Office of the Secretary.*

(1) Two Special Assistants and one Confidential Assistant to the Secretary of Labor.

* * * * *

(28) [Revoked.]

* * * * *

(f) *Women's Bureau.* * * *

(2) Two Special Assistants to the Director.

* * * * *

§ 213.3316 Department of Health, Education, and Welfare.

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

(16) [Revoked.]

* * * * *

(18) One Confidential Assistant for interdepartmental activities.

* * * * *

(27) [Revoked.]

* * * * *

(c) *Office of Education.*

(1) Two Special Assistants to the Commissioner of Education.

* * * * *

(3) [Revoked.]

* * * * *

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

(1) [Revoked.]

* * * * *

(i) *Administration on Aging.*

(1) [Revoked]

* * * * *

(k) *Office of the Assistant Secretary for Planning and Evaluation.* * * *

(2) [Revoked.]

(3) [Revoked.]

(4) One Special Assistant to the Assistant Secretary.

* * * * *

(11) [Revoked.]

* * * * *

(n) *Office of the Assistant Secretary for Community and Field Services.*

(1) [Revoked.]

(2) One Special Assistant to the Assistant Secretary for Community and Field Services.

* * * * *

(5) [Revoked.]

* * * * *

(14) [Revoked.]

* * * * *

(p) *Office of the General Counsel.* * * *

(3) [Revoked.]

(q) *Office of the Special Assistant to the Secretary for Civil Rights.* * * *

(4) Two Special Assistants for Special Groups.

(5) [Revoked.]

(6) [Revoked.]

* * * * *

§ 213.3318 Environmental Protection Agency.

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

(2) [Revoked.]

* * * * *

(c) *Office of Public Affairs.* * * *

(2) [Revoked.]

§ 213.3320 Inter-American Foundation.

* * * * *

(b) [Revoked.]

* * * * *

§ 213.3342 Export-Import Bank of the United States.

* * * * *

(g) [Revoked.]

* * * * *

§ 213.3354 Federal Home Loan Bank Board.

* * * * *

(c) One Assistant to a Board Member.

(d) [Revoked.]

* * * * *

(f) [Revoked.]

(g) [Revoked.]

* * * * *

(i) [Revoked.]

* * * * *

§ 213.3359 ACTION.

(a) Three Special Assistants to the Associate Director for Domestic and Anti-Poverty Operations.

* * * * *

§ 213.3384 Department of Housing and Urban Development.

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

(5) [Revoked.]

* * * * *

(7) [Revoked.]

* * * * *

(9) One Special Assistant to the Under Secretary.

* * * * *

(13) [Revoked.]

* * * * *

(26) Four Senior Assistants for Legislative Affairs.

(27) Eleven Assistants for Legislative Affairs.

* * * * *

(30) [Revoked.]

(31) One Special Assistant to the Secretary and two Staff Assistants, one Secretary, and one Administrative Aide to the Special Assistant.

* * * * *

(42) One Administrative Aide to an Assistant Director, Urban Program Coordination.

* * * * *

(b) *Office of the Assistant Secretary for Housing Production and Mortgage Credit—Federal Housing Administration Commissioner.* * * *

(4) [Revoked.]

* * * * *

(7) [Revoked.]

* * * * *

(d) *Office of the Assistant Secretary for Community Planning and Management.* * * *

(3) Four Special Assistants to the Assistant Secretary.

* * * * *

(7) [Revoked.]

* * * * *

(10) One Staff Assistant to the Assistant Secretary.

* * * * *

(e) *Office of the Assistant Secretary for Community Development.* * * *

(3) One Special Assistant to the Assistant Secretary.

* * * * *

(6) [Revoked.]

* * * * *

§ 213.3394 Department of Transportation.

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

(33) One Secretary to a Special Assistant to the Secretary.

* * * * *

§ 213.3399 Temporary Boards and Commissions.

(a) *Cost-of-Living Council and Related Organizations.* * * *

(3) [Revoked.]

* * * * *

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

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

[FR Doc.73-26199 Filed 12-10-73;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Agriculture

Section 213.3313 is amended to show that continuing positions of Agricultural Commodity Grader (Poultry) and Agricultural Commodity Grader (Dairy) are no longer excepted under Schedule A. This section is also revised to show that temporary positions of Agricultural Commodity Graders (Poultry) and Agricultural Commodity Graders (Dairy) are excepted under Schedule A.

Effective January 1, 1974, § 213.3113 (a)(1) and (f)(6) are amended as set out below.

§ 213.3113 Department of Agriculture.

(a) *General.* (1) Agents employed in field positions the work of which is financed jointly by the Department and cooperating persons, organizations, or governmental agencies outside the Federal service. Except for positions for which selection is jointly made by the Department and the cooperating organization, this authority is not applicable to positions in the Agricultural Research Service, the Animal and Plant Health Inspection Service, or positions in the Statistical Reporting Service. This authority is not applicable to the following positions in the Agricultural Marketing Service: Agricultural Commodity grader (grain), (meat), (poultry), and (dairy), agricultural commodity aid (grain), and tobacco inspection positions.

* * * * *

(f) *Agricultural Marketing Service.* * * *

(6) Temporary positions at GS–9 and below of Agricultural Commodity Graders (Poultry) and Agricultural Commodity Graders (Dairy). Employment under this authority may not exceed 1280 hours a year.

* * * * *

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

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

[FR Doc.73-26200 Filed 12-10-73;8:45 am]

PART 213—EXCEPTED SERVICE

Environmental Protection Agency; Correction

In the FEDERAL REGISTER of October 29, 1973 (FR Doc. 73–22949) on page 29797, § 213.3318(a)(41) was added. It should have appeared as § 213.3318(a)(11).

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

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

[FR Doc.73-26201 Filed 12-10-73;8:45 am]

Title 7—Agriculture

CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

PART 210—NATIONAL SCHOOL LUNCH PROGRAM

Appendix—Apportionment of Food Assistance Funds Pursuant to National School Lunch Act Fiscal Year 1974

Pursuant to section 11 of the National School Lunch Act, as amended, food assistance funds available for the fiscal year ending June 30, 1974, are apportioned among the States as follows:

State	Total apportionment	State agency	Withheld for private schools
Alabama	$7,883,546	$7,836,749	$46,797
Alaska	342,180	342,180	----------
Arizona	2,409,585	2,409,585	----------
Arkansas	4,591,770	4,557,336	34,434
California	18,419,734	18,419,734	----------
Colorado	2,126,037	2,051,300	74,737
Connecticut	1,793,836	1,793,836	----------
Delaware	494,602	494,602	----------
District of Columbia	1,096,232	1,096,232	----------
Florida	8,841,084	8,841,084	----------
Georgia	8,485,913	8,485,913	----------
Guam	213,192	213,192	----------
Hawaii	568,476	499,054	69,422
Idaho	697,558	682,406	15,152
Illinois	9,177,861	9,177,861	----------
Indiana	3,685,828	3,685,828	----------
Iowa	2,172,275	1,963,919	208,356
Kansas	1,948,900	1,948,900	----------
Kentucky	6,358,405	6,358,405	----------
Louisiana	9,003,155	9,003,155	----------
Maine	969,863	924,152	45,711
Maryland	3,501,839	3,501,839	----------
Massachusetts	3,719,236	3,719,236	----------
Michigan	6,758,504	6,758,504	----------
Minnesota	2,940,467	2,940,467	----------
Mississippi	7,813,647	7,813,647	----------
Missouri	5,230,489	5,230,489	----------
Montana	759,754	689,844	69,910
Nebraska	1,409,969	1,167,349	242,620
Nevada	357,148	353,590	3,558
New Hampshire	427,599	427,599	----------
New Jersey	4,877,595	4,632,984	244,611
New Mexico	2,271,674	2,271,674	----------
New York	16,510,129	16,510,129	----------
North Carolina	8,987,572	8,987,572	----------
North Dakota	778,447	651,742	126,705
Ohio	8,495,708	7,802,407	693,301
Oklahoma	3,720,984	3,720,984	----------
Oregon	1,714,763	1,714,763	----------
Pennsylvania	9,121,253	9,121,253	----------
Puerto Rico	6,678,980	6,678,980	----------
Rhode Island	769,135	769,135	----------
Samoa, American	80,989	80,989	----------
South Carolina	5,812,922	5,800,273	12,649
South Dakota	1,020,263	1,020,263	----------
Tennessee	7,292,054	7,265,803	26,251
Texas	17,829,921	17,589,092	240,829
Utah	933,235	933,235	----------
Vermont	345,790	345,790	----------
Virginia	6,140,685	6,124,762	15,923
Virgin Islands	138,039	138,039	----------
Washington	2,598,103	2,551,207	46,896
West Virginia	3,202,379	3,183,021	19,358
Wisconsin	3,137,034	2,689,790	447,244
Wyoming	293,572	293,572	----------
Total	237,040,000	234,355,536	2,684,464

(Secs. 2-12, 60 Stat. 230, as amended; 42 U.S.C. 1751-1760)

Dated: December 3, 1973.

EDWARD J. HEKMAN,
Administrator.

[FR Doc.73-26096 Filed 12-10-73;8:45 am]

PART 215—SPECIAL MILK PROGRAM FOR CHILDREN

Appendix—Apportionment of Special Milk Program Funds Pursuant to Child Nutrition Act of 1966, Fiscal Year 1974

Pursuant to section 3 of the Child Nutrition Act of 1966, as amended, milk assistance funds available for the fiscal year ending June 30, 1974, are apportioned among the States as follows:

State	Total apportionment	State agency	Withheld for private schools
Alabama	$1,428,274	$1,373,182	$55,092
Alaska	34,402	34,402	----------
Arizona	520,500	520,500	----------
Arkansas	941,452	893,905	47,547
California	7,208,917	7,208,917	----------
Colorado	898,828	834,058	64,770
Connecticut	1,864,312	1,864,312	----------
Delaware	285,866	285,866	----------
Del. St. Dis. Ag	18,491	18,491	----------
District of Columbia	394,267	394,267	----------
Florida	1,690,835	1,690,835	----------
Georgia	1,570,604	1,533,071	37,533
Hawaii	69,749	45,246	24,503
Idaho	185,006	168,681	16,325
Illinois	5,995,319	5,995,319	----------
Indiana	3,049,907	3,049,907	----------
Iowa	1,530,341	1,390,189	140,152
Kansas	930,725	930,725	----------
Kentucky	1,762,578	1,762,578	----------
Louisiana	721,089	721,089	----------
Maine	551,476	494,018	57,458
Maryland	2,746,428	2,746,428	----------
Maryland Budget & Proc	87,057	87,057	----------
Massachusetts	3,326,772	3,326,772	----------
Michigan	5,369,146	5,369,146	----------
Minnesota	2,878,589	2,878,589	----------
Mississippi	1,041,063	1,041,063	----------
Missouri	2,263,020	2,211,567	51,453
Montana	214,118	191,321	22,797
Nebraska	646,567	556,409	90,158
Nevada	178,062	159,215	18,847
New Hampshire	528,598	528,598	----------
New Jersey	3,670,801	3,177,648	493,153
New Mexico	550,178	308,729	241,449
New York	7,611,448	7,611,448	----------
N.Y. Off. Gen. Sv	304,538	304,538	----------
North Carolina	2,607,935	2,607,935	----------
North Dakota	349,481	315,638	33,843
Ohio	6,657,054	6,022,083	634,971
Ohio Dep. Pub. Wel	163,243	163,243	----------
Oklahoma	870,959	870,959	----------
Oregon	570,282	553,973	16,309
Pennsylvania	5,217,181	4,691,989	525,192
Rhode Island	561,575	561,575	----------
South Carolina	1,199,091	1,100,801	98,290
South Dakota	320,512	320,512	----------
Tennessee	1,784,187	1,712,796	71,391
Texas	3,674,349	3,448,214	226,135
Utah	296,678	295,153	1,525
Vermont	279,161	272,163	6,998
Virginia	1,867,535	1,751,128	116,707
Washington	1,348,262	1,192,118	156,144
West Virginia	939,899	903,046	36,853
Wisconsin	3,479,229	2,901,631	577,598
Wyoming	107,494	107,494	----------
Total	96,363,730	91,500,537	3,863,193

(Secs. 2, 3, 6 and 8-16, 80 Stat. 885-890; 42 U.S.C. 1771, 1772, 1775, 1777-1785.)

Dated: December 3, 1973.

EDWARD J. HEKMAN,
Administrator.

[FR Doc.73-26095 Filed 12-10-73;8:45 am]

PART 220—SCHOOL BREAKFAST AND NONFOOD ASSISTANCE PROGRAMS AND STATE ADMINISTRATIVE EXPENSES

Appendix—Apportionment of Nonfood Assistance Funds Pursuant to Child Nutrition Act of 1966, Fiscal Year 1974

Pursuant to section 5 of the Child Nutrition Act of 1966, as amended, Public Law 89-642, 80 Stat. 887, nonfood assistance funds available for the fiscal year ending June 30, 1974, are apportioned among the States as follows:

State	Total apportionment	State agency	Withheld for private schools
Alabama	$383,306	$272,874	$110,522
Alaska	48,169	48,169	----------
Arizona	215,827	215,827	----------
Arkansas	157,740	150,974	6,766
California	1,632,288	1,632,288	----------
Colorado	215,644	176,482	39,162
Connecticut	529,207	529,207	----------
Delaware	72,443	72,443	----------
District of Columbia	72,306	72,306	----------
Florida	715,303	715,303	----------
Georgia	425,078	425,078	----------
Guam	9,202	9,202	----------
Hawaii	84,256	65,311	18,945
Idaho	73,884	69,502	4,382
Illinois	1,305,027	1,305,027	----------
Indiana	468,275	468,275	----------
Iowa	285,503	217,515	67,988
Kansas	212,848	212,848	----------
Kentucky	280,602	280,602	----------
Louisiana	457,575	457,575	----------
Maine	154,192	139,961	14,231
Maryland	344,447	344,447	----------
Massachusetts	857,914	857,914	----------
Michigan	933,992	933,992	----------
Minnesota	398,118	398,118	----------
Mississippi	309,607	309,607	----------
Missouri	390,840	390,840	----------
Montana	126,786	115,117	11,669
Nebraska	217,870	165,354	52,516
Nevada	37,296	29,389	7,907
New Hampshire	96,685	96,685	----------
New Jersey	1,471,792	1,125,925	345,867
New Mexico	101,715	101,715	----------
New York	1,970,606	1,970,606	----------
North Carolina	477,309	477,309	----------
North Dakota	64,340	58,307	6,033
Ohio	1,304,659	866,310	438,349
Oklahoma	178,899	178,899	----------
Oregon	179,789	179,789	----------
Pennsylvania	1,344,118	1,344,118	----------
Puerto Rico	283,519	283,519	----------
Rhode Island	98,287	98,287	----------
Samoa, American	3,986	3,986	----------
South Carolina	315,346	232,880	82,466
South Dakota	68,084	68,084	----------
Tennessee	302,293	286,169	16,124
Texas	815,513	658,735	156,778
Utah	117,815	117,815	----------
Vermont	79,393	79,393	----------
Virginia	861,827	820,384	41,443
Virgin Islands	11,746	11,746	----------
Washington	274,702	214,060	60,642
West Virginia	147,349	129,695	17,654
Wisconsin	585,066	369,579	215,487
Wyoming	39,437	39,437	----------
Total	22,110,000	20,395,069	1,714,931

Pursuant to sections 5(b) and 5(e) of the Child Nutrition Act of 1966, as amended, Public Law 89-642, 80 Stat. 887, nonfood assistance funds available for the fiscal year ending June 30, 1974, are apportioned among the States as follows:

SECTION 5(b)

State	Total apportionment	State agency	Withheld for private schools
Alabama	$277,210	$272,393	$4,817
Alaska	17,646	17,646	
Arizona	102,127	102,127	
Arkansas	150,170	147,387	2,783
California	598,195	598,195	
Colorado	126,708	122,242	4,556
Connecticut	95,899	95,899	
Delaware	34,885	34,885	
District of Columbia	30,411	30,411	
Florida	434,306	434,306	
Georgia	425,009	425,009	
Guam	7,537	7,537	
Hawaii	68,564	65,311	3,253
Idaho	45,232	44,269	963
Illinois	437,354	437,354	
Indiana	315,201	315,201	
Iowa	213,549	193,267	20,282
Kansas	136,652	136,652	
Kentucky	259,878	259,878	
Louisiana	340,274	340,274	
Maine	57,078	53,470	3,608
Maryland	161,417	161,417	
Massachusetts	296,347	296,347	
Michigan	321,036	321,036	
Minnesota	276,709	276,709	
Mississippi	202,687	202,687	
Missouri	273,299	273,299	
Montana	34,227	32,780	1,447
Nebraska	91,730	82,089	9,641
Nevada	15,369	15,311	58
New Hampshire	35,896	35,896	
New Jersey	209,780	196,537	13,243
New Mexico	81,528	81,528	
New York	724,482	724,482	
North Carolina	446,007	446,007	
North Dakota	44,580	40,644	3,936
Ohio	518,959	487,249	31,710
Oklahoma	165,776	165,776	
Oregon	111,126	111,126	
Pennsylvania	506,013	506,013	
Puerto Rico	173,707	173,707	
Rhode Island	26,406	26,406	
Samoa, American	3,986	3,986	
South Carolina	231,054	229,157	1,897
South Dakota	49,113	49,113	
Tennessee	283,709	280,476	3,233
Texas	653,742	639,179	14,563
Utah	91,192	91,192	
Vermont	23,478	23,478	
Virginia	322,109	319,339	2,770
Virgin Islands	7,739	7,739	
Washington	148,546	146,115	2,431
West Virginia	114,434	112,894	1,540
Wisconsin	215,892	185,943	29,949
Wyoming	18,850	18,850	
Total	11,055,000	10,898,220	156,780

SECTION 5(e)

State	Total apportionment	State agency	Withheld for private schools
Alabama	$106,186	$481	$105,705
Alaska	30,523	30,523	
Arizona	113,700	113,700	
Arkansas	7,570	3,587	3,983
California	1,034,183	1,034,183	
Colorado	88,846	54,240	34,606
Connecticut	433,308	433,308	
Delaware	37,558	37,558	
District of Columbia	41,895	41,895	
Florida	280,907	280,907	
Georgia	69	69	
Guam	1,665	1,665	
Hawaii	15,692		15,692
Idaho	28,652	25,233	3,419
Illinois	867,673	867,673	
Indiana	153,074	153,074	
Iowa	71,854	24,248	47,606
Kansas	76,196	76,196	
Kentucky	20,724	20,724	
Louisiana	117,301	117,301	
Maine	97,114	86,491	10,623
Maryland	183,030	183,030	
Massachusetts	561,567	561,567	
Michigan	612,956	612,956	
Minnesota	121,409	121,409	
Mississippi	106,920	106,920	
Missouri	117,541	117,541	
Montana	92,559	82,337	10,222
Nebraska	126,140	83,265	42,875
Nevada	21,927	14,078	7,849
New Hampshire	60,789	60,789	
New Jersey	1,262,012	929,388	332,624

SECTION 5(e)—Continued

State	Total apportionment	State agency	Withheld for private schools
New York	1,246,124	1,246,124	
North Carolina	31,302	31,302	
North Dakota	19,760	17,663	2,097
Ohio	785,700	379,061	406,639
Oklahoma	13,123	13,123	
Oregon	68,663	68,663	
Pennsylvania	838,105	838,105	
Puerto Rico	109,812	109,812	
Rhode Island	71,881	71,881	
Samoa, American			
South Carolina	84,292	3,732	80,560
South Dakota	18,971	18,971	
Tennessee	18,584	5,603	12,891
Texas	161,771	19,556	142,215
Utah	26,623	26,623	
Vermont	55,915	55,915	
Virginia	39,718	1,045	38,673
Virgin Islands	4,007	4,007	
Washington	126,156	67,945	58,211
West Virginia	32,915	16,801	16,114
Wisconsin	369,174	183,636	185,538
Wyoming	20,587	20,587	
Total	11,055,000	9,496,849	1,558,151

(Secs. 2, 5, 6 and 8 through 16, 80 Stat. 885–890; U.S.C. 1771, 1774, 1775, 1777–1785.)

Dated: December 3, 1973.

EDWARD J. HEKMAN,
Administrator.

[FR Doc.73-26094 Filed 12-10-73;8:45 am]

CHAPTER VII—AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE (AGRICULTURAL ADJUSTMENT), DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

[Amdt. 2]

PART 724—FIRE-CURED, DARK AIR-CURED, VIRGINIA SUN-CURED, CIGAR-BINDER (TYPES 51 AND 52) AND CIGAR-FILLER AND BINDER (TYPES 42, 43, 44, 53, 54, AND 55) TOBACCO

Subpart—Tobacco Allotment and Marketing Quota Regulations, 1972–73 and Subsequent Marketing Years

1973 PENALTY PER POUND RATE FOR EXCESS TOBACCO

This amendment is issued pursuant to the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281, et. seq.).

The main purpose of this amendment is to publish the mathematically computed penalty per pound rate for 1973 crop year marketings of excess tobacco. Other changes have been made for clarity and for uniformity with provisions previously made applicable for other kinds of tobacco. In addition, names of U.S. Department of Agriculture (USDA) organizational units have been changed to conform with a recent internal USDA reorganization.

The changes in the regulations to incorporate this amendment are as follows:

1. The term false identification is defined and expanded to clarify the allotment reduction and penalty provisions relating to violations where a producer falsely identifies or fails to identify marketings of tobacco as to the farm on which produced.

2. A new paragraph is added to § 724.52 relating to the extent of determination and rule for rounding percentages used to reduce tobacco farm marketing quotas after it has been determined that a violation has occurred.

3. Section 724.57 is amended to clarify that the farm allotment is to be dropped when all the cropland in the farm is retired from agricultural production.

4. Sections 724.69 and 724.70 are amended to provide that signatures on a transfer agreement may be witnessed in any State or county office convenient to the producer.

5. Section 724.71 is amended to provide that a farm allotment may be produced on another farm in the same or any other nearby county where such acreage cannot be timely planted or replanted because of a natural disaster.

6. Section 724.79 is amended to require that any tobacco produced in the same area as a kind of tobacco subject to marketing quotas shall be considered as a kind subject to marketing quotas unless it is classified by an AMS inspector as a different kind prior to its removal from the area in which produced.

7. Section 724.86 is amended to require that each marketing of tobacco from a farm be identified by a marketing card unless prior to marketing an AMS certification shows it to be nonquota tobacco.

8. Section 724.88 is amended to show the 1972–73 average market price and the 1973–74 rate of penalty per pound for the kinds of tobacco covered by this regulation.

9. Section 724.95 is amended to provide that penalties for false identification and failure to account and allotment reductions for false identification need not be applied where the pounds of violation are very small when compared to the farm marketing quota and no adverse effect on the tobacco program in the area would result.

10. Section 724.98 is amended to exempt dealers from reporting their total purchases and resales of tobacco on the MQ–79, Dealer's Record where five percent or less of such tobacco is resold in the form normally marketed by producers and where the resales exceeding five percent are due to order buying and prior approval is obtained from the Director, Program Operations Division.

11. A new section 724.107 is added to authorize warehousemen to retain producer marketing cards under certain conditions.

Tobacco farmers are now in the process of preparing their 1973 crop of tobacco covered by these regulations for market and tobacco warehousemen and farmers need to know the provisions of these regulations. Hence, it is essential that these regulations contained herein be made effective at the earliest possible date. Accordingly, it is hereby found and determined that the compliance with the notice, public procedure and 30-day effective date provisions of 5 U.S.C. 553 is impracticable and contrary to the public interest. The regulations contained

herein shall become effective on December 10, 1973.

The regulations are as follows:

1. Paragraphs (h) and (j) through (cc) of § 724.51 are revised to read:

§ 724.51 Definitions.

* * * * *

(h) *Director.* The Director, or Acting Director, Program Operations Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture.

* * * * *

(j) *False identification.* False identification occurs if:

(1) Tobacco was marketed or was permitted to be marketed in any marketing year as having been produced on any farm when, in fact, it was produced on a different farm; or

(2) Tobacco was marketed or was permitted to be marketed in any marketing year from a farm and was not identified by a tobacco marketing card for the farm; or

(3) The farm operator or any other producer on a farm permits the use of the tobacco marketing card for the farm to record a marketing of tobacco when, in fact, no tobacco was marketed from the farm.

(k) *Floor sweepings.* The actual quantity of scraps of tobacco or leaves other than bundles of tobacco, which accumulate on the warehouse floor in the regular course of business which are sold in the untied form in which acquired and sales and resales of such tobacco: *Provided,* That floor sweepings exceeding the pounds determined by multiplying the total first sales of tobacco at auction for the season for the warehouse by the percentage below shall be deemed to be leaf account tobacco:

Kind of Tobacco	*Percentage*
Fire-cured, Dark air-cured and Virginia sun-cured.	0.02 (two-hundredths of 1 percent).

Floor sweeping tobacco shall be kept separate from any other tobacco when sold.

(l) *Leaf account tobacco.* All tobacco purchased or otherwise acquired by or for the account of a warehouse and shall include, but not be limited to, tobacco from buyers corrections account, and sales and resales of such tobacco, scrap tobacco obtained through grading tobacco for farmers or furnishing farmers curing or stripping space, floor sweepings purchased from another warehouseman or dealer, and floor sweepings deemed to be leaf account tobacco under paragraph (k) of this section.

(m) *Market.* The disposition of tobacco in raw or processed form by voluntary or involuntary sale, barter, or exchange, or by gift between living persons. "Marketing" and "Marketed" shall have corresponding meanings to the term "market".

(n) *Marketing quota for a farm.* The actual production of tobacco on the farm acreage allotment, which shall be the average yield per acre for the entire acreage of tobacco harvested on the farm times the farm acreage allotment.

(o) *Marketing year.* The period beginning October 1 of the year in which the tobacco is produced and ending September 30 of the following year.

(p) *Marketing recorder.* Any employee of the U.S. Department of Agriculture, or any employee of an Agricultural Stabilization and Conservation Service (ASCS) county office, whose duties involve the preparation and handling of records and reports pertaining to the identification or marketing of tobacco.

(q) *New farm.* A farm for which a tobacco allotment is established in the current year, and for which there is no tobacco history acreage in the base period (except an allotment established as a result of a transfer by sale or by owner for Fire-cured, Dark air-cured, or by Virginia sun-cured under § 724.70, or an allotment established as the result of acreage reallocated for Cigar-binder (types 51 and 52) and Cigar-filler and Binder (types 42, 43, 44, 53, 54, and 55) tobacco under § 724.72). If, in accordance with applicable law and regulations, no tobacco acreage allotment was determined for the farm for any year of the base period, any production of tobacco on such farm during the base period shall not be considered in determining whether the farm is a new farm. The term "tobacco history acreage" as used in this paragraph is defined in § 724.57.

(r) *Nonauction sale.* Any first marketing of tobacco other than by a sale at auction.

(s) *Old farm.* A farm on which there is tobacco history acreage in 1 or more years of the base period.

(t) *Pound.* The amount of tobacco which, if weighed in its unstemmed form and in the condition in which it is usually marketed by a producer, would equal 1 pound standard weight.

(u) *Resale.* The disposition by sale, barter, exchange, or gift between living persons, of tobacco which has been marketed previously.

(v) (1) *Sale.* The first marketing of cigar-filler and cigar-binder farm tobacco on which the gross amount of the sale price therefor has been or could be readily determined.

(2) *Sale date.* The date on which the gross amount of the sale price of a first marketing of tobacco is determined.

(w) *Sale day.* The period at the end of which the warehouseman bills to buyers the tobacco purchased by them during such period.

(x) *Scrap tobacco.* The residue which accumulates in the course of preparing tobacco for market, consisting chiefly of portions of tobacco leaves and leaves of poor quality.

(y) *Suspended sale.* Any first marketing of tobacco at a warehouse sale for which the sale is not identified by the end of the sale day by the marketing card (including sale memo, where applicable) issued for the farm where the tobacco was produced.

(z) *Tobacco.* Fire-cured tobacco (types 21, 22, 23, and 24); Dark air-cured tobacco (types 35 and 36); Virginia sun-cured tobacco (type 37); Cigar-binder tobacco (types 51 and 52); and Cigar-filler and Binder tobacco (types 42, 43, 44, 53, 54, and 55) as classified in Service and Regulatory Announcement No. 118 (Part 30 of this title) of the former Bureau of Agricultural Economics of the U.S. Department of Agriculture. As used herein "cigar tobacco" means the latter two kinds of this paragraph.

(aa) *Tobacco available for marketing.* All tobacco produced on a farm, including carryover tobacco, which has not been marketed or disposed of so that it cannot be marketed.

(bb) *Trucker.* A person who trucks or hauls tobacco for producers, or any other persons.

(cc) *Warehouseman.* A person who engages in the business of holding sales of tobacco at public auction.

2. In § 724.52 paragraph (d) is amended and a new paragraph (f) is added to read:

§ 724.52 Extent of determinations, computations, and rule for rounding fractions.

* * * * *

(d) *Converted rate of penalty.* The amount of penalty per pound upon marketings of tobacco subject to penalty, hereinafter referred to as the "converted rate of penalty," shall be expressed in tenths of a cent.

* * * * *

(f) *Percentage reduction for violation.* A percentage of reduction in an allotment due to a violation shall be determined in tenths percent and calculations thereof rounded to the nearest tenth percent.

3. In § 724.57 paragraph (a)(1) is revised to read:

§ 724.57 Determination of preliminary acreage allotments and tobacco history acreage for old farms.

(a) *Determination of preliminary acreage allotments—(1) Farms with history acreage in base period.* A preliminary farm acreage allotment shall be determined for each farm which has tobacco history acreage, as defined and explained in paragraph (b) of this section, in the base period, except that no preliminary farm acreage allotment shall be established in the current year under any one of the following conditions: (i) A new farm allotment was established in any prior year but was cancelled for such year and the farm had no other tobacco history acreage during the base period; (ii) an allotment was pooled under Part 719 of this chapter but was cancelled; or (iii) the county committee determines that all the cropland in the farm has been retired from agricultural production and the farm was not or could not have been acquired under right of eminent domain by the acquiring person or agency. This subdivision shall not preclude the determination of a preliminary

acreage allotment for an old farm returned to agricultural production if the allotment for the retired land was not allocated to other land contained in the farm of which the retired land was a part, or for a farm for which an acreage allotment may be determined under the provisions of § 724.67(a).

* * * * *

4. In § 724.69 paragraph (c)(2) is revised to read:

§ 724.69 Lease and transfer of tobacco acreage allotment—Cigar-binder (types 51 and 52) and Cigar-filler and Binder (types 42, 43, 44, and 53) tobacco.

* * * * *

(c) *Filing and approval of transfer agreement.* * * *

(2) *Record of transfer on ASCS–375.* No lease and transfer of any allotment under this section for 1972 and subsequent crops shall become effective until a record of the transfer has been executed on Form ASCS–375 and filed with the county committee by the parties to the transfer. If the owner and operator of the farm from which transfer by lease is to be made are different persons, both owner and operator shall execute the record of transfer; however, only the owner or operator of the receiving farm is required to sign the transfer. A State or county committee member or employee must witness the signature of either the owner or operator of the transferring farm and the owner or operator of the receiving farm. If such signatures cannot be witnessed in the county office where the farm is administratively located, they may be witnessed in any State or county office convenient to the owner's or operator's residence. The requirement that signatures be witnessed for producers who are ill, infirm, reside in distant areas, or are in similar hardship situations or may be unduly inconvenienced may be waived provided the county office mails Form ASCS–375 for the required signature.

* * * * *

5. In § 724.70 paragraphs (a)(1) and (g) are revised to read:

§ 724.70 Transfer of Fire-cured, Dark air-cured, and Virginia sun-cured tobacco allotment by lease, sale or by owner under section 318 of the act.

* * * * *

(a) *Persons eligible to file a record of transfer (Form ASCS–375)*—(1) *Sale or lease.* The owner and operator of any old farm as defined in § 724.51 for which a Fire-cured, Dark air-cured, or Virginia sun-cured tobacco allotment is or will be established for a year in which a transfer by sale or lease is to take effect shall be eligible to file a record of transfer for sale or lease of all or any part of such allotment to any other owner or operator of a farm in the same county, and in the same State for Virginia fire-cured (type 21) and Virginia sun-cured (type 37) tobacco. The receiving farm need not be an old farm. If the owner and operator of the farm from which transfer by sale or lease is to be made are different persons, both such persons shall execute the record of transfer; however, only the owner or operator of the receiving farm is required to sign the transfer. A State or county committee member or employee must witness the signature of either the owner or operator of the transferring farm and the owner or operator of the receiving farm. If such signatures cannot be witnessed in the county office where the farm is administratively located, they may be witnessed in any State or county office convenient to the owner or operator's residence. The requirement that signatures be witnessed for producers who are ill, infirm, reside in distant areas, or are in similiar hardship situations may be met by mail, provided a request is made by the receiving producer. In the case of a permanent transfer, such request must be accompanied by a statement signed by all parties to the transaction confirming that the sale has been made.

* * * * *

(g) *Sale and lease transfers—limit on amount of acreage transferred.* The total of the Fire-cured, Dark air-cured, or Virginia sun-cured tobacco allotment which may be transferred for each kind of tobacco, by sale, lease, or by owner, to a farm shall not exceed 10 acres of allotment: *Provided*, That the total of each acreage for each kind of tobacco allotted to any farm after such transfer (the sum of its own allotment and the acreage transferred after any adjustment in normal yields for the current year) shall not exceed 50 per centum of the acreage of cropland in the farm. The cropland in the farm for the current year for purposes of such transfers shall be the total cropland as defined in Part 719 of this chapter.

* * * * *

6. In § 724.71 paragraph (b) is revised to read:

§ 724.71 Transfer of tobacco farm acreage allotment for farms affected by a natural disaster.

* * * * *

(b) *Application for transfer.* The owner or operator of a farm in a county designated for any year under paragraph (a) of this section may file a written application for transfer of tobacco acreage within the farm tobacco allotment for such year to another farm or farms in the same county or in any other nearby county in the same or another State if such acreage cannot be timely planted or replanted because of the natural disaster determined for such year. The application shall be filed with the county committee in which the farm affected by such disaster is located. If the application involves a transfer to a nearby county, the county committee for the nearby county shall be consulted before action is taken by the county committee receiving the application.

* * * * *

7. § 724.79 is amended to read:

§ 724.79 Identification of kinds of tobacco.

Any tobacco that has the same characteristics and corresponding qualities, colors, and lengths of a kind and type shall be considered such kind and type without regard to any factor of historical or geographical nature which cannot be determined by examination of the tobacco. Any tobacco (except Georgia-Florida wrapper) with respect to any farm located in an area in which one or more of a kind and type of tobacco, as classified in Service and Regulatory Announcement No. 118 (Part 30 of this title) of the former Bureau of Agricultural Economics of the U.S. Department of Agriculture, is normally produced, which is represented by the farm operator as a nonquota kind, shall be considered as a kind subject to marketing quotas (if more than one kind in the area the kind with the highest penalty rate) unless the county committee, with a State committee representative's approval, determines the tobacco to be a kind with a lower penalty rate or a kind not subject to marketing quotas. The determination shall be based on satisfactory proof furnished by the farm operator that the Agricultural Marketing Service, U.S. Department of Agriculture, under the Tobacco Inspection Act (7 U.S.C. 511) and regulations issued pursuant thereto has, prior to removal of the tobacco from the area of production, classified the tobacco as a kind with a lower penalty rate or a kind not subject to quotas.

8. In § 724.86 paragraph (a) is revised to read:

§ 724.86 Identification of marketings, excluding cigar tobacco.

(a) *MQ–76, within quota card, and MQ–77, excess marketing card.* Subject to paragraph (b) of this section, each marketing of tobacco from a farm shall be identified by the marketing card issued for the farm either an MQ–76 or MQ–77 (including sale memo) unless prior to marketing an AMS certification shows it to be nonquota tobacco. In addition, each nonauction sale shall (1) for within quota farms be indicated by a check mark on the inside of MQ–76, and (2) for excess farms for which an MQ–77 is issued be identified by an executed bill of nonauction sale, and such bills of nonauction sale shall be delivered to a marketing recorder or other person who is authorized to issue sale memos.

* * * * *

9. Section 724.88 is amended by adding paragraph (e) to read:

§ 724.88 Rate of penalty.

(e) (1) *1972–73 average market price.* The average market price for the kinds of tobacco listed below as determined by the Crop Reporting Board, Statistical Reporting Service, U.S. Department of Agriculture, for the 1972–73 marketing year was:

AVERAGE MARKET PRICE

Kinds of tobacco:	Cents per pound
Fire-cured (type 21)	64.2
Fire-cured (types 22, 23, 24)	57.3
Dark air-cured	50.3
Virginia Sun-cured	57.9
Cigar-filler and Binder (types 42, 43, 44, 53, 54, and 55)	47.7
Cigar-binder (types 51 and 52)	70.2

(2) *1973–74 rate of penalty per pound.* The penalty rate per pound for the kinds of tobacco listed below upon marketings of excess tobacco subject to marketing quotas during the 1973–74 marketing year shall be:

RATE OF PENALTY

Kinds of tobacco:	Cents per pound
Fire-cured (type 21)	46
Fire-cured (types 22, 23, 24)	43
Dark air-cured	38
Virginia Sun-cured	43
Cigar-filler and Binder (types 42, 43, 44, 53, 54, and 55)	36
Cigar-binder (types 51 and 52)	(1)

[1] Quotas terminated for 1973 crop.

10. In § 724.95, paragraphs (e) and (h) are revised to read as follows:

§ 724.95 Producer's records and reports.

* * * * *

(e) *False identification.* Where false identification (see § 724.51(j)) occurs as to any tobacco, the allotment next established for the farm or farms and kind of tobacco involved shall be reduced, except that such reduction for any such farm shall not be made if it is established to the satisfaction of the county and State committees that (1) no person on such farm intentionally participated in such marketing or could have reasonably been expected to have prevented such marketing: *Provided*, That, the marketing shall be construed as intentional, unless all tobacco from the farm is accounted for and payment of all additional penalty is made, or (2) no person connected with such farm for the year for which the allotment is being established caused, aided, or acquiesced in such marketing. The requirements of this paragraph need not be applied if it is determined by the State and county committees that the pounds in violation are minimal when compared to the farm marketing quota and no adverse effect on the operation of the tobacco program in the area would result.

* * * * *

(h) *Report of production and disposition.* In addition to any other reports which may be required by this subpart, the operator on each farm, or any producer on the farm (even though the harvested acreage does not exceed the acreage allotment or even though no allotment was established for the farm) shall, upon written request by certified mail from the State or county committee, within 15 days after deposit of such request in the U.S. mail, addressed to such person at his last known address, furnish the Secretary on MQ–108, Report of Production and Disposition, a written report of the acreage production and disposition of all tobacco produced on the farm by sending the same to the State or county committee showing, as to the farm at the time of filing such report, (1) the number of fields (patches or areas) from which tobacco was harvested, the acres of tobacco harvested from each such field, and the total acreage of tobacco harvested from the farm, (2) the total pounds of tobacco produced, (3) the amount of tobacco on hand and its location, (4) as to each lot of tobacco marketed the name and address of the warehouseman, dealer, or other person to or through whom such tobacco was marketed, the gross price and the date of the marketing, and (5) complete details as to any tobacco disposed of other than by sale. Failure to file the MQ–108, as requested, the filing of a false MQ–108, or the filing of an MQ–108 which is found by the State or county committee to be incomplete or incorrect, shall constitute failure of the producer to account for disposition of tobacco produced on the farm and the allotment next established for such farm and kind of tobacco shall be reduced, except that such reduction for any such farm shall not be made if it is established to the satisfaction of the county or State committee that (i) the failure to furnish such proof of disposition was unintentional and no producer on such farm could reasonably have been expected to furnish such proof of disposition: *Provided*, That such failure will be construed as intentional unless such proof of disposition is furnished and payment of all additional penalty is made, or (ii) no person connected with such farm for the year for which the allotment is being established caused, aided, or acquiesced in the failure to furnish such proof.

* * * * *

§ 724.98 Dealers exempt from regular records and reports, excluding cigar tobacco buyers.

Any dealer or buyer who acquires tobacco in the form in which tobacco ordinarily is sold by farmers and resells 5 percent or less of any such tobacco shall not be subject to the requirements of § 724.97 except for the requirements which relate to the reporting of nonauction purchases from producers and the requirements of paragraph (e) of § 724.97. A dealer or buyer whose resales in the form ordinarily sold by farmers exceed 5 percent of its purchases as a direct result of order buying for another dealer for a service fee may be exempt from the requirements of § 724.97 (except for requirements which relate to nonauction purchases from producers and requirements of paragraph (e) of § 724.97), provided prior approval is obtained from the Director, Program Operations Division: *Provided*, That where deemed necessary the Director, Program Operations Division, or the State committee may require a report of all tobacco purchased by the dealer without regard to the exemption.

12. A new § 724.107 is added to read:

§ 724.107 Warehouses authorized to retain producer marketing cards between sales.

Notwithstanding any other provision of this part, to facilitate the scheduling of farmers' tobacco to the warehouse, marketing cards with the permission of the producer may be retained at the warehouse between sales even though no producer on the farm for which the card is issued has tobacco on the floor for sale or to be settled for, as provided in this section.

(a) *Warehouses eligible to retain producer marketing cards between sales.* A warehouse shall be eligible to retain producer marketing cards between sales if the operator thereof shall:

(1) Execute and file on a form approved by ASCS a written request with the State committee (or county committee if designated by the State Committee).

(2) Agree to be responsible to ASCS for an amount of money equal to the amount that may be assessed against any producer as marketing quota penalties, if the marketing that is the basis of assessment of penalty occurred while the warehouse was authorized to have custody of the marketing card, for:

(i) Tobacco falsely identified for marketing by use of the producer's marketing card.

(ii) Producer's failure to account for any tobacco marketed by use of the producer's marketing card.

(3) Agree to maintain an accurate and up-to-date journal containing a listing of all producer marketing cards retained by the warehouse to facilitate the scheduling of farmer's tobacco. The journal shall show for each card retained the:

(i) Name of farm operator;

(ii) Marketing card number;

(iii) Date marketing card obtained from producer; and

(iv) Date marketing card returned to producer.

Such journals shall be maintained for the length of time and under the conditions required for other warehouse records.

(4) Agree to return the marketing card to the producer at any time the producer may so request or, in the absence of a request, return it to the producer within seven (7) days after the close of the warehouse for the season.

(5) Agree that this authorization may be terminated by ASCS for failure to comply with provisions of this agreement.

(b) *Penalties considered to be the responsibility of warehouseman.* Notwithstanding any other provision of this part, a warehouse operator who executes and files a written request with the State committee (or county committee if designated by the State committee) for authorization to retain producers' marketing cards at the warehouse, with grower permission, shall be responsible to ASCS for an amount of money equal to the amount that may be assessed against the producer as marketing quota penalties, provided the marketing that is the basis of such assessment occurred while the

warehouse was authorized to have custody of the marketing card, for:

(1) Tobacco falsely identified for marketing by use of the producer's marketing card.

(2) Producer's failure to account for any tobacco marketed by use of the producer's marketing card.

Effective date: December 10, 1973.

Signed at Washington, D.C., on: December 5, 1973.

GLENN A. WEIR,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.73-26240 Filed 12-10-73;8:45 am]

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

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Expenses and Rate of Assessment

This document authorizes expenses of $387,450 of the Navel Orange Administrative Committee, under Marketing Order No. 907, for the 1973–74 fiscal year, and fixes a rate of assessment of $0.013 per carton of oranges handled during such year to be paid to the committee by each first handler as his pro rata share of such expenses.

On November 21, 1973, notice of proposed rulemaking was published in the FEDERAL REGISTER (38 FR 32140) regarding proposed expenses and the related rate of assessment for the period November 1, 1973, through October 31, 1974, pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of Navel oranges grown in Arizona and designated part of California. This notice allowed interested persons 13 days to submit written data, views, or arguments pertaining to these proposals. None were submitted. This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). After consideration of all relevant matters presented, including the proposals set forth in such notice which were submitted by the committee, established pursuant to said marketing agreement and order, it is hereby found and determined that:

§ 907.211 Expenses and rate of assessment.

(a) *Expenses.* Expenses that are reasonable and likely to be incurred by the Navel Orange Administrative Committee, during the period November 1, 1973, through October 31, 1974, will amount to $387,450.

(b) *Rate of assessment.* The rate of assessment for said period, payable by each handler in accordance with § 907.41, is fixed at $0.013 per carton of Navel oranges.

It is hereby further found that good cause exists for not postponing the effective date hereof until 30 days after publication in the FEDERAL REGISTER (7 U.S.C. 553) in that (1) shipments of oranges have already begun, (2) the relevant provisions of said marketing agreement and this part require that the rate of assessment herein fixed shall be applicable to all assessable oranges handled during the 1973–74 fiscal year; and (3) such year began on November 1, 1973, and the rate of assessment herein fixed will automatically apply to all assessable oranges beginning with such date.

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

Dated: December 6, 1973.

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

[FR Doc.73-26209 Filed 12-10-73;8:45 am]

Title 10—Atomic Energy

CHAPTER I—ATOMIC ENERGY COMMISSION

PART 31—GENERAL LICENSES FOR BYPRODUCT MATERIAL

PART 32—SPECIFIC LICENSES TO MANUFACTURE, DISTRIBUTE, OR IMPORT EXEMPTED AND GENERALLY LICENSED ITEMS CONTAINING BYPRODUCT MATERIAL

General License for Use of Carbon-14 for In Vitro Clinical or Laboratory Testing

On September 26, 1973, the Atomic Energy Commission published in the FEDERAL REGISTER (38 FR 26813) proposed amendments of its regulations 10 CFR Parts 31 and 32 which would authorize any physician, clinical laboratory, or hospital to use carbon-14 in units not exceeding 10 microcuries each, in in vitro clinical or laboratory tests, subject to the conditions set out in § 31.11(b), (c), (d), (e), and (f).

All interested persons were invited to submit written comments and suggestions for consideration in connection with the proposed amendments by November 12, 1973. After consideration of the comments and other factors involved, the Commission has adopted the proposed amendments. The text of the amendments set out below is identical with the text of the proposed amendments published September 26, 1973.

Under the provisions of the general license, as amended, the general licensee may issue a purchase order on a standing basis for a supply of carbon-14 in prepackaged units to be delivered at any rate of shipment. Hospitals use vials containing 1.5 microcuries of carbon-14 in large numbers when operating an automated system for detecting bacteria in blood and other fluids.

The general license as amended in no way affects transactions involving exempt quantities subject to § 32.19, nor does it relax any radiological safety controls over the use of carbon-14 in in vitro clinical or laboratory tests.

The general licensee would be required to register with the Commission and receive an acknowledgement of his registration and a registration number before receiving carbon-14 pursuant to the general license. The objectives of the registration requirement are to (1) provide a means of identifying the general licensee, (2) provide assurance that the general licensee is aware of the terms and conditions of the general license prior to receipt of carbon-14 for use under the general license, and (3) facilitate communication with the general licensee.

As amended, § 32.71, which is intended to assure that general licensees receive properly packaged products which are labeled to identify the radioactive contents and to specify that use is restricted to in vitro clinical or laboratory tests, includes requirements for issuance of specific licenses to manufacture or distribute carbon-14 for use under the general license in § 31.11.

Pursuant to the Atomic Energy Act of 1954, as amended, and sections 552 and 553 of title 5 of the United States Code, the following amendments of Title 10, Chapter I, Code of Federal Regulations, Parts 31 and 32, are published as a document subject to codification.

1. In 10 CFR Part 31, § 31.11 is amended by amending the section heading, adding a new paragraph (a)(3), and amending paragraph (d)(1) to read as follows:

§ 31.11 General license for use of byproduct materials for certain in vitro clinical or laboratory testing.

(a) • • •

(3) Carbon-14, in units not exceeding 10 microcuries each for use in in vitro clinical or laboratory tests not involving internal or external administration of byproduct material, or the radiation therefrom, to human beings or animals.

• • • • •

(d) • • •

(1) Except as prepackaged units which are labeled in accordance with the provisions of a specific license issued under the provisions of § 32.71 of this chapter or in accordance with the provisions of a specific license issued by an Agreement State, which authorizes manufacture and distribution of iodine-125, iodine-131, or carbon-14 for distribution to persons generally licensed by the Agreement State.

• • • • •

2. In 10 CFR Part 32, § 32.71 is amended by adding a new paragraph (b)(3) to read as follows:

§ 32.71 Manufacture and distribution of byproduct materials for certain in vitro clinical or laboratory testing under general license.

• • • • •

(b) • • •

(3) Carbon-14 in units not exceeding 10 microcuries each.

Effective date. These amendments become effective on January 10, 1974.

(Secs. 81, 161, Pub. Law 83-703, 68 Stat. 935, 948 (42 U.S.C. 2111, 2201))

Dated at Bethesda, Md., this 23rd day of November 1973.

For the Atomic Energy Commission.

L. MANNING MUNTZING,
Director of Regulation.

[FR Doc.73-26276 Filed 12-10-73;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airspace Docket No. 73-EA-89]

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

Alteration of Control Zone

On page 29816 of the FEDERAL REGISTER for October 29, 1973, the Federal Aviation Administration published a proposed regulation which would alter the Jamestown, N.Y., Control Zone (38 FR 389).

Interested parties were given 20 days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

In view of the foregoing, the proposed regulation is hereby adopted, effective 0901 G.m.t. January 31, 1974.

(Sec. 307(a), Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Jamaica, N.Y., on November 28, 1973.

ROBERT H. STANTON,
Director, Eastern Region.

1. Amend § 71.171 of Part 71, Federal Aviation Regulations so as to alter the description of the Jamestown, N.Y. Control Zone by deleting the last sentence and by substituting the following in lieu thereof: "This Control Zone shall be in effect from 0700 to 2130 hours, local time, daily.".

[FR Doc.73-26169 Filed 12-10-73;8:45 am]

[Airspace Docket No. 73-EA-77]

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

Alteration of Control Zone and Transition Area; Revocation of Transition Area

On page 26732 of the FEDERAL REGISTER for September 25, 1973, the Federal Aviation Administration published a proposed rule so as to alter the Newburgh, N.Y., Control Zone (38 FR 405) and Transition Area (38 FR 543), and revoke the Middletown, N.Y., Transition Area (38 FR 533).

Interested parties were given 30 days after publication in which to submit written data or views. Comments received from Mr. Joseph A. Morina, Airport Director for Orange County Airport, expressed concern for the effect of future expansion of his airport.

The control zone as proposed in Airspace Docket 73-EA-77, in part, eliminates an extension to the west in proximity to Orange County Airport. As such, the control zone would be less restrictive on Orange County VFR operations. IFR operations at both Orange County and Stewart Airports are controlled by the New York Center. Because of the proximity of these airports, IFR approaches cannot be conducted simultaneously. The New York Center has and will continue to provide appropriate separation to IFR operations. The proposed future development of Orange County Airport would not be affected by the airspace actions proposed in Airspace Docket 73-EA-77. The airspace proposed is required to provide airspace protection to IFR operations at Randall, Orange County and Stewart Airports in accordance with agency criteria. It will not inhibit any expansion to Orange County Airport. Future, new or revised procedures for Orange County Airport will be provided appropriate airspace protection in consonance with agency criteria.

In view of the foregoing, the proposed regulation is hereby adopted, effective 0901 G.m.t. January 31, 1974.

(Sec. 307(a), Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Jamaica, N.Y., on November 23, 1973.

L. J. CARDINALI,
Acting Director, Eastern Region.

1. Amend § 71.171 of the Federal Aviation Regulations by deleting the description of the Newburgh, N.Y. control zone and by substituting the following in lieu thereof:

Within a 5-mile radius of the center, 41°-30'05" N., 74°05'40" W., of Stewart Airport, Newburgh, N.Y., extending clockwise from a 066° bearing to a 209° bearing from the airport; within a 5.5-mile radius of the center of the airport, extending clockwise from a 209° bearing to a 249° bearing from the airport; within a 5-mile radius of the center of the airport, extending clockwise from a 249° bearing to a 315° bearing from the airport; within a 6.5-mile radius of the center of the airport, extending clockwise from a 315° bearing to a 066° bearing from the airport; within 3 miles each side of the Stewart VOR (41°30'28" N., 74°05'53" W.) 325° radial, extending from the VOR to 15 miles northwest of the VOR and within 4.5 miles each side of the Stewart VOR 085° radial, extending from the VOR to 11.5 miles east of the VOR, excluding the portion that coincides with the Poughkeepsie, N.Y., control zone. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

2. Amend § 71.181 of the Federal Aviation Regulations by deleting the description of the Newburgh, N.Y., transition area and by subsituting the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the center, 41°30'05" N., 74°05'40" W. of Stewart Airport, Newburgh, N.Y., extending clockwise from a 222° bearing to a 332° bearing from the airport; within an 11.5-mile radius of the center of Stewart Airport, extending clockwise from the 332°-bearing to a 045° bearing from the airport; within an 8.5-mile radius of the center of Stewart Airport, extending clockwise from a 045° bearing to a 076° bearing from the airport, within a 10-mile radius of the center of Stewart Airport, extending clockwise from a 076° bearing to a 130° bearing from the airport; within a 12.5-mile radius of the center of Stewart Airport, extending clockwise from a 130° bearing to a 159° bearing from the airport; within a 14.5-mile radius of the center of Stewart Airport, extending clockwise from a 159° bearing to a 191° bearing from the airport, within a 12.5-mile radius of the center of Stewart Airport, extending clockwise from a 191° bearing to a 222° bearing from the airport; within 3.5 miles each side of the Stewart VOR (41°30'28" N., 74°05'53" W.) 325° radial, extending from the Stewart VOR to 18.5 miles northwest of the Stewart VOR; within 5 miles each side of the Stewart VOR 085° radial, extending from the Stewart VOR to 13 miles east of the Stewart VOR; within 5 miles each side of the Huguenot VORTAC 074° radial extending from the Huguenot VORTAC to 20 miles east of the Huguenot VORTAC; within a 7-mile radius of the center 41°30'41" N., 74°15'51" W. of Orange County Airport, Montgomery, N.Y., extending clockwise from a 332° bearing to a 074° bearing from the airport; within a 7.5-mile radius of the center of Orange County Airport, extending clockwise from a 074° bearing to a 161° bearing from the airport; within an 8-mile radius of the center of Orange County Airport, extending clockwise from a 161° bearing to a 228° bearing from the airport within a 9-mile radius of the center of Orange County Airport, extending clockwise from a 228° bearing to a 332° bearing from the airport; within 3.5 miles each side of the Orange County Airport ILS localizer south course, extending from the OM to a point 14 miles south of the OM; within a 6-mile radius of the center, 41°25'54" N., 74°23'45" W. of Randall Airport, Middletown, N.Y., extending clockwise from a 015° bearing to a 128° bearing from the airport; within a 6.5-mile radius of the center of Randall Airport, extending clockwise from a 128° bearing to a 167° bearing from the airport; within a 6-mile radius of the center of Randall Airport, extending clockwise from a 167° bearing to a 227° bearing from the airport; within a 7-mile radius of the center of Randall Airport, extending clockwise from a 227° bearing to a 309° bearing from the airport; within a 6.5-mile radius of the center of Randall Airport, extending clockwise from a 309° bearing to a 015° bearing from the airport; and within 2 miles each side of the Huguenot VORTAC 082° radial, extending from the Huguenot VORTAC to 10 miles east of the Huguenot VORTAC.

3. Amend § 71.181 of the Federal Aviation Regulations so as to revoke the Middletown, N.Y., transition area.

[FR Doc.73-26171 Filed 12-10-73;8:45 am]

[Airspace Docket No. 73-SO-65]

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

Designation of Transition Area

On October 29, 1973, a notice of proposed rule making was published in the FEDERAL REGISTER (38 FR 29816), stating that the Federal Aviation Administration was considering an amendment

to Part 71 of the Federal Aviation Regulations that would designate the Centre, Ala., transition area.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., January 31, 1974, as hereinafter set forth.

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

CENTRE, ALA.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Centre Municipal Airport (Latitude 34°09'40" N, Longitude 85°38'05" W).

(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 East Point, Ga., on November 29, 1973.

DUANE W. FREER,
Acting Director, Southern Region.

[FR Doc.73-26172 Filed 12-10-73;8:45 am]

[Airspace Docket No. 73-EA-78]

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

Alteration of Transition Area

On page 27300 of the FEDERAL REGISTER for October 2, 1973, the Federal Aviation Administration published a proposed rule so as to alter the Monticello, N.Y., Transition Area (38 FR 538).

Comments were received from a Mr. Harris L. Gordon, a chief pilot operating out of Monticello County Seat Airport, Monticello, New York. Of four comments, three appear to be met by the fact that the airport has been overlaid by a transition area since 1969 without any hazardous situation occurring. The remaining comment that County Seat Airport is applying for an instrument approach does not appear to affect the existence of or operation within the proposed change to the existing transition area. Thus it is not envisioned that such alteration will preclude or restrict such application by County Seat Airport.

In view of the foregoing, the proposed regulation is hereby adopted, effective 0901 G.m.t. February 28, 1974, except as follows: Insert after the word "localizer" the coordinates ", 41°41'39" N, 74°47'16" W, ".

(Sec. 307(a), Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Jamaica, N.Y., on November 28, 1973.

ROBERT H. STANTON,
Director, Eastern Region.

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations by deleting the description of the Monticello, N.Y. transition area and by substituting the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within an 8-mile radius of the center, 41°42'01" N., 74°47'59" W. of Sullivan County International Airport, Monticello, N.Y., extending clockwise from a 033° bearing to a 111° bearing from the airport; within a 7.5-mile radius of the center of the airport, extending clockwise from a 111° bearing to a 169° bearing from the airport; within a 6.5-mile radius of the center of the airport, extending clockwise from a 169° bearing to a 318° bearing from the airport; within an 8.5-mile radius of the center of the airport, extending clockwise from a 318° bearing to a 340° bearing from the airport; within an 11.5-mile radius of the center of the airport extending clockwise from a 340° bearing to a 033° bearing from the airport; within 3.5 miles each side of the 130° bearing from the White Lake RBN (41°41'51" N., 74°47'48" W.) extending from the 8-mile and 7.5-mile radius areas to 8.5 miles southeast of the RBN; and within 4.5 miles each side of the Sullivan County International Airport ILS localizer, 41°41'39" N., 74°47'16" W., northwest course, extending from the 6.5-mile, 8.5-mile and 11.5-mile radius areas to 11.5 miles northwest of the LOM (41°-45'59" N., 74°51'39" W.).

[FR Doc.73-26170 Filed 12-10-73;8:45 am]

Title 49—Transportation

SUBTITLE A—OFFICE OF THE SECRETARY OF TRANSPORTATION

PART 7—PUBLIC AVAILABILITY OF INFORMATION

Appendix H—National Highway Traffic Safety Administration

FEE FOR DOCUMENT SEARCHES

The purpose of this amendment is to reduce the charge made by the National Highway Traffic Safety Administration for certain document searches.

Currently, under 49 CFR 7.85(a), the charge for a record search is $3 for each document. Often the time needed to locate the document is negligible, however. At other times, a number of documents are sought. This amendment will amend Appendix H of 49 CFR Part 7 to allow a reduction or elimination of the $3 search fee if the time spent in the search is negligible and will institute an hourly fee when a great number of searches are made concurrently for the same individual.

Pursuant to 49 CFR 7.1(c), it is found that document searches described herein are peculiar to the records of NHTSA.

Since the provisions of this amendment relate to agency procedures and will impose no additional burden on any person, it is found that notice and public procedure thereon are impractical and unnecessary and that good cause exists for making it effective December 11, 1973.

In consideration of the foregoing, Appendix H of 49 CFR Part 7 is amended by adding a new paragraph (6) to read as follows:

* * * * *

(6) The fee for a search for a record or records identified by class or by subject is $6 per hour, and, pursuant to section 7.83 of this part, is payable before the release of the material. The Office of Administrative Services may reduce or eliminate the $3.00 search fee for a particular document pursuant to subpart H if the time involved in the search is negligible.

(Sec. 501, 65 Stat. 290, 31 U.S.C. 483a; 80 Stat. 383, 81 Stat. 45, 5 U.S.C. 552; 80 Stat. 944, 49 U.S.C. 1657; 62 Stat. 909, 31 U.S.C. 483; delegation at 49 CFR 7.11.)

Issued on December 4, 1973.

JAMES B. GREGORY,
Administrator.

[FR Doc.73-26224 Filed 12-10-73;8:45 am]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

SUBCHAPTER C—REGULATIONS UNDER SPECIFIC ACTS OF CONGRESS

[Docket No. 206-15]

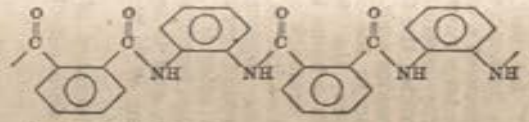
PART 303—RULES AND REGULATIONS UNDER THE TEXTILE FIBER PRODUCTS IDENTIFICATION ACT

Names and Definitions

On September 17, 1971, E. I. du Pont de Nemours & Company, a corporation with its principal offices at Wilmington, Delaware 19898, filed an application pursuant to § 1.15 of the Procedures and Rules of Practice of the Federal Trade Commission [16 CFR 1.15] and the Textile Fiber Products Identification Act, 72 Stat. 1717, et seq., 79 Stat. 124, 15 U.S.C. § 70, et seq. (hereinafter sometimes referred to as "Act"), requesting that § 303.7 of the rules and regulations under the Act [16 CFR 303.7], setting forth generic names and definitions of manufactured textile fibers, be amended (1) to add thereto a new generic name and definition to cover certain aromatic polyamide fibers of applicant and (2) to restrict the present nylon definition, paragraph (i) of 16 CFR 303.7, so as, at least, to exclude fibers which would fall within the proposed new generic class.

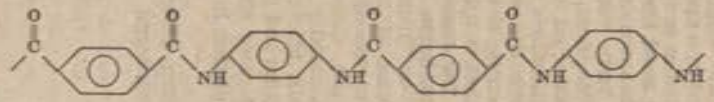
The specific aromatic polyamides upon which the application is based are essentially: "Nomex" [name stated to be a registered trademark],

INSERT A:



and a new tire cord called "Fiber B,"

INSERT B:



By letter of December 8, 1971, the Commission assigned the optional designation "DP–01" to du Pont's fiber for temporary use until a final determination could be made as to the merits of the application.

On June 13, 1972, a Notice of proposed rulemaking was issued by the Commission in this proceeding and subsequently published in the FEDERAL REGISTER at 37 FR 12243, June 21, 1972. Such Notice announced that the Commission was considering the application, including the following questions:

(1) Whether the subject fibers of the application should properly be designated by the generic name "nylon" set forth and defined in paragraph (i) of 16 CFR 303.7, and

(2) What, if any, amendment to the rules and regulations under the Act, particularly § 303.7 thereof, may be necessary and proper with regard to matters raised in the application.

The notice further provided that should the Commission determine that some amendment of § 303.7 is necessary, it would consider (1) whether a new generic name and definition which would cover the subject fibers of the application should be added thereto and the nylon definition, paragraph (i) of such section, restricted so as to exclude such fibers, (2) whether amendment of § 303.7 should be made concerning polyamide fibers of both aliphatic and aromatic content wherein the aromatic rings are in different percentage ranges or molecular configurations from those covered by applicant's proposed aromatic polyamide generic definition, and (3) whether some subdivision of the nylon category would be appropriate to indicate different subcategories of fibers therein based on concentrations and molecular configurations relating to aliphatic groups and aromatic rings.

The notice also provided that interested parties could participate in this proceeding by submitting their views, arguments, or other pertinent data, in writing, to the Commission.

Comment was filed by Owens-Corning Fiberglas Corporation, Monsanto Textiles Company, Cluett, Peabody & Co., Inc., the U.S. Defense Supply Agency, and the U.S. Army Natick Laboratories.

Owens-Corning opposed the application on the ground that since du Pont's fiber falls within the present nylon definition it should be so classified, though it might differ significantly from present commercial nylons in both chemical and physical properties. Monsanto agreed with du Pont that a new generic classification should be created for aromatic polyamides, but recommended that the classification be somewhat broader than that recommended by du Pont. Cluett Peabody objected to du Pont's proposed generic name aromid on the ground that it is too close to its trademark "Arrow" and associated trademarks; however, it had no objection to the use of the term "aramid." The U.S. Defense Supply Agency supported the application. It stated that its operations, which involve dealing with both aromatic and aliphatic polyamides, would be benefited if a term were provided that would distinguish these "dissimilar" items. Natick Laboratories, which also deals with aromatic polyamides, supported the application on the ground that aromatic polyamides have "radically different properties" and that a separate generic name for them would be in the interest of maintaining appropriate terminology and identification in specifications.

Applicant recognizes that "Nomex" and "Fiber B" fall within the existing definition of nylon, paragraph (i) of 16 CFR 303.7, but states that they should not be so classified. In support of this position it submitted in its application analyses, tables, and chemical formula diagrams purporting to show that the differences between representative chemical formulas of aromatic polyamides as opposed to aliphatic polyamides (present common commercial nylons) are as great or greater than the differences between representatives formulas of some other fiber generic classes; that physical property differences between aromatic and aliphatic polyamides are greater than those between existing generic classes; and that the manufacturing process for aromatic polyamides as compared with aliphatic polyamides employs different, more costly, and more rigorous methods. The application further purports to show that aromatic polyamides are exceptionally stable; that this stability provides important properties of benefit to consumers in apparel and household applications. Such important properties include: (1) High melting point, low flammability, and low production of pyrolysis off gases when exposed to flame, (2) good tenacity, modulus, and fabric integrity, particularly at elevated temperatures, and (3) inertness to moisture, including resistance to length change and wrinkling with changes in humidity; and that such stability has "made possible the manufacture of fibers having a truly unique combination of high strength, toughness, and stiffness at levels never before attained in nature or by industry with any material."

The physical properties of aromatic polyamides which, according to du Pont, make Fiber B suitable for use in tire cord are set out in Table IV of the du Pont petition.

TABLE IV

TYPICAL CORD PHYSICAL PROPERTIES AND PERFORMANCE IN TIRES

	Critical to tire parameter	Aromatic polyamide	Aliphatic polyamide
Cord property:			
Cord tenacity, gpd room temperature	Strength and durability (safety factor).	15 to 18	8 to 9.
Cord modulus, gpd room temperature		12 to 14	6 to 6.5.
Creep under 1 gpd load shrinkage at 320° F.	Treadwear and handling characteristics.	300 to 350	25 to 30.
		240 to 280	8 to 12.
	Uniformity and stability	Low nil	High.
Chemical stability in rubber (strength retention after 24 hours at 325° F).	Durability (safety factor)	High	Moderate.
Tire performance: [1]			
Flat spotting		Nil	Objectionable.
Carcass strength retention at 300° F		Good	Fair.
Tread durability in road test (radial design/PE carcass).		Excellent [2]	Unsuitable.

[1] Bias tire design except where indicated.
[2] Tread life improved 250–300 percent over bias tires.

Again, the properties which in du Pont's estimation, render Fiber B suitable for use in tire cord, relate to the purportedly unique tensile strength, heat resistance and toughness of aromatic polyamides.

Applicant suggests that name "aromid" [or "aramid"] and the following definition for the proposed new generic class:

Aromid. A manufactured fiber in which the fiber-forming substance is a long chain synthetic aromatic polyamide in which at least 85 percent of the amide linkages are attached directly to two aromatic rings.

$$\left(\begin{matrix}-C-NH-\\ \| \\ O\end{matrix}\right)$$

linkages are attached directly to two aromatic rings.

By way of explanation of the 85 percent figure in the above definition, applicant states and has submitted data to demonstrate that a modest degree of copolymerization may add benefits of value to the consumer, but that "the chemical stability from which the high melting points, high modulus, strength retention, and high thermal resistance stem is excessively compromised if more than 15 percent of the amide linkages are attached to aliphatic groups."

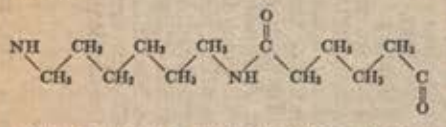
Applicant recommends that the term "nylon" be retained for the aliphatic polyamides, but that the definition thereof be changed to describe the between-the-linkages part of the polymer, instead of just the linkages, thereby making the definition "conform more closely to the definitions of other fiber classes." Du Pont submitted the following definition for "nylon," a definition which would include all currently commercial and foreseeably commercial aliphatic-polyamide fibers:

Nylon. A manufactured fiber in which the fiber-forming substance is a long-chain synthetic polyamide in which less than 85 percent of the amide

$$\left(\begin{matrix}-C-NH-\\ \| \\ O\end{matrix}\right)$$

linkages are attached directly to two aromatic rings.

By far the most common and heavily produced polyamides are nylon 6:6 and nylon 6, which are nearly identical. The chemical formula of nylon 6:6 is as follows:



This formula is typical of those of most present commercial polyamides. They differ mainly in the number of CH_2 groups which lie between the amide groups

$$\left(\begin{matrix}-C-NH-\\ \| \\ O\end{matrix}\right).$$

When this formula is compared with those of du Pont's Fiber B and Nomex, set forth previously, it can be seen that the chemical difference is considerable, in that the CH_2 chains have been replaced by aromatic rings. Also, it would appear from the application that there are considerable differences in properties. Du Pont presented the following data comparing certain aspects of aromatic polyamides with aliphatic polyamides:

PROPERTIES IMPORTANT TO APPAREL AND HOME FURNISHINGS PERFORMANCE [1]

*I = Ignites with 3 seconds.
DNI = Does not ignite in 3 seconds.
(+) = Passes test.
(−) = Does not pass.

	Aliphatic polyamide	Aromatic polyamide
Specific Gravity (g/c.c.)	1.02 to 1.14	1.38 to 1.48.
Melting Point (°C)	185 to 299	Decompose 427.
Tenacity (gpd):		
Room temperature	4.7 to 10.2	3.6 to 21.
149°C	1 to 6.5	3.1 to 18.
260°C	0	2.4 to 16.
Modulus (gpd):		
Room temperature	36 to 56	140 to 1350.
149°C	4 to 45	110 to 1300.
260°C	0 to 10	85 to 1280.
Flammability:		
45°	+I	+ DNI.
45°	−I	+ DNI.
Vertical—S.E.	±I	+ DNI.

[1] Du Pont petition, p. 11.

Most of these differences are quite large and appear to be consistent with technical literature. For example, in "Handbook of Textile Fibers," J. Gordon Cook, 4th ed., c. 1968, there is found the following, p. 340:

FULLY AROMATIC POLYAMIDES

The maximum effects of introducing aromatic rings into the polyamide molecule are obtained by condensing monomers in which, in each case, the functional groups are separated by phenylene groups. Aromatic diamines, for example, condensed with terephthalic acid provide polyamides with exceptional resistance to high temperatures. The intermolecular bonding and chain stiffness are such as to confer high thermal stability on the polymer molecules.

When all the phenylene units in the polyamide are para-substituted, the optimum effects are obtained, and the polymers have melting points or decomposition points in the region of 555° C. With all phenylene units in the meta-substituted position, the polymers melt or decompose at about 410° C.

Therefore, the Commission has determined that highly aromatic polyamides are significantly different as to chemical and physical structures from other polyamides, including common commercial polyamides.

The Commission has noted Monsanto's objection that the aramid definition as proposed by du Pont is too narrow, in that the proposed definition excludes the manufacture and marketing as aramids of aromatic polyamide-containing fibers with a content, by weight, of less than 85 percent aromatic polyamides. The Commission has determined to deny Monsanto's request for extension of the percentage content of aliphatic groups in an "aramid" because of data submitted by du Pont which demonstrates that polymers with less than 85 percent of the amide linkages attached directly to aromatic rings fail to exhibit the unsual physical characteristics of the fully aromatic polyamides. The Commission recognizes, of course, the right of Monsanto or any other chemical manufacturer or individual to petition the Commission to enlarge the definition of "aramid" to include polymers of less than 85 percent aromatic polyamide content; such petition shall be granted if and when the Commission is convinced by data submitted that a polyamide of less than 85 percent aromatic content can be manufactured which possesses the unusual physical characteristics of polyamides of 85 percent or above aromatic content.

Further, the Commission, in the interest of elucidating the grounds on which it has based this decision and shall base future decisions as to the grant of generic names for textile fibers, sets out the following criteria for grant of such generic names.

1. The fiber for which a generic name is requested must have a chemical composition radically different from other fibers, and that distinctive chemical composition must result in distinctive physical properties of significance to the general public.

2. The fiber must be in active commercial use or such use must be immediately foreseen.

3. The grant of the generic name must be of importance to the consuming public at large, rather than to a small group of knowledgeable professionals such as purchasing officers for large Government agencies.

The Commission having determined that the application by du Pont satisfies the criteria set out above, the Commission grants the application.

The Commission believes it is in the public interest to prevent the proliferation of generic names, and will adhere to a stringent application of the above-mentioned criteria in consideration of any future applications for generic names and in a systematic review of any generic names previously granted which no longer meet these criteria.

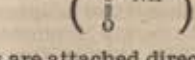
The Commission has determined to use the term "aramid" for the new generic classification. In its application du Pont asserted it had secured a trademark registration of the term "aromid" to preserve the term for generic use. More recently, it has notified the Commission that it will surrender such registration for cancellation in the event the Commission utilizes the name "aromid" or "aramid" as a name for a generic class of highly aromatic polyamides. In view of today's action in this matter, the Commission expects du Pont to surrender its "aromid" registration within thirty days after the new generic name and definition promulgated herein becomes effective, and to notify the Commission in writing of its having done so.

Wherefore, after consideration of the views, arguments, and data submitted

pursuant to the notice of proposed rulemaking herein and other pertinent information and material available to the Commission, the Commission has determined to amend the rules and regulations under the Textile Fiber Products Identification Act in the manner set forth below.

Section 303.7 *Generic names and definitions for manufactured fibers*, of Part 303, Subchapter C, Chapter I, 16 CFR, is hereby amended by revising paragraph (i) and adding a new paragraph (s) as set forth below.

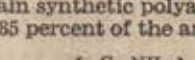
(i) Nylon—A manufactured fiber in which the fiber-forming substance is a long-chain synthetic polyamide in which less than 85 percent of the amide



linkages are attached directly to two aromatic rings.

* * * * *

(s) Aramid—A manufactured fiber in which the fiber-forming substance is a long-chain synthetic polyamide in which at least 85 percent of the amide



linkages are attached directly to two aromatic rings.

(Sec. 6, 72 Stat. 1717; 15 U.S.C. 70e)

Effective date. The amendment of the rules and regulations under the Act prescribed herein shall become effective January 11, 1974.

The optional designation DP-01 previously assigned to applicant's fiber for temporary use is hereby revoked as of the effective date of the above amendment.

By the Commission.

Issued: December 11, 1973.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.73-26167 Filed 12-10-73;8:45 am]

Title 38—Pensions, Bonuses, and Veterans' Relief

CHAPTER I—VETERANS ADMINISTRATION

PART 3—ADJUDICATION

Hospitalization Adjustments; Reductions and Discontinuances

On page 29610 of the FEDERAL REGISTER of October 26, 1973, there was published a notice of proposed regulatory development to amend §§ 3.501, 3.551, 3.552 and 3.556-3.558 to provide for discontinuance and resumption of payments for hospitalized veterans. An additional change deleted references to peacetime rates because Pub. L. 92-328 (86 Stat. 393) equalized wartime and peacetime disability compensation rates. Interested persons were given 30 days in which to submit comments, suggestions, or objections regarding the proposed regulations.

No written comments have been received and the proposed regulations are hereby adopted without change and are set forth below.

Effective date. These VA Regulations are effective December 4, 1973, except § 3.552 which is effective July 1, 1973.

Approved: December 4, 1973.

By direction of the Administrator.

[SEAL] FRED B. RHODES, *Deputy Administrator.*

1. In § 3.501(i), subparagraphs (1) and (3) are amended to read as follows:

§ 3.501 Veterans.

* * * * *

(i) *Hospitalization.*—(1) *§ 3551(b).* First day of seventh calendar month following admission if veteran without dependents.

* * * * *

(3) *§ 3.557.*—Incompetent hospitalized veteran, without dependents, whose estate equals or exceeds $1,500: Date of admission or the first day of the month in which payment was actually received which causes the estate to equal or exceed $1,500, whichever is later. If the veteran was hospitalized for observation and examination, the date treatment began will be considered the date of admission.

* * * * *

2. In §3.551, paragraph (b) is amended to read as follows:

§ 3.551 Reduction because of hospitalization.

* * * * *

(b) *Reducation after 6 months.*—Pension (except as provided in paragraph (c) of this section) in excess of $30 monthly for a veteran who has neither wife, child nor dependent parent shall continue at the full monthly rate until the end of the sixth calendar month following the month of admission for hospitalization. The rate payable will be reduced effective the first of the seventh calendar month to $30 monthly or 50 percent of the amount otherwise payable, whichever is greater. The reduced rate will be effective the first day of the seventh calendar month following admission. Payment of the amount withheld may be made on termination of hospitalization, as provided in § 3.556. (Public Law 92-328; 86 Stat. 393.)

* * * * *

3. In § 3.552, paragraphs (d), (f) and the introductory portion of paragraph (g) preceding subparagraph (1) are amended to read as follows:

* * * * *

§ 3.552 Adjustment of allowance for regular aid and attendance.

* * * * *

(d) Where entitlement by reason of need for regular aid and attendance is the basis of the monthly rate under 38 U.S.C. 314(l) the award will be reduced to the rate payable under 38 U.S.C. 314(s).

* * * * *

(f) Where entitlement to the rate in 38 U.S.C. 314(o) is based in part on need for regular aid and attendance reduction because of being hospitalized will be to the rate payable for the other conditions shown.

(g) Where a veteran entitled to one of the rates under 38 U.S.C. 314 (l), (m), or (n) by reason of anatomical losses or losses of use of extremities, blindness (visual acuity 5/200 or less or light perception only) or anatomical loss of both eyes is being paid compensation of $862 because of entitlement to another rate under section 314(l) on account of need for aid and attendance his compensation will be reduced while hospitalized to the following:

* * * * *

4. In § 3.556, paragraph (a) is revised to read as follows:

§ 3.556 Adjustment on discharge or release.

(a) *Temporary absence; 30 days.*—(1) Where a competent veteran whose award was reduced under §3.551(b) is placed on Non-Bed Care status or other authorized absence of 30 days or more the full monthly rate, excluding any allowance for regular aid and attendance, will be restored effective the date of reduction. The full monthly rate for an incompetent veteran, or for a competent veteran whose pension was reduced under § 3.551(c), will be restored effective the date of departure from the hospital unless it is determined that apportionment for an estranged wife should be continued. In all instances, any allowance for regular aid and attendance will be restored effective the date of departure from the hospital.

(2) Upon the veteran's return to the hospital, an award which is subject to reduction under § 3.551 (b) or (c) will again be reduced effective the date of the veteran's return to the hospital. In all instances, any allowance for regular aid and attendance will be discontinued, if in order, effective the date of the veteran's return to the hospital.

* * * * *

5. In § 3.557, paragraph (d) is revised to read as follows:

* * * * *

§ 3.557 Incompetents; estate over $1,500 and hospitalized.

* * * * *

(d) Payment of pension, compensation or emergency officers' retirement pay to a veteran subject to the provisions of paragraph (b) of this section will be discontinued from the first day of the month in which his estate equals or exceeds, $1,500. All or any part of the benefit not paid to the veteran may be apportioned for his dependent parents on the basis of need as determined by the Veterans Assistance Officer. If the veteran is not hospitalized by the Veterans Administration there may be paid out of any remaining amounts so much of the pension, compensation or emergency officers' retirement pay as equals the amount charged to the veteran for

his current care and maintenance in the institution in which treatment or care is furnished him, but not more than the amount determined to be the proper charge.

6. In § 3.558, paragraph (a) is revised to read as follows:

§ 3.558 Resumption; incompetents $1,500 estate cases.

(a) Where payment has been discontinued by reason of § 3.557(b), it will not be resumed during hospitalization except as provided in paragraph (b) of this section until proper notice has been received showing the estate is reduced to $500 or less. Payments will not be made for any period prior to the date on which the estate was reduced to $500 or less.

* * * * *

[FR Doc.73-26203 Filed 12-10-73;8:45 am]

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Payment of Benefits During Emergency Closing of School

The following regulatory change provides for continued payment of educational benefits within a certified period of enrollment during which the school is closed due to order of the President or for any emergency situation.

It is found that it is impracticable and contrary to the public interest to give preliminary notice and postpone the effectve date of these regulations until 30 days after publication thereof in the FEDERAL REGISTER (§ 1.12 of this chapter) because of the need for an immediate liberalization of the requirements for awarding educational assistance for veterans and eligible persons under 38 U.S.C. Chapters 34 and 35 and for awarding subsistence allowance for veterans under 38 U.S.C. chapter 31.

1. In § 21.261(b), paragraph (1) is amended to read as follows:

§ 21.261 Ordinary leave.

* * * * *

(b) *Charging of ordinary leave.* * * *

(1) For veterans enrolled in educational institutions, leave will not be charged for school holidays and short intermissions between successive terms or periods of instruction within the ordinary school year, provided the veteran was enrolled for the two successive terms. "Ordinary school year" means a period of approximately 9 months which begins in the fall and ends in the spring. At the discretion of the Administrator, payment may be made for breaks, including intervals between terms, within a certified period of enrollment during which the school is closed under an established policy upon an order of the President or due to an emergency situation. Leave will not be charged for such breaks.

* * * * *

2. Section 21.4203(b)(1) is amended to read as follows:

§ 21.4203 Reports by schools; requirements.

* * * * *

(b) *Entrance or reentrance.* * * *

(1) Schools organized on a term, quarter or semester basis may generally report enrollment for the term, quarter or semester or the complete course to the expected date of graduation. Certifications for the ordinary school year may include the summer session. If a certification covers two or more terms or the complete course, the school will report the dates for the break between terms or school years if a term or school year ends and the following term or school year does not begin in the same or the next calendar month. No allowances are payable for these intervals. At the discretion of the Administrator, payment may be made for breaks, including intervals between terms, within a certified period of enrollment during which the school is closed under an established policy based upon an order of the President or due to an emergency situation. Enrollment certifications for the complete course are encouraged, except where the student is a veteran or eligible person pursuing a program on a less than half-time basis or is a serviceman. For these students a separate enrollment certification will be required for each term, quarter or semester.

* * * * *

These VA Regulations are effective December 4, 1973.

Approved: December 4, 1973.

[SEAL] DONALD E. JOHNSON, *Administrator.*

[FR Doc.73-26160 Filed 12-10-73;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Massachusetts; Approval of Plan Revisions

On May 31, 1972 (37 FR 10432) and subsequent publications pursuant to section 110 of the Clean Air Act and 40 CFR Part 51, the Administrator approved portions of a State plan for implementation of the national ambient air quality standards in the State of Massachusetts.

Massachusetts, after notice and public hearing, submitted a proposed revision to its implementation plan which would relax the sulfur content of number two fuel oil from 0.3 percent to 0.5 percent for the period November 15, 1973 to April 15, 1975 by amending regulation 5.1.3 of the regulations as amended for the Control of Air Pollution in the six Massachusetts Air Pollution Control Districts.

Air quality analysis done by Massachusetts shows that short term standards may be approached or exceeded at a few very congested locations if all distillate fuel was 0.5 percent, however analysis done by EPA Region I office and Massachusetts does not show the annual primary standard being exceeded. However since need for more distillate fuel has been demonstrated for this heating season and since only a small percentage of distillate fuel with a sulfur content greater than 0.3 percent is available, and the State of Massachusetts is implementing an energy conservation program, the Administrator is approving this revision for the period November 15, 1973 to May 15, 1974. During this time the need for the revision for the remainder of the period requested and the area of applicability can be reconsidered by Massachusetts.

The Administrator has determined that this revision is consistent with the requirements of the Clean Air Act and 40 CFR Part 51 as it applies to the period November 15, 1973 to May 15, 1974. Accordingly, this revision is approved for the period November 15, 1973 to May 15, 1974. This revision may not be consistent with these requirements as it applies to the period May 16, 1974 to April 15, 1975. Accordingly, this revision is disapproved for the period May 15, 1974 to April 15, 1975. This approval/disapproval is effective as of November 15, 1973.

The Agency finds that good cause exists for not providing notice and permitting public comment on this action and making it effective immediately upon publication for the following reasons:

1. The emergency nature of the current fuel shortage requires that the affected source know immediately the fuel restrictions which are applicable to it so that it may make arrangements to obtain the appropriate fuel.

2. The implementation plan revision was adopted in accordance with procedural requirements of State and Federal laws, which provided for an adequate public hearing and comments, and further participation would be impracticable.

Dated: December 4, 1973.

RUSSELL TRAIN, *Administrator, Environmental Protection Agency.*

1. Section 52.1125 is amended by adding new lines to the table in paragraph (b) as follows:

§ 52.1125 Compliance schedules.

* * * * *

(b) * * *

Source	Location	Regulation involved	Date of adoption	Effective date	Final compliance date
* * * *			*	*	*
All sources subject to the requirements of Regulation 5.1.3.	Statewide.....	5.1.3	Nov. 2, 1973	Nov. 15, 1973	May 15, 1974

[FR Doc.73-26213 Filed 12-10-73;8:45 am]

SUBCHAPTER E—PESTICIDE PROGRAMS

PART 164—RULES OF PRACTICE GOVERNING HEARINGS, UNDER THE FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTCIDE ACT, ARISING FROM REFUSALS TO REGISTER, CANCELLATIONS OF REGISTRATIONS, CHANGES OF CLASSIFICATIONS, SUSPENSIONS OF REGISTRATIONS AND OTHER HEARINGS CALLED PURSUANT TO SECTION 6 OF THE ACT

Assignments of Administrative Law Judge

The purpose of these amendments is to clarify agency procedure with respect to assignments of an Administrative Law Judge to proceedings conducted under 40 CFR 164.

Since the amendments in this document concern rules of agency organization and procedure, they are excepted from rulemaking procedures by 5 U.S.C. 553(b) and are effective immediately.

Part 164 of Title 40 is amended as follows:

1. By revising § 164.20(c) to read as follows:

§ 164.20 Commencement of proceeding.

* * * * *

(c) Upon the filing of any objections or notice of intent to hold a hearing, the proceeding shall be referred to the Chief Administrative Law Judge by the hearing clerk. The Chief Administrative Law Judge shall refer the proceeding to himself or another Administrative Law Judge who shall thereafter be in charge of all further matters concerning the proceeding, except as otherwise provided or by order of the Chief Administrative Law Judge, the Administrator or Judicial Officer.

2. By revising § 164.40(e) to read as follows:

§ 164.40 Qualifications and duties of Administrative Law Judge.

* * * * *

(e) Absence or change of the Administrative Law Judge. In the case of the absence or unavailability of the Administrative Law Judge, or his inability to act, or his removal by disqualification or withdrawal, the powers and duties to be performed by him under this part in connection with a hearing assigned to him may, unless otherwise directed by the Administrator, be assigned to another Administrative Law Judge so designated to act by the Chief Administrative Law Judge, the Administrator or the Judicial Officer.

(86 Stat. 984; 7 U.S.C. 136d)

Effective date. These amendments shall become effective on December 11, 1973.

Dated: December 5, 1973.

CHARLES L. ELKINS,
Acting Assistant Administrator for Hazardous Materials Control.

[FR Doc.73-26215 Filed 12-10-73;8:45 am]

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

Dimethyl Tetrachloroterephthalate

In response to a petition (PP 3E1388) submitted by Dr. C. C. Compton, Coordinator, Interregional Research Project No. 4, State Agricultural Experiment Station, Rutgers University, New Brunswick, NJ 08903, on behalf of the IR-4 Technical Committee and the Agricultural Experiment Stations of Massachusetts, New Hampshire, and Wisconsin, a notice was published by the Environmental Protection Agency in the FEDERAL REGISTER of September 13, 1973, (38 FR 25455), proposing establishment of a tolerance for combined residues of the herbicide dimethyl tetrachloroterephthalate and its metabolities monomethyl tetrachloroterephthalate and tetrachloroterephthalic acid (calculated as dimethyl tetrachloroterephthalate) in or on the raw agricultural commodity rutabagas at 2 parts per million. No comments or requests for referral to an advisory committee were received.

It is concluded that the proposal should be adopted.

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 15633), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticide Programs (36 FR 9038), § 180.185 is amended by revising the heading, and the first and third paragraphs to read as follows:

§ 180.185 Dimethyl tetrachloroterephthalate; tolerances for residues.

Tolerances for combined residues of the herbicide dimethyl tetrachloroterephthalate and its metabolites monomethyl tetrachloroterephthalate and tetrachloroterephthalic acid (calculated as dimethyl tetrachloroterephthalate) are established as follows:

* * * * *

2 parts per million in or on collards, field beans (dry), kale, lettuce, mung beans (dry), peppers, pimentos, potatoes, rutabagas, snap beans (succulent), southern peas (black-eyed peas), soybeans, strawberries, sweetpotatoes, turnips, and yams.

* * * * *

Any person who will be adversely affected by the foregoing order may at any time on or before January 10, 1974, file with the Hearing Clerk, Environmental Protection Agency, Room 1019E, 4th & 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 on December 11, 1973.

(Sec. 408(e), 68 Stat. 514; 21 U.S.C. 346a(e))

Dated: December 5, 1973.

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

[FR Doc.73-26214 Filed 12-10-73;8:45 am]

Title 42—Public Health

CHAPTER I—PUBLIC HEALTH SERVICE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER A—GENERAL PROVISIONS

PART 1—AVAILABILITY OF RECORDS AND INFORMATION

Deletion of Provisions Relating to Advisory Committee Matters

Part 1 of the Public Health Service regulations (42 CFR Part 1) is hereby amended as set forth below by deleting paragraph (b) of § 1.103 relating to the confidentiality of information in the records or possession of the Service pertaining to advisory committee matters, and making related necessary conforming changes. This provision was included in Part 1 when such regulations were initially promulgated over 15 years ago under the general authority for the promulgation of regulations necessary for the administration of the Service, section 215 of the Public Health

Service Act (42 U.S.C. 216), and has, in effect, been superseded and rendered obsolete insofar as availability of records relating to Committee Activities are concerned by the Federal Advisory Committee Act (Pub. L. 92-463) which became effective January 5, 1973. Such Act generally provides, according to its terms, for public inspection of committee records subject only to the stated exceptions set forth in the Freedom of Information Act (5 U.S.C. 552).

Notice of proposed rulemaking, public rulemaking procedures, and delay in effective date are omitted as unnecessary because, for good cause found the instant amendments merely render Part 1 in conformity with the Federal Advisory Committee Act.

In consideration of the foregoing, Part 1 is hereby amended as set forth below.

Effective date. These amendments shall be effective as of January 5, 1974.

Dated: November 6, 1973.

CHARLES C. EDWARDS,
Assistant Secretary for Health.

Approved: December 5, 1973.

CASPAR W. WEINBERGER,
Secretary.

1. Section 1.103 is amended by deleting paragraph (b) and revising the introductory sentence of paragraph (c) to read as follows:

§ 1.103 Nonclinical information; disclosure.

* * * * *

(b) [Deleted]

(c) The following types of information in the records or possession of the Service are confidential and, subject to the provisions of paragraph (a) of this section, shall be disclosed only as necessary for the performance of the functions of the Service, or as follows: * * *

* * * * *

§ 1.104 [Amended]

2. Section 1.104 is amended by revising the cross reference "§ 1.103(a) and (b)" to read "§ 1.103(a)".

(Sec. 215, Stat. 690, as amended (42 U.S.C. 216))

[FR Doc.73-26223 Filed 12-10-73;8:45 am]

Title 45—Public Welfare

CHAPTER XII—ACTION

PART 1204—OFFICIAL SEAL

Sec.
1204.1 Authority.
1204.2 Description.
1204.3 Custody and authorization to affix.

AUTHORITY: Pub. L. 93-113.

§ 1204.1 Authority.

Pursuant to section 402.(9). of Pub. L. 91-113 the ACTION official seal and design thereof which accompanies and is made part of this document, is hereby adopted, approved, and judicially noticed.

§ 1204.2 Description.

The official seal of ACTION is described as follows:

(a) Within an outer circle of gold;

(b) A stylized shield with horizontal bars of (from top down) red, white, and blue on a white field appears in the center;

(c) A white capital letter "A" symbolizing voluntary action runs through the red, white, and blue shield.

(d) The logotype word "ACTION" appears in red in abutted capital letters above the shield.

(e) Enclosing the shield and "ACTION" is a ring of type in black capital letters spelling the words "THE AGENCY FOR VOLUNTEER SERVICE."

The official seal of ACTION is modified when reproduced in black and white and when embossed, as it appears below.

§ 1204.3 Custody and authorization to affix.

(a) The seal is the official emblem of ACTION and its use is therefore permitted only as provided in this part.

(b) The seal shall be kept in the custody of the General Counsel, or any other person he authorizes, and should be affixed by him, the Director or the Deputy Director to all commissions of officials of ACTION, and used to authenticate records of ACTION and for other official purposes. The General Counsel may redelegate and authorize redelegations of, this authority.

(c) The Director shall designate and prescribe by internal written delegations and policies the use of the seal for other publication and display purposes and those ACTION officials authorized to affix the seal for these purposes.

(d) Use by any person or organization outside of the Agency may be made only with the Agency's prior written approval. Such request must be made in writing to the General Counsel.

MICHAEL P. BALZANO, Jr.,
Director.

[FR Doc.73-26202 Filed 12-10-73;8:45 am]

Title 46—Shipping

CHAPTER II—MARITIME ADMINISTRATION, DEPARTMENT OF COMMERCE

SUBCHAPTER H—TRAINING

[General Order 97, Rev. Amdt. 3]

PART 310—MERCHANT MARINE TRAINING

Subpart C—Admission and Training of Midshipmen at the United States Merchant Marine Academy

SEA YEAR TRAINING PAY

Pursuant to the authority vested in the Secretary of Commerce by section 216 of the Merchant Marine Act, 1936, as amended, 52 Stat. 965, 46 U.S.C. 1126, as amended, and delegated to the Assistant Secretary for Maritime Affairs by Department of Commerce Order 10-8 (38 FR 19707, July 23, 1973) the Merchant Marine Training regulations (46 CFR Part 310) are hereby amended. The amendment to the regulations increases the pay that midshipmen of the United States Merchant Marine Academy receive while assigned to merchant vessels for sea year training. The purpose of the amendment is to implement the Maritime Administration policy that midshipmen shall receive the same rate of pay from their steamship company employers for the sea year training as cadets receive at the Federal academies.

Since the rate of pay received by midshipmen while assigned to subsidized merchant vessels is a matter of public contract with the owners of such vessels, this amendment to the Merchant Marine Training regulations is adopted without notice of proposed rule making.

Part 310 of Title 46 of the Code of Federal Regulations is amended as follows:

(1) Revise the first sentence of paragraph (c) of § 310.58 to read as follows:

§ 310.58 Training on subsidized vessels.

* * * * *

(c) *Pay.* Midshipmen shall receive pay, while attached to merhcant vessels, at the rate of $300.45 per month from their steamship company employers. * * *

(2) Revise paragraph (b) of § 310.60 to read as follows:

§ 310.60 Allowances and expenses.

* * * * *

(b) *Allowances.* Midshipmen receive an allowance of $575 per year toward the cost of uniforms and textbooks for each of the three years at the academy. Midshipmen shall receive no allowance while attached to merchant vessels for sea training.

* * * * *

Effective date. This amendment shall become effective January 1, 1974.

(Sec. 216, P.L. 75-705, as amended, 52 Stat. 965 (46 U.S.C. 1126))

(Catalog of Federal Domestic Assistance Program No. 11-507 U.S. Merchant Marine Academy (Kings Point))

Dated: December 5, 1973.

By order of the Assistant Secretary of Commerce for Maritime Affairs.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.73-26248 Filed 12-10-73;8:45 am]

Title 47—Telecommunications

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 19550; RM-1859, RM-2049; FCC 73-1252]

PART 73—RADIO BROADCAST SERVICES

FM Table of Assignments; Illinois; Termination of Proceeding

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations, (Shorewood, Ottawa, Lockport and Crest Hill, Illinois).

1. The Commission has before it the Report and Order and Order to Show Cause (38 FR 22010) adopted in this proceeding on August 2, 1973, 42 FCC 2d 553 (1973).

2. In the above-mentioned document the Commission amended the FM Table by adding an assignment at Crest Hill, Illinois, (Channel 252A) and changing the assignment at Ottawa, Illinois, from Channel 252A to Channel 237A. Van Schoick Enterprises, Inc., the licensee of Station WOLI(FM), operating on the current Ottawa channel, was ordered to show cause why its license should not be modified to specify operation on the new channel. The response to the Order to Show Cause was received on September 14, 1973. It confirmed earlier indications that the licensee, assuming it were properly reimbursed for the expenses of making the change, was prepared to do so. It also mentions that the cost estimate was based on prices which may no longer be in effect when the change is to be made. This will be taken into account as will its concern that the change not take place before the new channel is assigned.

3. Language in the earlier document indicated that we would evaluate any response from the licensee of Station WOLI(FM) and would adopt appropriate orders. Neither in the station's response nor elsewhere is there any new information from any source to raise any question regarding the decision to effect a change in the Ottawa channel. Accordingly, the license for the station in question will be modified to specify operation on the new channel. This change will become effective with the expiration of the station's license on December 1, 1973, and the benefiting party shall provide reimbursement of legitimate and prudent out-of-pocket expenses in effectuating the change. If a delay arises in the use of Channel 252A at Crest Hill and hence in the matter of reimbursement, the licensee of Station WOLI(FM) may continue to operate on its present channel.

Accordingly, it is ordered, That effective 3 a.m., December 1, 1973, with the expiration of its license and pursuant to section 316(a) of the Communications Act of 1934, as amended, the outstanding license, held by Van Schoick Enterprises, Inc. for Station WOLI(FM) at Ottawa, Illinois, is terminated insofar as it specifies operation on Channel 252A and any renewal of this license shall specify operation on Channel 237A subject to the following conditions:

(a) The licensee shall submit to the Commission by January 2, 1974, all necessary information complying with the applicable technical rules for modification of authorization to cover the operation of Station WOLI on Channel 237A at Ottawa, Illinois.

(b) The licensee may continue to operate on Channel 252A until the new party at Crest Hill is ready to operate on this frequency or may effect the change sooner should it so desire. Ten days prior to commencing operation on Channel 237A, the licensee shall submit the same measurement data normally required in an application for an FM broadcast station license.

(c) The licensee shall not commence operation on Channel 237A until the Commission specifically authorizes it to do so.

5. Authority for the actions taken herein is contained in sections 4(i), 303, 307(b) and 316 of the Communications Act of 1934, as amended.

6. *It is further ordered,* That this proceeding is terminated.

Adopted: November 28, 1973.

Released: December 4, 1973.

FEDERAL COMMUNICATIONS COMMISSION,[1]

[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.73-26220 Filed 12-10-73;8:45 am]

Title 6—Economic Stabilization

CHAPTER I—COST OF LIVING COUNCIL

PART 150—PHASE IV PRICE REGULATIONS

Reclassification of Fresh Meat Cutters as Wholesalers

The purpose of these amendments is to reclassify fresh meat cutters as wholesalers. This change subjects fresh meat cutters to the rules of Subpart K of the Phase IV price regulations and obviates the need for further compliance with the food manufacturing rules provided under Subpart Q of those regulations.

Various names are used in different sections of the country to describe firms primarily engaged in fresh meat cutting at the wholesale level. Meat "wholesalers", "processors", "fabricators", "breakers", "boners", "jobbers" and "purveyors" are all engaged in purchasing for resale meat which is in carcass form or in the form of primal cuts or sub-primal cuts and further cutting it into smaller and more specific meat items. A "primal cut" is a basic section of the carcass, such as (in the case of beef) the shoulder (chuck), the rib, the loin, and the hind (round) section. Sub-primal cuts are smaller sections not yet reduced to table or oven size.

Typically, a "breaker" principally cuts carcasses into primal cuts, while a "boner" specializes in removing bones from large cuts of meat. A "purveyor" usually buys primal cuts and sub-primal cuts which he further cuts into steaks, chops, stewmeat and other specific meat portions which he supplies to hotels, restaurants, airlines, steamships, hospitals, colleges, and similar retail or institutional users.

All of these fresh meat cutters purchase for resale fresh beef, veal, pork or lamb and are engaged in varying degrees in cutting, boning, tying, slicing, trimming and aging fresh meat before reselling it. Most of them are price category III firms and are not also engaged in the manufacturing of cooked, canned or otherwise processed "prepared" meat items.

Heretofore, fresh meat cutters have been classified as meat manufacturers essentially because they did not fall within the definition of wholesaling or retailing. Wholesaling and retailing is the business of purchasing and reselling property without substantially changing the form of that property. Usually, a stock of goods of uniform consistency and value which is cut up or otherwise subdivided or apportioned is not considered changed in form merely by virtue of having been subdivided. However, in the case of meat in carcass or primal cut form the item is not homogenous but is composed of many distinct components of widely different intrinsic quality and value. The purpose of cutting up the carcass is not merely to obtain more convenient portions of meat but essentially to isolate for resale the distinct constituent parts of the carcass—e.g., in the case of pork, the hams, hocks, spareribs, fat back, bacon, shoulder meat, etc. It follows that when the carcass is broken down and resold in its various forms as illustrated above it is "substantially changed in form."

Several reasons exist for reclassifying fresh meat cutters as wholesalers. In the first place, the definitional distinction which has been made becomes increasingly less valid to the extent that meat moves through the chain of distribution in stages of increasingly smaller "cuts". For example, a meat purveyor which purchases from a breaker a sub-primal cut consisting entirely of meat for pork chops will merely cut the item into chops according to the thickness and leanness specified by the retail customer. In this respect, the meat purveyor is engaged in an activity which can be distinguished from that performed by retail grocery meat departments only in terms of the class of purchaser concerned and perhaps the volume of sales.

Second, the fact that the cutting of meat often results in a substantial

[1] Commissioner Reid concurring in the result.

change in form belies the essential differences between meat manufacturing and fresh meat cutting and the essential similarities between fresh meat cutting and other food wholesaling operations. Meat manufacturing includes the process by which animals are slaughtered and the carcass is dressed, the fabrication of processed items such as hot dogs and sausages in which meat is a primary ingredient, and the preparation of processed "whole meat" items such as cooked hams and cold cuts. If the cutting of fresh meat is viewed as an activity whose primary purpose and function is not "processing" but the distribution of fresh meat in volume to retail or other commercial outlets to the purchaser's order, a fresh meat cutter can be viewed as engaged in the same activity as a fresh produce wholesaler or a fresh fish wholesaler. Under this view, cutting is an essential requirement for the distribution of fresh meat from large animals and should not be viewed as so important a distinction as to lead to the result that there is no such thing as a fresh meat wholesaler.

Third, the Council has been advised that fresh meat cuttters have traditionally employed a form of markup or gross margin system of pricing. Reclassification should simplify recordkeeping for fresh meat cutters and help assure compliance while easing the Council's monitoring tasks in this industry.

Finally, the Standard Industrial Classification Manual categorizes under SIC Code 5147, Wholesalers of Meat and Meat Products, all firms primarily engaged in the wholesale distribution of fresh meats as well as those primarily engaged in the resale of cured and processed meats and lard other than frozen or canned. In the SIC description of the wholesale trade, no distinction between wholesalers and nonwholesalers is made on the basis of whether the goods are substantially changed in form. In fact, the SIC Manual states that one of the functions frequently performed by wholesale firms is breaking bulk and redistribution in smaller lots. Since the distribution of fresh meats in most cases requires further cutting, it would appear that by grouping fresh meat wholesaling with the wholesaling of cured and processed meats and lard (which are generally not further cut) the SIC Manual recognizes that the cutting of fresh meat by wholesalers is not a function which distinguishes fresh meat wholesalers from other wholesalers.

The present amendment does not alter the pre-existing language of the definition of "wholesaling" contained in § 150.31 of the Phase IV price regulations. Instead, the amendment consists of the addition of a sentence to the definition of wholesaling which specifically states that firms primarily engaged in fresh meat cutting at the wholesale level are engaged in wholesaling. As amended, the definition of wholesaling reads as follows:

"Wholesaling" means the trade or business of purchasing property and, without substantially changing the form of that property, reselling it to retailers for resale or to industrial, commercial, institutional or professional users. In addition, a firm which is primarily engaged in the trade or business of purchasing fresh meat and reselling it in recut portions to retailers for resale or to industrial, commercial, institutional, or professional business users is engaged in wholesaling with respect to that primary activity.

The words "primarily engaged" are used in order to exclude any change with respect to firms which are primarily engaged in slaughtering or meat manufacturing, or both, which also perform some of the fresh meat cutting functions discussed above. These functions will continue to be subject along with the firm's primary meat manufacturing functions to the rules of Subpart Q applicable to meat manufacturing. Only firms which are primarily engaged in the purchase and resale of fresh meat and the cutting functions which are the subject of this amendment now become subject to Subpart K (as modified by § 150.604) and only with respect to those fresh meat cutting activities.

This amendment is not intended to change the classification status of the activity of wholesaling of non-fresh meats such as hams and sausages insofar as those firms which are so engaged properly treated that activity as wholesaling under the first sentence of the definition of that term. That activity remains wholesaling under the amended definition of wholesaling.

The effective date of this amendment is December 15, 1973. This gives firms which will become subject to Subpart K on that date sufficient time to prepare the merchandise pricing plan which must be prepared by all wholesaling firms (and in the case of price category I and II firms submitted to the Council) before prices above adjusted freeze price levels may be charged. It is intended by this change that firms on a calendar-year basis remain subject to the revenue formula of Subpart Q applicable to food manufacturers for the quarter ended September 30 and become subject to the rules of Subpart K (as modified by § 150.-604) on December 15 for the entire October 1–December 31 quarter. With respect to non-calendar quarters, any quarter which begins subsequent to September 30 is governed by the Subpart K rules (modified by § 150.604) and any quarter ending before October 1 remains subject to the revenue formula of Subpart Q applicable to food manufacturing.

In reclassifying fresh meat cutters as wholesalers, the Council deems it appropriate also to modify the rules of Subpart K as they apply to fresh meat cutters in order to provide greater consistency in the treatment of changes in product mix as between fresh meat cutters and meat manufacturers and in order to help assure that applicable regulations continue to reflect the Council's special concern with respect to the control of meat prices. Accordingly, a new subparagraph is added to § 150.604(b) (modifications to Subpart K for food wholesaling and retailing activities) which provides that (1) compliance with CIPM/gross margin limitations for fresh meat cutters is tested on a strictly quarterly basis and no "overage" privileges are allowed in the next quarter as under §§ 150.312 and 150.313 of Subpart K, and (2) a quarterly CIPM/gross margin excess is justifiable to the extent that the firm concerned can demonstrate to the Council's satisfaction that the excess is attributable to § 150.76 prices, to the sale of exempt items, or to changes in product mix. Changes in product mix are determined in accordance with the recently-revised product mix rule of Subpart Q rather than the product mix provision set forth in Subpart K.

Because the purpose of this amendment is to provide immediate guidance and information with respect to decisions of the Council, the Council finds that publication in accordance with normal rule-making procedure is impracticable and that good cause exists for making this amendment effective in less than 30 days.

(Economic Stabilization Act of 1970, as amended, Pub. L. 92–210, 85 Stat. 743; Pub. L. 93–28, 87 Stat. 27; E.O. 11730, 38 FR 19345; Cost of Living Council Order No. 14, 38 FR 1489.)

In consideration of the foregoing, Part 150 of Title 6 of the Code of Federal Regulations is amended as set forth below, effective December 15, 1973.

Issued in Washington, D.C., on December 7, 1973.

JAMES W. MCLANE,
Deputy Director.

§ 150.31 [Amended]

1. The definition of "wholesaling" provided in § 150.31 is amended by adding at the end thereof the following sentence: In addition, a firm which is primarily engaged in the trade or business of purchasing fresh meat and reselling it in recut portions to retailers for resale or to industrial, commercial, institutional, or professional business users is engaged in wholesaling with respect to that primary activity.

2. Section 150.604(b) is amended by adding a new paragraph (4) as follows:

§ 150.604 Food wholesaling and retailing.

(b) * * *

(4) Sections 150.312 and 150.313 do not apply to firms which are primarily engaged in the trade or business of purchasing fresh meat and reselling it in recut portions to retailers for resale or to industrial, commercial, institutional or professional users. With respect to those firms, customary initial percentage markup or gross margin for a merchandise category for any fiscal quarter and for any fiscal year may exceed the limitations prescribed in § 150.304(c) (1) or (2) only if the firm concerned demonstrates, to the satisfaction of the Council, that the excess: (1) Is attributable to prices specified in contracts entered into before 9 p.m., e.s.t., June 13, 1973, with respect to any delivery or performance occurring after August 12, 1973, or (2) Is attributable to the sale of exempt

items, or (3) Is justified on the basis of changes in product mix. In reviewing justification based on changes in product mix, the Council shall be guided by the policies set forth in § 150.606(c)(2)(ii).

[FR Doc.73-26286 Filed 12-7-73;2:35 pm]

[Phase IV Price Ruling 1973-17]

APPENDIX—PHASE IV PRICE RULINGS

Prenotifying Delivery Charges

Facts. Firm A manufactures a product which is sold by retailers across the country. The product is shipped to the retailers from Firm A's "home plant", and, also, from various assembly plants. Destination charges are attached to the product when delivered to the respective retailers, in accordance with various "zones" established by Firm A. The destination charges are designed to recover in the aggregate the total transportation costs incurred. Firm B attaches destination charges according to a similar plan; however, Firm B recovers a sum less than the total transportation costs incurred. Both Firms A and B are Tier I firms and are required to prenotify price increases under 6 CFR 150.151. Each firm employs modes of transportation which are themselves exempt from regulation under 6 CFR 150.31, 6 CFR 150.56, and Cost of Living Council Phase IV Price Ruling 1973-6. The effect of transportation rate increases are included in the destination charges, and separate from the suggested retail price, upon the invoices to the retailers.

Issue. Must either firm prenotify increases in established "destination charges" under 6 CFR 150.151?

Ruling. Yes. Both firms must prenotify. 6 CFR 150.56 provides that, "rate increases for commodities or services provided by a public utility are exempt," and all modes of transportation employed by Firms A and B are "public utilities" for these purposes. It does not follow, however, that the delivery charges established by the two firms still retain their public utility character when such delivery charges differ from actual transportation charges related to each item.

The customers of Firms A and B, the retailers, are required to pay the destination charges as attached to the products by both firms. This clearly constitutes a portion of the price charged to the retailers. Consequently, any increases in any of these charges above the base price or the adjusted freeze price, whichever is higher, must be prenotified.

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

DECEMBER 7, 1973.

[FR Doc.73-26316 Filed 12-7-73;4:17 pm]

Proposed Rules

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

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

[43 CFR Part 421]

HOOVER DAM

Rules of Conduct

Correction

In FR Doc. 73-24860, appearing at page 32263 in the issue for Friday, November 23, 1973, the last sentence of the fourth paragraph should read "All such submissions received on or before January 7, 1974 will be considered in developing the final regulations".

DEPARTMENT OF TRANSPORTATION

Coast Guard

[46 CFR Parts 50, 54, 56, and 61]

[CGD 73-248P]

MARINE ENGINEERING

Clarification Amendments

The Coast Guard is considering amending certain marine engineering regulations to make grammatical corrections and to clarify intent.

Written comments. Interested persons are invited to participate in the proposed rule making by submitting written data, views, or arguments to the Executive Secretary, Marine Safety Council (G-CMC/82), Room 8234, 400 Seventh St., SW, Washington, D.C. 20590. Written comments should include the docket number of this notice, the name and address of the person submitting the comments, the specific section of the proposal to which the comment is addressed, and reasons for any proposed change.

Closing date for comments. All relevant communications received before January 14, 1974, will be fully considered before final action is taken on this proposal. Copies of all written communications received will be available for examination by interested persons in Room 8234. The proposed regulations may be changed in light of comments received.

The following corrections are proposed:

1. Section 50.15-20(a)(11) would be revised to correct the address for the Marine Department of Underwriter's Laboratories, Inc., which has moved to Florida.

2. Section 50.25-35(a) would be amended to correct an incomplete sentence.

3. The heading of § 56.60-1 would be corrected by adding the words "and modifies Table 126.1 in ANSI-B31.1" to agree with the reference in Table 56.01-5(a).

4. Table 56.60-1 would be amended by adding the footnote designator "4" to the ASTM specifications A 53 and A 72, and correcting the reference in footnote 4 to read "§ 56.60-2(b)".

5. The second and fourth sentences of footnote 14 of Table 56.60-1(a) would be completed by adding verbs.

6. The third sentence of footnote 14 of Table 56.60-1(a) would be corrected by substituting the word "limitations," as used in UCN 3 of section VIII of the ASME Code, for the word "ratings".

7. Footnote 1 of Table 56.60-2(a) would be amended by striking the reference to § 105.2.1 of ANSI-B31.1 which is not adopted.

8. Footnote 6 to Table 56.60-2(a) would be revoked because the alloy to which it referred has been eliminated.

9. The amendment to § 61.15-5(b) would correct an unintended change made in the last revision of Subchapter F by requiring piping with a nominal size of more than 3 inches to be hydrostatically tested.

The following amendments would be made for clarification:

1. Section 54.05-20 would be amended to indicate that the requirements apply only to the materials described in § 54.25-10(b)(1).

2. The introductory note of Table 56.60-1(a) would be amended to indicate that the materials listed in the table apply only to inside heat exchangers.

3. The heading of § 56.60-1 would be amended to reflect the fact that the requirements modifies Table 126.1 of ANSI-B31.

4. Section 56.60-2(a) would be amended by combining and rewriting the first two sentences to eliminate repetition and clarify intent.

5. Section 56.60-2(b)(2) would be amended by adding a cross-reference to § 56.10-5(b) because that section contains material limitations.

6. The heading of § 56.60-5 would be amended to indicate that the requirement is concerned with carbide phase conversion.

In consideration of the foregoing, it is proposed to amend 46 CFR Subchapter F as follows:

1. By revising § 50.15-20(a)(11) to read as follows:

§ 50.15-20 Additional standards.

(a) * * *

(11) Underwriters' Laboratories, Inc., Marine Department, Tampa East Industrial Park, 2602 Tampa East Blvd., Tampa, Florida 33619.

* * * * *

2. By revising § 50.25-35 to read as follows:

§ 50.25-35 Fluid conditioner fitting.

Nonstandard fluid conditioner fittings which due to their size, service, or operating condition, as specified in § 56.15-1(e)(1) and (f) of this chapter are subject to the requirements of Part 54 of this chapter (except for stamping and shop inspection), shall not be acceptable to the Coast Guard as affidavit products as allowed in this subpart, or listed in CG-190, "Equipment Lists." Other nonwelded fluid conditioner fittings are listed in CG-190.

3. By revising the text of § 54.05-20 to read as follows (Table 54.05-20(a) is not affected by this revision):

§ 54.05-20 Impact test properties for service temperature of 0°F to −70°F.

The minimum impact energies of each set of longitudinal Charpy specimens of the material described in § 54.25-10(b)(1) of this chapter must be at least the values contained in Table 54.25-10(a).

* * * * *

4. The heading of § 56.60-1 is revised to read as follows:

§ 56.60-1 Acceptable materials and specifications (replaces § 123 and modifies Table 126.1 in ANSI-B31.1).

5. The table in § 56.60-1(a) is amended as follows:

a. By amending the introductory note by striking out the words "within heat exchangers" and inserting the words "inside heat exchangers that insure containment of the material inside a pressure shell" in place thereof.

b. By adding footnote designator "4" in the column headed "Notes" to the ASTM specifications A53 and A72.

c. By amending footnote 4 by striking the words "introduction to Table 56.60-1(a) in paragraph (a) of this section" and inserting "§ 56.60-2(b)" in place thereof.

d. By amending footnote 14 as follows:

1. By amending the second sentence by inserting the word "is" to follow the words "Deductile iron".

2. By amending the third sentence by striking out the word "ratings" and inserting the word "limitations" in place thereof.

3. By amending the fourth sentence by inserting the word "are" to follow the words "of cast iron".

e. By amending footnote 16 by striking "105.2.2 of ANSI-B31.1" in the third sentence and inserting "§ 56.10-5(c) of this chapter" in place thereof.

§ 56.60–2 [Amended]

6. Amend § 56.60–2 as follows:

a. By striking the first two sentences of paragraph (a) and inserting the following sentence in place thereof:

"The maximum stress in the materials listed in Table 56.60–1(a) must be 80 percent of the value contained in the designated source of allowable stress values, unless the dynamic effect is accounted for in the design in accordance with the requirement contained in § 56.07–10(c) of this chapter".

b. By adding the words "or by the requirements contained in § 56.10–5(b) of this chapter" to follow the reference "Table 56.60–1(a)" in paragraph (b)(2).

7. Amend Table 56.60–2(a) as follows:

a. By striking the words "105.21 of ANSI–B31.1 and" in footnote 1.

b. By revoking footnote 6.

§ 56.60–5 [Amended]

Add the words "(High temperature applications)" to the heading of § 56.60–5 and further amend § 56.60–5 by striking the 4th sentence in paragraph (b) and inserting the following words: "A pipe with a nominal size of 3 inches or less is not required to be hydrostatically tested."

(R.S. 4405, as amended (46 U.S.C. 375), R.S. 4462, as amended (46 U.S.C. 416), Sec. 6(b)(1), 80 Stat. 937 (49 U.S.C. 1655(b)(1)); 49 CFR 1.46(b))

Dated: December 5, 1973.

W. F. REA, III,
Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc.73–26178 Filed 12–10–73;8:45 am]

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 73–EA–104]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the Islip, N.Y., Control Zone (38 FR 388) and Transition Area (38 FR 507).

A review of the Islip, New York, terminal airspace establishes a need to alter the Islip, New York, control zone and transition area to conform to the Terminal Instrument Procedures (TERPS) criteria.

Interested parties may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attn: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, New York 11430. All communications received on or before January 10, 1974, will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Procedures Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested parties at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, New York.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Islip, New York, proposes the airspace action hereinafter set forth:

1. Amend § 71.171 of Part 71, Federal Aviation Regulations by deleting the description of the Islip, New York Control Zone and by substituting the following in lieu thereof:

ISLIP, N.Y.

Within a 5-mile radius of the center 40°47'–50'' N., 73°06'01'' W., of Islip-MacArthur Airport, Islip, N.Y.; within a 6-mile radius of the center of the airport extending clockwise from a 260° to 076° bearing from the airport; within 4-miles each side of the Islip-MacArthur Airport ILS localizer northeast course extending from the localizer to a point 8.5 miles northeast of the localizer.

2. Amend § 71.181 of Part 71, Federal Aviation Regulations by deleting the description of the Islip, N.Y. 700-foot floor transition area and by substituting the following in lieu thereof:

ISLIP, N.Y.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of the center 40°47'50''N., 73°06'01''W. of Islip-MacArthur Airport, Islip, N.Y. and within 4-miles each side of the Islip-MacArthur Airport localizer northeast course extending from the 9-mile radius area to a point 9.5 miles northeast of the localizer.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Jamaica, N.Y., on November 21, 1973.

L. J. CARDINALI,
Acting Director, Eastern Region.

[FR Doc.73–26173 Filed 12–10–73;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 73–EA–103]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the Dunkirk, N.Y., Transition Area (38 FR 477).

A review of the airspace requirements for the Dunkirk, New York, terminal area indicates that an alteration of the Dunkirk, New York, transition area will be required to provide additional controlled airspace in accordance with the Terminal Instrument Procedures (TERPS).

Interested parties may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attn: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, New York 11430. All communications received on or before January 10, 1974, will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Procedures Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested parties at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, New York.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Dunkirk, New York, proposes the airspace action hereinafter set forth:

1. Amend § 71.181 of Part 71, Federal Aviation Regulations so as to delete the description of the Dunkirk, New York 700-foot floor transition area and by substituting the following in lieu thereof:

DUNKIRK, N.Y.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the center 42°29'30''N., 79°16'30''W. of Dunkirk Municipal Airport, Dunkirk, N.Y. and within a 13.5 mile radius of the center of the airport extending clockwise from a 022° to 232° bearing from the airport.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Jamaica, N.Y., on November 23, 1973.

L. J. CARDINALI,
Acting Director, Eastern Region.

[FR Doc.73–26174 Filed 12–10–73;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

CALIFORNIA TRANSPORTATION CONTROL PLAN

Approval and Promulgation of State Implementation Plans

This notice of proposed rulemaking is issued for reconsideration and amendment of five regulations contained in the California transportation control plan promulgated by EPA on November 12, 1973, 38 FR 31232. These regulations, 40 CFR 52.247 through 52.251, would establish a comprehensive program to reduce automobile traffic in the three most heavily polluted California Air Quality Control Regions through the control of practically all existing and future parking spaces. Two of them would apply in all five Regions covered by the plan. The basic means of regulation would be surcharges imposed on all free and commercial parking spaces by the relevant local government, and on non-carpool employee parking by the relevant employer. In addition, a permit would be required to construct any new parking facility over 50 spaces. All surcharges would be collected either by the relevant local government or the relevant employer. All net revenues over and above the cost of collection would be spent on improving mass transit.

This notice of proposed rulemaking announces deferral of all steps in the implementation of the surcharge regulations—40 CFR 52.248, 52.249, and 52.250—for a period of six months or until they can be reconsidered and amended in an orderly manner, whichever period is longer. In addition, a deferral of one year in the date for imposing any surcharge, however modified, on free and commercial parking spaces will be promulgated.

Public reaction to these particular measures since the plan was announced has been intense. The surcharges in particular have been widely criticized as arbitrary, illegal, administratively burdensome, and economically disastrous. A great many petitions for judicial review of the EPA promulgation have been filed.

In the preamble to EPA's November 12 promulgation, the Administrator recognized that "many aspects of the surcharge and employer incentive regulations are new and indeed unprecedented," and promised to revise them if revision were appropriate in the light of comments received. 38 FR 31237. This notice of proposed rulemaking is being issued to assist that public comment process.

This notice is divided into three parts. The first, which is designed to help EPA obtain the necessary information for comprehensive modifications to the regulations, gives background and asks specific questions. The second part contains more specific proposals for comments, based on the regulations as they now stand. The third describes corrective, technical, or clarifying amendments which EPA will make shortly to the regulations. Persons affected may proceed as if these had already been made.

The latter two categories of proposals are designed to focus attention on the problems of detail that must be considered in developing any revised transportation control plan for California. Comprehensive changes made in the regulations as they now stand may well render many of the proposals in these categories moot.

Background and Specific Questions

To assist public comment on the regulations covered by this Notice, and to assist EPA in making revisions that may well be substantial, an explanation of the reasons behind their promulgation, and a list of questions concerning them are set out below.

In promulgating these regulations, EPA was guided by the following considerations:

1. The Clean Air Act requires all measures that are "reasonably available" to be put into effect to achieve air quality standards before 1977. "Transportation controls" are specifically mentioned in both the Act and in its legislative history. Though a measure that would lead to major economic or social dislocation cannot be considered "reasonably available," the intent of the Clean Air Act is unmistakably to require significant changes in habits and travel patterns as a means of achieving the standards.

2. California has the country's worst automobile-caused air pollution problem. The peak readings of photochemical oxidants in Los Angeles, San Diego, and San Francisco are all higher than have been recorded anywhere else in the country; the reading for Los Angeles is almost twice as high. In addition, the problem in California is caused almost exclusively by automobiles.

3. Studies have repeatedly indicated that shifts away from single-passenger automobiles and towards carpools and mass transit are unlikely to occur without both significant disincentives to the use of the former and significant incentives to the use of the latter.

Particularly in regions of spread-out development the only two methods that appear to be capable of obtaining a significant VMT reduction are (i) comprehensive restrictions on the sale of gasoline and (ii) comprehensive restrictions on parking. The first alternative was proposed for comment in many Regions, including the five California regions, and rejected because the Administrator found that "The possibilities of evasion, the likelihood of noncompliance, and the difficulty of enforcement are too great to make this measure practicable." 38 FR 30632 (November 6, 1973). Accordingly, the California plan was promulgated containing the second strategy.

The Clean Air Act places the responsibility for developing implementation plans on the State governments in the first instance. If the State of California, or local governments such as cities, come up with measures that would achieve significant VMT reduction, their measures will be accepted and this plan or any future EPA plan will be withdrawn to the extent warranted.

4. In all the hearings EPA has held on transportation control plans, a recurring theme has been that VMT reductions will only be acceptable if mass transit is improved at the same time.

If the present energy crisis leads to drastic restrictions on gasoline supply, the California transportation control plan will actually help alleviate the crisis by providing mass transit funds, express bus lanes, computerized carpool systems and so forth.

Particularly in California, if the transportation control plans are to produce anything like the degree of VMT reduction that Congress contemplated might be necessary, mass transit must be significantly expanded. A phased system of surcharges on automobile use is a uniquely effective regulatory instrument for accomplishing both these goals. The same surcharge that discourages automobile use in a gradual and flexible way by making it more expensive can also raise the revenue to expand mass transit to accommodate the displaced travel demand. Once mass transit has been expanded, a further VMT reduction by increasing the surcharge will be possible, and this in turn will provide revenue to increase mass transit still more. Under the EPA plan, the surcharge revenues could be used for capital expansion, operating subsidies, or any other approvable transit-related purpose.

5. Employers who provide parking spaces for their employees, particularly those who provide free parking spaces, encourage the use of single-passenger automobiles by commuters as against the use of less-polluting forms of transportation. Such employers may therefore be made responsible for the pollution their own actions have induced, and may be regulated as "indirect sources" of air pollution as that term is defined in the General Preamble. Such employers are also the persons best equipped to encourage shifts in the pattern of commuter travel, since for them the data and the administrative machinery necessary to an effective program to regulate such travel are to a considerable extent already in existence. Though additional expense to employers might result, that expense is expected to fall well within the range of expenses that pollution abatement requirements will impose on such industries as, for example, electric power generation and the manufacture of new automobiles.

In the course of this rulemaking, EPA will wish to have factors which may have been overlooked or undervalued brought to its attention. Detailed public comment is of the greatest importance to the development of revised, workable, and publicly acceptable transportation control measures. Comment is particularly invited on the following points:

1. Is a comprehensive system of surcharges on free and commercial parking

an acceptable means of obtaining significant VMT reduction? Is there another preferable system? Specifically, are any of the following preferable: (i) Cutbacks on gasoline supply (ii) surcharges on gasoline sales (iii) directly requiring reductions in the number of parking spaces (iv) far more widespread or more rapid conversion of streets to the exclusive use of busses and carpools?

2. Are the surcharge rates in the regulations as they stand too high? Would they impose intolerable competitive or financial burdens on a significant number of businesses, even though all businesses that maintain their own parking facilities would be equally burdened? Would certain categories of noncommercial activities be intolerably burdened? What degree of VMT reduction would result from implementing the present surcharge schedules? Would this be more than is economically or socially tolerable?

3. Would the revenues generated by implementing the surcharge on the schedule promulgated be more than can usefully be spent on mass transit in the three regions affected? For the first few years, would this be the case? In each of the three regions affected, what are the total, long-term funding requirements for the kind of mass transit system capable of eventually absorbing a 20 percent VMT reduction? Of absorbing a 40 percent VMT reduction?

4. If there is to be a system of parking surcharges, and if it is to be phased in, is the current approach of phasing it into the large cities first the best approach? Specifically, would it be preferable to phase it in (i) throughout the regions in question, but at a reduced level? If so, what levels should be chosen? (ii) in areas "adequately served by mass transit"? In areas "potentially adequately served by mass transit"? If one of these last two approaches were adopted, how would these areas be determined? Given the current inadequacy of mass transit in these regions, what assurance would there be that such a surcharge would have a significant impact on VMT in its first years? If it would not, how could it be phased so as to provide assurance that after a few years it would have a significant impact? (iii) in areas to be designated by the affected localities? If this were done, what guidelines could be established to make sure each of these localities would designate more than a minimum area? Should they, for example, be required to designate a certain minimum percentage of the parking spaces within their boundaries for surcharge?

5. The regulation surcharging free parking spaces on an annual basis was adopted to avoid the potentially severe administrative burdens that could result from compelling all free parking spaces to switch to commercial operation. If such a switch was required, would the administrative burdens in fact be severe? Would they be justified by the increased VMT reduction that could be expected to result from surcharging the motorist directly, rather than only surcharging those who provide the parking spaces? If, even so, the administrative burdens would be too severe, could they be reduced to an acceptable level by exempting certain categories of spaces from surcharge entirely (for example, on-street parking)? If one or more such exemptions were established, what alternate form of regulations of the exempted spaces should be adopted to avoid inequitable treatment of the spaces still subject to surcharge? To ensure that the surcharges remaining would in fact lead to a VMT reduction, and not simply to a switch of parking to unregulated spaces?

6. Based on all the factors outlined above, precisely how should the surcharge provisions be revised? If they are to be abandoned, precisely what form of regulation should be substituted for them?

7. Should a system of surcharges on employee parking be retained? Is it administratively practicable? If it is not, how can it be modified to be made administratively practicable? In general, is the use of fees on employee parking to reduce VMT a good idea? Is the schedule of fees contained in § 52.250 as it now stands too steep? If undue expense might result in some cases, how could that be mitigated? If the surcharge levels are to be relaxed, should the relaxation (a) reduce the maximum surcharge level (b) allow more time for its implementation (c) exempt smaller employers from some or all of the requirements imposed on larger ones?

8. Is a requirement that employee use of mass transit be subsidized administratively practicable? If not, how can it be amended so as to become practicable? Would such a subsidy program be too expensive either (a) in itself, or (b) if financed in part out of revenues from surcharges on employee parking? How does any expense of such a program compare with the expense of maintaining employee parking facilities? With other pollution abatement expenses imposed on industry?

9. What other measures by employers should be suggested or required? Should greater emphasis be placed on measures of the employer's own choosing? If a greater degree of freedom were allowed, what enforceable assurance would there be that employers subject to this regulation would do their part in meeting the requirements of the Clean Air Act?

10. Should all residential parking spaces be exempted from review under § 52.251? Alternatively, should all such spaces be reviewed? If they are to be reviewed, should review be under a different standard?

11. Is the 50-space cut-off for review under § 52.251 too low? If it is, what should the minimum cut-off number be? Whatever minimum cut-off number is established, should lots under that number be reviewed under a less stringent test? If so, what should the test be? Should such smaller lots be reviewed at the option of the Administrator in certain areas or circumstances? If so, how should those areas or circumstances be determined?

Specific Proposed Amendments

EPA currently intends to modify the California transportation control plan as set forth in the succeeding paragraphs. Public comment on these proposals is invited. The change proposed in paragraphs 2 and 3 of this section may be promulgated at any time after January 10, 1974.

1. "Residential parking spaces" were exempted from surcharge to avoid surcharging the parking spaces where motor vehicles are stored when they are not in use. In conformity with this logic, it is proposed to include in this exemption the spaces where fleet vehicles owned by businesses, governments, car rental agencies, and the like are parked when not in use.

2. The current EPA regulation for review of new parking spaces requires that all lots over 50 spaces receive a permit. EPA proposes to amend this requirement to limit the permit requirement to lots of 250 or more, except to the extent that the Administrator may determine that lots between 50 and 250 spaces in a certain area to be designated by him are having a significant adverse impact on the regional transportation control strategy.

3. Section 52.251 requires review of any "parking facility" which has more than 50 spaces. The most natural reading of this language is that if more than 50 spaces are located in one place, for example, an apartment house parking lot, review is required, while if they are scattered in small groups throughout an area, as they would be in a subdivision, review is not required. To eliminate this inconsistency, EPA currently intends to eliminate all residential parking facilities from review and such an amendment is proposed.

4. Section 52.250 in its present form would require even an employer with many times more employees than parking spaces to pay the mass transit fees of all its employees whenever it maintained more than the minimum number of parking spaces. Since this particular class of employers will, almost by definition, be doing more than most others to discourage single-car commuting, such a result is unjust, and was not intended. One way of avoiding it would be to provide that mass transit subsidies could not exceed the revenues collected from parking surcharges, or could not exceed some multiple of that amount such as 1.5 or 2. Such an amendment is proposed.

Specific Amendments to be Promulgated

The following specific amendments to the regulations covered by this notice will be promulgated shortly:

1. The definition of "employer" in § 52.247 covers any person who employs "50 or more persons." The reference to 50 or more persons has no regulatory significance, since the employer regulation itself, § 52.250, reads exclusively in terms of the number of employee parking

spaces maintained. This reference will be eliminated.

2. Read literally, § 52.250 would apply to any employer with more than 700 (or 70) spaces, even if those spaces were in several different locations. Since it is intended that an incentive program is only required to the extent that the individual employment facility itself has more than the minimum number of spaces in one location, this will be clarified.

3. Section 52.250 should have included a provision allowing any individual employer to submit to the Administrator an alternate mass transit incentive plan which the Administrator could approve upon finding that it would have the same VMT reduction potential as the measures prescribed by the regulation itself. Such a provision will be added.

4. The parking review regulation, as required by court order, applies to all parking facilities for which a construction contract had not been signed as of August 15, 1973. In many instances, builders subject to review under this provision will have made substantial commitments in good faith before August 15, even though no contract was signed. For such situations, it is EPA's intent to consider the difficulty to the builder based on actions taken before August 15 of modifying his design, and to weigh such factors against the Air quality or VMT reduction benefits of such modification in determining whether to approve an application. An amendment to make this explicit will be added.

5. It is the Agency's intent that churches be exempted from surcharge since they are used mainly on weekends when oxidant readings are relatively low. This will be clarified.

6. It is the Agency's intent to exempt from surcharge any parking by emergency vehicles. "Emergency vehicles" will be defined as "any ambulance, police car, rescue truck, piece of fire fighting equipment, or any other vehicle customarily used for the emergency protection of life or property."

7. In many areas of California, it would be impossible to determine a "commercial rate" by the method specified by § 52.250 (a) (2) without looking to parking facilities located many miles away from the employer in question. Such cases, when they arise, indicate that most parking in the vicinity of the employer is in fact free, and that there is accordingly no meaningful commercial rate to apply. This section will be amended to clarify that if no "commercial rate" can be determined by looking only to facilities of 100 or more spaces within two miles of the employment facility in question, the employer may consider the "commercial rate" to be zero and collect only the surcharge.

Public hearings will be held on this proposal in each of the five affected Regions early next year at times and places to be announced later. All public comment received up to thirty days after the close of the last such hearing will be considered in developing revised regulations.

This notice of proposed rulemaking is issued under authority of sections 110 and 301(a) of the Clean Air Act, as amended, 42 U.S.C. 1857c-5 and 1857-g(a).

JOHN QUARLES,
Acting Administrator.

DECEMBER 6, 1973.

[FR Doc.73-26266 Filed 12-10-73;8:45 am]

[40 CFR Part 80]

REGULATIONS OF FUELS AND FUEL ADDITIVES

Proposed Test Procedures

On January 10, 1973, regulations were published in the FEDERAL REGISTER (38 FR 1254) which, among other measures, required certain retail service stations to offer for sale at least one grade of gasoline containing no more than prescribed trace levels of lead and phosphorus. Section 80.3 of the regulations provided that test methods would be prescribed by the Administrator. It is now proposed to add Appendices to 40 CFR Part 80 prescribing test methods for trace lead and phosphorus in gasoline. These methods are proposed to be used to enforce the trace lead and phosphorus levels as required by the regulations for lead free gasoline.

At the time of promulgation, no test methods for trace lead and phosphorus were available which had been accepted by EPA and the scientific community. Consequently, EPA considered proposing tests which were in general use but had not been standardized by any formal body. However, the American Society of Testing and Materials (ASTM) was already working on suitable test methods and indicated that these methods would probably be standardized by September 1973. EPA recognized that there were benefits to using standardized tests and met with ASTM on February 5, 1973, to discuss the ASTM program and EPA needs. The results of that meeting were an ASTM commitment to expedite the approval procedure and an EPA decision to defer test proposal until ASTM standardization.

The test methods now proposed are identical to "Method of Test for the Determination of Phosphorus in Gasoline," #D3231-73, and the "Standard Method of Test for Lead in Gasoline by Atomic Absorption Spectrometry," #D3237-73. EPA, however, is not bound by any change which ASTM may subsequently make in its test methods.

The January 10 regulations specify the trace lead level in unleaded gasoline to be 0.050 gram of lead per gallon. The accuracy of the proposed test method is such that a test result of 0.056 gram or more per gallon provides a minimum of 95 percent confidence that the sample is over 0.050 gram per gallon. Under the regulations, the trace level for phosphorus is 0.005 gram of phosphorus per gallon of gasoline. The accuracy of the proposed phosphorus test is such that a result over 0.0054 gram or more per gallon will provide a minimum of 95 percent confidence that the sample is over 0.005 gram per gallon.

EPA has added two footnotes to the ASTM methods. These are not intended to modify the methods but only to clarify procedures to be followed.

ASTM conducted an extensive review period which enabled industry to evaluate and comment on the methods prior to their final acceptance. Because of the apparent general acceptance of the ASTM methods, EPA is limiting the comment period on the proposed regulations to 30 days. Interested persons may submit written comments on the proposed test methods in triplicate to the Assistant Administrator for Air and Water Programs, Waterside Mall, 401 M Street SW., Washington, D.C. 20460. All relevant comments postmarked not later than January 10, 1974, will be considered. Comments received will be available for public inspection during normal working hours (8 a.m. to 4:30 p.m.) at the Freedom of Information Center, Waterside Mall, 401 M Street SW., Washington, D.C. 20460.

This notice of proposed rulemaking is issued under the authority of section 211 of the Clean Air Act, as amended (42 U.S.C. 1857*f*-6c).

Dated: December 5, 1973.

JOHN QUARLES,
Acting Administrator.

It is proposed to amend 40 CFR Part 80, as follows:

1. Section 80.3 is revised to read as follows:

§ 80.3 Test methods.

The lead and phosphorus content of gasoline shall be determined in accordance with test methods set forth in the Appendices to this Part. These methods are identical to ASTM "Method of Test for the Determination of Phosphorus in Gasoline," #D3231-73, and the "Standard Method of Test for Lead in Gasoline by Atomic Absorption Spectrometry," #D3237-73.

2. Appendices A and B are added as follows:

APPENDIX A

TEST FOR THE DETERMINATION OF PHOSPHORUS IN GASOLINE

1. Scope

1.1 This method was developed for the determination of phosphorus generally present as pentavalent phosphate esters or salts, or both, in gasoline. This method is applicable for the determination of phosphorus in the range from 0.0008 to 0.15 g *P*/U.S. gal, or 0.2 to 40 mg *P*/litre.

2. Applicable Documents

2.1 *ASTM Standards:*

D 1100 Specification for Filter Paper for Use in Chemical Analysis

3. Summary of Method

3.1 Organic matter in the sample is decomposed by ignition in the presence of zinc oxide. The residue is dissolved in sulfuric acid and reacted with ammonium molybdate and hydrazine sulfate. The absorbance of the

"Molybdenum Blue" complex is proportional to the phosphorus concentration in the sample and is read at approximately 820 nm in a 5-cm cell.

4. Apparatus

4.1 *Buret*, 10-ml capacity, 0.05-ml subdivisions.

4.2 *Constant-Temperature Bath*, equipped to hold several 100-ml volumetric flasks submerged to the mark. Bath must have a large enough reservoir or heat capacity to keep the temperature at 180 to 190°F (82.2 to 87.8°C) during the entire period of sample heating.

NOTE 1—If the temperature of the hot water bath drops below 180°F (82.2°C) the color development may not be complete.

4.3 *Cooling Bath*, equipped to hold several 100-ml volumetric flasks submerged to the mark in ice water.

4.4 *Filter Paper*, for quantitative analysis, Class G for fine precipitates as defined in Specification D 1100.

4.5 *Ignition Dish*—Coors porcelain evaporating dish, glazed inside and outside, with pourout (size no. 00A, diameter 75 mm, capacity 70 ml).

4.6 *Spectrophotometer*, equipped with a tungsten lamp, a red-sensitive phototube capable of operating at 830 mm and with absorption cells that have a 5-cm light path.

4.7 *Thermometer*, range 50 to 220°F (10 to 105°C).

4.8 *Volumetric Flask*, 100-ml with ground-glass stopper.

4.9 *Volumetric Flask*, 1000-ml with ground-glass stopper.

4.10 *Syringe*, Luer-Lok, 10-ml equipped with 5-cm, 22-gage needle.

5. Reagents

5.1 *Purity of Reagents*—Reagent grade chemicals shall be used in all tests. Unless otherwise indicated, it is intended that all reagents shall conform to the specifications of the Committee on Analytical Reagents of the American Chemical Society, where such specifications are available. Other grades may be used, provided it is first ascertained that the reagent is of sufficiently high purity to permit its use without lessening the accuracy of the determination.

5.2 *Purity of Water*—Unless otherwise indicated, references to water shall be understood to mean distilled water or water of equal purity.

5.3 *Ammonium Molybdate Solution*—Using graduated cylinders for measurement add slowly (Note 2), with continuous stirring, 225 ml of concentrated sulfuric acid to 500 ml of water contained in a beaker placed in a bath of cold water. Cool to room temperature and add 20 g of ammonium molybdate tetrahydrate ($(NH_4)_6Mo_7O_{24}\cdot 4H_2O$). Stir until solution is complete and transfer to a 1000-ml flask. Dilute to the mark with water.

NOTE 2—Wear a face shield, rubber gloves, and a rubber apron when adding concentrated sulfuric acid to water.

5.4 *Hydrazine Sulfate Solution*—Dissolve 1.5 g of hydrazine sulfate ($H_2NNH_2\cdot H_2SO_4$) in 1 litre of water, measured with a graduated cylinder.

NOTE 3—This solution is not stable. Keep it tightly stoppered and in the dark. Prepare a fresh solution after 3 weeks.

5.5 *Molybdate-Hydrazine Reagent*—Pipet 25 ml of ammonium molybdate solution into a 100-ml volumetric flask containing approximately 50 ml of water, add by pipet 10 ml of $H_2NNH_2\cdot H_2SO_4$ solution, and dilute to 100 ml with water.

NOTE 4—This reagent is unstable and should be used within about 4 h. Prepare it immediately before use. Each determination (including the blank) uses 50 ml.

5.6 *Phosphorus, Standard Solution (10.0 μg P/ml)*—Pipet 10 ml of stock standard phosphorus solution into a 1000-ml volumetric flask and dilute to the mark with water.

5.7 *Phosphorus, Stock Standard Solution (1.00 mg P/ml)*—Dry approximately 5 g of potassium dihydrogen phosphate (KH_2PO_4) in an oven at 221 to 230°F (105 to 110°C) for 3 h. Dissolve 4.393±0.002 g of the reagent in 150 ml, measured with a graduated cylinder, of H_2SO_4(1+10) contained in a 1000-ml volumetric flask. Dilute with water to the mark.

5.8 *Sulfuric Acid (1+10)*—Using graduated cylinders for measurement add slowly (Note 2), with continuous stirring, 100-ml of concentrated sulfuric acid (H_2SO_4, sp gr 1.84) to 1 litre of water contained in a beaker placed in a bath of cold water.

5.9 *Zinc Oxide*.

NOTE 5—High-bulk density zinc oxide may cause spattering. Density of approximately 0.5 g/cm³ has been found satisfactory.

6. Calibration

6.1 Transfer by buret, or a volumetric transfer pipet, 0.0, 0.5, 1.0, 1.5, 2.0, 3.0, 3.5, and 4.0 ml of phosphorus standard solution into 100-ml volumetric flasks.

6.2 Pipet 10 ml of H_2SO_4 (1+10) into each flask. Mix immediately by swirling.

6.3 Prepare the molybdate-hydrazine solution. Prepare sufficient volume of reagent based on the number of samples being analyzed.

6.4 Pipet 50 ml of the molybdate-hydrazine solution to each volumetric flask. Mix immediately by swirling.

6.5 Dilute to 100 ml with water.

6.6 Mix well and place in the constant-temperature bath so that the contents of the flask are submerged below the level of the bath. Maintain bath temperature at 180 to 190°F (82.2 to 87.8°C) for 25 min (Note 1).

6.7 Transfer the flask to the cooling bath and cool the contents rapidly to room temperature. Do not allow the samples to cool more than 5°F (2.8°C) below room temperature.

NOTE 6—Place a chemically clean thermometer in one of the flasks to check the temperature.

6.8 After cooling the flasks to room temperature, remove them from the cooling water bath and allow them to stand for 10 min at room temperature.

6.9 Using the 2.0-ml phosphorus standard in a 5-cm cell, determine the wavelength near 820 nm that gives maximum absorbance. The wavelength giving maximum absorbance should not exceed 830 nm.

6.9.1 Using the red-sensitive phototube and 5-cm cells, adjust the spectrophotometer to zero absorbance at the wavelength of maximum absorbance using distilled water in both cells. Use the wavelength of maximum absorbance in the determination of calibration readings and future sample readings.

6.9.2 The use of 1-cm cells for the higher concentrations is permissible.

6.10 Measure the absorbance of each calibration sample including the blank (0.0 ml phosphorus standard) at the wavelength of maximum absorbance with distilled water in the reference cell.

NOTE 7—Great care must be taken to avoid possible contamination. If the absorbance of the blank exceeds 0.04 (for 5-cm cell), check for source of contamination. It is suggested that the results be disregarded and the test be rerun with fresh reagents and clean glassware.

6.11 Correct the absorbance of each standard solution by subtracting the absorbance of the blank (0 ml phosphorus standard).

6.12 Prepare a calibration curve by plotting the corrected absorbance of each standard solution against micrograms of phosphorus. One millilitre of phosphorus standard solution provides 10 μg of phosphorus.

7. Sampling

7.1 Selection of the size of the sample to be tested depends on the expected concentration of phosphorus in the sample. If a concentration of phosphorus is suspected to be less than 0.0038 g/gal (1.0 mg/litre), it will be necessary to use 10 ml of sample.

NOTE 8—Two grams of zinc oxide cannot absorb this volume of gasoline. Therefore the 10-ml sample is ignited in aliquots of 2 ml in the presence of 2 g of zinc oxide.

7.2 The following table serves as a guide for selecting sample size:

Phosphorus, milligrams per liter	Equivalent, grams per gallon	Sample size, millilitre
2.5 to 40	0.01 to 0.15	1.00
1.3 to 20	0.005 to 0.075	2.00
0.9 to 13	0.0037 to 0.05	3.00
1 or less	0.0038 or less	10.00

8. Procedure

8.1 Transfer 2 ± 0.2 g of zinc oxide into a conical pile in a clean, dry, unetched ignition dish.

NOTE 9—In order to obtain satisfactory accuracy with the small amounts of phosphorus involved, it is necessary to take extensive precautions in handling. The usual precautions of cleanliness, careful manipulation, and avoidance of contamination should be scrupulously observed; also, all glassware should be cleaned before use, with cleaning acid or by some procedure that does not involve use of commercial detergents. These compounds often contain alkali phosphates which are strongly adsorbed by glass surfaces and are not removed by ordinary rinsing. It is desirable to segregate a special stock of glassware for use only in the determination of phosphorus.

8.2 Make a deep depression in the center of the zinc oxide pile with a stirring rod.

8.3 Pipet the gasoline sample (Note 10) (see 7.2 for suggested sample volume) into the depression in the zinc oxide. Record the temperature of the fuel if the phosphorus content is required at 60°F (15.6°C) and make correction as directed in 9.2.

NOTE 10—For the 10-ml sample use multiple additions and a syringe. Hold the tip of the needle at approximately ⅔ of the depth of the zinc oxide layer and slowly deliver 2 ml of the sample: fast sample delivery may give low results. Give sufficient time for the gasoline to be absorbed by the zinc oxide. Follow step 8.6. Cool the dish to room temperature. Repeat steps 8.3 and 8.6 until all the sample has been burned. *Safety*—cool the ignition dish before adding the additional aliquots of gasoline to avoid a flash fire.

8.4 Cover the sample with a small amount of fresh zinc oxide from reagent bottle (use the tip of a small spatula to deliver approximately 0.2 g). Tap the sides of the ignition dish to pack the zinc oxide.

8.5 Prepare the blank, using the same amount of zinc oxide in an ignition dish.

8.6 Ignite the gasoline, using the flame from a bunsen burner. Allow the gasoline to burn to extinction (Note 10).

8.7 Place the ignition dishes containing the sample and blank in a hot muffle furnace set at a temperature of 1150 to 1300°F (621 to 704°C) for 10 min. Remove and cool the ignition dishes. When cool gently tap the sides of the dish to loosen the zinc oxide. Again place the dishes in the muffle furnace for 5 min. Remove and cool the ignition

dishes to room temperature. The above treatment is usually sufficient to burn the carbon. If the carbon is not completely burned off place the dish into the oven for further 5-min. periods.

NOTE 11—Step 8.7 may also be accomplished by heating the ignition dish with a Meker burner gradually increasing the intensity of heat until the carbon from the sides of the dish has been burned, then cool to room temperature.

8.8 Pipet 25 ml of H_2SO_4 (1 + 10) to each ignition dish. While pipeting, carefully wash all traces of zinc oxide from the sides of the ignition dish.

8.9 Cover the ignition dish with a borosilicate watch glass and warm the ignition dish on a hot plate until the zinc oxide is completely dissolved.

8.10 Transfer the solution through filter paper to a 100-ml volumetric flask. Rinse the watch glass and the dish several times with distilled water (do not exceed 25 ml) and transfer the washings through the filter paper to the volumetric flask.

8.11 Prepare the molybdate-hydrazine solution.

8.12 Add 50 ml of the molybdate-hydrazine solution by pipet to each 100-ml volumetric flask. Mix immediately by swirling.

8.13 Dilute to 100 ml with water and mix well. Remove stoppers from flasks after mixing.

8.14 Place the 100-ml flasks in the constant-temperature bath for 25 min so that the contents of the flasks are below the liquid level of the bath. The temperature of the bath should be 180 to 190°F (82.2 to 87.8°C) (Note 1).

8.15 Transfer the 100-ml flasks to the cooling bath and cool the contents rapidly to room temperature (Note 5).

8.16 Allow the samples to stand at room temperature before measuring the absorbance.

NOTE 12—The color developed is stable for at least 4 h.

8.17 Set the spectrophotometer to the wavelength of maximum absorbance as determined in 6.9. Adjust the spectrophotometer to zero absorbance, using distilled water in both cells.

8.18 Measure the absorbance of the samples at the wavelength of maximum absorbance with distilled water in the reference cell.

8.19 Subtract the absorbance of the blank from the absorbance of each sample (Note 7).

8.20 Determine the micrograms of phosphorous in the sample, using the calibration curve from 6.12 and the corrected absorbance.

9. Calculations

9.1 Calculate the milligrams of phosphorus per litre of sample as follows:

$$P, \text{ mg/litre} = P/V$$

where:

P = micrograms of phosphorus read from calibration curve, and

V = millilitres of gasoline sample.

To convert to grams of phosphorus per U.S. gallon of sample, multiply mg P/litre by 0.0038.

9.2 If the gasoline sample was taken at a temperature other than 60°F (15.6°C) make the following temperature correction:

mg P/litre at 15.6°C
= [mg P/litre at t] [1 + 0.001 (t − 15.6)]

where:

t = observed temperature of the gasoline, °C.

9.3 Concentrations below 2.5 mg/litre or 0.01 g/gal should be reported to the nearest 0.01 mg/litre or 0.0001 g/U.S. gal.

9.3.1 For higher concentrations, report results to the nearest 1 mg P/litre or 0.005 g P/U.S. gal.

10. Precision

10.1 The following criteria should be used for judging the acceptability of results (95% confidence):

10.2 *Repeatability*—Duplicate results by the same operator should be considered suspect if they differ by more than the following amounts:

g P/U.S. gal (mg P/litre)	Repeatability
0.0008 to 0.005 (0.2 to 1.3)	0.0002 g P/U.S. gal (0.05 mg P/litre)
0.005 to 0.15 (1.3 to 40)	7% of the mean

10.3 *Reproducibility*—The results submitted by each of two laboratories should not be considered suspect unless they differ by more than the following amounts:

g P/U.S. gal (mg P/litre)	Reproducibility
0.0008 to 0.005 (0.2 to 1.3)	0.0005 g P/U.S. gal (0.13 mg P/litre)
0.005 to 0.15 (1.3 to 40)	13% of the mean

APPENDIX B

TEST FOR LEAD IN GASOLINE BY ATOMIC ABSORPTION SPECTROMETRY

1. Scope

1.1 This method covers the determination of the total lead content of gasoline within the concentration range of 0.010 to 0.10 g of lead/U.S. gal. The method compensates for variations in gasoline composition and is independent of lead alkyl type.

2. Summary of Method

2.1 The gasoline sample is diluted with methyl isobutyl ketone and the alkyl lead compounds are stabilized by reaction with iodine and a quaternary ammonium salt. The lead content of the sample is determined by atomic absorption flame spectrometry at 2833 A, using standards prepared from reagent grade lead chloride. By the use of this treatment, all alkyl lead compounds give identical response.

3. Apparatus

3.1 *Atomic Absorption Spectrometer*, capable of scale expansion and nebulizer adjustment.

3.2 *Volumetric Flasks*, 50-ml.

3.3 *Pipets*, 5-ml, 10-ml, and 20-ml sizes.

3.4 *Micropipet*, 100-µl, Eppendorf type or equivalent.

4. Reagents

4.1 *Purity of Reagents*—Reagent grade chemicals shall be used in all tests. Unless otherwise indicated, it is intended that all reagents shall conform to the specifications of the Committee on Analytical Reagents of the American Chemical Society, where such specifications are available. Other grades may be used, provided it is first ascertained that the reagent is of sufficiently high purity to permit its use without lessening the accuracy of the determination.

4.2 *Purity of Water*—Unless otherwise indicated, references to water shall be understood to mean distilled water or water of equal purity.

4.3 *Aliquat 336* (tricapryl methyl ammonium chloride).

4.4 *Aliquat 336/MIBK Solution (10% v/v)*—Dissolve 100 ml of Aliquat 336 in 900 ml of MIBK.

4.5 *Aliquat 336/MIBK Solution (1% v/v)*—Dissolve 10 ml of Aliquat 336 to 1 litre with MIBK.

4.6 *Iodine Solution*—Dissolve 3.0 g of iodine crystals in toluene and dilute to 100 ml with the same solvent.

4.7 *Isooctane* (trimethyl pentane).

4.8 *Lead Chloride*.

4.9 *Lead-Free Gasoline*—Gasoline containing less than 0.001 g Pb/gal, such as Indolene HO.

4.10 *Lead, Standard Solution (5.0 g Pb/gal)*—Dissolve 0.4433 g of lead chloride ($PbCl_2$) previously dried at 105° C for 3 h in about 200 ml of 10% Aliquat 336/MIBK solution in a 250-ml volumetric flask. Dilute to the mark with the 10% Aliquat solution, mix, and store in a brown bottle having a polyethylene-lined cap. This solution contains 1.321 µg Pb/ml, which is equivalent to 5.0 g Pb/gal.

4.11 *Lead, Standard Solution (1.0 g Pb/gal)*—By means of a pipet, accurately transfer 50.0 ml of the 5.0 g Pb/gal solution to a 250-ml volumetric flask, dilute to volume with 1% Aliquat/MIBK solution. Store in a brown bottle having a polyethylene-lined cap.

4.12 *Lead, Standard Solutions (0.02, 0.05, and 0.10 g Pb/gal)*—Transfer accurately by means of pipets 2.0, 5.0, and 10.0 ml of the 1.0-g Pb/gal solution to 100-ml volumetric flasks; add 5.0 ml of 1% Aliquat 336 solution to each flask; dilute to the mark with MIBK. Mix well and store in bottles having polyethylene-lined caps.

4.13 *Methyl Isobutyl Ketone (MIBK)*. (4-methyl-2-pentanone).

5. Calibration

5.1 *Preparation of Working Standards*—Prepare three working standards and a blank using the 0.02, 0.05, and 0.10-g Pb/gal standard lead solutions described in 4.9.

5.1.1 To each of four volumetric flasks containing 30 ml of MIBK, add 5.0 ml of low lead standard solution and 5.0 ml of lead-free gasoline. In the case of the blank, add only 5.0 ml of lead-free gasoline.

5.1.2 Add immediately 0.1 ml of iodine/toluene solution by means of the 100-µl Eppendorf pipet. Mix well.[1]

5.1.3 Add 5 ml of 1% Aliquat 336 solution and mix.

5.1.4 Dilute to volume with MIBK and mix well.

5.2 *Preparation of Instrument*—Optimize the atomic absorption equipment for lead at 2833 A. Using the reagent blank, adjust the gas mixture and the sample aspiration rate to obtain an oxidizing flame.

5.2.1 Aspirate the 0.1-g Pb/gal working standard and adjust the burner position to give maximum response. Some instruments require the use of scale expansion to produce a reading of 0.150 to 0.170 for this standard.

5.2.2 Aspirate the reagent blank to zero the instrument and check the absorbances of the three working standards for linearity.

6. Procedure

6.1 To a 50 ml volumetric flask containing 30 ml MIBK, add 5.0 ml of gasoline sample and mix.

6.1.1 Add 0.10 ml (100 µl) of iodine/toluene solution and allow the mixture to react about 1 min.[2]

6.1.2 Add 5.0 ml of 1% Aliquot 336/MIBK solution and mix.

6.1.3 Dilute to volume with MIBK and mix.

6.2 Aspirate the samples and working standards and record the absorbance values with frequent checks of the zero.

7. Calculations

7.1 Plot the absorbance values versus concentration represented by the working standards and read the concentrations of the samples from the graph.

7.2 The final concentration range measured varies from 0.26 µg/ml to 2.64 µg/ml representing 0.01 to 0.10 g Pb/gal respectively.

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[1] EPA practice will be to mix for a minimum of one minute.

[2] EPA practice will be to shake vigorously for one minute.

The calibration graph should be linear; therefore, the calculations can be made by simple ratios.

8. Precision

8.1 The following criteria should be used for judging the acceptability of results (95% confidence):

8.1.1 *Repeatability*—Duplicate results by the same operator should be considered suspect if they differ by more than 0.005 g/gal.

8.1.2 *Reproducibility*—The results submitted by each of two laboratories should not be considered suspect unless the two results differ by more than 0.01 g/gal.

[FR Doc.73-26212 Filed 12-10-73;8:45 am]

[40 CFR Part 169]

BOOKS AND RECORDS OF PESTICIDE PRODUCTION AND DISTRIBUTION

Extension of Comment Period

1. Pursuant to the authority of sections 8 and 25(a) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended [86 Stat. 987, 997], the U.S. Environmental Protection Agency published in the FEDERAL REGISTER of October 25, 1973 [38 FR 29481-3] proposed regulations providing for the maintenance and inspection of books and records. That promulgation provided the public 30 days to comment upon the proposed regulations. This comment period previously expired on November 26, 1973.

2. On October 31, 1973, the National Agricultural Chemicals Association requested that the public comment period be extended for thirty (30) additional days. The Association indicated that the extension was necessary due to the complex nature of the proposal. This Agency is of the view that the public interest would be served by extending the period for comment by thirty (30) days.

3. It is therefore ordered that the time for filing comments regarding the proposed regulations providing for the maintenance and inspection of books and records be extended by thirty (30) days. The extended comment period shall expire on December 26, 1973. This action is taken pursuant to the authority of sections 8 and 25(a) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended [86 Stat. 987, 997].

JOHN QUARLES,
Acting Administrator.

DECEMBER 6, 1973.

[FR Doc.73-26211 Filed 12-10-73;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 19828; RM-1910]

FM BROADCAST STATIONS; LEXINGTON, MO.

Order Extending Time for Filing; Extending Time Reply Comments

In the matter of amendment of § 73.202 (b), table of assignments, FM Broadcast Stations (Lexington, Missouri).

1. On September 19, 1973, the Commission adopted a Notice of Proposed Rule Making in the above-entitled proceeding. Publication was given in the FEDERAL REGISTER on October 2, 1973, 38 FR 27303. The date for filing comments has expired and the date for filing reply comments is presently December 3, 1973.

2. On November 30, 1973, KLEX, Incorporated (KLEX) requested that the time for filing reply comments be extended to and including December 17, 1973. It states that the additional time is needed to analyze a counterproposal filed by S & M Investments and to prepare a full and complete response thereto.

3. It appears that the requested extension is warranted. *Accordingly, it is ordered,* That the date for filing reply comments is extended to and including December 17, 1973.

4. This action is taken pursuant to authority found in sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended and § 0.281(b)(6) of the Commission's Rules.

Adopted: December 4, 1973.

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

[FR Doc.73-26222 Filed 12-10-73;8:45 am]

VETERANS ADMINISTRATION

[38 CFR Part 3]

CLOTHING ALLOWANCE

Time Limit for Filing Application

The Administrator proposes a regulatory provision which prescribes 1-year time limits within which applications for the annual clothing allowance must be filed. This provision is applicable to all initial claims. Pub. L. 92-328 (86 Stat. 393) added section 362 to title 38, United States Code. This section which was effective August 1, 1972, provides that the Administrator of Veterans' Affairs shall pay an annual clothing allowance of $150 to each veteran who has a compensable service-connected disability which requires the wearing or use of a prosthetic or orthopedic appliance which tends to wear out or tear his clothing. A regulatory provision (38 CFR 3.810(b)) previously promulgated provided that the initial annual clothing allowance would become due on August 1, 1972, and subsequent annual payments would become due on the anniversary date thereof.

This provision is comparable to time limits established for initial claims for other gratuitous benefits (compensation, dependency and indemnity compensation and death pension) payable under title 38. It is proposed to amend Part 3, Title 38, Code of Federal Regulations, as set forth below.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans Affairs (27H), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420. All relevant material received before January 9, 1974, will be considered. All written comments received will be available for public inspection at the above address only between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays), during the mentioned 30-day period and for 10 days thereafter. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Assistance Unit in room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in Central Office and furnished the address and the above room number.

Notice is given that the proposed amendment would be effective the date of final approval.

In § 3.810, paragraph (c) is added to read as follows:

§ 3.810 Clothing allowance.

* * * * *

(c)(1) Except as provided in paragraph (c)(2) of this section, the application for clothing allowance must be filed within 1 year of the anniversary date (August 1) for which entitlement is initially established, otherwise, the application will be acceptable only to effect payment of the clothing allowance becoming due on any succeeding anniversary date for which entitlement is established, provided the application is filed within 1 year of such date. The 1-year period for filing application will include the anniversary date and terminate on July 31 of the following year.

(2) Where the initial determination of service connection for the qualifying disability is made subsequent to an anniversary date for which entitlement is established, the application for clothing allowance may be filed within 1 year from the date of notification to the veteran of such determination.

Approved: December 4, 1973.

By direction of the Administrator.

[SEAL] FRED B. RHODES,
Deputy Administrator.

[FR Doc.73-26159 Filed 12-10-73;8:45 am]

Notices

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

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice 408; Delegation of Authority 104–9]

SENIOR ADVISER FOR INTERNATIONAL NARCOTICS MATTERS

Delegation of Authority

By virtue of the authority vested in me by the Foreign Assistance Act of 1961, as amended (75 Stat. 424) (hereinafter referred to as the Act), Executive Order 10973 of November 3, 1961, entitled "Administration of Foreign Assistance and Related Functions" (hereinafter referred to as the Executive Order), and section 4 of the Act of May 26, 1949, as amended (63 Stat. 111; 22 U.S.C. 2658) State Department Delegation of Authority No. 104 of November 3, 1961 (26 FR 10608), as heretofore amended, is hereby further amended as follows:

1. Section 3(a) is amended as follows:

a. There are hereby allocated to the Administrator the funds allocated to the Secretary of State by subsection (a) of section 501 of the Executive Order, except such funds as are appropriated for purposes of section 481 of the Act.

2. Section 6 is amended by adding the following paragraph:

(b)(5). To the Senior Adviser for International Narcotics Matters:

(A) those functions conferred upon the President by section 481 of the Foreign Assistance Act of 1961 as amended together with all those authorities contained in the Foreign Assistance Act, to the extent necessary or appropriate to accomplish the purposes of Section 481 of the Foreign Assistance Act.

(B) the functions of negotiating, concluding and terminating international agreements relating to international narcotics programs subject to the concurrences required by the State Department Circular 175 procedure.

Dated: November 16, 1973.

[SEAL] KENNETH RUSH,
Acting Secretary.

[FR Doc.73-26227 Filed 12-10-73;8:45 am]

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[Order No. 2959]

COMMISSIONER OF INDIAN AFFAIRS

Delegations of Authority

SECTION 1. *Revocation.* This order revokes Secretary's Order 2950, dated December 2, 1972, and Amendments 1 and 2 to Order 2950, dated December 4, 1972 and February 9, 1973, respectively. The authorities regarding Indian affairs which were delegated to the Assistant Secretary-Management and Budget and the Assistant to the Secretary for Indian Affairs in Order 2950 and amendments are withdrawn and the delegations are no longer in effect.

(a) In addition, this Order revokes section 11(a) of Secretary's Order 2954, dated May 11, 1973, which refers to Secretary's Order 2950, as amended.

(b) This Order also revokes Delegation of Authority Memoranda 73–4, 73–5, and 73–6 issued by the Assistant to the Secretary for Indian Affairs (73–1, 73–2, 73–3 were revoked by 73–3, 73–5, and 73–6 respectively). The authorities delegated in these memoranda are withdrawn and the delegations are no longer in effect.

SEC. 2 *Reinstatement.* Effective immediately, this order reinstates all authority delegated to the Commissioner of Indian Affairs or the Deputy Commissioner of Indian Affairs, including but not limited to the authority delegated by Secretary's Order 2508, as amended. All delegations of authority made to Bureau officials in the Bureau of Indian Affairs Manual or elsewhere will continue in effect.

DECEMBER 4, 1973.

ROGERS C. B. MORTON,
Secretary of the Interior.

[FR Doc.73-26161 Filed 12-10-73;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

PUERTO RICO CANE SUGAR PRODUCING AREA

Notice of Hearing on Proportionate Shares for 1974–75 Crop

Notice is hereby given that the Secretary of Agriculture, acting pursuant to the Sugar Act of 1948, as amended, is preparing to conduct a public hearing to receive views and recommendations from all interested persons on the possible need for establishing proportionate shares for the 1974–75 sugarcane crop in Puerto Rico.

In accordance with the provisions of paragraph (1), subsection (b) of section 302 of the Sugar Act of 1948, as amended, the Secretary must determine for each crop year whether the production of sugar from any crop of sugarcane in Puerto Rico will, in the absence of proportionate shares, be greater than the quantity needed to enable the area to meet its quota and provide a normal carryover inventory, as estimated by the Secretary for such area for the calendar year during which the larger part of the sugar from such crop normally would be marketed. Such determination may be made only after due notice and opportunity for an informal public hearing.

The hearing on this matter will be conducted in Room 3732, South Building, U.S. Department of Agriculture, Washington, D.C., beginning at 10:00 a.m. on December 20, 1973.

To obtain the best possible information, all interested persons are requested to appear at the hearing to express their views, preferably supported in writing by an original and three copies of their oral statement, and to present appropriate evidence in regard to the establishment of proportionate shares. Statements may also be submitted in writing (original and two copies) at the hearing without an oral presentation, or they may be mailed to the Director, Sugar Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250, postmarked not later than January 4, 1974.

All written submissions made pursuant to this notice will be made available for public inspection in the Office of the Hearing Clerk, Room 112–A, Administration Building, U.S. Department of Agriculture, Washington, D.C. (7 CFR 1.27(b)).

Signed at Washington, D.C. on November 30, 1973.

GLENN A. WEIR,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.73-26241 Filed 12-10-73;8:45 am]

Forest Service

DEADWOOD PLANNING UNIT LAND USE PLAN

Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the Deadwood Planning Unit Land Use Plan, USDA–FS–DES (Adm) 74–45.

The environmental statement identifies and evaluates the probable effects of the Land Use Plan for the Deadwood Planning Unit on the Boise National Forest in south-central Idaho. The purpose of the plan is to allocate National forest

lands within the unit to specific resource uses and activities; establish management objectives; document management direction, decisions, and necessary coordination between resource uses and activities; and provide for the protection, use, and development of the various resources within the planning unit. The plan provides for minimization of adverse effects and maximization of desirable effects. Minor adverse effects from some development activities will be temporary stream sedimentation and short periods of air pollution. Recreation opportunities will receive minor modification with opportunities for solitude slightly reduced and opportunities for developed type recreation increased. The mix of uses provided for includes moderate levels of consumptive resource uses. Significant areas will remain undeveloped with options for future management remaining open.

This environmental statement was transmitted to CEQ on December 5, 1973.

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

Regional Planning Office
USDA, Forest Service
Federal Building, Room 2025
324 25th Street
Ogden, Utah 84401

Forest Supervisor
Boise National Forest
1075 Park Boulevard
Boise, Idaho 83706

District Forest Ranger
Lowman Ranger District
517 North Jefferson
Boise, Idaho 83702

USDA, Forest Service
South Agriculture Building, Room 3230
12th Street and Independence Avenue, S.W.
Washington, D.C. 20250

A limited number of single copies are available upon request to Forest Supervisor Edward C. Maw, Boise National Forest, 1075 Park Boulevard, Boise, Idaho 83706.

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

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

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

Comments concerning the proposed action and requests for additional information should be addressed to the Forest Supervisor, Boise National Forest, 1075 Park Boulevard, Boise, Idaho 83706. Comments must be received by February 5, 1974 in order to be considered in the preparation of the final environmental statement.

GENE S. BERGOFFEN,
Deputy Chief, Forest Service.

DECEMBER 6, 1973.

[FR Doc.73-26242 Filed 12-10-73;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

COMPUTER SYSTEMS TECHNICAL ADVISORY COMMITTEE

Notice of Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the Safeguards Subgroup of the Computer Systems Technical Advisory Committee will be held Wednesday, December 19, 1973, at 1:00 p.m. in Room 1167, 1717 H Street NW., Washington, D.C.

Members advise the Office of Export Administration, Bureau of East-West Trade, with respect to questions involving technical matters, worldwide availability and actual utilization of production and technology, and licensing procedures which may affect the level of export controls applicable to computer systems, including technical data related thereto, and including those whose export is subject to multilateral (COCOM) controls.

Agenda items are as follows:

1. Opening remarks and review of future work of the subgroup by Jeremiah F. Kratz, Acting Chairman.
2. Presentation of papers or comments by the public.
3. Discussion of prior work of the Safeguards Subgroup.
4. Executive Session: Review papers prepared by the subgroup.
5. Adjournment.

The public will be permitted to attend the discussion of agenda items 1-3, and a limited number of seats will be available to the public for these agenda items. To the extent time permits, members of the public may present oral statements to the subgroup. Interested persons are also invited to file written statements with the subgroup.

With respect to agenda item 4, Executive Session, the Assistant Secretary of Commerce for Administration, on July 17, 1973, determined, pursuant to section 10(d) of Public Law 92-463, that this agenda item should be exempt from the provisions of sections 10(a)(1) and (a)(3), relating to open meetings and public participation therein, because the meeting will be concerned with matters listed in 5 U.S.C. 552(b)(1).

Further information may be obtained from Jeremiah F. Kratz, Acting Chairman of the subgroup, Atomic Energy Commission, Washington, D.C. 20545 (A/C 202+973-5351).

Minutes of those portions of the meeting which are open to the public will be available 30 days from the date of the meeting upon written request addressed to: Central Reference and Records Inspection Facility, U.S. Department of Commerce, Washington, D.C. 20230.

Dated: December 6, 1973.

STEVEN LAZARUS,
Deputy Assistant Secretary for East-West Trade, U.S. Department of Commerce.

[FR Doc.73-26250 Filed 12-10-73;8:45 am]

AMERICAN NATIONAL RED CROSS

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: 74-00067-33-46500. APPLICANT: American National Red Cross, Blood Research Laboratory, 9312 Old Georgetown Road, Bethesda, Maryland 20014. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The foreign article is intended to be used in the study of biological specimens, principally derived from blood and blood-forming tissues, but including other human and animals organs. Specifically the article will be used in studies of platelet adhesion to collagen, the role of macromolecules in the control of normal and cancer cell behavior, the antigenic nature of blood cells, the nature of—and means of protection against—freezing injury in a variety of materials, including mammalian hearts and in age-related changes in the cellular components of blood.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: Examination of the applicant's thin sections under the electron microscope will provide optimal information when such sections are uniform in thickness and have smoothly cut surfaces. Conditions for obtaining high quality sections depend to a large extent on the properties of the specimen being sectioned (e.g., hardness, consistency, toughness, etc.), the properties of the embedding media and the geometry of the block. In connection with prior case (Docket No. 69-00665-33-46500) which relates to the duty-free entry of an identical foreign article, the Department of Health, Education, and Welfare (HEW)

advised that "Smooth cuts are obtained when the speed of cutting (among such [other] factors as knife edge condition and angle), is adjusted to the characteristics of the material being sectioned. The range of cutting speeds and a capability for the higher cutting speeds is, therefore, a pertinent characteristic of the ultramicrotome to be used for sectioning materials that experience has shown difficult to section." In connection with another prior case (Docket No. 70-00077-33-46500) relating to the duty-free entry of an identical foreign article, HEW advised that "ultrathin sectioning of a variety of tissues having a wide range in density, hardness, etc." requires a maximum range in cutting speed and, further, that "The production of ultrathin serial sections of specimens that have great variation in physical properties is very difficult." The foreign article has a cutting speed range of 0.1 to 20 millimeters/second (mm/sec). The most closely comparable domestic instrument is the Model MT-2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm/sec. We are advised by HEW in its memorandum of November 9, 1973 that cutting speeds in the excess of 4 mm/sec. are pertinent to the applicant's research studies.

We therefore, find that the Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

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

(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.73-26244 Filed 12-10-73;8:45 am]

WASHINGTON UNIVERSITY ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, on or before December 31, 1973.

Amended regulations issued under cited Act, as published in the February 24, 1972 issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C. 20230.

Docket number: 74-00198-56-46070. Applicant: Washington University, Lindell and Skinker, St. Louis, Missouri 63130. Article: Scanning Electron Microscope, Model HHS-2R. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article is intended to be used as a characterization tool in many areas of materials research; specifically polymeric composite materials, biomaterials. In the polymeric composites area the article will play a vital role in the following:

1. Definition of matrix requirements in resin-based composites in order to achieve the time-dependent and toughness characteristics, as well as the elastic properties, needed for broad utility as structural materials.

2. Determination of reliability lifetimes of composite materials and structures in use environments and development of NDT (non-destructive testing) methods for following long-term performance.

3. Definition of performance and failure characteristics of composite materials under complex states of stress.

4. Characterization of polymer microstructure at the interface of composites and development of methods for evaluating interface integrity.

5. Characterization of the transport and other non-structural properties of composite materials.

6. Development of composite systems utilizing more processable, thermoplastic resins as matrices.

7. Characterization of the processing rheology properties of filled polymeric systems.

Application received by Commissioner of Customs: November 2, 1973.

Docket number: 74-00202-33-46500. Applicant: State University of New York, Stony Brook, N.Y. 11790. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to section a variety of pathological specimens from many injured tissues and organs. Investigations will be conducted on the overall structure and detailed structure of plasma membranes, internal membranes, myofilaments, basal lamina and nuclei. A number of different experiments, in which ultrastructural lesions in plasma membranes will be created and the detailed changes occurring in the damaged membrane and in the remainder of the cell assessed will be performed. Studies of changes in nucleus and cytoplasm after exposure to carcinogens will also be conducted. Application received by Commissioner of Customs: November 7, 1973.

Docket number: 74-00203-33-46500. Applicant: University of Kansas Medical Center, Department of Pathology and Oncology, 39th and Rainbow Boulevard, Kansas City, Kansas 66103. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to section a variety of tissues used in ultrastructural studies. The tissues include substances of variable density, including lymph node, bone, kidney, embryos, and a variety of neoplasms from both humans and experimental animals. The tissues will be sampled to determine pathologenetic mechanisms of diseased tissues. Materials such as filaments, crystals, viruses and immune complexes will be searched for in neoplasms and other organs and tissues. Application received by Commissioner of Customs: November 7, 1973.

Docket number: 74-00204-33-46500. Applicant: University of Wisconsin (Madison), Madison, Wisconsin 53706. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to section brain and spinal cord tissue of guinea pigs being fed methyl mercury, the bony noses of tuna fish suffering from "puffy snout" disease, the skin of sharks having an unidentified epidermal ulcer disease and the soft tissue of calves and cattle being fed various mycotoxins. The materials vary in hardness from the tooth-like epidermal structure (denticles) of sharks skin and the bony nasal bones of tuna, to the very soft brain tissue. Application received by Commissioner of Customs: November 2, 1973.

Docket number: 74-00205-99-26000. Applicant: Community College of Allegheny County, 711 Allegheny Building, 429 Forbes Avenue, Pittsburgh, Pa. 15219. Article: Dr. Clemenz Teaching Aids for the Theory of Electricity. Manufacturer: Dr. Max Clemenz, West Germany. Intended use of article: The article is intended to be used for teaching purposes in the course entitled Electricity III. The instructional objective of the course is an understanding of the theory of operation and familiarity with mathematical design calculations for single phase and polyphase power systems, transformers, magnetic concepts, motors and generators of several types. Application received by Commissioner of Customs: November 2, 1973.

Docket number: 74-00206-33-46500. Applicant: University of Pennsylvania, Department of Neurology, 3400 Spruce Street, Philadelphia, Pa. 19104. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for studies of biological, mainly mammalian tissues derived from humans that exhibit both normal and pathologic structure. The experiments to be conducted include experiments on the development of muscle in animals and the study of muscular dystrophy, glycogen storage disease and mitochondrial disorders in humans. Application received by Commissioner of Customs: November 6, 1973.

Docket number: 74-00207-00-11000. Applicant: Indiana University-Purdue

University at Indianapolis, School of Medicine, 1219 West Michigan Street, Indianapolis, Indiana 46202. Article: LKB-9042-S Direct Probe Inlet System for Combination Gas Chromatograph-Mass Spectrometer. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to introduce into a small spectrometer organic and biologic compounds which are of low volatility and/or high molecular weight and which cannot be analyzed by combined gas chromatography-mass spectrometry. These materials would include antibiotics, drug metabolites, such as glucuronides, underivatized steroids, and others. Students in Medical Genetics 240, Pediatrics 547, and Biochemistry B-842 will use the article for metabolic and genetic screening or for the solving of biochemical problems. The article will also be used by graduate students seeking the Ph.D. degree and by Research Fellows in the various clinical departments. The students and fellows will be shown the proper use of the apparatus and will be allowed to use it for their research purposes. Application received by Commissioner of Customs: November 6, 1973.

Docket number: 74-00208-99-07500. Applicant: State University College at Brockport, Brockport, New York 14420. Article: LKB 8700 Precision Calorimeter System for Reaction and Solution Calorimetry. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used in chemistry courses to familiarize students with modern precision calorimetry as applied to physio-chemical measurements, instrumental analysis, inorganic thermochemistry, biochemical studies and research techniques in thermochemistry for the study of the energetics of organic reactions in their mechanisms. Application received by Commissioner of Customs: November 2, 1973.

(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.26245 Filed 12-10-73;8:45 am]

Office of the Secretary

[Dept. Organization order 10-5]

ASSISTANT SECRETARY FOR ADMINISTRATION

Authority and Duties

This order effective November 23, 1973, supersedes the material appearing at 34 FR 19827 of December 18, 1969, and 37 FR 8006 of April 22, 1972.

SECTION 1. *Purpose.* .01 This order prescribes the scope of authority and the duties and responsibilities of the Assistant Secretary for Administration (the "Assistant Secretary" hereinafter), and provides for the organizational structure of his office.

.02 This revision reflects: expanded investigatory responsibilities, a delegation of authority to carry out the Secretary's responsibilities under the Federal Advisory Committee Act (P.L. 92-463), a planning and evaluation function, new physical protection responsibilities, and an appended listing of the Departmental offices which report to the Assistant Secretary.

SEC. 2. *Administrative designation.* The position of Assistant Secretary of Commerce established by section 304 of Pub. L. 83-471 of July 2, 1954 (68 Stat. 430; 15 U.S.C. 1506) shall continue to be designated as the Assistant Secretary for Administration. The Assistant Secretary is appointed by the President by and with the advice and consent of the Senate.

SEC. 3. *Scope of authority.* .01 Pursuant to the authority vested in the Secretary of Commerce by law, and subject to such policies and directives as the Secretary may prescribe, the Assistant Secretary is hereby delegated the authority of the Secretary on administrative management matters of the Department. This delegation shall include the conduct of all administrative management functions required in the overall management of the Department as well as the provision of administrative management services directly to the Office of the Secretary and, as herein specified, to all or some operating units of the Department.

.02 The authority delegated to the Assistant Secretary in paragraph .01 above shall include:

a. Serving as "agency head" with respect to the authorities in chapter 4, title 41 of the U.S. Code, which deal with purchases and contracts for property or services, and other authorities of the Secretary relating to procurement.

b. Carrying out the Secretary's responsibilities for fulfilling the objectives and effecting compliance throughout the Department with the requirements of Title VI of the Civil Rights Act of 1964, the Equal Employment Opportunity law of 1972, Executive Orders 11141, 11246, 11247, 11375, and 11478, and any other statutes, Executive Orders and regulatory provisions relating to equal opportunity under which the Secretary or the Department may have responsibilities. For purposes of carrying out these responsibilities and as required by the applicable Executive Orders or implementing regulations of the Secretary of Labor or the Civil Service Commission, the Assistant Secretary is designated as the Contracts Compliance Officer and the Director of Equal Employment Opportunity for the Department and is authorized to (1) upon recommendations of the heads of operating units, and with the approval of the respective Program Secretarial Officers involved, designate Deputy Contracts Compliance and Equal Employment Opportunity Officers for the operating units; and (2) designate Deputy Contracts Compliance and Equal Employment Opportunity Officers for the Office of the Secretary.

c. Carrying out the Secretary's responsibilities under the Federal Advisory Committee Act (Pub. Law 92-463, 86 Stat. 770) and implementing directives of the Office of Management and Budget and the Department of Justice.

.03 Subject to applicable laws and regulations, the Assistant Secretary for Administration may redelegate his authority to any officer or employee of the Department subject to such conditions in the exercise of the authority as he may prescribe; however, his authority to designate Deputy Contracts Compliance Officers and Equal Employment Opportunity Officers may not be redelegated.

SEC. 4. *Office of Assistant Secretary for Administration.* .01 The Office of the Assistant Secretary shall consist of: a. The Deputy Assistant Secretary for Administration, who shall be the principal Assistant of the Assistant Secretary and shall perform the functions of the Assistant Secretary during the latter's absence.

b. A Deputy to the Assistant Secretary who shall perform such functions as the Assistant Secretary may assign.

c. The Special Assistant for Civil Rights.

d. Such Departmental Offices as the Assistant Secretary may establish for the purpose of assisting him in carrying out his administrative management functions. A list of these Departmental Offices shall be maintained current by the Assistant Secretary in an appendix to this order.

.02 The Appeals Board is assigned to the Office of the Assistant Secretary for administrative purposes only.

SEC. 5. *Duties and responsibilities.* .01 The Assistant Secretary shall serve as the principal adviser to the Secretary and as the chief officer of the Department on administrative management. As such, he shall be concerned with:

a. Personnel programming and management, including labor-management relations, employee occupational health, and the direction, administration, and processing of all personnel matters.

b. The improvement of management structures, systems, tools and practices towards achieving the highest practical degree of effectiveness, efficiency and economy in programs of the Department.

c. The planning, budgeting and management of financial resources so as to assure optimum utilization of funds in carrying out programs of the Department.

d. The interpretation of Presidential directives in matters of program planning, management control, and operational evaluation; and the initiation of appropriate actions (including studies) relevant thereto.

e. The policy, planning, and management of automatic data processing (ADP) and associated telecommunications resources to assure their optimum utilization in carrying out Commerce programs.

f. The efficient provision of common administrative and related support services required for the effective conduct of programs of the Department. These services shall include procurement, property, space, safety, motor vehicle, mail, communications, library, and related activities.

g. The audit of operations and contracts or other agreements of the Department to determine deficiencies that may exist, to recommend corrective action, to uncover opportunities for increased efficiency and economy, and to establish a basis for settling contracts and claims.

h. The achievement by the Department of a high state of planning and readiness for responding to national emergencies and major disasters.

i. The conduct of investigations, security matters and physical protection assignments as permitted by law (and as set forth in Department Organization Order 20–6) in order to carry out or support Department programs.

j. The provision of printing (including micropublishing), design, graphics, editorial and related promotional, distribution and publishing control services as will contribute to the effectiveness of the Department's publications and other printed materials, with due regard for reasonable costs.

k. The conduct of activities to assure nondiscrimination in Federally-assisted programs and by contractors and subcontractors of the Department; and the conduct of activities, including investigations, to assure equal opportunity in employment within the Department.

.02 In carrying out the above responsibilities, the Assistant Secretary shall:

a. Develop and issue policies, standards and procedures for administrative management functions throughout the Department, and provide functional appraisal and supervision in the conduct of such functions by operating units.

b. Directly provide the administrative management services required by the Office of the Secretary and, as determined by the Secretary or by agreement (between the Assistant Secretary and the Secretarial Officer concerned) directly provide particular administrative management services to specified operating units of the Department or to other organizations.

c. Conduct a centralized audit function that shall extend to the activities of all organizations of the Department, with such special exceptions as the Assistant Secretary may determine.

d. Conduct a centralized procurement function that shall serve the Office of the Secretary and, as determined by the Assistant Secretary, various operating units.

e. Provide central publications, printing, and related services for organizations of the Department, except as the Secretary may authorize particular organizations to provide some such services, as specified, for themselves.

f. Take appropriate action, in accordance with law and pertinent Department orders, with respect to claims and claim procedures involving the Department.

.03 The Assistant Secretary shall be responsible for coordination and liaison with the Office of Management and Budget, the Civil Service Commission, the General Services Administration, the General Accounting Office, and the Government Printing Office on all applicable matters of administrative management, provide central liaison for the Department with the Appropriations Committees of the Congress, coordinate administrative management matters with other departments and agencies, and otherwise represent the Department on such matters with public or private groups.

SEC. 6. *Savings Provision.* Department organization orders and Department administrative orders which are inconsistent or in conflict with this order are hereby constructively amended or superseded accordingly.

Effective: November 23, 1973.

HENRY B. TURNER,
Assistant Secretary for Administration.

[FR Doc.73-26175 Filed 12-10-73;8:45 am]

[Dept. Organization Order 20-6]

OFFICE OF INVESTIGATIONS AND SECURITY

Functions and Organization

This order effective November 26, 1973, supersedes the material appearing at 32 FR 10383 of July 14, 1967.

SECTION 1. *Purpose.* .01 This order prescribes the functions and organization of the Office of Investigations and Security.

.02 This revision provides for new responsibilities in connection with physical protection assignments, the investigatory function, and the implementation of: (a) E.O. 11652 of March 8, 1972, (b) a related National Security Council Directive of May 17, 1972, and (c) E.O. 11714 of April 24, 1973.

SEC. 2. *Status and line of authority.* .01 The Office of Investigations and Security (OIS), a Departmental office, shall be headed by a Director who shall report and be responsible to the Assistant Secretary for Administration. The Director shall be assisted by a Deputy Director who shall perform the functions of the Director during the latter's absence, and exercise day-to-day supervision over the documentary security functions and physical security functions of the Office, as set forth in section 3 of this order.

.02 The Director, OIS, may redelegate his authority to appropriate personnel of OIS and to operating units of the Department subject to such conditions as he may prescribe.

SEC. 3. *Functions.* Pursuant to the authority vested in the Assistant Secretary for Administration by Department Organization Order 10–5 and subject to such policies and directives as the Assistant Secretary may prescribe, the Office shall conduct investigations in accordance with the provisions of this order, serve as the focal point for personnel security matters within the Department, establish policies and procedures for documentary security and physical security throughout the Department, advise the Assistant Secretary on all security matters, represent the Department as appropriate on security matters, and carry out physical protection assignments as described herein. To implement these responsibilities, the Office shall perform the functions enumerated in paragraphs .01 through .07 of this section.

.01 *Investigations.* The Office shall:

a.1. As requested, conduct investigations of job applicants and employees regarding personnel security (in accordance with E.O. 10450 and Federal Personnel Manual, Chapter 736), and personnel suitability (in accordance with orders and regulations of the Department and of the U.S. Civil Service Commission); and

2. As requested by appropriate authority, and permitted by law and policy, conduct investigations of violations of the United States Code, including (a) misconduct by Department personnel, and (b) criminal violations of the Code by or against persons under the jurisdiction, orders, or regulations of the Department.

b. As requested by appropriate authority, conduct investigations of:

1. Administrative and civil matters as permitted by law;

2. Complaints of discrimination under E.O. 11478 and the Equal Employment Opportunity Act of 1972 with implementing regulations; and

3. The performance of contractors or grantees, including alleged violations of law or improprieties by such parties, and conduct inspections relating to the conduct and performance of Department personnel dealing with such parties.

.02 *Personnel security.* The Office shall:

a. Develop and recommend policies and procedures for personnel security matters within the Department.

b. Develop and supervise programs for the training and indoctrination of employees in personnel security and the maintenance of security discipline.

c. Receive all reports of investigation of Department employees and job applicants, and—as appropriate—channel the information to the responsible operating unit official for suitability determination.

d. Receive and process from the various operating units all requests for security clearances concerning prospective employees to be assigned to positions that require access to classified information, material or restricted areas, and review and determine the security status of personnel cases which involve the appraisal of derogatory information in connection with the issuance of certificates of personnel security clearance, the imposition of security restrictions on individual employees, and other decisions affecting personnel security considerations.

e. Take action, as appropriate, to withhold or to withdraw security clearance of a job applicant or employee, and to recommend action under the provisions of 5 U.S.C. 7531–32 and E.O. 10450, as amended.

.03 *Documentary security.* The Office shall:

a. Establish appropriate security policies, procedures, and minimum requirements for the Department's safeguarding of classified documents, information, and materials in accordance with E.O. 11652.

b. Develop and supervise programs for the training and indoctrination of personnel in documentary security.

.04 *Physical security.* The Office shall:

a. Develop and prescribe, in accordance with E.O. 11652, necessary measures for the protection of classified and restricted areas, and for the control of access to such areas.

b. In conjunction with GSA's Federal Protective Service and in accordance with GSA regulations, establish and enforce policies and procedures for controlling access of visitors to unclassified areas, including access by employees during periods of civil disturbance or emergency.

.05 *Advice and representation.* The Office shall:

a. Serve as the principal source of advice within the Department to the Assistant Secretary for Administration and all Departmental officials and operating unit heads with respect to security matters.

b. Serve as the Department's point of liaison with all agencies of Federal, State, and local governments in all security matters, including administrative or criminal investigations, and physical protection.

c. Represent the Department, as required, on all interagency committees dealing with security.

.06 *Physical protection assignments.* The Office shall, at the request of the Assistant Secretary for Administration or other appropriate authority, provide physical protection for the Secretary of Commerce, visiting foreign officials and official guests, and Department functions. This may involve assignment of Office personnel as Special Deputy U.S. Marshals under the provisions of 18 U.S.C. 3053, and the use of firearms and arrest powers. (See section 4 of this order.)

.07 *General security.* The Office shall:

a. Serve as the focal point within the Department for the receipt, review, and processing of all security matters which require Departmental action, including all matters involving the implementation of E.O. 11652, the related National Security Council Directive of May 17, 1972, and E.O. 11714.

b. Devise and carry out periodic tests of the adequacy of security within the Department.

SEC. 4. *Specified authority.* .01 In addition to the authority implicit in and essential to carrying out the functions assigned the Office and related to the exercise of such functions, the Director, OIS, and certain members of the OIS staff, under a special deputation from the United States Marshal, have been authorized to carry firearms and make arrests in carrying out physical protection assignments pursuant to paragraph .06, section 3, of this order.

.02 Also, the Director, OIS, has been specifically designated by the Secretary of Commerce, under the provisions of section 7(B)(2), E.O. 11652, "to ensure effective compliance with and implementation of Executive Order 11652 of March 8, 1972." Concurrently, the Secretary established the Department of Commerce National Security Classification and Review Committee and appointed the Director, OIS, as the chairman thereof.

SEC. 5. *Savings provision.* Nothing in this order shall have the effect of or be construed as an exception to the responsibility and authority of the Department's General Counsel under DOD 10-6 for policy and operating guidance on legal matters. With respect to such matters the Director, OIS, shall consult the General Counsel or his designee.

Effective: November 26, 1973.

HENRY B. TURNER,
Assistant Secretary for Administration.

[FR Doc.73-26176 Filed 12-10-73;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

DROPOUT PREVENTION PROGRAM

Closing Date for Receipt of Applications

Pursuant to the authority contained in title VIII, section 807, of the Elementary and Secondary Education Act as amended by title I of the Education Amendments of 1970, Pub. L. 91-230, 20 U.S.C. 887, 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 Dropout Prevention Program. Applications for new projects will not be accepted.

The Dropout Prevention Program is designed to provide a program of financial assistance to local educational agencies to carry out, in schools with a high percentage of students who are from families with an income which does not exceed a low-income factor and who do not complete their education in elementary or secondary school, innovative demonstration projects which show promise of reducing the number of such students. A notice of proposed rulemaking governing this program has been published in the FEDERAL REGISTER at 38 FR 21788, August 13, 1973. These regulations will become effective January 10, 1974 in final form.

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 areas served by the applicant.

Awards under this program will be subject to the provisions in the governing legislation as well as the provisions in 45 CFR Part 124. Assistance under this program also is subject to applicable provisions of Subchapter A of this chapter (45 CFR Part 100a, 38 FR 30654-30662, November 6, 1973).

Applications will be mailed to all eligible local educational agencies by the appropriate regional offices of the Office of Education. In order to be assured of consideration, applications for continuation projects must be received by the respective regional offices on or before January 15, 1974.

An application sent by mail will be considered to be received on time by the appropriate Regional Offices if:

(1) The application was sent by registered or certified mail not later than the fifth calendar day prior to the closing date (or if such fifth calendar day is a Saturday, Sunday, or Federal holiday, not later than the next following business day), as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by the appropriate U.S. Office of Education Regional Office mail rooms. (In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education Regional Offices.)

(20 U.S.C. 887)

(Catalog of Federal Domestic Assistance Program No. 13.410, Dropout Prevention)

Dated: December 3, 1973.

JOHN OTTINA,
U.S. Commissioner of Education.

[FR Doc.73-26218 Filed 12-10-73;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 73-273]

ENVIRONMENTAL IMPACT STATEMENTS

Procedures for Consideration

Pursuant to guidelines of the Council on Environmental Quality (CEQ) appearing as 40 CFR Part 1500, published in the FEDERAL REGISTER of August 1, 1973 (38 FR 20549), the Coast Guard herewith publishes the proposed procedures for consideration of environmental impacts required by section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA) (January 1, 1970, Pub. L. 91-190, 102(2)(C), 83 Stat. 853; 42 U.S.C.).

The proposed procedures are in the form of an internal directive, Commandant Instruction 5922.10 series, Procedures for Considering Environmental Impacts, replacing Commandant Instruction 5922.10A dated 13 October 1971.

In addition to NEPA, which has applicability to all agencies of the Federal Government, other laws require that the Coast Guard consider environmental and

other effects of various actions taken by the Coast Guard. These laws are:

1. Section 4(f) of the Department of Transportation Act (49 U.S.C. 1653(f)) and 23 U.S.C. 138, requiring protection of publicly-owned land from a public park, recreation area, or wildlife and waterfowl refuge of National, State, or local significance.

2. Section 209 of the Clean Air Act (42 U.S.C. 1857h–7), providing for review and comment by the Administrator of the Environmental Protection Agency on matters under his jurisdiction affected by certain categories of actions proposed by other Federal agencies.

3. Section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470f), requiring consideration of the effect of the proposed action on any building, etc., included in the National Register and reasonable opportunity for the Advisory Council on Historic Preservation to comment on such action.

4. Executive Order 11593 (36 FR 8921), requiring that Federal plans and programs contribute to the preservation and enchancement of sites, etc., of historical, architectural, and archaeological significance.

5. Executive Order 11296 (31 FR 10663), requiring agency evaluation of flood hazards in planning of facilities, disposal of lands and properties, and land use planning.

6. Section 303 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1452), stating National policy of preservation, protection, development, and where possible, restoration or enhancement of the resources of the Nation's coastal zone.

7. Section 307 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456), requiring that all Federal actions be consistent with State coastal zone management programs.

8. Section 2 of the Water Bank Act (16 U.S.C. 1301), declaring that it is in the public interest to preserve, restore, and improve the wetlands of the Nation.

9. Section 2 of the Fish and Wildlife Coordination Act, as amended (16 U.S.C. 662), requiring that any agency proposing to control or modify the waters of any stream or other body of water first consult with the Fish and Wildlife Service, Department of the Interior, and with the head of the agency administering the wildlife resources of the State wherein the facility is to be constructed; and the reports and recommendations of the Secretary of the Interior and other pertinent officials be included in the report submitted by the agency proposing the action to the agency whose approval of such action must be had.

The procedures set forth in this proposed Commandant Instruction utilize the environmental impact statement, in those instances required by NEPA, as the vehicle by which the Coast Guard makes the findings, determinations, and clearances required by the laws enumerated above.

In consideration of the foregoing, the Coast Guard proposses to issue Commandant Instruction 5922.10, Procedures for Considering Environmental Impacts, as set forth below.

Before taking final action to issue the proposed procedures the Coast Guard will consider the timely comments of all interested parties. Comments should identify the docket or notice number (see above) and be submitted in writing to the Chief, Office of Marine Environment and Systems, U.S. Coast Guard, Washington, D.C. 20590. Comments received on or before January 24, 1974, will be considered before final actions is taken. All docketed comments will be available for public inspection and copying, both before and after the closing date for comments, in the Marine Environmental Protection Division, Room 7311, Nassif Building, 400 Seventh Street, SW, Washington, D.C., between 7:30 a.m. and 4:00 p.m. local time, Monday through Friday, except Federal holidays.

Issued in Washington, D.C., on December 6, 1973.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard Chief, Office of Marine Environment and Systems.

PROPOSED COMMANDANT INSTRUCTION 5922

PROCEDURES FOR CONSIDERING ENVIRONMENTAL IMPACTS

1. *Purpose.* This instruction provides guidelines for the preparation and handling of detailed environmental impact statements on proposals for legislation and other actions significantly affecting the quality of the human environment, as required by section 102(2)(c) of the National Environmental Policy Act (Public Law 91–190). Significant environmental effects may be beneficial as well as detrimental.

2. *Cancellation.* Commandant Instruction 5922.10A of 13 October 1971 is canceled.

3. *Background and authority.* a. The National Environmental Policy Act (NEP Act) establishes a broad national policy to promote efforts to improve the relationship between man and his environment, and provides for the creation of the Council on Environmental Quality (CEQ). The NEP Act sets out certain policies and goals concerning the environment, and requires that, to the fullest extent possible, the policies, regulations, and public laws to the U.S. shall be interpreted and administered in accordance with those policies and goals. Additionally, the NEP Act provides that environmental consideration shall be given appropriate weight in the decision making process, along with economic and technical considerations.

b. Section 102(2)(c) of the NEP Act is designed to ensure that environmental considerations are given careful attention and appropriate weight in all decisions of the Federal Government. This section requires that all agencies of the Federal Government shall:

"include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on—

(i) the environmental impact of the proposed action,

(ii) any adverse environmental effects which cannot be avoided should the proposal be implemented,

(iii) alternatives to the proposed action,

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

(v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

"Prior to making any detailed statement, the responsible Federal official shall consult with and obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate Federal, State, and local agencies, which are authorized to develop and enforce environmental standards, shall be made available to the President, the Council on Environmental Quality, and the public as provided by section 552 of title 5, United States Code, and shall accompany the proposal through the existing agency review processes."

c. Section 102(2)(c) of the NEP Act provides that all agencies of the Federal Government "utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and decision making which may have an impact on man's environment."

d. Executive Order 11514, dated March 5, 1970, orders all Federal agencies to initiate procedures needed to direct their policies, plans, and programs so as to meet national environmental goals.

e. Guidelines from the President's Council on Environmental Quality, published in 38 FR 20549, 40 CFR 1500 et seq., 1 August 1973, provide guidance to agencies for preparation of environmental impact statements.

f. Section 4(f) of the DOT Act directs that "the Secretary shall not approve any program or project which requires the use of any publicly owned land from a public park, recreation area, or wildlife and waterfowl refuge of national, State, or local significance as determined by the Federal, State, or local officials having jurisdiction thereof, or any land from a historic site of national, State, or local significance as so determined by such officials unless (1) there is no feasible and prudent alternative to the use of such land, and (2) such program includes all possible planning to minimize harm to such park, recreational area, wildlife and waterfowl refuge, or historic site resulting from such use.

g. Section 309 of the Clean Air Act provides for the Administrator of the Environmental Protection Agency to review and comment on matters relating to duties and responsibilities granted pursuant to this Act or other provisions of the authority of the Administrator, contained in any (1) legislation proposed by any Federal department or agency, (2) newly authorized Federal projects for construction and any major Federal agency action (other than a project for construction) to which section 102(2)(C) of Pub. L. 91–190 applies, and (3) proposed regulations published by any department or agency of the Federal government.

h. Section 106 of the Historic Preservation Act requires that prior to approval of Federal activities, departments shall take into account the effect of the undertaking on any district, site, building, structure, or object that is included in the National Register, and give the Advisory Council on Historic Preservation a reasonable opportunity to comment with regard to such undertaking.

i. Executive Order 11593 requires that Federal plans and program contribute to the

preservation and enhancement of site, structures, and objects of historical, architectural, or archaeological significance.

j. Executive Order 11296 provides for agency evaluation of flood hazards in planning of facilities, construction of buildings and facilities, disposal of lands and properties, and land use planning.

k. Section 303 of the Coastal Zone Management Act of 1972 states that "* * * it is the national policy (a) to preserve, protect, develop, and where possible, to restore or enhance, the resources of the Nation's coastal zone * * *"; additionally, section 307 requires all Federal actions to be consistent with State coastal zone management programs.

l. Section 1301 of the Water Bank Act declares that "* * * it is in the public interest to preserve, restore, and improve the wetlands of the Nation * * *."

m. Section 662 of the Fish and Wildlife Coordination Act requires that whenever the waters of any stream or other body of water are proposed or authorized to be * * * controlled or modified for any purposes whatever * * * by any department or agency of the United States, or by any public or private agency under Federal permit or license, such department or agency shall first consult with the United States Fish and Wildlife Service, Department of Interior, and with the head of the agency exercising administration over the wildlife resources of the particular State wherein the * * * facility is to be constructed. * * *" In addition, it is required that the reports and recommendations of the Secretary of Interior and any other applicable officials be included in the report prepared or submitted by the agency proposing the action to the agency in whose jurisdiction approval or disapproval of such action falls.

4. *Point of contact.* The point of contact for coordination of Coast Guard environmental matters is the Marine Environmental Protection Division (C-WEP).

5. *Applicability.* a. The requirements in this Instruction calling for either a negative declaration or a statement pursuant to section 102(2)(C) of the NEP Act apply to, but are not limited to, the following, except as noted below: all grants, loans, contracts, purchases, leases, construction, research activities that have reached a stage of investment or commitment to implementation likely to determine subsequent development or restrict later alternatives, rulemaking and regulatory actions, certifications, licensing, permits, plans (both internal Coast Guard plans and external plans), formal approvals (e.g., of non-Federal work plans), legislative proposals where the Coast Guard has primary responsibility for the subject matter involved, directives, program proposals, and any renewals or reapprovals of the foregoing. Exceptions to the foregoing are:

(1) Administrative procurements (e.g., general supplies) and contracts for personal services;

(2) Normal personnel actions (e.g., promotions, hirings);

(3) Project amendments (e.g., increases in costs) which do not alter the environmental impact of the action;

(4) Legislative proposals not originating in DOT and relating to matters not the primary responsibility of the Coast Guard.

(5) Reports to Congress setting forth policy recommendations to be followed by legislation proposals.

b. A general class of actions may be covered by a single statement when the environmental impacts (and alternatives thereto) of all such actions are substantially similar.

6. *Definitions and guidelines.* Enclosure (1) sets forth more specific definitions of terms used in this Instruction.

7. *Preparation and processing of environmental impact statements.* The initial assessment of environmental impacts of proposed activities should be undertaken concurrently with initial technical and economic studies. An environmental assessment is a preliminary environmental study which should be used to determine if the proposed action will significantly affect the environment. If the assessment indicates a potential that the environment may be significantly affected, an environmental impact statement in accordance with the NEP Act should be prepared. Enclosure (5) contains instructions for preparing an environmental assessment and enclosure (3) sets forth instructions for preparation and processing of the environmental impact statement.

8. *Action.* Although specific action assignments are listed in this paragraph, the entire expertise and experience of the Coast Guard should be utilized to assure a systematic and interdisciplinary approach in implementing the NEP Act.

a. General internal controls shall be established by all responsible officers to assure that all proposals originating in their areas of responsibility which have the potential that the environment may be affected are:

(1) Identified at the earliest stage in the planning process.

(2) Analyzed in an environmental assessment in accordance with enclosure (5) which spells out:

(a) The existing environment without the proposed project,

(b) The action to be taken, and

(c) The probable positive and negative effect of the proposed project on the environment.

(3) Determined through the above environmental assessment if the proposed action could significantly affect the quality of the human environment in which case a detailed statement will be prepared in accordance with enclosure (3) which includes:

(a) A description of the proposed action and of the environment affected, including information, summary technical data, and maps and diagrams when relevant, adequate to permit an assessment of potential environmental impact by the decision-maker as well as the commenting agencies and the public.

(b) The probable impact of the proposed action on the environment balancing environmental consideration with economic and technical consideration.

(c) Alternatives to the proposed action, including, where relevant, those not within our existing authority. A vigorous exploration and objective evaluation of the environmental impacts of all reasonable alternative actions, particularly those that might avoid some or all of the adverse alternatives which, though not within the authority of the Coast Guard to adopt, are reasonable courses of action. Sufficeint analysis of such alternatives and their environmental costs and impact on the environment should accompany the proposed action through the review process in order not to foreclose prematurely options which might have less detrimental effects.

(d) Any probable adverse environmental effects which cannot be avoided should the proposal be adopted. A clear statement of how any adverse effect discussed in paragraph (b) will be mitigated to prevent apparent unavoidable consequences.

(e) The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity. Short-term and long-term do not refer to any fixed time periods, but should be viewed in terms of the environmentally significant consequences of the proposed action.

(f) Any irreversible and irretrievable commitments of resources that would be involved in the proposed action should it be implemented. The survey of unavoidable impacts should be used to identify the extent to which the irreversible action curtails the range of potential uses of the environment.

(g) A discussion of coordination with other Federal, State, and local entities in the preparation of the statement, and, where appropriate, a discussion of problems and objections raised in the review process and the disposition of the issues involved.

b. Citizens involvement: Citizen involvement in environmental matters at each pertinent stage of the development of the proposed action is encouraged. Formal and informal citizen input should be sought as early as possible. Attempts to solicit the views of the public through hearings, personal contact, press releases, maintaining mailing lists of interested parties, and other methods should be utilized. See enclosure (3).

c. The Chief, Marine Environmental Protection Division (G-WEP) shall:

(1) Coordinate with other divisions and offices within the Coast Guard all significant environmental related matters in order that an effective point of contact and sources of information will exist to respond to environmental matters either internally or externally.

(2) Coordinate and establish liaison with Federal and Federal State agencies for the purpose of receiving comments on Coast Guard draft environmental impact statements.

(3) Transmit draft environmental impact statements and copies of all comments made thereon to CEQ (ten copies), Office of the Secretary for Environment, Safety and Consumer Affairs (TES) (two copies), Environmental Protection Agency (EPA) (five copies).

(4) Coordinate the review of Coast Guard draft environmental impact statements with all Federal and Federal State agencies concerned.

(5) Maintain and transmit to CEQ and TES quarterly a current list of all administrative actions for which environmental statements are being prepared. This list shall be made available for public inspection on request.

(6) Transmit final environmental impact statements to TES for further transmission to the CEQ.

(7) Coordinate those comments and/or reviews of non-Coast Guard environmental impact statements made by the various Offices within the Coast Guard.

(8) Provide procedural support in the preparation and review of environmental impact statements.

(9) Maintain file copies of all environmental impact statements prepared by the Coast Guard.

(10) Maintain mailing lists of parties interested in Coast Guard environmental impact statements in accordance with enclosure (3).

d. The Chief, Office of Marine Environment and Systems (G-W) shall:

(1) As Department of Transportation (DOT) Coordinator for Water Resources, coordinate within DOT those comments and/or reviews of environmental impact statements pertaining to water resource projects made by the various agencies within DOT (including Coast Guard).

(2) Provide technical support in the preparation and review of environmental impact statements.

e. The Program Division (G-CPA) shall:

(1) Insure that the Planning and Programming Manual (CG-411) is revised as

necessary to reflect the provisions outlined in this Instruction.

(2) Provide further review of budgeting actions of the type described herein to assure compliance by program managers.

f. The Chief Counsel (G-L) shall:

(1) Review Coast Guard project proposals and proposed actions and rulings affecting the public to assure that they are legally consistent with the provisions of the NEP Act.

(2) Review all legislative proposals originated by program managers, together with environmental impact statements or negative declarations thereto, to assure that they are legally consistent with Coast Guard statutory requirements and not in conflict with the provisions of the NEP Act or the statutory requirements of other agencies. Forward these legislative proposals through the normal USCG/DOT legislative channels.

(3) Review recommendations or reports relating to legislation involving matters having to do with the quality of the human environment referred by other agencies.

(4) Review all final environmental impact statements for legal sufficiency.

g. The Chief, Offices of Engineering (G-E), Operations (G-O), Merchant Marine Safety (G-M), Boating Safety (G-B), and Research and Development (G-D), shall, as appropriate:

(1) Provide technical support in the review of environmental impact statements so that a systematic and interdisciplinary approach may be achieved.

h. Program Directors and Managers shall:

(1) Prepare the necessary environmental impact statements or negative declarations for legislative recommendations and other actions arising at the Headquarters level following established procedures for the preparation and handing of environmental impact statements for rulemaking proposals and other actions originating within their offices.

(2) Make copies of the required draft statements and circulate them in accordance with enclosure (3). Forward a sufficient number of copies to the Chief, Marine Environmental Protection Division for further distribution to CEQ, TES, EPA and other Federal and Federal-State Agencies.

i. District Commanders shall:

(1) *Application for permits or other approvals.* Request each applicant for a permit or other approval to submit the initial environmental information (enclosure (3), paragraph 4). The format for this information should parallel that presented in enclosure (2). This report will serve as the basis for an environmental impact statement or negative declaration. These must deal with the entire project e.g., entire highway construction. Where public land subject to section 4(f) of the DOT Act is involved, the report and subsequent environmental impact statement should be supplemented by a description of the publicly owned land, the National, State, and local significance of the land, the alternatives to the proposed use and the planning undertaken to minimize harm. District commanders should obtain comments from other responsible Federal (at the local or regional office level), State, and local agencies about the environmental effects of the proposal. The application, including the environmental data shall be forwarded to the appropriate headquarters office in accordance with the procedures set forth by that office.

(2) *Planning proposals (RCS CPE-1100).* Identify at the earliest possible stage in the planning process those actions which will effect the environment. If there is a probable effect on the environment, an environmental assessment shall be prepared according to enclosure (5) and submitted with the planning proposal.

(3) *AC&I Project Proposals Report (Form CG-2618 Series (RCS CPA 1001).* Applicable projects that effect the environment require an environmental impact statement or a negative declaration in accordance with enclosure (3) and (4). The completed approved, environmental impact statement or negative declaration shall be submitted with the AC&I project proposal report.

(4) When an environmental impact statement is prepared, make sufficient copies and circulate them in accordance with enclosure (3).

(5) Maintain mailing lists of parties interested in Coast Guard environmental impact statements within the district in accordance with enclosure (3).

(6) Maintain and transmit to Commandant (G-WEP) monthly a current list of all administrative actions for which environmental statements are being prepared. This shall be made available to the public upon request.

(7) General: Solicit comments from Federal (at the local or regional office level), State, and local agencies to assist in the preparation of the environmental impact statement. Unless otherwise specified, draft environmental impact statements, comments thereon and copies of negative declarations are to be forwarded to Commandant (G-WEP) via the cognizant Headquarters office. All draft environmental statements and negative declarations shall be made available to the public as provided in 5 U.S.C. 552 as early as possible and at least 30 days prior to any public hearing on the matter and at least 90 days prior to any administrative action on the project. Final environmental impact statements shall be made available to the public 30 days prior to any administrative action. If the final environmental impact statement is filed within 90 days after the draft statement has been circulated for comment and made public, the 30-day period and 90-day period may run concurrently.

(8) Environmental impact statement received from other Federal agencies.

(a) Review and comment on all environmental impact statements prepared by other Federal agencies. Comments should be as specific, substantive and factual as possible without undue attention to matters of form in the statement. Emphasis should be placed primarily on the assessment of the environmental impacts on the quality of the environment, particularly as contrasted with the impacts of reasonable alternatives to the action. Recommendations to modify the proposed action and/or new alternatives that will avoid or minimize environmental impacts may be made. Comments should be limited to Coast Guard mission areas or Coast Guard areas of special expertise as those listed in enclosure (6). However, comments may be submitted on subjects outside Coast Guard areas if an obvious question is raised.

(b) Those statements received by the district directly from the requesting agency, which contain technical details that are beyond the evaluation capabilities of the district staff, or are of a highly controversial nature, or which have significant effect or public interest beyond the district boundary shall be forwarded to Commandant (G-WEP) for additional comment. In all other cases, the district commander's comments shall be forwarded directly to the requesting agency, with a copy to Commandant (G-WEP).

(c) Environmental Statements received from State or local agencies. Many States have environmental policy statutes with provisions for environmental statements similar to those of the NEP Act. The review and comment process on the statements shall be the same as that for environmental impact statements prepared in accordance with section 102(2)(C) of the NEP Act.

j. Retroactive implementation for internal Coast Guard programs.

(1) General. We have an obligation to reassess ongoing projects and programs in order to avoid or minimize adverse environmental effects. This instruction shall apply to further major actions having a significant effect on the environment even though they arise from projects or programs initiated prior to enactment of the NEP Act on 1 January 1970.

(2) Projects and major actions approved, but uncompleted prior to 1 January 1970 should be handled as follows:

(a) Environmental impact statements shall be submitted on matters of a controversial nature with substantially adverse potential effects upon the human environment.

(3) Projects and major actions approved after 1 January 1970, but prior to 13 October 1971, either completed or uncompleted, should be handled as follows:

(a) Environmental impact statements shall be submitted on uncompleted increments of projects and major actions having a potential significant impact upon the quality of the human environment. Significance shall be determined by a rtrict construction of the definitional material in enclosure (1).

(b) Negative declarations shall be prepared as per enclosure (4).

(4) The requirements of this paragraph apply to increments, such as each individual construction project in a development plan.

(5) Comments shall be solicited from Federal, State and local agencies only upon projects and actions having potential significant environmental effects and upon which contracts have yet to be awarded.

9. The same format and processing shall be afforded to statements on proposals subject to section 309 of the Clean Air Act.

10. For actions which affect any district, site, building, structure, or object that is included in the National Register, section 106 of the National Historic Preservation Act of 1966 (Pub. L. 89-665) requires that the proposal be referred to the Advisory Council on Historic Preservation for comment through the regional office of the National Park Service and the State Liaison Officer for Historic Preservation. See enclosure (2) for details on content.

ENCLOSURE 1

DEFINITIONS AND GUIDELINES

1. *General.* When there is doubt whether or not to prepare a statement, it should be prepared. Where the environmental consequences of a proposed action are unclear but potentially significant, a statement should be prepared. It should be noted that the effects of many Federal decisions, including related Federal actions and projects in the area, can be individually limited but cumulatively considerable. This can occur when one or more agencies over a period of years puts into a project individually minor but collectively major resources, when one decision involving a limited amount of money is a precedent for action in much larger cases or represents a decision in principle about a future major course of action, or when several Government agencies individually make decisions about partial aspects of a major action. In all such cases, an environmental statement should be prepared if it is reasonable to anticipate a cumulatively significant impact on the environment from Federal action. Moreover, the NEP Act is not limited to adverse environmental effects; any significant effect, positive or negative, requires a statement. The Council on Environmental Quality, on the basis of a written assessment of the impacts involved, is available to assist

agencies in determining whether specific actions require impact statements.

2. *Actions affected.* a. The environmental impact of any action must be considered.

b. All legislative proposals require either

c. All bridge permit applications require either environmental statements or negative declarations.

d. Any other action which "significantly affects" the environment requires an environmental statement.

e. Any other action which does not affect the environment requires neither an environmental statement nor a negative declaration.

3. *"Major".* Any Federal action significantly affecting the environment is deemed to be "major" and a statement shall be prepared.

4. *"Federal actions".* This term includes the entire range of activity undertaken by the Coast Guard. Actions include but are not limited to:

(a) Direct Federal programs, projects and administrative activities, such as:

(1) Research, development, and demonstration projects.

(2) Rulemaking and regulations.

(3) Construction of and operation of Federal facilities.

(4) Waste disposal.

(5) Transportation of dangerous or contaminated commodities.

(6) Making of treaties or agreements (international or with other Federal or State governments).

(7) Development of plans.

b. Federal grants, loans, or other financial assistance.

c. (1) Federal permits, licenses, certifications, approvals, leases, or any entitlements for use, such as:

(a) Ships.

(b) Bridge permits.

5. *"Significantly affecting" environment.* a. Any of the following actions should ordinarily be considered as significantly affecting the quality of the human environment:

(1) Any matter falling under section 4(f) of the DOT Act, or section 106 of the Historic Preservation Act.

(2) Any action that is likely to be highly controversial on environmental grounds.

(3) Any action that is likely to have a significantly adverse impact on natural, ecological, cultural, or scenic resources of national, State or local significance.

(4) Any action that is likely to be highly controversial regarding relocation housing resources.

(5) Any action that (a) divides or disrupts an established community or disrupts orderly, planned development or is inconsistent with plans or goals that have been adopted by the community in which the project is located; or (b) causes increased congestion; or

(6) Any action which (a) involves inconsistency with any national, State, or local standard relating to the environment; (b) has a significantly detrimental impact on air or water quality or on ambient noise levels for adjoining areas; (c) involves a possibility of contamination of a public water supply system; or (d) affects ground water, flooding, erosion or sedimentation.

ENCLOSURE 2

FORM AND CONTENT OF SECTION 102(2)(C) STATEMENT

A. *Form.* 1. Each statement will be headed as follows:

Department of Transportation
U.S. Coast Guard
(Draft) Environmental Impact statement pursuant to section 102(2)(C), Pub. L. 91-190

2. Each statement shall be labeled draft as appropriate.

3. The heading specified in paragraph 1 shall be modified to indicate that the statement also covers section 4(f) and section 106 as appropriate and shall indicate whether the final statement will be approvable by the Coast Guard or the Office of the Secretary.

4. Each statement will, as a minimum, contain sections corresponding to paragraphs B.1 below, appropriately headed, supplemented as necessary to cover other matters provided in this enclosure.

Summary Sheet

(check one) ( ) Draft ( ) Final Environmental Statement

Department of Transportation

U.S. Coast Guard

(Name, address and telephone number of contact individual)

1. Name of action (check one) ( ) Administrative Act. ( ) Legislative Action.

2. Brief description of action indicating what States (and counties) are particularly affected.

3. Summary of environmental impacts and adverse environmental effects.

4. List of alternatives considered.

5.a. (For draft Statements.) List all Federal, State, and local agencies and other parties from which comments have been requested.

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

6. Date draft statement (and final environmental statement, if one has been issued) made available to the Council on Environmental Quality and the public.

B. *Content.* The following provisions are intended to provide guidance on the content of environmental statements. This guidance is expected to be supplemented by research reports, guidance on methodology, and other material from the literature as may be pertinent to evaluation of relevant environmental factors:

1. *General.* The following points are to be covered:

a. A description of the proposed action and of the environment affected, including information, summary technical data, and maps and diagrams where relevant, adequate to permit an assessment of potential environmental impact by commenting agencies and the public. Highly technical and specialized analyses and data should be avoided in the body of the draft impact statement. Such materials should be attached as appendices or footnoted with adequate bibliographic references. The statement should also succinctly describe the environment of the area affected as it exists prior to a proposed action. The amount of detail provided in such descriptions should be commensurate with the extent and expected impact of the action, and with the amount of information required at the particular level of decision making (planning, feasibility, design, etc.). In order to insure accurate descriptions and environmental assessments, site visits should be made where feasible. The statement should identify, as appropriate, population and growth characteristics of the affected area and any population and growth assumptions used to justify the project or program or to determine secondary population and growth impacts resulting from the proposed action and its alternatives (see paragraph B.1.c.(2)). In discussing these population aspects, the statement should give consideration to using the rates of growth in the region of the project contained in the projection compiled for the Water Resources Council by the Office of Business Economics of the Department of Commerce and the Economic Research Service of the Department of Agriculture (the "OBERS" projection). In any event it is essential that the sources of data used be identified.

b. The relationship of the proposed action and how it may conform to or conflict with adopted or proposed land use plans, policies, controls, and goals and objectives as have been promulgated by affected communities. Where a conflict or inconsistency exists, the statement should describe the extent of reconciliation and the reasons for proceeding notwithstanding the absence of full reconciliation.

c. The probable impact of the proposed action on the environment. (1) This requires assessment of the positive and negative effects of the proposed action as it affects both the national and international environment. The attention given to different environmental factors will vary according to the nature, scale, and location of proposed actions. Among factors to consider should be the potential effect of the action on such aspects of the environment as those listed in enclosure 6. Primary attention should be given in the statement to discussing those factors most evidently impacted by the proposed action.

(2) Secondary, as well as primary consequences for the environment should be included in the analysis. Secondary effects, through, for example, their impacts on existing community facilities and activities and through inducing new facilities and activities, may often be even more substantial than the primary effects of the original action itself. For example, the effects of the proposed action on population and growth may be among the more significant secondary effects. Such population and growth impacts should be estimated and an assessment made of their effects on changes in population patterns or growth upon the resource base, including land use, water, and public services, of the area in question.

d. Alternatives to the proposed action, including where relevant, those not within the existing authority of the responsible agency. Section 102(2)(D) of the Act requires the responsible agency to "study, develop, and describe appropriate alternatives to recommended sources of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources. A rigorous exploration and objective evaluation of the environmental impacts of all reasonable alternative actions, particularly those that might enhance environmental quality or avoid some or all of the adverse environmental effects, are essential. Sufficient analysis of such alternatives and their environmental benefits, costs, and risks should accompany the proposed action through the review process in order not to foreclose prematurely options which might have less detrimental effects. Examples of such alternatives include: the alternative of taking no action or of postponing action pending further study; alternatives requiring actions of a significantly different nature which would provide similar benefits with different environmental impacts, low capital intensive improvements, alternatives related to different locations or designs or details of the proposed action which would present different environmental impacts. In each case, the analysis should be sufficiently detailed to permit comparative evaluation of the environmental benefits, costs and risks of the proposed action and each reasonable alternative, provided, however, that where an existing impact statement already contains such an analysis, its

treatment of alternatives may be incorporated, provided such treatment is current and relevant to the precise purpose of the proposed action.

e. Any probable adverse environmental effects which cannot be avoided (such as water or air pollution, undesirable land use patterns, damage to life systems, traffic congestion, threats to health, or other consequences, adverse to the environmental goals set out in section 101(b) of the Act). This should be a brief section summarizing in one place those effects discussed in paragraph c(1) that are adverse and unavoidable under the proposed action. Included for purposes of contrast should be a clear statement of how other adverse effects discussed in paragraph c(1) will be mitigated.

f. The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity. This section should contain a brief discussion of the extent to which the proposed action involves trade-offs between short-term environmental gains at the expense of long-term losses, or vice versa. In this context short term and long term do not refer to any fixed time periods, but should be viewed in terms of the environmentally significant consequences of the proposed action.

g. Any irreversible and irretrievable commitments of resources that would be involved in the proposed action should it be implemented. This requires identification of unavoidable impacts in paragraph 1(e) and the extent to which the action irreversibly curtails the range of potential uses of the environment. "Resources" means not only the labor and materials devoted to an action but also the natural and cultural resources lost or destroyed.

h. An indication of what other interests and considerations of Federal policy are thought to offset the adverse environmental effects of the proposed action identified pursuant to subparagraphs (c) and (e) of this paragraph. The statement should also indicate the extent to which these stated countervailing benefits could be realized by following reasonable alternatives to the proposed actions (as identified in subparagraph (d) of this paragraph) that would avoid some or all of the adverse environmental effects. In this connection, agencies that prepare cost-benefit analyses of proposed actions should attach such analyses, or summaries thereof, to the environmental impact statement, and should clearly indicate the extent to which environmental costs have not been reflected in such analyses.

i. A discussion of problems and objections raised by other Federal agencies, State and local entities, and citizens in the review process, and the disposition of the issues involved and the reasons therefor. (This section may be added at the end of the review process in the final text of the environmental statement.)

(1) The draft and final statements should document issues raised through consultations with Federal, State, and local agencies with jurisdiction or special expertise and with citizens, of actions taken in response to comments, public hearings, and other citizen involvement proceedings.

(2) Any unresolved environmental issues and efforts to resolve them through further consultations should be identified in the final statement. Where major unresolved conflicts are involved, the final statement should reflect that the commenter was consulted again and agreement sought. Where the Environmental Protection Agency (EPA) rates an action or statement "3", "ER", or "EU", the final statement should reflect that EPA was consulted in an effort to resolve the basis for the rating and the action taken.

(3) The statement should reflect that every effort was made to discover and discuss all major points of view on the environmental effects of the proposed action and its alternatives in the draft statement itself. However, where opposing professional views and responsible opinion have been overlooked in the draft statement and are raised through the commenting process, the environmental effects of the action should be reviewed in light of those views and a meaningful reference made in the final statement to the existence of responsible opposing view not adequately discussed in the draft statement indicating responses to the issues raised.

(4) All substantive comments received on the draft (or summaries thereof where response has been exceptionally voluminous) should be attached to the final statement, whether or not each such comment is thought to merit individual discussion in the text of the statement.

j. Draft statements should indicate at appropriate points in the text, underlying studies, reports, and other information obtained and considered in preparing the statement including any cost-benefit analyses prepared by the agency. In the case of documents not likely to be easily accessible (such as internal studies or reports), the statement should indicate how such information may be obtained. If such information is attached to the statement, care should be taken to insure that the statement remains an essentially self-contained instrument, capable of being understood by the reader without the need for undue cross reference. Every effort should be made to convey the required information succinctly in a form easily understood, giving attention to the substance of the information conveyed rather than to the particular form, or length, or detail of the statement.

2. *Publicly-owned parklands, recreational area, wildlife and waterfowl areas and historic sites.* In the event the proposed action affects or takes any land described under section 4(f) of the DOT Act, furnish the following additional information in the environmental statement:

a. Description of any publicly owned land from a public park, recreation area or wildlife and waterfowl refuge or any land from an historic site affected or taken by the project, including its size, available activities, use, patronage, unique or irreplaceable qualities, relationship to other similarly used lands in the vicinity of the project, maps, plans, slides, photographs, and drawings showing in sufficient scale and detail the project and its impact on park, recreation, wildlife, or historic areas, changes in vehicular or pedestrian access.

b. Statement of the national, State, or local significance of the entire park recreation area, refuge, or historic site as determined by the Federal, State or local officials having jurisdiction thereof. In the absence of such a statement lands will be presumed to be significant. Any statement of insignificance will be subject to review by the Department.

c. Similar data, as appropriate, for alternative designs and locations, including detailed cost estimates (with figures showing percentage differences in total project costs) and technical feasibility, and appropriate analysis of the alternatives, including any truly unusual factors present and evidence that the cost or community disruption resulting from alternative routes reached extraordinary magnitudes. This portion of the statement should demonstrate compliance with the Supreme Court's dictum in the Overton Park case, as follows:

"The very existence of the statute indicates that the protection of park lands was to be given paramount importance. The few green havens that are public parks were not to be lost unless there were truly unusual factors present in a particular case or the cost or community disruption resulting from alternative results reached extraordinary magnitudes. If the statutes are to have any meaning, the Secretary cannot approve the destruction of parkland unless he finds that the alternative routes present unique problems."

d. If there is no feasible and prudent alternative description of all planning undertaken to minimize harm to the protected area and statement of actions taken or to be taken to implement this planning, including measures to maintain or enhance the natural beauty of the lands traversed.

(1) Measures to minimize harm may include replacement of land and facilities, providing land or facilities, provision of compensation adequate for functional replacement of the facility (see 49 CFR 25.252).

(2) Measures to minimize harm, e.g., tunneling, cut and cover, cut and fill, treatment of embankments, planting, screening, maintenance of pedestrian or bicycle paths, noise mitigation measures all reflecting utilization of appropriate interdisciplinary design personnel.

e. Evidence of concurrence or description of efforts to obtain concurrence of Federal, State or local officials having jurisdiction over the 4(f) property regarding the action prepared and the measures planned to minimize harm.

f. If Federally-owned properties are involved in highway projects, the final statement shall include the result of filing a map of the prepared use of the land with the Secretary of the Department supervising the land (23 U.S.C. 317).

g. If land acquired with Federal grant money (HUD open space on BOR land and water conservation funds) is involved, the final statement shall include specific concurrence of the Secretary of the grantor agency.

h. "Lands" include public interests in lands, such as, easements, reversions, etc. TGC will determine application of section 4(f) in case of disagreement.

i. A specific statement that there is no feasible and prudent alternative and that the proposal includes all possible planning to minimize harm to the "4(f) area" involved.

j. Evidence of coordination with the Department of the Interior, and with the Department of Housing and Urban Development and the Department of Agriculture, if appropriate as required by section 4(f).

3. *Properties and sites of historic significance.* In the event that the project, proposal or action is subject to section 106 of the National Historic Preservation Act, the following additional information must be included in the environmental statement.

a. Documentation on sites of historic significance should include either:

(1) Evidence of consultation with the State Preservation Officer that there is no effect on a property that is either on or qualifies for and is being nominated to the most recent listing of the National Register of Historic Properties (see 38 FR 5386) and monthly supplements.

(2) If National Register properties are affected, the final statement should include an account of stipulations to comply with the Historic Preservation Act, including a

joint memorandum acknowledging no adversity or satisfactory mitigation of the adverse effect with the Advisory Council on Historic Preservation pursuant to Protection of Properties; Procedures for Compliance (38 FR 5388).

(3) In the event a joint memorandum cannot be obtained, the final environmental statement should include a "106 report" and the comments of the Advisory Council on Historic Preservation (ACHP) in the form prescribed in Protection of Properties; Procedures for Compliance, be responsive to the historic and environmental issues raised and describe the actions proposal to mitigate adverse effects, including steps taken in response to comments by ACHP.

b. For properties of State or local historic significance. The responsible official should consult with the State preservation officer or with the local official having jurisdiction of the historic site.

c. Use of historic sites of Federal, State, and local historic significance requires determinations under section 4(f), and documentation should include information necessary to consider such a determination (see paragraph 2).

4. *Impacts of the proposed action on the human environment involving community disruption and relocation.* In the event that the project, proposal or action involves community disruption and relocation, the following additional information must be included in the environmental statement.

a. The statement should include a description of probable impact sufficient to enable an understanding of the extent of the environmental and social impact of the project alternatives and to consider whether relocation problems can be properly handled. This would include the following information obtainable by visual inspection of the proposed affected area and from secondary sources and community sources when available:

1. An estimate of the households to be displaced including the family characteristics (e.g., minorities, and income levels, tenure, the elderly, large families).

2. Impact on the human environment of an action which divides or designates an established community, including, where pertinent, the effect of displacement on types of families and individuals affected, effect of streets cut off, separation of residences from community facilities, separation of residential areas.

3. Impact on the neighborhood and housing to which relocation is likely to take place (e.g., lack of sufficient housing for large families, doublings up).

4. An estimate of the businesses to be displaced, and the general effect of business dislocation on the economy of the community.

5. A definition of relocation housing in the area and the ability to provide adequate relocation housing for the types of families to be displaced. If the resources are insufficient to meet the estimated displacement needs, a description of the actions proposed to remedy this situation including, if necessary, use of housing of last resort.

6. Results of consultation with local officials and community groups regarding the impacts to the community affected. Relocation agencies and staff and other social agencies can help to describe probable social impacts of this proposed action.

7. When necessary, special relocation advisory services being provided the elderly, handicapped and illiterate regarding interpretations of benefits, assistance in selecting replacement housing, and consultation with respect to acquiring, leasing, and occupying replacement housing. This data should provide the preliminary basis for assurance of the availability of relocation housing as required by DOT Order 5620.1 and 25 CFR 53.

5. *Considerations relating to pedestrians and bicyclists.* Where appropriate, the statement should discuss impacts on pedestrian access and movement to, across, along, and between transportation facilities, including sidewalks, overpasses, pedestrian activated signals, and other factors. Impacts on use of areas by pedestrians and bicycles should be discussed, particularly in medium and high density commercial and residential areas.

6. *Other social impacts.* The general social groups specially benefited or harmed by the proposed action should be identified in the statement, including the following:

a. Particular effects of a proposal on the elderly, handicapped, non-drivers, transit dependent, or minorities should be described to the extent reasonably predictable.

b. How the proposal will facilitate or inhibit their access to jobs, educational facilities, religious institutions, health and welfare services, recreational facilities, social and cultural facilities, pedestrian movement facilities, and public transit services.

c. Measures for enhancing access to these facilities as well as reducing inhibitions.

d. Transportation services available through or precluded by the proposal.

7. *Standards as to noise, air, and water pollution.* The statement shall include sufficient analysis to predict the effects of the proposed action on attainment and maintenance of any applicable environmental standards (e.g., noise, ambient air quality, water quality) including the following documentation:

a. With respect to water quality, there should be consultation with the agency responsible for the State water pollution control program with respect to conformity with standards and regulations regarding storm sewer discharge, sedimentation control, and other non-point source discharges.

b. The comments or determinations of the offices charged with administration of the State's implementation plan for air quality as to the consistency of the project with State plans for the implementation of ambient air quality standards.

c. Conformity to adopted noise standards, compatible, if appropriate, with different land uses.

8. *Conditions relating to flood control.* The statement should include evidence of compliance with Executive Order 11296 and Flood Hazard Evaluation Guidelines for Federal Executive Agencies, promulgated by the Water Resources Council. Evaluations of flood hazards and evidence of consultation with the Corps of Engineers or the TVA, together with necessary measures to handle flood hazard problems should be set forth. If the responsible official determines that full compliance with E.O. 11296 and the guidelines can be carried out only at a later stage of development of the project, the documentation should include sufficient evidence to demonstrate that flood hazard problems can be handled and indicate the scope of further work necessary to provide for complete compliance with E.O. 11296 and the guidelines and where such work, when completed will be available to the public.

9. *Considerations relating to wetlands or coastal zones.* Where wetlands or coastal zones are involved, the statement should include:

a. Information on location, types, and extent of wetlands areas which might be affected by the proposed action.

b. Information on the present and future uses of such wetlands areas both by people and by the wildlife inhabiting these areas.

c. An assessment of the impact resulting from both construction and from operation of the project on the wetlands and associated wildlife.

d. Consideration of the potential of the project to enhance or restore the wetlands in the area of the project.

e. A statement by the local representative of the Department of the Interior, and any other responsible officials with special expertise, setting forth his views on the impacts of the project on the wetlands, the worth of the particular wetlands areas involved to the community and to the Nation, and recommendations as to whether the proposed action should proceed, and if applicable, along what alternative route.

f. Where applicable, a discussion of how the proposed project relates to the State coastal zone management program for the particular State in which the project is to take place.

10. *Construction impacts.* In general, adverse impacts during construction will be of less importance than long-term impacts of a proposal. Nonetheless, statements should appropriately address such matters as the following identifying any special problem areas:

a. Noise impacts from construction and any specifications providing maximum noise levels.

b. Disposal of spoil (include any specifications).

c. Measures to minimize effects on traffic and pedestrians.

d. Consideration of "round the clock" construction, to speed up completion of construction activity and its impacts.

11. *Land use and urban growth.* The statement should include, to the extent relevant and predictable:

a. The effect of the project on land use, development patterns, and urban growth.

b. Where significant land use and development impacts are anticipated, identify public facilities needed to serve the new development and any problems or issues which would arise in connection with these facilities.

c. The comments of agencies that would provide these facilities.

d. The effect of substantial changes in urban growth on the social fabric of the area, including elements such as economic or ethnic segregation.

ENCLOSURE 3

PREPARATION AND PROCESSING OF SECTION 102(2)(C) STATEMENTS

1. *Citizen involvement procedures.* Citizen involvement in environmental aspects of Coast Guard actions is encouraged at each pertinent stage of the development of the proposed action. Formal and informal citizen input should be encouraged as early as possible. Attempts to solicit the views of the public through hearings, personal contact, press releases, maintaining mailing lists of interested parties, and other methods should be utilized. Interested parties include community, environmental or conservation organizations or individuals affected by or known to have an interest in, or who can speak knowingly of the environmental impact of the proposed action. Lists of interested parties should be developed. Interested parties should have adequate opportunities to express their views early enough in the study process to influence the course of studies, as well as action taken. A summary of the process and any environmental issues raised should be documented in the environmental statement.

a. Planning stage criteria for citizen involvement and identification of social, economic, and environmental impacts in departmental planning programs set forth in DOT Order 1130.2.

b. Early notification of preparation environmental impact statements should be

sent to interested parties and may be sent to Federal, State or local agencies to solicit comments that may be helpful in preparing the draft statement.

(1) Advance notification of grants. Under OMB Circular A-95 and DOT Order 4600.4, Clearinghouses are to be notified of intention to apply for Federal program assistance. The notification includes the nature and extent of environmental impact anticipated and whether or not an environmental impact statement is required. This notification may be sent to interested parties and agencies, as well as clearinghouses.

(2) Other actions than those where agencies send early notifications under (a) above, procedures should include an early warning system for informing the public of the decisions to prepare a statement.

c. Copies of the draft environmental impact statement should be sent to interested parties. The availability of the statement should be made known to appropriate interested parties, advertised in local papers, etc.

d. Hearings. (1) For any action involving a public hearing, the draft statement or environmental analysis should be made available to the public at least 30 days prior to the hearing. The notice of the hearing should indicate availability of the statement for analysis. Where feasible, comments of public agencies should be made available to the public prior to the public hearing.

(2) Even where not required, a hearing may help resolve environmental conflicts. In deciding whether a public hearing is appropriate, an agency should consider:

(a) The magnitude of the proposal in terms of economic costs, the geographic area involved, and the uniqueness or size of commitment of the resources involved.

(b) The degrees of interest in the proposal, as evidenced by requests from the public and from Federal, State and local authorities that a hearing be held.

(c) The complexity of the issue and the likelihood that information will be presented at the hearing which will be of assistance to the agency in fulfilling its responsibilities under the Act; and

(d) The extent to which public involvement already has been achieved through other means, such as earlier public hearings, meetings with citizen representatives, and/or written comments on the proposed action.

(3) Notification of the hearing should announce availability of detailed information on environmental impacts through newspaper articles, direct notification to interested parties and clearinghouses, etc.

e. Informal meetings and direct contacts with interested parties should be held early in the development process to provide the opportunity for mutual exchange of information. The objective of these actions should be to include as many of the residents and others as possible in discussion to identify community leaders, and to seek their recommendations.

2. *Planning stage.* Initial assessment of environmental impacts of proposed activities should be undertaken concurrently with initial technical and economic studies. General criteria for identification of social, economic, and environmental impacts in departmental planning programs are set forth in DOT Order 1130.2.

3. *Scope of statement.* The scope of the action covered by the statement should avoid "piecemealing" and be sufficiently broad so that alternatives to the proposed action can be meaningfully evaluated. Actions covered should have independent significance, and stand on their own. In certain circumstances, broad program statements will be required in order to assess the environmental effects of a number of actions in a geographical area, or environmental impacts that are generic or common to a series of actions, or the overall impact of a chain of contemplated projects.

4. *Applications.* Each applicant for a grant, loan, permit, or other Coast Guard approval, if appropriate, will be requested to submit together with the original application, either a draft 102(2)(C) statement, a negative declaration, or an environmental analysis of the proposed project which would be utilized in the preparation of a draft statement or negative declaration by the Coast Guard. (a) In such event, the Coast Guard should assist the applicant by outlining the types of information required. (b) In all cases, the Coast Guard should make its own evaluation of the environmental issues and take responsibility for the scope and content of draft and final environmental statements. (c) The appplicant should be notified by the responsible officer that further actions prior to the approval of the application must not affect the environment.

5. *Actions originating within the Coast Guard.* In the case of proposals originating within the Coast Guard for an action to which this Instruction is applicable, the originator of the proposal will state in the proposal whether, in his judgment, the action will or will not require a 102(2)(C) statement.

6. *Use of consultants.* Consultants may be utilized to prepare background or preliminary material for use in a draft or final enviromental statement for which the Coast Guard takes responsibility. Selection of consultants and work by consultants who may expect further contracts based on the outcome of the environmental decision should be carefully reviewed to insure complete and objective consideration of all relevant project impacts and alternatives.

7. *Lead agency.* Where more than one agency directly sponsors an action, or is directly involved through funding, licenses, or permits, or is involved in a group of actions directly related to each other because of functional interdependence and geographic proximity, to the maximum extent possible one statement should serve as the means of compliance with section 102(2)(C) for all Federal actions involved. The Coast Guard, in such cases, should consider the possibility of joint preparation of a statement by all agencies concerned, or designation of a single "lead agency" to assume supervisory responsibility for preparation of the statement. Where a lead agency prepares the statement, the other agencies involved should provide assistance with respect to their areas of jurisdiction and expertise. In either case, the statement should contain an environmental assessment of the full range of Federal actions involved, should reflect the views of all participating agencies, and should be prepared before major or irreversible actions have been taken by any of the participating agencies. Factors relevant in determining an appropriate lead agency include the time sequence in which the agencies become involved, the magnitude of their respective involvement, and their relative expertise with respect to the project's environmental effects. As necessary, the Council on Environmental Quality will assist in resolving questions of responsibility for statement preparation in the case of multiagency actions. For projects primarily involving land owned by or under the jurisdiction of another Federal agency, the owner agency may be appropriate to be the designated lead agency. Joint preparation of environmental statements is encouraged, when appropriate.

8. *Interdisciplinary approach.* The 102(2)(C) statement should reflect the utilization of a "systematic, interdisciplinary approach" as required by section 102(2)(A) of the NEP Act. The interdisciplinary approach should include appropriate disciplines to assure that environmental impacts are described in detail in the statement. This is to be carried out by relevant disciplines represented on staff, or when this is not feasible, by appropriate use of relevant Federal, State, and local agencies or the professional services of universities and outside consultants. The interdisciplinary approach should not be limited to the preparation of the environmental impact statement, but should also be used in the early planning stages of the proposed action. Early application of such an approach should help assure a systematic evaluation of reasonable alternative courses of action and their potential social, economic, and environmental consequences.

9. *Legislative proposals.* a. Before the Coast Guard makes a favorable report on proposed legislation involving matters for which it is primarily responsible or proposes draft legislation to the Congress, the office which develops the Coast Guard position on the report or originates legislation (hereinafter the "action office") shall prepare an environmental statement or negative declaration. The final text of the environmental statement and comments thereon should be available to the Congress and to the public for consideration in connection with the proposed legislation or report. In cases where the scheduling of congressional hearings on recommendations or reports on proposals for legislation which the Federal agency has forwarded to the Congress does not allow adequate time for the completion of a final text of an environmental statement (together with comments), a draft environmental statement may be furnished to the Congress and made available to the public pending transmittal of the comments as received and the final text. Negative declarations may be forwarded to Congress if requested.

10. *Draft of statement.* Draft statements shall be prepared at the earliest practical point in time, prior to the first significant point of decision in the review process. They should be prepared early enough in the process so that the analysis of the environmental effects and the exploration of alternatives with respect thereto are significant inputs to the decisionmaking process.

11. *Processing of environmental statements.* On actions requiring a 102(2)(C) statement, except for those relating to legislative proposals, the Coast Guard shall circulate for comment the draft environmental statement to all Federal agencies which have jurisdiction by law or special expertise with respect to the environmental impact involved, and to the CEQ (ten copies) and TES (two copies), as well as other elements of DOT where appropriate. For action within the jurisdiction of the Environmental Protection Agency (air or water quality, solid wastes, pesticides, radiation standards, noise), the proposals shall be referred to EPA for review and comment. For actions which affect any district, site, building, structure or object that is included in the National Register, the proposal should be referred to the Advisory Council on Historic Preservation for comment through the regional office of the National Park Service and the State Liaison Office for Historic Preservation. A time period for comment may be specified, but not less than 45 days from the date of publication in the FEDERAL REGISTER of the CEQ listing notifying the public of issuance of the impact statement. An extension of time, if possible, when requested, shall be allowed. Where comments of agencies have been obtained, comments need not be solicited again from the same agencies, unless there are pertinent changes in the project proposal.

a. *Federal review.* Enclosure (6) is a list of Federal agencies with special expertise or jurisdiction by law with respect to environmental impacts, to whom the draft statement should be referred, as appropriate, for comment.

b. *State and local review.* (1) Where review of the proposed action by State and local agencies is relevant, such State and local review shall be provided for as follows:

a. Where review of direct Federal development projects takes place prior to preparation of an environment statement, comment on the environmental effects of the proposed project are inputs to the environment statement. These comments should be attached to the draft statement when it is circulated for review and copies of the draft sent to those who commented. A–95 clearinghouses or other agencies designated by the Governor may also secure reviews of environmental statements. Clearinghouses should in all cases be sent a copy of the draft and final environmental statements.

b. Project applicant or administrations shall obtain comments directly from appropriate State and local agencies, except where review is secured by agreement through A–95 clearinghouses. Comments should be solicited from municipalities and counties for all projects located therein.

(2) Environmental statements on legislative proposals are not subject to State and local review. Similarly, budget proposals or other internal agency proposals may be excluded from such review.

12. *Utilization of comments.* Comments received under Federal, State and local review and inputs from the process of citizen participation shall accompany the draft environmental statement through the normal internal project or program review process.

13. *Final statements.* a. Draft statements shall be revised, as appropriate, to reflect comments received, issues raised through the community involvement and public hearing process, or other considerations, before being put into final form for approval of the responsible official.

(1) All final environmental impact statements will be reviewed for legal sufficiency by the Chief Counsel.

14. *Public Review.* These procedures are designed to encourage public participation in the impact statement process at the earliest possible time.

15. *Availability of statements to the President, the CEQ, and the public.* After approval, G–WEP is responsible for transmitting 10 copies of each final statement to the CEQ, which transmittal shall be deemed transmittal to the President. The responsible officer for the environmental statement is responsible for making the final version of such statement and the comments received available to the public pursuant to the provisions of the Freedom of Information Act (5 U.S.C., section 552) at the headquarters and appropriate district offices and at appropriate State, regional and metropolitan clearinghouses unless the Governor of the State involved designates some other point for receipt of this information. Notice of such designation shall be included in OMB listing of clearinghouses. Draft and final statement should be made available in public places such as libraries, public offices, and offices of preparing agencies. Copies of final statements, with comments attached, should be sent to all Federal, State, and local agencies and private organizations who commented on the draft statement or requested copies of the final statement and to individuals who commented on the draft statement and to individuals who requested copies of the final statement. If the number of statements requested makes distribution inappropriate, TES and CEQ shall consider an alternative arrangement. Materials to be made available to the public shall be provided without charge to the extent practical, or at a fee which is not more than actual cost of reproducing copies to be sent to other Federal agencies.

16. *Timing of agency decision.* To the maximum extent practicable, no administrative action (i.e., any proposed action to be taken by the agency other than agency proposals for legislation to Congress, budget proposals, or agency reports on legislation) subject to section 102(2)(C) is to be taken sooner than 90 days after a draft environmental statement has been circulated for comment, furnished to the Council and, except where advance public disclosure will result in significantly increased costs of procurement to the Government, made available to the public pursuant to these guidelines. Neither should such administrative action be taken sooner than 30 days after the final approved text of an environmental statement (together with comments) has been made available to the CEQ and the public. If the final text of an environmental statement is filed within 90 days after a draft statement has been circulated for comment, furnished to the CEQ and made public pursuant to this section of these guidelines, the 30-day period and 90-day period may run concurrently to the extent that they overlap. The time periods are measured from the date of publication in the Federal Register of the weekly filing with the Council on Environmental Quality.

17. *Review of environmental statements prepared by other agencies.* Other agencies may consult with the Coast Guard in preparation of environmental statements. The purpose of Coast Guard review of and comment on environmental statements drafted by other agencies is to provide constructive assistance on proposals relating to functional areas of responsibility and expertise of the Coast Guard. The responsibility of the commenting official will generally be limited to the provision of a competent and cooperative advisory and consultant service. Review of statements prepared by other agencies will consider the environmental impact of the proposal on areas within the Coast Guard's functional area of responsibility or special expertise as listed in enclosure 6.

a. Comments should be organized in a manner consistent with the structure of the draft statement and may include alternatives or modifications that will enhance environmental quality or avoid or minimize adverse environmental impacts.

b. Coast Guard projects that are environmentally related to the proposed action should be indicated so interrelationships may be included in the final statement.

c. Headquarters. There are several types of matters that should be referred to Commandant G–WEP for comment. These generally include the following:

(1) Actions with national policy implications.

(2) Projects that involve natural, ecological, cultural, scenic, historic, or park or recreation resources of national significance.

(3) Legislation, regulations having national impacts, or national program proposals.

(4) Projects regarding the transportation of hazardous materials and natural gas and liquid-products pipelines.

(5) Water resource projects.

d. Comments should indicate the nature of any monitoring of the environmental effects of the proposed project that appears particularly appropriate. Such monitoring may be necessary during the construction, startup, or operation phases of the project.

18. Where emergency circumstances make it necessary to take an action with significant environmental impact without observing the provision of these guidelines concerning minimum periods for agency review and advance availability of environmental statements, G–WEP should consult with TES and CEQ about alternative arrangements.

ENCLOSURE 4

NEGATIVE DECLARATION

1. General. Any proposal for an action to which this Instruction is applicable will include either a statement as required by section 102(2)(c) of the NEP Act or a declaration that the proposed action will not have a significant impact on the environment. Negative declarations need not be coordinated outside the originating agency, but should be made available to the public upon request. Negative declarations should be supported by sufficient documentation so that the basis for the determination that the proposed action does not have a significant impact on the environment is clear. However, if the Coast Guard decides that an environmental statement is not necessary for a proposed action (a) which has been identified as normally requiring preparation of a statement, (b) which is similar to actions for which a statement has been prepared, (c) which has been previously announced to be the subject of a statement, or (d) for which a negative declaration has been made in response to a request from CEQ, the Coast Guard shall prepare a publicly available record briefly setting forth the agency's decision and the reasons for that determination. Lists of such negative determinations, and any determinations made that preparation of a statement is not yet timely, shall be prepared and made available in the same manner as provided for lists of statements under preparation.

2. All negative declarations shall be prepared in accordance with the format on the following page. The Identify Clearly section should include a description of the project, action or proposal and a summary of the environmental findings that lead to the conclusion that the project, action or proposal will have no foreseeable significant impact upon the quality of the human environment.

NEGATIVE DECLARATION FOR INTERNAL COAST GUARD PROJECTS, ACTIONS AND PROPOSALS

The following project, action or proposal has been thoroughly reviewed by its originator and it has been determined by said originator that said project, action or proposal will have no foreseeable significant impact upon the quality of the human environment:

(IDENTIFY CLEARLY)

The above statement does and shall serve the sole purpose of compliance with DOT Order 5610.1B. This document is and shall be for the sole use of the United States Coast Guard, the United States Department of Transportation and the United States Government, and shall have no final validity in the absence of either of the signatures called for below.

Date	Signature of Originator
Date	Signature of Chief, Office of Marine Environment and Systems or District Commander (If prepared at District level)

ENCLOSURE 5

ENVIRONMENTAL ASSESSMENT

1. *General.* An environmental assessment should be used to determine if the proposed

action will significantly affect the environment. All of the areas in paragraph 2 must be covered; however, the depth of coverage should be consistent with the magnitude of the project.

2. *Content of the environmental assessment.* The following points shall be included in the environmental assessment.

(1) A description of the proposed action, a statement of its purposes, and a description of the environment affected, including information, summary technical data, and maps and diagrams where relevant, adequate to permit an assessment of potential environmental impact.

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

(3) The probable impact of the proposed action on the environment.

(4) Alternatives to the proposed action including, where relevant, those not within the existing authority of the Coast Guard.

(5) Any probable adverse environmental effects which cannot be avoided (such as water or air pollution).

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

(7) Any irreversible and irretrievable commitments of resources that would be involved in the proposed action should it be implemented.

ENCLOSURE 6

AREAS OF ENVIRONMENTAL IMPACT AND FEDERAL AGENCIES AND FEDERAL-STATE AGENCIES[1] WITH JURISDICTION BY LAW OR SPECIAL EXPERTISE TO COMMENT THEREON[2]

AIR

Air Quality

Department of Agriculture—Forest Service (effects on vegetation)
Atomic Energy Commission (radioactive substances)
Department of Health, Education, and Welfare
Environmental Protection Agency
Department of the Interior—
- Bureau of Mines (fossil and gaseous fuel combustion)
- Bureau of Sport Fisheries and Wildlife (effect on wildlife)
- Bureau of Outdoor Recreation (effects on recreation)
- Bureau of Land Management (public lands)
- Bureau of Indian Affairs (Indian lands)

National Aeronautics and Space Administration (remote sensing aircraft emissions)
Department of Transportation—
- Assistant Secretary for Systems Development and Technology (auto emissions)
- Coast Guard (vessel emissions)
- Federal Aviation Administration (aircraft emissions)

Weather Modification

Department of Agriculture—Forest Service
Department of Commerce—National Oceanic and Atmospheric Administration
Department of Defense—Department of the Air Force
Department of the Interior—Bureau of Reclamation
Water Resources Council

WATER

Water Quality
Department of Agriculture—
- Soil Conservation Service
- Forest Service

Atomic Energy Commission (radioactive substances)
Department of the Interior—
- Bureau of Reclamation
- Bureau of Land Management (public lands)
- Bureau of Indian Affairs (Indian lands)
- Bureau of Sport Fisheries and Wildlife
- Bureau of Outdoor Recreation
- Geological Survey
- Office of Saline Water

Environmental Protection Agency
Department of Health, Education, and Welfare
Department of Defense—
- Army Corps of Engineers
- Department of the Navy (ship pollution control)

National Aeronautics and Space Administration (remote sensing)
Department of Transportation—Coast Guard (oil spills, ship sanitation)
Water Resources Council
River Basin Commissions (as geographically appropriate)
Marine Pollution, Commercial Fishery Conservation, and Shellfish Sanitation
Department of Commerce—National Oceanic and Atmospheric Administration
Department of Defense—
- Army Corps of Engineers
- Office of the Oceanographer of the Navy

Department of Health, Education, and Welfare
Department of the Interior—
- Bureau of Sport Fisheries and Wildlife
- Bureau of Outdoor Recreation
- Bureau of Land Management (outer continental shelf)
- Geological Survey (outer continental shelf)

Department of Transportation—Coast Guard
Environmental Protection Agency
National Aeronautics and Space Administration (remote sensing)
Water Resources Council
River Basin Commissions (as geographically appropriate)
Water Regulation and Stream Modification
Department of Agriculture—Soil Conservation Service
Department of Defense—Army Corps of Engineers
Department of the Interior—
- Bureau of Reclamation
- Bureau of Sport Fisheries and Wildlife
- Bureau of Outdoor Recreation
- Geological Survey

Department of Transportation—Coast Guard
Environmental Protection Agency
National Aeronautics and Space Administration (remote sensing)
Water Resources Council
River Basin Commissions (as geographically appropriate)

FISH AND WILDLIFE

Department of Agriculture—
- Forest Service
- Soil Conservation Service

Department of Commerce—National Oceanic and Atmospheric Administration (marine species)
Department of the Interior—
- Bureau of Sport Fisheries and Wildlife
- Bureau of Outdoor Recreation

Environmental Protection Agency

SOLID WASTE

Atomic Energy Commission (radioactive waste)
Department of Defense—Army Corps of Engineers
Department of Health, Education, and Welfare
Department of the Interior—
- Bureau of Mines (mineral waste, mine acid waste, municipal solid waste, recycling)
- Bureau of Land Management (public lands)
- Bureau of Indian Affairs (Indian lands)
- Geological Survey (geologic and hydrologic effects)
- Office of Saline Water (demineralization)

Department of Transportation—Coast Guard (ship sanitation)
Environmental Protection Agency
River Basin Commissions (as geographically appropriate)
Water Resources Council

NOISE

Department of Commerce—National Bureau of Standards
Department of Health, Education, and Welfare
Department of Housing and Urban Development (land use and building materials aspects)
Department of Labor—Occupational Safety and Health Administration
Department of Transportation—
- Assistant Secretary for Systems Development and Technology
- Federal Aviation Administration, Office of Noise Abatement

Environmental Protection Agency
National Aeronautics and Space Administration

RADIATION

Atomic Energy Commission
Department of Commerce—National Bureau of Standards
Department of Health, Education, and Welfare
Department of the Interior—
- Bureau of Mines (uranium mines)
- Mining Enforcement and Safety Administration (uranium mines)

Environmental Protection Agency

HAZARDOUS SUBSTANCES

Toxic Materials
Atomic Energy Commission (radioactive substances)
Department of Agriculture—
- Agricultural Research Service
- Consumer and Marketing Service

Department of Commerce—National Oceanic and Atmospheric Administration
Department of Defense
Department of Health, Education, and Welfare
Environmental Protection Agency
Department of Commerce—National Oceanic and Atmospheric Administration (coastal areas)
Department of Defense—Army Corps of Engineers
Department of Housing and Urban Development (urban and floodplain areas)
Department of the Interior—
- Office of Land Use and Water Planning
- Bureau of Outdoor Recreation
- Bureau of Reclamation
- Bureau of Sport Fisheries and Wildlife
- Bureau of Land Management
- Geological Survey

Environmental Protection Agency (pollution effects)
National Aeronautics and Space Administration (remote sensing)
River Basins Commissions (as geographically appropriate)

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[1] River Basin Commissions (Delaware, Great Lakes, Missouri, New England, Ohio, Pacific Northwest, Souris-Red-Rainy, Susquehanna, Upper Mississippi) and similar Federal-State agencies should be consulted on actions affecting the environment of their specific geographic jurisdictions.

[2] In all cases where a proposed action will have significant international environmental effects, the Department of State should be consulted, and should be sent a copy of any draft and final impact statement which covers such action.

Water Resources Council

Land Use in Coastal Areas

Department of Agriculture—
Forest Service
Soil Conservation Service (soil stability, hydrology)
Department of Commerce—National Oceanic and Atmospheric Administration (impact on marine life and coastal zone management)
Department of Defense—Army Corps of Engineers (beaches, dredge and fill permit, Refuge Act permits)
Department of Housing and Urban Development (urban areas)
Department of the Interior—
Office of Land Use and Water Planning
Bureau of Sport Fisheries and Wildlife
National Park Service
Geological Survey
Bureau of Outdoor Recreation
Bureau of Land Management (public lands)
Department of Transportation—Coast Guard (bridges, navigation)
Environmental Protection Agency (pollution effects)
National Aeronautics and Space Administration (remote sensing)

Redevelopment and Construction In Built-Up Areas

Department of Commerce—Economic Development Administration (designated areas)
Department of Housing and Urban Development
Department of the Interior—Office of Land Use and Water Planning
Department of Transportation
Environmental Protection Agency
General Services Administration
Office of Economic Opportunity

Density and Congestion Mitigation

Department of Health, Education, and Welfare
Department of Housing and Urban Development
Department of the Interior—
Office of Land Use and Water Planning
Bureau of Outdoor Recreation
Department of Transportation
Environmental Protection Agency

Food Additives and Contamination of Foodstuffs

Department of Agriculture—Consumer and Marketing Service (meat and poultry products)
Department of Health, Education, and Welfare
Environmental Protection Agency

Pesticides

Department of Agriculture—
Agricultural Research Service (biological controls, food and fiber production)
Consumer and Marketing Service
Forest Service
Department of Commerce—National Oceanic and Atmospheric Administration
Department of Health, Education, and Welfare
Department of the Interior—
Bureau of Sport Fisheries and Wildlife (fish and wildlife effects)
Bureau of Land Management (public lands)
Bureau of Indian Affairs (Indian lands)
Bureau of Reclamation (irrigated lands)
Environmental Protection Agency

Transportation and Handling of Hazardous Materials

Atomic Energy Commission (radioactive substances)
Department of Commerce—
Maritime Administration
National Oceanic and Atmospheric Administration (effects on marine life and the coastal zone)
Department of Defense—
Armed Services Explosive Safety Board
Army Corps of Engineers (navigable waterways)
Department of Transportation—
Federal Highway Administration, Bureau of Motor Carrier Safety
Coast Guard
Federal Railroad Administration
Federal Aviation Administration
Assistant Secretary for Systems Development and Technology
Office of Hazardous Materials
Office of Pipeline Safety
Environmental Protection Agency

ENERGY SUPPLY AND NATURAL RESOURCES DEVELOPMENT

Electric Energy Development, Generation and Transmission, and Use
Atomic Energy Commission (nuclear)
Department of Agriculture—Rural Electrification Administration (rural areas)
Department of Defense—Army Corps of Engineers (hydro)
Department of Health, Education, and Welfare (radiation effects)
Department of Housing and Urban Development (urban areas)
Department of the Interior—
Bureau of Indian Affairs (Indian lands)
Bureau of Land Management (public lands)
Bureau of Reclamation
Power Marketing Administrations
Geological Survey
Bureau of Sport Fisheries and Wildlife
Bureau of Outdoor Recreation
National Park Service
Environmental Protection Agency
Federal Power Commission (hydro, transmission, and supply)
River Basin Commissions (as geographically appropriate)
Tennessee Valley Authority
Water Resources Council

Petroleum Development, Extraction, Refining, Transport, and Use

Department of the Interior—
Office of Oil and Gas
Bureau of Mines
Geological Survey
Bureau of Land Management (public lands and outer continental shelf)
Bureau of Sport Fisheries and Wildlife (effects on fish and wildlife)
Bureau of Outdoor Recreation
National Park Service
Department of Transportation (Transport and Pipeline Safety)
Environmental Protection Agency
Interstate Commerce Commission

Natural Gas Development, Production, Transmission, and Use

Department of Housing and Urban Development (urban areas)
Department of the Interior—
Office of Oil and Gas
Geological Survey
Bureau of Mines
Bureau of Land Management (public lands)
Bureau of Indian Affairs (Indian lands)
Bureau of Sport Fisheries and Wildlife
Bureau of Outdoor Recreation
National Park Service
Department of Transportation (transport and safety)
Environmental Protection Agency
Federal Power Commission (production, transmission, and supply)
Interstate Commerce Commission

Coal and Minerals Development, Mining, Conversion, Processing, Transport, and Use.

Appalachian Regional Commission
Department of Agriculture—Forest Service
Department of Commerce
Department of the Interior—
Office of Coal Research
Mining Enforcement and Safety Administration
Bureau of Mines
Geological Survey
Bureau of Indian Affairs (Indian lands)
Bureau of Land Management (public lands)
Bureau of Sport Fisheries and Wildlife
Bureau of Outdoor Recreation
National Park Service
Department of Labor—Occupational Safety and Health Administration
Department of Transportation
Environmental Protection Agency
Interstate Commerce Commission
Tennessee Valley Authority

Renewable Resource Development, Production, Management, Harvest, Transport, and Use

Department of Agriculture—
Forest Service
Soil Conservation Service
Department of Housing and Urban Development (building materials)
Department of the Interior—
Geological Survey
Bureau of Land Management (public lands)
Bureau of Indian Affairs (Indian lands)
Bureau of Sport Fisheries and Wildlife
Bureau of Outdoor Recreation

Neighborhood Character and Continuity

Department of Health, Education, and Welfare
Department of Housing and Urban Development
National Endowment for the Arts
Office of Economic Opportunity

Impacts on Low-Income Populations

Department of Commerce—Economic Development Administration (designated areas)
Department of Health, Education, and Welfare
Department of Housing and Urban Development
Office of Economic Opportunity

Historic, Architectural, and Archeological Preservation

Advisory Council on Historic Preservation
Department of Housing and Urban Development
Department of the Interior—
National Park Service
Bureau of Land Management (public lands)
Bureau of Indian Affairs (Indian lands)
General Services Administration
National Endowment for the Arts

Soil and Plant Conservation and Hydrology

Department of Agriculture
Soil Conservation Service
Agricultural Service
Forest Service
Department of Commerce—National Oceanic and Atmospheric Administration
Department of Defense—Army Corps of Engineers (dredging, aquatic plants)
Department of Health, Education, and Welfare
Department of the Interior—
Bureau of Land Management
Bureau of Sport Fisheries and Wildlife
Geological Survey
Bureau of Reclamation
Environmental Protection Agency
National Aeronautics and Space Administration (remote sensing)
River Basin Commissions (as geographically appropriate)
Water Resources Council

Outdoor Recreation
Department of Agriculture—
Forest Service Soil Conservation Service
Department of Defense—Army Corps of Engineers
Department of Housing and Urban Development (urban areas)
Department of the Interior—
Bureau of Land Management
National Park Service
Bureau of Outdoor Recreation
Bureau of Sport Fisheries and Wildlife
Bureau of Indian Affairs
Environmental Protection Agency
National Aeronautics and Space Administration (remote sensing)
River Basin Commissions (as geographically appropriate)
Water Resources Council

[FR Doc.73-26179 Filed 12-10-73;8:45 am]

CIVIL AERONAUTICS BOARD

[Dockets 25661 et al.; Order 73-11-152]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Relating to Passenger Fares

NOVEMBER 30, 1973.

Agreements adopted by the Traffic Conferences of the International Air Transport Association relating to passenger fares.

Agreements have been filed with the Board, pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations, between various air carriers, foreign air carriers and other carriers, embodied in the resolutions of the Traffic Conferences of the International Air Transport Association (IATA). The agreements encompass various passenger fares for travel within Traffic Conference 2 (Europe/Africa/Middle East) and Joint Conference 1/2 (South Atlantic). Also included is an agreement extending the Mid Atlantic fare development program. The agreements were finally adopted at the Passenger Traffic Conference held in October 1973 at Monaco and are generally intended for effectiveness from April 1, 1974 through March 31, 1975.

The TC2 and South Atlantic agreements affect air transportation as defined by the Act only insofar as they involve normal first class and economy fares, which are combinable with normal fares to/from United States points for the construction of through international fares. In this connection, the TC2 agreement includes an extension of status quo for first class fares within Africa and increases of approximately two percent in normal economy fares within Africa.[1] The South Atlantic agreement would raise first class fares by about two percent, while normal economy fares would be increased approximately four percent. These fares which have indirect application in air transportation will be approved, and the Board will herein disclaim jurisdiction with respect to noncombinable fares.

[1] No agreement was reached on normal first class or economy fares for Europe or the Middle East.

We will also approve Resolution 016a continuing the Mid Atlantic fare development program, subject to our previous condition that all documentation developed pursuant to the resolution shall be filed with the Board at the same time it is circulated to the carrier members of IATA.

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

1. It is not found that the following resolutions, incorporated in the agreements indicated and which have indirect application in air transportation as defined by the Act, are adverse to the public interest or in violation of the Act:

Agreement CAB	IATA No.	Title	Application
24041:			
R-9	115a	Meeting Non-IATA Passenger and Cargo Competition in the Middle East (New).	2.
R-10	115e	Meeting Fares, Rates and Practices Non-IATA carriers (New)	2.
R-13	001b	TC2—Special Effectiveness Resolution (Tie-In)	2 (Within Africa).
R-15	014a	Construction Rule for Passenger Fares (Revalidating and Amending).	2 (Within Africa).
R-17	050	First Class Conditions of Service (Revalidating)	2 (Within Africa).
R-18	052	TC2 First Class Fares	2 (Within Africa).
R-19	060	Economy Class Conditions of Service (Revalidating and Amending)	2 (Within Africa).
R-20	060a	Mixed Class Aircraft (Revalidating)	2 (Within Africa).
R-21	062	TC2 Economy Class Fares	2 (Within Africa).
24027:			
R-2	022d	TC2 Special Rules Relating to Sales of Passenger Air Transportation (Revalidating and Amending).	2.
24043:			
R-1	001b	South Atlantic Special Effectiveness Resolution (Tie-In)	1/2 (S. Atl.).
R-2	001b	South Atlantic Special Effectiveness Resolution (Tie-In)	1/2/3.
R-3	001dd	South Atlantic Escape for Normal and Special Fares (New)	1/2 (S. Atl.); 1/2/3.
R-4	002	Standard Revalidation Resolution	1/2 (S. Atl.).
R-5	002	Standard Revalidation Resolution	1/2/3.
R-6	054c	South Atlantic Normal First Class Fares	1/2 (S. Atl.).
R-7	064c	South Atlantic Economy Class Fares	1/2 (S. Atl.).

2. It is not found that the following resolutions, incorporated in the agreements indicated, affect air transportation within the meaning of the Act:

Agreement CAB	IATA No.	Title	Application
24041:			
R-1	014a	Special Fares to/from UK (New)	2.
R-2	060b	TC2 Mixed Class Aircraft Night Service (New)	2.
R-3	075a	TC2 Common Interest Group Fares (New)	2.
R-4	075c	TC2 Common Interest Group Fares (New)	2.
R-5	077a	TC2 Group Fares for Ship's Crews (New)	2.
R-6	077g	TC2 Individual Fares for Ship's Crews (New)	2.
R-16	045	Passenger Charters	2 (Within Africa).
R-7	091b	TC2 Family Fares between Points in Middle East and between Libya and the Middle East (New).	2.
R-8	092	Student Fares (Amending)	2.
R-11	150a	Fares for Round Trip (New)	2.
R-12	206	Free or Reduced Rates in Air Car Ferry Service (New)	2.
R-14	004g	Restriction of Applicability Republic of Zaire Kingdom of Burundi Republic of Ruanda (Revalidating).	2 (Within Africa).
R-22	072b	TC2 Creative Fares Except Europe	2 (Within Africa).
R-23	073a	TC2 Night Fares Salisbury/Bulawayo-Johannesburg (Revalidating and Amending).	2 (Within Africa).
R-24	075f	TC2 Group Travel Discount for Artists, Sportsmen and Supporters (Revalidating).	2 (Within Africa).
R-25	076x	Affinity Group Fares within Africa (Revalidating and Amending)	2 (Within Africa).
R-26	081f	TC2 Group Inclusive Tour Fares—within Africa (Revalidating)	2 (Within Africa).
R-27	091g	TC2 Family Fares within Africa (Revalidating)	2 (Within Africa).
R-28	092f	TC2 Special Trainee Fares—Africa (New)	2 (Within Africa).
R-29	311f	Charges for Deep Sea Angling and Aqua Lung (Skin Diving) Equipment (Revalidating).	2 (Within Africa).
24043:			
R-8	070y	South Atlantic 60 Day Economy Class Excursion Fares (1 May 1974) (Revalidating and Amending).	1/2 (S. Atl.).
R-9	070yy	South Atlantic 45 Day Economy Class Excursion Fares (Revalidating and Amending).	1/2 (S. Atl.).
R-10	071y	South Atlantic 45 Day Economy Class Excursion Fares (1 May 1974) (Revalidating and Amending).	1/2 (S. Atl.).
R-11	081k	South Atlantic 28 Day Group Inclusive Tour Fares (Revalidating and Amending).	1/2 (S. Atl.); 1/2/3.

3. It is not found that the following resolution, incorporated in the agreement indicated, is adverse to the public interest or in violation of the Act provided that approval is subject to conditions previously imposed by the Board:

Agreement CAB	IATA No.	Title	Application
24027:			
R-1	016a	Mid Atlantic Fare Development Program (New)	1/2 (M. Atl.).

Accordingly, *it is ordered* That:

1. Those portions of Agreements C.A.B. 24041, C.A.B. 24027, and C.A.B. 24043 specified in finding paragraph 1 above, which have indirect application in air transportation as defined by the Act, be and hereby are approved;

2. Jurisdiction be and hereby is disclaimed with respect to those portions of Agreements C.A.B. 24041 and C.A.B. 24043 specified in finding paragraph 2 above; and

3. That portion of Agreement C.A.B. 24027 specified in finding paragraph 3 above be and hereby is approved, subject to conditions previously imposed by the Board.

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

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

This order will be published in the FEDERAL REGISTER.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.73-26229 Filed 12-10-73;8:45 am]

[Docket No. 23333; Order 73-11-141]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Specific Commodity Rates

Agreements have been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's economic regulations between various air carriers, foreign air carriers, and other carriers embodied in the resolutions of the Joint Traffic Conferences of the International Air Transport Association (IATA), and adopted pursuant to the provisions of Resolution 590 dealing with specific commodity rates.

The agreements name additional specific commodity rates, as set forth below, reflecting reductions from general cargo rates; and were adopted pursuant to unprotested notices to the carriers and promulgated in IATA letters dated November 12, 1973 and November 19, 1973, respectively.

Agreement CAB	Specific Commodity Item No.	Description and Rate
24072:		
R-1	9570	Soda fountain equipment and bartending supplies 77 cents per kg., minimum weight 500 kgs. From Budapest to New York.
R-2	1024	Fish, live, inedible, including aquarium articles[1] 132 cents per kg., minimum weight 100 kgs. From Papeete to Los Angeles.
24084:	9516	Handicraft Products[1] 90 cents per kg., minimum weight 1,000 kgs. From Casablanca to New York.

[1] See tariff for complete commodity item description.

Pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.14, it is not found that the subject agreements are adverse to the public interest or in violation of the Act, provided that approval is subject to the conditions hereinafter ordered.

Accordingly, *It is ordered*, That:

1. Agreements C.A.B. 24072, R-1 and R-2, and C.A.B. 24084, be and hereby are approved, provided that approval shall not constitute approval of the specific commodity descriptions contained therein for purposes of tariff publications; provided further that tariff filings shall be marked to become effective on not less than 30 days' notice from the date of filing.

2. The findings and approval herein shall not be deemed to modify the findings and Order of the Board in its decision in Agreements Adopted by IATA Relating to North Atlantic Cargo Rates, Order 73-2-24 of February 6, 1973, Order 73-7-9 of July 5, 1973, and Order 73-9-109 of September 28, 1973, and are subject to all the provisions of such orders.

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

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

This order will be published in the FEDERAL REGISTER.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.73-26228 Filed 12-10-73;8:45 am]

[Dockets 25692, 25742]

CONTINENTAL AIR LINES, INC., ET AL.

Notice of Hearing on Equipment Interchange Agreement

In the matter of Continental Air Lines, Inc. and Western Air Lines, Inc. for approval of equipment interchange agreement, Docket 25692; and Alaska Airlines, Inc. and Braniff Airways, Inc. for approval of equipment interchange agreement, Docket 25742.

Notice is hereby given that the hearing in this proceeding will be held before the undersigned on January 8, 1974, at 10:00 a.m. (local time) in Room 911, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C.

Dated at Washington, D.C., December 6, 1973.

[SEAL] HENRY WHITEHOUSE,
Administrative Law Judge.

[FR Doc.73-26233 Filed 12-10-73;8:45 am]

[Docket 25619; Order 73-12-10]

DELTA CALIFORNIA INDUSTRIES, INC., ET AL.

Order Granting Exemption

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 4th day of December, 1973.

Delta California Industries, Inc. (DCI) and Key Air Freight, Inc. (Key) request approval under or exemption from section 408 of the Federal Aviation Act of 1958, as amended (the Act) with respect to the purchase by DCI of all of the outstanding stock of Key for $1,000,000. DCI is a holding company which controls Delta Lines, a predominantly intrastate California trucker with routes extending from the Mexican border to the northern part of the State. It also serves Reno, Nevada. These services are performed under authorization of the California Public Utilities Commission and the Interstate Commerce Commission. Delta Lines owns several other trucking operators, one of which, California Motor Transport, Inc. d/b/a California Motor Express (CME) operates extensive routes within California some of which compete with Delta Lines. The remaining motor carrier subsidiaries of Delta Lines are pick-up and delivery carriers. The application further states that Delta Lines and CME are "long-haul motor carriers" as defined in § 399.20 of the Board's Policy Statements and Parts 296 and 297 of the Economic Regulations and that the application is intended to furnish the information required by these parts.[1]

In consideration of these requirements the applicants state that Key is a California corporation established in 1965, that it received domestic (No. 238) and international (No. 326) air freight forwarder authorizations in July 1966, that it is an IATA cargo agent, that it is licensed by the Federal Maritime Commission (No. 1348) as an ocean freight forwarder, and that the majority of Key's stock is owned by its officers, directors and employees. Applicants submit that the detailed information contained in exhibits to the application with respect to its stockholders, financial condition, facilities, equipment and operations shows that Key has been and continues to be a relatively small, well-managed and profitable forwarder. According to the application Key has never been cited

for the violation of any government regulation and its air forwarder operations have satisfied a genuine public need.

DCI is referred to in the application as a publicly-owned company [2] incorporated in California and headquartered in San Francisco. Delta Lines and CME, wholly owned by DCI, are two of California's largest motor common carrier operations. Other wholly-owned subsidiaries are engaged in local trucking operations, sale and distribution of agricultural chemicals, ownership and leasing of real estate, and bulk grain and fertilizer storage and warehousing. Applicants submit that the information contained in the application demonstrates that DCI is a dynamic, progressive, forward looking organization dedicated to the promotion of the cargo transport industry and that, as a public service company, it has consistently demonstrated a disposition toward compliance with regulatory mandates.

The agreement between DCI and Key provides, in summary, for the acquisition of Key stock in return for cash and promissory notes. Of the $1,000,000 purchase price, DCI will make $300,000 available at closing and will issue promissory notes for $500,000 due January 1, 1974 and for $200,000 due January 1, 1975. DCI will pay interest at the prime rate on these notes on January 1, 1974, July 1, 1974 and January 1, 1975.

Insofar as the various requirements of § 399.20 are concerned, the application states that the financial and management resources of DCI will be made available to Key thereby enhancing the latter's ability to offer exemplary air forwarding service to its present clientele; that there will be limited changes in Key's officers and directors; and that although no definite plans have been adopted, DCI contemplates expansion to increase the number of international gateways and to establish an effective domestic forwarding operation.

In summary, applicants assert that DCI's entry into the air forwarding industry through the acquisition of Key will permit the promotion of air cargo in the following terms:

1. Expand the capabilities now offered by Key to its shippers;

2. Permit Key to improve and expand its marketing efforts to enlist new shipper customers;

3. Make available to Key sales leads identified by but not available to DCI motor carriers; and

4. Make available to Key a portion of the shipments now interlined to other motor carriers which may be divertible from surface to air.

The application also requests approval of interlocking relationships which will arise as a result of the holding by Messrs. Thomas R. Dwyer and Thomas F. Herman of positions as chairman of the Board and President, respectively, of DCI and as directors of Key. Mr. Dwyer is a partner or director of a number of business enterprises, none of which appear to come within the scope of section 409. Mr. Herman holds no positions outside the DCI system of affiliated and subsidiary companies.

An answer in opposition to approval or in the alternative a request for a hearing has been filed by Air-Sea Forwarders, Inc. (Air-Sea) together with a motion for leave to file a late-filed document.[3] The principal thrust of the answer is aimed at past misdeeds of persons who are no longer connected with Key and with conflicts of interest of a number of minor stockholders of Key. Otherwise the answer alleges that the applicants have failed to make the prima facie showing required by § 399.20.[4]

On October 10, 1973, applicants filed a supplemental statement setting forth, in detail, their plans for establishing a domestic air freight program and its continued promotion and expansion. The supplement contends DCI is not so much a long-haul motor carrier but is a regional cargo distribution company specializing in the expedited handling of less than truckload (LTL) shipments. DCI has forty-two terminals including terminals at all big and medium air hubs within the State of California. It foresees its entry into the air freight forwarding industry as a logical extension of its present cargo distribution enterprises. Recognizing that the establishment of a new freight forwarder subsidiary would, in all likelihood, necessitate a period of substantial losses, DCI states that it opted for the acquisition of an established forwarder with demonstrated capability which could benefit from the financial management and traffic resources currently subject to DCI's control. It found such an enterprise in Key. According to the application DCI fully intends to promote air cargo through Key if the pending application is approved by the Board. In general, this promotional effort will be in three forms:

(1) To build upon and expand the Key international operation which, although historically successful, requires financial assistance and technical support in order to expand;

(2) To establish Key as a more vigorous participant in the domestic industry from its current Los Angeles base; and

(3) To expand Key's domestic and international operations through the opening of new bases.

Implementation of these criteria has resulted in a determination to open DCI forwarding stations in San Francisco and Chicago immediately, to be followed by stations in New York and Philadelphia within months or even weeks after the pending application is approved. DCI has also concluded that Houston, Denver, Kansas City, St. Louis, Pittsburgh, Boston and Minneapolis hold great promise for success and it proposes to open stations at these cities as soon as possible.[5]

DCI also intends to establish stations at its major areas of concentration within California. Specifically, as noted, it plans to open a station immediately in the San Franciso area. It also plans to establish facilities in San Diego and Sacramento. Its plans with respect to the latter two cities are more tentative than the anticipated opening in San Francisco.

The foregoing represents DCI's intention as of this date with respect to fully-manned air cargo facilities. These stations will employ DCI air forwarder personnel and will use DCI forwarder equipment. In addition to these expansion moves, the DCI forwarder will enter into exclusive and non-exclusive agency arrangements in other locations where traffic demands.

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[1] Sec. 399.20(e) prohibits affirmative action on an application without a prima facie showing of conscientious promotion of air cargo in accordance with Sec. 296.83 of the Board's Economic Regulations which requires, in part, (1) a plan to solicit existing surface customers for air cargo; (2) an estimate of newly generated traffic; (3) an estimate of present surface traffic subject to diversion; (4) an estimate of interline traffic; and (5) a statement of proposed air cargo sales force and facilities. In addition to determining that such air freight forwarder authorization should result in substantial public benefits and would not reduce effective competition of the existing independent air forwarder industry, the Board requires the submission of (1) persuasive evidence of an applicant's intention to conscientiously promote air cargo and (2) a proposal which by organizational plan and mandate would guard against any disabling conflict of interest between the applicant's operations with the related surface operations of the parent.

[2] While this may be technically factual for SEC and state regulatory purposes, in fact 14.8 percent of DCI's stock is publicly traded over the counter. Except for 2 percent of the stock owned by employees, the balance is owned by two families, Dwyer (71.8 percent) and Wilson (11.4 percent).

[3] The original application was filed June 12, 1973. The motion and answer by Air-Sea was filed July 10, 1973.

Applicants have filed an answer and contingent reply to Air-Sea's motion and answer and the National Customs Brokers and Forwarders Association has filed a letter supporting Air-Sea's position in principle.

[4] Delta Air Lines, Inc. has filed a motion and answer objecting to the use of the word "Delta" in connection with Key's air freight forwarding operations. Applicants have filed an answer and contingent reply. There is no evidence in the application that applicants intend to change Key's name to anything involving the word "Delta." Delta's motion and answer are therefore dismissed without prejudice to its filing a separate complaint under section 411 of the Act or an objection in connection with a Part 215 proceeding. Applicants shall serve Delta in connection with a request to the Board for a name change of Key which includes the word "Delta."

[5] The application states that the constituent parts of DCI operat as separate profit centers and that it is contemplated that Key will function in substantially the same manner. It is further indicated that in terms of day-to-day operations Key will maintain its independence from the DCI motor carrier operations, will continue to employ its own officers, will have its own operational equipment and will occupy its own facilities.

The statement also contains data and forecasts of potential air cargo traffic, absence of significant diversionary impact on other indirect or direct air carriers and other relevant information.

Air-Sea has filed an answer to the supplemental statement which reiterates its opposition to the acquisition on grounds previously stated. In addition Air-Sea argues that DCI's claim that its trucking operations are geographically limited belies the fact that Delta Lines' revenues ($34 million) place it among the top 6 per cent of all ICC licensed truckers and that DCI should not be allowed to make less than a prima facie case for promotion and development of domestic air freight on the ground that it is a regional carrier. Air-Sea claims that DCI's forecasts and data on potential air cargo are inaccurate and/or conjectural and should be open to cross-examination rather than be kept confidential as DCI has requested. Air-Sea argues that DCI's forecasts indicate that the bulk of its air forwarding revenues will come from domestic operations; that Key has not demonstrated capability in domestic operations; that such operations, according the supplemental statement, will be founded on the assignments of Delta Lines' salesmen to promote and sell air cargo and that this is in complete conflict with the Board's requirement that a separate sales force should be assigned the goal of selling air cargo. Air-Sea further contends that, with at least 15 Key stockholders being representatives of shippers and air carriers, Key may be nothing but a dummy forwarder. If these practices are rewarded by approving this application, Air-Sea believes that whatever rationality is left in the West Coast international forwarder market will be lost. Air-Sea further submits that approval of the application would amount to prejudgment of the issues in the long-haul motor carrier renewal case which arises when the present air freight forwarder authority held by such motor carriers expires on April 20, 1974 and that under those circumstances it would be premature and prejudicial to grant pendente lite exemption authorizations to additional long-haul motor carriers.

Upon consideration of the foregoing it is concluded that Key is an indirect air carrier and that DCI, through its subsidiaries, is a long-haul motor common carrier, all within the meaning of the Board's regulations. The interlocking relationships of Messrs. Dwyer and Herman also appear to come within the scope of section 409 of the Act.[6]

In considering the merits of the application, we have carefully reviewed the data set forth therein and all other submissions by the parties and have decided to grant applicants' request for an exemption pursuant to the proviso of section 408(a)(5) of the Act. In reaching this conclusion we have carefully considered the comments of Air-Sea as those comments relate to the Board's expression of its policy with respect to the entry of long-haul truckers into air freight forwarding as set forth in the "Motor Carrier-Air Freight Forwarder Investigation."[7] Air-Sea's objections are based on Key's past misdeeds which are no longer in issue;[8] on the conflicts of interest of Key's stockholders which will be eliminated by the acquisition; and, in its latest pleading, on the adverse effect that DCI's size and resources might have on the local (Los Angeles) air freight forwarding industry.

We conclude that the applicants have made a reasonable case for the promotion and development of air freight from sources other than the local (Los Angeles) market. With full consideration given to Air-Sea's additional limited factual representations, its request that the Board deny approval of the application or alternatively set the matter down for hearing does not, on the basis of the entire record, appear to be meritorious. With regard to Air-Sea's contention that approval of the application would, in effect, prejudge the long-haul motor carrier renewal proceeding, the Board, in its opinion in the "Investigation," reserved the power to suspend the processing of new applications and, if necessary, to terminate outstanding licenses. Since the instant application concerns the acquisition of outstanding licenses, DCI/Key will be required to show that the operations forecasts in the application and supplemental statement have been, in fact, substantially undertaken in order to avoid a possible finding that one or both of Key's operating authorizations should be terminated.

In light of the foregoing, the Board finds that the proposed acquisition of Key by DCI will not result in conflicts of interest sufficient to preclude such acquisition. The Board further finds that the long-haul motor carrier applicant is capable of participating in the proposed air transportation and of conforming to the provisions of the Act and all rules and requirements thereunder; that the applicant will conscientiously promote air cargo and will benefit air transportation; and that the applicants' operations will not create a monopoly or monopolies and thereby restrain competition or jeopardize another air carrier, or will otherwise be inconsistent with the public interest.

The Board concludes that exemption of the above-described transaction, and resulting control relationships pursuant to section 408(a)(5) would, subject to appropriate terms and conditions, be in the public interest.

Accordingly, *it is ordered* That:

1. The common control by DCI of Key, Delta Lines and CME as described herein be and it hereby is exempted from the provisions of section 408 of the Act pursuant to the proviso of subsection (a)(5) thereof;

2. The exemption granted herein shall be effective for a period of five years from the effective date of Order 69-4-100;

3. Jurisdiction in this proceeding be and it hereby is retained over the control and interlocking relationships herein for the purpose of taking such further action, with or without a hearing, as may be in the public interest;

4. The motion of Air-Sea for leave to file a late-filed document be and it hereby is granted and the answer of Air-Sea requesting disapproval of the application or for a hearing thereon be and it hereby is denied; and

5. Except to the extent granted herein all other requests be and they hereby are dismissed.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.73-26230 Filed 12-10-73;8:45 am]

HAWAIIAN AIRLINES, INC. AND AEROLINEE ITAVIA, S.P.A.

[Docket 26144]

Notice of Proposed Approval

Application of Hawaiian Airlines, Inc. and Aerolinee Itavia, S.P.A. for approval of an agreement or, in the alternative, a disclaimer of jurisdiction, Docket 26144.

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 until December 20, 1973 within which to file comments or request a hearing with respect to the action proposed in the order.

Dated at Washington, D.C., December 6, 1973.

WILLIAM B. CALDWELL, Jr.,
Director,
Bureau of Operating Rights.

Application of Hawaiian Airlines, Inc., and Aerolinee Itavia, S.P.A. for approval of an agreement or, in the alternative a disclaimer of jurisdiction.

Order of Approval

Pursuant to the third proviso of section 408(b) of the Federal Aviation Act of 1958, as amended (the Act) Hawaiian Airlines, Inc., (Hawaiian) and Aerolinee Itavia, S.P.A. (Itavia) request approval without a hearing

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[6] Since it appears that these relationships come within the scope of the exemption provided by Part 287 of the Economic Regulations, the application will be dismissed to the extent it requests approval of these relationships.

[7] Order 69-4-100, April 21, 1969. The Board's opinion, in brief, reflected the view that it was in the public interest to permit the monitored entry of long-haul motor carriers into air freight forwarding because of the public benefits that would flow from increased promotion of air cargo transportation. The Board stated that neither the size, geographical extent or surface general commodity rights would, of themselves, bar a trucker from the air freight forwarding business.

[8] The unlawful activities in question have long since been terminated, and the record shows that Key's present compliance disposition is satisfactory.

of a lease agreement by which Hawaiian proposes to lease one DC-9-31 aircraft to Itavia for a period of fifteen months. In the alternative, the applicants request a disclaimer of jurisdiction over the transaction.

Hawaiian is a certificated air carrier authorized by the Board to provide scheduled and charter service between all points in the State of Hawaii. Itavia is an Italian domestic air carrier authorized by the Government of Italy to provide air transportation services.

Hawaiian and Itavia have entered into an arrangement by which Itavia will lease one DC-9-31 aircraft now in the possession of Hawaiian for a period of fifteen months, commencing March 15, 1974. The lease covers the aircraft, two engines and all other equipment and accessories attached thereto. The aircraft is owned by McDonald Douglas Finance Corporation (MDFC) and was leased to Hawaiian pursuant to an agreement dated October 31, 1969.

Hawaiian states that it has determined that its short range aircraft needs are such that it would be advantageous for it to sublease the aircraft rather than retain possession itself, and, therefore, has negotiated the instant transaction with Itavia and has entered into the agreement as a result of arm's length bargaining.

Hawaiian will be paid an amount equal to $57,000 per month as basic rental for the aircraft with the rent for the first and last month to be paid in advance. In addition, Itavia will be required to pay $75 per flight per hour as a usage charge.

Itavia is required to maintain the aircraft in accordance with Federal Aviation Administration standards and is required to operate the aircraft so as to maintain the U.S. registration of the aircraft. Further, Itavia is obligated to secure necessary insurance at its expense and it guarantees complete indemnification of Hawaiian with respect to any acts or omissions caused by it

The applicants contend that this lease transaction does not constitute the lease of a "substantial part" of the property of Hawaiian and, accordingly, the Board should disclaim jurisdiction over the arrangement. The applicants state that Hawaiian's present fleet consists of nine DC-9 aircraft and, although a lease involving one of nine DC-9's does not come within the Board's rule of thumb with respect to disclaimer of jurisdiction,[1] the lease of this one aircraft, especially for such a relatively short term, should not be construed as a transfer of a substantial part of Hawaiian's fleet.

In the event the Board determines that it is not willing to disclaim jurisdiction over the transaction, the applicants contend that the lease agreement should be approved pursuant to the third proviso of section 408(b) of the Act. In this connection, the applicants assert that approval of the transaction will materially assist Hawaiian in improving its financial position and will indirectly assist the balance of payments position of the United States.

No objections to the application or requests for a hearing have been received.

Notice of intent to dispose of the application without a hearing has been published in the FEDERAL REGISTER, and a copy of such notice has been furnished by the Board to the Attorney General not later than the day following the date of such publication, both in accordance with the requirements of section 408(b) of the Act.

Upon consideration of the foregoing it is concluded that Hawaiian is an air carrier and Itavia is a phase of aeronautics, both within the meaning of section 408(a)(2) of the Act. It is also concluded that the subject lease transaction does not come within the 10 percent rule of thumb, as previously expressed,[2] and that it therefore involves a substantial part of the properties of Hawaiian also within the meaning of that section. It is further concluded ,however, that the transaction does not affect the control of an air carrier directly engaged in the operation of aircraft in air transportation, does not result inc reating a monopoly, and does not tend to restrain competition. No person disclosing a substantial interest in the proceeding is currently requesting a hearing and it is concluded that the public interest does not require a hearing. The transaction is similar to others which have been approved by the Board,[3] and is not found to be inconsistent with the public interest nor does it appear that the conditions of section 408 will be otherwise unfulfilled.

Pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.3 and 385.13, it is found that the foregoing transaction should be approved under section 408 of the Act, to the extent applicable, without a hearing, and that the application otherwise should be dismissed.

Accordingly, *it is ordered* That:

1. The subject lease transaction between Hawaiian Airlines, Inc., and Aerolinee Itavia, S.F.A., as described in the application in Docket 26144, be and it hereby is approved pursuant to section 408(b) of the Act; and

2. To the extent not granted, the application in Docket 26144 be and it hereby is dismissed.

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

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

By William B Caldwell, Jr., *Director, Bureau of Operating Rights.*

[SEAL] EDWIN Z. HOLLAND, *Secretary.*

[FR Doc.73-26231 Filed 12-10-73;8:45 am]

[DOCKET 25814]

MAERSK AIR I/S

Notice of Postponement of Prehearing Conference and Hearing

Notice is hereby given that the prehearing conference and hearing in the above-entitled proceeding have been postponed from December 12, 1973 (38 FR 31556, November 15, 1973), to December 18, 1973, at 10:00 a.m. (local time) in Room 911, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C.

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 December 12, 1973.

Dated at Washington, D.C., December 6, 1973.

[SEAL] THOMAS P. SHEEHAN, *Administrative Law Judge.*

[FR Doc.73-26232 Filed 12-10-73;8:45 am]

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[1] See, for example, Frontier Airlines, Inc., Order 70-11-13, November 4, 1970; Allegheny Airlines, Inc., Order 70-11-14, November 4, 1970.

[2] Footnote 1, supra.

[3] See Order 72-3-84, March 24, 1972, and Order 73-3-25, March 9, 1973.

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 19882 etc.; File No. BP-19402 etc.; FCC 73-1249]

JIMMIE H. HOWELL ET AL.

Order Designating Construction Permit Applications for Consolidated Hearing

In re applications of:

Jimmie H. Howell, Milton, Florida; Requests: 1330 kHz, 5 kW, Day; Docket No 19882, File No. BP-19402.

H. Byrd Mapoles, tr/as Mapoles Broadcasting Company, Milton, Florida; Requests: 1330 kHz, 5 kW, Day; Docket No. 19883, File No. BP-19403.

Aaron J. Wells, Milton, Florida; Requests: 1330 kHz, 5 kW, Day, Docket No. 19884, File No. BP-19430.

Radio Santa Rosa, Inc., Milton, Florida; Requests: 1330 kHz, 5 kW, Day; Docket No. 19885, File No. BP-19431.

For construction permits.

1. The Commission has for consideration the above-captioned mutually exclusive applications seeking to replace the deleted facilities of former station WEBY, Milton, Florida.

2. The application of Jimmie H. Howell indicates that he was indicted by the Santa Rosa Grand Jury on April 20, 1973. Howell, a County Commissioner, was charged with soliciting a $4,000 bribe from the manager of a heavy equipment company in connection with the awarding of county contracts in violation of Florida Statute 838.02. In light of Howell's alleged criminal activity, the Commission is unable at this time to make a determination as to whether he has the requisite qualifications to be a broadcast licensee. We have decided, therefore, to order that in the event the Administrative Law Judge determines that Jimmie H. Howell is the preferred applicant, he shall withhold his Initial Decision until notified by the applicant of the result of the criminal proceedings. Upon notification indicating that Howell

has not been acquitted, the Administrative Law Judge shall add such further issues and hold such further proceedings as may be necessary to determine Howell's qualifications.

3. The information concerning the aforementioned indictment was first contained in an amendment filed by Howell on November 6, 1973. Since the indictment was returned by the grand jury in April of 1973, and since during the interim six-month period Howell filed several amendments without disclosing the indictment, a substantial question exists as to whether he has complied with the provisions of § 1.65 of the Commission's rules. Thus, we have included an issue with respect thereto.

4. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since they are mutually exclusive, however, they must be designated for hearing in a consolidated proceeding on the issues specified below.

5. *Accordingly, it is ordered,* That pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether Jimmie H. Howell has complied with the provisions of § 1.65 of the Commission's rules by keeping the Commission advised of substantial changes in his status and informing the Commission of all matters of decisional significance and, if not, the effect of such non-compliance upon his basic and/or comparative qualifications.

2. To determine which of the proposals would, on a comparative basis, best serve the public interest.

3. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

6. *It is further ordered,* That if the Administrative Law Judge determines that Jimmie H. Howell is the preferred applicant, he shall withhold his Initial Decision until notified by the applicant of the result of the criminal proceedings in the Circuit Court of the First Judicial Circuit of Florida, Case No. 73-5231F, and upon notification that Jimmie H. Howell has not been acquitted, shall add such further issues and hold such further proceedings as may be necessary to determine Howell's qualifications to be a licensee of the Commission.

7. *It is further ordered,* That, to avail themselves of the opportunity to be heard, the applicants herein, pursuant to § 1.1221(c) of the Commission's rules, in person or by attorney, shall, within 20 days of the mailing of this Order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

8. *It is further ordered,* That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: November 28, 1973.

Released: December 4, 1973.

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

[FR Doc.73-26219 Filed 12-10-73;8:45 am]

[Docket No. 19660; RM-690]

INTERNATIONAL RECORD CARRIERS

Scope of Operations in the Continental U.S.; Memorandum Opinion and Order Instituting Investigation; Correction

1. Paragraph 18 of the Memorandum Opinion and Order in the above-captioned matter released November 26, 1973 (38 FR 32967) is amended to include the United States-Liberia Radio Corporation as a party respondent to the investigation instituted therein.

Released: November 27, 1973.

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

[FR Doc.73-26221 Filed 12-10-73;8:45 am]

FEDERAL ENERGY OFFICE

PETROLEUM INDUSTRY ADVISORY COMMITTEE

Notice of Meeting

Notice is hereby given in accordance with Pub. L. 92-463, that there will be a meeting of the Petroleum Industry Advisory Committee (Independent Sector). The Committee is composed of representative groups identified by geographic regions as follows: Northeast Area, Rocky Mountain Area (Petroleum Administration District IV); Eastcoast Area (PAD I), Midwest Area (PAD II), Texas and Southern Areas (PAD III), Westcoast Area (PAD V), and Washington, D.C. Area (i.e., association representatives). Individual groups will meet in Washington, D.C. at the Treasury Building, 15th and Pennsylvania Avenue, NW. on the date and time set forth below:

Northeast Area, Wednesday, December 12, 1973, 10 a.m., Rm. 4121.
Rocky Mountain Area, Wednesday, December 12, 1973, 1 p.m. Rm. 4121.
Washington, D.C. Area, Monday, December 17, 1973, 10 a.m., Rm. 4426.
East Coast Area, Wednesday, December 19, 1973, 10 a.m., Rm. 4426.
Midwest Area, Wednesday, December 19, 1973, 2 p.m., Rm. 4426.
Texas and Southern Area, Thursday, December 20, 1973, 10 a.m., Rm. 4426.
West Coast Area, Thursday, December 20, 1973, 1 p.m., Rm. 4426.

The Committee was established to advise the Administrator, FEO with respect to general petroleum aspects of interests and problems related to the policy and implementation of programs to meet the current national energy crisis. The purpose of the meeting is to hear the views of the areas represented.

The meetings are open to the public, however, space and facilities are limited. Further information concerning the meetings may be obtained from Mr. Dell V. Perry, Assistant Director, Office of Oil and Gas, U.S. Department of the Interior, Washington, D.C., Area Code 202-343-6951. Minutes of the meetings will be made available for public inspection two weeks after the meetings at the Office of Oil and Gas, Washington, D.C.

Due to the recency of the establishment of the Federal Energy Office, the establishment of the Petroleum Industry Advisory Committee (Independent Sector), and the urgency for holding meetings, more timely notice was not possible.

Dated: December 8, 1973.

W. E. SIMON,
Administrator.

[FR Doc.73-26338 Filed 12-10-73;9:47 am]

FEDERAL POWER COMMISSION

[Docket No. E-8530]

BUCKEYE POWER, INC.

Notice of Application

DECEMBER 4, 1973.

Take notice that on November 30, 1973, and pursuant to section 204 of the Federal Power Act, 16 U.S.C. 824c, Buckeye Power, Inc. (Applicant) of Columbus, Ohio, filed an application seeking the Commission's approval for the issuance of long-term obligations in the form of first mortgage bonds for private placement, such bonds to be issued on or before December 31, 1976, with a final maturity date of not later than October 1, 2008.

The net proceeds from the sale of the bonds will be used to provide funds for the Applicant's construction program.

Pursuant to § 34.1a(a)(4) of the Commission's regulations under the Federal Power Act, 18 CFR 34.1a(a)(4), Applicant seeks exemption from the competitive bidding requirements of § 34.1a(b) and (c). At page 9 of the application it is stated that:

> Compliance with the competitive bidding requirements of paragraphs (b) and (c) of § 34.1a would not be appropriate to aid the Commission to determine whether any fees, commissions, or other remuneration to be paid, directly or indirectly, in connection with the issue, sale or distribution of the Bonds, or whether such issue or sale or any term or condition of such issue or sale is not consistent with the public interest.

Any person desiring to be heard or to make any protest with reference to such application should, on or before December 17, 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 petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-26192 Filed 12-10-73;8:45 am]

[Project No. 2734]

CAROLINA POWER AND LIGHT CO.

Notice of Application for Preliminary Permit Unconstructed Project

DECEMBER 4, 1973.

Public notice is hereby given that application for preliminary permit has been filed under the Federal Power Act (16 U.S.C. 791a–825r) by Carolina Power & Light Company (Correspondence to: Mr. J. A. Jones, Executive Vice President, Carolina Power & Light Company, 336 Fayetteville Street, Raleigh, North Carolina 27602), for proposed Project No. 2734, on the Sugarcamp Branch of Big Pine Creek and Pawpaw Creek, tributaries of the French Broad River, in the vicinity of the Town of Marshall in Madison County, and in the region of Buncombe County, North Carolina.

According to the application, the potential Madison County Pumped Storage Project would consist of: (1) an upper reservoir having a tentative maximum pool elevation of 3,400 feet (m.s.l.) formed by a rockfill dam on Sugarcamp Branch of Big Pine Creek with an approximate height of 360 feet; (2) a lower reservoir having a tentative maximum pool elevation of 2,200 feet (m.s.l.) formed by a main rockfill dam having a height of about 290 feet on Pawpaw Creek about one mile upstream from the junction of Pawpaw Creek and the French Broad River, and a saddle dam of rockfill construction about 125 feet high at the divide between Pawpaw Creek and Little Pine Creek; (3) connecting pressure tunnels and penstocks; and (4) a powerhouse (possibly underground) located adjacent to the lower reservoir to house and installed capacity of not less that 1,000 megawatts or an ultimate installation of 2,000 megawatts. Reversible pump-turbine motor-generator units of undetermined ratings would operate under an average head range of about 1,175 feet. Power developed by the project would be used by the Applicant to supplement future load requirements. No construction is authorized under a preliminary permit.

Any person desiring to be heard or to make protest with reference to said application should on or before February 4, 1974, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-26189 Filed 12-10-73;8:45 am]

[Docket No. E-8493]

COMMONWEALTH EDISON

Proposed Changes in Rates, Charges, and New Electric Service Agreements

DECEMBER 4, 1973.

Take notice that Commonwealth Edison (Commonwealth) on November 16, 1973, tendered for filing forty Revised Sheets to its FPC Electric Tariff governing service for resale. Also, Commonwealth tendered for filing several changes to its FPC Electric Tariff to comply with an antitrust review by the United States Department of Justice. This review was conducted in connection with an application by Commonwealth Edison Company to construct two nuclear electric generating units at a proposed station near Seneca, Illinois. This filing also includes revised Electric Service Contracts for all the municipalities (Batavia, St. Charles, Geneva, Naperville, Rock Falls, Rochelle, and Winnetka) supplied under the FPC Electric Tariff reflecting the aforementioned revisions in the Tariff and including the municipalities agreement.

Commonwealth also requested that the 30 day notice requirement of § 35.11 of the Commission's regulations be waived to permit initiation of service to the new points of delivery of Naperville and Rock Falls. Service to Naperville began on October 9, 1973, and service to Rock Falls is expected to begin on December 1, 1973.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 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 December 17, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-26198 Filed 12-10-73;8:45 am]

[Docket No. E-8512]

DETROIT EDISON CO.

Electricity Supply Agreement

DECEMBER 4, 1973.

Take notice that on November 19, 1973, Detroit Edison Company (Company) tendered for filing with the Commission an Electricity Supply Agreement and rate schedule entered into with the Village of Sebewaing, Michigan. The proposed effective date of the agreement is November 15, 1973.

Detroit Edison states that the service is to be at 2.4 Kv and is scheduled to commence on or as soon after November 15, 1973 that service can reasonably be provided by the company. The company estimates that the Village of Sebewaing will have a demand of 2100 kilowatts and use 1,250,000 kilowatt hours monthly. The company further estimates that the first year's revenue will be $210,000.00.

Detroit Edison requests that the thirty day prior notice requirement be waived due to the urgency of the energy shortage situation in which the Village of Sebewaing finds itself.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 14, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-26188 Filed 12-10-73;8:45 am]

[Docket No. E-8453]

DETROIT EDISON CO.

Notice of Application

DECEMBER 4, 1973.

Take notice that on October 23, 1973, Detroit Edison Company (Applicant), filed a Supplemental Application with the Federal Power Commission seeking authority to extend the final issue date on $200,000,000 short-term promissory notes, previously authorized, from December 31, 1973 to December 31, 1974, and to extend the final maturity date from December 31, 1974 to December 31, 1975.

Applicant is incorporated under the laws of the State of Michigan with its principal business office at Detroit, Michigan, and is engaged in the generation, transmission and sale of electric energy throughout the State of Michigan.

The proceeds from the notes will be used for the construction, completion, extension and improvement of the Applicant's facilities.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 17, 1973, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-26193 Filed 12-10-73;8:45 am]

[Docket No. E-8480]

DUQUESNE LIGHT CO.

Notice of Application

DECEMBER 5, 1973.

Take notice that the Duquesne Light Company (Applicant) has transmitted for filing with the Commission, pursuant to section 205 of the Federal Power Act, and Part 35 of the regulations issued thereunder, Amendment No. 2 to the Power Agreement between the Applicant, Toledo Edison Company, Cleveland Electric Illuminating Company, Ohio Edison Company and Pennsylvania Power Company. The Agreement is dated May 29, 1969 and the letter transmitting same to the Commission is dated November 1, 1973.

The effect of Amendment No. 2 is to cancel Amendment No. 1, to eliminate the Cleveland Electric Illuminating Company as a receiver under the Power Agreement, to reduce the amount supplied to the Duquesne Light Company from 8,500 kilowatts to 8,300 kilowatts and to increase the amount to be retained by the Toledo Edison Company by 17,000 kilowatts. Applicant requests that this modification be accepted for filing and that it be permitted to go into effect as of November 1, 1973.

Any person desiring to be heard or to make any protest with reference to this application should on or before December 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). Persons wishing to become parties to a proceeding or to participate as a party in a hearing related thereto must file petitions to intervene in accordance with 18 CFR 1.8.

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.

The application referred to herein is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-26185 Filed 12-10-73;8:45 am]

[Docket Nos. RP71-15, *et al.*]

EAST TENNESSEE NATURAL GAS CO.

Notice of Proposed PGA Rate Adjustment

DECEMBER 4, 1973.

Take notice that on November 16, 1973, East Tennessee Natural Gas Company (East Tennessee) tendered for filing as part of its FPC Gas Tariff, Sixth Revised Volume No. 1, Sixth Revised Sheet No. 4 proposed to be effective January 1, 1974.

East Tennessee states that the sole purpose of these revised tariff sheets is to adjust East Tennessee's rates pursuant to the PGA provision in section 22 of the General Terms and Conditions approved by the Commission's order of September 25, 1972, in Docket Nos. RP71-15, *et al.* East Tennessee further states that such tariff sheets reflect an adjustment based on (1) the increased rates of its sole supplier, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), which were suspended until January 1, 1974, by the Commission's order of August 1, 1973, in Docket No. RP73-113, and (2) Tennessee's PGA rate increase filed November 16, 1973, to be effective on January 1, 1974. East Tennessee further states that as a result of a revised filing to be made by Tennessee on or before November 30, 1973, in Docket No. RP73-113, East Tennessee will revise its PGA rate filing when the revised rates of Tennessee become known.

East Tennessee states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 14, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene, but parties already permitted to intervene in this docket need not refile petitions to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-26194 Filed 12-10-73;8:45 am]

[Docket No. E-8432]

LOUISIANA POWER & LIGHT

Notice of Application

DECEMBER 5, 1973.

Take notice that Lousiana Power & Light (Applicant) submits for filing the documents discussed below. The Agreement between Applicant and Pointe Coupee Electric Membership Corporation, dated September 14, 1968, is extended to May 29, 1980 and provides for increasing the capacity of Delivery Point No. 1 (FPC Rate Schedule No. 35) to 8,500 kilowatts and 34,500 volts.

Delivery Point No. 2 of Claiborne Electric Cooperative, Inc., Exhibit II, Page 1, FPC Rate Schedule No. 42, Supplement No. 4 was increased July 18, 1973 to an initial capacity of 8,300 kilowatts and a minimum of 1,100 kilowatts. Delivery Point No. 9 of Claiborne Electric Cooperative, Inc., Exhibit II, Page 2, FPC Rate Schedule No. 42, Supplement No. 4, has been discontinued and the load has been shifted to Delivery Point No. 2, discussed above. Delivery Point Nos. 11 and 12 of the Claiborne Electric Cooperative, Inc., Exhibit II, Page 3, FPC Rate Schedule No. 2, Supplement No. 4, began taking service on July 5, 1971, and July 21, 1971 respectively. Claiborne Delivery Point No. 13, began initial service on December 20, 1972, and has been added to Exhibit II, Page 3, FPC Rate Schedule No. 42, Supplement No. 4.

Delivery Point No. 2 of South Louisiana Electric Cooperative Association, Exhibit V, Page 1, FPC Rate Schedule No. 42, Supplement No. 8, was discontinued June 17, 1970 and its load was shifted to other delivery points as stated in the Exhibit. Louisiana Power & Light Company began providing service at Delivery Point No. 9 of South Louisiana Electric Cooperative Association, known as the "East Houma" Delivery Point, at 34,500 volts with an initial capacity of 5,700 kilowatts and a minimum of 1,425 kilowatts. Service began on July 19, 1973.

Applicant is now providing Valley Electric Membership Corporation with electric service at the latter's Delivery Point No. 8, known as the "VERDA" Delivery Point, at 13,800 volts with an initial capacity of 4,000 kilowatts and a minimum of 800 kilowatts. Delivery Point No. 8 is proposed in FPC Rate Schedule No. 42 Supplement No. 8, and service began on March 30, 1973.

The above mentioned application has been filed pursuant to section 205 of the Federal Power Act and Part 35 of the regulations issued thereunder. Any person desiring to be heard or to make any protest with reference to this application should on or before December 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). Persons wishing to become parties to a proceeding or to participate as a party in a hearing thereto must file petitions to intervene in accordance with 18 CFR 1.8.

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.

The application referred to herein is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-26184 Filed 12-10-73;8:45 am]

NATIONAL POWER SURVEY TECHNICAL ADVISORY COMMITTEE ON FINANCE

Order Designating Additional Member

DECEMBER 4, 1973.

The Federal Power Commission, by order issued September 28, 1972, established the National Power Survey Technical Advisory Committees.

2. Membership. An additional member of the Technical Advisory Committe on Finance, as selected by the Chairman of the Commission, with the approval of the Commission, is as follows:

H. Dean Miller, Director, Public Utilities, Management Division, Federal Supply Service, General Service Administration.

Mr. Miller replaces Mr. Robert M. O'Mahoney.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.73-26195 Filed 12-10-73;8:45 am]

NATIONAL POWER SURVEY TECHNICAL ADVISORY COMMITTEE ON FINANCE AND ITS TASK FORCE ON FUTURE FINANCIAL REQUIREMENTS

Order Designating Additional Member

DECEMBER 4, 1973.

The Federal Power Commission, by order issued September 28, 1972, established the National Power Survey Technical Advisory Committees, and by order issued December 7, 1972, established the Technical Advisory Committee on Finance Task Force on Future Financial Requirements.

2. Membership. An additional member to the aforementioned Technical Advisory Committee and the Task Force, as selected by the Chairman of the Commission, with the approval of the Commission, is as follows:

Alan M. Wright, Administrator, Southern Services, Inc., Financial Models.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.73-26196 Filed 12-10-73;8:45 am]

[Docket No. E-8508]

NEW ENGLAND POWER POOL

Application To Be Treated as a Single Filing Entity

DECEMBER 5, 1973.

Take notice that on November 16, 1973, the New England Power Pool (NEPOOL) tendered for filing an application to be treated as a single filing entity.

In support of its application, NEPOOL states that with respect to a February 28, 1973 filing which added Newport Electric Corporation as a NEPOOL Participant, filing fees of $2,900 were assessed by the Secretary of the Commission. Furthermore, with respect to a February 14, 1972 filings of contracts with non-participants, the Commission accepted a single fee of $100 for all NEPOOL Participants in regard to each filing.

NEPOOL states that the filing fees charged under Section 36.2 of its Regulations are intended to bear a reasonable relationship to the cost of performing the administrative services necessitated by the particular filing but the treatment of each NEPOOL Participant as a separate filing entity for the purpose of determining the amount of fees required by Section 36.2 is grossly inequitable and not related to the cost of providing the administrative services necessitated by the particular NEPOOL filing for which the fees were charged. Finally, NEPOOL states that in order to avoid this inequity for existing NEPOOL Participants, it would be possible to provide that each new Participant would bear the filing costs necessitated by joining the pool. However, this fee could be substantial enough to deter smaller systems from joining the pool.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 20, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-26183 Filed 12-10-73;8:45 am]

[Docket Nos. RP73-64, RP72-91 (Phase II), *et al.*]

SOUTHERN NATURAL GAS CO.

Notice of Proposed Changes in FPC Gas Tariff

DECEMBER 3, 1973.

Take notice that Southern Natural Gas Company (Southern) on November 16, 1973, tendered for filing proposed changes in its FPC Gas Tariff, Sixth Revised Volume No. 1 to become effective January 1, 1974. Such filing is pursuant to Section 17 (Purchased Gas Adjustment) of the General Terms and Conditions of Southern's FPC Gas Tariff, Sixth Revised Volume No. 1 and Article II and Article III of the Stipulation and Agreement approved by the Commission's order dated July 23, 1973 in Southern's Docket Nos. RP72-91 (Phase II), *et al.* Southern states that the proposed changes would increase revenues from jurisdictional sales by 4.25¢ per Mcf in its commodity and one-part rates. The increase is made up of the following items:

(1) An adjustment to the Base Tariff Rates pursuant to Article III of the Stipulation and Agreement approved by the Commission's order dated July 23, 1973 for increases in the levels for advance payments of $6,971,559 above the advance payment levels presently reflected in Southern's rates. The jurisdictional cost increase due to additional advance payments is $878,486.

(2) A Current Adjustment for increased cost of purchased gas to jurisdictional customers of $17,424,001.

(3) A Surcharge Adjustment pursuant to Article II of the Stipulation and Agreement approved by the Commission's order dated July 23, 1973 for advance payments accumulated during the period of June 1, 1973 through August 31, 1973 of $433,118.

(4) A Surcharge Adjustment pursuant to section 17.3 of the General Terms and Conditions of Southern's FPC Gas Tariff for unrecovered purchased gas costs.

According to Southern, copies of the filing are being served upon the company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 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 filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-26187 Filed 12-10-73;8:45 am]

[Docket No. RP74-37-2]

UNITED GAS PIPE LINE CO. AND VICKSBURG CHEMICAL CO.

Notice of Petition for Extraordinary Relief

DECEMBER 3, 1973.

Take notice that on November 9, 1973, Vicksburg Chemical Company (VCC), as a direct industrial customer of United Gas Pipe Line Company (United) filed a petition for extraordinary relief in the above-captioned docket. VCC's petition is founded on a claim that curtailment

will seriously jeopardize the national defense. VCC, in this connection, states that it is the sole and only supplier of nitrogen tetroxide rocket fuel to the United States Government for its intercontinental ballistic missiles. VCC alleges that it has to date been unable to acquire and install alternate fuel capacity.

VCC specifically requests that an order be entered authorizing and directing United to exempt VCC from the curtailment of natural gas and further authorizing and directing United to continue to deliver to VCC all of its demands for natural gas up to 5,741 Mcf per day. Temporary relief of the same nature and extent is sought pending hearing if deemed necessary.

The exigencies of the present gas shortage on United's system and commensurate curtailment of deliveries necessitate that the period for filing of intervention and protest be shortened to ten (10) days. Therefore, any person desiring to be heard or to make a protest should on or before December 13, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-26181 Filed 12-10-73;8:45 am]

[Project No. 2545]

WASHINGTON WATER POWER CO.

Application for Change in Land Rights and Revised Exhibits F and K

DECEMBER 3, 1973.

Public notice is hereby given that application was filed under the Federal Power Act (16 U.S.C. 791a–825r) by the Washington Water Power Company (correspondence to: Mr. J. P. Buckley, Vice President, P.O. Box 1445, Spokane, Washington 99210) on July 25, 1973, for a change in land rights, and on August 20, 1973, for revised Exhibits F and K for its constructed Spokane River Project, FPC No. 2545, located on the Spokane River, in Spokane, Stevens and Lincoln Counties, Washington.

The application for change in land rights seeks Commission approval to convey nine small parcels of land, totaling approximately four acres, to the City of Spokane to be included in an extensive riverfront development program by the City in preparation for an International Ecological Exposition (Expo '74). The Applicant states that all of the property will be used after Expo '74 for public purposes only. The land to be conveyed lies in the vicinity of the Spokane River in the City of Spokane within the Monroe Street and Upper Falls developments. The revised Exhibits F and K have been filed to show the project boundary pursuant to License Article 29.

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

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-26182 Filed 12-10-73;8:45 am]

WISCONSIN POWER AND LIGHT CO.

[Docket No. E-8503]

Notice of Proposed New Electric Service Agreement

DECEMBER 4, 1973.

Take notice that Wisconsin Power and Light Company on November 19, 1973, tendered for filing a proposed Wholesale Power Agreement with the Village of Pardeeville, Columbia County, Wisconsin. The service agreement is an executed form and is dated November 1, 1973.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 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 filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-26197 Filed 12-10-73;8:45 am]

[Rate Schedule Nos. 11, et al.]

SUN OIL CO.

Notice of Rate Change Filings

DECEMBER 4, 1973.

Take notice that the producers listed in the Appendix attached hereto have filed proposed increased rates to the applicable area new gas ceiling based on the interpretation of vintaging concepts set forth by the Commission in its Opinion No. 639, issued December 12, 1972.

The information relevant to each of these sales is listed in the Appendix.

Any person desiring to be heard or to make any protest with reference to said filings should on or before December 12, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

APPENDIX

Filing date	Producer	Rate schedule No.	Buyer	Area
Nov. 16, 1973	Sun Oil Co., Southland Center, P.O. Box 2880, Dallas, Tex. 75221.	11	Tennessee Gas Pipeline Co.	Texas Gulf Coast.
Do	Mobil Oil Corp., 3 Greenway Plaza East, Suite 800, Houston, Tex. 77046.	318	Transcontinental Gas Pipe Line Corp.	Do.
Nov. 21, 1973	do	43	Texas Eastern Transmission Corp.	Do.
Nov. 23, 1973	do	255	Arkansas Louisiana Gas Co.	Other Southwest Area.
Do	Marathon Oil Co., Findlay, Ohio 45840.	4	Northern Natural Gas Co.	Permian.

[FR Doc.73-26190 Filed 12-10-73;8:45 am]

[Docket No. CP73-340]

COLORADO INTERSTATE GAS CO.

Notice of Informal Conference

DECEMBER 4, 1973.

On November 15, 1973, an order was issued fixing a hearing in the above-designated matter. On November 28, 1973, Colorado Interstate Gas Company requested that an informal conference be held on December 20, 1973, to consider means by which the conduct of the hearing might be facilitated. The request states that no party had any objection to the request.

Notice is hereby given that an informal conference will be held on December 20, 1973, at 9:30 a.m. in Room 6200, Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-26191 Filed 12-10-73;8:45 am]

FEDERAL RESERVE SYSTEM

ALABAMA BANCORPORATION

Acquisition of Bank

Alabama Bancorporation, Birmingham, Alabama, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less director's qualifying shares) of the successor by merger to The City National Bank of Selma, Selma, Alabama. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than January 2, 1974.

Board of Governors of the Federal Reserve System, December 3, 1973

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.73-26163 Filed 12-10-73;8:45 am]

ALLIED BANCSHARES, INC.

Acquisition of Bank

Allied Bancshares, Inc., Houston, Texas, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of Memorial Bank, Houston, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than January 2, 1974.

Board of Governors of the Federal Reserve system, December 3, 1973.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.73-26164 Filed 12-10-73;8:45 am]

ALLIED BANCSHARES, INC.

Acquisition of Bank

Allied Bancshares, Inc., Houston, Texas, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of Fairbanks Bank of Houston, Houston, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than December 24, 1973.

Board of Governors of the Federal Reserve System, December 3, 1973.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.73-26165 Filed 12-10-73;8:45 am]

COMMUNITY BANKS OF FLORIDA, INC. SEMINOLE, FLORIDA

Order Approving Acquisition of Bank

Community Banks of Florida, Inc., Seminole, Florida, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section (3)(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire ninety percent or more of the voting shares of the Clearwater Mall Community Bank, Clearwater, Florida ("Bank"). Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and none have been received. The application has been considered in light of the factors set out in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant has five subsidiary banks with total deposits of $116.2 million. (Banking data are as of June 30, 1973, adjusted for holding company formations and acquisitions approved by the Board through October 1, 1973.) Acquisition of Bank, with deposits of $6.6 million, will cause no significant increase in Applicant's share of total deposits in Florida banks (less than one percent), or in Applicant's share of deposits held by the twenty-two banks in the North Pinellas County, Florida, banking market (less than three percent). Applicant's nearest banking subsidiary is located 8.5 miles southwest from Bank. The two service areas do not overlap.

Applicant and Bank share many of the same directors and operational officers. Directors of Applicant were primarily responsible for establishing Bank, and they own more than fifty percent of Bank's stock. No competition exists between Bank and Applicant's nearest subsidiary, and it is doubtful that any will occur in the future. The proposed acquisition will not give Applicant a dominant market position in the future, and has no anticompetitive effects.

Acquisition of Bank would result in increasing the quality of services to the community. Applicant proposes to aid Bank in obtaining a permanent location, in establishing a trust department, and in expanding its consumer and mortgage lending activities. Convenience and needs factors lend weight to approval.

Considerations relating to the financial and managerial resources and future prospects of the Applicant and Bank are regarded as satisfactory and consistent with approval.

It is this Federal Reserve Bank's judgment that the proposed transaction is in the public interest and that the application should be approved. On the basis of the record in this case, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the date of this Order, unless such period is extended for good cause by this Federal Reserve Bank pursuant to delegated authority.

By order of the Federal Reserve Bank of Atlanta, acting pursuant to delegated authority for the Board of Governors of the Federal Reserve System, effective November 28, 1973.

[SEAL] KYLE K. FOSSUM,
First Vice President.

[FR Doc.73-26162 Filed 12-10-73;8:45 am]

SMALL BUSINESS ADMINISTRATION

[License No. 06/10-0139]

BARTLESVILLE INVESTMENT CORP.

Approval for Transfer of Control of Small Business Investment Company

On November 13, 1973, a notice for request for approval for transfer of control was published in the FEDERAL REGISTER (38 FR 31352) stating that an application has been filed with the Small Business Administration (SBA) pursuant to § 107.701 of the Regulations governing Small Business Investment Companies (38 FR 30842, November 7, 1973) for the transfer of control of Bartlesville Investment Corporation, 827 Madison Boulevard, Bartlesville, Oklahoma 74003, a Federal licensee under the Small Business Investment Act of 1958, as amended (the Act) (15 U.S.C., 661 et seq.).

Mr. James L. Diamond will own 100 percent of the issued and outstanding stock. Interested persons were given 15 days to submit written comments to SBA. No comments were received.

Notice is hereby given that, having considered the application and all other

pertinent information, SBA has approved this application for transfer of control.

Dated: November 30, 1973.

JAMES THOMAS PHELAN,
Deputy Associate Administrator for Investment.

[FR Doc.73-26166 Filed 12-10-73;8:45 am]

COST OF LIVING COUNCIL

HEALTH INDUSTRY ADVISORY COMMITTEE

Change in Meeting Time

The starting time for the Health Industry Advisory Committee meeting, previously announced, to be held on December 17, 1973, from 10:00 a.m. to 4:00 p.m., at the Cost of Living Council offices, second floor auditorium, 2000 M Street, NW., Washington, D.C., has been changed from 10:00 a.m. to 9:00 a.m.

Issued in Washington, D.C. on December 10, 1973.

HENRY H. PERRITT, Jr.,
Executive Secretary, Cost of Living Council.

[FR Doc.73-26378 Filed 12-10-73;11:40 am]

PROPOSED STEEL PRICE INCREASES

Notice of Public Hearings

Notice is hereby given that the Cost of Living Council will hold public hearings beginning at 9:00 a.m. on Wednesday, December 19, 1973 and on Thursday, December 20, 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 steel producers pursuant to the Phase IV regulations. The timing of the implementation of such prenotified price increases was restricted by Cost of Living Council Special Rule No. 1 of October 1, 1973. 38 FR 25427, September 13, 1973. The hearings will explore facts relating to cost justification, the relationship of prices, profits, capital investment and plant capacity, and the effect of productivity and volume improvement on costs and profits as these are relevant to the prenotified increases. The Council will also hear testimony on the shortage problems in this industry.

These public hearings will be conducted under the authority of section 207 (c) of 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 December 28, 1973.

All written submissions should be sent to Steel Hearings, Executive Secretariat, Cost of Living Council, 2000 M Street NW., Washington, D.C. 20508. All written submissions received before 5:00 p.m., e.s.t., December 28, 1973 will be made part of the official record of the hearings.

Any information or data considered by the person furnishing it to be confidential must be submitted in writing, one copy, only, before the person's scheduled appearance, or by December 28, 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., Friday, December 14, 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 concise summary of the proposed oral presentation and a phone number where he may be contacted through December 20, 1973. Oral presentations may be supplemented by written submissions filed with the Council not later than December 28, 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., Monday, December 17, 1973 and must send 50 copies of his statement to the Executive Secretariat 24 hours before appearing.

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., December 18, 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.

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. to 5:30 p.m. Monday through Friday. Due to limited seating facilities, admission will be on a first come, first served basis.

Issued at Wahington, D.C. on December 10, 1973.

JAMES W. MCLANE,
Deputy Director, Cost of Living Council.

[FR Doc.73-26379 Filed 12-10-73;11:40 am]

FEDERAL MARITIME COMMISSION

UNIVERSAL ALCO LTD. ET AL.

Notice of Agreement Filed

Notice is hereby given that the following agreement, accompanied by a statement of justification, has been filed with the Commission for approval pursuant to Section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763 (46 U.S.C. 814)).

Interested parties may inspect and obtain a copy of the agreement and the statement of justification at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement and the statement of justification at the Field Offices located at New York, N.Y., New Orleans, Louisiana, and San Francisco, California. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573 on or before December 24, 1973. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said

to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement Filed by:

Mr. Lebron Shields,
Executive Vice President
Universal Alco Limited
750 N.E. 7th Avenue
Port Laudania
Dania, Florida 33004

Agreement No. 10021-1, among Universal Alco Limited, Tropical Shipping Company, and Norwegian Caribbean Lines, common carriers by water operating in the trade between Florida ports and ports in the Bahama Islands, covers a petition by the carriers for a one (1) year extension of their discussion agreement to December 27, 1974.

By Order of the Federal Maritime Commission.

Dated: December 10, 1973.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.73-26337 Filed 12-10-73;8:45 am]

ATOMIC ENERGY COMMISSION

[Docket Nos. 50-277, 50-278]

PHILADELPHIA ELECTRIC COMPANY ET AL. (PEACH BOTTOM ATOMIC POWER STATION), UNITS 2 AND 3)

Postponement of Oral Argument

Notice is hereby given that the oral argument on the exceptions filed by the several parties to the September 14, 1973 initial decision of the Licensing Board in this proceeding which was calendared for Wednesday December 12, 1973 at 9:15 a.m., in the 5th floor hearing room, East-West Towers Building, 4350 East-West Highway, Bethesda, Maryland, will be rescheduled. The postponement is the result of a motion dated December 8, 1973, by the applicants. A new date for the oral argument will be published subsequently.

For the Atomic Safety and Licensing Appeal Board,

MARGARET E. DU FLO,
Secretary to the Appeal Board.

[FR Doc.73-26351 Filed 12-10-73;11:26 am]

[Docket No. 50-395; Construction Permit No. CPPR-94]

SOUTH CAROLINA ELECTRIC AND GAS COMPANY (VIRGIL C. SUMMER NUCLEAR STATION, UNIT 1)

Order To Show Cause

South Carolina Electric and Gas Company, Post Office Box 764, Columbia, South Carolina ("the licensee") is the holder of Construction Permit No. CPPR-94, which authorizes the construction of Unit 1 of the Virgil C. Summer Nuclear Station located in Fairfield County, South Carolina, pursuant to conditions specified therein. The latest date for completion of construction, as specified in CP No. CPPR-94 is January 1, 1978.

On November 26, 1973, the licensee informed the Atomic Energy Commission regulatory staff by telephone of the existence of faults in the excavation area at the site of the Virgil C. Summer Nuclear Station. The licensee's investigation revealed the faults as evidenced by shear fractures in some excavated rock. While there are indications that the faults are old, possibly many millions of years, further investigation and evaluation are presently being conducted by the regulatory staff and the licensee to ascertain whether, in view of this geologic feature, there is sufficient information to establish the adequacy of the seismic design of Unit 1. Representatives of the regulatory staff visited the site on November 30, 1973. By letter to the Director of Regulation on December 3, 1973, the licensee has proposed a program for performing geologic investigation of the faults. The program will include a literature search, geologic mapping, petrofabric analyses and radiometric dating, and the effects of Monticello reservoir on potential movements along the faults. It is anticipated that the licensee will complete the program by January 15, 1974. In the letter of December 3, 1973, the licensee also advised the regulatory staff that as a result of the discovery of the faults and in order to provide the regulatory staff a reasonable time to review the results of licensee's investigation, the pouring of concrete for the reactor building and auxiliary building will be delayed until February 1, 1974.

Copies of the licensee's letter to the Director of Regulation, dated December 3, 1973, and all pertinent information relative to the subject faults has been placed in the Commission's Public Document Room, 1717 H Street, Northwest, Washington, D.C. 20545. Copies of these documents have also been sent to the Commission's Local Public Document Room, Fairfield County Library, Vanderhorst Street, Winnsboro, South Carolina 29180.

In view of the foregoing and pursuant to the Atomic Energy Act of 1954, as amended, and the regulations in 10 CFR Parts 2 and 50, *it is hereby ordered*, that:

The licensee show cause, in the manner hereinafter provided, why further construction at the site of all Seismic Category I structures[1] under Construction Permit No. CPPR-94 should not be suspended pending completion of the investigation and evaluation referred to in Section II above.

The licensee may within twenty days of the date of receipt of this Order file a written answer to this Order under oath or affirmation and may also request a hearing within said twenty-day period. If a hearing is requested, the Commission will issue an Order designating the time and place of hearing. Upon failure of the licensee to file an answer within the time specified, the Director of Regulation will, without further notice, issue an Order suspending construction at the site of all Seismic Category I structures under Construction Permit No. CPPR-94.

In the event that such a hearing is requested the issues to be considered at such hearing shall be: (1) whether there is sufficient information to establish the adequacy of the seismic design for Unit 1; and (2) whether construction at the site of all Seismic Category I structures under Construction Permit No. CPPR-94 should be suspended pending further investigation and evaluation.

Dated at Bethesda, Maryland, this 7th day of December, 1973.

L. MANNING MUNTZING,
Director of Regulation.

[FR Doc.73-26340 Filed 12-10-73;11:26 am]

[1] Seismic Category I structures means those structures which must be designed to withstand the effects of the Safe Shutdown Earthquake and remain functional. See Regulatory Guide 1.29, Revision 1, August 1973.

[Notice 405]

INTERSTATE COMMERCE COMMISSION

ASSIGNMENT OF HEARINGS

DECEMBER 6, 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 111231 Sub 181, Jones Truck Lines, Inc., now assigned January 15, 1974, MC 113908 Sub 270, Erickson Transport Corp., now assigned January 17, 1974, MC-C-7895, Land-Air Delivery, Inc. v. Springfield Airport Limousine, Inc., Et Al., now assigned January 21, 1974, and MC 42011 Sub 10, D. Q. Wise & Co., Inc., now assigned January 23, 1974, at Kansas City, Mo., will be held in Room 609, Federal Building, 911 Walnut Street.

MC 59856 Subs 49 and 51, Salt Creek Freightways, now assigned January 14, 1974, at Billings, Mont., will be held in Room 1033, Federal Office Bldg., 316 N. 26th Street.

MC 97699 Sub 39, Barber Transportation Co., application dismissed.

MC-F-11723, Cox & Shay, Inc.—Merger—Mary Ellen Stidham, N. M. Stidham, A. E. Mankins (Inez Mankins, Executrix), and James Mankins, Dba Eagle Trucking Company, now being assigned hearing February 25, 1974 (1 week), at Dallas, Tex., in a hearing room to be later designated.

MC-C-8096, The Squaw Transit Company—Investigation and Revocation of Certificate—now being assigned hearing March 4, 1974 (3 days), at Tulsa, Okla., in a hearing room to be later designated.

No. 35908, Oklahoma Intrastate Rail Freight Rates and Charges, 1973, now being assigned hearing March 7, 1974 (2 days), at Oklahoma City, Okla., in a hearing room to be later designated.

I & S M-27312, Restructured Rates and Charges, Central States Territory, I & S M-27312 Sub 1, Restructured Rates & Charges, Missouri-Illinois Traffic Service and I & S M-27312 Sub 2, Restructured Rates and Charges, Indiana Motor Rate and Tariff Bureau, now assigned for hearing on January 28, 1974, at Washington, D.C., is postponed until further order of the Commission.

MC-110563, Sub 107, Coldway Food Express, Inc., now assigned January 15, 1974, will be held in Room 616, Union Pacific Plaza, 110 North 14th Street, Omaha, Nebr.

MC-F-11835, Holmes Freight Lines, Inc.—Control—(1) Byers Transportation Co., Inc., and (2) Commercial Freight Lines, Inc., & FD-27343, Holmes Freight Lines, Inc., MC-F-11997 Lovelace Truck Service, Inc.—Purchase (Portion)—Holmes Freight Lines, Inc., now assigned January 16, 1974, will be held in Room 616, Union Pacific Plaza, 110 North 14th Street, Omaha, Nebr.

MC-5227 Sub 6, Economy Movers, Inc., MC-114211 Sub 189, Warren Transport, Inc., now assigned January 12, 1974, will be held in Room 616, Union Pacific Plaza, 110 North 14th Street, Omaha, Nebr.

MC 115931 Sub 28, Bee Line Transportation, Inc., now being assigned hearing February 4, 1974 (2 days), at Billings, Montana, in a hearing room to be later designated.

MC 26396 Sub 83, Popelka Trucking Co., dba the Waggoners, now being assigned hearing February 6, 1974 (3 days), at Billings, Mont., in a hearing room to be later designated.

MC-75320 Sub 162, Campbell Sixty-Six Express, Inc., is continued to February 4, 1974 (1 week), at the Adolphus Hotel, 1321 Commerce St., Dallas, Tex.

MC-F-11851, Smith Transfer Corp.—Control—Brady Motorfrate, Inc. MC-F-11853, Lee Way Motor Freight, Inc.—Purchase (Portion)—Brady Motorfrate, Inc., MC-F-11876, Burgmeyer Bros., Inc.—Purchase (Portion)—Brady Motorfrate, Inc. & MC-52110 Subs 137 & 138, Brady Motorfrate, Inc., is continued to December 18, 1973 (1 day), at the Offices of the Interstate Commerce Commission, Washington, D.C.

NO. 35914, H & R Scrap Iron and Metal Company v. Chicago and North Western Transportation Company, now being assigned pre-hearing conference, January 22, 1974, at the Offices of the Interstate Commerce Commission, Washington, D.C.

NO. 35888, Albermarle Railway Company v. Norfolk and Western Railway Company, Et Al., now assigned January 15, 1974, at Washington, D.C., postponed to January 29, 1974, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 32882 Sub 58, Mitchell Bros. Truck Lines, MC 61592 Sub 216, Jenkins Truck Line, Inc., MC 97068 Sub 12, H. S. Anderson Trucking Co., MC 108119 Sub 36, E. L. Murphy Trucking Co., MC 109462 Sub 16, Lumber Transport, Inc., and MC 117574 Sub 202, Daily Express, Inc., now being assigned hearing February 25, 1974 (2 weeks), at Dallas, Tex., in a hearing room to be later designated.

MC 108449 Sub 359, Indianhead Truck Line, Inc., MC 117815 Sub 215, Pulley Freight Lines, Inc., MC 119767 Sub 303, Beaver Transport Co., now being assigned hearing February 7, 1974 (2 days), at Chicago, Ill., in a hearing room to be later designated.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-26236 Filed 12-10-73;8:45 am]

AUTO-TRAIN CORP. ET AL.

Request for Comments on Environmental Impact of Proposed Ferry Service

Auto-Train Corporation, represented by Mr. Eugene K. Garfield, 1801 K Street NW., Washington, D.C. 20006, Seaboard Coast Line aRilroad Company, represented by Mr. W. Thomas Rice, 500 Water Street, Jacksonville, Florida 32202, Louisville and Nashville Railroad Company, represented by Mr. Richard D. Sanborn, Jr., 908 West Broadway, Louisville, Kentucky 40201, hereby give notice that on the 7th day of November, 1973, they filed with the Interstate Commerce Commission at Washington, D.C., an application assigned F.D. No. 27525 for authority Seaboard Coast Line Railroad Company and Louisville and Nashville Railroad Company to operate the properties or part thereof Auto-Train Corporation between Louisville, Kentucky, and Sanford, Florida, pursuant to the provisions of an August 1, 1970, Operating Agreement as amended and for Auto-Train Corporation to acquire trackage rights over and joint use of certain lines of railroad of the Louisville and Nashville Railroad Company between Louisville, Ky. and Montgomery, Ala., a distance of approximately 489 miles; for Auto-Train Corporation to acquire trackage rights over and joint use of certain lines of railroad of the Seaboard Coast Line Railroad Company between Montgomery, Ala. and Sanford, Fla., a distance of approximately 532 miles. This proceeding is directly related to Finance Docket No. 27508. An application under section 1(18) of the Interstate Commerce Act for a certificate of public convenience and necessary to permit Auto-Train Corporation to operate passenger-Auto-ferry service between Louisville, Kentucky and Sanford, Fla. In the opinion of the Applicants, this application, if approved by order of the Commission will not result in an effect on the quality of the human environment. In accordance with the Commission's regulations (49 CFR 1100.250) in Ex Parte No. 55 (Sub-No. 4), Implementation-Nat'l Environmental Policy Act, 1969, 340 I.C.C. 431 (1972), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of human environment. In any such effect is alleged to be present, the statement shall include information relating to the relevant factors set forth in Ex Parte No. 55 (Sub-No. 4), supra Part (b)(1)-(5), 340 I.C.C. 431, 461. The proceeding will be handled without public hearings unless protests are received which contain information indicating a need for such hearings. Any protests submitted shall be filed with the Commission no later than 30 days from the date of first publication in the FEDERAL REGISTER.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-26238 Filed 12-10-73;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

DECEMBER 6, 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 on or before December 26, 1973.

FSA No. 42780—*Grain and Grain Products For Export*. Filed by Western Trunk Line Committee, Agent (No. A-2692), for interested rail carriers. Rates on grain, grain products, soybeans, vegetable meal, and related articles, in carloads, as described in the application, from points in North Pacific Coast, southern, southwestern, western trunk line, Texas-Louisiana, and Illinois territories, to Rio Grande Crossings, and ports on the Atlantic, Gulf, and Pacific Coasts, also Great Lake ports, for export.

Grounds for relief—Revision of rate structure.

Tariffs—Trans-Continental Freight Bureau, Agent, tariff 29-0, ICC 1805, and other tariffs named in the application. Rates are published to become effective February 1, 1974.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-26235 Filed 12-10-73;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

DECEMBER 6, 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 on or before December 26, 1973.

FSA No. 42781—*Joint Water-Rail Container Rates—Sea-Land Service, Inc.* Filed by Sea-Land Service, Inc. (No. 79), for itself and interested rail carriers. Rates on general commodities, from ports in Portugal and Spain, to rail carriers' terminals on the U.S. Pacific Coast.

Grounds for relief—Water competition.

Tariff—Sea-Land Service, Inc., tariff No. 205, I.C.C. No. 73.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-26237 Filed 12-10-73;8:45 am]

[Notice 405]

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 31, 1973. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC–FC–74795. By order of November 30, 1973, the Motor Carrier Board approved the transfer to Wehrle Haulage, Inc., Little Ferry, N.J., of Certificate No. MC–133868 issued October 15, 1970, to E & E Rigging & Machinery Co., Inc., Elizabeth, N.J., authorizing the transportation of iron and steel building supplies, machinery, machinery parts, and hoistering equipment between Newark, N.J., on the one hand, and, on the other, New York, N.Y., and points in seven named counties in New York. Mr. Robert B. Pepper, Registered Practitioner, 168 Woodbridge Avenue, Highland Park, N.J. 08904.

No. MC–FC–74805. By order of December 4, 1973, the Motor Carrier Board approved the transfer to Bayview Trucking, Inc., Sacramento, Calif., of Certificate of Registration No. MC–121526 issued June 19, 1970, to Western Milk Transport, Inc., Paramount, Calif., evidencing the authority to perform a transportation service in interstate or foreign commerce corresponding in scope to the intrastate authority granted in Certificate of Public Convenience and Necessity No. 73891, as amended, and transferred by Decision No. 75663 dated May 13, 1969, by the California Public Utilities Commission. Mr. R. Y. Schureman, Attorney at Law, 1545 Wilshire Boulevard, Los Angeles, Calif. 90017.

No. MC–FC–74812. By order entered November 30, 1973, the Motor Carrier Board approved the transfer to Stieferman Bros. Van & Storage Co., Maryland Heights, Mo., of the operating rights set forth in Certificate No. MC–40861 (Sub-No. 1), issued by the Commission November 10, 1972, to L. J. S. Investment Company, St. Louis, Mo., authorizing the transportation of household goods as defined by the Commission, between St. Louis, Mo., and points in St. Louis County, Mo., on the one hand, and, on the other, points in Illinois. Herman W. Huber, 101 East High St., Jefferson City, MO 65101, attorney for applicants.

No. MC–FC–74813. By order of December 4, 1973, the Motor Carrier Board approved the transfer to Gambard Service, Inc., Kings Park, N.Y., of Permit No. MC–63996 issued May 18, 1961, to Evelyn Clydesdale, Arlington, N.J., authorizing the transportation of paper products between Kearney, N.J. on the one hand, and, on the other, New York, N.Y., and points in Nassau and Suffolk Counties, N.Y.; and folding paper boxes from Kearney, N.J., to Pearl River and Suffern, N.Y. Mr. Charles J. Williams, Attorney for Transferor, 47 Lincoln Park, Newark, N.J. 07102; and Mr. Robert B. Pepper, Practitioner for Transferee, 168 Woodbridge Avenue, Highland Park, N.J. 08904.

No. MC–FC–74816. By order of November 30, 1973, the Motor Carrier Board approved the transfer to Jack M. Wintle Doing Business As J & J Refrigerated Trucking, Columbus, Ohio, of Certificate No. MC–134882 (Sub-No. 2) issued to Wintle Delivery & Refrigerator Truck Service, Inc., Columbus, Ohio, authorizing the transportation of: Meats, meat products, by-products, dairy products, etc., as defined by the Commission, 61 MCC 209 and 766, from Columbus, Ohio to points in Ohio. Richard H. Brandon, Attorney, 79 East State St., Columbus, Ohio 43215.

No. MC–FC–74823. By order of December 4, 1973, the Motor Carrier Board approved the transfer to Lester Smith Trucking, Inc., Sterling, Colorado, of Certificate No. MC–57697 Sub 1 issued to Lester E. Smith, Sterling, Colo., authorizing the transportation of: Various commodities of a general commodity nature, between points and areas in Colorado, Wyoming, Nebraska, Iowa, Missouri, and Kansas. John P. Thompson, Attorney, 450 Capitol Life Center, Denver, Colo. 80203.

No. MC–FC–74839. By order of December 4, 1973, the Motor Carrier Board approved the transfer to Post and Danley Truck Line, Inc., Fort Scott, Kans., of Certificate No. MC–60177 issued to D. J. Wood, Mapleton, Kans., authorizing the transportation of: General commodities, usual exceptions, and other specified commodities, from and to specified points and areas in Kansas and Missouri. Clyde N. Christey, Attorney, 641 Harrison St., Topeka, Kans. 66603.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-26239 Filed 12-10-73;8:45 am]

COMMISSION ON CIVIL RIGHTS

COLORADO STATE ADVISORY COMMITTEE

Notice of Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 707) notice is hereby given that the Colorado State Advisory Committee to the U.S. Commission on Civil Rights will meet in a closed session at 9 a.m., Saturday, December 15, 1973, in the Pine Room, Albany Hotel, 1720 Stout Street, Denver, Colorado 80202.

The agenda will consist of discussions leading to recommendations on proposed revisions to the draft of the Colorado Prison Preliminary report.

I have determined that this meeting would fall within exemption (5) of 5 U.S.C. 522(b) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with the operation of the Committee.

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

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.73-26225 Filed 12-10-73;8:45 am]

WISCONSIN 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 Wisconsin State Advisory Committee to this Commission will convene at 7:30 p.m. on December 19, 1973, at the Ramada Inn, 633 West Michigan Street, Milwaukee, Wisconsin 53203.

Persons wishing to attend this meeting should contact the Committee Chairman, or the Midwestern Regional Office of the Commission, Room 1428, 219 South Dearborn Street, Chicago, Illinois 60604.

The purpose of this meeting shall be to discuss plans for the reactivation of the Wisconsin State Advisory Committee, and to make plans for possible activities of the Committee.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., December 5, 1973.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.73-26226 Filed 12-10-73;8:45 am]

CUMULATIVE LIST OF PARTS AFFECTED—DECEMBER

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PART II

ENVIRONMENTAL PROTECTION AGENCY

■

OIL POLLUTION PREVENTION

Non-Transportation Related Onshore and Offshore Facilities

Title 40—Protection of the Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER D—WATER PROGRAMS

PART 112—OIL POLLUTION PREVENTION

Non-transportation Related Onshore and Offshore Facilities

Notice of proposed rule making was published on July 19, 1973, containing proposed regulations, required by an pursuant to section 311(j)(1)(C) of the Federal Water Pollution Control Act, as amended (86 Stat. 868, 33 U.S.C. 1251 et seq.), (FWPCA), to prevent discharges of oil into the navigable waters of the United States and to contain such discharges if they occur. The proposed regulations endeavor to prevent such spills by establishing procedures, methods and equipment requirements of owners or operators of facilities engaged in drilling, producing, gathering, storing, processing, refining, transferring, distributing, or consuming oil.

Written comments on the proposed regulations were solicited and received from interested parties. In addition, a number of verbal comments on the proposal were also received. The written comments are on file at the Division of Oil and Hazardous Materials, Office of Water Program Operations, U.S. Environmental Protection Agency, Washington, D.C.

All of the comments have been given careful consideration and a number of changes have been made in the regulation. These changes incorporate either suggestions made in the comments or ideas initiated by the suggestions.

Some comments reflected a misunderstanding of the fundamental principles of the regulation, specifically as they applied to older facilities and marginal operations. During the development of the regulation it was recognized that no single design or operational standard can be prescribed for all non-transportation related facilities, since the equipment and operational procedures appropriate for one facility may not be appropriate for another because of factors such as function, location, and age of each facility. Also, new facilities could achieve a higher level of spill prevention than older facilities by the use of fail-safe design concepts and innovative spill prevention methods and procedures. It was concluded that older facilities and marginal operations could develop strong spill contingency plans and commit manpower, oil containment devices and removal equipment to compensate for inherent weaknesses in the spill prevention plan.

Appropriate changes were made in the regulation to simplify, clarify or correct deficiencies in the proposal.

A discussion of these changes, section by section follows:

A. *Section 112.1—General applicability.* Section 112.1(b), the "foreseeability provision", contained in 112.1(d)(4) was added to paragraph 112.1(b). As modified, the regulation applies to non-transportation-related onshore and offshore facilities which, due to their location, could reasonably be expected to discharge oil into or upon the navigable waters of the United States or adjoining shorelines.

Sections 112.1(b), 112.1(d)(4) and 112.3 are now consistent.

Section 112.1(d)(1) was expanded to further clarify the respective authorities of the Department of Transportation and the Environmental Protection Agency by referring to the Memorandum of Understanding between the Secretary of Transportation and the Administrator of the Environmental Protection Agency (Appendix).

Section 112.1(d)(2), the figure for barrels was converted to gallons, a unit of measure more familiar to the public, and now reads "42000 gallons."

Section 112.1(d)(3), exemption for facilities with nonburied tankage was extended to 1320 gallons in aggregate with no single tank larger than 660 gallons and applies to all oils, not just heating oil and motor fuel. Tanks of 660 gallons are the normal domestic code size for nonburied heating oil tanks. Buildings may have two such tanks. Facilities containing small quantities of oil other than motor fuel or heating oil would also be exempt, thus making this consistent with the definition of oil in § 112.2.

B. *Section 112.2—Definitions.* Section 112.2(1), the term "navigable waters" was expanded to the more descriptive definition used by the National Pollutant Discharge Elimination System.

Section 112.2(m), the U.S. Coast Guard definition of the term "vessel" was included. This term is used in the regulation and the definition is consistent with the Department of Transportation regulations.

C. *Section 112.3—Requirements for the preparation and implementation of spill prevention control and countermeasure plans.* A new paragraph (c) was added to § 112.3 which applies to mobile or portable facilities subject to the regulation. These facilities need not prepare a new Spill Prevention Control and Countermeasure Plan (SPCC Plan) each time the facility is moved to a new site, but may prepare a general plan, identifying good spill prevention engineering practices (as outlined in the guidelines, § 112.7), and implement these practices at each new location.

Section 112.3(a), (b) and (f) (which was § 112.3(e) in the proposed rule making) have been modified to allow extensions of time beyond the normally specified periods to apply to the preparation of plans as well as to their implementation and to remove the time limitation of one year for extensions. Extensions may be allowed for whatever period of time considered reasonable by the Regional Administrator.

Section 112.3(e) (which was § 112.3(d) in the proposed rule making) was modified to require the maintenance of the SPCC Plan for inspection at the facility only if the facility was normally manned. If the facility is unmanned, the Plan may be kept at the nearest field office.

Section 112.3(f)(1) (§ 112.3(e)(1) in the proposed regulation) was changed to include the nonavailability of qualified personnel as a reason for the Regional Administrator granting an extension of time.

D. *Section 112.4—Amendment of spill prevention control and countermeasure plans by Regional Administrator.* Section 112.4(a)(11), permits the Regional Administrator to require that the owner or operator furnish additional information to EPA after one or more spill event has occurred. The change limits the request for additional information to that pertinent to the SPCC Plan or to the pollution incident.

Section 112.4(b) now reads "Section 112.4 * * *", not "This subsection * * *"

Section 112.4(e) allowed the Regional Administrator to require amendments to SPCC Plans and specifies that the amendment must be incorporated in the Plan within 30 days unless the Regional Administrator specifies an earlier effective date. The change allows the Regional Administrator to specify any appropriate date that is reasonable.

Section 112.4(f). A new § 112.4(f) has been added which provides for an appeal by an owner or operator from a decision rendered by the Regional Administrator on an amendment to an SPCC Plan. The appeal is made to the Administrator of EPA and the paragraph outlines the procedures for making such an appeal.

E. *Section 112.5—Amendment of spill prevention control and countermeasure plans by owners or operators.* Section 112.5(b) required the owner or operator to amend the SPCC Plan every three years. The amendment required the incorporation of any new, field-proven technology and had to be certified by a Professional Engineer.

The change requires that the owner or operator review the Plan every three years to see if it needs amendment. New technology need be incorporated only if it will significantly reduce the likelihood of a spill. The change will prevent frivolous retrofitting of equipment to facilities whose prevention plans are working successfully, and will not require engineering certification unless an amendment is necessary.

Section 112.5(c), this paragraph required that the owner or operator amend his SPCC Plan when his facility became subject to §112.4 (amendment by the Regional Administrator). This paragraph has been removed. It is inconsistent to require the owner or operator to independently amend the Plan while the Regional Administrator is reviewing it for possible amendment.

F. *Section 112.6—Civil penalties.* There are no changes in this section.

G. *Section 112.7—Guidelines for the preparation and implementation of a spill prevention control and countermeasure plan.* Numerous changes have been made in the guidelines section; the changes have been primarily:

1. To correct the use of language inconsistent with guidelines. For example, the word "shall" has been changed to "should" in § 112.7(a) through (e).

2. To give the engineer preparing the Plan greater latitude to use alternative methods better suited to a given facility or local conditions.

3. To cover facilities subject to the regulation, but for which no guidelines were previously given. This category includes such things as mobile facilities, and drilling and workover rigs.

In addition, wording was changed to differentiate between periodic observations by operating personnel and formal inspections with attendant record keeping.

These regulations shall become effective January 10, 1974.

Dated: November 27, 1973.

JOHN QUARLES,
Acting Administrator.

A new Part 112 would be added to subchapter D, Chapter I of Title 40, Code of Federal Regulations as follows:

Sec.
112.1 General applicability.
112.2 Definitions.
112.3 Requirements for preparation and implementation of Spill Prevention Control and Countermeasure plans.
112.4 Amendment of Spill Prevention Control and Countermeasure Plans by Regional Administrator.
112.5 Admendment of Spill Prevention Control and Countermeasure Plans by owners or operators.
112.6 Civil penalties.
112.7 Guidelines for the preparation and implementation of a Spill Prevention Control and Countermeasure Plan.
Appendix Memorandum of Understanding Between the Secretary of the Department of Transportation and the Administrator of the Environmental Protection Agency. Section II—Definitions.

AUTHORITY: Secs. 311(j)(1)(C), 311(j)(2), 501(a), Federal Water Pollution Control Act (Sec. 2, Pub. L. 92-500, 86 Stat. 816 et seq. (33 U.S.C. 1251 et seq.)); Sec. 4(b), Pub. L. 92-500, 86 Stat. 897; 5 U.S.C. Reorg. Plan of 1970 No. 3 (1970), 35 FR 15623, 3 CFR 1966-1970 Comp.; E.O. 11735, 38 FR 21243, 3 CFR.

§ 112.1 General applicability.

(a) This part establishes procedures, methods and equipment and other requirements for equipment to prevent the discharge of oil from non-transportation-related onshore and offshore facilities into or upon the navigable waters of the United States or adjoining shorelines.

(b) Except as provided in paragraph (d) of this section, this part applies to owners or operators of non-transportation-related onshore and offshore facilities engaged in drilling, producing, gathering, storing, processing, refining, transferring, distributing or consuming oil and oil products, and which, due to their location, could reasonably be expected to discharge oil in harmful quantities, as defined in Part 110 of this chapter, into or upon the navigable waters of the United States or adjoining shorelines.

(c) As provided in sec. 313 (86 Stat. 875) departments, agencies, and instrumentalities of the Federal government are subject to these regulations to the same extent as any person, except for the provisions of § 112.6.

(d) This part does not apply to:

(1) Equipment or operations of vessels or transportation-related onshore and offshore facilities which are subject to authority and control of the Department of Transportation, as defined in the Memorandum of Understanding between the Secretary of Transportation and the Administrator of the Environmental Protection Agency, dated November 24, 1971, 36 FR 24000.

(2) Facilities which have an aggregate storage of 1320 gallons or less of oil, provided no single container has a capacity in excess of 660 gallons.

(3) Facilities which have a total storage capacity of 42000 gallons or less of oil and such total storage capacity is buried underground.

(4) Non-transportation-related onshore and offshore facilities, which, due to their location, could not reasonably be expected to discharge oil into or upon the navigable waters of the United States or adjoining shorelines.

(e) This part provides for the preparation and implementation of Spill Prevention Control and Countermeasure Plans prepared in accordance with § 112.7, designed to complement existing laws, regulations, rules, standards, policies and procedures pertaining to safety standards, fire prevention and pollution prevention rules, so as to form a comprehensive balanced Federal/State spill prevention program to minimize the potential for oil discharges. Compliance with this part does not in any way relieve the owner or operator of an onshore or an offshore facility from compliance with other Federal, State or local laws.

§ 112.2 Definitions.

For the purposes of this part:

(a) "Oil" means oil of any kind or in any form, including, but not limited to petroleum, fuel oil, sludge, oil refuse and oil mixed with wastes other than dredged spoil.

(b) "Discharge" includes but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying or dumping. For purposes of this part, the term "discharge" shall not include any discharge of oil which is authorized by a permit issued pursuant to Section 13 of the River and Harbor Act of 1899 (30 Stat. 1121, 33 U.S.C. 407), or Sections 402 or 405 of the FWPCA Amendments of 1972 (86 Stat. 816 et seq., 33 U.S.C. 1251 et seq.).

(c) "Onshore facility" means any facility of any kind located in, on, or under any land within the United States, other than submerged lands, which is not a transportation-related facility.

(d) "Offshore facility" means any facility of any kind located in, on, or under any of the navigable waters of the United States, which is not a transportation-related facility.

(e) "Owner or operator" means any person owning or operating an onshore facility or an offshore facility, and in the case of any abandoned offshore facility, the person who owned or operated such facility immediately prior to such abandonment.

(f) "Person" includes an individual, firm, corporation, association, and a partnership.

(g) "Regional Administrator", means the Regional Administrator of the Environmental Protection Agency, or his designee, in and for the Region in which the facility is located.

(h) "Transportation-related" and "non-transportation-related" as applied to an onshore or offshore facility, are defined in the Memorandum of Understanding between the Secretary of Transportation and the Administrator of the Environmental Protection Agency, dated November 24, 1971, 36 FR 24080.

(i) "Spill event" means a discharge of oil into or upon the navigable waters of the United States or adjoining shorelines in harmful quantities, as defined at 40 CFR Part 110.

(j) "United States" means the States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(k) The term "navigable waters" of the United States means "navigable waters" as defined in section 502(7) of the FWPCA, and includes:

(1) all navigable waters of the United States, as defined in judicial decisions prior to passage of the 1972 Amendments to the FWPCA (Pub. L. 92-500), and tributaries of such waters;

(2) interstate waters;

(3) intrastate lakes, rivers, and streams which are utilized by interstate travelers for recreational or other purposes; and

(4) intrastate lakes, rivers, and streams from which fish or shellfish are taken and sold in interstate commerce.

(l) "Vessel" means every description of watercraft or other artificial contrivance used, or capable of being used as a means of transportation on water, other than a public vessel.

§ 112.3 Requirements for preparation and implementation of Spill Prevention Control and Countermeasure Plans.

(a) Owners or operators of onshore and offshore facilities in operation on or before the effective date of this part that have discharged or could reasonably be expected to discharge oil in harmful quantities, as defined in 40 CFR Part 110, into or upon the navigable waters of the United States or adjoining shorelines, shall prepare a Spill Prevention Control and Countermeasure Plan (hereinafter "SPCC Plan"), in accordance with § 112.7. Except as provided for in paragraph (f) of this section, such SPCC Plan shall be prepared within six months after the effective date of this part and shall be fully implemented as soon as possible, but not later than one year after the effective date of this part.

(b) Owners or operators of onshore and offshore facilities that become operational after the effective date of this part, and that have discharged or could reasonably be expected to discharge oil in harmful quantities, as defined in 40 CFR Part 110, into or upon the navigable waters of the United States or adjoining shorelines, shall prepare an SPCC Plan in accordance with § 112.7. Except as provided for in paragraph (f) of this section, such SPCC Plan shall be prepared within six months after the date such facility begins operations and shall be fully implemented as soon as possible, but not later than one year after such facility begins operations.

(c) Onshore and offshore mobile or portable facilities such as onshore drilling or workover rigs, barge mounted offshore drilling or workover rigs, and portable fueling facilities shall prepare and implement an SPCC Plan as required by paragraphs (a), (b) and (d) of this section. The owner or operator of such facility need not prepare and implement a new SPCC Plan each time the facility is moved to a new site. The SPCC Plan for mobile facilities should be prepared in accordance with § 112.7, using good engineering practice, and when the mobile facility is moved it should be located and installed using spill prevention practices outlined in the SPCC Plan for the facility. The SPCC Plan shall only apply while the facility is in a fixed (non transportation) operating mode.

(d) No SPCC Plan shall be effective to satisfy the requirements of this part unless it has been reviewed by a Registered Professional Engineer and certified to by such Professional Engineer. By means of this certification the engineer, having examined the facility and being familiar with the provisions of this part, shall attest that the SPCC Plan has been prepared in accordance with good engineering practices. Such certification shall in no way relieve the owner or operator of an onshore or offshore facility of his duty to prepare and fully implement such Plan in accordance with § 112.7, as required by paragraphs (a), (b) and (c) of this section.

(e) Owners or operators of a facility for which an SPCC Plan is required pursuant to paragraphs (a), (b) or (c) of this section shall maintain a complete copy of the Plan at such facility if the facility is normally attended at least 8 hours per day, or at the nearest field office if the facility is not so attended, and shall make such Plan available to the Regional Administrator for on-site review during normal working hours.

(f) Extensions of time.

(1) The Regional Administrator may authorize an extension of time for the preparation and full implementation of an SPCC Plan beyond the time permitted for the preparation and implementation of an SPCC Plan pursuant to paragraphs (a), (b) or (c) of this section where he finds that the owner or operator of a facility subject to paragraphs (a), (b) or (c) of this section cannot fully comply with the requirements of this part as a result of either nonavailability of qualified personnel, or delays in construction or equipment delivery beyond the control and without the fault of such owner or operator or their respective agents or employees.

(2) Any owner or operator seeking an extension of time pursuant to paragraph (f) (1) of this section may submit a letter of request to the Regional Administrator. Such letter shall include:

(i) A complete copy of the SPCC Plan, if completed;

(ii) A full explanation of the cause for any such delay and the specific aspects of the SPCC Plan affected by the delay;

(iii) A full discussion of actions being taken or contemplated to minimize or mitigate such delay;

(iv) A proposed time schedule for the implementation of any corrective actions being taken or contemplated, including interim dates for completion of tests or studies, installation and operation of any necessary equipment or other preventive measures.

In addition, such owner or operator may present additional oral or written statements in support of his letter of request.

(3) The submission of a letter of request for extension of time pursuant to paragraph (f) (2) of this section shall in no way relieve the owner or operator from his obligation to comply with the requirements of § 112.3 (a), (b) or (c). Where an extension of time is authorized by the Regional Administrator for particular equipment or other specific aspects of the SPCC Plan, such extension shall in no way affect the owner's or operator's obligation to comply with the requirements of § 112.3 (a), (b) or (c) with respect to other equipment or other specific aspects of the SPCC Plan for which an extension of time has not been expressly authorized.

§ 112.4 Amendment of SPCC Plans by Regional Administrator.

(a) Notwithstanding compliance with § 112.3, whenever a facility subject to § 112.3 (a), (b) or (c) has: Discharged more than 1,000 U.S. gallons of oil into or upon the navigable waters of the United States or adjoining shorelines in a single spill event, or discharged oil in harmful quantities, as defined in 40 CFR Part 110, into or upon the navigable waters of the United States or adjoining shorelines in two spill events, reportable under section 311(b)(5) of the FWPCA, occurring within any twelve month period, the owner or operator of such facility shall submit to the Regional Administrator, within 60 days from the time such facility becomes subject to this section, the following:

(1) Name of the facility;

(2) Name(s) of the owner or operator of the facility;

(3) Location of the facility;

(4) Date and year of initial facility operation;

(5) Maximum storage or handling capacity of the facility and normal daily throughput;

(6) Description of the facility, including maps, flow diagrams, and topographical maps;

(7) A complete copy of the SPCC Plan with any amendments;

(8) The cause(s) of such spill, including a failure analysis of system or subsystem in which the failure occurred;

(9) The corrective actions and/or countermeasures taken, including an adequate description of equipment repairs and/or replacements;

(10) Additional preventive measures taken or contemplated to minimize the possibility of recurrence;

(11) Such other information as the Regional Administrator may reasonably require pertinent to the Plan or spill event.

(b) Section 112.4 shall not apply until the expiration of the time permitted for the preparation and implementation of an SPCC Plan pursuant to § 112.3 (a), (b), (c) and (f).

(c) A complete copy of all information provided to the Regional Administrator pursuant to paragraph (a) of this section shall be sent at the same time to the State agency in charge of water pollution control activities in and for the State in which the facility is located. Upon receipt of such information such State agency may conduct a review and make recommendations to the Regional Administrator as to further procedures, methods, equipment and other requirements for equipment necessary to prevent and to contain discharges of oil from such facility.

(d) After review of the SPCC Plan for a facility subject to paragraph (a) of this section, together with all other information submitted by the owner or operator of such facility, and by the State agency under paragraph (c) of this section, the Regional Administrator may require the owner or operator of such facility to amend the SPCC Plan if he finds that the Plan does not meet the requirements of this part or that the amendment of the Plan is necessary to prevent and to contain discharges of oil from such facility.

(e) When the Regional Administrator proposes to require an amendment to the SPCC Plan, he shall notify the facility operator by certified mail addressed to, or by personal delivery to, the facility owner or operator, that he proposes to require an amendment to the Plan, and shall specify the terms of such amendment. If the facility owner or operator is a corporation, a copy of such notice shall also be mailed to the registered agent, if any, of such corporation in the State where such facility is located. Within 30 days from receipt of such notice, the facility owner or operator may submit written information, views, and arguments on the amendment. After considering all relevant material presented, the Regional Administrator shall notify the facility owner or operator of any amendment required or shall rescind the notice. The amendment required by the Regional Administrator shall become part of the Plan 30 days

after such notice, unless the Regional Administrator, for good cause, shall specify another effective date. The owner or operator of the facility shall implement the amendment of the Plan as soon as possible, but not later than six months after the amendment becomes part of the Plan, unless the Regional Administrator specifies another date.

(f) An owner or operator may appeal a decision made by the Regional Administrator requiring an amendment to an SPCC Plan. The appeal shall be made to the Administrator of the United States Environmental Protection Agency and must be made in writing within 30 days of receipt of the notice from the Regional Administrator requiring the amendment. A complete copy of the appeal must be sent to the Regional Administrator at the time the appeal is made. The appeal shall contain a clear and concise statement of the issues and points of fact in the case. It may also contain additional information which the owner or operator wishes to present in support of his argument. The Administrator or his designee may request additional information from the owner or operator, or from any other person. The Administrator or his designee may request additional information from the owner or operator, or from any other person. The Administrator or his designee shall render a decision within 60 days of receiving the appeal and shall notify the owner or operator of his decision.

§ 112.5 Amendment of Spill Prevention Control and Countermeasure Plans by owners or operators.

(a) Owners or operators of facilities subject to § 112.3 (a), (b) or (c) shall amend the SPCC Plan for such facility in accordance with § 112.7 whenever there is a change in facility design, construction, operation or maintenance which materially affects the facility's potential for the discharge of oil into or upon the navigable waters of the United States or adjoining shorelines. Such amendments shall be fully implemented as soon as possible, but not later than six months after such change occurs.

(b) Notwithstanding compliance with paragraph (a) of this section, owners and operators of facilities subject to § 112.3 (a), (b) or (c) shall complete a review and evaluation of the SPCC Plan at least once every three years from the date such facility becomes subject to this part. As a result of this review and evaluation, the owner or operator shall amend the SPCC Plan within six months of the review to include more effective prevention and control technology if: (1) Such technology will significantly reduce the likelihood of a spill event from the facility, and (2) if such technology has been field-proven at the time of the review.

(c) No amendment to an SPCC Plan shall be effective to satisfy the requirements of this section unless it has been certified by a Professional Engineer in accordance with § 112.3(d).

§ 112.6 Civil penalties.

Owners or operators of facilities subject to § 112.3 (a), (b) or (c) who violate the requirements of this part by failing or refusing to comply with any of the provisions of § 112.3, § 112.4, or § 112.5 shall be liable for a civil penalty of not more than $5,000 for each day that such violation continues. The Regional Administrator may assess and compromise such civil penalty. No penalty shall be assessed until the owner or operator shall have been given notice and an opportunity for hearing.

§ 112.7 Guidelines for the preparation and implementation of a Spill Prevention Control and Countermeasure Plan.

The SPCC Plan shall be a carefully thought-out plan, prepared in accordance with good engineering practices, and which has the full approval of management at a level with authority to commit the necessary resources. If the plan calls for additional facilities or procedures, methods, or equipment not yet fully operational, these items should be discussed in separate paragraphs, and the details of installation and operational start-up should be explained separately. The complete SPCC Plan shall follow the sequence outlined below, and include a discussion of the facility's conformance with the appropriate guidelines listed:

(a) A facility which has experienced one or more spill events within twelve months prior to the effective date of this part should include a written description of each such spill, corrective action taken and plans for preventing recurrence.

(b) Where experience indicates a reasonable potential for equipment failure (such as tank overflow, rupture, or leakage), the plan should include a prediction of the direction, rate of flow, and total quantity of oil which could be discharged from the facility as a result of each major type of failure.

(c) Appropriate containment and/or diversionary structures or equipment to prevent discharged oil from reaching a navigable water course should be provided. One of the following preventive systems or its equivalent should be used as a minimum:

(1) Onshore facilities.

(i) Dikes, berms or retaining walls sufficiently impervious to contain spilled oil

(ii) Curbing

(iii) Culverting, gutters or other drainage systems

(iv) Weirs, booms or other barriers

(v) Spill diversion ponds

(vi) Retention ponds

(vii) Sorbent materials

(2) Offshore facilities.

(i) Curbing, drip pans

(ii) Sumps and collection systems

(d) When it is determined that the installation of structures or equipment listed in § 112.7(c) to prevent discharged oil from reaching the navigable waters is not practicable from any onshore or offshore facility, the owner or operator should clearly demonstrate such impracticability and provide the following:

(1) A strong oil spill contingency plan following the provision of 40 CFR Part 109.

(2) A written commitment of manpower, equipment and materials required to expeditiously control and remove any harmful quantity of oil discharged.

(e) In addition to the minimal prevention standards listed under § 112.7 (c), sections of the Plan should include a complete discussion of conformance with the following applicable guidelines, other effective spill prevention and containment procedures (or, if more stringent, with State rules, regulations and guidelines):

(1) *Facility drainage (onshore); (excluding production facilities).* (i) Drainage from diked storage areas should be restrained by valves or other positive means to prevent a spill or other excessive leakage of oil into the drainage system or inplant effluent treatment system, except where plan systems are designed to handle such leakage. Diked areas may be emptied by pumps or ejectors; however, these should be manually activated and the condition of the accumulation should be examined before starting to be sure no oil will be discharged into the water.

(ii) Flapper-type drain valves should not be used to drain diked areas. Valves used for the drainage of diked areas should, as far as practical, be of manual, open-and-closed design. When plant drainage drains directly into water courses and not into wastewater treatment plants, retained storm water should be inspected as provided in paragraph (e)(2)(iii) (B, C and D) before drainage.

(iii) Plant drainage systems from undiked areas should, if possible, flow into ponds, lagoons or catchment basins, designed to retain oil or return it to the facility. Catchment basins should not be located in areas subject to periodic flooding.

(iv) If plant drainage is not engineered as above, the final discharge of all in-plant ditches should be equipped with a diversion system that could, in the event of an uncontrolled spill, return the oil to the plant.

(v) Where drainage waters are treated in more than one treatment unit, natural hydraulic flow should be used. If pump transfer is needed, two "lift" pumps should be provided, and at least one of the pumps should be permanently installed when such treatment is continuous. In any event, whatever techniques are used facility drainage systems should be adequately engineered to prevent oil from reaching navigable waters in the event of equipment failure or human error at the facility.

(2) *Bulk storage tanks (onshore); (excluding production facilities).* (i) No

tank should be used for the storage of oil unless its material and construction are compatible with the material stored and conditions of storage such as pressure and temperature, etc.

(ii) All bulk storage tank installations should be constructed so that a secondary means of containment is provided for the entire contents of the largest single tank plus sufficient freeboard to allow for precipitation. Diked areas should be sufficiently impervious to contain spilled oil. Dikes, containment curbs, and pits are commonly employed for this purpose, but they may not always be appropriate. An alternative system could consist of a complete drainage trench enclosure arranged so that a spill could terminate and be safely confined in an in-plant catchment basin or holding pond.

(iii) Drainage of rainwater from the diked area into a storm drain or an effluent discharge that empties into an open water course, lake, or pond, and bypassing the in-plant treatment system may be acceptable if:

(A) The bypass valve is normally sealed closed.

(B) Inspection of the run-off rain water ensures compliance with applicable water quality standards and will not cause a harmful discharge as defined in 40 CFR 110.

(C) The bypass valve is opened, and resealed following drainage under responsible supervision.

(D) Adequate records are kept of such events.

(iv) Buried metallic storage tanks represent a potential for undetected spills. A new buried installation should be protected from corrosion by coatings, cathodic protection or other effective methods compatible with local soil conditions. Such buried tanks should at least be subjected to regular pressure testing.

(v) Partially buried metallic tanks for the storage of oil should be avoided, unless the buried section of the shell is adequately coated, since partial burial in damp earth can cause rapid corrosion of metallic surfaces, especially at the earth/air interface.

(vi) Aboveground tanks should be subject to periodic integrity testing, taking into account tank design (floating roof, etc.) and using such techniques as hydrostatic testing, visual inspection or a system of non-destructive shell thickness testing. Comparison records should be kept where appropriate, and tank supports and foundations should be included in these inspections. In addition, the outside of the tank should frequently be observed by operating personnel for signs of deterioration, leaks which might cause a spill, or accumulation of oil inside diked areas.

(vii) To control leakage through defective internal heating coils, the following factors should be considered and applied, as appropriate.

(A) The steam return or exhaust lines from internal heating coils which discharge into an open water course should be monitored for contamination, or passed through a settling tank, skimmer, or other separation or retention system.

(B) The feasibility of installing an external heating system should also be considered.

(viii) New and old tank installations should, as far as practical, be fail-safe engineered or updated into a fail-safe engineered installation to avoid spills. Consideration should be given to providing one or more of the following devices:

(A) High liquid level alarms with an audible or visual signal at a constantly manned operation or surveillance station; in smaller plants an audible air vent may suffice.

(B) Considering size and complexity of the facility, high liquid level pump cutoff devices set to stop flow at a predetermined tank content level.

(C) Direct audible or code signal communication between the tank gauger and the pumping station.

(D) A fast response system for determining the liquid level of each bulk storage tank such as digital computers, telepulse, or direct vision gauges or their equivalent.

(E) Liquid level sensing devices should be regularly tested to insure proper operation.

(ix) Plant effluents which are discharged into navigable waters should have disposal facilities observed frequently enough to detect possible system upsets that could cause an oil spill event.

(x) Visible oil leaks which result in a loss of oil from tank seams, gaskets, rivets and bolts sufficiently large to cause the accumulation of oil in diked areas should be promptly corrected.

(xi) Mobile or portable oil storage tanks (onshore) should be positioned or located so as to prevent spilled oil from reaching navigable waters. A secondary means of containment, such as dikes or catchment basins, should be furnished for the largest single compartment or tank. These facilities should be located where they will not be subject to periodic flooding or washout.

(3) *Facility transfer operations, pumping, and in-plant process (onshore); (excluding production facilities).* (i) Buried piping installations should have a protective wrapping and coating and should be cathodically protected if soil conditions warrant. If a section of buried line is exposed for any reason, it should be carefully examined for deterioration. If corrosion damage is found, additional examination and corrective action should be taken as indicated by the magnitude of the damage. An alternative would be the more frequent use of exposed pipe corridors or galleries.

(ii) When a pipeline is not in service, or in standby service for an extended time the terminal connection at the transfer point should be capped or blank-flanged, and marked as to origin.

(iii) Pipe supports should be properly designed to minimize abrasion and corrosion and allow for expansion and contraction.

(iv) All aboveground valves and pipelines should be subjected to regular examinations by operating personnel at which time the general condition of items, such as flange joints, expansion joints, valve glands and bodies, catch pans, pipeline supports, locking of valves, and metal surfaces should be assessed. In addition, periodic pressure testing may be warranted for piping in areas where facility drainage is such that a failure might lead to a spill event.

(v) Vehicular traffic granted entry into the facility should be warned verbally or by appropriate signs to be sure that the vehicle, because of its size, will not endanger above ground piping.

(4) *Facility tank car and tank truck loading/unloading rack (onshore).* (i) Tank car and tank truck loading/unloading procedures should meet the minimum requirements and regulation established by the Department of Transportation.

(ii) Where rack area drainage does not flow into a catchment basin or treatment facility designed to handle spills, a quick drainage system should be used for tank truck loading and unloading areas. The containment system should be designed to hold at least maximum capacity of any single compartment of a tank car or tank truck loaded or unloaded in the plant.

(iii) An interlocked warning light or physical barrier system, or warning signs, should be provided in loading/unloading areas to prevent vehicular departure before complete disconnect of flexible or fixed transfer lines.

(iv) Prior to filling and departure of any tank car or tank truck, the lowermost drain and all outlets of such vehicles should be closely examined for leakage, and if necessary, tightened, adjusted, or replaced to prevent liquid leakage while in transit.

(5) *Oil production facilities (onshore).* (i) *Definition.* An onshore production facility may include all wells, flowlines, separation equipment, storage facilities, gathering lines, and auxiliary non-transportation-related equipment and facilities in a single geographical oil or gas field operated by a single operator.

(ii) *Oil production facility (onshore) drainage.* (A) At tank batteries and central treating stations where an accidental discharge of oil would have a reasonable possibility of reaching navigable waters, the dikes or equivalent required under § 112.7(c)(1) should have drains closed and sealed at all times except when rainwater is being drained. Prior to drainage, the diked area should be inspected as provided in paragraph (e)(2)(iii) (B), C), and (D). Accumulated oil on the rainwater should be picked up and returned to storage or disposed of in accordance with approved methods.

(B) Field drainage ditches, road ditches, and oil traps, sumps or skimmers, if such exist, should be inspected at regularly scheduled intervals for accumulation of oil that may have escaped from small leaks. Any such accumulations should be removed.

(iii) *Oil production facility (onshore) bulk storage tanks.* (A) No tank should be used for the storage of oil unless its material and construction are compatible with the material stored and the conditions of storage.

(B) All tank battery and central treating plant installations should be provided with a secondary means of containment for the entire contents of the largest single tank if feasible, or alternate systems such as those outlined in § 112.7(c)(1). Drainage from undiked areas should be safely confined in a catchment basin or holding pond.

(C) All tanks containing oil should be visually examined by a competent person for condition and need for maintenance on a scheduled periodic basis. Such examination should include the foundation and supports of tanks that are above the surface of the ground.

(D) New and old tank battery installations should, as far as practical, be fail-safe engineered or updated into a fail-safe engineered installation to prevent spills. Consideration should be given to one or more of the following:

(*1*) Adequate tank capacity to assure that a tank will not overfill should a pumper/gauger be delayed in making his regular rounds.

(*2*) Overflow equalizing lines between tanks so that a full tank can overflow to an adjacent tank.

(*3*) Adequate vacuum protection to prevent tank collapse during a pipeline run.

(*4*) High level sensors to generate and transmit an alarm signal to the computer where facilities are a part of a computer production control system.

(iv) *Facility transfer operations, oil production facility (onshore).* (A) All above ground valves and pipelines should be examined periodically on a scheduled basis for general condition of items such as flange joints, valve glands and bodies, drip pans, pipeline supports, pumping well polish rod stuffing boxes, bleeder and gauge valves.

(B) Salt water (oil field brine) disposal facilities should be examined often, particularly following a sudden change in atmospheric temperature to detect possible system upsets that could cause an oil discharge.

(C) Production facilities should have a program of flowline maintenance to prevent spills from this source. The program should include periodic examinations, corrosion protection, flowline replacement, and adequate records, as appropriate, for the individual facility.

(6) *Oil drilling and workover facilities (onshore)* (i) Mobile drilling or workover equipment should be positioned or located so as to prevent spilled oil from reaching navigable waters.

(ii) Depending on the location, catchment basins or diversion structures may be necessary to intercept and contain spills of fuel, crude oil, or oily drilling fluids.

(iii) Before drilling below any casing string or during workover operations, a blowout prevention (BOP) assembly and well control system should be installed that is capable of controlling any well head pressure that is expected to be encountered while that BOP assembly is on the well. Casing and BOP installations should be in accordance with State regulatory agency requirements.

(7) *Oil drilling, production, or workover facilities (offshore).* (i) Definition: "An oil drilling, production or workover facility (offshore)" may include all drilling or workover equipment, wells, flowlines, gathering lines, platforms, and auxiliary nontransportation - related equipment and facilities in a single geographical oil or gas field operated by a single operator.

(ii) Oil drainage collection equipment should be used to prevent and control small oil spillage around pumps, glands, valves, flanges, expansion joints, hoses, drain lines, separators, treaters, tanks, and allied equipment. Drains on the facility should be controlled and directed toward a central collection sump or equivalent collection system sufficient to prevent discharges of oil into the navigable waters of the United States. Where drains and sumps are not practicable oil contained in collection equipment should be removed as often as necessary to prevent overflow.

(iii) For facilities employing a sump system, sump and drains should be adequately sized and a spare pump or equivalent method should be available to remove liquid from the sump and assure that oil does not escape. A regular scheduled preventive maintenance inspection and testing program should be employed to assure reliable operation of the liquid removal system and pump start-up device. Redundant automatic sump pumps and control devices may be required on some installations.

(iv) In areas where separators and treaters are equipped with dump valves whose predominant mode of failure is in the closed position and pollution risk is high, the facility should be specially equipped to prevent the escape of oil. This could be accomplished by extending the flare line to a diked area if the separator is near shore, equipping it with a high liquid level sensor that will automatically shut-in wells producing to the separator, parallel redundant dump valves, or other feasible alternatives to prevent oil discharges.

(v) Atmospheric storage or surge tanks should be equipped with high liquid level sensing devices or other acceptable alternatives to prevent oil discharges.

(vi) Pressure tanks should be equipped with high and low pressure sensing devices to activate an alarm and/or control the flow or other acceptable alternatives to prevent oil discharges.

(vii) Tanks should be equipped with suitable corrosion protection.

(viii) A written procedure for inspecting and testing pollution prevention equipment and systems should be prepared and maintained at the facility. Such procedures should be included as part of the SPCC Plan.

(ix) Testing and inspection of the pollution prevention equipment and systems at the facility should be conducted by the owner or operator on a scheduled periodic basis commensurate with the complexity, conditions and circumstances of the facility or other appropriate regulations.

(x) Surface and subsurface well shut-in valves and devices in use at the facility should be sufficiently described to determine method of activation or control, e.g., pressure differential, change in fluid or flow conditions, combination of pressure and flow, manual or remote control mechanisms. Detailed records for each well, while not necessarily part of the plan should be kept by the owner or operator.

(xi) Before drilling below any casing string, and during workover operations a blowout preventer (BOP) assembly and well control system should be installed that is capable of controlling any well-head pressure that is expected to be encountered while that BOP assembly is on the well. Casing and BOP installations should be in accordance with State regulatory agency requirements.

(xii) Extraordinary well control measures should be provided should emergency conditions, including fire, loss of control and other abnormal conditions, occur. The degree of control system redundancy should vary with hazard exposure and probable consequences of failure. It is recommended that surface shut-in systems have redundant or "fail close" valving. Subsurface safety valves may not be needed in producing wells that will not flow but should be installed as required by applicable State regulations.

(xiii) In order that there will be no misunderstanding of joint and separate duties and obligations to perform work in a safe and pollution free manner, written instructions should be prepared by the owner or operator for contractors and subcontractors to follow whenever contract activities include servicing a well or systems appurtenant to a well or pressure vessel. Such instructions and procedures should be maintained at the offshore production facility. Under certain circumstances and conditions such contractor activities may require the presence at the facility of an authorized representative of the owner or operator who would intervene when necessary to prevent a spill event.

(xiv) All manifolds (headers) should be equipped with check valves on individual flowlines.

(xv) If the shut-in well pressure is greater than the working pressure of the flowline and manifold valves up to and including the header valves associated with that individual flowline, the flowline should be equipped with a high pressure sensing device and shutin valve at the wellhead unless provided with a pressure relief system to prevent over pressuring.

(xvi) All pipelines appurtenant to the facility should be protected from corrosion. Methods used, such as protective coatings or cathodic protection, should be discussed.

(xvii) Sub-marine pipelines appurtenant to the facility should be adequately protected against environmental stresses and other activities such as fishing operations.

(xviii) Sub-marine pipelines appurtenant to the facility should be in good

operating condition at all times and inspected on a scheduled periodic basis for failures. Such inspections should be documented and maintained at the facility.

(8) *Inspections and records.* Inspections required by this part should be in accordance with written procedures developed for the facility by the owner or operator. These written procedures and a record of the inspections, signed by the appropriate supervisor or inspector, should be made part of the SPCC Plan and maintained for a period of three years.

(9) *Security (excluding oil production facilities).* (i) All plants handling, processing, and storing oil should be fully fenced, and entrance gates should be locked and/or guarded when the plant is not in production or is unattended.

(ii) The master flow and drain valves and any other valves that will permit direct outward flow of the tank's content to the surface should be securely locked in the closed position when in non-operating or non-standby status.

(iii) The starter control on all oil pumps should be locked in the "off" position or located at a site accessible only to authorized personnel when the pumps are in a non-operating or non-standby status.

(iv) The loading/unloading connections of oil pipelines should be securely capped or blank-flanged when not in service or standby service for an extended time. This security practice should also apply to pipelines that are emptied of liquid content either by draining or by inert gas pressure.

(v) Facility lighting should be commensurate with the type and location of the facility. Consideration should be given to: (A) Discovery of spills occurring during hours of darkness, both by operating personnel, if present, and by non-operating personnel (the general public, local police, etc.) and (B) prevention of spills occurring through acts of vandalism.

(10) *Personnel, training and spill prevention procedures.* (i) Owners or operators are responsible for properly instructing their personnel in the operation and maintenance of equipment to prevent the discharges of oil and applicable pollution control laws, rules and regulations.

(ii) Each applicable facility should have a designated person who is accountable for oil spill prevention and who reports to line management.

(iii) Owners or operators should schedule and conduct spill prevention briefings for their operating personnel at intervals frequent enough to assure adequate understanding of the SPCC Plan for that facility. Such briefings should highlight and describe known spill events or failures, malfunctioning components, and recently developed precautionary measures.

APPENDIX

Memorandum of Understanding between the Secretary of Transportation and the Administrator of the Environmental Protection Agency.

SECTION II—DEFINITIONS

The Environmental Protection Agency and the Department of Transportation agree that for the purposes of Executive Order 11548, the term:

(1) "Non-transportation-related onshore and offshore facilities" means:

(A) Fixed onshore and offshore oil well drilling facilities including all equipment and appurtenances related thereto used in drilling operations for exploratory or development wells, but excluding any terminal facility, unit or process integrally associated with the handling or transferring of oil in bulk to or from a vessel.

(B) Mobile onshore and offshore oil well drilling platforms, barges, trucks, or other mobile facilities including all equipment and appurtenances related thereto when such mobile facilities are fixed in position for the purpose of drilling operations for exploratory or development wells, but excluding any terminal facility, unit or process integrally associated with the handling or transferring of oil in bulk to or from a vessel.

(C) Fixed onshore and offshore oil production structures, platforms, derricks, and rigs including all equipment and appurtenances related thereto, as well as completed wells and the wellhead separators, oil separators, and storage facilities used in the production of oil, but excluding any terminal facility, unit or process integrally associated with the handling or transferring of oil in bulk to or from a vessel.

(D) Mobile onshore and offshore oil production facilities including all equipment and appurtenances related thereto as well as completed wells and wellhead equipment, piping from wellheads to oil separators, oil separators, and storage facilities used in the production of oil when such mobile facilities are fixed in position for the purpose of oil production operations, but excluding any terminal facility, unit or process integrally associated with the handling or transferring of oil in bulk to or from a vessel.

(E) Oil refining facilities including all equipment and appurtenances related thereto as well as in-plant processing units, storage units, piping, drainage systems and waste treatment units used in the refining of oil, but excluding any terminal facility, unit or process integrally associated with the handling or transferring of oil in bulk to or from a vessel.

(F) Oil storage facilities including all equipment and appurtenances related thereto as well as fixed bulk plant storage, terminal oil storage facilities, consumer storage, pumps and drainage systems used in the storage of oil, but excluding inline or breakout storage tanks needed for the continuous operation of a pipeline system and any terminal facility, unit or process integrally associated with the handling or transferring of oil in bulk to or from a vessel.

(G) Industrial, commercial, agricultural or public facilities which use and store oil, but excluding any terminal facility, unit or process integrally associated with the handling or transferring of oil in bulk to or from a vessel.

(H) Waste treatment facilities including in-plant pipelines, effluent discharge lines, and storage tanks, but excluding waste treatment facilities located on vessels and terminal storage tanks and appurtenances for the reception of oily ballast water or tank washings from vessels and associated systems used for off-loading vessels.

(I) Loading racks, transfer hoses, loading arms and other equipment which are appurtenant to a nontransportation-related facility or terminal facility and which are used to transfer oil in bulk to or from highway vehicles or railroad cars.

(J) Highway vehicles and railroad cars which are used for the transport of oil exclusively within the confines of a nontransportation-related facility and which are not intended to transport oil in interstate or intrastate commerce.

(K) Pipeline systems which are used for the transport of oil exclusively within the confines of a nontransportation-related facility or terminal facility and which are not intended to transport oil in interstate or intrastate commerce, but excluding pipeline systems used to transfer oil in bulk to or from a vessel.

(2) "transportation-related onshore and offshore facilities" means:

(A) Onshore and offshore terminal facilities including transfer hoses, loading arms and other equipment and appurtenances used for the purpose of handling or transferring oil in bulk to or from a vessel as well as storage tanks and appurtenances for the reception of oily ballast water or tank washings from vessels, but excluding terminal waste treatment facilities and terminal oil storage facilities.

(B) Transfer hoses, loading arms and other equipment appurtenant to a nontransportation-related facility which is used to transfer oil in bulk to or from a vessel.

(C) Interstate and intrastate onshore and offshore pipeline systems including pumps and appurtenances related thereto as well as in-line or breakout storage tanks needed for the continuous operation of a pipeline system, and pipelines from onshore and offshore oil production facilities, but excluding onshore and offshore piping from wellheads to oil separators and pipelines which are used for the transport of oil exclusively within the confines of a nontransportation-related facility or terminal facility and which are not intended to transport oil in interstate or intrastate commerce or to transfer oil in bulk to or from a vessel.

(D) Highway vehicles and railroad cars which are used for the transport of oil in interstate or intrastate commerce and the equipment and appurtenances related thereto, and equipment used for the fueling of locomotive units, as well as the rights-of-way on which they operate. Excluded are highway vehicles and railroad cars and motive power used exclusively within the confines of a nontransportation-related facility or terminal facility and which are not intended for use in interstate or intrastate commerce.

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